



## Department of State.

### CERTIFICATE OF INCORPORATION

I, PETE T. CENARRUSA, Secretary of State of the State of Idaho, and legal custodian of the corporation records of the State of Idaho, do hereby certify that the original of the articles of incorporation of

**WILDFLOWER CONDOMINIUM ASSOCIATION, INC.**

was filed in the office of the Secretary of State on the **26th** day  
of **November** **seventy-four** and  
~~will be~~ <sup>microfilm</sup> recorded on ~~film~~ No. <sup>microfilm</sup> of Record of Domestic Corporations, of the State of  
Idaho, and that the said articles contain the statement of facts required by Section 30-103,  
Idaho Code.

I FURTHER CERTIFY, That the persons executing the articles and their associates  
and successors are hereby constituted a corporation, by the name hereinbefore stated, for  
**Perpetual Existence**, from the date hereof, with its registered office in this State located at  
**Juniper Valley, Idaho** in the County of **Blaine**

IN TESTIMONY WHEREOF, I have hereunto  
set my hand and affixed the Great Seal of the  
State. Done at Boise City, the Capital of Idaho,  
this **26th** day of **November**  
**A.D., 19 74**.

Pete T. Cenarrusa  
Secretary of State.

Corporation Clerk.

ARTICLES OF INCORPORATION  
OF  
WILDFLOWER CONDOMINIUM ASSOCIATION, INC.

KNOW ALL MEN BY THESE PRESENTS: That we, the undersigned, each being a natural person of full age and a citizen of the United States of America, have voluntarily and do hereby associate ourselves together for the purpose of forming a corporation under the laws of the State of Idaho, Idaho Code, Title 30, Chapter 1, Section 117A. We do hereby certify, declare and adopt the following Articles of Incorporation.

ARTICLE I

The name of the corporation is: WILDFLOWER CONDOMINIUM ASSOCIATION, INC.

ARTICLE II

The period of existence and the duration of the life of this corporation shall be perpetual.

ARTICLE III

This corporation shall be a non-profit membership corporation.

ARTICLE IV

The location and post office address of the registered office of this corporation shall be the City of Sun Valley, Blaine County, Idaho 83353.

ARTICLE V

This corporation is formed to be a Management Body as permitted by the provisions of the Idaho Condominium Property Act, Idaho Code Title 55, Chapter 15 and its powers are and shall be consistent with the provisions of this Act.

ARTICLE VI

A. The nature of the business and the object and purpose of this corporation shall be as follows:

1. This corporation (hereinafter referred to as the Association) shall be the "Management Body" as defined in Section 55-1503, Idaho Code, and as provided for in the terms and conditions of that certain Condominium Declaration for Wildflower Condominiums recorded in the Records of Blaine County, Idaho.

ARTICLE VII

A. Each member shall be entitled to receive a certificate of membership, which certificate shall state the number of votes he is entitled to cast as a member of the Association.

B. There shall be one membership in the corporation for each Condominium in Wildflower Condominiums as established in the Declaration. The members of the corporation must be and remain owners of condominiums within the project set forth in the Declaration, and the Association shall include all owners of

Condominiums within the project. If title to a condominium is held by more than one person, the membership relating to that Condominium shall be shared by all such persons in the same proportion and interest and the same type of tenancy in which title to the Condominium is held.

C. No person or entity other than an Owner may be a member of the Association. A member shall not assign or transfer his membership certificate except in connection with the transfer or sale of a Condominium; provided, however, that the rights of membership may be assigned as further security for a loan secured by a lien on a Condominium. Every person or entity who is an Owner of any Condominium included in any Condominium Project for which the Association has been or may be designated as a Management Body shall be required to be a member of the Association and remain a member so long as such person or entity shall retain the ownership of a Condominium. Membership in the Association is declared to be appurtenant to the title of the Condominium upon which such membership is based and automatically shall pass with the sale or transfer of the title of the Condominium. Members shall not have pre-emptive rights to purchase other memberships in the Association or other Condominiums in the Project.

D. The voting rights of a member of the Association shall be determined by the Owner member's percentage interest in the Common Area of the Condominium Project described in the Declaration, as the term "Common Area" is defined in Section 55-1503 of the Idaho Code; therefore, the voting rights of each member Owner will not be in all cases equal. The Declaration, or an exhibit attached thereto shall set forth the percentage interest of each member in the Common Area, which interest depends upon the number and type of Condominiums.

E. The total number of votes that attach to membership certificates to be exercised by the members of the corporation from and after the date of the incorporation shall be 10,000. Each member shall be entitled to vote the same percentage of the 10,000 votes as he is given percentage in the Common Area.

F. In any election of the members of the Board, every Owner (including the developer) entitled to vote at such election shall have the right to cumulate his votes and give one candidate, or divide among any number of the candidates, a number of votes equal to the number of votes to which that Owner is entitled in voting upon other matters multiplied by the number of directors to be elected. The candidates receiving the highest number of votes, up to the number of the Board members to be elected, shall be deemed elected. Any director may be removed from office by a vote of a majority of the members entitled to vote at an election of directors; provided, however, that unless the entire Board is removed, an individual director shall not be removed if the number of votes cast against his removal exceeds the quotient arrived at when the total number of votes cast is divided by one plus the authorized number of directors. If any or all directors are so removed, new directors may be elected at the same meeting.

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

H. The Association may suspend any Owner's voting rights in the Association during any period or periods during which such Owner fails to comply with the Rules and Regulations of the Association, or with any other obligations of such Owner under the Declaration. Before invoking any such suspension the Board shall give such person Notice and Hearing.

#### ARTICLE VIII

Each member shall be liable for the payment of assessments provided for in the Declaration and for the payment and discharge of the liabilities of the corporation as provided for in the Declaration, the Idaho Condominium Property Act (Title 55, Chapter 15), and as set forth in the By-Laws of the Corporation.

#### ARTICLE IX

The By-Laws of this Corporation may be altered, amended, or new By-Laws adopted by any regular or special meeting of the corporation called for that purpose by the affirmative vote of the membership of the Association holding two-thirds (2/3) of the voting power of the Association.

#### ARTICLE X

For the purpose of specifying in detail the rights, responsibilities, duties and obligations of the Board of Directors, the officers, employees and agents of the corporation and the members thereof, including the liability of the members for the payment of assessments, the By-Laws may incorporate by reference the provisions of the Declaration, provided that a true and correct copy of such Declaration is attached to and made a part of the By-Laws of the Corporation.

#### ARTICLE XI

The business and affairs of the Association shall be managed and controlled by a Board of Directors. The original Board of Directors shall be three (3); however, the By-Laws of the Association may provide for an increase or decrease in their number, provided that the number of directors shall not be greater than nine (9) nor less than three (3).

#### ARTICLE XII

The names and post office address of the incorporators are as follows:

Name

Richard Fenton, Jr.

Charles W. Dwight

LaVerna R. Byers

Address

c/o P.O. Box 65  
Sun Valley, Idaho 83353

c/o P.O. Box 65  
Sun Valley, Idaho 83353

c/o P.O. Box 65  
Sun Valley, Idaho 83353

IN WITNESS WHEREOF, we have hereunto set our hands and  
seals this 8th day of November, 1974.

Richard Fenton Jr.

Charles W. Dwight

LaVerna R. Byers

STATE OF IDAHO      }  
County of Blaine      } ss.

On this 8th day of November, 1974, before me,  
the undersigned, a Notary Public in and for said State, personally  
appeared Richard Fenton, Jr., Charles W. Dwight  
and LaVerna R. Byers, known to me to be the persons  
whose names are subscribed to the foregoing instrument, and acknow-  
ledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed  
my official seal the day and year in this certificate first above  
written.

Yvonne D. Dahl  
Notary Public for Idaho  
Residing at Ketchum

CONDOMINIUM DECLARATION

For

WILDFLOWER CONDOMINIUMSARTICLE I. Recitals and Certain Definitions.

Section 1.1 The Declarant; the Real Property. Resort Associates/Idaho, an Idaho Joint Venture composed of Resort Associates Idaho, Inc., an Idaho corporation and John P. Hooten ("Declarant") is the Ground Lessee from Sun Valley Company Inc., and Sun Valley Company Inc. is the owner and Ground Lessor of that certain real property located in Blaine County, Idaho, described in Exhibit "A" attached hereto and hereby made a part of this Declaration, the leasehold interest of Declarant in said real property (but not the fee title to the unimproved real property) being referred to herein as the "Ground Lease Property". The "Ground Lease" is that certain Second Amended Ground Lease dated June 13, 1974, made between Declarant as Lessee and Sun Valley Company Inc., as Lessor, a memorandum of which was recorded in the records of Blaine County, Idaho, as Instrument No. \_\_\_\_\_, as amended by that certain Amendment to Second Amended Ground Lease dated September 20, 1974, a memorandum of which was recorded in the records of Blaine County, Idaho, as Instrument No. \_\_\_\_\_.

Section 1.2 Intention of Declarant. Declarant intends to provide for condominium ownership of the Ground Lease Property and of all improvements thereon under the Condominium Property Act of the State of Idaho.

Section 1.3 The Project. The term "Project" shall collectively mean the Ground Lease Property and all buildings and other improvements located on the Ground Lease Property.

Section 1.4 Type of Ownership. This condominium project will provide a means for ownership of subleasehold separate interests in Units and for ownership of co-subleasehold interests with others, of Common Area, as those terms are herein defined.

ARTICLE II. Additional Definitions.

The following terms shall have the following meanings when used herein unless the context otherwise requires.

Section 2.1 Building. "Building" means one of the buildings constructed on the Ground Lease Property pursuant to this Declaration.

Section 2.2 Unit. "Unit" means the separate interest in a condominium as bounded by the interior surfaces of the walls, floors, ceilings, windows and doors thereof and the interior surfaces of built-in fireplaces as shown and numbered on the Condominium Map to be filed for record, together with all fixtures and improvements therein contained. Notwithstanding such markings, the following are not part of a Unit: bearing walls, columns, floors and roofs (except for the interior surface thereof, if a perimeter wall, floor or ceiling), foundations, clothes chutes, shafts, central heating, reservoirs, tanks, pumps and other services used by more than one Unit, pipes, vents, ducts, flues, chutes, conduits, wires, garages and other utility installations, wherever located, except the outlets thereof when located within the Unit. The interior surfaces of a perimeter window or door means the points at which such surfaces are located when such windows or doors are closed; the physical windows and doors themselves are part of the Common Area, as herein defined. Each Unit also includes the interior of any storage areas which are shown on the Condominium Map as belonging to such Unit, bounded as described herein for the other portions of the Unit. In the case of combination of two or more adjoining Units, those portions of partition walls between Units which are from time to time used as door openings between such Units shall be deemed to be divided in half longitudinally, parallel to the partition wall, and each half shall constitute part of the Unit which it adjoins, as Limited Common Area appurtenant to such Unit.

Section 2.3 Common Area. "Common Area" means the entire Project excepting all Units.

Section 2.4 Limited Common Area. "Limited Common Area" means that Common Area designated herein for exclusive use by Owners of particular Condominiums, as those terms are herein defined.

Section 2.5 General Common Area. "General Common Area" means all Common Area excepting all Limited Common Area.

Section 2.6 Condominium. "Condominium" means a separate subleasehold interest in a Unit and Unit improvements together with a subleasehold interest in common in the Common Area and Common Area improvements (expressed as a percentage of the entire leasehold interest in the Common Area) as set forth in Exhibit "B" attached hereto and by this reference made a part hereof.

Section 2.7 Owner. "Owner" means any person or entity, including Declarant, at any time owning a Condominium; the term "Owner" shall not refer to any Mortgagee, as herein defined, unless such Mortgagee has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure. The term "Owner" is coincident with the term "Sublessee" as set forth in the Ground Lease.

Section 2.8 Mortgage. "Mortgage" means any mortgage, deed of trust, or other security instrument by which a Condominium or any part thereof is encumbered.

Section 2.9 Mortgagee. "Mortgagee" means any person, or any successor to the interest of such person named as the mortgagee, trust beneficiary, or creditor under any mortgage, as mortgage is defined in Section 2.8, under which the interest of any Owner, or successor to the interest of such Owner, is encumbered.

Section 2.10 Association. "Association" means Wildflower Condominium Association, Inc., an Idaho corporation not for profit,

its successors and assigns, organized as provided herein.

Section 2.11 Condominium Map. "Condominium Map" means the Condominium Map for Wildflower Condominiums, to be filed for record in the office of the County Recorder of Blaine County, Idaho, consisting of a plat or survey map of the surface of the ground of the Ground Lease Property showing a survey and legal description thereof, the location of each Building with respect to the boundaries of the Ground Lease Property, together with diagrammatic floor plans of the Buildings showing the boundaries of each Unit within each Building, including horizontal and vertical locations and dimensions of all boundaries of each Unit, Unit number identifying the Units, together with such other information as may be included thereon in the discretion of the Declarant.

ARTICLE III. Statement of Intention and Purpose.

Declarant hereby declares that the Project and every part thereof is held and shall, during the term of the Ground Lease, be held, conveyed, devised, subleased, rented, encumbered, used, occupied and improved and otherwise affected in every manner subject to the provisions of this Declaration, each, and all of which provisions are hereby declared to be in furtherance of the general plan and scheme of condominium ownership referred to in Article I and are further declared to be for the benefit of the Project and every part thereof and for the benefit of each Owner. All provisions hereof shall be deemed to run with the leasehold estate as covenants running therewith or as equitable servitudes as the case may be, and shall constitute benefits and burdens to the Declarant and its sublessees and assigns and to all persons hereafter acquiring or owning any interest in the Project, however such interest may be obtained.

Despite the foregoing, it is understood that Declarant is the Lessee under the Ground Lease referred to above, and does

not intend by the terms hereof to declare interests in or restrictions upon the interest of Sun Valley Company Inc., as Lessor under said Ground Lease, nor upon the title of Sun Valley Company Inc., as owner of the real property which is subject to the Ground Lease. The rights and restrictions declared herein are subject to the prior rights of Sun Valley Company Inc., which prior rights are set forth in said Ground Lease to which further reference is hereby made.

ARTICLE IV. Nature and Incidents of Condominium Ownership.

Section 4.1 Estates of an Owner. The Ground Lease Property is hereby divided into Condominiums, each Condominium consisting of a separate interest in a Unit and an interest in common in the Common Area in accordance with the attached Exhibit "B" setting forth the Common Area appurtenant to each Unit. The percentage of interest in the leasehold estate in the Common Area which is to be allocated to each Unit for purposes of tax assessment under Section 55-1514 of the Idaho Code and for purposes of liability as provided in Section 55-1515 of such Code shall be the same as set forth in Exhibit "B". Exhibit "B" also contains a legal description of each Unit in the Project, consisting of the identifying number of such Unit as shown on the condominium map. Exhibit "B" is also the Schedule of Proportionate Obligations referred to in Paragraph 27(b) of the Ground Lease. Such common subleasehold interests in the Common Area are hereby declared to be appurtenant to the respective Units.

Section 4.2 Limited Common Area. "Limited Common Area" shall consist of: balconies, porches, heating equipment located in (the crawl space) or under each Unit, and such other areas indicated on the Condominium Map as being Limited Common Area. The balcony or balconies and the porch or porches adjoining a Unit, the individual heating equipment, and all other Limited Common Area, as referred to above, shall be used in connection

with such Unit to the exclusion of the use thereof by the other owners of the Common Area except by invitation.

Section 4.3 Right to Combine Units. Declarant reserves the right to combine physically the area or space of one Unit with the area or space of one or more adjoining Units. Such combination shall not prevent separation of ownership of such Condominiums after they have once been combined. Declarant reserves the right to designate and convey to any purchaser of such combined Units as additional Limited Common Area any walls, floors or other structural separations between Units so combined, or any space which would be occupied by such structural separations but for the combination of the Units. Such structural separations and such space shall automatically become General Common Area if the combined Units become subject to separate ownership after they have once been combined.

Section 4.4 Title. Title to a Condominium may be held or owned by any entity and in any manner in which title to any other real property may be held or owned in the State of Idaho.

Section 4.5 Inseparability. No part of a Condominium or of the legal rights comprising ownership of a Condominium may be separated from any other part thereof during the period of Condominium ownership prescribed herein, so that each Unit and the undivided interest in the Common Area appurtenant to such Unit shall always be assigned, conveyed, devised, encumbered, and otherwise affected only as a complete Condominium. Every gift, devise, bequest, transfer, encumbrance, conveyance or disposition of a Condominium or any part thereof shall be presumed to be a gift, devise, bequest, transfer, encumbrance, or conveyance, respectively, of the entire Condominium together with all appurtenant rights created by law or by this Declaration.

Section 4.6 Partition not Permitted. The leasehold interest in the Common Area shall be owned in common by all owners

of Condominiums, and no owner may bring any action for partition thereof.

Section 4.7 Owner's Right to Common Area. Subject to the limitations contained in this Declaration, each owner shall have the nonexclusive right to use and enjoy the General Common Area, and shall have the exclusive right to use and enjoy the Limited Common Area designated herein for exclusive use by such Owner.

Section 4.8 Taxes and Assessments. Each Owner shall execute such instruments and take such actions as may reasonably be specified by the Association to obtain separate real property tax assessments of the interest of each Owner in each Condominium together with the taxes and assessments pertaining to the interests of the Sun Valley Company Inc., in the land, which taxes and assessments are required to be paid by condominium owners pursuant to the provisions of Paragraph 6 of the Ground Lease. If any taxes or special district or other assessments may, in the opinion of the Association, nevertheless be a lien on the Project or any part thereof, the Association shall pay the same and assess the same to the Owner or Owners responsible therefor. Each Owner shall pay the taxes or assessments assessed against his Condominium, or interest therein, or his interest in the Common Area, or any part of any or all of the foregoing. Each Owner shall pay all taxes, rates, impositions and assessments levied against the Project or any part of the Common Area in proportion to his interest in the Common Area, such payment to be made to the Association at least thirty (30) days prior to the delinquency of such tax or assessment. Each such unpaid tax or assessment shall bear interest at the rate of eight percent (8%) per annum from and after the time the same becomes payable by each Owner and shall be secured by the lien created by Section 9.6 hereof.

Section 4.9 Owner's Rights with Respect to Interiors.

Each Owner shall have the exclusive right to paint, repaint, tile,

wax, paper or otherwise maintain, refinish and decorate the interior surfaces of the walls, ceilings, floors, windows and doors forming the boundaries of his Unit and all walls, ceilings, floors and doors within such boundaries.

**Section 4.10 Easements for Encroachments.** If any part of the Common Area encroaches or shall hereinafter encroach upon a Unit or Units, an easement for such encroachment and for the maintenance of the same shall and does exist. If any part of a Unit encroaches or shall hereafter encroach upon the Common Area, or upon an adjoining Unit or Units, an easement for such encroachment and for the maintenance of the same shall and does exist. Such encroachments shall not be considered to be encumbrances either on the Common Area or the Units. Encroachments referred to herein include, but are not limited to, encroachments caused by settling, rising or shifting of the earth, or by changes in position caused by repair or reconstruction of the Project or any part thereof.

**Section 4.11 Easements of Access for Repair, Maintenance and Emergencies.** Some of the Common Area is or may be located within the Units or may be conveniently accessible only through the Units. The Owners of other Units shall have the irrevocable right, to be exercised by the Association as their agent, to have access to each Unit and to all Common Area from time to time during such reasonable hours as may be necessary for the maintenance, repair or replacement of any of the Common Area located therein or accessible therefrom or for making emergency repairs therein necessary to prevent damage to the Common Area or to another Unit or Units. The Association shall also have such right independent of any agency relationship. Damage to the interior of any part of a Unit or Units resulting from the maintenance, repair, emergency repair or replacement of any of the Common Area or as a result of emergency repairs within another Unit at the instance of the Association or of Owners shall be an

expense of all of the Owners; provided, however, that if such damage is the result of negligence of the Owner of a Unit, then such Owner shall be financially responsible for all of such damage. Such damage shall be repaired and the property shall be restored substantially to the same condition as existed prior to damage. Amounts owing by Owners pursuant hereto shall be collected by the Association by Assessment pursuant to Article IX, below.

Section 4.12 Owner's Right to Ingress and Egress and Support. Each Owner shall have the right to ingress and egress over, upon and across the Common Area necessary for access to his Unit and to the Limited Common Area designated for use in connection with his Unit, and shall have the right to the horizontal and lateral support of his Unit, and such rights shall be appurtenant to and pass with the title to each Condominium.

Section 4.13 Association's Right to Use of Common Area. The Association shall have a nonexclusive easement to make such use of the Common Area as may be necessary or appropriate to perform the duties and functions which it is obligated or permitted to perform pursuant to this Declaration, including the right to construct and maintain in the General Common Area maintenance and storage facilities for use by the Association.

Section 4.14 Declarant's Right Incident to Construction. Declarant, and persons it shall select, shall have the right to ingress and egress over, upon and across the Common Area, the right to store materials thereon and to make such other use thereof as may be reasonably necessary incident to complete development of the Project.

Section 4.15 Easements Deemed Created. All conveyances of Condominiums hereafter made, whether by the Declarant or otherwise, shall be construed to grant and reserve such recipro-

cal easements as shall give effect to Sections 4.10, 4.11, 4.12, 4.13 and 4.14 above, even though no specific reference to such easements or to those Sections appears in any such conveyance.

ARTICLE V. Description of a Condominium.

Every contract for the sale of a Condominium and every Sublease or other instrument affecting title to a Condominium may describe that Condominium by the number shown on the Condominium Map with the appropriate reference to the Condominium Map and to this Declaration as each appears on the records of the County Recorder of Blaine County, Idaho, in the following fashion:

Condominium Number \_\_\_\_\_ as shown on the Condominium Map for Wildflower Condominiums appearing in the records of Blaine County, Idaho, as Instrument No. \_\_\_\_\_ and as defined and described in that Condominium Declaration for Wildflower Condominiums recorded in the Records of Blaine County, Idaho, as Instrument No. \_\_\_\_\_.

Such description will be construed to describe the separate subleasehold interest in the Unit, together with the appurtenant common subleasehold interest in the Common Area, and to incorporate all the rights incident to ownership of a Condominium and all the limitations on such ownership as described in this Declaration and in the Ground Lease.

ARTICLE VI. Mechanic's Lien Rights.

No labor performed or services or material furnished with the consent of or at the request of an Owner or his agent or his contractor or subcontractor shall be the basis for the filing of a lien against Sun Valley Company Inc. or the Condominium of any other Owner, or against any part thereof, or against any other property of any other Owner, except that such lien may apply to the Condominium of such other Owner who has expressly consented to or requested the performance of such labor or furnishing of such materials or services. Such express consent shall be deemed to have been given by the Owner of any Condominium in the case of emergency

repairs thereto. Labor performed or services or materials furnished for the Project, if duly authorized by the Association, shall be deemed to be performed or furnished with the express consent of each Owner. Any Owner may remove his Condominium from a lien against two or more Condominiums or any part thereof by payment to the holder of the lien of the fraction of the total sum secured by such lien which is attributable to the cost of work upon or materials furnished to his Condominium.

ARTICLE VII. The Association.

Section 7.1 Membership. The Articles of Incorporation and By-Laws of the Wildflower Condominium Association ("Association") are attached hereto as Exhibit "C" and hereby made a part of this Declaration. Every Owner shall be entitled and required to be a member of the Association. If title to a Condominium is held by more than one person, the membership related to that Condominium shall be shared by all such persons in the same proportionate interests and by the same type of tenancy in which the title to the Condominium is held. An Owner shall be entitled to one membership for each Condominium owned by him. No person or entity other than an Owner may be a member of the Association, and the Articles of Incorporation or By-Laws of the Association always shall so state and shall in addition state that the memberships in the Association may not be transferred except in connection with the transfer of a Condominium. Provided, however, that the rights of membership may be assigned to a Mortgagee as further security for a loan secured by a lien on a Condominium but a Mortgagee may only exercise such rights in the event it obtains title to such Condominium (as contrasted to a lien) by foreclosure or by a proceeding in lieu thereof. Provided further that in the event the rights of an Owner should be terminated by action of the Lessor by reason of the Owner's default in performing his Proportionate Obligations under the Ground Lease and the Lessor should thereupon obtain or succeed to said rights by reason

of such default, the Lessor shall succeed to the rights of membership as to such Owner.

Section 7.2 Voting Rights. The total number of votes which may be cast by all members of the Association shall be as set forth in the Articles of Incorporation and By-Laws of the Association, attached hereto as Exhibit "C", and each Owner shall be entitled to vote the same percentage of the total number of votes of the Association as such Owner's percentage interest in the Common Area as set forth in Exhibit "B" attached hereto.

Section 7.3 Transfer. Except as otherwise expressly stated herein, any of the rights, interests and obligations of the Association set forth herein or reserved herein may be transferred or assigned to any other person or entity; provided, however, that no such transfer or assignment shall relieve the Association of any of the obligations set forth herein. Any such transfer or assignment shall not revoke or change any of the rights or obligations of any Owners as set forth herein.

Section 7.4 Amplification. The provisions of this Article are amplified by the Articles of Incorporation of the Association and by the By-Laws of the Association; provided, however, that no present or future provision of such Articles of Incorporation or By-Laws shall substantially alter or amend any of the rights or obligations of the Owners set forth herein except with the written consent of all of them who own interests at the time of such consent.

#### ARTICLE VIII. Certain Rights and Obligations of the Association.

Section 8.1 The Management Body. The Association is hereby designated to be the "Management Body" as provided in Section 55-1503 and 55-1506 of the Idaho Code and shall administer the Project in accordance with the Condominium Property Act of such Code, the Articles of Incorporation and By-Laws of the Association and the provisions of this Declaration.

Section 8.2 The Common Area. The Association, subject to the rights of the Owners set forth in Article IV hereof, shall be responsible for the exclusive management and control of the Common Area and all improvements thereon (including furnishings and equipment related thereto), and shall keep the same in good, clean, attractive and sanitary condition, order and repair; however, each Owner of a Condominium shall keep the Limited Common Area designated for use in connection with his Unit in a clean, sanitary and attractive condition, and shall maintain and repair the heating equipment and water heater servicing his Unit exclusively. The Association shall be responsible for the maintenance and repair of exterior surfaces of Buildings and improvements located on the Project, including without limitation, the painting of the same as often as necessary, the replacement of trim and caulking, the maintenance and repair of roofs, the maintenance and repair of other Common Area, including utility lines, areas for access to any automobile parking structures constituting part of the Condominiums and all other improvements or materials located within or used in connection with the Common Area with the exception of broken glazing in windows to a particular Unit the replacement of which shall be the responsibility of the Owner of such Unit. The Association shall maintain in a proper, first class manner all landscaping and natural vegetation constituting part of the Common Area, including assuring the preservation of good visual continuity between landscaped areas and natural vegetation. The specification of duties of the Association with respect to particular Common Area shall not be construed to limit its duties with respect to other Common Area, as set forth in the first sentence in this Section. The cost of such management, maintenance and repair by the Association shall be borne as provided in Article IX.

The Association shall have the right to grant easements for utility purposes over, upon, across, under or through any portion

of the Common Area, and each owner hereby irrevocably appoints this Association as attorney in fact for such purpose.

Section 8.3 Miscellaneous Services. The Association may obtain and pay for the services of any person or entity to manage its affairs, or any part thereof, to the extent it deems advisable, as well as such other personnel as the Association shall determine to be necessary or desirable for the proper operation of the Project, whether such personnel are furnished or employed directly by the Association or by any person or entity with whom or which it contracts. The Association may obtain and pay for legal and accounting services necessary or desirable in connection with the operation of the Project or the enforcement of this Declaration. The Association may arrange with others to furnish electrical, water, sewer, trash collection services, and other common services to each Unit.

Section 8.4 Personal Property for Common Use. The Association may acquire and hold for the use and benefit of all of the Owners tangible and intangible personal property and may dispose of the same by sale or otherwise, and the beneficial interest in any such property shall be deemed to be owned by the Owners in the same proportion as their respective interests in the Common Area. Such interest shall not be transferable except with the transfer of a Condominium. A transfer of a Condominium shall transfer to the transferee ownership of the transferor's beneficial interest in such property without any reference thereto. Each Owner may use such property in accordance with the purpose for which it is intended, without any reference thereto. Each Owner may use such property in accordance with the purpose for which it is intended, without hindering or encroaching upon the lawful rights of other Owners. The transfer of title to a Condominium under the foreclosure (or by reason of default under the Ground Lease) shall entitle the purchaser (or Lessor in the event of default under the Ground Lease)

to the interest in such personal property associated with the foreclosed Condominium.

**Section 8.5 Rules and Regulations.** The Association may make reasonable rules and regulations governing the use of the Units and of the Common Area, which rules and regulations shall be consistent with the rights and duties established in this Declaration. Such rules and regulations may include, without limitation, assignment of particular portions of storage areas within the Common Area for exclusive use by Owners of particular Condominiums. The Association may suspend any Owner's voting rights in the Association during any period or periods during which such Owner fails to comply with such rules and regulations, or with any other obligations of such Owner under this Declaration. The Association may also take judicial action against any Owner to enforce compliance with such rules, regulations or other obligations or to obtain damages for non-compliance, all to the extent permitted by law.

**Section 8.6 Implied Rights.** The Association may exercise any other right or privilege given to it expressly by this Declaration or by Law, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

#### **ARTICLE IX. Assessments.**

**Section 9.1 Agreement to Pay Assessment.** Declarant, as to each Condominium, and each Owner of any Condominium (by the acceptance of a Sublease from Declarant whether or not the covenant be so expressed in the Sublease, hereby covenants and shall be deemed to covenant and agree with each other and with the Association to pay to the Association periodic assessments made by the Association for the purposes provided in this Declaration, and special assessments for capital improvements and other matters

as provided in this Declaration. Such assessments shall be fixed, established and collected from time to time in the manner provided in this Article.

**Section 9.2 Amount of Total Periodic Assessments.** The total periodic assessments against all Condominiums shall be based upon advance estimates of cash requirements by the Association to provide for the payment of all estimated expenses growing out of or connected with the maintenance and operation of the Common Area or furnishings, electricity, water, sewer and trash collection services, and other common services, which estimates may include, among other things, expenses of management; taxes and special assessments until the Condominiums are separately assessed as provided herein or to the extent they are not separately assessed; premiums for all insurance which the Association is required or permitted to maintain pursuant hereto or pursuant to the Ground Lease; landscaping and care of grounds; common lighting and heating; water charges; trash collection; sewer service charges; repairs and maintenance; wages for Association employees; legal and accounting fees; any deficit remaining from an insufficient advance estimate from a previous period; the creation of a reasonable contingency reserve, surplus and/or sinking funds; and any other expenses and liabilities which may be incurred by the Association for the benefit of the Owners under or by reason of this Declaration, including each Owner's ground rents payable under the Ground Lease when they are payable to the Association by reason of the written request of the Lessor as provided in the Ground Lease.

**Section 9.3 Apportionment of Periodic Assessments.**

Expenses attributable to the Common Area and to the Project as a whole shall be apportioned among all Owners in proportion to the interest in the Common Area owned by each. Ground Rents payable by each Owner under the Ground Lease shall be apportioned as provided

in the Ground Lease.

Section 9.4 Notice of Periodic Assessments and Time for Payment Thereof. The Association shall make periodic assessments, which assessments shall be annually, quarterly or monthly as the Association shall from time to time determine. The Association may, in its discretion, allow assessments to be paid in installments. Written notice of assessment shall be given to each Owner, which notice shall specify the amount of the assessment and the date or dates of payment of the same. No payment shall be due less than fifteen (15) days after the said written notice has been given. Each periodic assessment shall bear interest at the rate of eight percent (8%) per annum from the date it becomes due and payable if not paid within thirty (30) days after such date. Failure of the Association to give timely notice of any assessment as provided herein shall not affect the liability of the Owner of any Condominium for such assessment, but the date when payment shall become due in such a case shall be deferred to a date fifteen days after such notice shall have been given.

Section 9.5 Special Assessments for Capital Improvements.

In addition to the annual assessments authorized by this Article, the Association may levy at any time a special assessment, payable over such a period as the Association may determine, for the purpose of defraying in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of the Project or any part thereof, or for any other expense incurred or to be incurred as provided in this Declaration. This section shall not be construed as an independent source of authority for the Association to incur expenses, but shall be construed to prescribe the manner of assessing for expenses authorized by other Sections hereof which shall make specific reference to this Article. Any amounts assessed pursuant hereto

shall be assessed to Owners in proportion to the interest in the Common Area owned by each. Notice in writing of the amount of such special assessments and the time for payment thereof shall be given promptly to the Owners, and no payment shall be due less than thirty (30) days after such notice shall have been given. A special assessment shall bear interest at the rate of eight per cent (8%) per annum from the date it becomes due and payable if not paid within thirty (30) days after such date.

Section 9.6 Lien for Assessments. All sums assessed to any Condominium pursuant to this Article, together with interest thereon as provided herein, shall be secured by a lien on such Condominium in favor of the Association upon recordation of a notice of assessment as herein provided. Such lien shall be superior to all other liens and encumbrances on such Condominium except only for: (a) valid tax and special assessment liens on the Condominium in favor of any governmental assessing authority; (b) the interest of the Lessor under the Ground Lease; (c) liens for all sums unpaid on a first Mortgage, or on any Mortgage to Declarant, duly recorded in Blaine County, Idaho real estate records, including all unpaid obligatory advances to be made pursuant to such Mortgage and all amounts advanced pursuant to such Mortgage and secured by the lien thereof in accordance with the terms of such instrument; and (d) labor of materialmen's liens, to the extent required by law. All other lienors acquiring liens on any Condominium after this Declaration shall have been recorded in said records shall be deemed to consent that such liens shall be inferior liens to future liens for assessments as provided herein, whether or not such consent be specifically set forth in the instruments creating such liens.

To create a lien for sums assessed pursuant to this Article, the Association may prepare a written notice of assessment setting forth the amount of the assessment, the date

due, the amount remaining unpaid, the name of the record owner of the Condominium and a description of the Condominium. Such notice shall be signed by the Association and may be recorded in the office of the County Recorder of Blaine County, Idaho. No notice of assessment shall be recorded until there is a delinquency in payment of the assessment. Such lien may be enforced by sale by the Association after failure of the Owner to pay such an assessment in accordance with its terms, such sale to be conducted in the manner permitted by law in Idaho for the exercise of power of sale in deeds of trust or in any other manner permitted by law. In any such foreclosure, the Owner shall be required to pay the costs and expenses of such proceeding, the costs and expenses of filing the notice of assessment and all reasonable attorneys' fees. All such costs and expenses shall be secured by the lien being foreclosed. The owner shall also be required to pay to the Association any assessments against the Condominium which shall become due during the period of foreclosure. The Association shall have the right and power to bid at the foreclosure sale or other legal sale and to acquire, hold, convey, lease, rent, encumber, use and otherwise deal with the same as the Owner thereof.

A further notice stating the satisfaction and release of any such lien shall be executed by the Association and recorded in the Blaine County, Idaho real estate records, upon payment of all sums secured by a lien which has been made the subject of a recorded notice of assessment.

Any encumbrancer holding a lien on a Condominium may pay, but shall not be required to pay, any amounts secured by the lien created by this Section, and upon such payment such encumbrancer shall be subrogated to all rights of the Association with respect to such lien, including priority.

The Association shall report to any encumbrancer of a Condominium any unpaid assessment remaining unpaid for longer

than ninety days after the same shall have become due; provided, however, that such encumbrancer shall first have furnished to the Association written notice of such encumbrance.

Unless sooner satisfied and released or the enforcement thereof (foreclosure) initiated as provided earlier in this Section, any lien created pursuant to this Section shall expire and be of no further force or effect one year from the date of recordation of said notice of assessment; provided, however, that said one year period may be extended by the Association for not to exceed one additional year by a written extension signed by the Association and recorded in the office of the County Recorder of Blaine County, Idaho, prior to expiration of said first one-year period.

Section 9.7 Personal Obligation of Owner. The amount of any periodic or special assessment against any Condominium which is assessed against the Condominium after ownership is acquired by a particular Owner shall be the personal obligation of such Owner thereof to the Association. Suit to recover a money judgment for such personal obligation shall be maintainable by the Association without foreclosing or waiving the lien securing the same. No Owner may avoid or diminish such personal obligation by waiver of the use and enjoyment of any of the Common Area or by abandonment of his Condominium.

Section 9.8 Statement of Account. Upon payment of a reasonable fee not to exceed \$15 and upon written request of any Owner or any Mortgagee, prospective Mortgagee or prospective purchaser of a Condominium, the Association shall issue a written statement setting forth: the amount of the unpaid assessments, if any, with respect to such Condominium; the amount of the most recent periodic assessment and the date that such assessment becomes or became due; the amount of credit for the benefit of such Condominium for advanced payments or prepaid items, including, but not limited to, the Owner's share of

prepaid insurance premiums. Said written statement shall be conclusive upon the Association in favor of persons who rely thereon in good faith. Unless such request for a statement of account shall be complied with by issuance of a statement within twenty days, all unpaid assessments which became due prior to the date of making such request shall become subordinate to the lien of Mortgagees who acquire their interest subsequent to requesting such statement, and the lien for such unpaid assessments shall be released automatically as to its effect upon any purchaser who acquires his interest after making such request if the statement is not furnished within the twenty-day period provided herein and thereafter an additional written request is made by such purchaser and is not complied with within ten days thereafter.

Section 9.9 Personal Liability of Purchaser for Assessments.

A purchaser of a Condominium shall be jointly and severally liable with the Seller for all unpaid assessments against the Condominium up to the time of the grant or conveyance provided that such unpaid prior assessments are disclosed by the Statement of Account, if one is requested and given, as provided in Section 9.8, and provided such unpaid prior assessments are not released by reason of failure of the Association to provide the statement within the allowable time as provided in Section 9.8. Said liability shall be without prejudice to the purchaser's right to recover from the seller the amount paid by the purchaser for such unpaid prior assessments.

ARTICLE X. Use of Condominiums.

Section 10.1 Residential. Each Condominium shall be used for residential purposes only, and no trade or business of any kind may be carried on therein. A sub-Sublessee's rental of a Condominium for lodging or residential purposes shall not be considered to be a violation of this covenant. However, Declarant

shall have the right to display to others for sale purposes Condominiums which it owns and is holding for sale and Sublease.

Section 10.2 Use of Common Area. There shall be no obstruction of the Common Area, nor shall anything be stored on any part of the Common Area without the prior written consent of the Association. Nothing shall be altered on, constructed in, or removed from, the Common Area except upon the prior written consent of the Association.

Section 10.3 Prohibition of Damage and Certain Activities. Nothing shall be done or kept in any Unit or in the Common Area or any part thereof which would result in the cancellation of the insurance on the Project or any part thereof or increase the rate of insurance on the Project or any part thereof over what the Association, but for such activity, would pay, without the prior written consent of the Association. Nothing shall be done or kept in any Unit or in the Common Area or any part thereof which would be in violation of any statute, rule, ordinance, regulation, permit or other validly imposed requirement of any governmental body. No damage to, or waste of, the Common Area or any part thereof shall be committed by any Owner or any invitee of any Owner, and each Owner shall indemnify and hold the Association and the other Owners harmless against all loss resulting from any such damage or waste caused by him or his invitees, provided, however, that any invitee of the Declarant shall not under any circumstances be deemed to be an invitee of any other Owner. No noxious, destructive or offensive activity shall be carried on in any Unit or in the Common Area or any part thereof, nor shall anything be done therein which may be or may become an annoyance or nuisance to any other Owner or to any person at any time lawfully residing in the Project.

Section 10.4 Animals. The Association may by rules or regulations prohibit or limit the raising, breeding, or keeping

of animals, livestock, or poultry in any Unit or on the Common Area or any part thereof.

Section 10.5 Rules and Regulations. No Owner shall violate the rules and regulations for the use of the Units and of the Common Area as adopted from time to time by the Association.

Section 10.6 Maintenance of Interiors. Each Owner shall keep the interior of his Unit, including, without limitation, interior walls, windows, glass, ceilings, floors and permanent fixtures and appurtenances thereto, in a clean, sanitary and attractive condition, and good state of repair, and shall keep the Limited Common Area designated for use in connection with his Unit in clean, sanitary and attractive condition, and shall keep the heating equipment and water heater serving his Unit exclusively in a good state of maintenance and repair.

Section 10.7 Structural Alterations. No structural alterations to any Unit shall be made, and no plumbing, electrical or similar work within the Common Area shall be done by any Owner without the prior written consent of the Association, except that an Owner may do such work as may be appropriate to maintain and repair Limited Common Area appurtenant to such Owner's Unit.

#### ARTICLE XI. Insurance.

Section 11.1 Types of Insurance. The Association shall obtain and keep in full force and effect at all times the following insurance coverage provided by companies duly authorized to do business in Idaho. The provisions of this Article shall not be construed to limit the power or authority of the Association to obtain and maintain insurance coverage, in addition to any insurance coverage required hereunder, in such amounts and in such forms as the Association may deem appropriate from time to time.

(a) Property Insurance. The Association shall obtain

insurance on the project in such amounts as shall provide for full replacement thereof in the event of damage or destruction from the perils against which such insurance is obtained, all in the manner in which a corporation owning similar multiple family residential buildings in the vicinity of the Project would, in the exercise of prudent business judgment, obtain such insurance. Such insurance shall include fire and extended coverage, vandalism and malicious mischief, war risk insurance if available and if deemed appropriate by the Association, and such other risks and hazards against which the Association shall deem it appropriate to provide insurance protection or as required by the provisions of the Ground Lease. The Association may comply with the above requirements by the purchase of blanket coverage and may elect such "deductible" provisions as in the Association's opinion are consistent with good business practice. Said property insurance may also include coverage for losses resulting from loss of use of Condominiums which may occur after a casualty and until repairs are completed; said loss of use benefits may be made payable to Condominium Owners who suffer such losses.

(b) Comprehensive Liability Insurance. The Association shall purchase comprehensive general liability coverage in such amounts and in such forms as it deems advisable to provide adequate protection and as required by the terms of the Ground Lease. Coverage shall include, without limitation, liability for personal injuries, operation of automobiles on behalf of the Association, and activities in connection with the ownership, operation, maintenance and other use of the Project.

(c) Workmen's Compensation, and Employer's Liability Insurance. The Association shall purchase workmen's compensation and employer's liability insurance and all other similar insurance in respect of employees of the Association in the amounts

and in the forms now or hereafter required by law.

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

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

Section 11.2 Optional Insurances. The Association may obtain the following types of insurance coverage, but it is not required to do so.

(a) Personal Property Insurance. The Association may in its discretion obtain insurance on the personal property and furnishings initially placed in the Units of Owners by Declarant upon completion of construction of the Project in such amounts as shall provide for the full replacement thereof in the event of damage or destruction from casualties against which such insurance is obtained.

(b) Property and Public Liability Insurance. The Association may in its discretion obtain casualty and public liability insurance coverage, in amounts it may select, with respect to an Owner's activities within each individual Unit and for activities of the Owner, not acting by the Association, with respect to the Common Area.

Section 11.3 Form. Property Insurance shall be carried in a form or forms naming the Association the insured as trustee for the Owners, which policy or policies shall specify the interest of each Condominium Owner (Owner's name, Unit number, the appurtenant undivided interest in the Common Area) and which policy or policies shall provide a standard loss payable clause providing for payment of insurance proceeds to the Association as

trustee for the Owners, Ground Lessor, and for the respective first Mortgagees which from time to time shall give notice to the Association of such first Mortgages, such proceeds to be used in accordance with this Declaration. Each policy shall also provide that it cannot be canceled by either the insured or the insurance company until after thirty days' prior written notice is first given to Ground Lessor, to each Owner and to each first Mortgagee. The Association shall furnish to Ground Lessor and to each Owner who requests it and to Declarant a true copy of such policy together with a certificate identifying the interest of the Owner.

Public liability and property damage insurance shall name the Association the insured, as trustee for the Declarant, Ground Lessor, and the Owners, and shall protect Ground Lessor, Declarant and each Owner against liability for acts of the Association or of each other in connection with the ownership, operation, maintenance or other use of the Condominiums and the real property.

Section 11.4 Owner's Responsibility. Insurance coverage on any furnishings initially placed in the Unit by Declarant (unless the Association pursuant to Section 11.2 hereof elects to arrange for such insurance), property and public liability insurance coverage applicable within each individual Unit, insurance coverage against loss from theft on all personal property, and insurance coverage on items of personal property placed in the Unit by Owner, and any insurance against loss of use from casualty in excess of the coverage therefor (if any) carried by the Association, shall be the responsibility of the respective Owners except to the extent the Association specifically elects to provide any such coverage pursuant to Section 11.2.

Section 11.5 Insurance Proceeds. The Association shall receive the proceeds of any property damage insurance payments received under policies obtained and maintained pursuant to this

Article. The Association shall apportion the proceeds to the portions of the Project which have been damaged and shall determine the amount of the proceeds attributable to damage to the Common Area. To the extent that reconstruction is required herein or pursuant to the Ground Lease, the proceeds shall be used for such purpose. To the extent that reconstruction is not required herein or pursuant to the Ground Lease and there is a determination that the damaged buildings shall not be rebuilt, the proceeds shall be distributed in the same manner herein provided in the event of sale or obsolete Units, as set forth in Section 13.4 but only to the extent permitted by the Ground Lease. Ground Lessor, Declarant, each Owner and each Mortgagee shall be bound by the apportionments of damage and of the insurance proceeds made by the Association pursuant hereto.

Section 11.6 Owner's Own Insurance. Notwithstanding the provisions of Section 11.1 and 11.2 hereof, each Owner may obtain insurance at his own expense providing coverage upon his Condominium, his personal property, for his personal liability, and covering such other risks as he may deem appropriate, but each such policy shall provide that it does not diminish the association's insurance carrier's coverage for liability arising under insurance policies which the Association obtains pursuant to this Article.

Section 11.7 Waiver of Subrogation. If such insurance can be obtained in the normal practice without additional premium, all policies, whether obtained by the Association or by any Owner or Mortgagee, shall waive the insurance company's right of subrogation against Ground Lessor, Declarant, the Association, Owners and other Owners and their respective servants and guests. If such waiver of subrogation is obtainable but only upon payment of an extra premium charge, each party who would be affected thereby shall be given the opportunity to pay the additional premium

and thereby to obtain the waiver before any such waiver is declined.

ARTICLE XIII. Casualty, Damage or Destruction.

Section 12.1 Affects Title. Title to each Condominium is hereby made subject to the terms and conditions hereof, which bind the declarant and all subsequent Owners, whether or not it be so expressed in the Sublease by which any Owner acquires his Condominium.

Section 12.2 Association as Agent. All of the Owners irrevocably constitute and appoint the Association their true and lawful attorney in fact in their name, place and stead for the purpose of dealing with the Project upon its damage or destruction as hereinafter provided. Acceptance by any grantee of a Sublease from the Declarant or from any Owner shall constitute such appointment.

Section 12.3 General Authority of Association. As attorney in fact, the Association shall have full and complete authorization, right and power to make, execute and deliver any contract, deed, Sublease, or other instrument with respect to the interest of a Condominium Owner which may be necessary or appropriate to exercise the powers herein granted. Repair and reconstruction of the improvements as used in the succeeding subparagraphs mean restoring the Project or a particular building to substantially the same condition in which it existed prior to damage, with each Unit and the Common Area 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 and reconstruction unless the Ground Lessor, the Owners and all first Mortgagees having interests in a particular Building unanimously agree not to rebuild in accordance with the provisions of the Ground Lease and as set forth hereinafter.

In the event any Mortgagee should not agree not to rebuild,

the Association shall have the option to purchase such Mortgage by payment in full of the amount secured thereby if the Owners of the affected Building or Buildings are in unanimous agreement not to rebuild and are permitted by the Ground Lease to make such election. The Association shall obtain the funds for such purchase by special assessments under Article IX of this Declaration and shall repay said assessments from the proceeds of the insurance pertaining to the Owners whose mortgagees refuse to agree not to rebuild.

Section 12.4 Estimate of Costs. As soon as practicable after an event causing damage to, or destruction of, any part of the project, the Association shall obtain estimates that it deems reliable and complete of the costs of repair or reconstruction of that part of the Project damaged or destroyed.

Section 12.5 Repair or Reconstruction. As soon as practicable after receiving these estimates the Association shall diligently pursue to completion the repair or reconstruction of that part of the Project damaged or destroyed. The Association may take all necessary or appropriate action to effect repair or reconstruction, as attorney in fact for the Owners, and no consent or other action by any Owner shall be necessary in connection therewith if the insurance proceeds are adequate to pay the costs of such repair or reconstruction. Such repair or reconstruction shall be in accordance with the original plans and specifications of the Project or may be in accordance with any other plans and specifications the Association may approve, provided that in such latter event the number of cubic feet and the number of square feet of any Unit may not vary by more than five per cent (5%) from the number of cubic feet and the number of square feet for such Unit as originally constructed pursuant to such original plans and specifications, and the location of the Buildings shall be substantially the same as prior to damage or destruction.

Section 12.6 Funds for Reconstruction. The proceeds of any insurance collected shall be available to the Association for the purpose of repair or reconstruction. If the proceeds of the insurance are insufficient to pay the estimated or actual cost of such repair or reconstruction, the Association, pursuant to Article IX hereof, may levy in advance a special assessment sufficient to provide funds to pay such estimated or actual costs of repair or reconstruction. Such assessment shall be allocated and collected as provided in that Article except that special assessments for reconstruction costs of a Building or a Unit shall be assessed to Owners of Units in the Building or Buildings affected by the damage or destruction and not to those who are not affected. Further levies may be made in like manner if the amounts collected prove insufficient to complete the repair or reconstruction.

Section 12.7 Disbursement of Funds for Repair or Reconstruction. The insurance proceeds held by the Association and the amounts received from the assessments provided for in Section 12.6 constitute a fund for the payment of cost of repair and reconstruction after casualty. It shall be deemed that the first money disbursed in payment for cost of repair or reconstruction shall be made from insurance proceeds; if there is a balance after payment of all costs of such repair or reconstruction such balance shall be distributed to the Owners in proportion to the contributions (if any) which could be required from each Owner pursuant to the assessments by the Association under Section 12.6 of this Declaration.

Section 12.8 Decision Not to Rebuild. If all Owners and all holders of first Mortgages on Units in a particular building agree not to rebuild, as provided herein, and are entitled to elect not to rebuild as provided in the Ground Lease, the insurance proceeds and the damaged premises shall be handled as provided

for in the Ground Lease.

### ARTICLE XIII. Obsolescence.

Section 13.1 Adoption of a Plan. The record Owners, as reflected on the real estate records of Blaine County, Idaho, representing an aggregate record ownership interest of eighty-five (85%) percent or more of the Units may agree that the Project is obsolete and adopt a written plan for the renewal and reconstruction, which plan has the unanimous approval of Ground Lessor and all first Mortgagees of record at the time of the adoption of such plan. Ground Lessor shall not withhold its approval unreasonably. Written notice of adoption of such plan shall be given to all Owners. Such plan shall be recorded in Blaine County, Idaho, real estate records. "Record Ownership" means the current holders of Subleases who are condominium owners according to the real estate records of Blaine County, Idaho. Such a Plan may also be adopted as to a particular Building or Buildings but not as to the entire project by the unanimous agreement of the record owners, Ground Lessor and affected mortgagees.

### Section 13.2 Payment for Renewal and Reconstruction.

The expense of renewal or reconstruction provided for in the Plan shall be payable by all of the Owners (or affected Owners if applicable to a Building or Buildings and not the entire Project) as assessments against their respective Condominiums. These assessments shall be levied in advance pursuant to Article IX hereof and shall be allocated and collected as provided in that Article. Further levies may be made in like manner if the amounts collected prove insufficient to complete the renewal and reconstruction.

Section 13.3 Dissents from the Plan. An Owner not a party to such a plan for renewal or reconstruction of the entire Project may give written notice of dissent to the Association within fifteen days after the recordation of such plan. The Association

shall then give written advice of such dissents to all the Owners within five days after the expiration of such fifteen-day period. Within fifteen days of receipt of such notice from the Association, the record Owners representing an aggregate record ownership of more than fifteen per cent (15%) of the Units may cancel the plan by written instrument recorded in Blaine County, Idaho, real estate records. If the plan is not cancelled, then the Condominium of each dissenter shall be purchased according to the following procedures. If the Owner and the Association can agree on the fair market value thereof, then such sale and conveyance shall be completed within sixty days thereafter. If the parties are unable to agree, the date when either party notifies the other that he or it is unable to agree with the other shall be the "Commencing Date" from which all periods of time mentioned herein shall be measured. Within ten days following the commencing date each party shall nominate a qualified appraiser by written nomination and shall give notice of such nomination to the other. If either party fails to make such nomination, the appraiser nominated shall, within five days after default by the other party, appoint and associate with him another qualified appraiser. If the two appraisers designated by the parties, or selected pursuant hereto in the event of default of one party, are unable to agree, they shall appoint another qualified appraiser to be umpire between them, if they can agree on such person. If they are unable to agree upon such umpire, then each appraiser previously appointed shall nominate two qualified appraisers, and from the names of the four persons so nominated one shall be drawn by lot by judge of any court of record in Idaho, and the person whose name is so drawn shall be the umpire. The nominations from among which the name of the umpire is to be drawn by lot shall be submitted within ten days after the failure of the two appraisers to agree, which, in any event, shall not be later than twenty days following

the appointment of the second appraiser. The decision of the appraisers as to the fair market value, or in the case of their disagreement, the decision of such umpire shall be final and binding. The expenses and fees of such appraisers shall be borne equally by the Association and the Owner. The sale shall be consummated within sixty days after decision of the appraisers, and the Association as attorney in fact shall disburse the proceeds in the same manner provided in Section 13.4 of this Declaration. The Obligation of the Association to make such purchase shall be conditioned on the fair market value of the Condominium exceeding the obligations secured by liens on such Condominium, and upon the marketability of the title of the Owner. Owner shall furnish the Association an appropriate abstract of title or commitment for title insurance evidencing marketability of his title not less than fifteen days prior to the date set for completion of the sale.

The Association, pursuant to Article IX hereof, may levy a special assessment sufficient to provide funds to pay for the Condominiums of the Dissenters, provided that such assessments shall not apply to any of the Owners who are among the dissenters and shall not be liens against the Condominiums of such Owners.

Section 13.4 Sale of Obsolete Units. The Owners representing an aggregate ownership interest of 66 2/3% or more of the Units may agree that the Condominiums are obsolete and that the Project should be sold. Such an agreement must have the unanimous approval of Ground Lessor and of every first mortgagee of record at the time such agreement is made. In such instance the Association shall forthwith record a notice setting forth such fact or facts, and upon the recording of such notice by the Association the Project shall be sold by the Association as attorney in fact for all of the Owners free and clear of the provisions contained in this Declaration, the Condominium Map

and the By-Laws but subject to the Ground Lease. The sale proceeds shall be apportioned among the Owners in the percentages set forth on Exhibit "B" hereto, and such apportioned proceeds shall be paid into separate accounts, each such account representing one Condominium. Each such account shall remain in the name of the Association, and shall be further identified by the Condominium Unit designation and the name of the Owner. From each separate account the Association, as attorney in fact, shall use and disburse the total amount of such accounts without contribution from one account to the other, first to mortgagees, other lienors and Ground Lessor in the order of priority of their mortgages and other liens, and the balance remaining to each respective Owner.

Section 13.5 Distribution of Excess. In the event amounts collected pursuant to Section 13.2 are in excess of the amounts required for renewal and reconstruction, the excess shall be returned to the Owners by the Association by a distribution to each Owner in an amount proportionate to the respective amount collected from each such Owner.

#### ARTICLE XIV. Condemnation.

Section 14.1 Consequences of Condemnation. If at any time or times during the continuance of the condominium ownership pursuant to this Declaration, all or any part of the Project shall be taken or condemned by any public authority or sold or otherwise disposed of in lieu of or in avoidance thereof, the following provisions shall apply.

Section 14.2 Proceeds. All compensation, damages, or other proceeds therefrom the sum of which is hereinafter called the "Condemnation Award", except the amount or portion thereof to be retained by the Lessor as provided in the Ground Lease shall be payable to the Association.

Section 14.3 Complete or Partial Taking. If at any time during the term of the leased land and Condominium premises shall

wholly or substantially be taken or condemned in fee simple for any public use by any authority or corporation having the power of eminent domain, then and in every such case the estates and interests of the Lessee and Sublessees in the land area and improvements so taken shall at once cease and determine, and the Lessee and Sublessees shall not by reason of such taking be entitled to any claim against either the Lessor or others for compensation or indemnity for the taking to the extent the leased land is valued as unimproved land; all compensation payable or to be paid for said unimproved land value of the leased land by reason of such taking shall be payable to and be the sole property of the Lessor; the Lessee and Sublessees shall have no interest in or claim to such compensation for the value of the unimproved land or any part thereof whatsoever; provided, however, that if such Condemnation should occur prior to September 30, 1975, Lessee (and not any Sublessees) shall be paid from such unimproved land value compensation of Lessor a pro rata part of the rent paid by Lessee pursuant to Paragraphs 3(a) and (b) of the Ground Lease. Such prorating of such rent shall be based on the number of days from the dates of the two rent payments to Lessor as provided in Paragraphs 3(a) and (b) until September 30, 1975, when that number of days is compared to the number of days remaining after the effective date of the condemnation until September 30, 1975, but the part of such rent prorated to Lessee shall be reduced by the sum of the percentages applicable as the proportionate Parts pertaining to Condominiums sold by Lessee prior to such condemnation. The remainder of the compensation or indemnity for such taking over and above the value of the leased land as unimproved property shall be deemed compensation for the buildings and improvements, and such remaining compensation shall be divided between the Lessor on the one part and the Lessee or Sublessees as their interests may appear on the other part. The Lessee's

or Sublessee's portion of such remaining compensation shall be all the remaining compensation less the then current value of Lessor's reversionary interest in the buildings and improvements taken, which reversion to Lessor will occur at the end of the term hereof; Lessor's portion of such remaining compensation shall be the then current value of Lessor's said reversionary interest in the buildings and improvements, said then current value of Lessor's reversion being the discounted then current value of the buildings and improvements less a reduction in such then current value of buildings and improvements to account for the fact that the buildings and improvements will be on increased age at the end of the term hereof, considering also reasonable wear and tear which may be expected to occur prior to the end of the term, and considering the obligations of the Lessee and Sublessees hereunder to maintain and repair the buildings and improvements during the remainder of the term. The value of the Lessor's reversionary interest in the buildings and improvements shall be determined by first ascertaining the then current value of the buildings and improvements, reducing such value to account for aging and reasonable wear and tear which will occur prior to the end of the term and then by further reducing said value thus ascertained and reduced by applying thereto a compound discount factor for the period of time which will elapse from the condemnation to the end of the specified term of this Lease. The discount rate to be used in determining said compound discount factor shall be the discount rate of the Federal Reserve Bank of San Francisco in effect at the time of condemnation, plus one percent.

Whenever a portion of the leased land and improvements shall be so taken or condemned, whether by reason of one or more takings, the Lease and Subleases hereunder shall terminate as to the part taken; the award for partial taking shall be

apportioned between the land taken valued as unimproved land, and to the Lessee or Sublessee owners of Units located wholly or partly within the leased land condemned, and to Sublessees affected by the condemnation when portions of the Common Area used by them are taken, and to Lessor as to Lessor's reversionary interest therein, by using the same principles of apportionment between Lessor and Lessees or Sublessees as those set forth above which are applicable to a total taking; provided, however, that the rent payable under the Ground Lease for the remainder of the term after a partial taking which shall be applicable to the remaining leased land shall be reduced in that proportion which the aggregate unimproved land value of the areas so taken or thereby rendered unsuitable for condominium project purposes bears to the unimproved land value of the entire leasehold premises. If the entire leased land is not taken but is rendered unsuitable for condominium purposes by a partial taking, then the Lessee and Sublessees may treat the taking as a total taking and surrender their interests in the Ground Lease subject to compensation as above provided, and thereby be relieved from further performance hereunder. PROVIDED, FURTHER, that the Lessee and any Sublessees affected by taking or partial taking shall have the right to claim and recover from the condemning authority, but not from the Lessor, such compensation as may be separately recoverable by the Lessee or Sublessees in their own right for any damages to lawful business on the premises or for any cost or loss to them in altering any improvements thereon or in removing their equipment and fixtures therefrom by reason of such taking, so long as such action or the payment of such compensation shall not affect or diminish the compensation payable to the Lessor as hereinbefore provided.

Whenever any such taking or partial taking may occur, the portion of the compensation payable to Lessee and Sublessee

therefrom shall be apportioned equitably between them according to the respective values of their condominiums and the diminution of such values which results from such taking.

Section 14.4 Reorganization. In the event a partial taking results in the taking of a complete Unit, the Owner thereof automatically shall cease to be a member of the Association. Thereafter the Association shall reallocate the Ownership, voting rights, and assessment ratio determined in accordance with this Declaration according to the same principles employed in this Declaration at its inception and shall submit such reallocation to the Owners of remaining Units for amendment of this Declaration as provided in Article XV hereof.

Section 14.5 Reconstruction and Repair. Any reconstruction and repair necessitated by condemnation shall be governed by the procedures specified in Article XII above.

#### ARTICLE XV. Revocation or Amendment to Declaration.

This Declaration shall not be revoked nor shall any of the provisions herein be amended unless Ground Lessor, the Owners representing an aggregate ownership interest of 66 2/3% or more of the Condominiums, as reflected on the real estate records of Blaine County, Idaho, and all holders of any recorded Mortgage covering or affecting any or all of the Condominiums, whose interests as Mortgagees appear in such records, consent and agree to such revocation or amendment by instruments duly recorded.

Any such revocation or amendment shall be binding upon every Owner and every Condominium whether the burdens thereon are increased or decreased by any such amendment and whether or not the Owner of each and every Condominium consents thereto.

#### ARTICLE XVI. Period of Condominium Ownership.

The condominium ownership created by this Declaration and the Condominium Map shall continue until this Declaration is revoked in the manner provided in Article XV of this Declaration

or until terminated in the manner provided in Articles XIII (Obsolescence) or XIV (Condemnation) of this Declaration or at the end of the term of the Ground Lease if that should occur earlier.

ARTICLE XVII. Miscellaneous.

Section 17.1 Compliance with Provisions of Declaration and By-Laws of the Association. Each Owner shall comply with the provisions of this Declaration, the Articles of Incorporation and the By-Laws of the Association, and the decisions and resolutions of the Association adopted pursuant thereto as the same may be lawfully amended from time to time. Failure to comply with any of the same shall be grounds for an action to recover sums due and for damages or injunctive relief or both, maintainable by the Association on behalf of the Owners, or, in proper case, by an aggrieved Owner.

Section 17.2 Registration of Mailing Address. Each Owner shall register his mailing address with the Association and all notices or demands intended to be served upon any 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 or demands intended to be served upon the Association shall be given by registered or certified mail, postage prepaid, to the address of the Association as designated in the By-Laws of the Association. All notices or demands to be served on Mortgagees pursuant hereto shall be sent by either registered or certified mail, postage prepaid, addressed in the name of the Mortgagee at such address as the Mortgagee may have furnished to the Association in writing. Unless the Mortgagee furnishes the Association such address, the Mortgagee shall be entitled to receive none of the notices provided for in this Declaration. Any notice referred to in this Section shall be deemed given when deposited in the United States mail in the form

provided for in this Section.

Section 17.3 Transfer of Declarant's Rights. Any right or any interest reserved hereby to the Declarant may be transferred or assigned by the Declarant either separately or with one or more of such rights or interests, to any person or entity.

Section 17.4 Owner's Obligations Continue. All obligations of the Owner under and by virtue of the provisions contained in this Declaration shall continue, notwithstanding that he may have leased or rented said interest as provided herein, but the Owner of a Condominium shall have no obligation for expenses or other obligations accruing after he makes a valid assignment of his Condominium as provided in the Ground Lease.

Section 17.5 Sun Valley Residential Association. The Project will be subject to the Sun Valley Residential Area Declaration of Protective Covenants, recorded as instrument number 128463 in the Blaine County, Idaho, real estate records, and to the Supplemental Declaration of Protective Covenants for the Wildflower Condominiums. Said Declaration provides a plan for establishment and maintenance of areas subject thereto as part of a scenic and pastoral mountain residential area. Said Declaration, provides for the performance of certain functions within certain areas for and on behalf of owners of property within the areas subject thereto by the Sun Valley Residential Association, Inc., a non-profit corporation. Each Owner, by acceptance of a conveyance of a Condominium, shall become the owner of a membership in Sun Valley Residential Association, Inc., and shall be entitled to the benefits, and subject to the obligations, including obligations with respect to assessments, as provided in said Declaration and in said Supplemental Declaration.

Section 17.6 Number and Gender. Whenever used herein, unless the context shall otherwise provide, the singular number shall include the plural, the plural the singular, and the use

of any gender shall include all genders.

Section 17.7 Severability. If any of the provisions of this Declaration or any clause, paragraph, sentence, phrase or word or the application thereof in any circumstances be invalidated, such invalidity shall not affect the validity of the remainder of the Declaration, and the application of any such provision, paragraph, sentence, clause, phrase or word in any other circumstances shall not be affected thereby.

Section 17.8 Statute. The provisions of this Declaration shall be in addition and supplemental to the Condominium Property Act of the State of Idaho and to all other provisions of law.

This Declaration is executed on this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

RESORT ASSOCIATES/IDAHO

ATTEST:

\_\_\_\_\_  
Secretary

By

President  
Resort Associates Idaho, Inc.

By

John P. Hooten

STATE OF IDAHO      )  
                          ) ss.  
County of Blaine    )

On this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_, before me, the undersigned, a Notary Public in and for said State, personally appeared \_\_\_\_\_ and \_\_\_\_\_ known to me to be the President and Secretary of the corporation that executed this instrument or the persons who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

Notary Public for Idaho  
Residing at \_\_\_\_\_

STATE OF CALIFORNIA )  
County of \_\_\_\_\_ ) ss.

On this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_, before  
me, the undersigned, a Notary Public in and for said State, personally  
appeared JOHN P. HOOTEN, known to me to be the person whose name is  
subscribed to the within, and acknowledged to me that he executed  
the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

Notary Public for \_\_\_\_\_  
Residing at \_\_\_\_\_