

BE IT RESOLVED by the Board of Directors of the Racquet Club Owners Association that no unit at the Vail Racquet Club Condominiums or Vail Racquet Club Townhomes, Town of Vail, County of Eagle and State of Colorado shall be leased or rented by the owner thereof unless such lease or rental is approved by and administered by the Racquet Club Owners Association as rental agent.

BE IT FURTHER RESOLVED that for purpose of this Resolution "leased or rented" is defined as the transfer of the right to possession of a unit for any period of time for a valuable consideration.

BE IT FURTHER RESOLVED that this Resolution shall not be construed as in any way limiting the free alienability of units, it being the intent of the Board of Directors by the adoption of this resolution only to adopt a regulation limiting the use of units for the benefit of all owners of all units at Vail Racquet Club Condominiums and Vail Racquet Club Townhomes.

ADOPTED this 19 day of March, 1984

Harold Schmechel
President

ATTEST:

M. Kenneth Fung
Secretary

CONDOMINIUM DECLARATION

FOR

VAIL RACQUET CLUB CONDOMINIUMS

KNOW ALL MEN BY THESE PRESENTS;

THAT WHEREAS, Vail Racquet Club Condominiums, a partnership, hereinafter called "Declarant", is the owner of the real property situate in the County of Eagle, State of Colorado, described on the attached Exhibit A, which by this reference is made part hereof; and

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

WHEREAS, a Condominium Map will be filed showing the location of said building; and

WHEREAS, Declarant does hereby establish a plan for the ownership of real property estates in fee simple consisting of the air space contained in each of the apartment units in the building and the co-ownership, by the individual and separate owners thereof as tenants in common, of the remaining real property, as hereinafter provided and defined as referred to as the general common elements;

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

DEFINITIONS

1. The following definitions shall apply unless the context expressly provides otherwise.

1-1. "Apartment" or "apartment unit" means one individual air space which is contained within the perimeter walls, floors, and ceilings of such apartment in a building as shown on the Map.

1-2. "Condominium unit" means one apartment together with its appurtenant interest in the general common elements.

1-3. "Owner" means a person, firm, corporation, partnership, association or other legal entity, or any combination thereof, who owns one or more condominium units.

1-4. "General common elements" means and includes:

1-4-1. The land on which the building is located as described on Exhibit A and shown on the Map including the yards and parking areas on said land.

1-4-2. The foundation, columns, girders, beams, supports, main walls, roofs and balconies of said building, together with those halls, corridors, stairs, and stairways, located outside the perimeter walls of the apartments thereof.

1-4-3. The mechanical installations of said building consisting of the equipment and materials making up any central services existing for common use, such as, but not necessarily limited to, power, light, gas, hot and cold water, and heating;

1-4-4. Any tanks, pumps, motors, fans, compressors, ducts, and in general any other apparatus and installations existing for common use;

1-4-5. Such enclosed air spaces in said building as are provided for community or common use; and

1-4-6. All other parts of said building and of said land and improvements referred to in Section 1-4-1 hereof necessary or convenient to its existence, maintenance and safety, or normally in common use.

1-5. "Limited common elements" means any parts of the general common elements reserved for use by fewer than all the owners of individual apartments, as defined on Exhibit A hereto

1-6. "Common expenses" means and includes:

1-6-1. All sums lawfully assessed against the general common elements;

1-6-2. Expenses of administration and management, maintenance, repair or replacement of the general common elements;

1-6-3. Expenses declared common expenses by this Declaration or by the Association's By-Laws; and

1-6-4. Expenses agreed upon as common expenses by the unit owners.

1-7. "Association of Unit Owners" or "Association" means Racquet Club Owners Association, a Colorado corporation not for profit, the Articles of Incorporation and By-Laws of which shall govern the administration of this condominium project, the members of which shall be the owners of the condominium units and the developers of the project as more fully provided in said Articles of Incorporation and By-Laws.

1-8. "Map" or "plans" means and include: a survey of the real property described on Exhibit A.

2-1. The map shall be filed for record prior to the first conveyance of any condominium unit. The Map shall consist of and set forth (1) the legal description of the surface of the real property; (2) the linear measurements and location, with reference to the exterior boundaries of the real property of the building and all other improvements build thereon; (3) the building name or designation; (4) the floor plans; (5) the number or designation of each apartment unit; (6) the linear dimensions or each apartment unit; (7) the elevation plans of the building; (8) the elevations of the unfinished interior surfaces of the floors and ceilings as established from a datum plane, and the linear measurements showing the thickness of the perimeter walls of the building.

2-2. There shall be filed for record as a part of the Map a certificate of a registered land surveyor certifying that the improvements as constructed conform substantially to the Map; that the Map fully and accurately depicts the layout, measurements and location of all of the improvements; the building name or designation; the apartment unit designations, the dimensions of such units and the elevations of the unfinished floors and ceilings.

PTIONS 3-1. The real property is divided into separate
TATES fee simple estates as provided on Exhibit A.

3-2. Any deed, lease, mortgage, trust deed or other instrument may legally describe a condominium unit by its identifying apartment unit and building number followed by the words; "Vail Racquet Club Condominiums" with further reference to the Map filed for record and the recorded Declaration. Every such description shall be deemed good and sufficient for all purposes to convey, transfer, encumber, or otherwise affect not only the apartment unit but also the general common elements and any limited common elements or other appurtenances thereto. Each such description shall be construed to include a nonexclusive easement for ingress and egress to and for use of the general common elements and any appurtenant limited common elements.

RABLE 4. Each apartment and its undivided interest in the general common elements and any limited common elements or other appurtenances thereto shall be inseparable and may be conveyed, leased or encumbered only as a condominium unit.

ON 5. Declarant shall give written notice to the assessor of Eagle County, Colorado, of the creation of such condominium ownership of property, as provided by law, so that each condominium unit may be deemed a separate parcel and subject to separate assessment and taxation.

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SHIP 6. A condominium unit may be held and owned by more than one person as joint tenants or as tenants in common, or in any real property tenancy relationship recognized under the laws of Colorado.

ION 7. The general common elements shall be owned in common by all of the owners of the apartment units and shall remain undivided, and no owner shall bring any action for partition or division thereof. Nothing contained herein shall be construed as a limitation of the right of partition of a condominium unit

between the owners thereof, but such partition shall not affect any other condominium unit.

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8-1. Each owner shall be entitled to exclusive ownership and possession of his apartment except as otherwise herein specifically provided. Each owner may use the general common elements in accordance with the purpose for which they are intended, without hindering or encroaching upon the lawful rights of other owners.

8-2. Each apartment shall be occupied and used by the owner only as and for a residential dwelling for the owner and his family, guests, employees, and for his tenants, subject, however, to the other provisions hereof concerning tenants. Provided, however, that one unit at any given time in each building shall be exempt from such use restrictions if owned by Declarant or by Jay M. Utter or by Walter Kirch, or by any entity controlled by them or by either of them, and this exemption may not be altered without their prior, express written consent, notwithstanding the provisions of Section 15 hereof.

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9. If any portion of the general common elements encroaches upon an apartment unit or units, a valid easement for the encroachment and for its maintenance, so long as it stands, shall and does exist. If any portion of an apartment unit encroaches upon the general common area or upon an adjoining apartment unit or units, a valid easement shall and does similarly exist. Similar easements shall exist for any such encroachments that may exist in the event of reconstruction. For title or other purposes, no such encroachment and easement shall be considered or determined to be an encumbrance either on the general common elements or the apartment units.

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10. Subsequent to the completion of the improvements described on the Map, no labor performed or materials furnished and incorporated in an apartment unit with the consent or at the request of the owner thereof or his agent or his contractor or subcontractor shall be the basis for filing of a lien against the apartment unit or any other owner not expressly consenting to or requesting the same, or against the general common elements owned by such other owners. Each owner shall indemnify and hold harmless each of the other owners from and against all liability arising from the assertion of such lien. The provisions of this Section are, however, subject to the rights of the Managing Agent or Board of Managers of the Association as set forth in Section 12 hereof.

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11. The administration of this condominium property shall be governed by the Articles of Incorporation and By-Laws of the Association. An owner of a condominium unit shall be and remain a member of the Association for the period of his ownership.

12-1. The owners shall have the irrevocable right, to be exercised by the Managing Agent or Board of Managers of the Association, to have access to each apartment unit from time to time during reasonable hours as may be necessary for the maintenance or repair or replacement of any of the general common elements therein or accessible therefrom, or making emergency repairs therein necessary to prevent damage to the general common elements or to another apartment unit.

12-2. Damage to the interior or any part of an apartment unit or units resulting from the maintenance, repair, emergency repair or replacement of any of the general common elements or as a result of emergency repairs within another apartment unit at the instance of the Association shall be a common expense. Provided, however, that if the work causing such damage is necessitated by negligent or other tortious conduct of an apartment unit owner or member of his family, or by his agent, employee, invitee, licensee or tenant, then such owner shall be responsible for such damage. The damaged improvements shall be restored to substantially the same condition which existed prior to the damage.

12-3. Each owner shall maintain in good repair the interior of his own apartment, including its fixtures. All fixtures and equipment installed within the apartment unit, commencing at a point where the utility lines, pipes, wires, conduits or systems (which for brevity are hereafter referred to as "utilities" enter the apartment unit shall be maintained and kept in repair by the owner thereof.

12-4. No owner shall do anything that will impair the structural soundness or integrity of the building or impair any easement or hereditament.

RIGHT OF
OWNERS
13. No owner shall be deemed to own the undecorated and/or unfinished surfaces of the perimeter walls, floors and ceilings surrounding his apartment unit. Nor shall any owner be deemed to own the utilities running through his apartment unit which are utilized for, or serve more than one apartment unit, except in common with the other owners. An owner shall be deemed to own and shall maintain the inner decorated and/or finished surfaces of the perimeter walls, floors and ceilings, doors and windows, consisting of paint, wallpaper, floor coverings, and other finishing materials and the interior non-supporting walls contained within the apartment unit.

PROVISIONS OF
ARTICLE
14. Each owner shall comply strictly with the provisions of this Declaration, the Articles of Incorporation, the By-Laws and the decisions and resolutions of the Association adopted pursuant thereto, as the same may be lawfully amended from time to time. Failure to comply with any of the same shall be grounds for an action to recover sums due and for damages or injunctive relief or both, maintainable by the Managing Agent or Board of Managers in the name of the Association on behalf of the owners, or in proper case, by an aggrieved owner.

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15-1. Except as otherwise herein provided, this Declaration can be revoked or amended only if owners representing an aggregate ownership interest of 75% or more in the general common elements and all holders of recorded mortgages or deeds of trust encumbering condominium units consent thereto by instrument(s) duly recorded. Provided, however, that the undivided interest in the general common elements appurtenant to each apartment unit, as expressed in this Declaration, shall have a permanent character and shall not be changed without the consent of all condominium unit owners affected by any such change as expressed in a duly recorded amendment to this Declaration.

15-2. A sworn statement by any person purporting to know of his own knowledge that the necessary persons have consented to such amendment or revocation, when duly recorded therewith, shall be prima facie evidence of such facts.

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16-1. All owners shall be obligated to pay the estimated assessments imposed by the Board of Managers or Managing Agent of the Association to meet the common expenses. Except for insurance premiums, or as expressly otherwise required or permitted herein, the assessments shall be made pro rata according to each owner's percentage interest in the general common elements. Assessments, if made, for insurance premiums shall be that proportion of the total premium that the insurance on each condominium unit bears to total coverage. Any limited common elements shall be maintained as general common elements, and owners having exclusive use thereof shall not be subject to special charges or assessments. Assessments for estimated common expenses, including insurance, shall be due monthly in advance on the first day of each month. The Managing Agent or Board of Managers shall prepare and deliver or mail to each owner an itemized monthly statement showing the various estimated or actual items for which assessments are made.

16-2. Monthly assessments shall be prorated if the ownership of a condominium unit commences after the first day of a month.

16-3. Assessments shall be based upon total cash requirements for common expenses, as determined by the Managing Agent or Board of Managers of the Association from time to time, to be paid by all owners, including Declarant, to provide for all estimated expenses growing out of or connected with the maintenance and operation of the general common elements and for any other common expenses, which may include, but is not limited to: expenses of management; taxes and special assessments until separately assessed; if the Managing Agent or Board of Managers determines to assess for such, fire insurance with extended coverage and vandalism and malicious mischief endorsements attached, issued in the amount of the maximum replacement value of all condominium units (including all fixtures, interior

walls and partitions, decorated and finished surfaces of perimeter walls, floors and ceilings, doors, windows and other elements or materials comprising a part of the apartment units) casualty and public liability and other insurance premiums; landscaping and care of grounds; common lighting and heating; repairs and renovations; trash and garbage collections; wages; water charges; legal and accounting fees; management fees; expenses and liabilities incurred by the Managing Agent or Board of Managers under or by reason of this Declaration; payment of any deficit remaining from a previous period; creation of a reasonable contingency or other reserve or surplus fund as well as other costs and expenses relating to the general common elements. Omission or failure to fix the assessment for any month shall not be deemed a waiver, modification or release of the owners from their obligation to pay.

16-4. No owner may exempt himself from liability for his contribution for the common expenses by waiver of the use or enjoyment of any of the common elements, or by abandonment of his apartment.

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17. Unless other arrangements are made which are satisfactory in their judgment, the Managing Agent or Board of Managers shall obtain and maintain at all times insurance of the type and kind provided hereinabove, and providing for such other risks, of a similar or dissimilar nature, as are or shall hereafter be customary for other similar apartment or condominium buildings, and issued by responsible insurance companies authorized to do business in Colorado. The insurance shall be carried in blanket policy form naming the Association the insured, and identifying the interests of each condominium unit owner and providing for the interests of each condominium mortgagee clause in favor of each first mortgagee. It shall also provide that it cannot be cancelled by either the insured or the insurance company until after ten days prior written notice to each owner and each first mortgagee. The Managing Agent or Board of Managers shall, upon the request of any first mortgagee, furnish a certified copy of such blanket policy and the separate certificate identifying the interest of the mortgagor. All policies, insofar as possible, shall provide that the insurance thereunder shall be invalidated or suspended only for the interest of any particular owner guilty of a breach of warranty, act, omission, negligence or non-compliance with provision of such policy, including payment of the insurance premium applicable to that owner's interest, or who permits or fails to prevent the happening of any event, before or after a loss, which under the policy would otherwise invalidate or suspend the entire policy; but the insurance under any such policy, as to the interests of all other insured owners not guilty of any such act or omission, shall not be invalidated or

suspended and shall remain in full force and effect. Determination of maximum replacement value of all condominium units (for insurance purposes) shall be made periodically by or at the direction of the Managing Agent or Board of Managers.

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18-1. All sums assessed from time to time for the share of common expenses chargeable to any condominium unit, and unpaid, plus interest thereon at 12 per cent per annum, shall constitute a lien on such unit superior to all other liens and encumbrances, whether in existence before the particular assessment or not, excepting only: (1) tax and special assessment liens of any governmental unit; and (2) all sums unpaid on a recorded first mortgage or first deed of trust, including all unpaid obligatory sums provided by such encumbrance, and including additional advances made thereon prior to the date such assessment lien becomes choate, as hereinafter provided.

18-2. To evidence such lien the Board of Managers or Managing Agent may, but shall not be required to, prepare a written notice setting forth the amount of such unpaid indebtedness, the description thereof and the name of the owner of the condominium unit. Such notice shall be signed by one of the Board of Managers or by the Managing Agent and may be recorded in the office of the Clerk and Recorder of Eagle County, Colorado. Such lien shall become choate on the due date of the assessment and shall be superior to all other liens except as hereinabove provided. Such lien may be enforced by foreclosure of the defaulting owner's condominium unit by the Association in like manner as a mortgage on real property. In any such foreclosure the owner shall be required to pay the costs and expenses of such proceedings, the costs, expenses and attorney's fees for filing the notice or claim of lien and all reasonable attorney's fees in connection with such foreclosure. The owner shall also be required to pay to the Association the monthly assessments for the condominium unit during the period of foreclosure, and the Association shall be entitled to a receiver to collect the same. The Association shall have the power to bid in the condominium unit at foreclosure sale and to acquire, hold, lease, mortgage and convey such unit.

18-3. The common expenses assessed against each condominium unit shall also be a debt of the owner and suit therefor may be maintained without foreclosing or waiving the lien, and the owner shall be liable for all costs of collection, including reasonable attorney's fees.

18-4. Any encumbrancer holding a lien on a condominium unit may, but shall not be required to, pay any unpaid common expense for such unit, and thereupon such encumbrancer shall have a lien on such unit for the amounts paid of the same rank as the lien of his encumbrance.

SECTION

19-1. Upon payment of a reasonable fee, not to exceed \$20, and upon the written request of any owner or any mortgagee of a condominium unit, the Association, by its Managing Agent, or if there is none, then by its Board of Managers, shall issue a written statement setting forth the amount of the unpaid common expenses, if any, with respect to such unit, the amount of the current monthly assessment and the date that such assessment becomes due, credit for advanced payments or for prepaid items, including but not limited to insurance premiums, which statement shall be conclusive upon the Association in favor of all persons who rely thereon in good faith and all unpaid common expenses which became due prior to the date of making such request shall be subordinate to the lien of the person requesting such statement.

19-2. The grantee of a unit shall be jointly and severally liable with the grantor for all unpaid assessments against the unit for his proportionate share of the common expenses up to the time of the grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor; provided, however, that upon payment of a reasonable fee not to exceed \$20, and upon written request, any such prospective grantee shall be entitled to a statement from the Managing Agent or if there is none, then by its Board of Managers, setting forth the amount of the unpaid common expenses, if any, with respect to the subject unit, the amount of the current monthly assessment and the date that such assessment becomes due, credit for advanced payments or for prepaid items, including but not limited to insurance premiums, which statement shall be conclusive upon the Association so far as grantee is concerned. Unless the request for such a statement is complied with within ten days after receipt of such request, then such grantee shall not be liable for, nor shall the unit conveyed be subject to a lien for any unpaid assessments against the subject unit. The grantor shall remain liable, however, for such amount together with all costs of collection, including reasonable attorney's fees.

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

(2) that such junior mortgagee shall release, for the purpose of restoration of any improvements upon the mortgaged premises, all of his right, title and interest in the proceeds under all insurance policies upon such premises effected and placed upon the mortgaged premises by the Association. Such release shall be furnished forthwith by a junior mortgagee upon written request of the Association.

21-1. If any owner of a condominium unit, other than Declarant or Jay M. Utter or Walter Kirch, or any entity controlled by them or either of them, wishes to sell or lease such unit and receives a bona fide offer therefor from a prospective purchaser or tenant, the remaining owner of units within the same building shall be given written notice thereof, together with a true copy of such offer. Such notice and copy shall be given to the Board of Managers for all of such owners. Such remaining owners shall have the right to purchase or lease such unit upon the same terms and conditions as set forth in said offer; provided, however, that written notice of such election to purchase or lease and a matching down payment or deposit is given to the owner during the 20 day period immediately following delivery of the notice of the bona fide offer and copy thereof. The method by which the Board of Managers shall advise the other owners of such bona fide offer and the method for determining which of the several remaining owners shall be entitled to purchase or lease such unit, if more than one desire so to do, shall be provided in the Association's By-Laws. This right of first refusal shall not be applicable to sales or purchases by Declarant or Jay M. Utter or Walter Kirch, or any entity controlled by them or either of them.

21-2. If any owner, other than Declarant or Jay M. Utter or Walter Kirch, or any entity controlled by them or either of them, attempts to sell or lease his condominium unit without affording to the other owners the right of first refusal herein provided, such sales or lease shall be wholly null and void and shall confer no possessory rights, no title or interest whatsoever upon the intended purchaser or lessee.

21-3. Subleasing or subrenting shall be subject to the same limitations as are applicable to leasing. All liabilities and obligations of the owner under these covenants shall continue, notwithstanding the fact that he may have leased or rented said interest as permitted herein.

21-4. The right of first refusal reserved herein shall not affect the right of an owner to subject his interest to a trust deed, mortgage or other security instrument, but the provisions regarding encumbrances shall apply.

21-5. The right of first refusal shall not apply to leases or subleases having a term of less than 9 months but any renewal or extension thereof which would extend the total tenancy beyond 9 months shall be subject to such right.

21-6. Failure of or refusal to exercise the right to so purchase or lease shall not constitute or be deemed a waiver of such right to purchase or lease when such owner or any successor receives any subsequent bona fide offer from a prospect purchaser or tenant.

21-7. The right of first refusal, as provided herein, shall extend and run for the period of the lives of the incorporators of the Association, and the survivor of them, plus 21 years. The names of the incorporators are given in Exhibit A hereto.

21-8. Except as otherwise provided in Section 22, and except upon a transfer of title to a Public Trustee or to a first mortgagee, each grantor of a condominium unit, in transferring or conveying his interest, shall incorporate in such instrument of conveyance an agreement that the grantee carry out the provisions of the "right of first refusal" herein provided, however, that grantor's failure so to do shall in no way negate or affect such right.

RS 22-1. In the event of any default on the part of any owner under any first mortgage which entitles the holder thereof to foreclose same, any sale under such foreclosure, including delivery of a bona fide deed to the first mortgagee in lieu of such foreclosure, shall be made free and clear of the provisions of Section 21, and the purchaser (or grantee under such deed in lieu of foreclosure) of such condominium unit shall thereupon and thereafter be subject to the provisions of this Declaration and By-Laws. If the purchaser following this foreclosure sale (or grantee under deed given in lieu of such foreclosure) sale shall be the then holder of the first mortgage or its nominee, said holder or nominee may thereafter sell and convey the condominium unit free and clear of the provisions of Section 21, but its grantee shall thereupon and thereafter be subject to all of the provisions thereof.

22-2. The following transfers are also exempt from the provisions of Section 21; provided, however, that further transfers shall be subject thereto except as provided herein.

22-2-1. The transfer by operation of law of a deceased joint tenant's interest of the surviving joint tenant(s).

22-2-2. The transfer of a deceased's interest to a devisee by will or his heirs at law under intestacy laws.

22-2-3. The transfer of all or any part of a partner's interest as a result of withdrawal, death or otherwise, to the remaining partners carrying on the partnership business and/or to a person or persons becoming partners. A transfer of all or part of a partner's or partners' interests between one or more partners and/or to persons becoming partners.

22-2-4. The transfer of a corporation's interest to the persons formerly owning the stock of the corporation as the result of a dissolution, or a transfer to the resulting entity following a corporate merger or consolidation; provided, however, that not less than fifty per cent of the stock of the resulting entity is owned by the stockholders of the corporation formerly owning the condominium unit.

22-3. If an owner of a condominium unit can establish to the satisfaction of the Managing Agent or Board of Managers that a proposed transfer is not a sale or lease, then such transfer shall not be subject to the provisions of Section 21.

22-4. Upon written request of any prospective transferor, purchaser, tenant or an existing or prospective mortgagee of any condominium unit, the Managing Agent or Board of Managers of the Association shall forthwith, or where time is specified, at the end of the time, issue a written and acknowledged certificate in recordable form, evidencing that:

22-4-1. With respect to a proposed lease or sale under Section 21, that proper notice was given by the selling or leasing owner and that the remaining owners did not elect to exercise their option to purchase or lease;

22-4-2. With respect to a deed to a first mortgagee or its nominee in lieu of foreclosure, and a deed from such mortgagee or its nominee, pursuant to Section 22-1, that the deeds were in fact given in lieu of foreclosure and were not subject to the provisions of Section 21.

22-4-3. With respect to any contemplated transfer which is not in fact a sale or lease, that the transfer will not be subject to the provisions of Section 21.

22-4-4. Such a certificate shall be conclusive evidence of the facts contained therein.

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23-1. This Declaration does hereby make mandatory the irrevocable appointment of an attorney-in-fact to deal with the property upon its destruction or obsolescence.

23-2. Title to any condominium unit is declared and expressly made subject to the terms and conditions hereof, and acceptance by any grantee of a deed from the Declarant or from any owner shall, without any further action, constitute appointment of the attorney-in-fact herein provided. All of the owners thus irrevocably constitute and appoint the Association, their true and lawful attorney in their name, place and stead for the purpose of dealing with their property upon its destruction or obsolescence as hereinafter provided. As attorney-in-fact, the Association, by its Board of Managers, or other duly authorized, officers or agents, shall have full and complete authorization, right and power to make, execute and deliver any contract, deed or any other instrument with respect to the interest of a condominium unit owner which is necessary or convenient to exercise the powers herein granted. Repair and reconstruction of the improvement(s) as used in the succeeding subsections means restoring the improvement(s) to substantially the same condition in which it existed prior to the damage, with each apartment unit and the general and limited common elements having substantially the same vertical and horizontal boundaries as before. The proceeds of any insurance collected shall be available to the Association for the purpose of repair, restoration or replacement unless the owners and all first mortgagees agree not to rebuild in accordance with the provisions set forth hereinafter.

23-2-1. In the event of damage or destruction due to fire or other disaster, the insurance proceeds, if sufficient to reconstruct the improvement(s), shall be applied by the Association, as attorney-in-fact, to such reconstruction, and the improvement(s) shall be promptly repaired and reconstructed. The Association shall have full authority, right and power as attorney-in-fact, to cause the repair and restoration of the improvement(s).

23-2-2. If the insurance proceeds are insufficient to repair and reconstruct the improvement(s), or if the damage is not covered by insurance, and if such damage is not more than 50% of the total value of all of the condominium units in the building damaged, not including land, such damage or destruction shall be promptly repaired and reconstructed by the Association, as attorney-in-fact, using the proceeds of insurance and the proceeds of an assessment to be made against the owners of units within the damaged building and their condominium units within said building. Such deficiency assessment shall be a common expense and made pro rata according to each such owner's percentage interest in the general common elements and shall be due and payable within thirty days after written notice thereof. The Association shall have full authority, right and power, as attorney-in-fact, to cause the repair or restoration of the improvements using all of the insurance proceeds for such purposes notwithstanding the failure of any owner to pay the

assessment. The assessment provided for herein shall be a debt of each owner and a lien on his condominium unit and may be enforced and collected as is provided in Section 15 or in any other manner permitted by law. In addition thereto, the Association as attorney-in-fact, shall have the absolute right and power to sell the condominium unit of any owner refusing or failing to pay such deficiency assessment within the time provided, and if not so paid, the Association shall cause to be recorded a notice that the condominium unit of the delinquent owner shall be sold by the Association. The proceeds derived from the sale of such condominium unit shall be used and disbursed by the Association, as attorney-in-fact, in the following order:

- (1) For payment of the balance due on any first mortgage;
- (2) For payment of all costs incident to such sale, including but not limited to, sales commissions and attorneys fees;
- (3) For payment of general property taxes and special assessment liens in favor of any assessing entity;
- (4) For payment of unpaid common expenses;
- (5) For payment of recorded junior liens and encumbrances in the order of any to the extent of their priority;
- (6) Any balance remaining shall be paid to the owner.

23-2-3. If, however, the insurance proceeds are insufficient to repair and reconstruct the improvement(s), or if the damage is not covered by insurance, and if more than 50% of the total value of all of the condominium units in the building or buildings damaged, not including land, is destroyed or damaged, and if owners of an aggregate interest of 70% or more of the general common elements do not, within 100 days thereafter, make provisions for reconstruction, which provisions must have the unanimous approval or consent of every first mortgagee, the Association shall forthwith record a notice setting forth such fact or facts, and upon the recording of such notice the damaged premises shall as promptly as possible, be sold by the Association, as attorney-in-fact, for all of the owners of the building damaged, free and clear of the provisions contained in this Declaration, the Map, the Articles of Incorporation and the By-Laws. Provided, however, that in such sale the Association shall be entitled to impose such restrictive covenant on the property as may be reasonably necessary to protect the remainder of the condominium project from any substantial diminution in value. The insurance settlement proceeds shall be collected by the Association, and such proceeds shall be divided by the Association according to each condominium unit

owner's interest (as such interests appear on the policy or policies), and such divided proceeds shall be paid into separate trust accounts, each account representing one condominium unit. Each such account shall be in the name of the Association, and further identified by the number of the apartment unit and the name of the owner. From each separate account, the Association, as attorney-in-fact, shall forthwith use and disburse the total amount (of each) of such accounts, without contribution from one account to another, toward the partial or full payment of the lien of any first mortgage against the condominium unit represented by such separate account. Thereafter, each such account shall be supplemented by the apportioned amount of the proceeds derived from the sale of the entire property. Such apportionment shall be based upon each condominium unit owner's percentage interest in the general common elements. The total funds of each account shall be used and disbursed, without contribution from one account to another, by the Association as attorney-in-fact, for the same purposes and in the same order provided in Section 23-2-2 hereof.

23-2-4. In the event of such damage or destruction under Section 23-2-3, and if a plan for reconstruction is adopted as therein provided, then all owners shall be bound by the terms of such plan. Any assessment made in connection with such plan shall be a common expense and made pro rata according to each owner's percentage interest in the general common elements and shall be due and payable as provided by the terms of such plan, but not sooner than thirty days after written notice thereof. The Association shall have full authority, right and power, as attorney-in-fact, to cause the repair or restoration of the improvements using all of the insurance proceeds for such purpose notwithstanding the failure of an owner to pay the assessment. The assessment provided for herein shall be a debt of each owner and a lien on his condominium unit and may be enforced and collected as is provided in Section 18 or in any other manner permitted by law. In addition thereto, the Association as attorney-in-fact, shall have the absolute right and power to sell the condominium unit of any owner refusing or failing to pay such assessment within the time provided, and if not so paid, the Association shall cause to be recorded a notice that the condominium unit of the delinquent owner shall be sold by the Association. The proceeds derived from the sale of such condominium unit shall be used and disbursed by the Association, as attorney-in-fact, for the same purposes and in the same order provided in Section 23-2-2 hereof.

SCENCE

24-1. Owners representing an aggregate ownership interest of 85% or more, of the general common elements of any condominium building within the condominium project may agree that the condominium units in said building are obsolete and adopt a plan for their renewal and reconstruction, which plan

must have unanimous approval of all first mortgagees. If such a plan is adopted, then the expense thereof shall be payable by all of the owners in said building as common expenses. Provided, however, that any owner not consenting to such plan may give written notice to the Association that his unit shall be purchased by the Association acting on behalf of the consenting owners in said building, and in accordance with the provisions of subsection 24-2 hereof, at its fair market value. If such owner and the Association can agree on the fair market value thereof, then such sale shall be consummated within thirty days thereafter. If they cannot so agree, the date when either party notifies the other that he or it is unable to agree with the other shall be the "commencement date" from which all periods of time mentioned herein shall be measured. Within 10 days following the commencement date, each party shall nominate in writing (and give notice of such nomination to the other party) an appraiser who shall either hold M.A.I. or similar qualification. If either party fails within said 10 day period to make such nomination, the appraiser nominated by the other party shall act as sole appraiser. Otherwise the two appraisers nominated shall individually appraise the condominium unit involved to determine its fair market value. If only one appraiser acts, as hereinbefore provided, his appraisal shall control. Otherwise the appraisals of the two appraisers nominated shall be averaged and the figure so obtained shall be considered the fair market value. In either event, the fair market value so determined in good faith, shall be conclusive on all parties. The expenses and fees of such appraiser(s) shall be borne equally by the Association and the owner. The sale shall be consummated within fifteen days thereafter, and the Association, as attorney-in-fact, shall disburse such proceeds as provided in subsection 23-2-2, but for this purpose item (2) of said subsection 23-2-2 shall be disregarded. Title to any such unit shall be taken by the Association as trustee for the consenting owners in said building to be disposed of as they shall direct.

24-2. Notwithstanding the provisions of subsection 24-1 hereof, no such plan or renewal and reconstruction shall be carried out unless and until it shall have been approved in writing by the Board of Managers of the Association. Such approval shall be conditioned upon a determination by said Board of Managers that the plan is feasible, financially and in all other respects, that the plan can be accomplished without substantial detriment to the remainder of the condominium project, and upon satisfactory indemnification of the Association, the Board of Managers and the owners of other condominium units within the condominium project.

24-3. The owners representing an aggregate ownership interest of 85%, or more, of the general common elements of any condominium building within the condominium project may agree that the condominium units in said building are obsolete and that

the same should be sold. Such plan must have the unanimous approval of all first mortgagees. In such instance, the Association shall forthwith record a notice setting forth such fact or facts, and upon the recording of such notice, the entire premises shall be sold by the Association, as attorney-in-fact, for all of the owners, free and clear of the provisions contained in this Declaration, the Map, the Articles of Incorporation and the By-Laws. Provided, however, that in such sale the Association shall be entitled to impose such restrictive covenants on the property as may be reasonably necessary to protect the remainder of the condominium project from any substantial diminution in value. The sales proceeds shall be apportioned among the owners on the basis of each owner's percentage interest in the general common elements, and such apportioned proceeds shall be paid into separate trust accounts, each such account representing one condominium unit. Each such account shall be in the name of the Association, and shall be further identified by the number of the apartment and the name of the owner. From each separate account, the Association, as attorney-in-fact, shall use and disburse the total amount (of each) of such accounts, without contribution from one account to another, for the same purposes and in the same order as provided in Section 23-2-2.

24-4. Notwithstanding the provisions of Section 24-3 hereof, no such plan of sale shall be carried out unless and until it shall have been approved in writing by the Board of Managers of the Association. Such approval shall be conditioned upon a determination by said Board of Managers that such plan can be accomplished without substantial detriment to the remainder of the condominium project, or upon such terms and conditions as in its judgment shall avoid any substantial detriment thereto.

25. The Association, may acquire and hold for the benefit of the condominium owners, real, tangible and intangible personal property and may dispose of the same by sale or otherwise, and the beneficial interest in any such property shall be owned by the condominium owners in the same proportion as their respective interests in the general common elements and shall not be transferable except with a transfer of a condominium unit. A transfer of a condominium unit shall transfer to the transferee ownership of the transferor's beneficial interest in such real or personal property without any reference thereto. Each owner may use such real and personal property in accordance with the purpose for which it is intended, without hindering or encroaching upon the lawful rights of the other owners. Sale of a condominium unit under foreclosure shall thereby entitle the purchaser to the beneficial interest in the real and personal property associated with the foreclosed condominium unit.

S 26. Each owner shall register his mailing address with the Association, and except for monthly statements and other routine notices, all other notices or demands intended to be served upon an owner shall be sent by either registered or certified mail, postage prepaid, addressed in the name of the owner at such registered mailing address. All notices, demands or other notices intended to be served upon the Board of Managers of the Association shall be sent by registered or certified mail, postage prepaid, to P.O. Box 1088, Vail Colorado, until such address is changed by a notice of address change duly recorded.

NTS 27. The Association or the Managing Agent may require an owner other than Declarant to deposit in escrow with the Association six times the amount of the estimated monthly common assessment which sum shall be held by the Association or the Managing Agent as a reserve to be used for paying such owner's monthly common assessment. Such an advance payment shall not relieve an owner from making the regular monthly payment of the monthly common assessment as the same come due. The owner shall be entitled to a return of or credit for his portion of the unused advance payment upon termination of his ownership.

LITY 28. If any of the provisions of this Declaration or any Section, paragraph, sentence, clause, phrase or word, or the application thereof in any circumstance be invalidated, such invalidity shall not affect the validity of the remainder of this Declaration and the application of any such provision, paragraph, sentence, clause, phrase or word in any other circumstances shall not be affected thereby.

IUM 29. The provisions of this Declaration shall be in addition and supplemental to the Condominium Ownership Act of the State of Colorado and to all other provisions of law.

30. That whenever used herein, unless the context shall otherwise provide, the singular number shall include the plural, the plural the singular, and the use of any gender shall include all genders.

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

NCES 32. The owners of condominium units agree to include in any conveyance or encumbrance of such units a provision binding the grantee or encumbrancer to accept the provisions of this Declaration and of the Articles of Incorporation and By-Laws of the Association. Regardless of the inclusion of such provision, however, any grantee or endumbrancer, in accepting a conveyance or encumbrance, shall be deemed automatically to have accepted and consented to be bound thereby.

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33-1. Declarant presently anticipates the enlargement of this condominium project by the construction of additional condominium buildings and other improvements. Declarant expressly reserves the right to, but shall not be obligated to, enlarge the condominium project by constructing additional condominium buildings and other improvements on other real property adjacent to or in the vicinity of that described on Exhibit A. Such addition(s) to this condominium project may be submitted to this condominium project by Declarant and such submission shall be expressed in and by a duly recorded supplement to this Declaration and by a supplement to the Map filed for record. The right reserved for enlargement of the project shall extend to successors in title to such additional real property owned or acquired by Declarant.

33-2. In form and substance, the supplement to this Declaration shall provide for the division of such additional real property and improvements into condominium units similar to the division made of the real property and improvements in Exhibit A hereto. Each unit shall be so identified as to differentiate it from any other unit in any other building under this Declaration and the Map. The undivided interest in and to the general common elements appurtenant to each such additional unit shall not be a part of the general common elements of the condominium units described and initially created by this Declaration and the Map or those added to the project by other supplements hereto. The undivided interest in the general common elements shall have a permanent character and shall not be altered without the consent of all of the condominium unit owners affected thereby, expressed in a duly recorded Amendment to this Declaration in the fashion otherwise herein provided.

33-3. Except as is provided in Section 3 hereof, and as to limited common elements as defined on Exhibit A hereto, all of the provisions contained in this Declaration shall be applicable to such additional condominium units. Common expenses for items peculiar to such additional units shall be separately assessed, and all insurance policies therefor shall cover only such additional condominium units.

33-4. Section 23 and 24 hereof relate to destruction and obsolescence. Only the owners of the condominium units affected (damaged, destroyed or obsolete) shall be entitled to vote in determining what steps shall be taken where options are provided in said Sections concerning reconstruction or sale. The initially constructed condominium improvements and the additional condominium improvements shall be a part of the whole project, but each such separately constructed and submitted project shall be considered a separate condominium for the purposes of said Sections 23 and 24, and the aggregate interests of each of such separately constructed project shall be considered one hundred per cent for such voting purposes.

33-5. Except as provided in Section 33-4, each condominium unit owner shall be entitled to vote his percentage or fractional interest in and to the total of all general common elements taking into account all buildings then subject to the Condominium Declaration, and the aggregate of all of the undivided interests submitted to and making up the total condominium project at any given time shall be considered one hundred per cent for such voting purposes.

RACQUET

34. The owner of each condominium unit in the project, shall receive one family membership in the Vail Racquet Club, being developed by Declarant on adjacent property and providing tennis and other recreational facilities. Such membership shall be an appurtenance to said condominium unit, shall not be severable from the ownership thereof, and the transfer of a condominium unit shall transfer to the transferee said membership without any reference thereto. The terms and conditions governing such membership shall be more particularly defined by Declarant from time to time in membership certificates and regulations to be furnished to unit owners by Declarant. Such membership shall entitle such owner to the use of the facilities in accordance with such terms and conditions and shall obligate the unit owner for the payment of reasonable monthly dues in accordance with schedules adopted by Declarant, which dues shall not in any event be less favorable than those accorded to other unit owners for comparable units or to persons not owning condominium units in the project. Such monthly dues shall be certified to the Board of Managers or Managing Agent and shall be deemed common expenses and collected in accordance with the provisions of this Declaration pertaining to common expenses. No owner shall be entitled to exempt himself from liability for such dues by waiver of the use or enjoyment of such facilities. The provisions of this Section may not be amended or revoked without the prior, express written consent of Declarant or its successors in title.

STANDARD

35-1. Declarant hereby grants to each condominium unit owner a perpetual and non-exclusive easement for ingress and egress between Meadow Drive and Buildings Nos. 9 and 10, respectively, over and across that portion of the existing private roadway (denominated as Vail Racquet Club Drive) constructed on the following described property, which portion lies outside the bounds of the tract on which the building in which such owner's unit is located is situate, for the use of such owner, his family, guests, tenants and invitees. Such easement shall be appurtenant to said condominium unit and the transfer or encumbrance of a condominium unit shall transfer to the transferee such easement without any reference thereto. Declarant, for itself, its successors and assigns, reserves the right to shift or relocate such roadway so long as reasonably comparable access to said Buildings Nos. 9 and 10 is maintained.