

DECLARATION OF CONDOMINIUM

FOR

ELK RUN HOMES

This Declaration is made and executed this 20 day of December, 1981, by Elk Run Associates Limited Partnership, a Wyoming Limited Partnership, hereinafter referred to as Declarant, pursuant to the provisions of the Condominium Ownership Act of the State of Wyoming.

RECITALS

A. Declarant is the owner of certain real property and improvements located in the County of Teton, State of Wyoming, and more particularly described on Exhibit "A", attached hereto, and by this reference made a part hereof.

B. Declarant desires to establish and has executed and filed simultaneously herewith, in the office of the County Clerk and Ex Officio Register of Deeds of Teton County, a plat depicting the location and dimensions of the Property and all improvements situated thereon.

C. Declarant desires and intends to, and does hereby submit the above-described Property together with all buildings, structures, improvements and other permanent fixtures of every kind thereon, or in anywise pertaining thereto, to the provisions of the Wyoming Condominium Ownership Act.

D. Declarant desires and intends, by submitting the afore-described Property and all improvements situated thereon, to the Wyoming Condominium Ownership Act, to impose upon said Property mutually beneficial rights, easements, privileges, obligations and restrictions under a general plan of use, conduct, maintenance and improvement for the purpose of enhancing and protecting the value, desirability and attractiveness of the Property and improvements for the benefit of the Declarant, and all owners and occupants of the Property.

RECORDED	
COMPARED	
INDEXED	✓
ABSTRACTED	✓

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	by <i>Anni Ribel</i>		Dep.			

DECLARATION

1. DEFINITIONS. Unless the context clearly indicates otherwise, the following words and terms, when used in this Declaration shall be defined as follows:

(a) "Association" shall mean Condominium Owners Association, a Wyoming not-for-profit corporation, organized to be the association referred to herein.

(b) "Board of Directors" shall mean the governing board of the Association, appointed or elected in accordance with this Declaration and the Articles of Incorporation and By-Laws of the Association.

(c) "Common Elements or Common Areas" shall mean all portions of the Property other than the Units.

(d) "Common Expenses" means expenditures made or liabilities incurred by or on behalf of the Association, together with any allocations to reserves.

(e) "Building" means a structure containing one or more Units constructed on the Property.

(f) "Condominium Unit" means an individual air space unit together with the undivided interest in the Common Areas or Elements appurtenant to such Unit.

(g) "Condominium Act" shall mean the Wyoming Condominium Ownership Act and amendments thereto.

(h) "Convertible Land" means a building site described by metes and bounds in the Declaration which comprises a portion of the common area and within which additional units and/or limited common areas and facilities may be created in accordance with the provisions of the Condominium Act.

(i) "Convertible Space" shall mean a portion of a Building which may be converted into one or more units and/or common areas and facilities including but not limited to limited common areas and facilities in accordance with the provisions of the Condominium Act.

(j) "Declarant" shall mean all persons who execute the Declaration or on whose behalf the Declaration is executed. From the time of the recordation of any amendment to the Declaration expanding an expandable condominium, all persons who executed that amendment or on whose behalf that amendment is executed

shall also come within this definition. Any successors of the persons referred to in this subsection who come to stand in the same relation to the Condominium as their predecessors did shall also come within this definition.

(k) "Declaration" shall mean the instrument by which the property is submitted to the provisions of the Condominium Ownership Act and its lawful amendments.

(l) "Expandable or Flexible Condominium" shall mean a condominium to which additional land may be added, withdrawn, or a combination thereof in accordance with the provisions of the Declaration and the Act.

(m) "Expansion Area" shall mean the real property described herein which has not yet been submitted to the provisions of the Act or this Declaration but which may hereafter be added as a whole or in part to the project in the manner provided for herein.

(n) "General Common Elements" shall mean and include the Property (lawns, walks, parking areas), and all common elements or areas except the limited common elements, as hereinafter defined, but, in any event, all parts of the Property, improvements and buildings necessary or convenient to the existence, maintenance and safety of the same or normally and reasonably in common use. There are no recreational facilities which form a part of the General Common Elements.

(o) "Limited Common Elements" shall mean those common elements or areas designated as reserved or allocated for the exclusive use of one owner or more than one owner but fewer than all of the owners, including but not limited to such balconies, parking spaces, stairways, walkways, patio-yard areas, porches, storage facilities, or other elements which are identified on the plat with the same number or other designation by which a unit is identified.

(p) "Manager" shall mean the person or firm designated by the Association to manage, in whole or in part, the affairs of the Association and the project.

(q) "Mortgage" shall mean any mortgage, deed of trust or other security instrument by which a Unit or any part thereof is encumbered.

(r) "Mortgagee" shall mean any person named as the Mortgagee or beneficiary under any mortgage by which the interest of any owner is encumbered, or any successor to the interest of such person under such mortgage.

(s) "Owner" shall mean any person or entity, including Declarant, at any time owning a beneficial interest in a Unit, including, but not limited to, Declarant, but not including a person having an interest in a Unit solely as security for an obligation.

(t) "Person" shall mean a natural person, corporation, partnership, association, trust, or other entity or any combination thereof.

(u) "Project" shall mean the Property together with all expansion areas.

(v) "Property" shall mean the parcel of real property described on Exhibit "A" together with all Buildings, improvements and structures, submitted by this Declaration to the provisions of the Condominium Act.

(w) "Plat or Condominium Plat, or Supplemental Condominium Plat" shall mean and include the plat of survey of the Property depicting and locating thereon all of the improvements, floor and elevation plans, and filed in the records of the office of the Clerk of Teton County, Wyoming.

(x) "Unit or Condominium Unit" means an individual air space unit, consisting of enclosed rooms occupying part of any building and bounded by the interior surfaces of the walls, floors, ceilings, windows, doors, and built-in fireplaces, if any, along the perimeter boundaries of the air space of said boundaries as shown on the plat, together with all fixtures and improvements therein contained. Notwithstanding the fact that they may be within the boundaries of said air space, the following are not part of a Unit insofar as they are necessary for the support or use and enjoyment of another Unit: structural components of the buildings, bearing walls, floors, ceilings, and roofs (except the interior surfaces thereof), foundations, ceiling equipment, tanks, pumps, pipes, vents, ducts, shafts, flues, chutes, conduits, wires, and other utility installations, except the outlets thereof located within the Unit.

(y) "Condominium or Condominium Unit" shall mean the fee simple and title in and to a Unit together with an undivided interest in the common elements or common areas and facilities appurtenant to said Unit.

2. SUBMISSION TO CONDOMINIUM. Declarant hereby submits the Property, including the Buildings and all other improvements thereon to the provisions of the Condominium Act for the term set forth herein. All of said Property is and shall be held, conveyed, hypothecated, encumbered, leased,

subleased, rented, used, occupied, maintained, altered and improved pursuant to the Condominium Act and the Declaration. All of said Property is and shall be subject to the covenants, conditions, restrictions, uses, limitations and obligations set forth herein, each and all of which are declared and agreed to be for the benefit of said Project and in furtherance of a plan for improvement of the said Property and division thereof into condominium units; further, each and all of the provisions hereof shall be deemed to run with the land and shall be mutual and equitable servitudes, burdening and benefiting the Declarant, their successors and assigns, and any owner or other person acquiring, leasing, subleasing, or owning an interest in the real property and improvements comprising the Property or the Project, their assigns, lessees, sublessees, heirs, executors, administrators, devisees, and successors.

3. DIVISION AND INCIDENTS OF OWNERSHIP.

3.1. Division Into Condominium Units. The Property is hereby divided into Condominium Units, each consisting of a separate fee simple estate in and to a Unit together with an undivided interest in the Common Elements appurtenant thereto.

3.2. Ownership of Common Areas. Each Unit Owner shall be entitled to a maximum percentage of undivided interest in the Common Elements appurtenant to each Unit and its Owner for all purposes, including voting, as set forth on the schedule attached hereto as Exhibit "B" and by this reference made a part hereof. Such maximum interest shall be subject to diminution, to accommodate expansion or conversion under the provisions hereof. Except as provided herein for expansion or conversion, the percentage of undivided interest in the Common Elements appurtenant to any Unit shall not be changed except with the unanimous consent of all of the Unit Owners in the Condominium Project expressed in an amendment to this Declaration duly executed by all such Owners and recorded. Such percentages have been computed by dividing the square footage of each Unit by the total square footage of all the Units in the Property.

3.3. Declarant's Reserved Rights. Declarant reserves the right, as to all Units then owned by it, to (i) physically combine the space within one Unit with the space within one or more adjoining Units; (ii) to combine a part of or combination of parts of the space within one Unit with parts of the space within one or more adjoining Units; and (iii) to divide into separate Units the space of one Unit. The aggregate or divided undivided interest in the Common Elements resulting therefrom shall be reflected by an amendment to Exhibit "B" hereof to the Plat.

With the written consent of the Association, two or more Units may be utilized by the Owner(s) thereof as if they were one Unit. To the extent permitted in the written consent of the Association, any walls, floors or other structural separations between any such Units, or any space which would be occupied by such structural separation but for the utilization of the Units as one Unit, may, for as long as the two Units are utilized as one Unit, be utilized by the owner(s) of the adjoining Units as limited Common Areas, except to the extent that any such structural separations are necessary or contain facilities necessary for the support, use or enjoyment of other parts of the Property.

3.4. Description of Condominium Unit. Every contract for the sale of a Condominium Unit and every other instrument affecting title to a Condominium Unit may describe a Unit by its identifying number or Unit designation, the name of the Condominium Project, the recording data for the Declaration, and the county in which the Condominium is located. Such description will be construed to describe the Unit together with the appurtenant undivided interest in the Common Elements, and to incorporate all the rights incident to ownership of a Condominium Unit within the Project and all of the limitations on such ownership as described in this Declaration and/or the rules, regulations or By-Laws of the Association.

3.5. Title. Title to a Condominium Unit within the Project may be held or owned by any person or entity in any manner in which title to any other real property may be held, or owned in the State of Wyoming.

3.6. Inseparability of Condominium Unit. Title to no part of a Condominium Unit within the Project may be separated from any other part thereof and each Unit, the appurtenant undivided interest in the General Common Elements, and the appurtenant Limited Common Elements shall together comprise one Condominium Unit, shall be inseparable, and shall be conveyed, devised, leased, encumbered and otherwise affected only as a complete Condominium Unit. Every gift, devise, bequest, transfer, lease, encumbrance, conveyance or other disposition of a Condominium Unit, or any part thereof, shall be construed as affecting the entire Condominium Unit, together with all appurtenant rights created by law or by this Declaration, including appurtenant membership in the Association as hereinafter set forth.

3.7. Partition Not Permitted. The Common Elements shall be owned in common by all of the Owners of the Unit and shall remain undivided, and no Owner shall bring action for partition or division of the Common Elements.

3.8. Mechanics Liens. No labor performed or materials furnished for use in connection with any Condominium Unit with the consent or at the request of the Owner thereof or his agent, contractor or subcontractor shall create any right to file a statement of mechanics' lien against the Unit of any other Owner not expressly consenting to or requesting the same or against any interest in the Common Elements except as to the undivided interest therein appurtenant to the Unit of the Owner for which such labor shall have been performed and such materials shall have been furnished. Each Owner shall indemnify and hold harmless each of the other Owners from and against liability or loss arising from the claim of any claim against the Condominium Unit of the Owner, or any part thereof, for labor performed or for materials furnished in work on such Owner's Unit. At the written request of any Owner the Association shall enforce such indemnity by collecting from the Owner of the Condominium Unit on which the labor was performed and materials furnished the amount necessary to discharge any such lien, and all costs incidental thereto, including attorney's fees. If not promptly paid, the Association may collect the same in the manner provided herein for collection of assessments for the purpose of discharging the lien.

3.9. Separate Taxation. All taxes, assessments and other charges of the State of Wyoming or of any political subdivision or of any special improvement district or of any other taxing or assessing authority shall be assessed against and collected on each Condominium Unit separately not on the Building or the Property as a whole, and each Condominium Unit shall be carried on the tax records as a separate and distinct parcel.

For the purpose of valuation for assessment, the valuation of the Common Elements shall be apportioned among the Condominium Units in proportion to the fractional undivided interests in Common Elements appurtenant to and part of each Condominium Unit. The Association shall deliver to the County Assessor of Teton County, Wyoming a written notice as required by the Condominium Ownership Act of Wyoming, setting forth descriptions of the Condominium Units, and shall furnish all necessary information with respect to such apportionment of valuation of Common Elements for assessment.

The lien for taxes assessed to any Condominium Unit shall be confined to that Condominium Unit. No forfeiture or sale of any Condominium Unit for delinquent taxes, assessments or other governmental charges shall divest or in any way affect the title to any other Condominium Unit.

3.10. Separate Mortgages. Each Owner shall have the right to mortgage or otherwise encumber his Condominium Unit. However, no Owner shall attempt to or shall have the right to mortgage or

otherwise encumber the Common Elements or any part thereof except the undivided interest therein appurtenant to his Condominium Unit. Any mortgage or other encumbrance of any Condominium Unit within the Project shall be subordinate to all of the provisions of this Declaration, and in the event of foreclosure the provisions of this Declaration shall be binding upon any Owner whose title is derived through the foreclosure by private power of sale, judicial foreclosure, or otherwise.

4. USE AND OCCUPANCY OF COMMON ELEMENTS AND OTHER RIGHTS.

4.1. Use of General Common Elements or Areas. Subject to other provisions of the Declaration, each Owner shall have a non-exclusive right to use and enjoy the General Common Elements as may be required for the purposes of access and ingress and egress to and use and occupancy and enjoyment of the respective Condominium Unit owned by such Owner. Such right to use the General Common Elements or Areas shall extend to each Unit Owner, and the agents, servants, tenants, family members, guests and invitees of each Unit Owner. Such rights to use shall be consistent with the rights of use and enjoyment of the other Owners and shall be subject to and governed by the provisions of this Declaration, and the By-Laws, rules and regulations of the Association. The Board shall have the authority to lease or to grant licenses or concessions with respect to parts of the General Common Elements, subject to the provisions of the Declaration and By-Laws, including specifically, not by way of limitation, common parking areas, laundry areas, storage areas, and commercial and recreational areas.

4.2. Use of Limited Common Elements. Subject to the other provisions of the Declaration, each Owner, as well as their agents, servants, tenants, family members, guests and invitees shall have the exclusive right to use and enjoy Limited Common Elements designated herein or on the Plat as appurtenant to the Condominium Unit(s) owned by such Condominium Owner(s).

4.3. Owner's Right in Unit. Subject to the other provisions of this Declaration, each Owner shall have full and complete dominion and ownership of his Unit which is part of the Condominium owned by such Owner and each Owner and such Owner's agents, servants, tenants, family members, guests and invitees shall have the exclusive right to use and enjoy the same. Each owner may freely transfer his or her unit free of any right of first refusal or similar restriction held by the Association, Declarant or Developer.

4.4. Association's Right to Use Common Elements. The Association shall have a non-exclusive right and easement to make such use of the Common Elements or Common Areas as may be

necessary or convenient to perform the duties and functions that it is obligated or permitted to perform pursuant to this Declaration, including, without limitation, the right to construct and maintain in the General Common Elements, facilities for use by Owners generally or by the Association and its agents exclusively.

4.5. Owner's Easement for Access, Support and Utilities.

Each Owner shall have a non-exclusive easement for access between his Unit and public roads and streets, over the halls, corridors, stairs, walks, and exterior access and other easements which are part of the Common Elements. Each Owner shall have a non-exclusive easement in and over Common Elements, including Common Elements within the Unit of another Owner, for horizontal and lateral support of the Unit and for utility service to that Unit, including water, sewer, gas, electricity, telephone and television service. Said easements may not be restricted and shall be perpetual and appurtenant to each unit.

4.6. Easements for Maintenance, Cleaning and Repair. Some of the Common Elements are or may be located within the Units or may be conveniently accessible only through the Units. The Association shall have the irrevocable right to have access to each Unit and to all Common Elements from time to time during such reasonable hours as may be necessary for the maintenance, cleaning, repair or replacement of any Common Element accessible therefrom or for making emergency repairs at any time therein necessary to prevent damage to the Common Elements or to a Unit or Units. In addition, the Association or its agents may enter any Unit when necessary in connection with any cleaning, maintenance, repair, replacement, landscaping, or construction for which the Association is responsible. Such entry shall be made with as little inconvenience to the Owners as practicable, and any damage caused thereby shall be repaired by the Association.

4.7. Easements for Encroachments. If any part of the Common Elements encroaches or shall hereafter 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 Elements, or upon an adjoining Unit or Units, an easement for such encroachment and for the maintenance of the same shall and does exist. If any part of the Common Elements or any part of a Unit or Units encroaches or shall hereafter encroach on real property owned by the Declarant outside the boundaries of the Property an easement for such encroachment shall and does exist. Such encroachments shall not be considered to be encumbrances either on the Common Elements or the Unit. Encroachments referred to herein include, but are not limited to, encroachments caused by error in the original construction of any improvement constructed

or to be constructed within the Project, by error in the Plat, 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.

4.8. Reservation of Easement to Facilitate Construction of Improvements Within Project. Declarant, and persons it may select, shall have the right of ingress and egress over, upon, and across the General and Limited Common Elements and facilities, or any Expansion Area or Convertible Land which may hereafter be added to the Project in accordance with the provisions hereof, and the right to store materials thereon and make such other use thereof as may be reasonably necessary incident to construction, development and sales of Condominium Units and operation of the Units and Common Elements and facilities in connection with the overall development of the Project of which the Property is a part.

4.9. Easements Deemed Appurtenant. The easements and rights herein created for an Owner shall be appurtenant to the Condominium Unit of that Owner and all conveyances of and other instruments affecting title to a Condominium Unit, whether by Declarant or otherwise, shall be deemed to grant and reserve such reciprocal easements as are provided for herein, even though no specific reference to such easements appear in any such conveyance.

5. SINGLE FAMILY USE. Except for the provisions contained herein relating to maintenance of a sales office and model units by Declarant, the Units may be used and occupied for residential purposes only, by the Owner, his family, their guests, invitees and tenants provided; however, that no Unit shall be occupied for living or sleeping purposes by more persons than it was designed to accommodate safely.

5.1. No Noxious or Offensive Activity. No noxious or offensive activities shall be carried on, in or upon any part of the Project nor shall anything be done or placed in or upon any part of the Project which is or may become a nuisance or may cause embarrassment, disturbance or annoyance to Owners. No sound shall be emitted on any part of the Project which is unreasonably loud or annoying.

5.2. No Hazardous Activities. No activities shall be conducted, nor improvements constructed, in or upon any part of the Project which are or may become unsafe or hazardous to any person or property.

5.3. Restriction on Signs. No signs, flags or advertising devices of any nature, including, without limitation, commercial, political, informational, or directional signs or devices or name plates, shall be erected or maintained on any part of the Project, without the prior inspection and written approval of the Association, except as may be necessary temporarily to caution or warn of danger.

5.4. No Obstructions. There shall be no obstructions of the Common Areas by any Owner or his guests. Owner shall neither store nor leave any of their property in the Common Areas, except with the prior consent of the Association.

5.5. Restrictions on Visible Exteriors. Each Unit Owner shall be obligated to maintain and keep his own Unit, its windows and doors, and any patio or balcony which he has the exclusive right to use and occupy, in good and clean order and repair. The use of the covering of the interior surfaces of windows, whether by draperies, shades or other items visible on the exterior of the building, shall be subject to the rules and regulations of the Board.

5.6. Antennas, Etc. Owners shall not cause or permit anything to be hung or displayed on the outside of windows or placed on the outside walls of the building and no awnings, canopies, shutters, radio or television antennas or other similar structures may be affixed to or placed upon the exterior walls or roof or any part thereof without the prior consent of the Board.

5.7. Restriction on Animals. No animals, livestock, poultry or pets of any kind shall be raised, bred, or kept in any unit or in the general or limited common areas and facilities unless the same, in each instance, be expressly authorized, in writing, by the Association; and the same shall be subject to the rules and regulations adopted by the Board and further provided that the Board, in its sole discretion, shall have the right to revoke such authorization at any time. In no event shall dogs be permitted in any of the public portions of the development unless carried or on a leash. The owner shall indemnify the Association and hold it harmless against any loss or liability of any kind or character arising from or growing out of having any animal in the development. If a dog or other animal becomes obnoxious or a nuisance to other owners by barking or otherwise, the owner thereof must cause the problem to be corrected immediately or, if it is not corrected immediately, the owner, upon written notice by the Association, shall dispose of the animal.

If any dog or dogs are caught or identified as running loose, any other owner of a unit, the Manager, the Board, or any other person shall have the authority to impound such animal at

any available location and to deliver the same to the Town Animal Control Officer for appropriate disposition. In such event, in addition to any fine or other charges levied by the Town of Jackson, the Board may, upon appropriate notice and opportunity for a hearing, assess a fine of not more than \$50.00 per animal plus costs of impoundment, for the first such offense and may charge a fine of not more than \$100.00 per animal plus costs of impoundment for any subsequent offense. Such fines shall become part of the assessment for the unit of the owner or occupant of the unit harboring said animal and shall be collected in the manner provided herein for the collection of assessments, and shall, likewise, constitute a lien upon said unit. No owner of any animal or animals impounded for running at large shall have a right of action against the Association, Board, or any member thereof, any other owner, the Manager, or any other person for the impoundment of any such animal or animals.

5.8. Unsightliness. No trash, brush piles, rubbish, junk, inoperative vehicles, abandoned vehicles, including trailers and off-road vehicles, and no other unsightly items of property or waste shall be collected or placed or permitted to remain anywhere within the general or limited common areas or upon any roadway within the subdivision. Any such objects shall be removed immediately upon receipt of written notification by the Board of Directors. In the event the same is not removed within seven (7) days after the receipt of such written notice, the Board of Directors may remove or cause the same to be removed immediately at the expense of the owner of the unit responsible for the same and may dispose of the same at the County Landfill or any other appropriate place; without being responsible for taking any care in the removal or storage of the same and, neither the Association nor the Manager or any other person or owner enforcing the terms of this provision shall be liable for any costs, expenses, liability or damages arising out of the removal or storage of such matter.

In addition to the foregoing, no vehicle belonging to an owner or to a member of a family or to any guest, tenant, or employee of any owner shall be parked in such a manner as to impede or prevent ready access to another owner's parking stall or to impede or prevent ready access over (including maintenance and snowplowing) of any of the roads within the subdivision. The owners, their employees, servants, agents, visitors, licensees, and the owner's drives and any other traffic regulations promulgated by the Town of Jackson or by the Association.

5.9. No Structural Alterations. No Owner shall, without the prior written consent of the Board of Directors, make or permit to be made any structural alteration, improvement or addition in or to his Unit or the Common Elements. No Owner shall, without

the prior written consent of the Association, do any act that would impair the structural soundness or integrity of any Building or Common Elements for the safety of property or impair any easement or other hereditament appurtenant to the Project.

Except for the provisions contained herein relating to maintenance of model units and the sales office by Declarant, no Unit shall be used for business or commercial activity and no industry, business, trade, occupation or profession of any kind, shall be conducted, maintained, or permitted on any part of the Property.

5.10. No Violation of Law. No Owner and no Owner's guests, invitees, servants, tenants or family members shall do anything or keep anything in or on the Project which would be in violation of any statute, rule, ordinance, regulation, permit or other validly imposed requirement of any governmental body.

5.11. Utilities. No Unit Owner shall overload the electrical wiring in the building, or operate any machines, appliances, accessories or equipment in such manner as to cause, in the judgment of the Board, an unreasonable disturbance to others, or connect any machines, appliances, accessories or equipment to the heating system or plumbing system, without the prior written consent of the Board.

No electrical, plumbing or similar work within any Unit shall be done without the prior written consent of the Board. Each Owner shall see to it that his Unit is sufficiently heated during the winter so as to assure that there shall be no freezing or breakage of pipes.

5.12. Prohibition of Damage and Certain Activities. Nothing shall be done or kept in any Unit or in the Common Areas or any part thereof which would result in cancellation of the insurance on the Project or any part thereof, nor shall anything be done or kept in any Unit which would 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. No damage to, or waste of, the Common Elements or any part thereof shall be committed by any Owner or guest, tenant, invitee or family member 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 family members, guests, tenants, or invitees, and such Unit Owner shall pay for such damage and such maintenance, repairs and replacements, as may be determined by the Board, to the extent not covered by insurance.

5.13. Rules and Regulations. No Owner and no Owner's family members, guests, tenants or invitees, shall violate the Rules and Regulations for the use of the Units and Common Elements as adopted from time to time by the Association.

5.14. Declarant's Exemptions. Declarant, and persons it may select, shall have the right of ingress and egress over, upon, and across the Common Elements or Common Areas and the right to store materials thereon and make such other use thereof as may reasonably be necessary incident to construction, development, maintenance, repairs and sales of Condominium Units and the Common Areas and facilities in connection with the Project.

5.15. Leasing Restrictions. All renting, leasing or other arrangements whereby parties other than the owner occupy a unit shall be pursuant to written lease (or Similar) agreements and subject to this Declaration, the By-laws and the rules and regulations. Owners may not lease units for an initial term of less than thirty (30) days and all tenants and occupants shall be subject to such restrictions relating to parking and number of vehicles as the Association may determine.

5.16. Prohibition Against Timesharing. No unit may be subdivided into timeshares, interval ownerships, use periods or any similar property interest commonly considered to call within the general conception of timesharing.

5.17. Model Units and Sales Office. Declarant and Declarant's duly authorized agents, representatives, and employees shall have the right to maintain model units and a sales office on the Property, and to use the model units and sales office during the period that Units in the Property or the Expansion Area remain unsold. No more than 5 model units and one sales office will be constructed and maintained by Declarant on the Property.

6. OVERALL DEVELOPMENT PLAN/EXPANSION OF PROJECT.

The project shall be developed by Declarant as portion of a larger development known as Elk Run. The purpose of developer in dividing said development into two projects, Elk Run Homes and Elk Run Townhouses, is to separate the project which must achieve sales of at least 80% of its units to owner occupants for purposes of FNMA and FHLMC financing qualification from the project which need not achieve such level of first owner occupants and which is not, therefore, eligible for such financing. The total development will not exceed 166 dwelling units, composed of buildings containing between 2 and 11 units each. It is the intent of the Declarant that the Project be constructed in phases. The initial

phase of the Project will consist of one modular building containing Eight Units together with relating parking for such Units. It is the Declarant's intention that additional phases will be undertaken as determined, in the sole and absolute discretion of Declarant. Accordingly, the Declarant hereof expressly reserves the option and right to expand the Condominium subject to: (1) any provisions of the Condominium Act in existence at the time of execution hereof or any amendments thereto made effective subsequent to the date of execution hereof which have mandatory application to the Project, (2) the prior approval of all holders, insurers or guarantors of any first mortgage on a unit and further subject to the following provisions:

6.1. Declarant's Option Reservations. Declarant expressly reserves the options to add additional property, including additional Units and Common Elements to the Condominium from that Property described in Exhibit "C" hereto and by this reference made a part hereof, which shall be referred to as the Expansion Area, or to withdraw any Property from the Expansion Area. Said additional property shall be subject to the condominium regime by Declarant's recording of a supplemental or amended Condominium Declaration describing said additional property.

6.2. Consent of Unit Owners. The consent of Unit Owners of the Project shall not be required for such expansion and the Declarant may proceed with such expansion at its sole option and there are no limitations to such option other than limitations created by or imposed pursuant to law.

6.3. Termination of Option. This option to expand the Condominium Property within the Project shall expire seven (7) years after the recording of this Declaration, if not sooner exercised; however, the Declarant may, at any time prior to the expiration of such period, terminate its option to expand by recording among the land records wherein this Declaration is recorded an executed and notarized document terminating this option.

6.4. Addition of Expansion Area to Condominium Project. The Declarant need not add all or any portion of the Expansion Area to the Condominium; however, the Declaration may add portions of the Expansion Area to the Condominium and may do so at different times and no assurances are made regarding the boundaries of said portions or the order in which they may be added.

6.5. Improvements. That approximate locations of improvements that may be located on the Expansion Area may be shown on the Plat; however, Declarant reserves the right to change the

location of such improvements or to delete them in their entirety, subject only to the limitations contained herein. All improvements on the property to be added shall be substantially complete before being added to the existing condominium regime.

6.6. Number of Units Within Expansion Area. The maximum number of Units that may be created within said Expansion Area or any portion thereof will be 158 Units and of the same all will be restricted exclusively to residential use.

6.7. The improvements to be placed on the Expansion Area shall be compatible with the improvements located within the rest of the Condominium and be of the same or similar quality of construction and materials, and the architectural style will be substantially identical to that of the improvements located within the rest of the Condominium.

The Units to be created in the improvements on the Expansion Area will be substantially similar to the Units in the Condominium.

6.8. The Declarant reserves the right to change the overall Development Plan including the size, location and mix of the Units in order to meet the requirements of the market, and further reserves the right to change the overall development plan or to decide not to construct the units or improvements; provided that the conditions which must be satisfied prior to any exercise of declarants rights hereunder are the following:

(a) any change in Governmental Laws, regulations, zoning provisions, etc. materially affecting the construction, development, financing, sales, costs or other substantial matter relating to the subdivision, improvement, construction, cost, sales or financing of units.

(b) Any material changes in lending practices or policies of any prospective primary lenders, mortgagees, insurers, or guarantors of first mortgages of units.

(c) Any increases in development or construction costs, interest rates, or market forces making it economically unfeasible to develop according to the overall development plan.

(d) The occurrence of any other contingency the non occurrence of which was a basic assumption upon which the overall Development Plan was based, so long as such change is not unreasonably made.

The aforesaid right to change the overall Development Plan may be exercised for a period of seven (7) years after recording of this Declaration.

All restrictions in the Declaration affecting use, and occupancy of Units will apply to Units created within the Expansion Area, provided that there may be differentiations with regard to any duplex units reflecting the ownership of yards. Except for the foregoing, Declarant makes no assurances regarding the improvements and Limited Common Areas and facilities or other amenities which may be made or created upon the Expansion Area or any limitations as to the locations of any buildings or other improvements thereon or that any Limited Common Elements created within the Expansion Area will be of the same general types and sizes as those within other parts of the Condominium or that the proportion of Limited Common Elements to Units created within the Expansion Area will be approximately equal to the proportion existing within other parts of the Condominium or to the extent to which any assurances made in this Declaration regarding additional property apply in the event any additional property is not added.

6.9. Declarant reserves the right to create Convertible Land within any portion of the Expansion Area which may be made a part of the expanded Condominium and to convert the same into Units and/or Limited Common Areas and facilities, and to determine the types, sizes and maximum number of such Units and/or Limited Common Areas and facilities, provided appropriate supplements to this Declaration and the floor plans are filed and construction is commenced within the time periods otherwise permitted.

6.10. Recomputation of Fractional Undivided Interest in Common Elements/Voting/Share of Common Expenses. Upon the expansion of the Property and inclusion of additional Units within the Project, the undivided interest of Owners of Condominium Units, in the Common Elements, as well as the relative voting strength in the Association and share of Common Expense liability attributable to each Unit in the Condominium at the time a Supplemental Declaration expanding the Condominium is recorded shall be reallocated and such new percentages shall be computed by dividing the square footage of each Unit in the Condominium, as expanded, by the total square footage of all of the Units in the Condominium as expanded. In all events, the Common Element interest and Common Expense liability and number of votes allocated to each Unit must be equal, or proportionate to the relative size of each Unit.

7. THE ASSOCIATION AND ITS ADMINISTRATION OF THE PROPERTY. The governing body for all of the Unit Owners for the administration and operation of the Property, as provided for in the Condominium Act and in this Declaration shall be the Association. The Association, as referred to in this Declaration, has been formed and incorporated as a Wyoming not-for-profit business corporation.

7.1. Powers of Association. Subject to the remaining provisions of this Declaration, the Association may:

- (a) Adopt and amend By-Laws and Rules and Regulations;
- (b) Adopt and amend budgets for revenues, expenditures and reserves and collect assessments for Common Expenses from Unit Owners;
- (c) Hire and terminate managers and managing agents, and other employees, agents and independent contractors, and professional consultants including those providing legal and accounting services necessary or desirable in connection with the administration of the Project;
- (d) Institute, defend or intervene in litigation or administrative proceedings in its own name on behalf of itself or two or more Unit Owners on matters affecting the Condominium;
- (e) Make, contract and incur liabilities;
- (f) Regulate the use, maintenance, repair, replacement and modification of the Common Elements;
- (g) Cause additional improvements to be made as a part of the Common Elements;
- (h) Acquire, hold, encumber and convey in its own name any right, title or interest to real or personal property;
- (i) Grant easements, leases, licenses and concessions through or over the Common Elements;
- (j) Impose and receive any payments, fees, or charges for the use, rental or operation of the Common Elements other than Common Elements;
- (k) Impose and collect from each Unit Owner an amount equal to two months assessment for Common Expenses to be held as a security for prompt payment of any Common Expense charge or assessment; such amounts being held by a trust fund in an institution in this state insured by a governmental agency. The deposit is to be refunded to the Unit Owner at the time of transfer of the ownership interest or at the end of twelve continuous months wherein prompt payment of the Common Expense assessment has been made to be discretionary with the Association. Any interest accruing from deposit of the money may be used by the Association for any purpose consistent with the provisions of this Act.

(l) Impose charges for late payment of assessment, accelerate the payment of any annual payment upon an arrearage in payments, and, after notice and an opportunity to be heard, levy reasonable fines for violations of the Declaration, By-Laws and Rules and Regulations of the Association;

(m) Impose reasonable charges for the preparation and recordation of amendments to the Declaration, resale or estoppel certificates, or statements of unpaid assessments;

(n) Provide for the indemnification of its officers and Board of Directors and maintain Directors' and officers' liability insurance;

(o) Obtain and pay for such types and quantities of insurance as shall be provided in this Declaration or the By-Laws or, otherwise reasonably necessary under the circumstances;

(p) Exercise any other powers conferred by the Declaration or By-Laws;

(q) Exercise all other powers that may be exercised in this state by legal entities of the same type as the Association;

(r) Exercise any other powers, rights or privileges reasonably implied from the existence of any other right given to it herein or reasonably necessary or proper to effectuate any such right or privilege or for the governance and operation of the Association.

Notwithstanding the provisions of this section, the Declaration may not impose limitations on the power of the Association to deal with the Declarant that are more restrictive than the limitations imposed on the power of the Association to deal with other persons. Furthermore, all of the foregoing powers shall be subject to the following provisions regarding the Declarant's control of the Association during the period of Declarant's control.

7.2. Declarant Control.

(a) Subject to subsection (b) hereof, there shall be a period of Declarant control of the Association, during which period the Declarant, or any persons designated by him, may appoint and remove the officers of the corporation and the members of the Board of Directors. Such period of Declarant control shall extend from the date of the first conveyance of a Unit to a person other than a Declarant for a period not exceeding seven (7) years. Notwithstanding the provisions contained herein, the period of Declarant control shall terminate

no later than sixty (60) days after conveyance of seventy-five percent (75%) of the Units to Unit Owners other than Declarant. Declarant may voluntarily surrender the right to appoint and remove officers and members of the Board of Directors before termination of said period, but in such event it may require, for the duration of the period of Declarant control, that specified actions of the Association or Board of Directors, as described in a recorded instrument executed by Declarant, be approved by the Declarant for it to become effective.

(b) Not later than sixty (60) days after conveyance of twenty-five percent (25%) of the Units to Unit Owners other than Declarant, not less than twenty-five percent (25%) of the members of the Board of Directors shall be elected by Unit Owners other than the Declarant. Not later than sixty (60) days after conveyance of fifty percent (50%) of the Units to Unit Owners other than a Declarant, not less than thirty-three and one-third percent (33 1/3%) of the members of the Board of Directors shall be elected by Unit Owners other than the Declarant.

(c) Determining whether the period of Declarant control has terminated under these provisions, or whether Unit Owners other than the Declarant are entitled to elect members of the Board of Directors, the percentage of the Units conveyed is presumed to be that percentage which would have been conveyed if all the Units the Declarant has built or reserved the right to build in the Declaration were included in the Condominium.

(d) No special Declarant rights created or reserved under this section may be transferred except by an instrument evidencing the transfer recorded in the county in which the Condominium is located and the instrument has been executed by the transferee.

Upon transfer of any special Declarant right, the liabilities and rights of the transferor Declarant and the rights, liabilities and obligations of the transferee Declarant shall be as provided by law.

7.3. Membership. Each Owner shall automatically become, by virtue of his ownership of a Condominium Unit, a member of the Association and shall have all of the rights and obligations of a member as provided for herein and in the Article of Incorporation and By-Laws of said corporation. Membership shall be appurtenant to the fee simple title to such Condominium Unit and shall be transferred automatically and immediately by conveyance of the Condominium Unit. If fee simple title to a Condominium Unit is held by more than one person or entity, the membership appurtenant to that Condominium Unit shall be shared by all such persons or entities in the same proportionate interest and by the

same type of ownership as fee simple title to the Condominium Unit is held. An Owner shall be entitled to one membership for each Condominium Unit owned by him. No person or entity other than an Owner may be a member of the Association, and membership in the Association may not be transferred except in connection with the transfer of a Condominium Unit.

7.4. Votes. The number of votes appurtenant to each respective Condominium Unit shall be as shown on Exhibit "B" attached hereto and by this reference made a part hereof. The number of votes appurtenant to each Condominium Unit as shown on said Exhibit shall be changed only in the manner provided for in this Declaration.

7.5. Board of Directors. The affairs of the Association shall be managed by a Board of Directors which may, by resolution, delegate any portion of its authority to an executive committee composed of not less than two (2) members of the Board. Subject to the provisions contained herein regarding the period of Declarant control, members of the Board of Directors shall be elected annually by the Owners.

7.6. Amplification. The provisions of this section, relating to the Association, may be amplified by the Articles of Incorporation and By-Laws of the Association; provided, however, that no such amplification shall substantially alter or amend any of the rights or obligations of the Declarant or of the Owner set forth in this Declaration.

8. RIGHTS, OBLIGATIONS AND DUTIES OF THE ASSOCIATION. The Association, in addition to other powers, rights, duties and obligations provided for herein shall have the following rights, duties and obligations:

(a) Common Element Maintenance. The Association, subject to the rights and duties of the Owners set forth in this Declaration, shall be responsible for the exclusive management and control of the Common Elements and all improvements thereon and shall keep the same in good, clean, attractive, safe and sanitary condition, order, maintenance and repair; provided, however, that each Owner of a Unit shall keep the Limited Common Areas, if any, appurtenant to his Unit in a good, clean, safe, sanitary and attractive condition.

(b) Other Association Functions. 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 Property, 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 acquire and pay for out of the Common Expense fund, water, sewer, garbage collection, electrical, gas, and other necessary utility services for the Common Elements (and the Units to the extent not separately metered), and other goods and services common to the Units.

(c) Personal Property. The Association may acquire and hold tangible and intangible personal property for the use and benefit of all of the Owners and may dispose of such personal property by sale or otherwise. Subject to the Rules and Regulations of the Association, each Owner and its family, guests, tenants and invitees may use the property.

(d) Rules and Regulations. The Association may make and enforce reasonable and uniformly applied rules and regulations governing the use of the Units and the Common Areas; which Rules and Regulations shall be consistent with the rights and duties established in this Declaration. Such Rules and Regulations may, without limitation, include:

(i) Regulating the use of Common Elements to assure equitable use and enjoyment by all persons entitled thereto;

(ii) Assigning particular storage or parking areas within the Common Elements for exclusive use by Owners of particular Condominium Units, etc. The Association may take judicial action against any Owner to enforce compliance with such Rules and Regulations or other obligations of Owners arising hereunder or to obtain damages for noncompliance, all to the fullest extent permitted by law. The Association may, also, suspend any Owner's voting rights in the Association during any period or periods during which the Owner fails to comply with such Rules and Regulations or any other obligation of such Owner under this Declaration; provided, however, that the Association shall first provide such Owner with notice of the claimed violation and an opportunity for a hearing regarding such violation.

(e) Expenses of Board of Directors. Members of the Board of Directors shall not receive pay for their services as Directors; provided, however, that bona fide expenses such as expenses for travel, food, and lodging incurred by any Director in attending duly called meetings of the Board of Directors shall be paid by the Association.

(f) Limitation on Association's Liability. The Association shall not be liable for any failure of water service

or any other service to be obtained and paid for by the Association, or for injury or damage to person or property caused by the elements or by another Owner or person in the Project, or resulting from the electricity, water, rain, snow, or ice which may leak or flow from outside or from any parts of the Building or the Common Elements including any of the pipes, drains, conduits, appliances or equipment thereof or from any other place, unless caused by the gross negligence of the Association. No diminution or abatement of any assessments under this Declaration shall be claimed or allowed for inconvenience or discomfort arising from the making of repairs, maintenance, or improvements to the Property or the Common Elements or any part thereof, or from any action taken to comply with any law, ordinance, or orders of a governmental authority.

9. ASSESSMENTS.

9.1. Members Obligations to Pay Assessments and Other Amounts. Declarant, for each Condominium owned by it within the Property, and for and as the owner of the Property and every part thereof, hereby covenants and each Owner of any Condominium by the acceptance of instruments of conveyance and transfer therefore, whether or not it be so expressed in said instruments, shall be deemed to covenant and agree with each other and with the Association to pay the Association all assessments made by the Association for the purposes provided in this Declaration as well as such reasonable and uniformly applied charges for use of Property and reasonable and uniformly applied fines imposed for violation of Rules and Regulations adopted by the Association as provided in this Declaration. Such assessments shall be fixed, established and collected from time to time as provided in this paragraph.

9.2. Regular Assessments. The regular assessments against all Condominium Units within the Property shall be based upon advance estimates of cash requirements by the Association to provide for the payment of all estimated expenses arising out of or connected with the maintenance and operation of the Common Elements and furnishing utility services and other common items to the Units; which estimates shall include all utilities provided by the Town of Jackson and may include, among other things, the expenses of management; taxes and special assessments unless and until Condominium Units are separately assessed; premiums for all insurance which the Association is required or permitted to maintain hereunder; repairs and maintenance; wages of Association employees; utility charges; legal and accounting fees; any deficit remaining from a previous period; creation of a reasonable reserve fund for periodic maintenance repair and replacement of the common elements as well as the eventual paving of all parking areas, and any other

expenses and liabilities which may be incurred by the Association for the benefit of all of the Owners or by reason of this Declaration. Such shall constitute the estimated Common Expense, and all funds received from assessments under this subparagraph shall be part of the Common Expense fund.

(a) Apportionment of Regular Assessments. Expenses attributable to the Common Expense or to the Property as a whole shall be apportioned among and assessed to all Owners in proportion to their respective undivided interests in the Common Areas. Declarant will be liable for the amount of any assessment against completed Condominium Units owned by it.

(b) Notice and Payment of Regular Assessments. Regular assessments shall be made on a January 1st through December 31st fiscal basis. The Association shall give written notice to each Owner as to the amount of the regular assessment which respect to his Condominium Unit on or before the 10th day of January each respective year. The regular assessments shall be due and payable, in advance, on or before the 30th day of January each respective year, or on such other reasonable date or dates thereafter as the Association may designate in writing; provided, however, that the first regular assessment shall be for the balance of the fiscal year remaining after the date hereof. Each regular assessment shall bear interest at the maximum legal interest rate from the date it is declared due and collectible if not paid by such date. Notwithstanding the foregoing, in the event that the Board elects to collect said annual assessments in monthly, quarterly or semi-annual installments, the Board may, upon default in the payment of any one or more installments, declare the entire balance of said annual assessment accelerated, at the option of the Board, and declare the same due and payable in full immediately.

(c) Inadequate Funds. In the event that the Common Expense fund provides inadequate during any fiscal year for whatever reason, including non-payment of any Owner's assessment, the Association may levy additional assessments in accordance with the procedure set forth in the following subparagraph, except that such assessment need not be approved by the Owners.

(d) Working Capital Fund. The Association shall establish, for the initial months of the project operations, a fund equal to at least a two months' estimated common area charge for each unit. Said sums shall, after the initial months, be held as security for prompt payment of charges and expenses as provided in paragraph 7.1.(k) hereof.

9.3. Special Assessments for Capital Improvements. In addition to the regular assessments authorized by this paragraph, the Association may levy, at any time and from time to time, upon the affirmative vote of at least fifty-one percent (51%) of the total votes of all members of the Association, special assessments, payable over such periods 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 expenses incurred or to be incurred as provided in this Declaration. This subparagraph shall not be construed as an independent source of authority for the Association to incur expenses, but shall be construed to describe the manner of assessing for expenses authorized by other paragraphs and subparagraphs hereof, as appropriate. Any amounts assessed pursuant hereto shall be assessed to Owners in proportion to their respective undivided interests in the Common Areas. Notice in writing of the amount of such special assessment 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 mailed. A special assessment shall bear interest at the maximum legal interest rate from the date it becomes due and payable. All funds received from assessments under this subparagraph shall be part of the Common Expense fund.

9.4. Individual Assessments. In addition to other assessments authorized under this paragraph, the Association may levy against any owner an Individual Assessment, payable to the Association over such periods as the Association may determine, for the purpose of paying, in whole or in part, the cost of replacing, repairing, cleaning, or otherwise correcting any damage to Units or Common Areas caused by the intentional or negligent act or omission of any such Owner, his family, guests, tenants, or invitees, except damages arising from normal wear and tear.

9.5. No Waiver of Assessments. The failure of the Association, before the expiration of any fiscal year, to fix and/or give notice of the assessments for the next year, shall not be deemed a waiver or modification in any respect of the provisions of this Declaration, or a release of the Owner from the obligation to pay assessments or any installment thereof for that or any subsequent year. However, the date on which payment for such assessment shall become due shall be deferred to a date thirty (30) days after notice thereof shall have been made, but in no event sooner than the first date of the fiscal year to which such assessment relates.

9.6. Expenditure of Funds. All funds received hereunder from assessments shall be expended by the Association exclusively

to promote the recreation, health, safety and welfare of the Owners and occupants of the Property, the improvement, operation and maintenance of the Common Elements and the performance of the duties and exercise of the powers of the Association set forth in this Declaration.

9.7. Lien for Assessments. All sums assessed to Owners of any Condominium Unit within the Property pursuant to the provisions of this paragraph, together with interest thereon and a reasonable attorney's fee as provided herein, shall be secured by a lien on such Condominium Unit in favor of the Association. To evidence a lien for sums assessed pursuant to this paragraph, the Association may prepare a written notice of lien setting forth the amount of the assessment, the date due, the amount remaining unpaid, the name of the Owner of the Condominium Unit and a description of the Condominium Unit. Such a notice shall be signed and acknowledged by the Association and may be recorded in the office of the County Clerk of Teton County, Wyoming. No notice of lien shall be recorded until there is a delinquency in payment of the assessment. Such lien may be enforced by judicial foreclosure by the Association in the same manner in which mortgages on real property may be foreclosed in Wyoming. In any such foreclosure, the Owner shall be required to pay the costs and expenses of such proceeding, including a reasonable attorney's fee, and the costs and expenses, including attorney's fees, shall be secured by the lien being foreclosed. The Owner shall also be required to pay to the Association any assessments against the Condominium Unit which shall become due during the period of foreclosure. The Association shall have the right and power to bid in at any foreclosure sale, and to hold, lease, mortgage or convey the subject Condominium Unit.

- 9.8. Personal Obligation of Owner. The amount of any regular assessment, special assessment, charge, fine, or individual assessment against any Condominium Unit including interest, costs and attorneys fees shall be the personal obligation of the 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. In such event, the Unit Owner shall be obligated to pay not only the interest provided for herein, at the maximum legal rate, but also all costs and expenses incurred in maintaining such suit, including attorney's fees.

No Owner may avoid or diminish any such personal obligation by waiver of the use and enjoyment of any of the Common Areas or Elements by abandonment of his Condominium Unit or by waiving any services or amenities provided for in this Declaration.

9.9. Liability of Owners, Purchasers and Encumbrancers. The amount of any assessments payable with respect to any Owner, or any Condominium Unit shall be a joint and several obligation to the Association of such Owner and such Owner's heirs and personal representatives. The personal obligation for delinquent assessments shall not however, pass to successors in title or interest, as a result of a bona fide sale, unless assured by them in writing, or required by applicable law. Notwithstanding the foregoing, the holder of a mortgage, deed of trust or other lien on a Condominium Unit shall not be liable for any such assessment, charge, fine or penalty and the lien for any such assessments, charges, fines or penalties shall be junior to any lien or encumbrance on a Condominium Unit taken in good faith and for value and perfected by recording in the office of the County Clerk of Teton County, Wyoming, prior to the time a notice of failure to pay any such amount is recorded in such office, describing the Condominium Unit and naming the Owner of the Condominium Unit.

9.10. Estoppel Certificate. Upon payment of a reasonable fee not to exceed Twenty-five Dollars (\$25.00) and upon written request of any Owner or any person with any right, title or interest in a Condominium Unit or intending to acquire any right, title or interest in a Condominium Unit, the Association shall furnish a written statement setting forth the amount of any assessments, charges, fines or penalties, if any, due or accrued and then unpaid with respect to an Owner or a Condominium Unit and the amount of the assessment for the current fiscal period of the Association payable with respect to the Condominium Unit, which statement shall, with respect to the party to whom it is issued, be conclusive against the Association and all parties, for all purposes, that no greater other amounts were then due or accrued and unpaid.

10. INSURANCE.

10.1. Types of Insurance. The Association shall obtain and keep in full force and effect at all times the following insurance coverage provided by responsible companies duly authorized to do business in the State of Wyoming:

(a) Fire and Casualty Insurance. The Association shall obtain a policy or policies of insurance on the Common Elements and limited Common Elements (except land, foundation, excavation and other item normally excluded from coverage including fixtures to the extent they are part of the common elements, building service equipment and supplies and other common personal property of the Association. In addition, any fixtures, equipment or other property within the units which are financed by FNMA or FHLMC (whether or not a part of the Common

Elements) must be covered by such blanket policy. The Association may assess unit owners for such additional coverage in such amounts as shall provide for the replacement of the Units, Common Elements, and any other Common Facility in the event of damage or destruction from casualty against which such insurance is obtained, which insurance shall be in accordance with coverage customarily maintained by other condominium projects similar in construction, design and use and at least equal to such coverage as is commonly required by Prudent institutional mortgage investor in the area. Such insurance shall include fire and extended coverage, vandalism and malicious mischief, theft, and such other risks and hazards against which the Association shall deem it appropriate to provide insurance protection, but in any event such perils normally covered by the standard extended coverage and "all risk" endorsement. The Association may comply with the above requirement by the purchase of blanket coverage and may elect such "deductible" provisions as in the Association's opinion are consistent with good business practice. The policy shall be in an amount equal to 100% of current replacement cost of the property, exclusive of land, foundation, excavation and other items normally excluded from coverage.

(b) Public Liability and Property Damage Insurance.

The Association shall obtain a broad form of comprehensive general liability insurance coverage in such amounts and in such forms as it deems advisable to provide adequate protection. Coverage shall include, without limitation, all of the common elements and public ways of the project, including death, liability for personal injuries, property damage, operation of automobiles on behalf of the Association, liability of the Association, its officers, Directors and employees arising with the ownership, operation, maintenance, administration, management, use or occupancy of the Property, and liability arising out of Lawsuits related to employment contracts of the Association as well as such other risks customarily covered with respect to similar condominiums. The limits of such insurance policies shall be not less than \$1,000,000.00 for each person and not less than \$1,000,000.00 for each occurrence with respect to personal liability and with limits of not less than \$100,000.00 for each accident with respect to property damage liability.

(c) Workmen's Compensation Insurance. The Association shall obtain Workmen's Compensation and Employer's Liability insurance and all other similar insurance with respect to employees of the Association in the amount and in the forms now or hereafter required by law.

(d) Fidelity Insurance or Bond. The Association shall obtain blanket fidelity insurance or a blanket fidelity bond for coverage against dishonesty of those members of the Board of Directors, officers, the Manager, or employees of the Association, handling or responsible for the administration of the funds of the Association. Where the management agent has the responsibility for handling or administering funds of the owners association, the management agent shall be required to maintain fidelity bond coverage for its officers, employees and agents handling or responsible for funds of, or administered on behalf of, the owners association. Such fidelity bonds shall name the owners association as an obligee and shall not be less than the estimated maximum of funds, including reserve funds, in the custody of the owners association or the management agent, as the case may be, at any given time during the term of each bond. However, in no event may the aggregate amount of such bonds be less than a sum equal to 3 months' aggregate assessments on all units plus reserve funds. The bonds shall contain waivers by the issuers of the bonds of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees", or similar terms or expressions. The premiums on all bonds required herein, except those maintained by the management agent, shall be paid by the owners association as a common expense. The bonds shall provide that they may not be cancelled or substantially modified (including cancellation for nonpayment of premium) without at least 10 days' prior written notice to the owners association or Insurance Trustee. If the Federal National Mortgage Association insures any first mortgages in the project, such bonds shall provide that the FNMA Servicer, or behalf of FNMA, also receive such notice of cancellation or modification.

(e) Flood Insurance. The Association shall obtain and keep in full force and effect at all times a blanket policy or policies of flood insurance pursuant to the National Flood Insurance Program, insuring against flood damage to the buildings and any other property covered by the form of policy, in an amount deemed appropriate by the Association, but not by than (a) the maximum coverage available under the NFIP for all insurable property in the special flood hazard area; or (b) 100% of current replacement cost of all insurable property in said area.

(f) Additional Coverage. The provisions of this Declaration 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 by this Declaration, in such amounts and in such forms as the Association shall deem appropriate from time to time.

10.2. Form of Insurance.

(a) Casualty Insurance. Casualty insurance shall be carried in a form or forms naming the insured as follows: "Association of owners of the Elk Run Condominium for the use and benefit of the individual owners". The loss payable shall be in favor of the Association as trustee for each unit owner and the owner's mortgage, as their interest may appear, and said parties shall be beneficiaries of the policy based upon ownership percentages of the common elements. Each provide a standard, non-contributory mortgagee clause in favor of each mortgagee or insurer or guarantor of a mortgage, in a form commonly accepted by private institutional mortgagors in the area. Each policy shall also provide that it cannot be cancelled by either the insured or the insurance company until after thirty (30) days prior written notice is first given to each Owner, to Declarant, and to each mortgagee who is listed as a scheduled first mortgage holder in the policies. The Association shall upon request furnish to each Owner or mortgagee a certificate of coverage, including an identification of such Owner's interest.

(b) Public Liability and Property Damage Insurance. Public liability and property damage insurance shall name the Association, the Manager, each Owner, and the Declarant, whether or not the Declarant is the Owner, and shall protect each insured against liability for acts of the Association in connection with the ownership, operation, maintenance or other use of the Property. Each such policy shall provide that it cannot be cancelled either by the insured or by the insurance company until after ten (10) days written notice to each and all of the insured.

(c) Adjustment. Exclusive authority to adjust losses under policies hereafter in force on the Property shall be vested in the Board of Directors of the Association.

(d) Contribution. In no event shall the insurance coverage obtained and maintained by the Association hereunder be brought into contribution with insurance purchased by individual Owners or their mortgagees.

(e) Individual Insurance. Each Owner may obtain additional insurance at his own expense over and above coverage provided in policies obtained by the Association; provided, however, that no Owner shall be entitled to exercise his right to maintain insurance coverage in such a way as to decrease the amount which the Association may realize under any insurance policy the Association may have in force on the Project at any particular time.

(f) Notice of Improvement. Each Owner shall be required to notify the Association of all improvements made by the Owner to his Unit the value of which exceeds One Thousand Dollars (\$1,000.00); provided, however, that this subparagraph shall not be construed as authorizing any improvement.

(g) Policy. The Association shall be required to secure insurance policies that will provide for the following:

(i) That the insurer shall waive subrogation as to any claims against the Association, the Manager, the Owners, and their respective servants, agents and guests;

(ii) The policy or policies on the Property cannot be cancelled, invalidated or suspended on account of the conduct of any one or more individual Owner, not in control of the owners collectively.

(iii) That the policy or policies on the Project cannot be cancelled, invalidated or suspended on account of the conduct of any Director, officer or employee of the Association without a prior demand in writing that the Association cure the defect;

(iv) That any "no other insurance" clause in the policy or policies on the Property exclude individual Owner's policies from consideration.

(v) A "Special Condominium Endorsement" or its equivalent.

(vi) If available the policies shall in an "Agreed Amount Endorsement" and an "Inflation guard Endorsement".

(h) Review of Insurance. The Association shall review annually the coverage and policy limits of all insurance on the Project and adjust the same at its discretion. Such annual review shall include an appraisal of the improvements on the Property by a representative of the insurance carrier or carriers providing the policy or policies on the Property, or such other qualified appraisers as the Association may select.

10.3. Insurance Trustee; attorney-in-fact. Notwithstanding any of the foregoing provisions and requirements relating to property or liability insurance, there may be named as an insured, on behalf of the owners association, the owners association's authorized representative, including any trustee with whom such owners association may enter into any Insurance Trust Agreement or any successor to such trustee (each of whom

shall be referred to herein as the "Insurance Trustee"), who shall have exclusive authority to negotiate losses under any policy providing such property or liability insurance and to perform such other functions as are necessary to accomplish this purpose.

Where appropriate under applicable law, each unit owner hereby appoints the Association, or any Insurance Trustee or substitute Insurance Trustee designated by the owners association, as attorney-in-fact for the purpose of purchasing and maintaining such insurance, including: the collection and appropriate disposition of the proceeds thereof; the negotiation of losses and execution of releases of liability; the execution of all documents; and the performance of all other acts necessary to accomplish such purpose.

11. DAMAGE OR DESTRUCTION.

11.1. Association as Attorney-in-Fact. 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 Property upon its damage or destruction as hereinafter provided. Acceptance by any grantee of deed from the Declarant or from any Owner shall constitute appointment by said grantee of the Association as his Attorney-in-Fact as herein provided. As Attorney-in-Fact, the Association shall have full and complete authorization, right and power to make, execute and deliver any contract, deed, or other instrument with respect to the interest of an Owner which may be necessary or appropriate to exercise the powers herein granted.

11.2. General Authority of Association. Repair and reconstruction of the improvements as used herein means restoring the Property to substantially the same condition in which it existed prior to damage, with each Unit and the Common Elements having substantially the same vertical and horizontal boundaries, Common Areas, and facilities as before. Proceeds of any insurance collected shall be available to the Association for the purpose of repair or reconstruction, unless the Owners upon the affirmative vote of at least seventy-five percent (75%) of the total votes of all Owners agree not to rebuild within one hundred (100) days after such destruction or damage in accordance with the provisions set forth hereinafter.

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

11.4. 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 Property damaged or destroyed. The Association shall 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 herewith. The Project shall be restored or repaired to substantially the same condition in which it existed prior to the fire or other destruction, with each Unit and the Common Elements having the same vertical and horizontal boundaries as before.

11.5. Funds for Reconstruction. The proceeds of any insurance collected or insurance maintained by the Association 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 may levy in advance a special assessment sufficient to provide funds to pay such estimated or actual costs of repair or reconstruction. Such assessments shall be allocated and collected as provided in the paragraphs hereof relating to assessments, except that the vote therein specified shall not be necessary. Further levies may be made in like manner if the amounts collected prove insufficient to complete the repair or reconstruction..

11.6. Disbursement of Funds for Repair or Reconstruction. The insurance proceeds held by the Association and any amounts received from assessments pursuant to the previous subparagraph hereof shall constitute a fund for the payment of costs of repair and reconstruction of the Buildings and for replacement of the Common Elements after casualty.

11.7. Partition and Distribution. In the event that seventy-five percent (75%) of the Owners agree within one hundred (100) days after destruction or damage to three fourths (3/4) of the Property not to repair or rebuild, the Association shall file with the County Clerk of Teton County, Wyoming, a notice setting forth such facts. Upon filing such notice, the following shall occur:

(a) The Property shall be deemed to be owned in common by the Owners;

(b) The undivided interest in the Property owned in common which shall appertain to each Owner shall be the percentage of undivided interest previously owned by such Owner in the Common Areas;

(c) Any mortgages or liens affecting any of the Condominium Units shall be deemed to be transferred in accordance with the existing priorities to the undivided interest of the Owner in the Property;

(d) The Property shall be subject to an action for partition at the suit of any Owner, in which event the net proceeds of any sale resulting from such suit or partition, together with the net proceeds of the insurance on the Property, if any, shall be considered as one fund and shall be divided among all the Owners in a percentage equal to the percentage of undivided interest owned by each Owner in the Common Elements in accordance with Exhibit "B" hereto, after first paying out of the respective share of each Owner, to the extent sufficient for the purposes, all sums due to mortgages as well as other holders of liens on the undivided interest in the Property owned by such Owner.

11.8. Sale of Property. Notwithstanding all other provisions hereof, the Owners may, by an affirmative vote of at least seventy-five percent (75%) of all votes held by all Owners, at a meeting of Owners duly called for such purpose, elect to sell or otherwise dispose of the Property. Such action shall be binding upon all Owners and it shall thereupon become the duty of every Owner to execute and deliver such instruments and to perform all acts in such manner and form as may be necessary to effect such sale. The proceeds of any such sale shall be divided among all Owners and their mortgagees in proportion to the undivided interest in the Common Elements owned by each Owner in accordance with Exhibit "B" hereto, as their interests may appear.

12. CONDEMNATION. If at any time or times during the continuance of the Condominium Ownership pursuant to this Declaration, all or any part of the Property 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:

12.1. Proceeds. All compensation, damages, or other proceeds therefrom, the sum of which is hereinafter called the "condemnation award", shall be payable to the Association, award shall be divided among all Owners and their mortgage holders in a percentage equal to the percentage of undivided interest owned by each Owner in the Common Areas in accordance with Exhibit "B" hereto.

12.3. Partial Taking. In the event that less than the entire Project is taken or condemned, or sold or otherwise disposed of in lieu of or in avoidance thereof, the Condominium

ownership hereunder shall not terminate. Each Owner and his mortgagee shall be entitled to a share of the condemnation award to be determined in the following manner: as soon as practicable, the Association shall, reasonably and in good faith, allocate the condemnation award between compensation, severance damages, or other proceeds, and shall apportion the amounts so allocated among and pay the same to the Owners and their mortgagee as follows:

(a) The total amount allocated to taking of or injury to the Common Elements shall be apportioned among all Owners in proportion to their respective undivided interest in the Common Elements;

(b) The total amount allocated to severance damages shall be apportioned to those Condominium Units which were not taken or condemned;

(c) The respective amounts allocated to the taking of or injury to a particular Unit shall be apportioned to the particular Unit involved; and

(d) The total amount allocated to consequential damages and any other takings or injuries shall be apportioned as the Association determines to be equitable in the circumstances. If an allocation of the condemnation award is already established in negotiation, judicial victory, or otherwise, then in allocating the condemnation award the Association shall employ such allocation to the extent it is relevant and applicable.

(e) Distribution of apportioned proceeds shall be made by checks payable jointly to the respective Owners and to their respective mortgagees, as applicable.

12.4. 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 in accordance with the Condominium Act.

12.5. Reconstruction and Repair. Any reconstruction and repair necessitated by condemnation shall be governed by the procedures specified herein in case of damage or destruction.

13. MORTGAGEE PROTECTIVE PROVISIONS.

13.1. Mortgage. The term "Mortgage" as used herein shall mean any recorded mortgage having priority over other mortgages and shall include a recorded deed of trust. The term "Mortgagee" shall mean the holder and owner of a mortgage and shall include a

beneficiary under a deed of trust, as well as any insurer or guarantor of the mortgage such as, but not limited to FHA, V.A., FNMA. The term "eligible holder, insurer or guarantor" shall mean a mortgagee who has requested notice in accordance with the provisions of Paragraph 13.9.

13.2. The Board of Directors shall maintain a roster of Unit Owners from the evidence of change of ownership furnished to the Board of Directors, which roster shall include the mailing addresses of Unit Owners. If the Board of Directors has been given sufficient information by Unit Owners or their Mortgagees, the Board of Directors shall maintain another roster which shall contain the name and address of each Mortgagee of a Unit. Each Listing shall include of a certified copy of the recorded instrument evidencing the title of the Mortgagee.

13.3. A Mortgagee of any Unit who comes into possession of a Unit pursuant to the remedies provided in the Mortgage, foreclosure of Mortgage, or deed (or assignment) in lieu of foreclosure, shall take the Property free of any claims for unpaid assessments or charges against the mortgaged Unit which accrued prior to the time such Mortgagee comes into possession of the Unit and a sale or transfer of a unit pursuant to a foreclosure of a first mortgage shall extinguish a subordinate lien for Association assessments and charges which became payable prior to such sale or transfer.

13.4. The liens created under the Condominium Act or pursuant to the Declaration or the By-Laws upon any Unit shall be subject and subordinate to, and shall not affect the rights of, a Mortgagee upon such interest made in good faith and for value, provided that after the foreclosure sale or transfer pursuant to the mortgage, such liens, for charges and assessment accruing thereafter shall have the same effect and be enforced in the same manner as provided herein, and the purchases or transferee shall not be relieved from liability for, nor the unit so sold or transferred from the lien of, such new days endorsements.

13.5. INSURANCE COVERAGE. The following Provisions shall apply regarding insurance requirements.

13.6. POLICY COVERAGE The Board shall secure and maintain in effect a policy of fire and extended coverage insurance in an amount equal to the full replacement value (i.e., one hundred percent (100%) of the current "replacement cost" exclusive of land, excavation and other items normally excluded from coverage of the common area improvements situated in the Development (including all buildings, service equipment and the like).

13.7. MORTGAGEE'S ABILITY TO PLACE COVERAGE. All first mortgagees of any Lots or Units may, jointly or singly, pay any overdue premiums on the aforesaid hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for such common area improvements and said first mortgagees making such payments shall be owed immediate reimbursement therefore from the Association. The Board shall take appropriate action to assure such immediate payment and shall provide all necessary parties with an original or certified copy of this Agreement as evidence of the obligation of the Association to make such reimbursement.

13.8. PRIORITY OF RIGHTS IN INSURANCE PROCEEDS OR CONDEMNATION AWARDS.

The Association agrees and the Board shall require all insurance policies to provide that no Lot owner or any other party shall have priority over the rights of the first mortgagees in the case of distribution of insurance proceeds or condemnation awards for losses to or the taking of the common area or the Association's improvements located thereon, and in the event any provision of this Declaration requires that payments be made to Owners, out of insurance proceeds, as a result of partition and distribution upon the damage or destruction of the Property, or upon the sale of the Property, or in the event of receipt of a Condemnation Award, all payments to be made to Owners hereunder shall be made jointly to the Owners and to the Mortgagees of the Condominium Units which are mortgaged of record at the time of such payment.

13.9. LOCATION OF POLICIES. The Association shall retain the original or conformed copies of all insurance policies specified herein in a place of safekeeping such as a safe or safety deposit box and shall provide copies of such policies to Mortgagees requesting such copies.

13.10. No violation or breach of or failure to comply with any provision of this Declaration and no action to enforce any such provision shall affect, defeat, render invalid or impair the lien of any Mortgage, deed of trust or other lien on any Condominium Unit or the Common Elements taken in good faith and value and perfected by recording in the office of the County Clerk of Teton County, Wyoming prior to such violation, breach or failure to comply with any provision of this Declaration; nor shall such violation, breach, failure to comply, or action to enforce, effect, defeat, render invalid or impair the title or interest of the holder of any such Mortgage, deed of trust or other lien or the title or interest acquired by any purchaser upon foreclosure of any such Mortgage, deed of trust or other lien or result in any liability, personal or otherwise, of any such holder or purchaser. Any such purchaser on foreclosure

shall, however, take subject to this Declaration; provided, however, that violations or breaches of, or failures to comply with, any provisions of this Declaration which occur prior to the vesting of fee simple title in such purchaser shall not be deemed breaches or violations hereof or failures to comply herewith with respect to such purchaser, his heirs, personal representatives, successors or assigns.

13.11. A holder, insurer or guarantor of a first mortgage or a unit, upon written request to the Association (such request to state the name and address of such holder, insurer or guarantor and the unit number, will be entitled to timely written notice of:

- (1) Any proposed amendment of the condominium instruments effecting a change in (i) the boundaries of any unit or the exclusive easement rights appertaining thereto, (ii) the interests in the general or limited common elements appertaining to any unit or the liability for common expenses appertaining thereto, (iii) the number of votes in the owners association appertaining to any unit or (iv) the purposes to which any unit or the common elements are restricted;
- (2) Any proposed termination of the condominium regime;
- (3) Any condemnation loss or any casualty loss which affects a material portion of the condominium or which affects any unit on which there is a first mortgage held, insured or guaranteed by such eligible holder;
- (4) Any default in performing by a unit owner under the condominium constituent documents or, delinquency in the payment of assessments or charges owed by any owner of a unit subject to the mortgage of such eligible holder, insurer or guarantor, where such delinquency has continued for a period of 60 days;
- (5) Any lapse, cancellation or material modification of any insurance policy maintained by the owners association.

13.12. Any restoration or repair of the condominium after a partial condemnation or damage due to an insurable hazard shall be substantially in accordance with the declaration and the

original plans and specifications unless the written approval of the eligible holders of first mortgages on units to which at least 67% of the votes of units subject to mortgages held by such eligible holders are allocated, is obtained.

13.13 Any election to terminate the condominium regime after substantial destruction or a substantial taking in condemnation of the condominium property must require the written approval of the eligible holders of first mortgages on units to which at least 67% of the votes of units subject to mortgages held by such eligible holders are allocated.

13.14. Unless the formula for reallocation of interests in the common elements after a partial condemnation or partial destruction of the condominium project is fixed in advance by the declaration or by applicable law, no reallocation of interests in the common elements resulting from a partial condemnation or partial destruction of the condominium project may be effected without the written approval of the eligible holders of first mortgages on units to which at least 67% of the votes of units subject to mortgage held by such eligible holders are allocated.

13.15. The Association shall not, without the prior written approval of at least sixty-seven percent (67%) of the mortgagees (based upon one vote for each mortgage owned) or owners (other than declarant or developer) of the individual lots in the Development:

- (a) By act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the common area owned, directly or indirectly, by the Association (except for the granting of easements for public utilities or for other public purposes consistent with the intended use of the common area); or
- (b) Change the method of determining the obligations, assessments, dues or other charges which may be levied against owners of Lots;
- (c) By any act or omission materially change, waive or abandon any scheme of regulations, or enforcement thereof, pertaining to the architectural design or the exterior appearance of Lots, the exterior maintenance of the Lots, the maintenance of the common area, party walks, or common fences, and driveways, or the upkeep of lawns and plantings in the Development;
- (d) Fail to maintain fire and extended coverage insurance on insurable portions of the common area;

(e) Use hazard insurance proceeds for losses to any condominium property (units or common elements) for other than the repair, replacement or reconstruction of such improvements.

13.16. The uniform regular assessments or charges assessed on the owners shall be sufficient to provide an adequate reserve fund for the maintenance, repair and replacement of those elements of the common areas that must be replaced on a periodic basis.

13.17. Any agreement for professional management of the Development or any other contract providing for the services of the Developer, sponsor, or builder, may not exceed three (3) years. Any such agreement shall provide for termination by either party without cause and without payment of a termination fee upon ninety (90) days, or less, written notice.

14. ENFORCEMENT AND REMEDIES. The obligations, provisions, covenants, restrictions, and conditions contained in this Declaration or any Supplemental or Amended Declaration with respect to the Association or Condominium Units within the Property shall be enforceable by Declarant or by any Owner of a Condominium Unit within the Property, subject to this Declaration, by a proceeding for a prohibitive or mandatory injunction. The obligations, provisions, covenants, restrictions, and conditions contained in this Declaration or any Supplemental or Amended Declaration with respect to a person or entity or property of a person or entity other than the Association or Declarant shall be enforceable by Declarant or the Association by a proceeding for a prohibitive or mandatory injunction or by a suit or action to recover damages or to recover any amount due or unpaid. All expenses of the Board in connection with any such actions or proceedings, including court costs and attorney's fees and other fees and expenses and all damages, liquidated or otherwise, together with interest thereon at the maximum legal rate may be charged to and assessed against the person proceeded against. In the event of any such default by any Unit Owner, the Board of Directors of the Association may authorize the Manager or Managing Agent of the Association to proceed on behalf of the Association.

In addition to the foregoing, if any Unit Owner shall violate any of the obligations, provisions, covenants, restrictions and conditions contained in this Declaration or any Supplemental or Amended Declaration or the By-Laws or the rules and regulations of the Association, the Association may, after reasonable notice and an opportunity for said Owner to be heard, levy such reasonable fines or penalties as it may establish from time to time.

15. AMENDMENT OR REVOCATION. At any time while any provision, covenant, condition or restriction contained in this Declaration or any Supplemental or Amended Declaration, is in force and effect, it may be amended or repealed by the recording of a written instrument specifying the amendment or repeal executed by the number of Owners and consented to by the number of eligible holders of first mortgages set forth herein. Provided, however, that the same may not be amended or revoked if otherwise prohibited herein and further provided that during the Declarant's development period no Declarant Related Amendment shall be made to this Declaration or to any By-Law or document, nor shall any Declarant Related Document be executed, adopted or promulgated by the Association or the Board unless such Declarant Related Amendment or document shall be specifically approved in writing by Declarant:

For purposes of this section, an amendment or document which does any of the following shall be considered to be Declarant related:

(a) Discriminates or tends to discriminate against a Declarant or any successor declarant as an Owner or otherwise;

(b) Directly or indirectly by its provisions or in practical application relates to any Declarant or any successor Declarant in a manner different from the manner in which it relates to other Owners;

(c) Modifies the definitions provided for in this Declaration in a manner which alters Declarant's or any successor Declarant's rights or status;

(d) Modifies or repeals any provisions hereof relating to the expansion of the Property by the addition of additional lands located within the Expansion Area;

(e) Alters the character and rights of membership as provided for in this Declaration or affects or modifies in any manner whatsoever the rights of Declarant or any successor Declarant as a member of the Association;

(f) Alters any previously recorded or written agreement with any public or quasi-public agencies, utility, political subdivisions, public authorities or other similar agencies or bodies, respecting zoning suspension, streets, roads, drives, easements or facilities;

(g) Modifies the basis or manner of assessment, as applicable to the Declarant or any successor Declarant;

(h) Limits or restricts the authority of the Declarant to nominate members of the Board of Directors;

(i) Alters or repeals any of Declarant's or any successor Declarant's rights or any provisions applicable to Declarant's or any successor Declarant's rights as provided for by any provision of this Declaration or any other document applicable to Declarant.

15.1. Owners Amendments and Mortgagee's Protections. The following provisions do not apply to amendments to the constituent documents or termination of the condominium regime made as a result of destruction, damage or condemnation, or to a reallocation of interests in the common elements which might occur pursuant to any plan of expansion or phased development previously approved by any eligible holder, Insurer or guarantor to the extent such approval was required under the applicable condominium programs of the said agencies and corporations.

(a) The written consent of owners of units to which at least 67 percent of the votes in the owners association are allocated and the written approval of the eligible holders of first mortgages on units to which at least 67 percent of the votes of units subject to a mortgage appertain, shall be required to terminate the condominium regime.

(b) The written consent of owners of units to which at least 67 percent of the votes in the owners association are allocated and the written approval of eligible holders insurers or guarantors of first mortgages on units to which at least 51 percent of the votes of units subject to a mortgage appertain, shall be required to materially amend any provisions of the declaration, by-laws or equivalent documents of the condominium, or to add any material provisions thereto, which establish, provide for, govern or regulate any of the following:

- (1) Voting;
- (2) Assessments, assessment liens or subordination of such liens;
- (3) Reserves for maintenance, repair and replacement of the common elements;
- (4) Insurance or Fidelity Bonds;
- (5) Rights to use of the common elements;

- (6) Responsibility for maintenance and repair of the several portions of the condominium;
- (7) Expansion or contraction of the condominium regime or the addition, annexation or withdrawal of property to or from the regime (except those additions provided for in the Condominium Declaration).
- (8) Boundaries of any unit;
- (9) The interests in the general or limited common elements;
- (10) Convertibility of units into common elements or of common elements into units;
- (11) Leasing of units;
- (12) Imposition of any right of first refusal or similar restriction on the right of a unit owner to sell, transfer, or otherwise convey his or her unit in the condominium;
- (13) Establishment of self-management by the condominium association where professional management has been required by any of the agencies or corporations.

(c) The written consent of owners of units to which at least 67 percent of the votes in the owners association are allocated and the approval of eligible holders insurers or guarantors of first mortgages on units to which at least 51 percent of the votes of units subject to a mortgage appertain, shall be required to amend any included in the declaration, by-laws or equivalent documents of the condominium which are for the express benefit of holders or insurers of first mortgages on units in the condominium.

(d) As used herein an "eligible holder, insurer or guarantor" shall mean a holder, insurer or guarantor of a first mortgage on a unit which has made a written request to the Association (such request to state the name and address of such holder, insurer or guarantor and the unit number) of any proposed amendments to the Articles, By-Laws, Declaration of Condominium or any similar documents, or termination of the condominium regime.

(e) In all other cases not provided for above, this Declaration or any Supplemental or Amended Declaration may be amended by the recording of a written instrument specifying the amendment executed by the owners of not less than fifty-one percent (51%) of the total votes in the Association.

15.2. Declarant's Reserved Right to Amend. During Declarant's development period, Declarant may, without the consent or concurrence of the Board, the Owners or any other party, amend, modify, or revoke this Declaration if reasonably necessary, in the sole discretion of Declarant, to conform to any requirement, law, ordinance, regulation, or policy of any governmental agency, department or body of the United States or the State of Wyoming or local governmental authority or district, or in order to qualify for financing or insurance for mortgages under V.A., F.H.A., F.N.M.A., F.H.L.M.C. or other lending programs. In addition, Declarant is hereby vested with the right to amend and supplement this Declaration and the Plat as may be reasonably necessary or desirable to facilitate the practical, technical, administrative, or functional integration of any subsequent phase or the addition of additional land or the conversion of any convertible land into the Project.

16. MISCELLANEOUS.

16.1. Duration of Declaration. This Declaration and each provision herein, shall remain in full force and effect until revoked or terminated in the manner set forth in this Declaration.

16.2. Limited Liability and Indemnification. Neither Declarant, the Association, the Board of Directors of the Association, nor any officer, agent or employee of any of the same shall be liable to the Association or any Owner for any action or for any failure to act with respect to any matter so long as such person as entity was not guilty of fraud, gross negligence or bad faith in taking such action or failing to act.

The Association shall indemnify Declarant, each member of the Board of Directors of the Association, and any employee, officer or agent of Declarant or the Association against any loss or threat of loss as a result of any claim or legal proceeding relating to the performance or non-performance of any act concerning the activities of the Association; provided, however, that with respect to the subject matter of the claim or legal proceeding the party against whom the claim is made or legal proceeding is directed was not guilty of fraud, gross negligence or bad faith in such performance or non-performance.

The indemnification authorized by this paragraph shall include payment of (i) reasonable attorney's fees or other expenses incurred in settling any claim or threatened action or incurred in any finally adjudicated legal proceeding; and (ii) expenses incurred in the removal of any liens affecting any property of the indemnitee. Indemnification shall be made from the assets of the Association, and no Owner shall be personally liable to any indemnitee. This paragraph shall inure to the benefit of the Declarant, the Association, the members of the Board of Directors of the Association, the officers, employees and agents of Declarant and the Association, and their respective heirs, executors, administrators, successors and assigns.

16.3. Owner's Duty of Maintenance. Notwithstanding anything herein contained to the contrary, each Unit Owner shall have the responsibility to maintain, repair, replace and keep in a clean, safe and sanitary condition, at the Unit Owner's expense, all portions of the Unit Owner's Unit, except those portions to be maintained, repaired and replaced by the Association. The Unit Owner shall also keep clean and in a safe and sanitary condition all limited Common Areas.

16.4. Registration of Mailing Addresses. Each Owner shall register from time to time with the Association his current mailing address and all notices or demands intended to be served upon any Owner may be sent by first class U.S. mail, postage prepaid, addressed to the name of the Owner at such registered mailing address, or, if no address has been registered, to the Unit of such Owner. All notices or demands intended to be served upon the Association may be sent by first class U.S. mail, postage prepaid, addressed to the Association at its principal offices, or to such other address as the Association may hereafter furnish to the Owners in writing. Any notice or demand referred to in this Declaration shall be deemed given when deposited in the U.S. mail in the form provided for in this paragraph.

16.5. Availability of Information; Audited Financial Statement. The Association shall make available to unit owners, prospective purchasers, Lenders and the holders, insurers and guarantors, if the first mortgage or any unit, current copies of this Declaration and Supplements or Amendments thereto, by-laws and other rules governing the condominium, and other books, records and financial statements (including the most recent audited financial statement of such is prepared) of the Association. As used herein "available" shall mean available for inspection upon request, during normal business hours or under other reasonable circumstances.

Upon written request from any actual or prospective holder, insurer or guarantor of any first mortgage on a unit, the Association shall be required to prepare and furnish, within a reasonable time, an audited financial statement for the immediately preceding fiscal year.

16.6. Interpretation and Construction. The provisions of this Declaration and any Supplemental or Amended Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development and operation of a condominium project. Failure to enforce any provision, restriction, covenant or condition in this Declaration or in any Supplemental or Amended Declaration shall not operate as a waiver of any such provision, restriction, covenant or condition or of any other provisions, restrictions, covenants or conditions.

The provisions of this Declaration shall be in addition and supplemental to the Condominium Act and to all other provisions of law. Wherever used herein, unless the context shall otherwise provide, the singular number shall include the plural, the plural the singular, and the use of any gender shall include all genders. The heading appearing at the beginning of the paragraphs of this Declaration are only for convenience of reference and are not intended to describe, interpret, define or otherwise affect the content, meaning or intent of this Declaration or any paragraph, subparagraph or provision hereof. The provisions hereof shall be deemed independent and severable, and the invalidity, partial invalidity or enforceability of any one provision or portion thereof shall not affect the validity or enforceability of any other provision hereof.

16.7. Compliance with Declaration and By-Laws. Each Owner shall comply with the provisions of this Declaration, Articles of Incorporation and By-Laws of the Association, rules and regulations promulgated by the Association, and the decisions and resolutions of the Association adopted pursuant hereto, as the same may be lawfully amended from time to time. Failure to comply with any of the same shall be grounds for an action to recover fines, sums due and for damages for injunctive relief or both.

16.8. Effective Date. This Declaration shall take effect upon recording.

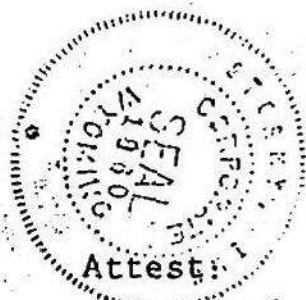
16.9. Agent for Service of Process. For so long as Declarant owns Condominium Units with appurtenant votes exceeding fifty-one percent (51%) of the total votes of the Association, the agent for service of process under the Condominium Act shall be Paul O. Vaughn whose address is 213 E. Broadway Street, Jackson, Wyoming. Thereafter the agent of service of process shall be the President of the Association.

16.10. Successors and Assigns. This Declaration shall be binding upon and shall inure to the benefit of the Association and each Owner, and the heirs, personal representatives, successors and assigns of each of them.

IN WITNESS WHEREOF, the undersigned has executed this instrument this 20 day of December, 1982.

ELK RUN ASSOCIATES
LIMITED PARTNERSHIP

By: Richard F. Overcast
Richard F. Overcast, President
of Stormy, Inc.



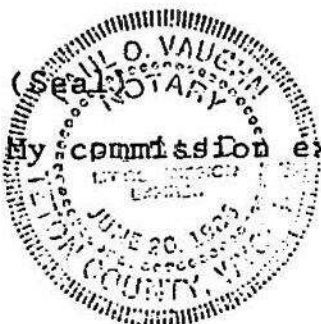
H. Seth Overcast
Secretary

STATE OF WYOMING)
) ss.
COUNTY OF TETON)

On this 20 day of December, 1982, before me personally appeared Richard F. Overcast, to me personally known, who, being by me duly sworn, did say that he is the President of Stormy Inc., and that the seal affixed to said instrument is the corporate seal of said corporation, and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and said President acknowledged said instrument to be the free act and deed of said corporation.

Given under my hand and seal the date first above written.

[Signature]
Notary Public



Description
of
ELK RUN HOMES
PHASE ONE-A
for

Elk Run Associates Limited Partnership

To-wit:--

That part of Lot 3 of the Meadowlark Addition to the Town of Jackson, a subdivision of Teton County, Wyoming of record in the Office of the Clerk of Teton County as Plat No. 316 and being within the SE $\frac{1}{4}$ of Section 32, T41N, R116W, 6th P.M., Teton County, Wyoming described as follows:

COMMENCING at the intersection of the south line of said Lot 3 with the southeast right-of-way line of Powderhorn Lane, an easement of record in said Office in Book 56 of Photo on pages 81 and 82, marked by a steel T-shaped stake;

thence N37°-21'-00"E, the base bearing for this survey, 90.42 feet along said right-of-way line the POINT OF BEGINNING;

thence continuing N37°-21'-00"E, 267.68 feet along said right-of-way;

thence S52°-39'-00"E, 71.03 feet along a line perpendicular to said right-of-way line;

thence S89°-55'-14"E, 23.07 feet along a line parallel with the south line of a tract of record in said Office in Book 116 of Photo on pages 563-565;

thence S00°-04'-46"W, 170.00 feet along a line perpendicular to said south line;

thence N89°-55'-14"W, 241.70 feet along a line parallel with said south line to the point of beginning;

ENCOMPASSING an area of 0.73 acres, more or less.

Scott R. Pierson

Scott R. Pierson
Wyoming Registered Land Surveyor No. 3831

November 11, 1982
Revised December 13, 1982