

CONDOMINIUM DECLARATION  
OF  
LAKE HAUS CONDOMINIUMS, NO. 1

KNOW ALL MEN BY THESE PRESENTS:

THAT WHEREAS, PEERLESS DEVELOPMENT CORPORATION, a Colorado corporation, hereinafter called "Declarant", is the owner of the real property situated in the County of Summit, State of Colorado, the description of which is contained on the attached Exhibit "A" which by reference is made a part hereof, and

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

WHEREAS, Declarant has executed plans for the construction of seven buildings which buildings and other improvements to be constructed will consist of eighty-eight separately designated condominium units located upon the property described in Exhibit "A"; and

WHEREAS, Declarant intends to enlarge the condominium complex by construction on separate, adjoining and abutting real property to that described in Exhibit "A", additional improvements; and

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

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

1. Definitions. Unless the context shall expressly provide otherwise,

(a) "Apartment" or "unit" means an individual air space unit which is contained within the perimeter walls, floors, ceilings, windows and doors of such unit in a building as shown on the Condominium Map to be filed for record, together with all fixtures and improvements therein contained, but not including any of the structural components of the building within which such air space is located.

(b) "Condominium unit" means a unit together with the undivided interest in the general and limited common elements appurtenant thereto.

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

(d) "General common elements" means and includes:

- (1) The land on which the building is located;
- (2) The foundations, columns, girders, beams, supports, perimeter and supporting walls, roofs, porches, outside stairway, balconies, sidewalks and driveways of the building, and recreational facilities.
- (3) The fences, yards, gardens, storage areas, garages and automobile parking areas;
- (4) Any installations consisting of equipment and materials making up any central utility services;
- (5) In general, all apparatus and installations existing for common use;
- (6) All other parts of the property and improvements necessary or convenient to its existence, maintenance and safety, or normally in common use.

(e) "Limited common elements" means those parts of the general common elements which are reserved for the exclusive use of the owner(s) of a condominium unit, or are limited to and reserved for the common use of the owners of more than one but fewer than all of the condominium units.

(f) "Entire premises" or "property" means and includes the land, the building, all improvements and structures thereon, all owned in fee simple absolute, and all rights, easements and appurtenances belonging thereto and is the property initially submitted to this Declaration as described on Exhibit "A".

(g) "Project" or "condominium project" means all of the land and improvements both initially and subsequently submitted to this Declaration.

(h) "Common expenses" means and includes:

- (1) Expenses of administration, operation and management, maintenance, repair or replacement of the general common elements;
- (2) Expenses declared common expenses by provisions of this Declaration, the Articles of Incorporation or the By-Laws of the Association;
- (3) All sums lawfully assessed against the general common elements by the Board of Directors of the Association: and

(4) Expenses unanimously agrees upon as common expenses by the owners.

(i) "Association" means LAKE HAUS CONDOMINIUM ASSOCIATION, NO. 1, a Colorado corporation; not-for-profit, the Certificate of Incorporation and By-Laws of which shall govern the condominium project, the members of which shall be all of the owners of the condominium units.

(j) "Building" means one of the building improvements comprising a part of the property.

(k) "Map", "plans" or "supplement Map" means and includes the engineering survey of the land locating thereon all of the improvements, the floor and elevation plans and any other drawing of diagrammatic plan depicting a part of or all of the improvements.

2. Condominium Map. The Map shall not be filed for record until the building has been substantially completed in order to permit the location, both horizontally and vertically, of the unit(s) by a registered engineer or a licensed architect. Upon substantial completion of the building, and prior to the first conveyance of a condominium unit, Declarant shall cause to be filed for record a Map, and such Map may be filed in parts or sections, from time to time, as the units have been substantially completed. Each such section filed, subsequent to the initially filed Map, shall be termed a Supplement to such Map and the numerical sequence of such supplements shall be shown thereon. Each Map shall depict and show at least the following: The legal description of the land and a survey thereof; the location of the units within the building, both horizontally and vertically; the perimeter boundary of each unit and the location therein of any structural components or supporting elements of the building; the thickness of the common wall(s) between units; and the unit numbers or other designation. The Map and each supplement map shall contain the certificate of a registered engineer certifying that the Map substantially depicts the layout, measurements and location of the building, the units, the unit designations, the dimensions of such units, the elevations of the unfinished floors and ceilings as constructed and the Map was prepared subsequently to substantial completion of the improvements depicted.

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

Declarant reserves the right to amend the Map, from time to time, to conform same to the actual physical location of the constructed improvements and to make any changes, modifications or alterations.

3. Division of Property into Condominium Units. The real property previously described as contained on the attached Exhibit "A", and the improvements to be constructed thereon are hereby divided into eighty-eight separate fee simple estates, each such estate consisting of one unit together with the appurtenant undivided interest in and to the general

common elements as is set forth in Exhibit "B", which by this reference is made a part hereof. The general common elements shall be held in common by the owners thereof. Each condominium unit is described on the attached Exhibit "B". Each condominium unit shall be identified on the Map as is shown on Exhibit "B".

4. Limited Common Elements. The limited common elements reserved for the exclusive or joint use of the owners of the respective units are identified and shown on the Map, and such element(s) shall be used by the Owner(s) of such units to the exclusion of the use thereof by the other owners of the general common elements except by invitation.

5. Inseparability of a Condominium Unit. Each unit and the undivided interest in the general common elements and limited common elements appurtenant thereto shall together comprise one condominium unit which shall be inseparable and may be conveyed, leased, devised, inherited or encumbered only as a condominium unit.

6. Description of a Condominium Unit. Every contract for the sale of a condominium unit and every other instrument affecting the title to a condominium unit may describe that condominium unit by the numbers, letters, or other identification shown on the condominium Map with appropriate reference to the condominium Map and this Declaration, as each appears on the records of the County Clerk and Recorder of Summit County, Colorado in the following fashion: Condominium Unit \_\_\_\_\_, LAKE HAUS CONDOMINIUMS, NO. 1, according to the Condominium Map appearing in the records of the County Clerk and Recorder of Summit County, Colorado, in Book \_\_\_\_\_ of Maps at Page \_\_\_\_\_, and as defined and described in that Condominium Declaration of LAKE HAUS CONDOMINIUMS, NO. 1, appearing in such records in Book \_\_\_\_\_ at Page \_\_\_\_\_.

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 and all the limitations of such ownership as described in this Declaration.

7. Separate Assessment and Taxation - Notice to Assessor. Declarant shall give written notice to the assessor of the County of Summit, Colorado, of the creation of condominium ownership of this property, as is provided by law, so that each unit and the undivided interest in the general common elements appurtenant thereto shall be deemed a parcel and subject to separate assessment and taxation.

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

9. Partitionability of General Common Elements. An action may be brought by one or more owners of the condominiums for a partition of the project by sale of the entire project as if the owners of all the condominiums in such project were equal tenants-in-common in the entire project; provided, however,

that a partition shall be made only upon the showing that: (a) three (3) years after damage or destruction to the project which renders a material part thereon unfit for its use prior thereto, the project has not been rebuilt or repaired substantially to its state prior to its damage or destruction, or (b) that three-fourths (3/4) or more of the project has been destroyed or substantially damaged, and the condominium owners holding in aggregate more than fifty percent (50%) interest in the condominium areas are opposed to repair or restoration of the project, or (c) that the project has been in existence in excess of fifty (50) years, that it is obsolete and not economic, and that condominium owners holding an aggregate of more than fifty percent (50%) interest in the common areas are opposed to repair or restoration of the project. The fifty percent (50%) interest hereinabove recited shall be computed on the basis of the voting rights as established in this Declaration. Nothing herein shall be deemed to prevent partition of a co-tenancy in any of said condominiums.

10. Use of General and Limited Common Elements. Subject to the rights reserved to the Declarant by the provisions hereof, each owner shall be entitled to exclusive ownership and possession of his unit. Each owner may use the general and limited common elements in accordance with the purpose for which they are intended, without hindering or encroaching upon the lawful rights of the other owners.

11. Use and Occupancy. Each unit shall be used and occupied principally for lodging and residential purposes by the owner, by the owner's family, guests, invitees and tenants, or by a managing agent of the Association, subject however to the provisions contained in paragraph 25 of this Declaration.

Declarant and his employees, representatives, agents and contractors may maintain a business and sales office, construction facilities and yards, model units and other facilities required during the development, construction and sales period, and an office or offices for management and rental of the units may be maintained both during and subsequent to the development, construction and sales period. If so determined by the Board of Directors of the Association, such office or offices may be maintained in one or more units owned or leased by the Association.

12. Easements for Encroachments. If any portion of the general common elements encroaches upon a unit or units, a valid easement for the encroachment and for the maintenance of same, so long as it stands, shall and does exist. If any portion of a unit now or hereafter encroaches upon the general common elements, or upon an adjoining unit or units, a valid easement for the encroachment and for the maintenance of same, so long as it stands, shall and does exist. Such encroachments and easements shall not be considered or determined to be encumbrances either on the general common elements or the units.

13. Termination of Mechanic's Lien Rights and Indemnification. Subsequent to the completion of the improvements described on the Map, no labor performed or materials furnished and incorporated in a unit with the consent or at the request of the unit owner or his agent or his contractor or subcontractor shall be the basis for filing of a lien against the unit of any other unit owner not expressly consenting to or requesting the same, or against the general common

elements. Each owner shall indemnify and hold harmless each of the other owners from and against the unit of any other owner or against the general common elements for construction performed or for labor, materials, services or other products incorporated in the owner's unit at such owner's request. The provisions herein contained are subject to the rights of the Managing Agent or Board of Directors of the Association as is set forth in paragraph 15.

14. Administration and Management. The Administration of this condominium property shall be governed by the Certificate of Incorporation and By-Laws of LAKE HAUS CONDOMINIUM ASSOCIATION, NO. 1, a Colorado corporation, not for profit, hereinafter referred to as the 'Association'. Other than the Association itself, an owner of a condominium unit, upon becoming such an owner, shall be a member of the Association and shall remain a member for the period of his ownership.

In addition to membership in the LAKE HAUS CONDOMINIUM ASSOCIATION, NO. 1, an owner of a condominium unit shall, by virtue of such ownership, be a member of the Swan Mountain Recreation Association and shall be entitled to all the benefits, rights and privileges, and shall be subject to all the obligations of such membership. The rights and obligations of such membership are defined more fully in paragraphs 34 through 37 hereof and in the Articles of Incorporation and By-Laws of such recreation association.

15. Reservation for Access - Maintenance, Repair and Emergencies. The owners shall have the irrevocable right, to be exercised by the Managing Agent or Board of Directors of the Association, to have access to each unit from time to time during reasonable hours as may be necessary for the maintenance, repair or replacement of any of the general common elements therein or accessible therefrom, or for making emergency repairs therein necessary to prevent damage to the general or limited common elements or to another unit or units.

Damage to the interior or any part of a unit or units resulting from the maintenance, repair, emergency repair or replacement of any of the general common elements or as a result of emergency repairs within another unit at the instance of the Association shall be a common expense of all of the owners; provided, however, that if such damage is the result of the negligence of a unit owner, then such unit owner shall be responsible for all of such damage. Restoration of the damaged improvements shall be to substantially the same condition as that in which they existed prior to the damage.

16. Owners' Maintenance Responsibility of Unit. For purposes of maintenance, repair, alteration and remodeling, an owner shall be deemed to own the interior non-supporting walls, the materials (such as but not limited to plaster, gypsum dry wall, paneling, wallpaper, paint, wall and floor tile, and flooring, but not including the sub-flooring) making up the finished surfaces of the perimeter walls, ceilings and floors within the unit and the unit doors and windows. The owner shall not be deemed to own lines, pipes, wires, conduits or systems (which for brevity are hereafter referred to as utilities) running through his unit which serve one or more other units except as a tenant in common with the other owners. Such utilities shall not be disturbed or relocated by an

owner without the written consent and approval of the Board of Directors, such right to repair, alter and remodel shall carry the obligation to replace any finishing or other materials removed with similar or other types or kinds of materials.

An owner shall maintain and keep in repair the interior of his own unit, including the fixtures thereof and such other items and areas as may be required in the By-Laws. All fixtures and equipment installed within the unit commencing at a point where the utilities enter the unit shall be maintained and kept in repair by the owner thereof.

An owner shall do no act nor any work that will impair the structural soundness or integrity of the building or impair any easement or hereditament.

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

18. Revocation or Amendment to Declaration. This Declaration shall not be revoked unless all of the owners and all of the holder of any recorded mortgages or deeds of trust covering or affecting any or all of the condominium units unanimously consent and agree to such revocation by instrument(s) duly recorded. This Declaration shall not be amended unless the owners representing an aggregate ownership interest of seventy-five percent (75%), or more, of the general common elements and all of the holders of any recorded mortgages or deeds of trust covering or affecting any or all condominium units unanimously consent and agree to such amendment by instrument(s) duly recorded; provided, however, that the percentage of the undivided interest in the general common elements appurtenant to each unit, as expressed in this Declaration, shall have a permanent character and shall not be altered without the consent of all of the unit owners expressed in an amended Declaration duly recorded; the manner in which the common expenses are assessed shall not be altered except with the express written consent of all the unit owners; and the provisions of paragraph 37 hereof shall not be subject to amendment for a period of fifty (50) years from the date of the recording of this declaration except with the express written consent of all the unit owners.

19. Assessment for Common Expenses. All owners shall be obligated to pay the estimated assessments imposed by the Board of Directors of the Association to meet the common expenses. The assessments shall be made pro rata according to each owner's percentage interest in and to the general common elements, except for hazard insurance premiums. Assessments for insurance premiums shall be based upon that proportion of the total premium(s) that the insurance carried on a condominium unit bears to total coverage. The limited common elements shall be maintained as general common elements, and owners having exclusive use thereof shall not be subject to any special charges or assessments. Assessments for the estimated common expenses, including insurance, shall

be due monthly in advance on the first day of each month. The Managing Agent or Board of Directors shall prepare and make available to each owner, upon request, an itemized monthly statement showing the various estimated or actual expenses for which the assessments are made.

Contribution for monthly assessments shall be pro-rated if the ownership of a condominium unit commences on a day other than the first day of each month.

The assessments made for common expenses shall be based upon the cash requirements deemed to be such aggregate sum as the Board of Directors of the Association shall from time to time determine is to be paid by all of the condominium unit owners, including Declarant, to provide for the payment of all estimated expenses growing out of or connected with the maintenance and operation of the general or limited common elements, which sum may include, among other things, expenses of management; taxes and special assessments, until separately assessed; premiums for fire insurance with extended coverage and vandalism and malicious mischief with endorsements attached issued in the amount of the maximum replacement value of all of the condominium units (including all fixtures; interior walls and partitions; decorated and finished surfaces of perimeter walls, floors and ceilings; doors, windows and other elements or materials comprising a part of the units); casualty and public liability and other insurance premiums; landscaping and care of grounds; common lighting and heating; repairs and renovations; trash collections; wages; water charged; legal and accounting fees; management fees; expenses and liabilities incurred by the Managing Agent or Board of Directors under or by reason of this Declaration; for any deficit remaining from a previous period; the creation of a reasonable contingency or other reserve or surplus fund as well as other costs and expenses relating to the general or limited common elements.

In the event that the Board of Directors shall determine that it is desirable for the Association to purchase or lease one or more condominium units for use as a residence for the Managing Agent, or as an office or offices for the management or rental of the units, assessments may include a charge for the proportionate costs and expenses of purchasing, leasing, maintaining and operating such unit, office or offices. In addition to the foregoing, assessments shall include a charge for the proportionate costs and expenses of operating and maintaining any recreational areas or facilities which may be acquired, owned and operation by the Association upon any portion of the lands described on Exhibit "A".

All costs and expenses of common elements subject to this Declaration shall be borne only by the owners subject to this Declaration. The omission or failure of the Board to fix the assessment for any month shall not be deemed a waiver, modification or a release of the owners from their obligation to pay.

20. Insurance. The Managing Agent or Board of Directors shall obtain and maintain at all times insurance of the type and kind provided hereinbefore and including for such other risks, of a similar or dissimilar nature, as are or shall hereafter customarily be covered with respect to other condominium buildings,



be due monthly in advance on the first day of each month. The Managing Agent or Board of Directors shall prepare and make available to each owner, upon request, an itemized monthly statement showing the various estimated or actual expenses for which the assessments are made.

Contribution for monthly assessments shall be pro-rated if the ownership of a condominium unit commences on a day other than the first day of each month.

The assessments made for common expenses shall be based upon the cash requirements deemed to be such aggregate sum as the Board of Directors of the Association shall from time to time determine is to be paid by all of the condominium unit owners, including Declarant, to provide for the payment of all estimated expenses growing out of or connected with the maintenance and operation of the general or limited common elements, which sum may include, among other things, expenses of management; taxes and special assessments, until separately assessed; premiums for fire insurance with extended coverage and vandalism and malicious mischief with endorsements attached issued in the amount of the maximum replacement value of all of the condominium units (including all fixtures; interior walls and partitions; decorated and finished surfaces of perimeter walls, floors and ceilings; doors, windows and other elements or materials comprising a part of the units); casualty and public liability and other insurance premiums; landscaping and care of grounds; common lighting and heating; repairs and renovations; trash collections; wages; water charged; legal and accounting fees; management fees; expenses and liabilities incurred by the Managing Agent or Board of Directors under or by reason of this Declaration; for any deficit remaining from a previous period; the creation of a reasonable contingency or other reserve or surplus fund as well as other costs and expenses relating to the general or limited common elements.

In the event that the Board of Directors shall determine that it is desirable for the Association to purchase or lease one or more condominium units for use as a residence for the Managing Agent, or as an office or offices for the management or rental of the units, assessments may include a charge for the proportionate costs and expenses of purchasing, leasing, maintaining and operating such unit, office or offices. In addition to the foregoing, assessments shall include a charge for the proportionate costs and expenses of operating and maintaining any recreational areas or facilities which may be acquired, owned and and operation by the Association upon any portion of the lands described on Exhibit "A".

All costs and expenses of common elements subject to this Declaration shall be borne only by the owners subject to this Declaration. The omission or failure of the Board to fix the assessment for any month shall not be deemed a waiver, modification or a release of the owners from their obligation to pay.

20. Insurance. The Managing Agent or Board of Directors shall obtain and maintain at all times insurance of the type and kind provided hereinbefore and including for such other risks, of a similar or dissimilar nature, as are or shall hereafter customarily be covered with respect to other condominium buildings,

fixtures, equipment and personal property, similar in construction, design and are issued by responsible insurance companies authorized to do business in the State of Colorado. The insurance shall be carried in blanket policy form naming the Association the insured, as attorney-in-fact (for the condominium unit owners), which policy or policies shall identify the interest of each condominium unit owner (owner's name, unit and lot number, or other designation, the appurtenant undivided interest in the general common elements), and which policy or policies shall provide a standard, noncontributory mortgagee clause in favor of each first mortgagee, and that it cannot be cancelled by either the insured or the insurance company until after ten days prior written notice is first given to each owner and each first mortgagee. The Managing Agent or Board of Directors shall, upon request of any first mortgagee, furnish a certified copy of such blanket policy and the certificate identifying the interest of the mortgagor.

All policies of insurance shall provide that the insurance thereunder shall be invalidated or suspended only in respect to the interest of any particular owner guilty of a breach of warranty, act, omission, negligence or non-compliance of any provision of such policy, including payment of the insurance premium applicable to that owner's interest, or who permits or fails to prevent the happening of any event, whether occurring before or after a loss, which under the provisions of such policy would, otherwise invalidate or suspend the entire policy, but the insurance under any such policy, as to the interest of all other insured owners not guilty of any such act or omission, shall not be invalidated or suspended and shall remain in full force and effect.

The Association shall, at least every three (3) years, obtain an appraisal for insurance purposes which shall be maintained as a permanent record, showing that the insurance in any year represents one hundred percent (100%) of the replacement value of each condominium unit and the improvements owned by the Association.

Insurance coverage on the furnishings and other items of personal property belonging to an owner and casualty and public liability insurance coverage within each individual unit shall be the responsibility of the owner thereof.

21. Lien for Non-Payment of Common Expenses. All sums assessed but unpaid for the share of common expenses chargeable to any condominium unit, including interest at the rate of ten percent (10%) per annum, shall constitute a lien on such unit superior (prior) to all other liens and encumbrances, except only for:

(a) Tax and special assessment liens on the unit in favor of any assessing unit, and

(b) All sums unpaid on a first mortgage or first deed of trust of record, including all unpaid obligatory sums as may be provided by such encumbrance.

To evidence such lien the Board of Directors or Managing Agent shall prepare a written notice setting forth the amount of such unpaid indebtedness,

the name of the owner of the condominium unit and a description of the condominium unit. Such a notice shall be signed by one of the Board of Directors or by the Managing Agent and may be recorded in the office of the Clerk and Recorder of Summit County, Colorado. Such lien for the common expenses shall attach from the date of the failure of payment of the assessment. Such lien may be enforced by foreclosure of the defaulting owner's condominium unit by the Association in like manner as a mortgage on real property upon the recording of a notice or claim thereof. In any such foreclosure the owner shall be required to pay the costs and expenses of such proceedings, the costs and expenses for filing the notice or claim of lien and all reasonable attorney's fees. The owner shall also be required to pay to the Association the monthly assessment for the condominium unit during the period of foreclosure, and the Association shall be entitled to a Receiver to collect the same. The Association shall have the power to bid on the condominium unit at foreclosure sale and to acquire and hold, use, lease, mortgage and convey same.

Any encumbrancer holding a lien on a condominium unit may pay, but shall not be required to pay, any unpaid common expenses payable with respect to such unit, and upon such payment such encumbrancer shall have a lien on such unit for the amounts paid of the same rank as the lien of his encumbrance.

The Association shall report to the mortgagee of a condominium unit any unpaid assessments remaining unpaid for longer than thirty (30) days after the same are due.

22. Owners' Obligation for Payment of Assessments. The amount of the common expenses assessed against each condominium unit shall be the personal and individual debt of the owner thereof at the time the assessment is made. Suit to recover a money judgment for unpaid common expenses shall be maintainable without foreclosing or waiving the lien securing same. No owner may exempt himself from liability for his contribution towards the common expenses by waiver of the use or enjoyment of any of the common elements or by abandonment of his unit.

23. Liability for Common Expense upon Transfer of Condominium Unit is Joint. Upon payment of a reasonable fee not to exceed Twenty Dollars and upon the written request of any owner or any mortgagee or prospective mortgagee of a condominium unit, the Association, or its Managing Agent or if there is no Managing Agent, then by the financial officer of the Association, shall issue a written statement setting forth the amount of the unpaid common expense, if any, with respect to the subject unit, the amount of the current monthly assessment and the date that such assessment becomes due, credit for advanced payments or for prepaid items, including but not limited to insurance premiums, which statement shall be conclusive upon the Association in favor of all persons who rely thereon in good faith. Unless such request for a statement of indebtedness shall be complied with within ten days, all unpaid common expenses which become due prior to the date of making such request shall be subordinate to the lien of the person requesting such statement.

The grantee of a condominium unit shall be jointly and severally liable with the grantor for all unpaid assessments against the latter for his

proportionate share of the common expenses up to the time of the grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor; provided, however, that upon payment of a reasonable fee not to exceed Twenty Dollars, and upon written request, any such prospective grantee shall be entitled to a statement from the Managing Agent or Board of Directors setting forth the amount of the unpaid assessments, if any, with respect to the subject unit, the amount of the current monthly assessment, the date that such assessment becomes due, and credits for advanced payments or for prepaid items, including but not limited to insurance premiums, which statement shall be conclusive upon the Association. Unless such request for such a statement shall be complied with within the ten days of such request, then such requesting grantee shall not be liable for, nor shall the unit conveyed be subject to a lien for any unpaid assessments against the subject unit. The provisions contained in this paragraph shall not apply upon the initial transfer of the condominium units by Declarant.

24. Mortgaging a Condominium Unit - Priority. Any owner shall have the right from time to time to mortgage or encumber his interest by deed of trust, mortgage or other security instrument. A first mortgage shall be one which has first and paramount priority under applicable law. The owner of a condominium unit may create junior mortgages on the following conditions: (1) That any such junior mortgages shall always be subordinate to all of the terms, conditions, covenants, restrictions, uses, limitations, obligations, lien for common expenses, and other obligations created by this Declaration, the Articles of Incorporation and the By-Laws of the Association; (2) That the mortgagee under any junior mortgage shall release, for the purpose of restoration of any improvements upon the mortgaged premises, all of his right, title and interest in and to the proceeds under all insurance policies upon said premises which insurance policies were effected and placed upon the mortgaged premises by the Association. Such release shall be furnished forthwith by a junior mortgagee upon written request of one or more of the Board of Directors of the Association.

25. Right of First Refusal by Owners. In the event that any owner of a condominium unit, other than (a) the Declarant, (b) the owner of all the condominium units located in a single building (hereinafter called a Building Owner), or (c) the Association, shall wish to sell, lease or rent the same, and shall have received a bona fide offer therefor from a prospective purchaser, lessee or tenant, the remaining unit owners shall be given written notice thereof together with an executed copy of such offer and the terms thereof. The right of first refusal herein provided shall not apply to leases, subleases or tenancies having a term of less than sixty-one (61) days, but any such lease or tenancy shall not be renewable nor extended except by compliance with the provisions herein. Such notice and copy shall be delivered to the Board of Directors for all of the owners. The remaining unit owners through the Board of Directors, or a person named by them shall have the right to purchase, lease or rent the subject condominium unit upon the same terms and conditions as set forth in the offer therefor, provided written notice of such election to purchase, lease or rent is given to the selling, leasing or renting owner, and a matching down payment or deposit is provided to the selling, leasing or renting owner during the ten-day

period immediately following the delivery of the notice of the bona fide offer and copy thereof to purchase, lease or rent.

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

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

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

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

The right of first refusal, as provided herein, shall extend and run for the period of the lives of Charles D. Burg and Lawrence E. Schauf, two of the incorporators of LAKE HAUS CONDOMINIUM ASSOCIATION, NO. 1, and the survivor of them, plus twenty-one years.

Except as is otherwise provided in paragraph 26, and except upon a transfer of title to a Public Trustee or to a first mortgagee, each and every conveyance by a grantor(s) of a condominium unit shall be, for all purposes, deemed to include and incorporate in such instrument of conveyance an agreement that the grantee carry out the provisions of the "right of first refusal" as provided in this paragraph.

26. Exemption from Right of First Refusal. In the event of any default on the part of any owner under any first mortgage which entitles the holder thereof to foreclose same, any sale under such foreclosure, including delivery of a deed to the first mortgagee in lieu of such foreclosure, shall be made free and clear of the provisions of paragraph 25, and the purchaser (or grantee under such deed in lieu of foreclosure) of such condominium unit shall be thereupon and thereafter subject to the provisions of this Declaration and the By-Laws of the Association. If the purchaser following such foreclosure sale (or grantee under deed given in lieu of such foreclosure) shall be the then holder of the first mortgage, or its nominee, the said holder or nominee may thereafter sell and convey the condominium unit free and clear of the provisions of paragraph 25, but its grantee shall thereupon and thereafter be subject to all of the provisions hereof.

The following transfers are also exempt from the provisions of paragraph 25:

(a) The transfer by operation of law of a deceased joint tenant's interest to the surviving joint tenant(s).

(b) The transfer of a deceased's interest to a devisee by will or his heirs at law under intestacy laws.

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

(d) The transfer of all or any part of an owner's interest to a corporation; provided, however, that at least fifty percent (50%) of the stock of such corporation is thereafter owned and retained by that owner. A transfer of stock by one or more shareholders of a corporation owning a condominium unit; provided, however, that at least fifty percent (50%) of the stock is retained by the shareholders of the corporation.

Such persons, owners or grantees acquiring an interest shall be subject to all of the provisions of paragraph 25 except as is provided herein.

27. Certificate of Compliance - Right of First Refusal. A certificate, executed and acknowledged by the Secretary of the Association, stating that the provisions of paragraph 25 had been satisfied by a Condominium Unit Owner, or that such transfer or lease is exempt from the provisions of this Declaration and that the Board of Directors of the Association have approved of the proposed sale or lease, shall be conclusive on the Association and the Condominium Unit Owners in favor of all persons who rely thereon in good faith. Such certificate shall be furnished to any Unit Owner who has in fact complied with the provisions of paragraph 25 or in respect to whom the provisions of paragraph 26 apply.

28. Association as Attorney-in-Fact. This Declaration does hereby make mandatory the irrevocable appointment of an attorney-in-fact to deal with the property upon its destruction, repair or obsolescence.

Title to any condominium unit is declared and expressly made subject to the terms and conditions hereof, and acceptance by any grantee of a deed from the Declarant or from any owner shall constitute appointment of the attorney-in-fact herein provided. All of the owners irrevocably constitute and appoint LAKE HAUS CONDOMINIUM ASSOCIATION, NO. 1, a Colorado corporation, not-for-profit, their true and lawful attorney in their name, place and stead for the purpose of dealing with the property upon its destruction or obsolescence as is hereinafter provided. As attorney-in-fact, the Association, by its president and secretary, shall have full and complete authorization, right and power to make, execute and deliver any contract, deed or any other instrument with respect to the interest of a condominium unit owner which are necessary and appropriate to exercise the powers herein

granted. Repair and reconstruction of the improvement(s) as used in the succeeding subparagraphs means restoring the improvement(s) to substantially the same condition in which it existed prior to the damage, with each unit and the general and limited common elements having substantially the same vertical and horizontal boundaries as before. The proceeds of any insurance collected shall be available to the Association for the purpose of repair, restoration or replacements unless the owners and all first mortgagees agree not to rebuild in accordance with the provisions set forth hereinafter.

(a) In the event of damage or destruction due to fire or other disaster, the insurance proceeds, if sufficient to reconstruct the improvement(s) shall be applied by the Association, as attorney-in-fact, to such reconstruction, and the improvement(s) shall be promptly repaired and reconstructed. The Association shall have full authority, right and power, as attorney-in-fact, using the proceeds of insurance and the proceeds of an assessment to be made against all of the owners and their condominium units. Such deficiency assessment shall be a common expense and made pro rata according to each owner's percentage interest in the general common elements and shall be due and payable within thirty (30) days after written notice thereof. The Association shall have full authority, right and power, as attorney-in-fact, to cause the repair or restoration of the improvements using all of the insurance proceeds for such purpose notwithstanding the failure of an owner to pay the assessment. The assessment provided for herein shall be a debt of each owner and a lien on his condominium unit and may be enforced and collected as is provided in paragraph 21. In addition thereto, the Association, as attorney-in-fact, shall have the absolute right and power to sell the condominium unit of any owner refusing or failing to pay such deficiency assessment within the time provided, and if not so paid, the Association shall cause to be recorded a notice that the condominium unit of the delinquent owner shall be sold by the Association, as attorney-in-fact. The proceeds derived from the sale of such condominium unit shall be used and disbursed by the Association, as attorney-in-fact, in the following order:

- (1) For the payment of the balance of the lien of any first mortgage;
- (2) For payment of taxes and special assessment liens in favor of any assessing entity;
- (3) For payment of unpaid common expenses;
- (4) For payment of junior liens and encumbrances in the order of and to the extent of their priority; and
- (5) The balance remaining, if any, shall be paid to the condominium unit owner.

(c) If more than fifty percent (50%) of the replacement value of all of the condominium units are destroyed or damaged, and if the owners representing an aggregate ownership interest of sixty-six and two-thirds percent (66-2/3%), or more, of the general common elements - do not voluntarily, within

one hundred (100) days thereafter, make provisions for reconstruction, which plan must have the unanimous approval or consent of every first mortgagee, the Association shall forthwith record a notice setting forth such fact or facts, and upon the recording of such notice by the Association's president and secretary, the entire remaining premises shall be sold by the Association, as attorney-in-fact for all of the owners, free and clear of the provisions contained in this Declaration, the Map and the By-Laws. The insurance settlement proceeds shall be collected by the Association, and such proceeds shall be divided by the Association according to each condominium unit owner's interest (as such interest appear on the policy or policies), and such divided proceeds shall be paid into separate accounts, each such account representing one of the condominium units. Each such account shall be in the name of the Association, and shall be further identified by the condominium unit designation and the name of the owner. From each separate account the Association, as attorney-in-fact, shall forthwith use and disburse the total amount of each of such accounts, without contribution from one account to another, toward the partial or full payment of the lien of any first mortgage against the condominium unit represented by such separate account. Thereafter, each such account shall be supplemented by the apportioned amount of the proceeds derived from the sale of the entire property. Such apportionment shall be based upon each condominium unit owner's percentage interest in the general common elements. The total funds of each account shall be used and disbursed, without contribution from one account to another, by the Association, as attorney-in-fact, for the same purposes and in the same order as it provided in sub-paragraph (b) (1) through (5) of this paragraph. The provisions contained in this sub-paragraph shall not hinder the protection given to a first mortgagee under a mortgage endorsement.

If the owners representing an aggregate ownership interest of sixty-six and two-thirds percent (66-2/3%), or more, of the general common elements adopt a plan for reconstruction, which plan has the unanimous approval of all first mortgagees, then all of the owners shall be bound by the terms and other provisions of such plan. Any assessment made in connection with such plan shall be a common expense and made pro-rata according to each owner's percentage interest in the general common elements and shall be due and payable as provided by the terms of such plan, but not sooner than thirty (30) days after written notice thereof. The Association shall have full authority, right and power, as attorney-in-fact, to cause the repair or restoration of the improvements using all of the insurance proceeds for such purpose notwithstanding the failure of an owner to pay the assessment. The assessment provided for herein shall be a debt of each owner and a lien on his condominium unit and may be enforced and collected as it provided in paragraph 21. In addition thereto, the Association, as attorney-in-fact, shall have the absolute right and power to sell the condominium unit of any owner refusing or failing to pay such assessment within the time provided, and if not so paid, the Association shall cause to be recorded a notice that the condominium unit of the delinquent owner shall be sold by the Association. The proceeds derived from the sale of such condominium unit shall be used and disbursed by the Association, as attorney-in-fact, for the same purposes and in the same order as is provided in sub-paragraph (b) (1) through (5) of this paragraph.

(d) The owners representing an aggregate ownership interest of eighty-five percent (85%), or more, of the general common elements may agree



that the condominium units are obsolete and adopt a plan for the renewal and reconstruction, which plan has the unanimous approval of all first mortgagees of record at the time of the adoption of such plan. If a plan for the renewal or reconstruction is adopted, notice of such plan shall be recorded, then the expense thereof shall be payable by all of the owners as common expenses; provided, however, that an owner not a part to such a plan for renewal or reconstruction may give written notice to the Association within fifteen (15) days after the adoption of such plan that such unit be purchased by the Association for the fair market value thereof. The Association shall then have fifteen (15) days within which to cancel such plan. If such plan is not cancelled then the condominium unit shall be purchased according to the following procedures. If such owner and the Association can agree on the fair market value thereof, then such sale shall be consummated within thirty (30) days thereafter. If the parties are unable to agree, the date when either party notifies the other that he or it is unable to agree with the other shall be the "commencing date" from which all periods of time mentioned herein shall be measured. Within ten (10) days following the commencement date, each party shall nominate in writing (and give notice of such nomination to the other party) an appraiser who shall be a member of the Denver Board of Realtors. If either party fails to make such a nomination, the appraiser nominated shall, within five (5) days after default by the other party, appoint and associate with him another appraiser to be selected from the Denver Board of Realtors. If the two appraisers designated by the parties, or selected pursuant hereto in the event of the default of one part, are unable to agree, they shall appoint another qualified appraiser to be umpire between them if they can agree on such person. If they are unable to agree upon such umpire, such umpire shall be selected from the panel of arbitrators of the American Arbitration Association. The decision of the appraisers as the fair market value, or in the case of their disagreement, then such decision of the umpire, shall be final and binding. The expenses and fees of such appraisers and umpire shall be borne equally by the Association and the owner. The sale shall be consummated within fifteen (15) days thereafter, and the Association, as attorney-in-fact, shall disburse such proceeds as is provided in sub-paragraph (b) (1) through (5) of this paragraph.

(e) The owners representing an aggregate ownership interest of eighty-five percent (85%), or more, of the general common elements may agree that the condominium units are obsolete and that the same should be sold. Such agreement must have the unanimous approval of every first mortgagee. In such instance, the Association shall forthwith record a notice setting forth such fact or facts, and upon the recording of such notice by the Association's president and secretary, the entire premises shall be sold by the Association, as attorney-in-fact for all of the owners, free and clear of the provisions contained in this Declaration, the Map and the By-Laws. The sales proceeds shall be apportioned between the owners on the basis of each owner's percentage interest in the general common elements, and such apportioned proceeds shall be paid into separate accounts, each such account representing one condominium unit. Each such account shall be in the name of the Association, and shall be further identified by the condominium unit designation and the name of the owner. From each separate account the Association, as attorney-in-fact, shall use and disburse the total amount of each of such accounts, without contribution from one account to another, for the same

purposes and in the same order as is provided in sub-paragraph (b) (1) through (5) of this paragraph.

29. Property for Common Use. The Association may acquire and hold for the use and benefit of all of the condominium owners, real, tangible and intangible personal property and may dispose of the same by sale or otherwise, and the beneficial interest in any such property shall be for the common use and enjoyment of the condominium owners and occupants for so long as such ownership continues and the Association retains title to such property.

30. Registration by Owner of Mailing Address. Each owner shall register his mailing address with the Association, and except for monthly statements and other routine notices, all other notices or demands intended to be served upon an owner shall be sent by either ordinary or certified mail, postage prepaid, addressed in the name of the owner at such registered mailing address. All notices, demands or other notices intended to be served upon the Board of Directors of the Association shall be sent by certified mail, postage prepaid, to 1544 York Street, Denver, Colorado 80206 until such address is changed by a notice of address change duly recorded in the office of the Clerk and Recorder, Summit County, Colorado.

31. Period of Condominium Ownership. The separate condominium estates created by this Declaration and the Map shall continue until this Declaration is revoked in the manner and as is provided in paragraph 18 of this Declaration or until terminated in the manner and as is provided in sub-paragraphs (c) or (e) of paragraph 28 of this Declaration.

32. Reservation to Enlarge Condominium Project.

(a) Declarant expressly reserves the right to enlarge this condominium project from time to time, by adding thereto other buildings or improvements located on real property which is separate, adjoining or in close proximity to that described in Exhibit "A". Such addition or additions to this condominium project may be submitted to this condominium project by the Declarant, and such submission shall be expressed in and by one or more duly recorded supplements to this Declaration and by one or more supplements to the Map filed for record.

(b) In form and substance, any supplement to this Declaration may provide for the division of such additional real property and improvements into condominium units similar to the division made of the real property and improvements in Exhibit "A" of this Declaration. Each unit shall be identified by number or letter, and each building shall be identified by a symbol or designation dissimilar to any other building under this Declaration and the Map applicable thereto. The undivided interest in and to the general common elements appurtenant to each such unit shall not be a part of the general common elements of the condominium units described in and initially created by this Declaration and the Map applicable thereto. The undivided interest in the general common elements (whether created by this Declaration or a supplement thereto) shall have a permanent character and

shall not be altered without the consent of all of the condominium unit owners expressed in a duly recorded Amendment to this Declaration.

(c) Except where clearly inappropriate or where expressly provided in such supplement, all of the provisions contained in this Declaration shall be applicable to such additional condominium units. Until the recording of the Certificate of Completion as provided in sub-paragraph 32(h) hereof, common expenses of such additional units shall be separately assessed, and all insurance policies thereon shall cover only such additional condominium units.

(d) Declarant specifically reserves the right to provide in such supplemental declaration or declarations covering such separate real property that it will also be governed by the Certificate of Incorporation and By-Laws of LAKE HAUS CONDOMINIUM ASSOCIATION, NO. 1, a Colorado corporation not-for-profit, or such other non-profit Colorado corporation as may be designated by the Declarant, and that with respect to said addition or additions to the project, said Association will assume, perform and discharge all, or any part of, the duties and functions that the Association is to perform and assume under this Declaration.

(e) Declarant also specifically reserves the right to provide in such supplemental declaration or declarations covering such separate real property that each of the condominium owners in said addition or additions to the project shall be regular or limited members of said Association, and shall have all or any part of the rights and privileges of membership therein, including but not limited to, the right to use any recreation area and all other facilities or other property owned by said Association, and such members shall be subject to all, or any part of, the obligations of members of the Association.

(f) In the event of damage, destruction or obsolescence of the property wherein the provisions of paragraph 28 of this Declaration become applicable, only the owners of the condominium units in the particular development phase (i.e. covered by this initial Declaration or by a supplement thereto) affected by such damage, destruction or obsolescence shall be entitled to vote upon the happening or occurrence of any of the events contemplated under and by the provisions set forth in said paragraph 28 and the sub-paragraphs thereof. The initially constructed condominium improvements upon property described in Exhibit "A", and the additional condominium improvements to be constructed upon real property which is separate, adjoining or in close proximity thereto, and included hereunder by a supplemental declaration shall be a part of the whole project, but each such separately constructed and submitted development phase shall be considered a separate condominium for the purposes of said paragraph 28, and the aggregate interests of each of such separately constructed development phase shall be considered one hundred percent (100%) for such voting purposes.

(g) Except as is provided in sub-paragraph (f) of this paragraph, each condominium unit owner shall be entitled to vote his percentage or fractional interest in and to the general common elements, and the aggregate of all of the undivided interests submitted to and making up the total condominium project shall be considered one hundred percent (100%) for such voting purposes.

(h) Upon the completion of the condominium project, the Declarant shall cause to be recorded with the Clerk and Recorder of Summit County a Certificate of Completion which shall describe the property which has been developed and shall release any part of any separate, adjoining and abutting parcels of land owned by Declarant in Section 21 T. 5 S., R. 77 W. of the 6th P.M., Summit County, Colorado not included within the condominium project by this Declaration or by any supplement thereto, and all such undeveloped property shall be released from any and all restrictions and covenants imposed by this Declaration or any supplement thereto. Following the recording of said Certificate of Completion, and notwithstanding the provisions of paragraph 13 or sub-paragraph 32(f) hereof, assessment of common expenses for all the units in the completed project shall thereafter be made on the basis of the condominium project being one single condominium, and upon the happening or occurrence of any of the events contemplated under and by the provisions set forth in paragraph 23 of the Declaration, the owners and mortgagees of all units within the condominium project shall be entitled to vote thereon.

### 33. Restrictive Covenants.

(a) Except as otherwise expressly authorized in paragraph number 11 hereof, the property is hereby restricted to residential dwellings for residential uses and uses related to the convenience and enjoyment of such residential use. All seven buildings or structures erected upon the property shall be of new construction and no buildings or structures shall be moved from other locations onto said premises, and no subsequent buildings other than buildings shown on the Map shall be built on the property where the builder theretofore programmed and constructed a building. No structures of a temporary character, trailer, basement, tent, shack, garage, barn, or other outbuilding shall be used or installed on any portion of the premises at any time either temporarily or permanently.

(b) No animals, livestock or poultry of any kind shall be raised, bred or kept on the property, except that dogs, cats, or other household pets may be kept, provided that they are not kept, bred or maintained for any commercial purposes.

(c) No advertising signs, billboards, unsightly objects shall be erected, placed or permitted to remain on the premises. Further, no business activities of any kind whatever shall be conducted in any building or on any portion of the property; however, the foregoing covenants shall not apply to the business activities, signs and billboards or the construction and maintenance of buildings and improvements, if any, of the Declarant, its agents, contractors and assigns during the construction and sale period, and of the Association, its successors and assigns, in furtherance of its powers and purposes as herein set forth.

(d) No clotheslines shall be erected or placed on the land. All rubbish, trash and debris shall be kept in the places provided for that purpose. No trash burning or other open fires shall be permitted on the exterior premises of the property.

(e) Except in the individual patio areas, balconies, court-yards and atriums, no planting or gardening shall be done, and no fence, hedge or wall shall be erected or maintained upon said property, except such as are installed in accordance with the initial construction of buildings located thereon or as approved by the Association's Board of Directors or its designated representative.

(f) No nuisances shall be allowed upon the property nor shall any use, practice or activity be allowed which is a source of annoyance to residents or which interferes with the peaceful possession and proper use of the property by its residents.

(g) No improper, offensive or unlawful use shall be made of the property nor any part thereof and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereof shall be observed. The respective responsibilities of condominium owners and the Association of complying with the requirements of governmental bodies which require maintenance, modification or repair of the property shall be the same as hereinabove provided for the maintenance and repair of that portion of the property subjected to such requirements.

(h) Additional regulations concerning use of the property described in Exhibit "A" may be promulgated by the Association as hereinabove set forth; provided, however, that copies of such regulations are furnished to each condominium owner prior to the time that the same become effective. Such regulations shall not impair or limit the rights of mortgagees.

(i) No exterior additions, or alterations to any buildings nor changes in fences, hedges, walls, gates and other structures shall be commenced, erected or maintained until the plans and specifications showing the nature, kind, shape, height, materials, location and approximate cost of same shall have been submitted to and approved in writing as to conformity and harmony or external design and location with existing structures in the property by an architectural committee composed of the Board of Directors of the Association, or by a representative designated by the Board of Directors.

(j) The Association's Board of Directors shall have the right and power to provide for the construction of additional recreational and other common facilities, from time to time, as in their discretion appears to be in the best interests of the Association and all owners.

(k) Violation of any of the covenants or restrictions herein contained shall give to Declarant or its agent or assigns the right to enter upon the property upon or as to which such violation exists, and to summarily abate, construct, complete or remove at the expense of the owner thereof, any erection, thing or condition that may be or exist thereon contrary to the intent and meaning of the provisions hereof; and Declarant or its agent or assigns shall not thereby be deemed guilty of any manner of trespass for such entry, abatement or removal.

Upon failure of the Declarant or its agents or assigns to take any such action within thirty (30) days after such violation occurs, either the Association

or any owner of land subject to these covenants may enforce these covenants and restrictions by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages, and against the land to enforce any lien created by these covenants; and failure by any such owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

(1) Invalidation of any of these covenants or any part thereof by judgments or court order shall in no way effect any of the other provisions hereof, which shall remain in full force and effect.

34. Recreation Association. Prior to the date of the recording of this declaration, Peerless Development Corporation has caused the formation of Swan Mountain Recreation Association, a non-profit Colorado corporation (hereinafter called Recreation Association), for the specific and primary purposes, among others, of providing for the development, maintenance, improvement and preservation of certain open, recreational or common areas in the general vicinity of the project (which areas shall hereinafter be referred to as the "Recreation Area"). Each person or entity who shall hereafter become an owner of a condominium unit (or any undivided interest therein), which is subject to this Declaration, shall by virtue of such ownership become a member of such Recreation Association and shall be subject to and be bound by the terms and provisions of the Articles of Incorporation and such By-Laws, rules and regulations as shall be lawfully adopted by said Recreation Association, and more specifically such owner shall be bound by action of such Recreation Association in the imposition of assessments as hereinafter provided.

In addition to each owner of a condominium unit who shall automatically become a member of the Recreation Association, membership in the Recreation Association shall be automatically awarded to each person or entity who shall, after the recording of this Declaration, be an owner or contract purchaser of a townhouse lot or other residential lot or unit, located upon certain other lands lying within portions of Sections 21, 27, 28 and 34, Township 5 South, Range 77 West of the 6th Principal Meridian, Summit County, Colorado, upon which at any time prior to January 1, 1980, the Declarant shall impose covenants and restrictions providing that such persons or entities shall be members of the Recreation Association.

All such memberships shall be appurtenant to the condominium unit or other residential lots or units with respect to which they are created.

35. Recreation Association Voting Classes: The Recreation Association shall have two classes of voting membership:

Class A members shall include all the owners, of condominium units or other residential lots, with the exception of the Declarant, and shall be entitled to one vote for each condominium unit or other residential lot owned.

The Class B Member shall be the Declarant and shall be entitled to three (3) votes for each condominium unit or residential lot owned. The Class B membership, with respect to the condominium units covered by this Declaration,

shall cease and be converted to Class A membership when the total votes outstanding in the Class A membership, arising from ownership of property covered by such Declaration is equal to or exceeds the total votes outstanding in the Class B membership arising from ownership of property covered by such Declaration.

36. Easement of Enjoyment of Recreation Area. Every member of the Recreation Association (hereinafter referred to as "Recreation member") shall have a right and easement of enjoyment in and to the Recreation Area and such easement shall be appurtenant to and shall pass with the membership, subject to the following provisions:

(a) the right of the Recreation Association to limit the number of guests of members;

(b) the right of the Recreation Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Recreation Area;

(c) the right of the Recreation Association after notice and hearing to suspend the voting rights and right to use of any recreational facilities situated upon the Recreation Area by a Recreation Member for any period during which any assessment against him remains unpaid; and for a period not to exceed 15 days for any infraction;

(d) the right of the Recreation Association to dedicate or transfer all or any part of or all or any of its rights into, the Recreation Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedications or transfer shall be effective unless an instrument signed by two-thirds of each class of members agreeing to such dedication or such transfer has been recorded.

Any Recreation Member may delegate, in accordance with the Recreation Association By-Laws, his right to enjoyment of the Recreation Area and facilities to the members of his family, his tenants, or contract purchasers who reside on his residential unit or lot.

37. Title to the Recreation Area. The Declarant hereby covenants for itself, its successors and assigns, that within ninety (90) days following the recording by it of any residential plat hereafter filed with the Clerk and Recorder of Summit County, Colorado for portions of the lands which were owned by Declarant in said Sections 21, 27, 28 and 34, Township 5 South, Range 77 West, and which were unplatted as of January 1, 1973, it will convey fee simple title to the Recreation Association of such portion of the lands contained within said plat (or immediately adjacent thereto) as it shall then determine to be available for recreational purposes in accordance with its most current development plan for a planned unit development as approved by the Board of County Commissioners of Summit County, Colorado. In any event the total lands to be so conveyed by the Declarant prior to January 1, 1980, to the Recreation Association, for use as its Recreation Area, shall not be less than 100 acres.

**38. Covenant For Assessments By Recreation Association.**

(a) **Creation of Lien and Personal Obligation of Assessments:** Declarant, as owner of the property described in Exhibit "A", hereby covenants, and each Owner of any condominium unit developed thereon, by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, is deemed to covenant and agree to pay to the Recreation Association:

(1) annual assessments or charges (which the Recreation Association may collect in monthly installments), and

(2) special assessments for capital improvements.

Such assessments shall be fixed, established, and collected from time to time as hereinafter provided. The annual and special assessments, together with such interest thereon and costs of collection thereof, as hereinafter provided, shall be a charge on the Condominium Unit or other residential lot or unit to which the Recreation Membership is appurtenant, and shall be a continuing lien thereon. Each such assessment, together with such interest and costs including reasonable attorney's fees, shall also be the personal obligation of the Recreation Member. The personal obligation shall not pass to his successors in membership unless expressly assumed by them.

(b) **Purpose of Assessments:** The assessments levied by the Recreation Association shall be used exclusively for the purpose of promoting the recreation of its members and in particular for the development, improvement, operation and maintenance of the Recreation Area and the facilities thereon and for goods and services deemed by the Recreation Association to be proper and affording recreational opportunities.

(c) **Notice of Assessments:** Upon adoption by the Board of Directors of the Recreation Association of a resolution levying the assessment, the Secretary of the Recreation Association shall give notice thereof in writing. The notice shall set forth the name of the Recreation Association, the location of its principal office, the date of the Directors' meeting at which the resolution levying the assessment was adopted, the fact of adoption, the amount of the assessment, to whom the assessment is payable and where, the date on which the assessment if unpaid will become delinquent, the fact that if the assessment is not paid the amount shall become a lien on the Recreation Members' real property within the project, and that the assessment shall be collectible either by an action at law to recover the amount thereof or by judicial foreclosure. The notice shall further state that in the event of court action or foreclosure, the Recreation Association shall be entitled to recover a reasonable attorney's fee and court costs if any, in addition to the amount of the assessment and interest thereon.

The notice of assessment shall be served on each Recreation Member personally not less than thirty (30) days prior to the delinquent date. In lieu of personal service, however, the notice may be sent by mail addressed to each Recreation Member at his address as it appears on the books of the Recreation Association.



(d) **Liability and Lien:** Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of 10 per cent per annum. In the event of a default or defaults in payment of any assessment, and in addition to any other remedies herein or by law provided, the Recreation Association may enforce each such obligation as follows:

(1) By suit or suits at law to enforce each such assessment obligation. Any judgment rendered in any such action shall include where permissible under any law, a sum for reasonable attorney's fees in such amount as the court may adjudge against such defaulting owner. Upon full satisfaction of any such judgment, it shall be the duty of the Recreation Association by any authorized officer thereof to execute and deliver to the judgment debtor an appropriate satisfaction thereof.

(2) At any time within ninety (90) days after the delinquency of any assessment, the Recreation Association may give a notice to the defaulting Recreation Member which said notice shall state the date of the delinquency, the amount of the delinquency, and the interest charge for such delinquency and make a demand for payment thereof.

If such delinquency and interest is not paid within ten (10) days after delivery of such notice, the Recreation Association may elect to file a claim of lien against the Condominium Unit of such delinquent Recreation Member. Such claim of lien shall state (i) the name of the delinquent Recreation Member or reputed Recreation Member, (ii) a description of the Condominium Unit against which claim of lien is made, (iii) the amount claimed to be due and owing (with any proper off-set allowed), (iv) that the claim of lien is made by the Recreation Association pursuant to the terms of these restrictions (giving the date of execution and the date, book and page reference of the recording hereof in the Office of the Clerk and Recorder for the County of Summit), and (v) that a lien is claimed against said described Condominium Unit in an amount equal to the amount of the stated delinquency plus interest.

Any such claim of lien shall be signed and acknowledged by an authorized officer of the Recreation Association. Upon recordation of a duly executed original or copy of such claim in the County of Summit, the lien claimed therein shall immediately attach and become effective subject only to limitations hereinafter set forth. Each delinquency shall constitute a separate basis for a claim of lien or a lien. Any such lien may be foreclosed by appropriate action in court in the manner provided by law for the foreclosure and sales of real estate on execution issued out of any court of record of the State of Colorado. In the event of such foreclosure and sale, the sheriff or other authorized officer conducting said sale shall be entitled to actual expenses and such fees as may be allowed by law.

No Recreation Member may waive or otherwise escape liability for the assessments provided for herein by non-use of the Recreation Area or abandonment of his Condominium Unit.

(e) Basis and Maximum of Annual Assessments: Until January 1, 1975, the annual assessment shall be \$60.00.

(1) From and after January 1, 1975, the maximum annual assessment may be increased each year not more than 3% above the maximum assessment for the previous year without a vote of the membership.

(2) From and after January 1, 1975, the maximum annual assessment may be increased above 3% by the vote or written assent of 51% of the votes of each class of Recreation Member.

(3) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

(f) Special Assessments for Capital Improvements: In addition to the annual assessments authorized above, the Recreation Association may levy in any assessment year, a special assessment applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a described capital improvement upon the Recreation Area. An initial special development assessment in the amount of \$110.00 shall become due and owing from an Owner, other than the Declarant, at the time of the initial conveyance from the Declarant to such Owner of any Condominium Unit. Other than such initial special development assessment, no such special assessment may be made unless such assessment shall have the assent of 51% of the votes of each class of Recreation Members.

(g) Uniform Rate: All annual and special assessments must be fixed at a uniform rate and may be collected on a monthly basis.

(h) Action by Membership: Written notice of any meeting of the membership called for the purpose of taking action under sub-paragraphs 33(e) and 38(f) hereof shall be sent to all Recreation Members not less than 30 nor more than 60 days in advance of the meeting. The presence in person or by proxy of Recreation Members entitled to cast 60% of all the votes of each class shall constitute a quorum. If such a quorum is not present, another meeting may be called, subject to the notice requirements set forth above, and the required quorum at such subsequent meeting shall be one-half of the quorum required at the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

(i) Date of Commencement of Annual Assessments: The annual assessment provided for herein as to any given Recreation membership shall commence on the first day of the month following the execution of a contract of sale or deed which creates such membership, provided that the deed of conveyance covering the first segment of the Recreation Area to the Recreation Association by the Declarant has been recorded by that date. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment at least 30 days in advance of each annual assessment period. The due dates shall be established by the Board of Directors. The Recreation Association shall upon demand at any time furnish a certificate in writing, signed by an officer of the Recreation Association setting

forth whether the assessments on a specified membership have been paid. A reasonable charge may be made by the Board for the issuance of these certificates. Such certificates shall be conclusive evidence of payment of any assessment therein stated to have been paid.

(j) Subordination: The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer on any Condominium Unit shall not affect the assessment lien. Sale or transfer of any Condominium Unit pursuant to foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which become due prior to such sale or transfer. No sale or transfer shall relieve such Condominium Unit from liability for any assessment thereafter becoming due or from the lien thereof.

DATED at Denver, Colorado, this 2nd day of March, 1973.

PEERLESS DEVELOPMENT CORPORATION

By:

  
President

ATTEST:

  
  
Secretary

STATE OF COLORADO )

COUNTY OF Denver )

) ss.

The above and foregoing Condominium Declaration was acknowledged before me this 2nd day of March, 1973, by Steven Grossbard as President, and by Dwayne J. Ninneman as assistant Secretary of PEERLESS DEVELOPMENT CORPORATION, a Colorado corporation.

Witness my hand and official seal.

  
Notary Public

My Commission expires January 25, 1976