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FOR  
CONDOMINIUM DECLARATION  
FOR  
VANCE TOWNHOUSE CONDOMINIUMS

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CONDOMINIUM DECLARATION  
FOR  
VANCE TOWNHOUSE CONDOMINIUMS

KNOW ALL MEN BY THESE PRESENTS:

THAT WHEREAS, NorLynn Investment Corporation, a Colorado Corporation, hereinafter called "Declarant", is the owner of the real property located in the County of Jefferson, State of Colorado, described on Exhibit A attached hereto and hereinafter referred to as the "Property"; and

WHEREAS, Declarant desires to establish a Condominium Project on the Property under the Condominium Ownership Act of the State of Colorado; and

WHEREAS, certain building improvements have previously been constructed on the aforesaid real property, which building improvements shall now consist of separately designated condominium units; and

WHEREAS, Declarant does hereby establish a plan for the ownership in fee simple of the condominium units on the Property, subject to the easements, restrictions, reservations, conditions, taxes and assessments of record and reservations in this Declaration, and as set forth on Exhibit A and on the Condominium Map hereinafter described, and the co-ownership by the individual and separate unit owners, as tenants in common, of all of the remaining property (except such property as is otherwise reserved herein) which property is hereinafter defined as the General Common Elements.

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

ARTICLE I

DEFINITIONS

Definitions, unless the context shall expressly provide otherwise:

1. "Unit" means an individual air space which is contained within the perimeter walls, floors, ceilings, windows and doors of each unit and of each floor of those units comprising more than one floor as shown on the Condominium Map(s) to be filed for record, together with all fixtures and improvements therein contained, but not including any of the structural components of the building or other General Common Elements, if any, located within the unit.

2. "Condominium Unit" means one Unit together with an undivided interest in the General Common Elements and the Limited Common Elements appurtenant to each Unit.

3. "Owner" means a person, firm, corporation, partnership, association or other legal entity, or any combination thereof, who owns one or more Condominium Units.

4. "General Common Elements" means and includes the Property described on Exhibit A, the foundations, columns, girders, beams, supports, main walls, roofs, halls, corridors, lobbies, stairs, stairways, entrances and exits of buildings, the yards, gardens, parking areas, the premises for the lodging of custodians or persons in charge of the property, the mechanical installations of central services such as power, light, gas, hot and cold water, heating, air conditioning (if any), tanks, pumps, motors, fans, compressors, ducts, sidewalks, pathways, roads and streets located within the Condominium Project, and all apparatus and installations existing for common use and all other parts of the property necessary and convenient to the existence of the Condominium Project, its maintenance and safety or normally in common use including the air space above the Property which is not within the respective condominium units all of which shall be owned as tenants in common by the owners of the separate condominium units.



5. "Limited Common Elements" means those parts of the general common elements which are either limited to and reserved for the exclusive use of an 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, but not limited to, patios and parking spaces.
6. "Condominium Project" or "Project" means the property and improvements submitted to this Declaration and described in the Condominium Map.
7. "Common Expenses" means the expenses for maintenance, repair or replacement of the General Common Elements, operation, management and administration of the Condominium Project, expenses declared common expenses by the provisions of this Declaration, the Certificate of Incorporation or the By-Laws of the Association and all sums lawfully assessed against the owners of the General Commons Elements by the Association.
8. "Association" means Vance Townhouse Condominium Association, a Colorado Corporation, not for profit, the Articles of Incorporation and By-Laws of which will govern the administration of the Condominium Project.
9. "Map" or "Condominium Map" means the engineering survey of the Property depicting and locating thereon all of the improvements, the floor and elevation plans and any other drawing or diagrammatic plans depicting a part of all of the improvements on the land covered by the Map. Either term shall include the original and all supplemental maps.
10. "Building" means any one of the separate structures containing individual units. These separate structures along with the other general common elements comprise the condominium project.
11. "Mortgage" shall mean any mortgage, deed of trust or other document pledging or encumbering a Condominium Unit as security for the payment or repayment of a debt or obligation.

12. "Mortgagee" shall mean any person, corporation, partnership, trust, company, association, or other legal entity which takes, owns, holds or receives a mortgage.

## ARTICLE II

### CONDOMINIUM MAP

The Map may be filed in whole or in sections from time to time as stages of the construction of the improvements are substantially completed. Each section of the Map filed subsequent to the original Map shall be termed a Supplement to such Map and the numerical sequence of such Supplement shall be shown thereon as Second Filing, etc. No conveyance of a condominium unit shall be made until the Map or supplement describing the individual unit to be conveyed shall have been filed for record. Each such Map or supplement shall depict and show at least the following:

The location, linear measurements and designation of buildings, units and improvements; the elevation plans; the location of units within a building, both horizontally and vertically; the thickness of the structural and supporting walls. It shall contain the certificate of the registered professional engineer or licensed architect, or both, certifying that the Map substantially depicts the location and the horizontal and vertical measurements of the building; the unit designations and the dimensions of the units; the elevation of the unfinished floors and ceilings as constructed and that such Map was prepared after the substantial completion of each improvement. Each supplement shall set forth a similar certificate.

In interpreting the Map, the existing physical boundaries of each separate unit as constructed shall be conclusively presumed to be its boundaries.

Declarant reserves the right to amend the Map from time to time to conform the same to the actual location of any of the construction improvements and to reflect any combination of units in the event a purchaser desires to purchase

two units and combine them into a single unit.

### ARTICLE III

#### LIMITED COMMON ELEMENTS

A portion of the General Common Elements is set aside and reserved for the exclusive use of the individual owners of units as follows: Limited Common Elements so reserved shall be identified on the Map and the use thereof by more than one condominium unit owner shall be so designated on the Map. Any balcony, deck, patio, parking space, carport or vestibule which is accessible from or associated with or adjoins a unit shall without further reference thereto be used in connection with such unit to the exclusion of the use thereof by the owners of the General Common Elements except by invitation. No reference thereto whether such Limited Common Elements are exclusive or non-exclusive need be made in any deed, instrument, or conveyance, or other instrument.

### ARTICLE IV

#### DIVISION OF PROPERTY INTO CONDOMINIUM UNITS

The Property in the Condominium Project is divided into sixteen fee simple estates (Condominium Units), each such estate consisting of a unit together with an appurtenant undivided interest in and to the general common elements as shown on Exhibit B. The Limited Common Elements described in Article III of this Declaration are hereby made appurtenant to the units as identified on the Map.

### ARTICLE V

#### DESCRIPTION OF CONDOMINIUM UNIT

Every contract, lease, deed, mortgage, deed of trust, or any other instrument purporting to affect title may legally describe such condominium unit by its identifying unit designation as shown on the Map and the following words to-wit:

Condominium Unit \_\_\_\_\_, according to the map thereof filed for Record and Declaration for Vance Townhouse Condominiums, recorded in Book \_\_\_\_\_ at Page \_\_\_\_\_, Jefferson County, State of Colorado.

Every such description shall be deemed good and sufficient for all purposes to sell, convey, transfer, encumber, or otherwise affect not only the unit, but also the appurtenant general and Limited Common Elements and every such description shall be deemed to include the entire condominium unit. Each such description shall be construed to include a non-exclusive easement for ingress and egress to and from the unit, and, subject to the provisions of Article XXXII hereof, the General and Limited Common Elements appurtenant thereto.

The initial deed from Declarant conveying a condominium unit may contain reservations, exceptions and exclusions which the Declarant deems to be consistent with and in the best interests of all condominium unit owners and the Association.

#### ARTICLE VI

##### OWNERSHIP AND 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.

#### ARTICLE VII

##### PARTITION

The general common elements shall be owned in common by all of the owners of the condominium units, and shall remain undivided, and no owner shall bring any action for partition or division thereof. 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, sell or transfer the general common elements without first obtaining the written consent of all holders of first mortgages or deeds of trust of individual condominium units. Any action without

the written consent of all of said mortgagees holding first mortgages or first deeds of trust shall be null and void.

No owner of a condominium unit shall partition or subdivide any such condominium unit so as to convey to a prospective owner an interest in less than an entire condominium unit.

#### ARTICLE VIII

##### SEPARATE ASSESSMENT AND TAXATION

Declarant shall give written notice to the Assessor of the County of Jefferson, State of Colorado, of the creation of condominium ownership of this property, as is provided by law, so that each condominium unit shall be deemed a separate parcel and subject to separate assessment and taxation, except for special improvement district assessments which shall be paid as common expenses.

#### ARTICLE IX

##### POSSESSION AND USE

9.1 Each owner shall be entitled to exclusive ownership and possession of his unit except as otherwise herein specifically provided. Each owner may use the general common elements in common with the other unit owners, and the limited common elements in accordance with the purpose for which they are intended, without hindering or encroaching upon the lawful rights of other owners. The Association may adopt rules and regulations governing the use of general and limited common elements, and pursuant to which limited common elements are allocated to the exclusive use of the owners of particular units provided such rules and regulations shall be uniform and non-discriminatory. The owner of a Condominium Unit shall have the exclusive use of the patio, parking space, carport, if any, immediately adjacent to such Owner's Condominium unit.

9.2 Except as may otherwise be permitted by the Association, each condominium unit shall be used and occupied solely for the purpose of lodging or as a dwelling by the owner or by the owner's family, guests, agents, employees, invitees

and tenants. With the exception of a mortgagee in possession of the condominium unit following a default in a first mortgage or first deed of trust, a foreclosure proceeding or any deed or other arrangement in lieu of foreclosure of a first mortgage or first deed of trust, no owner shall be permitted to lease a unit for transient or hotel purposes. No owner may lease less than the entire unit. Any lease agreement shall be required to provide that the terms of the lease shall be subject in all respects to the provisions of this Declaration and the By-Laws of the Association, and that any failure by the lessee to comply with the terms of such document shall be a default under the lease. All leases shall be required to be in writing. Additional restrictions on sale and leasing of units, including a right of first refusal and limitations on age of owners and lessees, are contained in Article XXXIV herein.

9.3 No structures of a temporary character (except as may be necessary during re-construction), trailer, (other than delivery vehicles), tent, shack, garage, barn or other out-buildings shall be used or permitted to be kept or stored on any portion of the condominium project at any time either temporarily or permanently.

\*9.4 No animals, livestock or poultry of any kind shall be raised, bred or kept on the condominium project.

\*9.5 No advertising signs, billboards, unsightly objects or nuisances shall be erected, placed or maintained on the condominium project, nor shall the condominium project be used in any way or for any purpose which may endanger the health or unreasonably disturb the owner of any condominium unit or any resident thereof. Notwithstanding any provisions herein contained to the contrary, it shall be expressly permissible for the Declarant to maintain during the period of sale of the condominium units, upon such portion of the condominium project as Declarant deems necessary, such facilities

as in the sole opinion of Declarant may be reasonably required, convenient or incidental to the sale of said condominium units, including but without limitation, a business office, storage area, signs, model units and sales office. It is expressly understood and agreed that Declarant shall have the right to use the related general common elements for sale and business office purposes, at a nominal rental of \$1.00 per year for a term not to exceed two years from the date of the recording of this Declaration.

9.6 No nuisances shall be allowed on the condominium project, nor any use or practice which is the source of annoyance to residents, or which interferes with the peaceful enjoyment or possession and proper use of the condominium project by its residents. All parts of the condominium 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 unit owner shall permit any use of his unit or make use of the common elements which will increase the rate of insurance upon the condominium project. The Association may adopt By-Laws and Rules and Regulations relative to abatement and enjoinder of nuisances.

9.7 No immoral, improper, offensive or unlawful use shall be permitted or made of the condominium project or any part thereof. All valid laws, ordinances and regulations of all governmental bodies having jurisdiction shall be observed.

9.8 Rules and regulations may be adopted by the Board of Directors of the Association concerning and governing the use of the general and limited common elements; provided, however, that such rules and regulations shall be uniform and non-discriminatory. Copies of all such rules and regulations shall be furnished to unit owners prior to the time that they become effective.

9.9 Except for those improvements erected or installed by Declarant, no exterior additions, alterations or decorating to the buildings, nor changes in fences, hedges, 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 same shall have been submitted to and approved in writing by the Board of Directors of the Association, or by a representative designated by it, as to the conformity and harmony of external design and location with existing structures on the property. An owner shall not make structural modifications or alterations to his unit or installations located therein without previously notifying the Association in writing through the Managing Agent, or if no managing agent is employed, then through the President or the Board of Directors. The Association shall have the obligation to answer within thirty (30) days after receipt of such notice, and failure to do so within that time shall mean that there is no objection to the proposed modification or alteration. It is understood that the herein restriction is for the mutual benefit of all Unit Owners to protect the structural elements and/or improvements that may affect the Common Elements. No owner shall have the right to alter the General Common Elements.

#### ARTICLE X

##### USE OF COMMON ELEMENTS

Subject to the rights reserved to the Declarant by Article XXXII hereof, each owner may use the General Common Elements with other condominium unit owners and the 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.

#### ARTICLE XI

##### ENCROACHMENTS AND EASEMENTS

11.1 If any portion of the General Common Elements encroaches upon a unit or units by reason of damage, destruction, settling, shifting, repair or reconstruction, a valid easement for the encroachment and for its maintenance, so long as it stands, shall and does exist. If any portion of



a unit or units encroaches upon the general common elements by reason of damage, destruction, settling, shifting, repair or reconstruction, a valid easement for such encroachment shall and does exist. For title or other purposes, no such encroachment and easement shall be considered or determined to be an encumbrance either on the general common elements or the units.

11.2 If at the time of the initial conveyance of title to a condominium unit there exists within such condominium unit water lines or sanitary sewer lines, which lines serve the unit or units directly adjacent to the condominium unit being conveyed, then, and in that event, Declarant reserves, for the benefit of the owner(s) of the unit(s) being then served by such lines, as easement to maintain and repair such existing water and sanitary sewer lines together with a right of access to such lines for necessary repairs and replacements.

11.3 Declarant for the benefit of the owners and future owners of the condominium units hereby reserves a right of way and easement for all existing utility lines or pipes, including, but not limited to water lines, sewer lines, gas lines, telephone lines, television cable lines, heat lines and such other utility lines and incidental equipment thereon. An easement is hereby granted to the Association, its officers, agents, employees and assigns upon, across, over, in and under the common elements and a right to make such use of the common elements as may be necessary or appropriate to perform the duties and functions which it is obligated or permitted to perform pursuant to this Declaration, including the right to construct and maintain on the common elements, maintenance and storage facilities for the use of the Association.

11.3 If any utility line referred to in 11.2 above is destroyed or damaged, the Association shall cause the

same to be restored forthwith. Notwithstanding any other provision in this Declaration, an owner who by its negligence or wilful act causes damages to any of the utility lines described in 11.2 above, shall bear the costs of restoration thereof, and other damages allowed by law.

## ARTICLE XII

### MECHANIC'S LIENS

Subsequent to the completion of the improvements described on any Map, no labor performed or materials furnished or incorporated in a unit included within such respective Map with the consent or at the request of the owner thereof, his agent, contractor, or subcontractor shall be the basis for filing of a lien against the condominium unit of any other owner not expressly consenting to or requesting the same. Each owner shall indemnify, defend and hold harmless each of the other owners and the Association from and against all liability arising from the claim of any lien against the condominium unit of any other owner or against the Association 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 Association as set forth in Article XIV. Notwithstanding the foregoing, any first mortgagee of a Condominium Unit who shall become the owner of such Condominium Unit pursuant to a lawful foreclosure sale or the taking of a deed in lieu of foreclosure, shall not be under any obligation to indemnify and hold harmless any other owner against liability for claims arising prior to the date such mortgagee becomes an owner.

## ARTICLE XIII

### ASSOCIATION, ADMINISTRATION AND MANAGEMENT

The Administration of this Condominium Project shall be governed by this Declaration, the Articles of Incorporation, By-Laws of the Association and the rules and regulations of

the Association adopted pursuant thereto. An owner of a condominium unit upon becoming such an owner, shall be a member of the Association and shall remain a member for the period of his ownership. In the event a unit is owned by more than one owner or entity, it shall be the responsibility of said owners to elect or designate one voting member.

The Association may delegate by written agreement any of its duties, powers and functions to any person or firm to act as Managing Agent at an agreed compensation, provided, however, that any agreement with such Agent must provide that the agreement may be terminated with or without cause on sixty (60) days written notice and the term of such agreement must not exceed one (1) year. Any routine or ministerial act required or permitted to be performed by the Association may be performed by the Managing Agent or by his sub-agents or employees acting under his direction and control unless this declaration or the Association's Articles of Incorporation or By-Laws, requires action by the Board of Directors of the Association. See Article XXXIII regarding membership, powers and records.

#### ARTICLE XIV

##### ACCESS, MAINTENANCE AND REPAIRS

14.1 The Association shall have the irrevocable right to be exercised by the Managing Agent or Board of Directors of the Association, or their designated agents or representatives 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.

14.2 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;

provided, however, that if such damage is caused by negligent or other tortious conduct of a unit owner, members of his family, his agent, employee, invitee, licensee or tenant, then such owner shall be responsible for such damage. The damaged improvements shall be restored to substantially the same condition which existed prior to the damage.

14.3 Except as provided in 14.6 below, each owner shall maintain in good repair the interior of his own unit, including its fixtures. All fixtures and equipment installed within the unit, commencing at a point where the utility lines, pipes, wires, conduits or systems (which for brevity are hereafter referred to as "utilities") enter the unit shall be maintained and kept in repair by the owner thereof. Each owner of a condominium unit which is serviced by an air conditioning compressor shall be responsible to maintain and repair the aforesaid air conditioning compressor. Said air conditioning compressors are limited common elements appurtenant to the unit to which they serve, and each owner of a condominium unit which is serviced by an air conditioning compressor is hereby granted an easement across the general common elements so that he may comply with the maintenance obligations imposed upon him relative to the maintenance of said air conditioning compressors.

14.4 No owner shall do anything that will impair the structural soundness or integrity of the building, or impair any easement or hereditament.

14.5 The Association shall not be liable for any failure of water supply, or other service to be obtained and paid for by the Association hereunder, or for injury or damage to person or property caused by the elements, or by another owner or person on the project, or resulting from electricity, water, rain, dust or sand which may leak or flow from outside or from any parts of the building or from any of its pipes, drains, conduits, appliances or equipment or from any other place, unless caused by the gross negligence of the Association or its agents.

14.6 The Association shall have the duty of maintaining and repairing all of the common elements within the project, except air conditioning compressors which are limited common elements appurtenant to a unit. The cost of said maintenance and repair of common elements shall be a common expense of all of the owners. The Association shall not need the prior approval of its members to cause such maintenance or repairs to be accomplished, notwithstanding the cost thereof.

14.7 The Association shall have the obligation and shall be required to operate, repair, and maintain all sanitary sewer lines situated on the property described on Exhibit A to the point of connection with the sanitary sewer line of the City of Lakewood or such other entity as may maintain the public sewer line.

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

14.8.1 Maintenance of the common elements, except as otherwise provided;

14.8.2 Administration and management of the project;

14.8.3 Providing common heating and lighting;

14.8.4 Obtaining the insurance required in Article XIX hereof.

14.8.5 Enforcement of the covenants, conditions and restrictions set forth in this Declaration, enforcement of the Association's rules and regulations, and collection of all obligations owed to the Association by the owner;

14.8.6 Acting as attorney-in-fact in the event of damage or destruction as provided for in Article XXIII hereof; and

14.8.7 Performing all other acts required by this Declaration, or the Articles of Incorporation and By-Laws of the Association.

14.9 With respect to the vertical utility lines, whether inside or outside of the individual units, the Association shall be responsible for the maintenance and repair of such service lines.

#### ARTICLE XV

##### OWNERSHIP AND MAINTENANCE OF WALLS AND PARTY WALLS

15.1 No owner shall be deemed to own the undecorated and/or unfinished surfaces of the perimeter walls, floors and ceilings surrounding his unit. An owner shall be deemed to own and shall maintain the inner decorated and/or finished surfaces of the perimeter walls, floors and ceilings, doors and windows, consisting of paint, wallpaper and other furnishing materials and the interior non-supporting walls contained within the units.

15.1.1 Mutual reciprocal easements are hereby established, declared and granted for all party walls between units. Hereafter every deed, whether or not expressly so stating, shall be deemed to convey and be subject to such reciprocal easements.

15.1.2 Except for negligent or wilful acts of an owner and except for wallpaper and other finishing materials, the cost of repair and maintenance of the party walls shall be an expense of the Association.

15.1.3 If a party wall is destroyed or damaged by fire or other casualty the Association shall promptly restore such wall, without prejudice to the Association to seek contributions from an owner for negligent or wilful acts or omissions.

#### ARTICLE XVI

##### COMPLIANCE WITH DECLARATION, ARTICLES AND BY-LAWS OF ASSOCIATION

Each owner and tenant shall comply strictly with the provisions of this Declaration, the Articles of Incorporation,

The By-Laws of the Association and the rules and regulations the Association adopts pursuant hereto as the same may be lawfully amended from time to time. Failure to comply with any of the same shall be grounds for an action to recover sums due and for damages including reasonable attorneys fees and costs or injunctive relief in the name of the Association on behalf of the owners, and in a proper case, by an aggrieved owner. Upon the request of any holder of a first deed of trust on a condominium unit subject to this Declaration, the Association shall give a written notification to such holder of a first deed of trust of any default by the mortgagor of such unit in the performance of such mortgagor's obligations under this Declaration which is not cured within thirty (30) days.

#### ARTICLE XVII

##### REVOCATION AND AMENDMENT

Except as otherwise herein provided, this Declaration shall not be revoked or amended unless owners representing the aggregate ownership interest of eight-five percent (85%) or more in the general common elements and all holders of recorded first mortgages or first deeds of trust encumbering condominium units consent thereto by instrument(s) duly recorded. Provided, however, the undivided interest in the general 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 condominium unit owners and all holders of recorded mortgages or deeds of trust as expressed in a duly recorded amendment to this Declaration.

A sworn statement, by any person purporting to know of his own knowledge that the necessary persons have consented to such amendment or revocation, when duly recorded therewith, shall be prima facie evidence of such facts.

ARTICLE XVIII

ASSESSMENT FOR COMMON EXPENSES

10.1 All owners shall be obligated to pay the actual expenses incurred by the Board of Directors or Managing Agent of the Association to meet the common expenses, said expenses based on an estimated budget, to be reconciled with the expenses actually incurred at the end of each fiscal period, and any overages to be credited to each unit's account are to be set aside in a separate account for such purpose. The assessments shall be made prorata as set forth on Exhibit B attached. For assessment purposes, any limited common elements shall be maintained as general common elements, and owners having exclusive use thereof shall not be subject to special charges or assessments. Assessments for estimated common expenses shall be due monthly in advance on the first day of each month. The Managing Agent or Board of Directors shall prepare and deliver or mail to each owner an itemized statement showing the various estimated or actual expenses for which assessments are made. The amount of such statement shall be due monthly thereafter without delivery of additional statements and any change in the amount of such assessment shall be reflected in subsequent statements delivered or mailed to each owner.

10.2 Assessments shall be based upon total cash requirements as determined by the Managing Agent or Board of Directors of the Association from time to time to be paid by all owners, to provide for all estimated expenses growing out of or connected with the maintenance and operation of the general common elements, which may include, among other things, expenses of management, taxes and special assessments until separately assessed; fire insurance and extended coverage and vandalism and malicious mischief endorsement attached, issued in the amount of the maximum replacement value, of all condominium units (including all fixtures, interior walls and partitions, decorated and finished surfaces of perimeter walls, floors and ceilings, doors, windows



and other elements or materials comprising a part of the units); casualty and public liability and other insurance premiums; landscaping and care of grounds, common light and heating; repairs and renovation, trash and garbage collections, snow removal, wages, water and sewer charges, expenses relating to the operation and maintenance of the recreational areas, if any, legal and accounting fees, management fees, expenses and liabilities incurred by the Managing Agent or Board of Directors under or by reason of this Declaration, payment of any deficiency remaining from a previous period, creation of an adequate reserve fund for the maintenance, repair or replacement of the common elements that must be replaced on a periodic basis, together with a reasonable contingency or other reserve or surplus fund as well as other costs and expenses relating to the general common elements. Omissions or failures to fix the assessment for any month shall not be deemed a waiver, modification or release of the owners from their obligation to pay. Any reserve fund shall only be established through the payment of the monthly assessment for common expenses rather than by special assessment.

18.2.1 Any common expense which the Board of Directors of the Association determines to be of benefit to only one owner shall be borne by such owner.

18.3 No owner may exempt himself from liability for his contribution for the common expenses by waiver of the use or enjoyment of any of the common elements, or by abandonment of his unit.

#### ARTICLE XIX

##### INSURANCE

19.1 The Board of Directors of the Association or Managing Agent shall obtain and maintain, to the extent obtainable, policies involving standard premium rates, established by the Colorado Insurance Commissioner and written with companies

*No rates required to be filed.  
7-1-79 per H.B. 1510 verified  
Colo. Law 10-4-401*

*Rec'd. via #112  
File. Con. in  
Office 2 AM. 5 P.M.  
Deputy Public  
Librarian*

licensed to do business in Colorado and having insureds with a Best's Insurance report rating of AAA or better, covering the risks set forth below. The Board of Directors of the Association or Managing Agent shall not obtain any policy where: (i) under the terms of the insurance company's charter, by-laws or policy contributions must be made by the insured to the insurance company for excess losses incurred by the insurance company; or (ii) by the terms of the insurance company's charter, by-laws or policy, loss payments are contingent upon action by the company's Board of Directors, policy holders or members; or (iii) the policy includes any limiting clauses (other than insurance conditions) which could prevent mortgagees or the mortgagor from collecting insurance proceeds.

19.1.1 Fire insurance with extended coverage and all risk endorsements, which endorsement shall include endorsements for vandalism, malicious mischief, and machinery with a minimum endorsed amount of \$50,000.00 per accident per location, insuring the entire condominium project and any other property, the nature of which is a common element (including all of the units, fixtures therein initially installed by the Declarant but not including furniture, furnishings or other personal property supplied by or installed by unit owners) together with all service equipment contained therein in an amount equal to the full replacement value, without deduction for depreciation, and which shall contain a standard non-contributory mortgage clause in favor of each mortgagee of a condominium unit which shall provide that the loss, if any, thereunder, shall be payable to the Association for the use and benefit of mortgagees as their interest may appear.

19.1.2 If the condominium project is located in an area identified by the Secretary of Housing

and Urban Development as an area having special flood hazards and the sale of flood insurance has been made available under the National Flood Insurance Act of 1968, a "blanket" policy of flood insurance on the condominium project in an amount which is the lesser of the maximum amount of insurance available under the Act or the aggregate of the unpaid principal balances of the mortgages on the condominium units comprising the condominium project.

19.1.3 Public liability and property damage insurance in such limits as the Board of Directors may from time to time determine, but not in an amount less than \$300,000.00 per injury, per person, per occurrence and umbrella liability limits of \$1,000,000.00 per occurrence, covering all claims for bodily injury or property damage. Coverage shall include, without limitation, liability for personal injuries, operation of automobiles on behalf of the Association, and activities in connection with the ownership, operation, maintenance and other use of the project. Said policy shall also contain a "severability of interest endorsement".

19.1.4 Workmen's Compensation and employer's liability insurance and all other similar insurance in respect to employees of the Association, in the amounts and in the form now or hereafter required by law.

19.1.5 The Association shall, if reasonably available, purchase, in an amount not less than one hundred fifty percent (150%) of the Association's estimated annual operating expenses and reserves, fidelity coverage against dishonesty of employees, destruction or disappearance of money or securities and forgery. Said policy

shall also contain endorsements thereto covering any persons who serve the Association without compensation.

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

19.2 All policies of insurance to the extent obtainable shall contain waivers of subrogation and waiver of any defense based on invalidity arising from any acts of a condominium unit owner and shall provide that such policies may not be cancelled or modified without at least ten (10) days prior written notice to all of the insureds, including mortgagees. Duplicate originals of all policies and renewals thereof, together with proof of payment of premiums, shall be delivered to all mortgagees at least ten (10) days prior to expiration of the then current policies. The insurance shall be carried in blanket form naming the Association as the insured, as attorney-in-fact for all of the condominium unit owners, which policy or policies shall indemnify the interest of each condominium unit owner (owner's name and unit number designation.)

19.3 Prior to obtaining any policy of fire insurance or renewal thereof, the Board of Directors shall obtain an appraisal from a duly qualified real estate or insurance appraiser, which appraisal shall reasonably estimate the full replacement value of the entire condominium improvements without deduction for depreciation, for the purpose of determining the amount of the insurance to be effected pursuant to the provisions of this insurance paragraph. In no event shall the insurance policy contain a co-insurance clause for less than ninety percent (90%) of the full replacement cost. Determination of maximum replacement value

shall be made annually by one or more written appraisals to be furnished by a person knowledgeable of replacement cost, and each mortgagee shall be furnished with a copy thereof within thirty (30) days after receipt of such written appraisals. Such amounts of insurance shall be contemporized annually in accordance with the currently determined maximum replacement value.

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

19.5 Insurance coverage on contents, merchandise, furnishings, including carpet, draperies, refrigerator, wallpaper, and other items of personal or other property belonging to an owner and public liability coverage within each unit shall be the sole and direct responsibility of the unit owner thereof, and the Board of Directors, the Association and the Managing Agent shall have no responsibility therefor.

19.6 In the event that there shall be substantial damage or destruction to, or loss to a condominium unit or substantial damage or destruction to, or loss to, the common elements, then notice of such damage or loss shall be given by the Association to each first mortgagee of said unit within ten (10) days after the occurrence of such event.

#### ARTICLE XX.

##### LIEN FOR NONPAYMENT OF COMMON EXPENSES

All sums assessed from time to time for the share of common expenses chargeable to any condominium unit, and unpaid, plus interest thereon at eighteen (18%) percent per annum, shall constitute a lien on such unit superior to all

other liens and encumbrances whether in existence before the particular assessment or not, excepting only: (1) Tax and special assessment liens of any governmental unit; and (2) All sums on a recorded first mortgage or first deed of trust, including all unpaid obligatory sums provided by such encumbrances and including additional advances made thereon prior to the date such lien becomes choate. Any holder of a first mortgage or first deed of trust who comes into possession of a unit pursuant to the remedies provided in a deed of trust or mortgage foreclosure of the mortgage or deed of trust or deed (or assignment) in lieu of foreclosure shall take the unit free and clear of any claim for unpaid assessments or charges against the mortgaged unit which accrue prior to the time such holder comes into possession of the unit.

To evidence such lien, the Board of Directors or Managing Agent may, but shall not be required to, prepare a written notice setting forth the amount of such unpaid indebtedness, the description of and the name of the owner of the condominium unit. Such notice shall be signed by one of the Board of Directors or by the Managing Agent and may be recorded in the office of the Clerk and Recorder of the County of Jefferson, Colorado. Such lien shall become choate on the due date of the assessment and shall be superior to all other liens except as hereinabove provided. Such lien may be enforced by foreclosure of the defaulting owner's condominium unit by the Association in like manner as a mortgage on real property. (In any such foreclosure the owner shall be required to pay the costs and expenses of such proceedings, the costs, expenses and attorney's fees for filing the notice or claim of lien and all reasonable attorney's fees and costs in connection with the foreclosure. The owner shall also be required to pay to the Association the monthly assessments 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 on the condominium unit at foreclosure sale and to acquire, hold, lease, mortgage and convey such unit.

Any encumbrancer holding a lien on a condominium unit may, but will not be required to, pay any unpaid common expenses for such unit, and thereupon such encumbrancer shall have a lien on such unit for the amounts paid of the same rank as the lien of his encumbrance. The Association may also sue for unpaid assessments without foreclosing and such suit shall not be a waiver of said lien.

#### ARTICLE XXI

##### UNPAID COMMON EXPENSES - ASCERTAINING LIABILITY

Upon payment of a reasonable fee, not to exceed \$50.00, 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 none, then by its Board of Directors, shall issue a written statement setting forth the amount of the unpaid common expenses, if any, with respect to such unit, the amount of the current monthly assessment and the date such assessment becomes due, credit for advanced payments or for prepaid items, including but not limited to insurance premiums, which statement shall be conclusive upon the Association in favor of all persons who rely thereon in good faith. Unless the request for such statement is 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 lien of the person requesting such statement.

Subject to the provisions of Article XX, the grantee of a Unit, except as mortgagee, shall be jointly and severally liable with the grantor for all unpaid assessments against the unit for his proportionate share of the common expenses up to the time of the grant or conveyance, without

prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor; provided, however, that upon payment of a reasonable fee not to exceed \$50.00, and upon written request, any such prospective grantee shall be entitled to a statement from the Managing Agent or if there is none, then by the Board of Directors, 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 advanced payment or prepaid items, including but not limited to, insurance premiums, which statement shall be conclusive upon the Association insofar as the grantee is concerned. Unless the request for such a statement is complied with within ten (10) days, then such 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 grantor shall remain liable, however, for such amount together with all costs of collection, including reasonable attorney's fees.

## ARTICLE XXII

### MORTGAGING A CONDOMINIUM UNIT

Any owner shall have the right from time to time to mortgage or encumber his interest in a condominium unit by deed of trust, mortgage or other security instrument, all of which for convenience are referred to hereinafter as mortgages. A first mortgage shall be one which has first and paramount priority under applicable law. The owner of a condominium unit may create junior mortgages only on the following conditions, which provisions shall be deemed part of such mortgages regardless of specific reference or of any attempt to avoid such conditions: (1) That such mortgages shall always be subordinate to all of the terms, conditions, covenants, restrictions, uses, limitations, obligations, lien for common expenses and other obligations



created by this Declaration and by the Certificate of Incorporation and the By-Laws of the Association; (2) that such junior mortgagee shall release, for the purpose of restoration of any improvements upon the mortgaged premises all of his right, title and interest in the proceeds under all insurance policies upon said premises affected and placed upon the mortgaged premises by the Association. Such release shall be furnished forthwith by a junior mortgagee upon written request of the Association, and if not granted, may be executed by the Association as attorney-in-fact for such junior mortgagee.

#### ARTICLE XXIII

##### DESTRUCTION OR DAMAGE

23.1 This Declaration does hereby make mandatory the irrevocable appointment of an attorney-in-fact to deal with the property upon its destruction or obsolescence and to maintain, repair and improve the buildings and general and limited common elements.

23.2 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 from the Declarant or from any owner 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 their property upon its destruction or obsolescence as hereinafter provided. As attorney-in-fact, the Association by its president and secretary, or other duly authorized officers or agents, shall have full and complete authorization, right and power to make, execute and deliver any contract, deed or any other instrument with respect to the interest of a condominium unit owner which is necessary or convenient to exercise the powers herein granted. Repair and reconstruction of the improvements as used in the succeeding subsection means restoring the improvements to substantially the same condition in which they existed prior

to the damage, with each unit and the general and limited common elements having substantially the same vertical and horizontal boundaries as before. The proceeds of any insurance collected shall be available to the association for the purpose of repair, restoration or replacement unless the owners and all first mortgagees agree not to rebuild in accordance with the provisions set forth hereinafter..

23.2.1 In the event of damage or destruction due to fire or other disaster, the insurance proceeds, if sufficient to reconstruct the improvements shall be applied by the Association as attorney-in-fact, to such reconstruction and the improvements shall be promptly repaired and reconstructed. The Association shall have full authority, right and power as attorney-in-fact to cause the repairs and restoration of the improvements. Assessment for common expense shall not be abated during the period of repair and reconstruction.

23.2.2 If the insurance proceeds are insufficient to repair and reconstruct the improvement(s) and if such damage is not more than 50% of the total value of all of the condominium units, 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 owners of units within the damaged building and their condominium units. Such deficiency assessment shall be a common expense and made pro rata according to each owner's percentage interest in the general common elements and shall be due and payable within thirty days after written notice thereof. The Association shall have full authority, right and power as attorney-in-fact, to cause the repair or restoration of the improvements using all of the insurance proceeds

for such purposes notwithstanding the failure of any owner to pay the assessment. The assessment provided for herein shall be a debt of each owner and a lien on his condominium unit and may be enforced and collected as is provided in Article XX. In addition thereto, the Association, as attorney-in-fact, shall have the absolute right and power to sell the condominium unit of any owner refusing or failing to pay such deficiency assessment within the time provided and if not 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 proceeds derived from the sale of such condominium unit shall be used and disbursed by the Association, as Attorney-in-fact, in the following order:

- (1) For payment of the balance due on any first mortgage;
- (2) For payment of general property taxes and special assessment liens in favor of any assessing entity;
- (3) For payment of unpaid common expenses, customary expense of sale, costs, fees and expenses incurred by the Association;
- (4) For payment of junior liens and encumbrances in the order of and to the extent of their priority;
- (5) The balance remaining, if any, shall be paid to the condominium unit owner.

23.2.3 If the insurance proceeds are insufficient to repair and reconstruct the improvement(s), and if such damage is more than fifty percent (50%) of the total replacement cost of all of the Condominium Units in this project, not including land, such damage or destruction shall be promptly repaired and reconstructed by the Association, as attorney-in-fact, using the proceeds of

insurance and the proceeds of a special assessment to be made against all of the owners and their condominium units, provided, however, that owners representing an aggregate ownership interest of seventy-five percent (75%) or more of the common elements and all of the mortgagees holding first mortgages or first deeds trust approve of said repair or reconstruction the improvements in writing; and if the aforesaid approval to repair or reconstruct is not obtained, the Association shall forthwith record a notice setting forth such fact or facts, and upon the recording of such notice by the Association's President and Secretary or Assistant Secretary, the entire project shall be sold by the Association pursuant to the provisions of this paragraph, as attorney-in-fact for all of the owners, free and clear of the provisions contained in this Declaration, the Map, Articles of Incorporation and By-Laws. Assessments for common expenses shall not be abated during the period prior to sale. The insurance settlement proceeds shall be collected by the Association, and such proceeds shall be divided by the Association according to each owner's interest in the common elements, and such divided proceeds shall be paid into separate accounts, each such account representing one of the condominium units. Each such account shall be in the name of the Association, and shall be further identified by the condominium unit designation and the name of the owner. From each separate account the Association, as attorney-in-fact shall forthwith use and disburse the total amount of each of such accounts, without contribution from one account to another, toward the partial or full payment of the lien of any first mortgagee encumbering the condominium unit represented by such separate account. Thereafter,

each such account shall be supplemented by the apportioned amount of the proceeds obtained from the sale of the entire property. Such apportionment shall be based upon each condominium unit owner's interest in the common elements. The total funds of each account shall be used and disbursed, without contribution, from one account to another by the Association, as attorney-in-fact, for the same purposes and in the same order as is provided in Article 23.2.2 above. In the event that the damage is to be repaired or reconstruction is to be made then the provisions of Article 23.2.2 shall apply.

#### ARTICLE XXIV

##### OBSOLESCENCE

Owners representing an aggregate ownership interest of 85% or more of the general common elements may agree that the condominium units are obsolete and adopt a plan for their removal or reconstruction, which plan must have unanimous approval of all holders of first mortgages and first deeds of trust. If such a plan is adopted, notice thereof executed by the Association shall be recorded, and the expenses of renewal and reconstruction shall be payable by all of the owners as common expenses, whether or not they have previously consented to the plan of renewal and reconstruction.

The owners representing an aggregate ownership interest of 85% or more of the general common elements may agree that the condominium units are obsolete and that the same should be sold. Such plan/agreement must have the unanimous approval of all holders of first mortgages and first deeds of trust. In such instance, the Association forthwith shall record a notice setting forth such fact or facts, and upon the recording of such notice, 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, the Certificate of Incorporation and the By-Laws of the Association. The sales proceeds shall be apportioned

among the owners on the basis of each owner's percentage interest in the general common elements and such apportioned proceeds shall be paid into separate accounts, each such account shall be in the name of the Association, and shall be further identified by the number of the unit 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 provided in Article 23.2.2.

#### ARTICLE XXV

#### CONDEMNATION

If at 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 shall apply.

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

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 thereto shall terminate and the condemnation award shall be apportioned among the owners in proportion to their respective interests as set forth in Exhibit B, unless a standard different from the value of the Project as a whole is employed to measure 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. Such shares shall be paid into separate accounts and disbursed as soon as practicable in the same manner as provided in Article 23.2.2 above.

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: (a), the total amount allocated to taking of or injury to the common elements, shall be apportioned among the owners on the basis of each owner's interest respectively in the common elements; (b) the total amount allocated to severance damages shall be apportioned to those condominium units which were not taken or condemned; (c) the respective amounts allocated to the taking of or injury to a particular unit and to improvements an owner has made within his own unit shall be apportioned to the particular unit involved and (d) the total amount allocated to consequential damages and any other takings or injuries shall be apportioned as the Association determines to be equitable in the circumstances. If an 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 Article 23.2.2 .

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.

#### ARTICLE XXVI

##### PARKING

Each owner of a condominium unit will be entitled to utilize the parking space immediately adjacent to his or her

unit and said parking spaces shall constitute limited common elements. Any parking spaces which are not specifically allocated to specific condominium units will be under the complete control of the Association as general common elements.

#### ARTICLE XXVII

##### REAL AND PERSONAL PROPERTY FOR COMMON USE

The Association members may vote to acquire and hold for use and benefit of all members of the Association, real property and 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 owned by the members of the Association and their interest therein shall be transferable upon the transfer of the member's condominium unit. A voluntary transfer of a condominium unit or an involuntary transfer by operation of law, shall vest in the transferee, ownership of the transferor's beneficial interest in such real or personal property without any specific reference thereto. Each owner may use such real and personal property in accordance with the purpose for which it is intended, without hindering or encroaching upon the lawful rights of the other owners.

#### ARTICLE XXVIII

##### REGISTRATION OF MAILING ADDRESS, NOTICES

Each owner shall register his mailing address and any changes thereof with the Association, and except for monthly (or other periodic) statements and other routine notices, all other notices or demands intended to be served upon an owner shall be sent by either registered or certified mail, postage prepaid, addressed in the name of the owner at such registered mailing address, and such notices or demands shall be considered as having been served on the date so mailed. All notices or demands intended to be served upon the Board of



Directors of the Association shall be sent by registered or certified mail, postage prepaid, to <sup>1381</sup> 1385 Vance Street, Lakewood, Colorado 80215 until such address is changed by a notice of change of address mailed to each condominium owner at such owner's registered mailing address.

#### ARTICLE XXIX

##### NOTICE TO LENDERS

The Association will give any institutional holder of any first mortgage on a condominium unit written notice of any loss, damage, destruction, or taking of a condominium unit, which exceeds \$1,000.00 or any loss, damage, destruction or taking of the Common Elements which exceeds \$10,000.00. Such notice shall be given by the Association within ten (10) days after the occurrence of such event.

#### ARTICLE XXX

##### ASSESSMENT RESERVES

The Association or the Managing Agent may require an owner other than Declarant to deposit in escrow with the Association up to two times the amount of the estimated monthly common assessment, which sum shall be held by the Association or the Managing Agent as a reserve to be used for paying such owner's monthly common assessment. Such an advance payment shall not relieve an owner from making the regular monthly payment of the monthly common assessment as the same comes due. The owner shall be entitled to a return of or credit for any portion of the unused advance payment upon termination of his ownership.

#### ARTICLE XXXI

##### NEGLIGENT DESTRUCTION

In the event any common element, including, without limitation, buildings, carports, fences, or storage facility, is damaged or destroyed through the negligent or culpable act

of any owner or any of his guests, agents or members of his family, such owner does hereby irrevocably authorize the Association as its attorney-in-fact as set forth herein to repair said damaged common elements and the Association shall so repair said damaged common elements. The unit owner shall then repay the Association in the amount actually expended for said repairs. The condominium unit owner further agrees that the charges for repairs, if not paid within ten (10) days after completion of work, shall become a lien upon said owner's condominium interest, as set forth in Article XX herein, and shall continue to be such a lien until fully paid.

#### ARTICLE XXXII

##### DECLARANT'S EXCEPTIONS, EXCLUSIONS AND RESERVATIONS

So long as Declarant owns not less than two condominium units, it reserves the right to construct and complete construction of all improvements on the property and in connection therewith reserves the right to use and excavate the surface and subsurface of the ground for construction and installation of said improvements. Declarant also reserves the right to use and occupy so much of the property as may be necessary for construction, repair, maintenance and operation of any of the said condominium units, buildings, roads and other improvements.

#### ARTICLE XXXIII

##### ASSOCIATION MEMBERSHIP, POWERS AND RECORDS

33.1 Membership. Any person on becoming an owner of a condominium unit shall automatically become a member of the

Association and be subject to the Certificate of Incorporation, this Declaration and to the By-Laws. Such membership shall terminate without any Association action whenever such person ceases to own a condominium unit, but such termination shall not relieve or release any such former owner from any liability or obligations incurred under or in any connection with the Association during the period of such ownership and membership in this Association, or impair any rights or remedies which the Board of Directors of the Association or others may have against such former owner and member arising out of or in any way connected with such ownership and membership and the covenants and obligations incident thereto. No certificates of stock shall be issued by the Association, but the Board of Directors may, if it so elects, issue one membership card to the owner(s) of a condominium unit. Such membership card shall be surrendered whenever ownership of the condominium unit designated thereon shall terminate.

33.2.1 Voting. Each owner of a unit shall be entitled to vote in the Association only such owner's percentage of ownership in each unit owned by him multiplied by the undivided percentage interest in the general common elements appurtenant to such units. Provided, however, the Declarant shall be entitled to elect all of the members of the Board of Directors and to control the Corporation until the Declarant has transferred condominium units to Purchaser's representing 80 per cent of the undivided interest in the common elements.

33.3 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 have given their prior written approval, the Association shall not be empowered or entitled to:

unit upon the same terms and conditions as set forth in the offer therefor; provided, however, that a written notice of such election to purchase, lease or rent is given to the selling or leasing owner and a matching down payment or deposit is provided to the selling or leasing owner during the twenty-day period immediately following the delivery to the Board of Directors of the notice of the bona fide offer and copy thereof to purchase or lease.

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

The subleasing or subrenting of said interest shall be subject to the same limitations as are applicable to the leasing or renting thereof. The liability of the owner under these covenants shall continue, notwithstanding the fact that he may have leased or rented said interest as provided herein.

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

The right of first refusal shall not apply to leases, subleases or any rental arrangement having a term of less than sixty-one days; provided, however, that any renewal or extension of such a lease shall be subject to the provisions contained in this paragraph.

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

33.3.1 By act or omission, seek to abandon or terminate the condominium regime;

33.3.2 Partition or subdivide any condominium unit;

33.3.3 By act or omission, seek to abandon, partition, subdivide, encumber, sell or transfer the common elements.

33.3.4 Use hazard insurance proceeds for loss to the improvement for other than the repair, replacement or reconstruction of such improvements.

33.3.5 Abandon professional management of the condominium project.

33.4 Any holder of a first mortgage or first deed of trust shall have the right to examine the books and records of the Association during normal business hours, shall receive an annual audited (not necessarily certified) financial statement of the Association within ninety (90) days following the end of any fiscal year of the Association and will also receive written notice of all meetings of the Association and be permitted to designate a representative to attend all such meetings. No material amendments to the By-Laws of the Association will be made unless all holders of recorded first mortgages or first deeds of trust give their approval to said amendment in writing.

#### ARTICLE XXXIV

##### RIGHT OF FIRST REFUSAL AND AGE RESTRICTIONS

In the event any owner of a condominium unit, other than the Declarant, shall wish to sell or lease the same, and shall have received a bona fide offer therefor from a prospective purchaser or lessee, the remaining owners shall be given written notice thereof together with an executed copy of such offer and the terms thereof. Such notice and copy shall be given to the Board of Directors for all of the owners. The remaining owners through the Board of Directors or a person named by them, shall have the right to purchase or lease the subject condominium

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

It is the intention of the Declarant to create and preserve a living environment within the project which is desirable to and compatible with adult residents who do not have young children; therefore, the units shall be occupied and used by a resident head of family who shall not be less than thirty-five years of age; and any resident children occupying said units shall not be below the age of eighteen.

ARTICLE XXXV

GENERAL

35.1 If any of the provisions of this Declaration or any Article, paragraph, sentence, clause, phrase, or word, or the application thereof in any circumstances be invalid, 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.

35.2 The provisions of this Declaration shall be in addition and supplemental to the Condominium Ownership Act of the State of Colorado and to all other provisions of law which shall control except as modified herein.

35.3 In the event there shall be any conflict between the provisions of this Declaration and any By-Laws or rules or regulations of the Association, the provisions of this Declaration shall be deemed controlling.

35.4 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. The marginal titles are for convenience and reference only and are not intended to provide comprehensive descriptions of the contents of the various Articles. They form no part of this Declaration and shall under no circumstances be held to limit, enlarge or change the meaning of the various Articles.

IN WITNESS WHEREOF, the undersigned has hereunto set its hand and seal at Lakewood, Colorado, this \_\_\_\_\_ day of \_\_\_\_\_, 1979.

NORLYNN INVESTMENT CORPORATION

BY: \_\_\_\_\_  
President

STATE OF COLORADO )  
CITY AND COUNTY OF DENVER ) ss.  
)

The preceding instrument was acknowledged before me this  
\_\_\_\_\_ day of \_\_\_\_\_, 1979 by \_\_\_\_\_  
as President and attested to by \_\_\_\_\_  
as Secretary of NorLynn Investment Corporation, a Colorado  
Corporation.

Witness my hand and official seal.

\_\_\_\_\_  
NOTARY PUBLIC

(SEAL)



EXHIBIT "A"

LEGAL DESCRIPTION

Commencing at a point 200 feet South and 5 feet East of the Northeast corner of Block 58, Lakewood, thence South parallel with East line of said Block 58, 160 feet, thence West parallel with North line of said Block 58,  $192 - \frac{1}{3}$  feet; thence North and parallel with East line of said Block 58, 160 feet, thence East  $192 - \frac{1}{3}$  feet to point of beginning, County of Jefferson, State of Colorado.

EXHIBIT "B"

The undivided interests in the General Common Elements appurtenant to Units in this Project are as follows:

<u>Unit Number</u>	<u>Interest</u>
1365	.0611
1367	.0611
1369	.0611
1371	.0611
1373	.0611
1375	.0611
1377	.0611
1379	.0611
1385	.0835
1387	.0611
1389	.0611
1391	.0611
1393	.0611
1395	.0611
1397	.0611
1399	.0611