



507840

Page: 1 of 14
03/14/2005 11:56f
R 71.00 D 0.00

**CONDOMINIUM DECLARATION
FOR
LOT 10 CONDOMINIUMS - HOAGLUND RANCH HISTORIC P.U.D.**

KNOW ALL MEN BY THESE PRESENTS:

A. HENRY EDWARD BOOHER, JR. and CHERIE L. BOOHER, hereinafter collectively called "Declarant," are the owners of improved real property situated in Pitkin County, Colorado, upon which is constructed a two (2) unit condominiumized building, described as follows:

Lot 10,
HOAGLUND RANCH HISTORIC PLANNED UNIT DEVELOPMENT, PHASE ONE,
According to the Plat thereof recorded in Plat Book 70 at Page 40 as Reception No.
501018 of the real estate records of Pitkin County,

County of Pitkin,
State of Colorado,

(hereinafter referred to as the "Real Property") and also known as Units A and B, Lot 10 Condominiums - Hoaglund Ranch Historic P.U.D. (the "Condominium Units") with street addresses of 0151 and 0149 Hoaglund Ranch Road, Basalt, Colorado 81621, respectively.

B. The Real Property is presently developed with the residential improvements as depicted on the Condominium Map of Lot 10 Condominiums - Hoaglund Ranch Historic P.U.D.

C. Declarant desires to create a condominium project of the Real Property under the Condominium Ownership Act of the State of Colorado (C.R.S. § 38-33-101, *et seq.*) and those provisions of the Colorado Common Interest Ownership Act applicable to the project (C.R.S. § 38-33.3-116), and to establish thereby a plan for the ownership in fee simple of real property estates consisting of the area or space contained in each of the "Units" as hereinafter defined, and the ownership by one or more of the individual and separate owners thereof, as tenants in common, of all of the remaining real property hereinafter defined and referred to as the "Common Elements."

NOW, THEREFORE, Declarant does hereby publish and declare that the following terms, covenants, conditions, easements, uses, restrictions, limitations and obligations shall be deemed to run with the land, shall be a burden upon and a benefit to Declarant, Declarant's heirs, personal representatives, successors and assigns and any persons acquiring or owning an interest in the Real Property and improvements, their grantees, lessees, successors, heirs, executors, administrators, devisees or assigns.

1. DEFINITIONS. Unless the context shall expressly provide otherwise, the following definitions shall apply:

(a) "Unit" and/or "Condominium Unit" means the individual air space contained within the interior surfaces of the perimeter walls, floors, ceilings, windows, doors and built-in fireplaces, if any, of each of the residences located in the duplex situated on the Real Property, together with all fixtures and improvements therein contained, including balconies and



decks appurtenant to each Unit and including the undivided interests in the Common Elements appurtenant to such Unit, but not including any of the structural components of such building within a Unit, which Units are shown on the Condominium Plat and identified thereon as Unit 1 and Unit B.

(b) "Owner" means the person or persons or entity or entities, including Declarant, who owns fee simple title to a Condominium Unit. The term Owner shall not include the owner or owners of any lesser estate or interest.

(c) "Mortgage" means any mortgage, deed of trust, or other security instrument by which a Condominium Unit or any part thereof is encumbered.

(d) "Mortgagee" means any person or entity named as the mortgagee or beneficiary under any mortgage or deed of trust which encumbers the interest of any Owner.

(e) "Condominium Plat" means the Condominium Plat Lot 10 Condominiums - Hoaglund Ranch Historic P.U.D. for filed in the records in the office of the Clerk and Recorder of Pitkin County, Colorado. The Condominium Plat shall be recorded in the records of the Clerk and Recorder of Pitkin County, Colorado.

(f) "Common Elements" means: (i) all of the Real Property; (ii) the foundations, columns, girders, beams, supports, main walls, roofs and crawlspaces contained in each of the building improvements which are the subject of this Declaration, and the "party wall" dividing Units A and B as shown on the Condominium Plat; and (iii) the installations in such building consisting of the equipment and materials making up the central services such as tanks, pumps, motors, fans, compressors, ducts, power, sewer, light, gas, hot and cold water, heating, ventilating and air conditioning and, in general, all apparatus and installations existing for common use, if any (but excluding all mechanical systems and equipment serving only one Unit). None of the Common Elements may be conveyed to a person or entity other than a Condominium Unit Owner.

(g) "General Common Elements" means all Common Elements except Limited Common Elements, as hereinafter defined, and specifically including the common parking areas. None of the General Common Elements may be allocated subsequently as Limited Common Elements, without the written consent of all Owners.

(h) "Limited Common Elements" means the portions of the Common Elements designated herein or on the Condominium Plat for the exclusive use of the Owner or Owners of a Condominium Unit or Units.

The portions of the Real Property designated on the Condominium Plat, "Unit A," and the Limited Common Elements appurtenant thereto, are hereby designated for the exclusive use of the Owner of Condominium Unit A. The portions of the Real Property designated on the Condominium Plat, "Unit B," and the Limited Common Elements appurtenant thereto, are hereby designated for the exclusive use of the Owner of Condominium Unit B.

(i) "Real Property" means: the real property situated in Pitkin County, Colorado, described above.



507840

Page: 3 of 14
03/14/2005 11:56f
R 71.00 D 0.00

(j) "Project" means the Real Property and all buildings and other improvements now or hereafter located on the Real Property, and all rights, easements and appurtenances belonging thereto.

(k) "Managing Agent" means the person or entity that is selected and appointed by the Owners of the Condominium Units pursuant to the provisions of paragraph 11 of this Declaration.

2. DIVISION INTO CONDOMINIUM UNITS. The Project is hereby divided into two (2) condominium units, which units may not be further divided into additional units, each consisting of a separate fee simple estate in a particular Condominium Unit and the following described appurtenant undivided fee simple interests in the Common Elements:

(a) Real Property Common Elements:

Unit A	50%
Unit B	50%

(b) Common Elements:

Unit A	50%
Unit B	50%

Each Owner shall own his appurtenant undivided interests in the Common Elements as a tenant in common with the Owner or Owners also owning an interest in such Common Elements. Each Unit and Owner shall have a 50% interest in the floor area ratio applicable to the Real Property as a whole.

3. INSEPARABILITY OF A UNIT. Each Unit and the undivided interests in the Common Elements appurtenant thereto shall be inseparable and may be conveyed, leased, encumbered, devised or inherited only as a Condominium Unit.

4. DESCRIPTION OF A CONDOMINIUM UNIT. Every deed, lease, mortgage, trust deed, will, or other instrument may legally describe a Condominium Unit by its identifying Unit number, followed by "Lot 10 Condominiums - Hoaglund Ranch Historic P.U.D.," with further reference to the recorded Declaration and Plat. For example "Unit A, Lot 10 Condominiums - Hoaglund Ranch Historic P.U.D., according to the Plat recorded in Plat Book _____ at Page _____ and subject to the Declaration for Lot 10 Condominiums - Hoaglund Ranch Historic P.U.D. recorded as Reception No. _____ of the Records of the Clerk and Recorder of Pitkin County, Colorado. Every such description shall be deemed good and sufficient for all purposes to sell, convey, transfer, encumber or otherwise affect not only the Unit, but also the General Common Elements and the Limited Common Elements appurtenant thereto. Each such description shall be construed to include the right to the use of the Limited Common Elements appurtenant thereto to the exclusion of all third parties not lawfully entitled to use the same.

5. SEPARATE ASSESSMENT AND TAXATION - NOTICE TO ASSESSOR. Declarant shall give written notice to the assessor of Pitkin County, Colorado, of the operation of condominium ownership of this property, as is provided by law, so that each Unit and the interests



appurtenant thereto shall be deemed a separate parcel and subject to separate assessment and taxation.

6. 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 Colorado.

7. NONPARTITIONABILITY OF COMMON ELEMENTS. The Common Elements shall be owned in common by the Owners as herein provided, and there shall be no judicial or other partition of the Common Elements or any part thereof, nor shall any Owner bring any action seeking partition thereof.

8. USE OF UNITS; GENERAL AND LIMITED COMMON ELEMENTS

(a) 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 Owner. No Owner shall obstruct that portion of the driveway designated as a General Common Element on the Condominium Plat or otherwise hinder another Owner's access to his Unit.

(b) The Condominium Plat identifies the side and rear yards appurtenant to each Unit as a Limited Common Element. Each of the Owners shall be solely responsible for maintaining such Owner's yard in good condition and repair. Each Owner shall perform all necessary watering, mowing, planting, pruning and other landscaping so as to maintain the appearance of the yard as viewable from the Project and the other Unit in an attractive, well-maintained condition. In the event proper yard care is not maintained with respect to either or both yards, the managing agent may give notice of necessary maintenance and, if such maintenance is not promptly performed, the managing agent may undertake such maintenance at the cost of such Owner.

9. EASEMENTS FOR ENCROACHMENTS. If any portion of the Common Elements now or hereafter encroaches upon a Unit, a valid easement for the encroachment and for its maintenance so long as it stands, shall and does exist. If any portion of a Unit now or hereafter encroaches upon the Common Elements or upon an adjoining Unit, a valid easement for the encroachment and for its maintenance so long as it stands, shall and does exist. For title or other purposes, such encroachment and easements shall not be considered or determined to be encumbrances either on Common Elements or the Units.

10. TERMINATION OF MECHANIC'S LIEN RIGHTS AND INDEMNIFICATION. No labor performed or materials furnished and incorporated in a Condominium Unit with the consent or at the request of the Owner thereof or his agent or his contractor or subcontractor shall be the basis for the filing against the Condominium Unit Owner not expressly consenting to or requesting the same, or against the interest in the Common Elements owned by any other Owner. Each Owner shall indemnify and hold harmless each of the other Owners from and against all liability arising from the claim of any lien against the Condominium Unit of any other Owner or against the Common Elements for construction performed or for labor, materials, services, or other products incorporated in or otherwise attributable to the Owner's Condominium Unit at such Owner's request.

11. ADMINISTRATION AND MANAGEMENT.

(a) Administration. The administration of the Project shall be governed by this Declaration and all duly adopted amendments thereto or supplements thereof and any Bylaws adopted by the Declarant or the Owners. Each Owner shall manage his own Condominium Unit, and the Limited Common Elements appurtenant thereto and the General Common Elements and the business and affairs of the Project shall be governed and managed jointly by the Owners unless the Owners of Units A and B mutually agree upon the appointment of a Managing Agent to administer both such Condominium Units and the Common Elements as set forth further herein. Notices of Appointment of the Managing Agent by the Owners of Units A and B hereunder shall be placed of record insofar as required by law. Until the sale both Units A and B, the initial Managing Agent of such Condominium Units and the Project shall be Declarant. All decisions with respect to administration and management shall be governed by the unanimous consent of the Owners. In the event the Owners are unable to agree upon any aspect of management or administration of their common interests in the Project or any other matter related to the Project, such disagreement or dispute shall be resolved in accordance with the provisions of paragraph 11(b) below.

(b) Dispute Resolution. In the event the Owners of Units A and B are unable to mutually agree upon any matter related to the use, management, repair or replacement of any General Common Element or the business and affairs of the Project, the Board of Directors of the Hoaglund Ranch Historic P.U.D. Homeowners Association (the "HOA") shall be authorized to make a binding decision resolving such dispute, and the Owners hereby irrevocably appoint the HOA to act in the capacity of an arbitrator for purposes of resolving such disagreements or disputes. In the event either or both of the Owners of the Units is a member of the Board of Directors of the HOA, such Owner(s) shall not be allowed to participate in the resolution of such disagreement or dispute except as an Owner of a Unit. Any dispute referred to the HOA for resolution shall be in writing and shall identify the dispute between the Owners and request a formal written resolution thereof. Any costs incurred in connection with such dispute resolution shall be deemed a cost of management of the Project payable equally by the parties and subject to assessment as set forth in this Declaration.

(c) Management Agreement. Until the sale of both Units, Declarant shall act as Managing Agent. Upon sale of both Units Declarant shall cease to act as Managing Agent and the Owners of Units A and B may vote to appoint a new Managing Agent as provided herein. The Owners may enter into a management agreement (the "Agreement") with a Managing Agent which shall provide for the management of the Project. The Agreement can be renewable for additional periods at the discretion of the Owners. Each Owner, his successor and assigns, shall be bound by the Agreement for the purposes therein expressed, including but not limited to: (i) Adopting, ratifying, confirming, and consenting to the execution of the Agreement by the Owners, and (ii) covenanting and promising to perform each and every one of the covenants, promises, and undertakings to be performed by Owners as provided in the Agreement.

(d) Association. The Owners may, but shall not be required to, establish an Association to manage the Common Elements, to be appointed as attorney-in-fact for condemnation or obsolescence purposes or for such other purposes and functions as the Owners deem desirable or appropriate. The Association may, but need not, be a Colorado not-for-profit corporation. If established, the Association shall be governed by Bylaws approved by the Owners. In the event of the establishment of an Association, all Owners shall automatically become members thereof.

12. RESERVATION FOR ACCESS - MAINTENANCE, REPAIR AND EMERGENCIES.

(a) The Owners shall have the irrevocable right to have access to each Unit from time to time during reasonable hours as may be necessary for the inspection, maintenance, repair or replacement of any of the General Common Elements or for making emergency repairs necessary to prevent damage to the General or Limited Common Elements or to another Unit or Units.

(b) Damage to the interior of any part of a Unit resulting from maintenance, repair, emergency repair or replacement of any of the General or Limited Common Elements or as a result of emergency repairs within a Unit at the instance of another Unit Owner shall be a Common Expense of all of the Owners of Units having an interest in such General Common Elements; 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.

13. OWNERS' MAINTENANCE AND REPAIR RESPONSIBILITY.

(a) For purposes of maintenance, repair, alteration and remodeling, an Owner shall be deemed to own and to be responsible for the exterior surfaces of such Owner's Unit and the Limited Common Elements assigned thereto, and the windows, doors, interior non-supporting walls, materials, ceilings and floors within the Unit. An Owner shall not be deemed to own any utilities running through his Unit which serve more than one Unit except as a tenant in common with the adjoining Unit Owner. Such obligation and right to repair, alter and remodel shall carry the obligation to replace any exterior finishing materials removed with similar or other types or kinds of finishing materials of equal or better quality, and to maintain the Limited Common Elements appurtenant thereto in good condition and repair and in a neat and clean condition. Any material alteration, remodeling or refinishing of the exterior of Units A and B or Common Elements shall require the prior mutual consent and approval of the Owners of both Units.

(b) An Owner shall maintain and keep the interior of his own Unit and the Limited Common Elements All fixtures and equipment installed within the Unit commencing at a point where the utility lines, pipes, wires, conduits or systems enter the Unit shall be maintained and kept in repair by the Owner thereof.

(c) No Owner may create obnoxious noise or activities or unsightly appearances including trash, abandoned vehicles or TV antennae or similar activities that would adversely affect the enjoyment or value of the other Unit. Declarant may from time to time adopt and amend Rules and Regulations as may be necessary for the operation of the Project with regard to matters not otherwise specifically addressed herein. After sale of both Units by Declarant, the Owners may, by mutual agreement, from time to time adopt and amend Rules and Regulations governing the operation of the Project with regard to matters not otherwise specifically addressed herein.

(d) The Owners shall be obligated to and shall provide for the care, operation, management, maintenance, improvement, repair and replacement of the General Common Elements so that such are kept in a good, clean, attractive, sanitary condition, order and repair, including without limitation removal of snow and other materials from the General Common

Elements to permit access to the Units keeping the Project safe, attractive and desirable; and making necessary or desirable alterations, additions, betterments, or improvements to the Common Elements.

(e) The Owners, either together, or through their Managing Agent, shall be jointly responsible for painting and/or staining the exterior of the Units (which shall be the same for both Units), for maintaining the roof, the exterior walls, foundation, parking areas and driveway, structural components, and all other areas designated as General Common Elements. The Owners (1) may obtain and pay for legal and accounting services necessary or desirable in connection with the operation of the Project, or the enforcement of this Declaration; and (2) may arrange with others to furnish lighting, heating, water, trash collection, sewer service, and other common services.

14. COMPLIANCE WITH PROVISIONS OF DECLARATION. Each Owner shall comply strictly with the provisions of this Declaration as the same may be lawfully amended from time to time. Failure so to comply shall be grounds for an action to recover sums due and for damages or injunctive relief or both, maintainable by the Managing Agent or by an aggrieved Owner or Owners.

15. REVOCAION OR AMENDMENT TO DECLARATION. This Declaration shall not be revoked nor shall any of the provisions herein be amended unless the Owners of both Condominium Units, and all of the holders of any recorded first mortgage or first priority deed of trust covering or affecting any or all Condominium Units consent and agree to such revocation or amendment by instruments which shall be duly recorded.

16. ASSESSMENT FOR UNITS A AND B COMMON EXPENSES.

(a) Annual Budget.

(1) An annual budget for common expenses shall be adopted by the Owners as hereinafter provided. Assessments shall be payable quarterly or at such greater or lesser intervals as the Owners may mutually agree, but in no event less often than annually. The assessments against each Unit shall be based upon advance estimates of cash requirements by the Owners to provide for the payment of all expenses growing out of or connected with the maintenance and operation of the General Common Elements, or furnishing such utility services as shall not be separately furnished and metered to the Units, which estimates may include, among other things: (i) taxes and special assessments, until the Units are separately assessed; (ii) premiums for all insurance which the Owners are required or permitted to maintain, (iii) landscaping and care of grounds, including snow removal; (iv) common lighting, heating and water charges; (v) any utility charges to the individual Condominium Units that are jointly metered; (vi) trash collection; (vii) sewer service charges; (viii) repairs and maintenance of the General Common Elements; (ix) security services; (x) management fees and expenses; (xi) legal and accounting fees; (xii) any deficit remaining from a previous period; (xiii) the creation of a reasonable contingency reserve, surplus and/or sinking fund; and, (xiv) any other expenses and liabilities which may be incurred within the Project for the benefit of the Owners under or by reason of this Declaration. All expenses will be assessed to the Units, as determined by the Owners in accordance with applicable guidelines as set out in this Declaration.

(2) Annually it shall be the responsibility of the Owners to establish and adopt an operating budget for the fiscal year. The budget shall be estimated based on the

previous year's budget and projected expenses for the coming year. The budget shall provide for the allocation of any surplus funds remaining from any prior budget period and will identify and set apart those expenses which are to be borne by the Owners of the Units. The Owners shall jointly adopt the annual budget. In the event the Owners are unable to agree upon the proposed budget, the last budget ratified by the Owners must be continued until such time as the Owners ratify a subsequent budget or enter into mediation to resolve the issue as further provided herein. The obligation to establish and adopt the operating budget may be delegated to the Managing Agent subject to the right of the Owners to review and adopt or reject the budget.

(3) The Owners of Units A and B shall be obligated to pay the assessments to meet the Common Expenses incurred in connection with such Units. The assessments shall be evenly divided between the Owner of Unit A and the Owner of Unit B. Assessments for the estimated Common Expenses, including all insurance except liability, shall be due as contracted for with the insurance company. The Managing Agent or other Owner incurring the cost shall prepare and deliver or mail to each Owner an itemized statement showing the various estimated or actual expenses for which the assessments are made.

(4) Any amount accumulated in excess of the amount required for annual expenses and reserves shall be credited according to each Owner's percentage of ownership in the Common Elements to the next installments due from the Owners under the current year's estimate, until exhausted, and any net shortage shall be added, according to each Owner's percentage of ownership in the Common Elements, to the next two installments due after rendering of the accounting. However, if budgeted, such excesses may serve to fund a reasonable reserve for contingencies and replacements. Extraordinary expenditures not originally included in the annual budget which may become necessary during the year shall be charged first against such reserve. If said annual budget proves inadequate for any reason, including nonpayment of any Owner's regular or special assessment, the Owners may at any time levy a further assessment, which shall be assessed to the Owners equally. Notice of such further assessment shall be served on all Owners by a statement in writing giving the amount and reasons therefor, and such further assessment shall become effective with the next payment which is due in accordance with the schedule of payment established by the Owners.

(5) In addition to the other provisions of this Declaration, the Owners (or the Managing Agent acting for and on behalf of the Owners) shall maintain copies of the budget, and accurate books and records of receipt, expenditures, assets, and liabilities of each of the Owners, and the same shall be open for inspection by the Owners required to pay Assessments during any financial report period for which inspection is sought, or any representative of such Owner duly authorized in writing, at such reasonable time or times during normal business hours as may be requested by such Owner.

(6) All funds collected hereunder shall be held in an account designated for such purpose and shall be expended solely for the purposes designated herein, and shall be deemed to be held in trust for the benefit, use and account of the Owners.

(7) Assessments for reasonable actual Common Expenses may be made, by the Managing Agent, or an Owner incurring the same, among other things, for the following: parking area maintenance including snow plowing; approved expenses for management; taxes and special assessments, until separately assessed; fire and casualty insurance with extended



507840

Page: 9 of 14
03/14/2005 11:55F
D 0.00

coverage and vandalism and malicious mischief insurance with endorsements attached issued in the amount of the maximum replacement value of Units A and B; casualty and other insurance premiums; landscaping and care of General Common Elements; common electrical, water, gas and sewer charges unless and until any or all of the above are separately metered; repairs and renovations; garbage collection; wages; legal and accounting fees; management fees; expenses and liabilities incurred by the Managing Agent or other Owner under or by reason of this Declaration; the payment of 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 appurtenant Common Elements. The omission or failure of the Managing Agent to fix the assessment for any quarter shall not be deemed a waiver, modification or a release of the subject Owner from their obligation to pay.

(b) Special Assessments. A special assessment is any assessment that is not levied pursuant to an approved budget. The Owners may levy one or more special assessments to provide, for the renovation, repair or replacement, to the extent not covered by insurance, or to provide for extraordinary maintenance, if they determine, to the General Common Elements. Owners shall ratify, by mutual agreement, any special assessment using the procedures set forth above as if the special assessment proposal were an annual budget, except to the extent a special assessment is necessary or appropriate for repair or replacement to the extent of an uninsured casualty or loss by condemnation as provided by the Act and except as necessary for emergency repairs, or except as necessary to assess against an Owner the expenses caused by such Owner. Special Assessments levied for roof repair or replacement or other capital improvements shall be kept in a fund for that purpose. Such fund may be established in advance of such expenditures.

17. INSURANCE. Upon the sale of any Unit by Declarant, one policy of public liability insurance; fire, casualty and extended coverage insurance; covering all of the General Common Elements shall be purchased and maintained in effect at all times by the Owners of both of the Condominium Units, in an amount deemed appropriate by such Owners, and its cost shall be shared by the Owners equally. Such insurance coverage for the General Common Elements shall including coverage for the exterior and perimeter walls of the Units, the structural components of the building including the roof and foundation, the common utility and mechanical systems for the building and all other components of the building and the Real Property, with the exception of the interior airspace Units from the finished surfaces of the perimeter walls into the Units, which comprise the General Common Elements. Insurance coverage on the furnishings, additions and improvements incorporated into a Unit, from the interior finished surfaces of the perimeter walls inside of each of the Units and all items of personal property belonging to an Owner, and casualty and public liability insurance coverage within each undivided Unit and those Limited Common Elements reserved for the exclusive use of a particular Unit Owner shall be the sole responsibility of such Owner.

18. OWNER'S PERSONAL OBLIGATION FOR PAYMENT OF ASSESSMENTS. The amount of the Common Expenses assessed against or incurred on account of a Condominium Unit shall be the personal and individual debt of such Owner. Suit to recover a money judgment for unpaid Common Expenses shall be maintainable by the Managing Agent, or any aggrieved Owner without foreclosure or waiving the lien securing it. No Owner may be exempt from liability for contribution towards the Common Expenses by Waiver of the use or enjoyment of any of the Common Elements or by abandonment of any Unit.

19. LIEN FOR NONPAYMENT OF COMMON EXPENSES. All sums due or unpaid for the share of Common Expenses chargeable to Condominium Units A and B, shall include interest at fifteen percent (15%) per annum and shall constitute a lien on the Unit superior to all other liens and encumbrances except:

(a) Tax and special assessment liens on the Unit in favor of any valid assessing entity; and

(b) All sums unpaid on an obligation secured by a first mortgage or first deed of trust of record, including all unpaid obligatory sums as may be provided by such encumbrance, including additional advances, refinance or extension of these obligations made prior to the assessment lien.

To evidence such lien, the aggrieved Owner or Managing Agent shall prepare a written notice setting forth the amount of the unpaid indebtedness, the name of the defaulting Owner of the Condominium Unit and a description of the Condominium Unit. Such a notice shall be signed by the aggrieved Owner or the Managing Agent, as appropriate, and may be recorded in the office of the Clerk and Recorder of Pitkin County, Colorado. Such lien for the Common Expenses shall attach from the date of the failure of payment of the debt, and may be enforced by foreclosure on the defaulting Owner's Condominium Unit by the aggrieved Owner or the Managing Agent in like manner as a mortgage or deed of trust on real property. In any such foreclosure the defaulting 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 attorneys' fees. The defaulting Owner shall also be required to pay to the foreclosing party a reasonable rental for the Condominium Unit during the period of foreclosure, and the foreclosing party shall be entitled to a receiver to manage the Unit. The foreclosing party shall have the power to bid on the Condominium Unit at foreclosure sale and to acquire and hold, lease, mortgage and convey such Condominium Unit.

The amount of the Common Expenses chargeable against Condominium Units A and B and the costs and expenses, including attorneys' fees, of collection shall also be a debt of the Owner at the time due. Suit to recover a money judgment for unpaid Common Expenses shall be maintainable without foreclosing or waiving the lien right securing it.

Any encumbrancer holding a lien on Condominium Units A or B may pay any unpaid Common Expense payable with respect to such Condominium Unit, and upon such payment such encumbrancer shall have a lien on such Condominium Unit for the amounts paid of the same priority as the lien for the encumbrancer's encumbrance.

20. LIABILITY FOR COMMON EXPENSE UPON TRANSFER OF CONDOMINIUM UNIT. Upon payment of a reasonable fee not to exceed one hundred dollars (\$100.00) and upon the written request of any Owner or any Mortgagee or prospective Mortgagee of Condominium Units A or B, the Managing Agent or the Owner shall issue a written statement setting forth the amount of the unpaid Common Expenses, if any, with respect to the subject Condominium Unit, the amount of the current quarterly assessment and the date such assessment becomes due, credit for advance payments or for prepaid items, including but not limited to insurance premiums, which shall be conclusive upon the issuer of such statement in favor of all persons who rely on it in good faith.

The grantee of a Condominium Unit shall be jointly and severally liable with the grantor for all unpaid assessments 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; provided, however, that upon payment of a reasonable fee not to exceed one hundred (\$100.00) dollars, and upon written request, any prospective Grantee shall be entitled to a statement from the Managing Agent or Owner of the other Condominium Unit, setting forth the amount of the unpaid assessments, if any, with respect to the subject Unit, the amount of the current quarterly assessment and the date that such assessment becomes due, credit for advance payments or for prepaid items including but not limited to insurance premiums, which shall be conclusive upon the issuer of such statement. Unless such request for a statement of indebtedness shall be complied with within ten (10) days of such request, then such Grantee shall not be liable for any unpaid assessments against the subject Unit.

21. MORTGAGING A CONDOMINIUM UNIT - PRIORITY. Any Owner shall have the right from time to time to 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) Any such junior mortgages shall be subordinate to all of the terms, conditions, covenants, restrictions, uses, limitations, obligations, lien for Common Expenses, and other obligations created by this Declaration; (2) The Mortgagee under any junior mortgage shall release, for the purpose of restoration of any improvements upon the mortgage premises, all of his right, title and interest in and to the proceeds under all insurance policies upon the premises which insurance policies were effected and placed upon the mortgaged premises by the Managing Agent or other Owners. Such release shall be furnished forthwith by a junior mortgagee upon written request of the Managing Agent or Owners of the other Unit.

22. RECONSTRUCTION IN CASE OF DAMAGE OR DESTRUCTION. Title to both of such Condominium Units is declared and expressly made subject to the terms and conditions hereof. Repair and reconstruction of the improvements as used in the succeeding paragraphs mean restoring the improvements to substantially the same condition in which they existed prior to the damage, with each Unit and the General and Limited Common Elements appurtenant thereto having the same vertical and horizontal boundaries as before. The proceeds of any insurance collected shall be available to the Owners for the purpose of repair, restoration or replacement unless the Owners of Units A and B and all first mortgagees thereon 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 improvements, shall be applied by the Owners to such reconstruction, and the improvements shall be promptly repaired and reconstructed.

(b) If the insurance proceeds are insufficient to repair and reconstruct the improvements, such damage or destruction shall be promptly repaired and reconstructed by the Owners, using the proceeds of insurance and the proceeds of a special assessment to be made against all of the Unit Owners and their Condominium Units. Such deficiency assessments shall be a Common Expense and made pro rata according to each Owner's fractional interest in the Common Elements, and shall be due and payable within thirty (30) days after written notice.



23. CONDEMNATION.

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

(1) Proceeds: All compensation, damages or other proceeds (the "Condemnation Award") shall be payable to the Owners; and,

(2) Complete Taking: In the event that the entire project is taken or condemned, or sold or otherwise disposed of in lieu of or in avoidance thereof, the condominium ownership pursuant thereto shall terminate. The Condemnation Award shall be apportioned among the Owners on the basis of each Owner's fractional interest in the Common Elements, provided that if a standard difference from the value of the property as a whole is employed to measure the Condemnation Award in the negotiation, judicial decree, or otherwise, then in determining such share of the same standard shall be employed to the extent it is relevant and applicable. On the basis of the principal set forth above, the Owners shall as soon as practicable determine the share of the Condemnation Award to which each Owner is entitled. Such shares shall be paid into separate accounts and disbursed as soon as practicable; and,

(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 shall be entitled to a share of the Condemnation Award to be determined in the following manner: As soon as practicable, the Owners shall, reasonably and in good faith, allocate the Condemnation Award between compensation, damages or other proceeds, and shall apportion the amounts so allocated among the Owners, as follows: (a) the total amount allocated to taking of or injury to the General 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 and improvements an Owner had made within his own Unit shall be apportioned to the particular Unit involved, and (d) the total amount allocated to consequential damages and any other takings of injuries shall be apportioned as the Owners determine to be equitable in the circumstances. If an allocation of the Condemnation Award is already established in negotiation, judicial decree or otherwise, then in allocating the Condemnation Award the Owners shall employ such allocation to the extent it is relevant and applicable; and,

(4) Reorganization: In the event a partial taking results in the taking of a complete Unit, the Owner thereof automatically shall cease to be an Owner under this Declaration; and,

(5) Reconstruction and Repair: Any reconstruction and repair necessitated by condemnation shall be governed by the procedures specified in paragraph 22, in which case such paragraph shall be construed to apply to both Condominium Units.

24. MAILING OF NOTICES. Each Owner shall register his mailing address with the other Owner and all notices or demands intended to be served upon any Owner shall be sent by either registered or certified mail, postage prepaid, addressed in the name of the Owner at such



507840

Page: 13 of 14
03/14/2005 11:56a

registered mailing address. All notices or demands intended to be served upon the Owners shall be given by registered or certified mail, postage prepaid, to the registered address. All notices or demands to be served on Mortgagees shall be sent by either registered or certified mail, postage prepaid, addressed in the name of the Mortgagee at such address as the Mortgagee may have furnished to the owners in writing. The Mortgagee must furnish its address, to be entitled to receive notices provided for in this Declaration. Any notice referred to in this Section shall be deemed given when deposited in the United States mail, postage prepaid.

25. PERIOD OF OWNERSHIP. These separate condominium estates created by this Declaration and the Condominium Plat shall continue until this Declaration is revoked in the manner provided in paragraph 15 or paragraph 23 or until terminated by operation at law.

26. ADDITIONAL PROVISIONS.

(a) The Project and the Owners' rights to use and own the Units are governed by certain approvals of Pitkin County as set forth in the exceptions to title appended to the Deed conveying title to the Units to the Owners, including the following documents:

(1) Restrictive Covenants covering the Real Property as contained in instrument recorded August 20, 2004 as Reception No. 501019;

(2) Terms and conditions contained in the instrument recorded February 15, 2000 as Reception No. 440520;

(3) Terms and conditions contained in the instrument recorded February 24, 2000 as Reception No. 440833;

(4) Terms and conditions contained in the instrument recorded August 20, 2004 as Reception No. 501018 in Plat Book 70 at Page 40.

(b) There shall be only one (1) pet permitted to be kept in each of the Units.

(c) Fencing may be installed dividing the Limited Common Elements from other Limited Common Elements and the General Common Elements, which fencing must be approved by the HOA and must be consistent with Pitkin County regulations.

(d) The Floor Area Ratio ("FAR") applicable to Lot 10, the real property upon which the Project is located, shall be available to each of the Owners and their Units on an equal basis. In the event of an enlargement or reconstruction of any Unit, such Unit shall never be larger than 50% of the FAR available to the Project as a whole.

27. GENERAL.

(a) If any of the provisions of this Declaration or any paragraph, sentence, clause, phrase or word or the application thereof is in any circumstances invalidated, such invalidity shall not affect the validity of the remainder of this Declaration; and,



507840

Page: 14 of 14
03/14/2005 11:55c
R 71.00 D 0.00

SILVIA DAVIS PITKIN COUNTY CO

(b) The provisions of this Declaration shall be in addition and supplemental to the Condominium Ownership Act of the State of Colorado and to all other provisions of the law; and,

(c) Whenever used herein, unless the context shall otherwise provide, the singular number shall include the plural, the plural the singular, and the use of any gender shall include all genders.

Dated: 3/10/05

Declarant:

HENRY EDWARD BOOHER, JR.
 by his attorney in fact

 CHERIE L. BOOHER

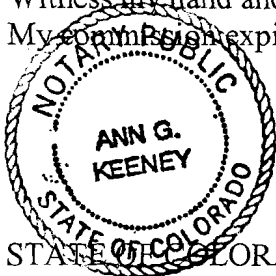
Dated:

STATE OF COLORADO)
) ss.
COUNTY OF PITKIN)

Subscribed and sworn this Declaration has been duly executed this 10th day of March, 2005, by HENRY EDWARD BOOHER, JR., by his attorney-in-fact Richard Y. Neiley, Jr.

Witness my hand and official seal.

My commission expires: 5/14/2008



Notary Public

STATE OF COLORADO)
) ss.
COUNTY OF PITKIN)

Subscribed and sworn this Declaration has been duly executed this 11th day of March, 2005, by CHERIE L. BOOHER.

Witness my hand and official seal.

My commission expires: 5/14/2008



Notary Public