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PITKIN CNTY RECORDER

318351

DECLARATION
FOR
THE HOMESTEAD AT SNOWMASS, a condominium
SNOWMASS VILLAGE, COLORADO

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DECLARATION
FOR
THE HOMESTEAD AT SNOWMASS, a condominium
SNOWMASS VILLAGE, COLORADO

This Declaration is made this 8th day of November, 1989,
by MMV Corporation, a Colorado corporation (the "Declarant").

PREAMBLE

Declarant is the owner of Homestead at Snowmass, a replat of Parcel 5, The Snowmass Club Subdivision, Pitkin County, Colorado and desires to submit such property to the Colorado Condominium Ownership Act. Declarant intends that all present and future Owners, Mortgagees and other persons now or hereafter acquiring any interest in the Property (defined below) shall hold their interests subject to the rights, easements, privileges and restrictions established by this Declaration. All such rights, easements, privileges and restrictions are declared to be in furtherance of a plan to promote and protect the value, desirability and attractiveness of the Property.

Therefore, Declarant declares as follows:

I. Definitions

These terms shall have the following meanings unless the context clearly requires otherwise.

1.1 "Additional Property" shall mean the real property described on Exhibit B attached hereto, together with all buildings, structures and improvements of any kind thereon, all or portions of which Declarant may make subject to this Declaration from time to time in the future.

1.2 "Association" shall mean The Homestead at Snowmass Association, a Colorado non-stock, non-profit corporation, and its successors and assigns, through which all Owners act as a group under the Association's Articles of Incorporation, By-Laws and this Declaration.

1.3 "Association Property" shall mean all the Association's real and personal property interests.

1.4 "Board" or "Board of Managers" shall mean the governing board of the Association.

1.5 "Building" shall mean any permanent, roofed structure whether or not fully enclosed, which is now or hereafter constructed on the Property.

1.6 "By-Laws" shall mean the By-Laws of the Association adopted and amended by the Board from time to time.

1.7 "Common Elements" shall mean the Property, except the portions thereof which constitute Units or Association Property. Unless the context otherwise clearly requires, the term Common Elements shall include both General and Limited Common Elements.

1. "General Common Elements" shall mean those Common Elements reserved for the benefit of all the Owners by virtue of not being Limited Common Elements. The General Common Elements include all tangible physical properties on the Property including, but not limited to: the land constituting the Property; the air above such land; the structural components of all Buildings, including, but not limited to, the foundations, girders, beams, supports, roofs, and bearing and structural walls; any lobby, common restrooms, pool, locker rooms, sauna, jacuzzi, steam room, common trash facilities, and pool equipment room; chimneys; electrical, mechanical and plumbing service installations; and non-dedicated roads.

2. "Limited Common Elements" shall mean those Common Elements reserved for use by fewer than all the Owners designated as such in this Declaration or on the Map. If any chute, flue, duct, wire, conduit, bearing wall, fireplace, bearing column or other fixture lies partly within and partly without the boundaries of a Unit, any portion thereof serving only that Unit is a Limited Common Element for the sole use of that Unit, and any portion thereof serving more than one Unit or any portion of the General Common Elements is a General Common Element. Any Limited Common Element specifically designated for the sole use of a particular Unit on the Map cannot be redesignated for the use of a different Unit without the prior written consent of the Owner and the First Priority Mortgagee of the Unit from which the Limited Common Element is being transferred.

1.8 "Common Expense" shall mean the estimated and actual expenditures made or liabilities incurred by or on behalf of the Association, together with any allocations to reserves.

1.9 "Condominium Unit" shall mean the fee simple interest in and title to a Unit, together with an undivided interest in all Common Elements (other than Association Property) as set forth in this Declaration, in addition to all other rights and burdens created by this Declaration.

1.10 "Declarant" shall mean MMV Corporation, a Colorado corporation, and its successors and assigns specifically designated as such by an instrument executed by Declarant and recorded in the office of the Clerk and Recorder, Pitkin County, Colorado.

1.11 "Declaration" shall mean this Condominium Declaration together with any supplement or amendment thereto which has been recorded in the office of the Clerk and Recorder of Pitkin County, Colorado.

1.12 "Guest" shall mean any person or persons having permission from an Owner, Lessee, or the Association to be on the Property, whether or not such person or persons are charged a fee for their use of any facilities on the Property.

1.13 "Lessee" shall mean any person or legal entity who agrees to pay or pays rent to an Owner for the right to occupy a Condominium Unit.

1.14 "Maintenance" shall mean such repair, upkeep, renovation, restoration, or replacement of any portion of the Property as may be necessary to maintain it in substantially the same condition as originally or subsequently constructed, altered or improved.

1.15 "Managing Agent" shall mean the person or legal entity designated by the Board of Managers to manage the Property.

1.16 "Map" shall mean the map of the Property which shall be filed for record in the office of the Clerk and Recorder of Pitkin County, Colorado prior to the conveyance of a Condominium Unit to a purchaser. The Map, which may be recorded in supplements, shall depict and show at least the following: The legal description and boundaries of the Property; the location of Buildings on the Property; any portion of the Property reserved for the construction of additional Units or other improvements; the floor plans and vertical elevations of Buildings; the location of the Units within Buildings; the typical thickness of the common walls between the Units or any other portion of a Building; the location of any other portion of a Building; the location of any structural components or supporting elements of a Building; and the Unit designations. The Map shall be certified by a registered professional engineer or registered land surveyor as substantially depicting the Unit locations, designations and Unit measurements; parking and storage locations; elevations of constructed finished floors and ceilings of Units; and an affirmation that the Map was prepared subsequent to substantial completion of the improvements shown thereon. Declarant and the Board reserve the right to amend the Map and any supplements thereto, from time to time, in order to

conform the Map to the actual location of any of the constructed improvements, to conform the Map to duly adopted amendments to this Declaration, and to establish, vacate or replace utility easements, access road easements and parking areas. Declarant's right to file supplemental Maps shall terminate seven years after the date of recordation of this Declaration.

1.17 "Mortgage" shall mean any mortgage, deed of trust or other security instrument creating a real property security interest in a Condominium Unit, excluding any statutory, tax or judicial liens. "Mortgagee" shall include any grantee, beneficiary or assignee of a Mortgage, and "Mortgagor" shall include any grantor, trustor or assignor of a Mortgage. A "First Priority Mortgage" shall mean a Mortgage having the highest priority as a Mortgage against a Condominium Unit, but only if the Mortgagee of such Mortgage, the "First Priority Mortgagee", claims such status in a written notice delivered to the Association.

1.18 "Occupant" shall mean any individual on any portion of the Property (including any Condominium Unit) whether as an Owner, Lessee, Guest, resident, family member, agent, employee or otherwise.

1.19 "Owner" shall mean the person or legal entity holding fee title to a Condominium Unit.

1.20 "Property" shall mean that portion of Homestead at Snowmass, The Snowmass Club Subdivision, Pitkin County, Colorado, described on Exhibit A attached as a part hereof, plus any Additional Property which the Declarant may hereafter make subject to this Declaration as provided in Article XII hereof, and all Buildings and any other kind of improvements thereon, together with all rights and appurtenances thereto, but excluding (subject to a perpetual waiver by Seller of any right to enter upon the surface of the real property or the upper 500 feet thereof for any reason whatever, including without limitation the diversion, use or extraction of) water, water rights, oil, gas, minerals and gravel.

1.21 "Unit" shall mean an individual air space unit designated on Exhibit C and dedicated on the Map (as supplemented from time to time). Each Unit shall have as its boundaries the finished interior surfaces of walls, floors, ceilings and windows and doors in their closed position, and each Unit shall bound another Unit or the Common Elements. A Unit shall include all lath, furring, wallboard, plasterboard, plaster, paneling, tiles, wall paper, paint, finished flooring and any other materials constituting any part of the finished surfaces thereof as well as the interior partitions and other spaces, fixtures and improvements within such boundaries. A Unit does not include any Common Element located within the Unit. Prior to conveyance, the

Unit shall be depicted on the Map and identified thereon by a number, but the surfaces described in this definition are the boundaries in fact, whether or not they are accurately depicted on such Map.

II. Submission of the Property

Declarant, as owner of the Property, submits the Property to the Colorado Condominium Ownership Act and declares that the Property shall at all times be owned, used or occupied subject to the provisions of this Declaration.

III. Owners' Property Rights and Limitations

3.1 Legal Description. The description of a Unit in every instrument which affects the title to or the right to possession of a Unit, shall be sufficient if the Unit is described as follows:

Unit ____ as shown on The Homestead at Snowmass Condominium Map (Phase I) filed in the records of the Clerk and Recorder of Pitkin County, Colorado, on December 20, 1989, in Plat Book 23 at Page 70-71, and as defined and described in the Declaration for The Homestead at Snowmass, a condominium, Snowmass Village, Colorado, appearing in such records, filed on December 20, 1989, in Book 610 at Page 182 [if applicable: and as defined and described in the Supplemental Declaration for The Homestead at Snowmass, a condominium, Snowmass Village, Colorado, appearing in such records, filed on _____, 19____, in Book _____ at Page ____].

Every such description for a Condominium Unit shall be construed to include: the Unit; an undivided interest in the Common Elements (excluding Association Property); the exclusive right to use Limited Common Elements assigned on the Map or in this Declaration to the particular Unit; a nonexclusive easement for ingress and egress to and from the Property; a nonexclusive easement (subject to any limitations described in this Declaration) for the use of the General Common Elements; and all other rights, obligations and restrictions created in this Declaration or designated on the Map. Prior to the designation of a Unit on a recorded Map, a contract for the sale of a Unit or any other instrument which anticipates future conveyance or

encumbrance of a Unit, may legally describe the Unit by its Unit designation and the words "The Homestead at Snowmass, a condominium, Pitkin County, Colorado."

3.2 Recreational Facilities. An outdoor jacuzzi is the only recreational facility currently planned for construction by the Declarant on the Property.

3.3 Easement to Facilities and General Common Elements. The nonexclusive easement of each Condominium Unit to use the General Common Elements is subject to the Association's right:

1. to regulate use of the recreational facilities by Occupants;
2. to prohibit the use of the recreational facilities by Occupants other than Owners and Lessees and their Guests residing in the Unit;
3. to grant permission to persons other than Owners, Lessees, and their Guests residing in their Unit, to use the General Common Elements on the Property and charge reasonable fees therefor. No fees or charges in addition to the regular assessments shall be charged to Owners, Lessees, and their Guests residing in their Units for the use of any recreational facility;
4. to reasonably regulate or prohibit all Occupants' use of, or access to, General Common Elements other than recreational facilities; and
5. to suspend the right of applicable Occupants to use any facilities on the Property for any period of time during which any assessment against their Condominium Unit remains unpaid and delinquent and also for a period of time not exceeding 30 days for any single infraction of the rules of the Association.

3.4 Ownership of Common Elements. Each Unit is allocated an undivided ownership interest in the Common Elements (excluding Association Property) existing from time to time proportionate to the undivided ownership interests described on Exhibit C for each Unit then dedicated on the Map. Other than a reallocation of these interests under the conditions described in Article XII, such undivided fee interests shall not be amended without the prior written consent of all Owners and First Priority Mortgagees. Each Owner shall hold his undivided interest in the Common Elements as a tenant in common with all other Owners.

3.5 Inseparability. An Owner's undivided interest in the Common Elements shall not be separated from his interest in

the Unit to which it is appurtenant and shall be deemed to be conveyed or encumbered with the Unit even though the undivided interest is not expressly mentioned or described in the deed or other instrument of conveyance or encumbrance.

3.6 Right of Entry to Units. The Association and its designated agents shall have an immediate, limited right of entry to each Unit in the case of an emergency originating in, passing through, or threatening such Unit. This right of entry shall exist whether or not the Owner is present. Additionally, an Owner shall permit the Association or its designated agents to enter his Unit for the purpose of performing those installations, alterations or repairs to his Unit or the Common Elements which the Association is obligated or entitled to perform. Requests for entry for the latter purpose must be made in advance, and entry must be at a reasonable time.

3.7 Easements for Encroachment. If, for any reason, any part of the Common Elements encroaches or shall hereafter encroach upon any part of any Unit, or any part of any Unit encroaches or shall hereafter encroach upon any part of the Common Elements or upon any other Unit, valid easements for the maintenance of such encroachment are established. These easements shall exist for the benefit of the encroaching Unit or Common Element so long as such Unit or Common Element remains standing. No easement for any encroachment is created for the benefit of the offending party if the encroachment occurred due to willful conduct.

3.8 Easements to Limited Common Elements. An exclusive easement to use and occupy the Limited Common Elements described in this Declaration or designated on the Map to a particular Unit is declared and established for the benefit of each such Unit.

3.9 Individual Tax Liability. This Declaration and the recording of the Map shall constitute written notice to the Assessor of Pitkin County, Colorado of the creation of condominium ownership of the Property. After such notice, each Condominium Unit shall be subject to separate assessment and taxation to the extent permitted by statute.

3.10 Easements for Support. Each Unit and Common Element shall have a non-exclusive easement for lateral and subjacent support from every other Unit and Common Element.

3.11 Golf Course Hazard. The Property and the Units are immediately adjacent to a golf course. All Owners hold title to their Condominium Units and the Association holds title to any Association Property subject to and with knowledge and notice of the existence of the adjacent golf course and the nearby play area for golf, with any and all attendant risks, conditions and effects, including, without limitation, the risks of damage,

breakage and injury from golf balls being hit onto the Property and striking Unit or Occupant. All Owners by taking a deed to a Condominium Unit, and the Association, for themselves, their heirs, successors, assigns and invitees, release Declarant and its successors and assigns, from any and all liability which may or could arise from the condition of the Property and the Units being located immediately adjacent to a golf course.

IV. Residence and Use Restrictions

4.1 Use as Residence Only. Except as otherwise specified, each Unit shall be used only as a residence. If permitted by law, a Unit may be used for professional or administrative occupations provided there is no external evidence thereof and any such use is merely incidental to the primary use of the Unit as a residence. A Unit owned by Declarant or by the Association may be used as the residence or office of the Managing Agent. In addition, Declarant and its designated agents may use any Units for a sales model, a real estate sales office or a management office.

4.2 Occupancy Limitations. No Unit shall be occupied by more persons than it was designed to accommodate safely and comfortably. Each Unit shall be deemed to have been designed to accommodate safely and comfortably a maximum of 2 adults (persons over the age of 12) per living space originally designed primarily as a sleeping area plus 2 additional adults per Unit.

4.3 Use of General Common Elements. Except as otherwise specified, nothing shall be altered on, constructed in, stored on or removed from the General Common Elements without the prior written consent of the Board.

4.4 Nuisances and Negligence. There shall be no noxious or offensive activity carried on, in or upon any Common Element, and no loud noises or noxious odors shall be permitted anywhere on the Property. Nothing shall be done on the Property which may be or become an unreasonable annoyance or a nuisance to any other Occupant. The Board or its managing agent shall have the right to determine if any activity, noise or odor constitutes a nuisance. No Occupant shall permit or cause anything to be done or kept on the Property which will increase the rate of insurance obtained under Section 10.1 or which will result in the cancellation of such insurance. Each Occupant shall be accountable to the Association and the other Owners and Lessees for the behavior of his Guests. Any damage to the Common Elements, or the property of another Occupant which is caused by any Occupant, shall be repaired at the sole expense of the Owner or resident in whose Unit such persons are visiting or residing.

4.5 Sign Restrictions. Without the prior written consent of the Board or pursuant to its rules and regulations, no sign or advertising device shall be displayed to the public view, except as may be used by Declarant or its designated agents to advertise the availability of Condominium Units.

4.6 Parking Restrictions. No Occupant shall park any vehicle on the Property except wholly within a Common Element designated for parking. No inoperable vehicle shall be stored on the Property, and no Occupant shall park any large commercial-type vehicle on the Property. The Board may restrict or prohibit parking on the Property of trailers, boats, camper-type vehicles and motor homes and adopt such other rules and regulations for parking as the Board deems appropriate. No Occupant shall conduct major repairs or restorations of a vehicle or permit any such activity to be conducted upon the Property.

4.7 Pet Restrictions. Occupants other than Owners are prohibited from keeping pets of any sort upon the Property. Owners may keep pets upon the Property subject to any rules and regulations by the Board concerning the keeping of pets and the obligations of Owners in connection therewith. An Owner shall be absolutely liable to the Association and all other Occupants for any unreasonable noise or damage to person or property caused by any animal brought or kept on the Property by such Owner or members of his family. It is the absolute responsibility of each Owner to clean up after any animal which has used the Common Elements or any other portion of the Property in any manner.

4.8 Eyesores and Fire Restrictions. Nothing shall be hung out or exposed on any part of the Common Elements visible to the public. The Common Elements, windows and doors shall be kept free and clear of rubbish, debris and other unsightly materials. Trash, garbage or other waste shall be disposed of in a designated trash container. No portion of the Common Elements visible to the public shall be used for the storage of building materials, refuse or any other materials, other than in connection with approved construction. There shall be no exterior fires except in contained barbecues unless otherwise regulated or prohibited by the Board.

4.9 Out-Building Restrictions. No temporary building shall be placed upon any portion of the Common Elements, except as permitted by the Board. No garage, storage unit, trailer, boat, camper, motor home or recreation vehicle shall be used, either temporarily or permanently, as a residence on the Property.

4.10 Limited Common Elements. No Occupant shall decorate or fence any Limited Common Element without the prior written authorization of the Board.

4.11 Structural Integrity. Except as otherwise provided in this Declaration, nothing shall be done to any Unit or the Common Elements which will impair the structural integrity of or structurally change, any Building on the Property unless prior written authorization is obtained from the Board.

4.12 Permissions to Declarant. In order that Declarant's work may be completed and the Property may be established as a fully occupied residential community, Declarant and its agents, employees and contractors shall have all reasonably necessary rights during any period of construction on the Property and during the period of the disposition of Condominium Units, subject to Declarant's responsibility for mechanics' liens as set forth in Section 6.5 hereof. Neither the Association nor any Owner or Resident shall do anything to prevent Declarant and its agents, employees and contractors from the following:

1. doing whatever Declarant deems necessary or advisable in connection with the completion of any work on the Property, including without limitation the alteration of construction plans and designs and the alteration or addition of easement locations for utilities and rights of way as Declarant deems advisable in the course of development of the Property;
2. erecting, constructing and maintaining such structures or parking such vehicles of any type on any portion of the Property as may be reasonably necessary for the completion of the work, the establishment of the Property as a residential community and the disposition of the Condominium Units by sale, lease or otherwise;
3. conducting the business of developing, subdividing, grading and constructing Units and other improvements on the Property; and
4. maintaining such sign or signs on the Property as may be necessary in connection with the sale or lease of Condominium Units.

If, as a result of any permission granted in this section, liens arise with respect to the Property, Declarant shall indemnify all First Priority Mortgagees.

4.13 Right to Combine Units. Subject to all applicable governmental approvals, an Owner has the right to combine a Unit with one or more adjoining Units after obtaining written approval from the Board and the First Priority Mortgagee for each Unit involved. An Owner shall also have the right, upon obtaining written approval from the Board and the First Priority Mortgagee for each Unit involved, to create a passageway between the Units through any common wall if such Owner owns two adjacent Units. A

combination of Units shall become effective only when the Owner of the Units which are to be combined and an officer of the Association execute and record in the office of the Clerk and Recorder of Pitkin County, Colorado, a written statement describing such Units and declaring that the same are to be combined. Such combination, however, shall not affect the designations for the Units involved, or prevent the separate ownership of the Units in the future. The combination of Units shall not reduce the Owner's undivided interest in the Common Elements. For such time as the combination remains effective, any part of the Building within the new perimeter boundaries of the combined Units which was a General Common Element shall automatically become a Limited Common Element of the combined Unit if such part of the building would not have constituted a Common Element had the combined Units been originally designated on the Map as a single Unit.

4.14 Partition of Units Prohibited. No Owner shall partition or subdivide any Condominium Unit so as to encumber or convey an interest in less than an entire Condominium Unit. However, an Owner of a Condominium Unit consisting of two or more Units combined pursuant to Section 4.13 may partition or subdivide such Unit into Condominium Units conforming to the dimensions of the Units described in the Map. This Section is not intended, however, to prohibit joint or common ownership of a Condominium Unit by two or more persons or entities.

4.15 Compliance with Law. No Occupant shall do anything or keep anything on the Property which would be in violation of any law or regulation validly imposed by any governmental or quasi-governmental body.

V. The Association

5.1 Business and Membership. The business and affairs of the condominium subject to this Declaration shall be governed and managed by the Association through its Board. All Owners shall automatically be members of the Association, and such membership shall automatically cease upon termination of the Owner's interest in his Condominium Unit. Membership shall be appurtenant to a Condominium Unit and shall not be separately conveyed, encumbered or abandoned.

5.2 Binding Effect. Each Occupant shall be bound by and shall strictly comply with the provisions of this Declaration, the By-Laws, any deed restrictions and covenants, and all rules and agreements lawfully made by the Association. The failure of the Association, the Board or its managing agent to insist, in any one or more instances, upon the strict performance of any such provisions, restrictions and covenants,

or to exercise any right or option available to it, or to serve any notice or to institute any action, shall not be a waiver or a relinquishment, for the future, of any such provision, restriction or covenant. The Association shall have the right and power to bring suit in its own name for either legal or equitable relief for any lack of compliance with any such provisions and shall be entitled to immediate injunctive relief for any infraction thereof. An Owner aggrieved by lack of compliance may also bring suit for legal or equitable remedies. If any court proceedings are instituted in connection with the rights of enforcement and remedies provided in this Declaration, the prevailing party shall be entitled to reimbursement of its costs and expenses, including reasonable attorneys' fees, in connection therewith.

5.3 Power of the Association. Each Owner agrees that the Association has all the powers granted it by the Colorado Non-Profit Corporation Act and the Colorado Condominium Ownership Act and any amendments thereto or replacements thereof. Such powers shall include, without limitation, levying assessments against the Owners, foreclosing the liens which arise for such assessments, enforcing any deed restrictions and covenants, and acquiring, holding, leasing, mortgaging or conveying the Association Property or Common Elements for itself and on behalf of all Owners as their attorney-in-fact. The Association is hereby irrevocably appointed attorney-in-fact of each Owner to manage, control and deal with the interest of each Owner in the Common Elements so as to permit the Association to fulfill all of its duties and obligations hereunder and to exercise all of its rights hereunder. Acceptance by a grantee of a deed or other instrument of conveyance from the Declarant or any other Owner shall constitute an irrevocable appointment of such attorney-in-fact. Each Owner shall be deemed to have waived all rights of partition, homestead, or exemption under state or federal law including bankruptcy laws.

5.4 Additional Activities, Functions or Services. The Association may undertake, to the extent the Board, in its sole discretion so elects, to provide any activity, function or service, for the benefit of or to further the interests of all, some or any Owners on a self-supporting, special assessment, or general assessment basis. Such activities, functions or services, which may be provided by the Association's employees, by an independent contractor retained by the Association, or by a community association of which the Association is a member, may include, without limitation: management of the Property, a garbage and trash collection service, a firewood service, and a maid and cleaning service for Units. If any such activity, function or service includes furnishing or providing services for the care and maintenance of a Unit, no Owner shall be required to utilize the Association or an independent contractor retained by the Association for such services.

5.6 Association Property. The Association may acquire and hold or lease tangible and intangible personal property and real property and may dispose of the same by sale or otherwise. The beneficial interest in such Association property shall be held by the Owners as provided in the Association's Articles of Incorporation and shall not be transferable except by transfer of an Owner's Condominium Unit. A transfer of a Condominium Unit shall vest in the transferee ownership of the transferor's beneficial interests in any Association property.

5.8 Lost or Damaged Property. The Association shall not be responsible to any person or entity for loss or damage by theft or otherwise of articles which may be stored in a Unit or on or in the Common Elements.

6.1 Responsibilities of the Association. The Association is responsible for Maintaining as a Common Expense:

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6.2 Responsibilities of Owners. Each Owner is responsible for providing all Maintenance within his Unit at his own expense, except as provided in Subsection 6.1(b). Such responsibility shall include, without limitation, Maintenance of the interior surfaces of the walls, ceilings, doors and floors which define the Unit and any finished or additional surfaces, decoration or materials, such as carpets, wallpaper, countertops, painting or staining, plug-in appliances and personalty of any kind in the Unit. Each Owner is also responsible, at his own expense, for cleaning any balcony or patio adjacent to the Unit; all doors to the Unit; the interior faces of all glass surfaces which define the Unit; all machines, attachments, installations and fixtures within the Unit; and any other facility or fixture constituting a Limited Common Element assigned to the particular Unit. An Owner shall also be responsible for the costs of any Maintenance to the Common Elements or another Unit which is necessitated by the Owner's negligence, as determined by the Board.

6.3 Notice to Maintain. An Owner or Lessee shall immediately report to the Board the need for any Maintenance which is the Association's responsibility to provide. In the event of any disagreement as to the Association's responsibility to provide the Maintenance, the decision of the Board shall be final.

6.4 Approvals by Owners. Subject to the provisions of Article VIII no special or general assessment shall be levied for any "Extraordinary Improvement" unless the Association obtains the approval of a majority of Owners. Any non-Maintenance, improvement project constitutes an "Extraordinary Improvement" if the total costs associated with the project exceed 15% of the total annual budget (excluding such project) for the year in which the Board authorizes the first stage of the project. Dissenting Owners shall not be relieved of their obligation to pay a proportionate share for any project approved under this subsection.

6.5 Mechanics' Liens. For the benefit of the Association and the Owners, Declarant shall be responsible for the release of all mechanics' liens filed with respect to the Common Elements if such liens arise from labor performed or materials furnished at the instance of Declarant, its agents, contractors or subcontractors. Except as the result of labor performed or materials furnished at the instance of the Association or its agents, no labor performed or materials furnished with respect to the Property shall be the basis for filing a lien against the Common Elements or against any Condominium Unit whose Owner did not expressly consent to or request the performance of such labor or the furnishing of materials. Each Owner shall indemnify and hold harmless each of the other Owners and the Association from and against all

6.6 Property Management Services. The Association, through the Board, shall provide for the management of the Property by qualified professionals either employed directly by the Association alone or together with other condominium associations, or retained as an independent, management services contractor. Pursuant to the latter alternative, the Board may enter into a property management agreement (the "Agreement") with a professional managing agent, including the Declarant. Any such Agreement shall not be entered or renewed for a term exceeding three years and shall further provide for termination by either party, without cause and without payment of a termination fee, on not more than ninety (90) days written notice to the other party. Each Owner, his successor and assigns, shall be bound by the Agreement for the purposes therein expressed, including but not limited to:

3. recognizing that some or all of the persons comprising the original Board are or may be partners, shareholders, officers, directors or employees of the Managing Agent or the Declarant, and that such circumstances shall not and cannot be construed or considered as a breach of their duties and obligations to the Association, or as grounds to invalidate the Agreement, in whole or in part.

VII. Assessments Against Condominium Units

7.1 Obligation and Purpose. Each Condominium Unit shall be subject to such general or special assessments as the Association may levy from time to time. The assessments collected shall be used exclusively to promote the recreation, health, safety and welfare of those persons residing on the Property. Each Owner shall be obligated to pay all such assessments levied against his Condominium Unit and may not exempt himself from liability by waiver of the use or enjoyment of any of the Common Elements or by an abandonment of his Condominium Unit.

7.2 Assessments. General assessments, which shall be based on a budget for a fiscal year designated by the Board, may be used for the Common Expenses of the Association. The failure of the Board before the expiration of any fiscal year to establish a budget for the next fiscal year shall not release the Owners from their obligation to pay any assessments or installments thereof for that or any subsequent year. The budget and assessment installments established for the preceding year shall continue until a new budget is fixed by the Board. Unless otherwise provided herein, general and special assessments shall be apportioned among the Units then dedicated on the Map proportionate to their undivided ownership interests described on Exhibit C. No assessment liability for any Condominium Unit shall exist prior to the recording of a Condominium Map subjecting that Condominium Unit to this Declaration. After the recording of a Condominium Map subjecting a Condominium Unit to this Declaration, Declarant shall be responsible for the assessments against any Condominium Units owned by it, subject to the limited exemption provided in Section 7.5. If the estimated cash requirements set forth in the budget prove to be inadequate for any reason, including nonpayment of any Owner's assessment, the Board may, at any time, levy a special assessment. Assessments respecting Limited Common Elements, or which are equitably attributable to only particular buildings or Units, may be allocated, in the sole judgment of the Board, to the Owners thereby affected.

7.3 Refunds. If in any fiscal year the assessments collected by the Board exceed expenses incurred, the Board shall have the right, but not the obligation, to make refunds or give credits against future assessments. Refunds or credits shall be apportioned in the same manner as the general and special assessments which created such surplus. Owners whose Condominium Units were subject to this Declaration for less than the full fiscal year shall receive only a proportionate refund or credit based upon the number of days the Unit was subjected to this Declaration. If the Declarant held title to a Condominium Unit for any part of the fiscal year, it shall be entitled to a

proportionate share of the Unit's refund or credit based upon the number of days it held title to the Unit, divided by the total number of days during the fiscal year that the Unit was subject to this Declaration. Any credit or refund amount remaining after the Declarant receives its proportionate share for a particular Condominium Unit, shall be given to the current Owner of the Condominium Unit. Any credit received by Declarant under this Subsection shall be applied to another Condominium Unit owned by the Declarant, and if there is no such Unit, shall be converted into a cash refund.

7.4 Assessment Adjustments. With respect to any assessment, credit or refund, the Board shall have the power to round off and make other minor adjustments of less than \$10.00 in each Condominium Unit's allocation for the following purposes: (i) to create whole round numbers for the convenience of the payor; or (ii) to correct any discrepancy between the total of each Unit's allocation of any such assessment, credit, or refund, and the total amount of either the expenses actually subject to assessment or the surplus actually available for a refund or credit.

7.5 Working Capital Reserve. The Association may establish and maintain a working capital reserve, and each year may assess all Owners other than the Declarant, an amount necessary to fund the reserve, provided that the total amount of the reserve does not exceed 25% of the annual operating budget for the fiscal year. With respect to Condominium Units owned by the Declarant, the duty to pay working capital reserve assessments shall accrue only from and after the year in which Declarant's Class B membership terminates according to the Articles of Incorporation. The working capital reserve may be used by the Association for working capital, including the payment on an emergency basis of both minor and major Maintenance expenses, providing that the reserve is replenished by general or special assessments within a reasonable time.

7.6 Collection Remedies.

1. All assessments or installments thereof shall be due and payable at the time or times designated by the Board by written notice delivered pursuant to Section 13.5. Overdue assessments shall bear interest at 21% per annum, or such other lawful rate and/or late charge as the Board may determine. The payment of any assessment payable in installments may be accelerated by the Board for failure to pay any installment when due.

2. An assessment shall be the personal obligation of the Owner of the Condominium Unit at the time the assessment is levied against the Condominium Unit affected. A suit to recover a money judgment for unpaid assessments may be maintained

against any Owner without waiving or otherwise prejudicing the Association's right to pursue its remedies under Subsection 7.6(c). The Association shall be entitled to recover the costs of suit and reasonable attorneys' fees incurred in bringing any action under this paragraph.

3. The Association shall have a lien against a Condominium Unit for any assessments against the Condominium Unit or its Owner which are due and unpaid. Costs of collection, including without limitation, reasonable attorneys' fees and court costs, shall be added to the assessment lien amount. All amounts unpaid shall be evidenced by a statement executed by the Association and recorded with the Pitkin County, Colorado Clerk and Recorder. The assessment lien against a Condominium Unit shall be subordinate only to the First Priority Mortgage on the Condominium Unit. The Association shall have the right to foreclose such lien in the manner provided by Colorado law for mortgages upon real property. The Association shall have the power to bid on the Condominium Unit at a foreclosure sale and to acquire, hold, lease, mortgage and convey the same.

7.7 Grantee and Mortgagee Assessment Obligations. No Owner shall convey or mortgage his Condominium Unit unless and until all sums due the Association, whether or not evidenced by a recorded statement, are currently paid, but no Mortgage transaction shall be voidable by the Association nor shall the superior position of a First Priority Mortgagee be adversely affected by a lien of the Association. At least five (5) business days prior to any conveyance or mortgage, the Owner shall deliver written notice to the Association advising it of the proposed transaction and the names and addresses of all transferees and Mortgagees involved. If any assessment is due and owing by the Owner and his grantee or Mortgagee has actual or constructive notice thereof, his grantee or Mortgagee shall apply the proceeds of any such transaction to the payment of delinquent amounts due the Association before paying or disbursing any amount to the Owner. The grantee of a Condominium Unit shall be jointly and severally liable with his grantor for all unpaid assessments against the latter up to the time of the grant or conveyance, without prejudice to the grantee's right to recover from the grantor any amounts paid by the grantee therefor. Upon written request and payment of such reasonable fee as may be set by the Association, the Association shall issue a written statement under signature of the Treasurer or other person designated by the Board to such grantee or Mortgagee verifying the status of all assessments or charges affecting the Condominium Unit. Any statement as to the existence or amount of any delinquencies shall conclusively bind the Association. A First Priority Mortgagee, who takes title to a Condominium Unit pursuant to the remedies in the Deed of Trust encumbering that Condominium Unit shall take such Condominium Unit free and clear of all unpaid assessments and the lien therefor.

7.8 Assessments for Tort Liability. In the event of any tort liability against the Association which is not covered completely by insurance, each Owner shall contribute for the payment of such liability as a Common Expense. The Association may, however, require a larger contribution from fewer than all Owners under any legal or equitable principle regarding liability for negligent or willful acts or omissions.

VIII. Destruction, Damage and Obsolescence

8.1 Association as Attorney-In-Fact. Upon the destruction, damage, obsolescence or condemnation of the Property, the Association's power to act as attorney-in-fact for each Owner shall continue pursuant to Section 5.3, except that when acting under this Section the Association shall have authority, subject to any rights of approval specified in this Section, to deal in any manner with the entire Property or any part thereof in order to accomplish the purposes set forth herein. If the Association is dissolved or defunct, a meeting of the Owners shall be held promptly to elect a new attorney-in-fact to deal with the Property upon its destruction, damage, obsolescence, or condemnation. The selection must be approved by Owners of $66 \frac{2}{3}\%$ or more of the votes outstanding and entitled to be cast under the By-Laws and at least 80% of the First Priority Mortgagees.

8.2 Revocation of Declaration. If there is destruction rendering 80% or more of the Units uninhabitable, this Declaration may be revoked if Owners holding 80% or more of the votes of the Association so elect at a special meeting held within 90 days of the event causing the destruction, and at least 80% of the First Priority Mortgagees so approve. The Association shall send written notice of such revocation to all Mortgagees as provided in Section 13.5.

8.3 Use of Insurance Proceeds. The proceeds collected from any insurance purchased by the Association shall be available to the Association for itself as owner of any Association Property and as attorney-in-fact for the Owners. Any such proceeds shall be used for the purpose of Maintenance unless the Owners decide to terminate this Declaration in which case the insurance proceeds will be distributed according to the provisions of Section 11.3. In the event of Maintenance, all present and future Mortgagees hereby release all right to the proceeds under all insurance policies purchased by the Association.

8.4 Special Assessments. In order to raise the remainder of the funds required for Maintenance after the application of any proceeds of insurance, the Association may

levy one or more special assessments. The Association shall have the right to require a larger contribution from fewer than all Owners under any legal or equitable principle regarding liability for negligent or willful acts or omissions.

8.5 Estimates, Notice and Duty to Maintain. If there is any destruction of the Property, the Association shall cause to be prepared an estimate of the damage and the cost of Maintenance, an inventory of the Association's funds from all sources (including insurance) which are available for such Maintenance, and an estimate of the assessment against each Condominium Unit which would be necessary to enable the Association to meet such Maintenance costs in full. The Association shall promptly deliver a summary of such information to each Owner. In the event of damage, destruction, or obsolescence of any Unit, or any portion thereof, or any part of the Common Elements, exceeding a Maintenance cost of \$10,000, then each First Priority Mortgagee with an interest in the damaged or obsolete property will be entitled to prompt written notice from the Association of any such damage, destruction, or obsolescence.

8.6 Mandatory Maintenance. In the event of damage or destruction due to fire or other disaster, if the insurance proceeds are sufficient to reconstruct the improvements, the Association shall promptly cause such Maintenance to occur. Assessments for Common Expenses shall not be abated during the period of insurance adjustments and repair and reconstruction.

8.7 Plan for Maintenance. Owners of 80% or more of the total votes outstanding and entitled to be cast under the By-Laws may agree that the Property, or a substantial part thereof, is obsolete and may adopt a written plan for Maintenance. Any such plan shall have the approval of 80% of the First Priority Mortgagees of record at the time of the adoption of such plan. The Association shall duly record such plan in the office of the Clerk and Recorder of Pitkin County, Colorado.

8.8 Payment for Maintenance. Assessments for the expense of Maintenance shall be subject to the apportionment, collection and refund provisions set forth under Article VII. Dissenting Owners shall not be relieved of their obligation to pay a proportionate share of any Maintenance Expenses.

8.9 Sale of Obsolete Property. Owners of 80% or more of the total votes outstanding and entitled to be cast under the By-Laws may agree that the Property, or a substantial part thereof, is obsolete and should be sold. Such an agreement must have the written approval of 80% of the First Priority Mortgagees of record at the time such agreement is made. In such an instance, the Association shall forthwith record a notice setting forth such fact or facts, and upon the recording of such notice

by the Association, the Property shall be sold by the Association, for itself and as attorney-in-fact for the Owners, free and clear of the provisions contained in this Declaration, the Map, and the By-Laws. In the event of such a sale, condominium ownership under this Declaration of such Property shall terminate, and the proceeds of the sale shall be distributed as provided in Section 11.3 hereof.

IX. Taking By Eminent Domain

9.1 Taking of Common Elements. If only Common Elements are taken or condemned by any authority having the power of eminent domain, all compensation and damages on account of the taking of the Common Elements, exclusive of compensation for consequential damages to affected Condominium Units, shall be payable to the Association for itself and as attorney-in-fact for the Owners. Such proceeds shall be used promptly by the Association to the extent necessary for Maintenance of such remaining Common Elements in as substantial compliance to the original or subsequent plan of development as possible. If there is an award in excess of the amount necessary to so substantially Maintain such remaining Common Elements, it shall, at the Board's discretion, be either refunded or retained by the Association for such uses as the Board deems appropriate.

9.2 Partial Takings. If some but fewer than all Condominium Units are taken by any authority having the power of eminent domain, the Owners thereof shall automatically cease to be Members of the Association. The Association shall in good faith reasonably allocate the condemnation award among compensation, damages, or other proceeds and shall apportion the amount so allocated among the affected Owners as follows:

1. the respective amounts allocated to the taking of or damage to a particular Condominium Unit and to the improvements an Owner has made within his own Unit shall be apportioned to the particular Condominium Unit involved;

2. the total amount allocated to taking of or injury to Common Elements shall be apportioned among the Units dedicated on the Map proportionate to their undivided ownership interests described on Exhibit C;

3. the total amount allocated to severance damages shall be apportioned to those Condominium Units which were not taken or condemned; and

4. the total amount allocated to consequential damages and any other takings or injuries shall be apportioned as the Association determines to be equitable.

Distribution of the apportioned proceeds shall be disbursed as soon as practicable in the order provided for in Section 11.3.

9.3 Total Taking. If all the Condominium Units shall be taken or condemned by any authority having the power of eminent domain, this Declaration shall terminate, and the Association shall commence winding up its affairs in liquidation. Unless otherwise ordered by a court of competent jurisdiction, the total condemnation award shall be distributed as provided in Section 11.3.

9.4 Defenses and Claims Against Condemning Authority. The Association shall have sole responsibility to defend against any petition in condemnation on behalf of all Owners and the Association. The Association's duty hereunder shall extend, without limitation, to challenging any legally insufficient petition and seeking adequate compensation for all Owner interests affected. However, nothing in this Section shall prevent any Owner from joining the condemnation proceedings and petitioning on his own behalf for damages relating to the value of his Condominium Unit, any interest therein, or any other legally compensable item.

9.5 Owners' Claims. When all or part of the Property is taken by eminent domain, each Owner shall have the exclusive right to claim all of the award made for his personal property or any relocation, moving expense or other similar allowance.

9.6 Mortgagee Rights. If the Common Elements, or any portion thereof exceeding a fair market value of \$10,000, or any Condominium Unit, or portion thereof, is made the subject matter of a condemnation or eminent domain proceeding, then the holder of any First Priority Mortgage affected thereby shall be entitled to timely written notice by the Association of such proceeding.

X. Insurance

10.1 Coverages. The Association shall maintain, to the extent reasonably available, the following insurance coverages:

1. Property and fire insurance with extended coverage and standard all-risk endorsements, including vandalism and malicious mischief, on the Common Elements and all Units. This insurance will be exclusive of furniture, furnishings, personal property, or improvements installed in Units by Owners. The total amount of insurance, after application for deductibles, shall be 100% of the replacement value of the insured property, exclusive of land, foundations, and other items normally excluded from property policies.

2. Public liability and property damage insurance, including medical payments insurance, in an amount to be determined by the Board covering all occurrences commonly insured against for death, bodily injury and property damage arising out of or in connection with the ownership, operation, Maintenance, or other use of the Property. This policy shall also cover operation of automobiles on behalf of the Association. The policy shall be in an amount not less than \$500,000 per injury, per person, per occurrence, with an umbrella liability limit of \$1,000,000 per occurrence. This policy shall contain a "severability of interest" endorsement.

3. As appropriate, workmen's compensation and employer's liability insurance in the amounts and forms required by law.

4. As appropriate, fidelity coverage against the dishonesty of employees, destruction, or disappearance of money or securities and forgery. This policy shall also cover persons who serve the Association without compensation.

5. Coverage of members of the Board and officers of the Association against libel, slander, false arrest, invasion of privacy and errors and omissions and other forms of liability generally covered in officers and directors liability policies.

6. Coverage against such other risks of a similar or dissimilar nature as the Association deems appropriate.

Such insurance shall be at standard premium rates as established by the Colorado Insurance Commissioner and written with companies licensed to do business in Colorado having a Best insurance report rating of Class 6 or better. No policy shall be obtained where:

(a) contributions or assessments may be made against the Mortgagor or Mortgagee's designee under the terms of the insurance company's charter, by-laws or policy;

(b) by the terms of the carrier's charter, by-laws or policy, loss payments are contingent upon action by the company's board of directors, policyholders or members; or

(c) the policy includes any limiting clauses (other than insurance conditions) which could prevent Mortgagees from collecting insurance proceeds.

10.2 Named Insured and Interests. Policies of property insurance shall name the Association as the insured and the person to which payment is to be made as owner of the Association Property and as attorney-in-fact for all Owners and First

Priority Mortgagees. Such policies shall provide that they may not be cancelled or substantially modified by the insurance company until after at least 30 days' prior written notice is first given to each Owner, each First Priority Mortgagee and the Association. The Board shall not alter, to the detriment of the Owners or First Priority Mortgagees, the policy or policies without at least 30 days' prior written notice to each Owner and each First Priority Mortgagee. Certificates or memoranda of insurance, duplicate originals of all policies and renewals, and proof of payment of premiums shall be issued to the Association, and upon request, to any Owner or Mortgagee.

10.3 Invalidation or Reduction of Coverage. Insurance policies carried pursuant to Subsection 10.1(a) must provide the following:

1. that the insurer waives its right to subrogation under the policy against any Owner, his Lessee and their families, and Residents;

2. that no act or omission by any Occupant will void the policy or be a condition to recovery under the policy, unless that person is acting within the scope of his authority as an officer of the Association or as a member of the Board; and

3. that if, at the time of a loss under the policy, there is other insurance in the name of an Owner or his Lessee covering the same property covered by the policy, the policy is primary insurance not contributing to the Owner's individual insurance.

10.4 Other Insurance. An Owner, Lessee or Resident may purchase such additional insurance as they deem appropriate for their own benefit providing any such insurance contains a waiver of subrogation.

XI. Term, Revocation and Amendment of Declaration

11.1 Term of Declaration. The term of this Declaration shall be perpetual.

11.2 Revocation of Declaration. This Declaration may be revoked if all of the Owners agree to such revocation by an executed, acknowledged instrument duly recorded in the office of the Clerk and Recorder of Pitkin County, Colorado. The Association shall send written notice of any such revocation to all Mortgagees as provided in Section 13.5. Except in the case of a taking by condemnation, an abandonment or termination provided by law, or as otherwise provided in Article VIII, the prior written approval of each First Priority Mortgagee will be

required for the abandonment or termination, by act or omission, of the condominium regime.

11.3 Disbursement of Proceeds. Upon revocation of this Declaration, the Property shall be sold by the Association for itself and as attorney-in-fact for the Owners, in whole or in parcels, as the Association may deem appropriate. Any contract for sale of a substantial portion of the Property shall be subject to the Association's right to terminate such contract, without penalty or damages, within 30 days if Owners having 35% of the total votes of the Association so elect. Within 10 days after entering into a contract for the sale of a substantial portion of the Property, the Association shall mail a copy thereof to all Owners and advise them of their rights pursuant to this Subsection. Each notice shall include an italicized or bold print provision stating substantially as follows:

EACH OWNER MAY VOTE TO REJECT THIS CONTRACT AND, IF 35% OR MORE OF THE OUTSTANDING VOTES ARE CAST TO REJECT THIS CONTRACT, THEN IT SHALL BE IMMEDIATELY TERMINATED.

Each Owner shall also be advised that he must vote in writing, that his vote may not be contingent, and that the vote must be received by the person and at the address designated in the notice no later than 15 days from the date the notice is mailed. Voting must be in strict compliance with the preceding sentence. All sales proceeds and all amounts recovered under any insurance policy shall be allocated among the Units dedicated on the Map proportionate to their undivided ownership interests described on Exhibit C. The funds allocated to each Condominium Unit shall be disbursed, without contribution from one Owner to another, by the Association for the following purposes and in the following order:

1. payment in full of the customary expenses of sale;
2. payment in full of the allocable taxes and special assessment liens in favor of any Governmental assessing entity;
3. payment in full of the balance of the lien of any First Priority Mortgage on the Condominium Unit;
4. payment in full of allocable unpaid Common Expenses and the unpaid costs, expenses and fees incurred by the Association;

5. payment in full of recorded junior liens and encumbrances on the Condominium Unit in the order of and to the extent of their priority; and

6. payment of any balance to the Owner.

11.4 Amendment of Declaration and Map. Except as set forth in Section 3.5, this Declaration shall be amended if Owners holding 66 2/3% or more of the total votes outstanding and entitled to be cast under the By-Laws agree thereto by an executed instrument duly recorded in the office of the Clerk and Recorder of Pitkin County, Colorado. Until Declarant's Class B membership ceases under Article NINTH of the Article of Incorporation, no amendment to the Declaration may be made without Declarant's consent. Except as otherwise specifically provided in this Declaration, the Map may only be amended if Owners holding 100% or more of the total votes outstanding and entitled to be cast under the By-Laws agree thereto by an executed instrument duly recorded with the Pitkin County Clerk and Recorder.

XII. Expansion of Project

12.1 Reservation of Rights in Declarant. Declarant reserves the right to construct or designate additional Common Elements, Condominium Units, and Units upon the Property, and the right to subject the Additional Property or a part thereof to this Declaration, at any time within seven years after recording this Declaration without obtaining the consent of the Association or any Owner. During the seven-year expansion period, Declarant, its agents, employees and contractors shall have all the rights and privileges set forth in Section 4.12. Nothing in this section shall be construed to obligate Declarant to construct any additional Buildings on the Property or to add Additional Property to the Property subject to this Declaration. The maximum aggregate number of Condominium Units which Declarant may make subject to this Declaration is 14.

12.2 Subjecting Additional Property and Buildings to Declaration. Any additional Condominium Units, Units, or Common Elements shall become subjected to this Declaration by recording a Supplemental Declaration and Map with the Clerk and Recorder for Pitkin County, Colorado. The Supplemental Declaration shall contain at least the following provisions:

1. the legal description of the Additional Property;
2. the Unit designation for each additional Unit; and

3. If necessary, a schedule amending Exhibit C changing the undivided ownership interests of the additional Units (but no such amendment shall change the undivided ownership interests of Units theretofor dedicated on the Map except as provided in Section 12.3).

12.3 Effect of Subjecting Additional Property or Buildings to Declaration. Recording a Supplemental Map and Declaration adding either Additional Property, Condominium Units, Units, or Common Elements shall cause the following results to occur automatically without the necessity for filing any further documentation or taking any further action by the Declarant, any Owner or any Mortgagee:

1. The definitions used in this Declaration shall be expanded to encompass, refer to and include the additional Property, Condominium Units, Units, and Common Elements. The additional Condominium Units shall become Condominium Units, and the additional Units shall become Units, for all purposes; and the additional Common Elements shall become a part of the Common Elements for all purposes.

2. Each Unit theretofor dedicated on the Map shall be allocated an undivided ownership interest in the additional Common Elements (except Association Property) proportionate to the undivided ownership interests described on Exhibit C for all Units then dedicated on the Map. Such recording shall also operate to vest in any Mortgagees of Units theretofor dedicated on the Map a security interest in the undivided ownership interest of an Owner as so expanded. Any post-recording conveyance of a Condominium Unit shall be effective to transfer rights in the Common Elements as expanded, whether or not reference is made to the Supplemental Declaration or Map.

3. Each additional Unit shall receive an undivided ownership interest in both pre- and post-recording Common Elements proportionate to the undivided ownership interests described on Exhibit C for all Units then dedicated on the Map. The undivided ownership interests in the Common Elements allocated to the Units theretofor dedicated on the Map shall decrease accordingly, with the result that all pre-recording Units and all post-recording Units are allocated undivided ownership interests in all pre-recording and post-recording Common Elements proportionate to the undivided ownership interests described on Exhibit C for all Units then dedicated on the Map. Based on the maximum aggregate number of Condominium Units specified in Section 12.1 above and the anticipated development program for square footages described on Exhibit C, each Unit would be allocated an undivided ownership interest in all Common Elements as shown on Exhibit C.

4. As additional Condominium Units are submitted to this Declaration, the Common Expenses shall be shared by both pre- and post-recordation Units in accordance with Article VII.

5. The voting rights of both pre- and post-recordation Owners shall be determined in accordance with the Association's Articles of Incorporation and By-laws. Any increase in the number of Condominium Units will dilute the relative voting strength of pre-recordation Owners.

6. All Unit square footages described on Exhibit C are approximate and are plus or minus 2.25%, with the result that Declarant expects all Units to be included within one of two basic size and undivided ownership interest categories. No amendment of Exhibit C under Section 12.2 shall result in reducing the undivided ownership interest of a Unit theretofor dedicated on the Map below the interest described on Exhibit C assuming a full development of 14 Units.

XIII. Miscellaneous

13.1 Declarant's Rights Transferable. Any right or interest of the Declarant established or reserved in this Declaration may be transferred by Declarant either separately or with one or more of such rights or interests, to any person or entity, if the assignee has taken title to such rights or interests in order to complete construction on the Property or the assignee is the Association.

13.2 Number and Gender. Unless the context shall otherwise provide, a singular number shall include the plural, a plural number shall include the singular and the use of any gender shall include all genders.

13.3 Construction. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development and maintenance of a residential community and for the Maintenance of the Common Elements. Exhibits A and B shall be considered a part of this Declaration for all purposes as if fully incorporated herein. Any reference to an Exhibit shall be deemed to include any supplements thereto unless specified otherwise.

13.4 No Dedication. Nothing contained in this Declaration shall be deemed to be a gift or dedication of all or any part of the Property to the public or for any public use.

13.5 Notices.

1. Manner of Serving Notice. Any notice permitted or required under this Declaration shall be in writing and delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered 48 hours after a copy has been deposited in the United States mail, postage prepaid for first class mail and addressed in accordance with paragraph (b) or (c) of this subsection.

2. Owner's Mailing Addresses. Regardless of the number of persons or entities holding title to a Condominium Unit, notice shall be deemed to have been properly mailed if it is addressed to the person or entity last known by the Association to be the Owner at the address given in the records of the County Tax Assessor for Pitkin County, Colorado. An Owner, or multiple Owners of a single Condominium Unit, may register with the Association, in writing, not more than one alternate address where notices may be mailed on behalf of the Condominium Unit. Such alternate address shall continue as the official mailing address for the Condominium Unit until the Association receives written notice of a change in the alternate address.

3. Mortgagee's Mailing Addresses. Each First Priority Mortgagee shall notify the Association, in writing, of its mailing address. Until the Association receives written notice of a change in address for any First Priority Mortgagee, all notices required and permitted to be given First Priority Mortgagees under this Declaration shall be deemed properly delivered if mailed to the address last registered with the Association.

4. Association's Mailing Address. Any notice to the Association shall be sent to such address as it may from time to time designate in writing to each Owner.

5. Notice Among Owners. Any Owner or Owners desiring to give any other Owners notice of matters affecting the Property may have reasonable access to the Association's mailing lists and may otherwise follow the procedures set forth in this section.

13.6 Mortgagee Notice Rights. Any holder of a First Priority Mortgage will, upon request, be entitled to:

1. inspect the books and records of the Association during normal business hours;

2. receive financial statements of the Association within 90 days following the end of any fiscal year;

3. receive written notice of meetings of the Association and be permitted to designate a representative to attend all such meetings; and

4. receive written notice of any default on the part of its respective Mortgagor(s) regarding any obligations imposed under this Declaration which are not cured within 30 days.

13.7 Disclaimer. Except as expressly set forth in this Declaration, or in an instrument in writing expressly referencing this Section 13.7, no representations or warranties of any kind, express or implied, have been given or made by Declarant or its agents or employees in connection with the operation, Maintenance, cost of Maintenance, taxes or regulation of the Property as a planned development.

13.8 Severability. The provisions hereof shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any one provision or portion thereof shall not affect the validity or enforcement of any other portion hereof.

13.9 Attorney-In-Fact. Whenever this Declaration refers to the Association acting as attorney-in-fact, acceptance by a purchaser of a deed to a Condominium Unit constitutes an appointment by the purchaser of the Association as his attorney-in-fact for the purposes set forth in this Declaration.

IN WITNESS WHEREOF, the Declarant has duly executed this Declaration this 8th day of November, 1989.

MMV Corporation, a Colorado corporation

By John R. Moebius
John R. Moebius, President



STATE OF COLORADO)
) ss.
COUNTY OF PITKIN)

The foregoing instrument was acknowledged before me
this 8th day of November, 1989, by John R. Moebius, as
President of MMV Corporation, a Colorado corporation.

WITNESS my hand and official seal.

Irene Heslin
Notary Public

Address: Box 5033 Snowman
Village, CO 81165

My Commission expires: Sept 29, 1995.

[SEAL]

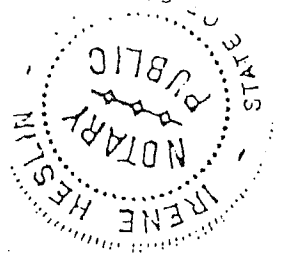


EXHIBIT A

That portion of Homestead at Snowmass, a replat of Parcel 5 and a portion of Parcel 10, The Snowmass Club Subdivision, Pitkin County, Colorado, according to the Plat thereof recorded in Plat Book 23 at Page 26 of the records in the office of the Clerk and Recorder, Pitkin County, Colorado, described as follows:

A PARCEL OF LAND BEING PART OF PARCEL 5, THE SNOWMASS CLUB SUBDIVISION, PITKIN COUNTY, COLORADO AND BEING MORE FULLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWESTERLY CORNER OF SAID PARCEL 5, THENCE N 51°46'00" E 203.35 FEET ALONG THE NORTHERLY BOUNDARY LINE OF SAID PARCEL 5; THENCE DEPARTING SAID NORTHERLY BOUNDARY LINE S 60°00'00" E 153.08 FEET; THENCE S 29°30'00" E 108.48 FEET TO THE POINT OF INTERSECTION WITH THE SOUTHERLY BOUNDARY LINE OF SAID PARCEL 5; THENCE ALONG SAID SOUTHERLY BOUNDARY LINE THE FOLLOWING COURSES AND DISTANCES: S 65°10'58" W 153.60 FEET, S 35°10'17" W 160.85 FEET TO THE SOUTHWESTERLY CORNER OF SAID PARCEL 5; THENCE N 25°14'30" W 266.51 FEET ALONG THE WESTERLY BOUNDARY LINE OF SAID PARCEL 5 TO THE POINT OF BEGINNING.

together with an easement for access for pedestrians and vehicles, described as follows:

AN ACCESS EASEMENT SITUATED ON PARCEL 5, THE SNOWMASS CLUB SUBDIVISION, PITKIN COUNTY, COLORADO AND BEING MORE FULLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTHERLY BOUNDARY LINE OF SAID PARCEL 5 WHENCE THE NORTHWESTERLY CORNER OF SAID PARCEL 5 BEARS S 51°46'00" W 203.35 FEET; THENCE N 51°46'00" E 140.00 FEET ALONG SAID BOUNDARY LINE; THENCE DEPARTING SAID BOUNDARY LINE S 24°15'00" E 54.50 FEET; THENCE S 30°00'00" W 98.18 FEET; THENCE N 60°00'00" W 96.15 FEET TO THE POINT OF BEGINNING.

EXHIBIT B

BOOK 610 PAGE 218

Homestead at Snowmass, a replat of Parcel 5 and a portion of Parcel 10, The Snowmass Club Subdivision, Pitkin County, Colorado, according to the Plat thereof recorded in Plat Book 23 at Page 26 of the records in the office of the Clerk and Recorder, Pitkin County, Colorado, including Out Parcel "A" as designated on such Plat, and excluding the property described on Exhibit A to this Declaration.

EXHIBIT C

<u>Unit No.</u>	<u>Approximate Square Footage⁽¹⁾</u>	<u>Undivided Ownership Interest⁽²⁾</u>
1	2470	7.025%
2	2560	7.300%
3	2470	7.025%
4	2470	7.025%
5	2560	7.300%
6	2560	7.300%
7	2470	7.025%
8	2470	7.025%
9	2560	7.300%
10	2560	7.300%
11	2470	7.025%
12	2470	7.025%
13	2560	7.300%
14	2470	7.025%

(1) Plus or minus 2.25% from actual net interior heated square footage.

(2) Interests are rounded for convenience and to accommodate the approximate square footage measurements. These percentages are the minimum undivided ownership interests, assuming full development of 14 Units in the indicated square footage categories. Prior to the dedication of all 14 Units on the Map, a Unit's allocated undivided ownership interest is its proportionate interest to all Units then dedicated on the Map. For example, at the time when only Units 1, 2 and 3 are dedicated on the Map, the undivided ownership interests of Units 1 and 3 are each 32.904% ($7.025\% \div 21.350\%$), and the undivided ownership interest of Unit 2 is 34.192% ($7.300\% \div 21.350\%$).

SUPPLEMENTAL CONDOMINIUM DECLARATION NO. 1
TO THE
DECLARATION FOR THE
HOMESTEAD AT SNOWMASS, A CONDOMINIUM
SNOWMASS VILLAGE, COLORADO
(Building B, Phase I)

This Supplemental Condominium Declaration No. 1 (the "Supplement") is made as of the _____ day of _____, 1990, by MMV Corporation, a Colorado corporation, under the authority granted to it, as Declarant, in Article XII of the Declaration for The Homestead at Snowmass, a condominium, recorded December 20, 1989 in Book 610 at Page 182 of the records of the Clerk and Recorder of Pitkin County, Colorado (the "Condominium Declaration"), to subject the Additional Units to the Condominium Declaration.

THEREFORE, Declaration declares as follows:

1. Definitions.

1.1 Declarant. "Declarant" as used herein shall mean MMV Corporation, a Colorado corporation.

1.2 Property. "Property" shall mean the real property in Pitkin County, Colorado, as described on Exhibit A attached to the Condominium Declaration.

1.3 Terms Previously Defined. All terms defined in the Condominium Declaration shall have the same meaning when used in this Supplement, except to the extent such term is given a different meaning in this Supplement.

2. Addition to the Property.

2.1 Additional Units. There shall be 4 Additional Units located on the Property. These Units are located in Building B and shall be designated 4, 5, 6 and 7 on a Map to be recorded in the office of the Clerk and Recorder of Pitkin County, Colorado. No amendment is required to Exhibit C of the Condominium Declaration.

2.2 Common Elements. No portion of the real property Common Elements in the Property is Association Property.

3. General. All provisions of the Condominium Declaration not specifically superceded by this Supplement shall apply to the Property and the Additional Units.

IN WITNESS WHEREOF, the Declarant has duly executed this Supplement as of the date first above written.

MMV CORPORATION, a Colorado corporation

By _____
as _____

STATE OF COLORADO)
) ss.
COUNTY OF PITKIN)

The foregoing instrument was acknowledged before me this _____ day of _____, 1990, by _____, as _____ of MMV Corporation, a Colorado corporation.

WITNESS my hand and official seal.

Notary Public

My commission expires: _____.

[SEAL]

BYLAWS OF THE HOMESTEAD AT SNOWMASS ASSOCIATION

ARTICLE I

NAME

1. The name of the organization shall be the Homestead at Snowmass Association (the "Association").

ARTICLE II

PURPOSES

1. The purpose for which this non-profit Association is formed is to govern the condominium property (the "Project") which has been or will be submitted to the provisions of the Colorado Common Interest Ownership Act of the State of Colorado, C.R.S. § 38.33.3-101 et seq. ("CCIOA") by the recording of a certificate adopting the CCCIOA. The Declaration and supplements thereto (the "Declaration") and maps and supplements thereto bearing the name associated with the Association were previously recorded.
2. All present or future owners, tenants, future tenants, or any other person that might use or have an interest in any manner in the facilities of the project located on the property therein described are subject to the regulations set forth in these Bylaws. The mere acquisition or rental of any of the condominium units (hereinafter referred to as "Units") or the mere act of occupancy of any of said Units will signify that these Bylaws are accepted, ratified, and will be compiled with.
3. Capitalized terms used but not defined in these Bylaws shall have the meanings ascribed thereto in the Declaration.

ARTICLE III

MEMBERSHIP, QUORUM, VOTING

1. Membership. Each owner of a Unit (a "Unit Owner") shall automatically be a regular member of the Association. If fee simple title to a Unit is held by more than one person or entity, the membership appurtenant to that Unit shall be shared by all such persons or entities in the same proportionate interest as fee title to the Unit is held. Membership shall terminate without any formal Association action whenever a person ceases to own a Unit; provided,

however, such termination shall not relieve or release any such former owner from any liability or obligation incurred under or in any way connected with this Association during the period of such ownership and membership in the Association. Termination shall not impair any rights or remedies which the Unit Owners have, either through the Board of Managers or directly, against such former owner and member arising out of or in any way connected with ownership and membership and the covenants and obligations incident thereto.

2. Voting. (a) Except as provided otherwise in the Declaration, voting shall be based upon one vote per Unit, without regard for the percentage of the undivided interest owned by each Unit Owner in the General Common Elements or allocation of, and liability for, Common Expenses. An owner of an undivided interest in and to a Unit shall be entitled to a vote equal to his ownership interest in such Unit, subject to the voting provisions set forth in Paragraph (b) below. Cumulative voting is prohibited.

(b) If a Unit is owned by more than one person, the right to vote shall be established by the record title thereto. In the event there are multiple owners of a Unit as tenants in common, joint tenants, or otherwise and if only one (1) of the multiple owners of a Unit is present at a meeting of the Association, such owner is entitled to cast the vote allocated to that Unit. If more than one (1) of the multiple owners are present, the votes allocated to that Unit may be cast only in accordance with the agreement of a majority in interest of such owners, unless the Declaration expressly provides otherwise. There is majority agreement if any one (1) of such multiple owners casts the vote allocated to that Unit without protest being made promptly to the person presiding over the meeting by any of the other owners of the Unit. If a Unit is owned by more than one (1) person, each owner of the Unit may vote or register protest to the casting of votes by the other owners of the Unit through a duly executed proxy in accordance with Section 3 of this Article.

3. Proxies. Votes may be cast in person or by proxy. Proxies must be in writing and must be filed with the Secretary of the Association before or at the appointed time of each meeting. No proxy shall be valid after eleven (11) months from the date of its execution unless otherwise provided in the proxy. A Unit Owner may not revoke a proxy given pursuant to this Section except by actual notice of revocation to the person presiding over a meeting of the Association. A proxy is void if it is not dated or purports to be revocable without notice.
4. Quorum. A quorum is deemed present throughout any meeting of the members of the Association if persons entitled to cast fifty percent (50%) of the votes which may be cast for election of the Board of Managers are present, in person or by proxy, at the beginning of the meeting.
5. Majority. A majority of votes cast on the matter or, in the case of elections to the Board of Managers in which there are more than two candidates, a plurality of votes cast, shall decide the matter, unless a greater percentage is specified in the Declaration, these Bylaws or by any

law, rule, regulation or order.

ARTICLE IV

OWNERS' MEETINGS; ORDER OF BUSINESS

1. Association Responsibilities. The Unit Owners will constitute the Association and will have the responsibility of administering the Project through the Board of Managers.
2. Place of Meeting. Meetings of the Association shall be held at such place within the State of Colorado as the Board of Managers may determine.
3. Annual Meetings. The annual meetings of the Association shall be held at a time designated by the Board of Managers during the month of December of each year, or on a more convenient date as determined by the Board of Managers. At such meeting there shall be elected by ballot of the Unit Owners a Board of Managers in accordance with the requirements of Article V of these Bylaws. The Unit Owners may also transact such other business of the Association as may properly come before them.
4. Special Meetings. The President may call a special meeting of the Unit Owners upon his own initiative or as directed by resolution of the Board of Managers or upon receipt of a petition signed by owners of at least twenty percent (20%) of the total votes of the Association. The notice of any special meeting shall state the time and place of such meeting and the purpose thereof. No business except as stated in the notice shall be transacted at a special meeting unless by consent of two-thirds (2/3) of the Unit Owners present, either in person or by proxy. Any such meeting shall be held at such place and time as the President determines within thirty (30) days after receipt by the President of such resolution or petition.
5. Notices. Each Unit Owner shall be entitled to notice of any meeting at which such Unit Owner has the right to vote. Notices of meetings shall be in writing and shall state the date, time and place of the meeting and shall indicate each matter to be voted on at the meeting which is known to the Association at the time notice of the meeting is given. Such notices shall be delivered not less than ten (10) nor more than fifty (50) days before the date of the meeting; provided that, with respect to any meeting to adopt a budget, such notice shall be delivered not less than fourteen (14) nor more than sixty (60) days before the date of the meeting. Any notice shall be deemed given and any budget or other information or material shall be deemed furnished or delivered to a party at the time a copy thereof is placed in the United States mail, postage prepaid, addressed to the party, and in any event, when such party actually receives such notice, information or material. Any notice, information or material shall be deemed properly addressed if it is addressed to the name and address shown on the most recent written notice of name and address, if any, furnished to the Association by

such Unit Owner (as provided in Section 2 of Article VIII hereof), or if a name and address is not so furnished, if it is addressed "To the Owner" at the address of the Unit of such Unit Owner. For purposes of determining members entitled to notice, the Board of Managers may set a record date pursuant to the provisions of the Declaration and Colorado law.

6. Adjourned Meetings. If any meeting of Unit Owners cannot be organized because a quorum has not attended, the Unit Owners who are present, either in person or by proxy, may adjourn the meeting, from time to time, until a quorum is obtained.
7. Order of Business. The order of business at the annual meeting of the Unit Owners shall be as follows:
 - a. Roll call and certifying proxies
 - b. Proof of notice of meeting or waiver of notice
 - c. Reading and/or disposal of unapproved minutes
 - d. Reports of Officers
 - e. Reports of Committees
 - f. Election of Board of Managers members
 - g. Unfinished Business
 - h. New Business
 - i. Adjournment
8. Action without meeting.
 - (a) Any action required or permitted to be taken at a meeting of the members of the Association may be taken without a meeting if members entitled to vote thereon representing not less than the minimum number of votes necessary to approve such action at a meeting of the members agree and consent to such action in writing.
 - (b) No action taken pursuant to this Section shall be effective unless writings describing and consenting to the action, signed by all of the members of the Association entitled to vote thereon and not revoked pursuant to Subsection (c) below, are received by the Association within sixty (60) days after the earliest dated writing describing and consenting to the action is received by the Association. Any such writing may be received by the Association by electronically transmitted facsimile or other form of wire or wireless communication providing the Association with a complete copy thereof, including a copy of the signature thereto. Action taken pursuant to this Section shall be effective when the last writing necessary to effect the action is received by the Association, unless the writings describing and consenting to the action set forth a different effective date.
 - (c) Any member of the Association who has signed a writing describing and consenting to any action taken pursuant to this section may revoke such consent by a writing signed and dated by the member describing the action and stating that the member's prior consent

thereto is revoked, if such writing is received by the Association before the last writing necessary to effect the action is received by the Association.

(d) Subject to the District Court of Pitkin County Colorado's ability to specify a record date pursuant to C.R.S. §7-127-107(8), the record date for determining members of the Association entitled to take action without a meeting or entitled to be given notice under Subsection (f) below of action so taken is the date a writing upon which the action is taken pursuant to Subsection(a) above is first received by the Association.

(e) Action taken under this section has the same effect as action taken at a meeting and may be described as such in any document.

(f) In the event action is taken under Subsection(a) above with less than unanimous consent of all members of the Association entitled to vote upon the action, the Association or the members taking the action shall, promptly after all of the writings necessary to effect the action have been received by the Association, give notice of such action to all members who were entitled to vote upon the action. The notice shall contain or be accompanied by the same material, if any, that under Articles 121-137 of Title 7, C.R.S., would have been required to be given to members in or with notice of the meeting at which the action would have been submitted to the members for action.

9. Meetings By Telecommunication. Any or all of the members of the Association may participate in an annual, regular or special meeting of the members by, or the meeting may be conducted through the use of, any means of communication by which all persons participating in the meeting may hear each other during the meeting. A member of the Association participating in a meeting by such means of communication is deemed to be present in person at the meeting.

ARTICLE V

BOARD OF MANAGERS

1. Number and Qualification. The initial Board of Managers shall be as set forth in the consent of the incorporator, and those Board of Managers members shall hold office until the first annual meeting of the Association. At the first annual meeting of the Association, there shall be elected a Board of Managers consisting of not less than five (5) Unit Owners or, solely with respect to any Unit Owner that is not a natural person, a designated representative of such Unit Owner, who shall thereafter govern the affairs of the Association until their successors have been duly elected and qualified. Election of Board of Managers members (each a "Board Member") shall be subject to Article V, Section 5 of these Bylaws. The number of Board Members constituting the entire Board of Managers shall be determined by resolution of the Board of Managers from time to time, or if such number is not so determined, the number shall be five (5); provided that the number of Board Members

constituting the entire Board of Managers shall never be less than three (3), and provided that no decrease in the number of Board Members constituting the entire Board of Managers shall have the effect of shortening the term of any incumbent Board Member.

2. Power and Duties. The Board of Managers shall have the powers and duties necessary for the administration of the affairs of the Association and for the operation and maintenance of the Project as a first class residential condominium property. The Board of Managers may do all such acts and things, except as by law, these Bylaws or the Declaration may not be delegated to the Board of Managers.
3. Other Powers and Duties. Such powers and duties of the Board of Managers shall include, but shall not be limited to, the following, all of which shall be done for and on behalf of the Unit Owners:
 - a. To administer and enforce the covenants, conditions, restrictions, easements, uses, limitations, obligations and all other provisions set forth in the Declaration, the CCIOA, these Bylaws and supplements and amendments thereto.
 - b. To establish, make, amend and enforce compliance with such rules and regulations as may be necessary for the use and occupancy of all of the Units and the operation and use of the Common Elements, with the right to amend same from time to time. A copy of such rules and regulations will be delivered or mailed to each member of the Association upon the adoption thereof.
 - c. To incur such costs and expenses as may be necessary to keep in good order, condition and repair all of the Common Elements and all items of common personal property.
 - d. To procure any insurance required by the Declaration and these Bylaws and any and all other coverage thought desirable by the Board of Managers for the Association.
 - e. To prepare a budget for the Association, at least annually, in order to determine the amount of the common assessments payable by the Unit Owners to meet the Common Expenses. At least sixty (60) days prior to the beginning of the Association's fiscal year, the Board of Managers shall meet to adopt a proposed budget for the upcoming fiscal year. The proposed budget shall include but shall not be limited to an estimate of the costs of maintenance and repair of the Common Elements, the costs of utilities and other services to be provided by the Association, the costs of insurance required by the Declaration, and the proposed capital expenditures for the Association, including sinking funds or capital reserves as required by the Declaration. The costs of maintenance and repair shall be estimated on the basis of the previous year's costs with such adjustments as the Board of

Managers considers appropriate. The budget shall also include an estimate, based upon the budget estimates, of the annual assessment for each unit.

Within thirty (30) days after the adoption of any proposed budget, the Board of Managers shall mail, by ordinary first class mail, or otherwise deliver, a summary of the budget to all Association members and shall set a date for a meeting of the members to consider ratification of the budget, which date shall be not less than fourteen (14) nor more than sixty (60) days after mailing or other delivery of the summary. Unless at that meeting the members reject the proposed budget by a majority vote, the proposed budget shall be ratified, whether or not a quorum is present. In the event that the proposed budget is rejected, the periodic budget last ratified by the members must be continued until such time as the members ratify a subsequent budget proposed by the Board of Managers.

- f. To fix, determine, levy and collect periodic and special assessments to be paid by each of the Unit Owners to meet the Common Expenses and to create a contingency reserve therefor. All periodic or special assessments shall be in itemized statement form, and shall set forth in detail the various expenses for which the assessments are being made.
- g. To collect delinquent assessments by suit or otherwise and to enjoin or seek damages from a Unit Owner as is provided in the Declaration and these Bylaws.
- h. To protect and defend in the name of the Association any part or all of the Project from loss and damage by suit or otherwise.
- i. To borrow funds in order to pay for any expenditure or outlay required pursuant to the authority granted by the provisions of the Declaration and these Bylaws, and to execute all such instruments evidencing such indebtedness as the Board of Managers may deem necessary and give security therefore.
- j. To enter into contracts to carry out their duties and powers.
- k. To establish a bank account or accounts for the common treasury and for all separate funds which are required or may be deemed advisable.
- l. To make repairs, additions, alterations and improvements to the General Common Elements consistent with managing the Project in a first class manner and consistent with the best interests of the Unit Owners.
- m. To keep and maintain full and accurate books and records showing all of the receipts, expenses or disbursements and to be able to provide complete audit of the books and

accounts by a certified or public accountant upon request of at least one-third (1/3) of the Unit Owners, but in any case no more often than once in any calendar year.

- n. To prepare and deliver annually to each Unit Owner a statement showing receipts, expenses or disbursements of the Association since the last such statement.
- o. To meet at least twice each calendar year.
- p. To designate the personnel necessary for the maintenance and operation of the Common Elements.
- q. In general, to carry on the administration of the Association and to do all of those things necessary and reasonable in order to carry out the governance and operation of the Property.
- r. To control and manage the use of all driveways and parking areas.
- s. To appoint or employ a managing agent to exercise any and all powers of the Board of Managers. The Board of Managers may employ a manager or managing agent for the Association at a compensation established by the Board of Managers to perform such duties and services as the Board of Managers shall authorize including, but not limited to, the duties listed above. Any such delegation, however, shall not relieve the Board of Managers of its responsibilities under the Declaration and these Bylaws. If and to the extent that the Board of Managers delegates its powers relating to the collection, deposit, transfer or disbursement of Association funds through a manager or managing agent, such manger or managing agent shall:

1) Maintain fidelity insurance coverage or a bond in an amount not less than \$50,000.00 or such higher amount as the Board of Managers may require; and

2) Maintain all funds and accounts of the Association separate from the funds and accounts of any other associations or entities managed by the manager or managing agent, and maintain all reserve accounts of each association or entity so managed separate from operational accounts of the Association; and

3) Have prepared and present to the Association an annual accounting of Association funds and financial statements, which accounting and financial statements shall be prepared by the managing agent, a public accountant, or a certified public accountant.

- 4. No Waiver of Rights. The omission or failure of the Association or any Unit Owner to enforce the covenants, conditions, restrictions, easements, uses, limitations, obligations or other provisions of the Declaration, these Bylaws or the rules and regulations adopted

pursuant thereto, shall not constitute or be deemed a waiver, modification or release thereof, and the Board of Managers or its management agent shall have the right to enforce the same thereafter.

5. Election and Term of Office. Election of Board Members shall take place at each annual meeting of the Association members. At the first annual meeting, two of the Board Members shall be elected to serve a one-year term and three of the Board Members shall be elected to serve a two-year term. Each of their successors thereafter shall be elected to serve a two-year term or until their respective successors have been duly elected and qualified. If the number of Board Members is increased, the Board of Managers shall establish initial terms for the new Board Member positions so that the number of Board Members elected at each annual meeting of the members shall be, as nearly as is practicable, equal.
6. Vacancies. Vacancies in the Board of Managers caused by any reason other than the removal of a Board Member by a vote of the Association shall be filled by vote of the majority of the remaining Board Members, even though they may constitute less than a quorum; and each person so elected by the Board of Managers shall be a Board Member until a successor is elected at the next annual meeting of the Association, any Board Member so elected at an annual meeting shall serve for the unexpired term of his predecessor.
7. Removal of Board Members. At any regular or special meeting duly called, any one or more of the Board Members may be removed with or without cause by a vote of sixty-seven percent (67%) of the Unit Owners present in person or by proxy. Thereupon, a successor may then and there be elected by the members to fill the vacancy thus created. Any Board Member whose removal has been proposed by the Unit Owners shall be given an opportunity to be heard at the meeting.
8. Organizational Meeting. The first meeting of a newly elected Board of Managers following the annual meeting of the Unit Owners shall be held immediately following each annual meeting at such place as shall be fixed by the Board Members at the meeting at which such Board Members were elected. No notice shall be necessary to the newly elected Board Members in order legally to constitute such meeting, providing a majority of the whole Board of Managers shall be present.
9. Regular Meetings. Regular meetings of the Board of Managers may be held at such time and place as shall be determined, from time to time, by a majority of the Board Members, but at least two such meetings shall be held during each calendar year. Notice of regular meetings of the Board of Managers shall be given to each Board Member, personally or by mail, telephone or telegraph, at least seven (7) days prior to the day named for such meeting.
10. Special Meetings. Special meetings of the Board of Managers may be called by the President on three (3) days' notice to each Board Member, given personally or by mail, telephone, telegraph, facsimile or other form of wire or wireless communication, which notice shall

state the time, place (as hereinabove provided) and purpose of the meeting. Special meetings of the Board of Managers shall be called by the President or Secretary in like manner and on like notice on the written request of two or more Board Members or on the written request of at least 30% of the Unit Owners.

11. Waiver of Notice. Before or at any meeting of the Board of Managers, any Board Member may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Board Member at any meeting of the Board of Managers shall be a waiver of notice by him of the time and place thereof. If all the Board Members are present at any meeting of the Board of Managers, no notice shall be required and any business may be transacted at such meeting.
12. Board of Managers Quorum. At all meetings of the Board of Managers, a majority of the Board Members shall constitute a quorum for the transaction of business, and the acts of the majority of the Board Members present at a meeting at which a quorum is present shall be the acts of the Board of Managers. If at any meeting of the Board of Managers there be less than a quorum present, the majority of those present may adjourn the meeting from time to time. At any such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting as originally called may be transacted without further notice.
13. Fidelity Bonds. The Board of Managers may require that all officers and employees of the Association and the managing agent handling or responsible for Association funds shall furnish adequate fidelity bonds. The premiums on such bonds shall be a common expense.
14. Compensation. No member of the Board of Managers shall receive any compensation for acting as such, but shall be entitled to reimbursement for any actual out-of-pocket expenses incurred in the performance of his duties.
15. Action Without Meeting.
 - (a) Any action required or permitted to be taken at a meeting of the Board of Managers may be taken without a meeting if each and every Board Member in writing either (i) votes for such action; or (ii) (A) votes against such action or abstains from voting, and (B) waives the right to demand that action not be taken without a meeting.
 - (b) Action is taken under this Section only if the affirmative vote for such action equals or exceeds the minimum number of votes that would be necessary to take such action at a meeting at which all of the Board Members then in office were present and voted.
 - (c) No action taken pursuant to this Section shall be effective unless writings describing the action taken and otherwise satisfying the requirements of Subsection (a) of this Section, signed by all Board Members and not revoked pursuant to Subsection (d) below, are received

by the Association. Any such writing may be received by the Association by electronically transmitted facsimile or other form of wire or wireless communication providing the Association with a complete copy of the document, including a copy of the signature on the document. A Board Member's right to demand that action not be taken without a meeting shall be deemed to have been waived if the Association receives a writing satisfying the requirements of Subsection (a) that has been signed by the Board Member and not revoked pursuant to Section (d) below. Action taken pursuant to this Section shall be effective when the last writing necessary to effect the action is received by the Association unless the writings describing the action taken set forth a different effective date.

(d) Any Board Member who has signed a writing pursuant to this Section may revoke such a writing by a writing signed and dated by such Board Member describing the action and stating that such Board Member's prior vote with respect thereto is revoked, if such writing is received by the Association before the last writing necessary to effect the action is received by the Association.

(e) Action taken pursuant to this Section has the same effect as action taken at a meeting of Board Members and may be described as such in any document.

(f) All signed written instruments necessary for any action taken pursuant to this Section shall be filed with the minutes of the meetings of the Board of Managers.

16. Meetings by Telecommunication. The Board of Managers may permit any Board Member to participate in a regular or special meeting by, or conduct the meeting through the use of, any means of communication by which all Board Members participating may hear each other during the meeting. A Board Member participating in a meeting by this means is deemed to be present in person at the meeting.

ARTICLE VI

OFFICERS

1. Designation. The officers of the Association shall be a President, a Secretary and a Treasurer, all of whom shall be elected by the Board of Managers, and such Vice Presidents and assistant officers as the Board of Managers may, from time to time, elect. Such officers need not be members of the Board of Managers, but each shall be a Unit Owner or, solely with respect to any Unit Owner that is not a natural person, a designated representative of such Unit Owner. The offices of President and Secretary may not be held by the same person.

2. Election of Officers. The officers of the Association shall hold office for a term of one year and be elected annually by the Board of Managers at the first meeting of each new Board of Managers and shall hold office at the pleasure of the Board of Managers.
3. Removal of Officers. Upon an affirmative vote of a majority of the Board Members or a sixty-seven percent (67%) affirmation vote of the members of the Association, any officer may be removed, either with or without cause. A removed officer's successor may be elected at any regular meeting of the Board of Managers or at any special meeting of the Board of Managers called for such purpose.
4. President. The President shall be the chief executive officer of the Association. He shall preside at all meetings of the Association and the Board of Managers. He shall have all of the general powers and duties which are usually vested in the office of president of an association, including but not limited to the power to appoint committees from among the Unit Owners from time to time as he may in his discretion decide is appropriate to assist in the conduct of the affairs of the Association or as may be established by the Board of Managers or by the members of the Association at any regular or special meetings.
5. Vice President. Each Vice President, if any are appointed, shall have all the powers and authority and perform all the functions and duties of the President in the absence of the President or his inability for any reason to exercise such powers and functions or perform such duties. In addition, each Vice President, if any are appointed, shall have such general powers and authority as are usually vested in the office of vice president of an association.
6. Secretary. The Secretary shall keep, or cause to be kept, all the minutes of the meetings of the Board of Managers and the minutes of all meetings of the Association; he shall have charge of such books and papers as the Board of Managers may direct; and he shall, in general, perform all the duties incident to the office of Secretary and as is provided in the Declaration and the Bylaws. The Secretary shall compile and keep, or shall cause to be compiled and kept, up to date a complete list of Association members and their last known addresses as shown on the records of the Association. Such list shall also show opposite each Association member's name the number or other appropriate designation of the Unit owned by such member, and such Unit Owner's undivided interest in the General Common Elements. Such list shall be open to inspection by Association members and other persons lawfully entitled to inspect the same at reasonable times.
7. Treasurer. The Treasurer shall have responsibility for Association funds and shall be responsible for keeping full and accurate accounts of all receipts and disbursements in books belonging to the Association. He shall be responsible for the deposit of all monies and other valuable effects in the name, and to the credit, of the Association in such depositories as may from time to time be designated by the Board of Managers. In the event a managing agent has the responsibility of collecting and disbursing funds, the Treasurer shall review the accounts of the managing agent not less often than twice each calendar year.

ARTICLE VII

INDEMNIFICATION OF OFFICERS, BOARD OF MANAGERS MEMBERS AND MANAGING AGENT

1. Indemnification. The Association shall have the following powers regarding indemnification:
 - a. To indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending, or completed action, suit, or proceeding whether civil, criminal, administrative, or investigative (other than an action by or in the right of the Association) by reason of the fact that he or she is or was a Board Member or an officer, employee, fiduciary or agent of the Association or, while a Board Member or an officer, employee, fiduciary or agent of the Association, is or was serving at the request of the Association as a member of the executive board or a director, officer, employee, member, manager, fiduciary or agent of another association, corporation, partnership, joint venture, trust, or other entity, against expenses (including attorneys' fees), judgments, fines, and amounts paid in settlement actually and reasonably incurred by him or her in connection with that action, suit, or proceeding if he or she acted in good faith and in a manner he or she reasonably believed to be in the best interests of the Association and, regarding any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful. The termination of any action, suit, or proceeding by judgment, order, settlement, or conviction or upon a plea of *nolo contendere* or its equivalent will not of itself create a presumption that the person did not act in good faith and in the manner which he or she reasonably believed to be in the best interests of the Association and, regarding any criminal action or proceeding, had reasonable cause to believe that his or her conduct was unlawful.
 - b. To indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending, or completed action, suit or proceeding by or in the right of the Association to procure a judgment in its favor by reason of the fact that he or she, while a Board Member or an officer, employee, fiduciary or agent of the Association, is or was a member of the executive board or an officer, employee, member, manager, director, fiduciary or agent of another association, corporation, partnership, joint venture, trust, or other entity against expenses (including attorneys' fees) actually and reasonably incurred by him or her in connection with the defense or settlement of that action or suit if he or she acted in good faith and in a manner he or she reasonably believed to be in the best interests of the Association; but no indemnification shall be made regarding any claim, issue, or matter as to which such person has been adjudged to be liable for negligence or misconduct in the

performance of his or her duty to the Association unless and only to the extent that the court in which the action or suit was brought determines upon application that, despite the adjudication of liability but in view of all circumstances of the case, such person is fairly and reasonably entitled to indemnification for those expenses which the court deems proper.

- c. To the extent that any person entitled to indemnification under Subsections a or b has been successful on the merits in defense of any action, suit, or proceeding referred to in Subsections a and b or in defense of any claims, issue, or matter therein, he or she shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by him or her in connection therewith.
- d. Any indemnification under Subsection a or b (unless ordered by a court) shall be made by the Association only as authorized in the specific case upon a determination that indemnification of the person is proper in the circumstances because he or she has met the applicable standard of conduct set forth in Subsection a or b. That determination shall be made by the Board of Managers by a majority vote of a quorum consisting of Board Members who were not parties to such action, suit, or proceeding or, if a quorum is not obtainable or even if obtainable a quorum of disinterested members of the Board of Managers so directs, by independent legal counsel in a written opinion.
- e. Expenses (including attorneys' fees) incurred in defending a civil or criminal action, suit, or proceeding may be paid by the Association in advance of the final disposition of that action, suit, or proceedings as authorized in Subsection d upon receipt of an undertaking by the indemnified person to repay such amount unless it is ultimately determined that he or she is entitled to be indemnified by the Association as authorized by this Section.
- f. The indemnification provided by this Section shall not be deemed exclusive of any other rights to which those indemnified may be entitled under the Articles of Incorporation of the Association, these Bylaws, by agreement, by vote of Association members or disinterested Board Members or otherwise, and any procedures provided by any of the foregoing, both as to action in his or her official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be a Board Member or an officer, employee, fiduciary or agent of the Association and shall inure to the benefit of heirs, executors and administrators of that person.
- g. The Association may purchase and maintain insurance on behalf of any person who is or was a Board Member or an officer, employee, fiduciary or agent of the Association or who, while a Board Member or an officer, employee, fiduciary or agent of the Association, is or was serving at the request of the Association as a member of the

executive board or a director, officer, employee, member, manager, fiduciary or agent of another association, corporation, partnership, joint venture, trust or other entity against any liability asserted against him or her and incurred by him or her in any such capacity or arising out of his or her status as such, whether or not the Association would have the power to indemnify him or her against that liability under the provisions of this Section.

2. Other. Contracts or other commitments made by the Board of Managers, officers or the managing agent of the Association shall be made as agent for the Unit Owners, and they shall have no personal responsibility on any such contract or commitment (except as Unit Owners), and the liability of any Unit Owner on any such contract or commitment shall be limited to such proportionate share of the total liability thereof as the common interest of each Unit Owner bears to the aggregate common interest of all of the Unit Owners, except that any losses incurred because of an inability to collect such proportionate amount of the total liability owned by a Unit Owner shall be shared proportionately by the other Unit Owners.

ARTICLE VIII

EVIDENCE OF OWNERSHIP, REGISTRATION OF MAILING ADDRESS AND DESIGNATION OF VOTING REPRESENTATIVE

1. Proof of Ownership. Any Person on becoming a Unit Owner shall furnish to the managing agent or Board of Managers a machine or a certified copy of the recorded instrument vesting that Person with an interest or ownership in the Unit, which copy shall remain in the files of the Association.
2. Registration of Mailing Address. The Unit Owner or several Unit Owners of an individual Unit shall have one and the same registered mailing address to be used by the Association for mailing of monthly statements, notices, demands and all other communications. Such registered address shall be the only mailing address of such Unit Owner or Unit Owners to be used by the Association. Such registered address of each Unit Owner shall be furnished by such Unit Owner to the managing agent or Board of Managers within fifteen (15) days after transfer of title, or after a change of address, and such registration shall be in written form and signed by all of the owners of the Unit or by such persons as are authorized by law to represent the interest of the owner or owners thereof.
3. Delinquency. No Unit Owner who is delinquent in the payment of an assessment made against him shall have the right to vote in person or by proxy at an annual or special meeting of the members of the Association.

4. Good Standing to Vote. The requirements herein contained in this Article VIII shall be first met before a Unit Owner shall be deemed in good standing and entitled to vote at any annual or special meeting of members.

ARTICLE IX

OBLIGATIONS OF THE OWNERS

1. Assessments. All Unit Owners shall be obligated to pay the monthly or quarterly assessments imposed by the Association to meet the Common Expenses. Unless otherwise set out in the Declaration, the assessments shall be made pro rata according to percentage or fractional interest in the General Common Elements and shall be done in advance.
2. Notice of Lien or Suit. A Unit Owner shall give notice to the Association of every lien or encumbrance upon his Unit, other than for taxes and special assessments, and notice of every suit or other proceeding which may affect the title to his Unit, and such notice shall be given in writing within five (5) days after the Unit Owner has knowledge thereof.
3. Maintenance and Repair.
 - a. Every Unit Owner must perform promptly, at his own expense, all maintenance and repair work within his own Unit and the Limited Common Elements appurtenant to his Unit for which he is responsible pursuant to the provisions of the Declaration which, if omitted, would affect the appearance of or the aesthetic integrity of part or all of the Project.
 - b. All the repairs of internal installations of a Unit, such as water, light, gas, power, sewage, telephone, sanitary installations, doors, windows, electrical fixtures and all other accessories, equipment and fixtures, shall be at the owner's expense.
 - c. A Unit Owner shall be obligated to reimburse the Association promptly upon receipt of its statement for any expenditures incurred by it in repairing or replacing any general or limited common element damages caused by the negligence or willful misconduct of such Unit Owner or his tenants, agents, guests or invitees.

4. General.

- a. Each member shall comply with all the provisions of the Declaration, the Articles of Incorporation, these Bylaws and any rules and regulations issued by the Board of Managers. If a member fails to comply, the Association shall have the power, during the period of such delinquency, (a) to revoke the delinquent member's right to use General Common Elements designed for recreational purposes, (b) to cause utility service to the delinquent member's Unit to be suspended, (c) to suspend the delinquent member's voting privileges, and (d) to impose appropriate fines, as determined by the Board of Managers, against the delinquent member. In the event of the exercise of any such powers, the Association shall notify the delinquent member's first lienholder of the delinquency and the action taken.
- b. Each Unit Owner shall always endeavor to observe and promote the cooperative purposes for the accomplishment of which the Project was built.

5. Use of General Common Elements and Limited Common Elements. Each Unit Owner may use the General Common Elements, the Limited Common Elements associated with his Unit, sidewalks, pathways, roads and streets and other Common Elements located within the entire Project in accordance with the purpose for which they were intended without hindering or encroaching upon the lawful rights of the other Unit Owners, and subject to the rules and regulations contained in these Bylaws and established by the Board of Managers as herein provided.

6. Right of Entry.

- a. A Unit Owner shall and does grant the right of entry to the managing agent or to any other person authorized by the Board of Managers in case of any emergency originating in or threatening his Unit, whether the Unit Owner is present at any time or not.
- b. A Unit Owner shall permit other affected Unit Owners, or their representatives, to enter his Unit for the purpose of performing installations, alterations, or repairs to the mechanical, electrical, or utility services which, if not performed, would affect the use of any other Unit; provided that requests for entry are made in advance and that such entry is at a time convenient to the Unit Owner whose Unit is being entered. In case of emergency, such right of entry shall be immediate.

7. Rules and Regulations. The Board of Managers reserves the power to establish, make and enforce compliance with such rules and regulations as may be necessary for the operation, use and occupancy of the Project with the right to amend same from time to time. Copies of

such rules and regulations may, upon request, be furnished to each Unit Owner prior to the date when the same shall become effective.

8. Destruction and Obsolescence. Each Unit Owner, upon becoming an owner of a Unit, hereby grants his power of attorney in favor of the Association, irrevocably appointing the Association his attorney-in-fact to deal with the owner's Unit upon its damage, destruction or obsolescence, all as is provided in the Declaration.

ARTICLE X

ASSOCIATION - NOT FOR PROFIT

This Association is not organized for profit. No Association member, Board Member, officer or person from whom the Association may receive any property or funds shall receive or shall be lawfully entitled to receive any pecuniary profit from the operation thereof, and in no event shall any part of the funds or assets of the Association be paid as salary or compensation to, or distributed to, or inure to the benefit of any Board Member, officer or Association member; provided, however, always: (1) that reasonable compensation may be paid to any Association member, Board Member or officer while acting as an agent or employee of the Association for services rendered in effecting one or more of the purposes of the Association; and (2) that any Association member, Board Member or officer may, from time to time, be reimbursed for his actual and reasonable expenses incurred in connection with the administration of the affairs of the Association.

ARTICLE XI

INSPECTION OF RECORDS; STATEMENT OF ACCOUNT

1. Inspection of Records. The Board of Managers or managing agent, as the case may be, shall keep detailed accurate records of the receipts and expenditures of the Association. Such records shall be available for examination by the Unit Owners at convenient weekday business hours.
2. Statement of Account. Upon the payment of a reasonable fee as determined from time to time by the Association and upon written request of any Unit Owner or any person with any right, title or interest in a Unit or intending to acquire any right, title or interest in a Unit, the Board of Managers or managing agent shall furnish a written statement of account setting forth the amount of any assessments, charges, fines or penalties, if any, due or accrued and then unpaid with respect to a Unit and the amount of the assessment for the current fiscal period of the Association payable with respect to the Unit, which statement shall, with respect to the party to whom it is issued, be conclusive against the Association and all

parties, for all purposes, that no greater or other amounts were then due or accrued and unpaid.

ARTICLE XII

EXPANSION OF PROJECT

In the event that new or additional Common Elements are acquired or constructed, they shall become part of the Project and all Unit Owners shall own the same proportionate undivided interest in such Common Elements; shall assume the same proportionate share of the costs thereof; and enjoy the same voting rights with respect thereto as established in the Declaration and these Bylaws for existing Common Elements.

ARTICLE XIII

AMENDMENT OF BYLAWS

1. Amendment by Members of the Board of Managers. Except as limited by law, the Articles of Incorporation, the Declaration or these Bylaws, or committed to action by the Association members, the Board of Managers shall have the power to make, amend and repeal these Bylaws at any regular meeting of the Board of Managers, or any special meeting called for that purpose, at which a quorum is represented. If, however, the Association members shall make, amend and repeal any Bylaw, the members of the Board of Managers shall not thereafter amend the same in such a manner as to defeat or impair the object of the Association members in taking such action.
2. Amendment by Members. The Association members may, by the vote of at least sixty-seven percent (67%) thereof, unless a greater percentage is expressly required by law, the Articles of Incorporation, the Declaration or these Bylaws, make, alter, amend and repeal these Bylaws at any annual meeting or any special meeting called for that purpose at which a quorum shall be represented.
3. Limitation. Notwithstanding the foregoing, amendment of these Bylaws is specifically subject to the requirements of C.R.S. §38-33.3-306, as amended.

ARTICLE XIV

CONSTRUCTION AND VALIDITY OF BYLAWS

1. All provisions of these Bylaws are severable.
2. The rule against perpetuities does not apply to defect any provision of these Bylaws.
3. In the event of a conflict between the provisions of the Declaration and these Bylaws, the Declaration prevails, except to the extent the Declaration is inconsistent with the CCIOA.

IN WITNESS WHEREOF, the undersigned Board of Managers have hereunto set their hands this ____ day of _____, 2002.

BOARD OF MANAGERS:

Alan Caniglia

George Hartnett

Michael Estes

Richard Marks

Robert Campbell

The undersigned Secretary of the Homestead at Snowmass Association does hereby certify that the above and foregoing Bylaws were duly adopted by the Board of Managers of said Association on the _____ day of _____, 2002.

ATTEST:

Richard Marks, Secretary