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MASTER DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR 340 THIRTEENTH CONDOMINIUMS

THIS MASTER DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR 340 THIRTEENTH CONDOMINIUMS is made this 4th day of December 1997, by KLM PROPERTIES, INC., a Colorado corporation ("Declarant").

ARTICLE 1

DECLARATION - PURPOSES AND EFFECT

1.1 **General Purposes.** Declarant is the owner of real property in Garfield County, Colorado described on Exhibit A attached hereto (hereinafter defined as and referred to as the "Property"). Declarant desires to submit the Property to this Declaration in order to provide for the use, operation, administration and maintenance of certain facilities or functions common to the use or benefit of the Property.

This Declaration establishes certain rights and obligations with respect to the Property for the Declarant and all present and future owners of the Property. Declarant intends that such owners, mortgagees and any other person or entity now or hereafter acquiring any interest in the Property shall hold their interests subject to the rights, privileges, obligations, and restrictions established by this Declaration. All such rights, privileges, obligations and restrictions are declared to be in furtherance of a plan to promote and protect the value, desirability and attractiveness of the Property as a planned community.

1.2 **Declaration.** Declarant hereby submits the Property to this Declaration, and replaces any prior effective declarations, and declares that the Property shall at all times be owned, used or occupied subject to the provisions of this Declaration, and the provisions of the Plat which is incorporated herein by reference,

Return to: KLM PROPERTIES, INC.
P.O. BOX 484
GLENWOOD SPRINGS, CO 81602

GARFIELD COUNTY SEAL COLORADO

Jean Alberico, Clerk and Recorder of Garfield County certifies this to be a full, true and correct copy of the original recorded document in my custody.
Date: 04/09/09 By: ______ Deputy Clerk

which provisions shall constitute covenants running with the land and shall be binding upon and inure to the benefit of Declarant and any person or legal entity acquiring any interest in the Property.

ARTICLE 2

DEFINITIONS

The terms listed below, as used in this Declaration, shall have the meanings set forth as follows:

2.1 "Architectural Committee" means the committee established pursuant to this Declaration, as more particularly defined hereafter.

2.2 "Association" means the 340 Thirteenth Homeowners' Association, a Colorado unincorporated non-profit association pursuant to C.R.S. 7-30-101 et seq., and its successors and assigns, agents and employees (hereafter "340") through which all Owners of Units within the Subdivision act as a group under their governing documents and this Declaration. The Association shall be deemed to exist as of the date of the first conveyance of a Unit by the Declarant.

2.3 "Common Areas" means:

(a) any real or personal property, including without limitation the roads and private roads, owned, leased or maintained by the Association for the use, enjoyment and benefit of all of the Owners, except the Units as hereinafter defined and described;

(b) any and all real property identified as Open Space on the Plat of the Subdivision, or any subsequent amendment thereof.

2.4 "Common Facilities" means any and all facilities or systems owned by the Association including, but not limited to, domestic water and irrigation systems, and other utility distributions mechanisms.

2.5 "Board" or "Executive Board" means the governing board of the Association.

2.6 "Bylaws" means the governing document of the Association adopted and amended by the Board of the Association from time to time.

2.7 "Common Expenses" means the estimated and actual expenditures made or liabilities incurred by or on behalf of the Association, together with any allocations to reserves.

2.8 "Declarant" means KLM Properties, Inc., a Colorado corporation, and its successors and assigns specifically identified as such by an instrument executed by said Declarant and recorded in the office of the Clerk and Recorder of Garfield County, Colorado.

2.9 "Declaration" means this Master Declaration of Covenants, Conditions and Restrictions for the Condominiums may be further amended from time to time.

2.10 "Unit" means each single family residential dwelling unit of the Condominiums shown on the Plat.; and as more particularly defined in Exhibit "B" attached hereto.

2.11 "Maintenance" means such operation, management, maintenance, repair, renovation, restoration, or replacement of any real property as may be necessary to maintain such real property in substantially the same condition as originally or subsequently constructed, altered or improved including the removal of snow as necessary for customary use and enjoyment.

2.12 "Mortgage" means any mortgage, deed of trust or other security instrument creating a real property security interest in the Common Areas, or any part thereof, or in any Unit, excluding any statutory, tax or judicial liens. "Mortgagee" shall include any grantee, beneficiary or assignee of a Mortgage, and "Mortgagor" shall include any grantor, trustor or a Mortgage. First Mortgagee means a Mortgagee having priority as a Mortgage against the property thereby but only if the Mortgagee of such Mortgage claims in a written notice delivered to the Association.

2.13 "Owner" means the person or legal entity holding fee simple title to a Unit. Said persons or entities may be referred to collectively as the "Owners".

2.14 "Plat" means the Plat of the 340 Thirteenth Condominiums. Said Plat having been recorded in the office of the Clerk and Recorder of Garfield County, Colorado, on 12/5/97 as Reception No. 517458, as the same may hereafter be amended.

2.15 "Property" means the real property described in Exhibit A attached hereto.

2.16 "Rules and Regulations" means those rules, regulations and requirements imposed by the Association on the Owners and occupants of Units in the 340 Thirteenth Condominiums.

2.17 Condominium means the Property, including Common Areas, the Common Facilities and all other benefits and attributes attendant to said Property as set forth upon the Plat and within this Declaration.

2.22 "Subdivision Improvements Agreement" shall mean the agreement between Declarant and the City of Glenwood Springs, Colorado, pertaining to the development of the Subdivision.

2.23 "Single Family" shall mean (i) any group of two or more persons directly related by blood or marriage, or (ii) two or three persons unrelated by blood, marriage or adoption, or (iii) a single individual.

ARTICLE 3

PROVISIONS APPLICABLE TO THE PROPERTY

3.1 Use. The use of the Property shall comply with the provisions of this Declaration and of any and all Rules and Regulations adopted by the Association for the use of the Property.

3.2 Firearms. The discharge or shooting of firearms is prohibited, except as may be permitted by rules and regulations promulgated by the Association.

3.3 No Mining Drilling or Quarrying. No mining, quarrying, tunneling, excavating or drilling for any substances within the earth, including oil, gas, minerals, sand and gravel, shall be permitted.

3.4 Noxious or Offensive Activity. No noxious or offensive activity or sound shall be carried on upon any portion of the Property at any time nor shall anything be done or permitted which may become a nuisance to, or unreasonably disturb, the Owners, or be injurious to the reputation of the Property.

3.5 Reservation of Rights to Declarant. In order that the Declarant's work may be completed and the Property may be established as a fully developed community, Declarant reserves the following rights with respect to the Property (including the Common Areas, Common Facilities, and the Units), which rights shall be reserved to and remain vested in Declarant for five (5) years from the recording date of this Declaration, without restriction as to the order thereof, notwithstanding the conveyance of the Common Areas or Common Facilities by Declarant to the Association or the conveyance of the Units by Declarant to any other persons or entities:

(a) The right of Declarant, and its agents, employees and contractors, to enter upon the Property of the Subdivision and to do whatever the Declarant deems necessary or advisable in connection with the performance of the work to be performed by said Declarant for the complete development of the Property, including, without limitation, the construction and installation of drainage and irrigation facilities, the installation of all utilities including trash storage and removal, the construction of all roads and bridges, the grading and landscaping of the Property, the construction of all other improvements to be constructed by Declarant, the erection or placement of temporary structures and the temporary storage of materials and fill dirt as may be reasonably necessary to facilitate the development of the Property, and the placement of such sign or signs on the Property by the Declarant as the Declarant may deem advisable in connection with the sale of, development of or construction on the Units.

(b) The right of Declarant to grant additional easements, and to relocate existing easements, utilities, trash storage and removal, irrigation, drainage, grading, access and similar purposes as may be reasonably required for the performance and completion of a Declarant's development work; provided that no such additional easements shall be granted or relocated so as to encroach upon the Building Envelopes of the Units.

(c) The right of Declarant to develop and create single family residential units, duplex units, multi-family structures, townhouses or condominiums (hereinabove defined as "Units") within the Subdivision, in compliance with all applicable Garfield County regulations by the recording of this Declaration and the Plat map defining the units of airspace, the common elements, if any, the allocation of interests in and to the common elements, in accordance with Paragraph 5.1 hereof, and to create the homeowners' association described above to govern, own and manage and maintain the common elements of the Subdivision pursuant to the provisions of the Colorado Common Interest Ownership Act.

ARTICLE 4

PROVISIONS APPLICABLE TO THE UNITS

4.1 **Residential Use**. Each Unit shall be used only for single family residential purposes and such accessory uses as may be permitted by the applicable zoning regulations of the City of Glenwood Springs, Colorado.

4.2 **Compliance with Declaration**. All buildings and other improvements constructed as or upon the Property, and the use thereof, shall comply with the provisions of this Declaration.

4.3 **Approval by Architectural Committee**. No improvement shall be made to any Unit by an Owner without (i) the prior approval of the Architectural Committee as hereafter provided; and (ii) a building permit issued by the City of Glenwood Springs, the application for which shall require a drainage plan and the construction thereof which is consistent with the then current applicable City requirements.

(a) The Architectural Committee for the Subdivision to be managed by the Association, shall have jurisdiction over the Units, and shall initially be comprised of three (3) persons appointed by the Declarant. Upon transfer by the Declarant of the (i) the Common Areas to the Association and (ii) the last Unit, in accordance with this Declaration, the Association, by its Executive Board, shall have the power to appoint all members of the Architectural Committee, and the Association may, in its discretion, increase the Architectural Committee to no more than five (5) members.

(b) In the event of any vacancy in the Architectural Committee for any reason, the remaining members may continue to function and carry out the duties and obligations of the Architectural Committee. Any vacancy shall be filled within such time as may be reasonably practical by the Declarant or the Association, whichever is, at such time, responsible for the appointment of such members. In the event that there are no persons willing or able to serve as members of the Architectural Committee, the duties of the Architectural Committee shall become the responsibility of the Declarant or the Executive Board of the Association, whichever is, at such time, responsible for the appointment of members to the Architectural Committee.

(c) The Architectural Committee shall have the following duties:

(i) No building or other structures shall be constructed, erected or maintained on any part of the Property, nor shall any addition thereto or change or alteration thereof be made until the complete and final plans and specifications have been submitted to the Architectural Committee and approved by it in writing. Such plans and specifications shall include, but not be limited to, a color rendering, geologic soils site investigation and foundation report, the floor, elevation, plot and grading plans, provisions for off-road parking and locations of driveways and driveway accesses, the specifications of principal exterior materials to be utilized, complete landscape plans, color schemes and the location1 character and method of utilization of all utilities for the particular development;

(ii) The Architectural Committee shall be available to Owners for consultation prior to and during the preparation of the plans and specifications for the proposed construction on the Unit, in order to avoid delays in approval of such plans and specifications;

(iii) The Architectural Committee shall be responsible, along with the Owner, of determining that each structure to be constructed, erected or maintained on the Property shall be in strict conformance with the approved plans and specifications for the particular Unit;

(iv) In reviewing such plans and specifications, the Architectural Committee shall take into consideration the suitability of the proposed building or other structures and the materials of which it is to be built, those buildings or other structures to be erected, the harmony thereof with the surroundings and the effect of such buildings and other structures upon the view, perspective and outlook of the adjacent or neighboring Units. The Architectural Committee shall use reasonable judgment in reviewing and approving any plans and specifications, but the Architectural Committee shall not be liable to any person or Owner for its actions in connection with the submitted plans and specifications, unless it is shown that the Architectural Committee acted with malice or wrongful intent;

(d) Upon submission of a complete set of plans and specifications to the Architectural Committee, the Architectural Committee shall accept or reject such plans and specifications, in whole or in part, by giving notice thereof in writing to the Owner within forty-five (45) days after such submission. Such acceptance or rejection may be absolute or conditional upon required changes, and with or without recommendations for modification. In the event that the Architectural Committee shall fail to act within such forty-five (45) day period, the Owner shall be entitled to a rebuttable presumption that the submission meets the general architectural control standards of the Association, but the Architectural Committee shall not be deemed to have approved such plans and specifications with respect to any substantial deviation therein from such standards;

(e) Where the Architectural Committee has failed to act upon a submission within forty-five (45) days of submission thereof, an Owner shall make application to the Declarant or the Association, whichever has the power to appoint members of the Architectural Committee, for written approval of the plans and specifications. If the Declarant or Association has not acted upon such submission by providing written notice to the Owner of approval or rejection of such plans and specification, conditional or unconditional, within thirty (30) days thereafter, the Owner shall be entitled to a conclusive presumption that the submission meets the architectural control standards of the Association;

(f) No Owner may seek any building permit or commence construction of any improvements on his Unit unless and until said Owner has received written approval, condition or unconditional, of such plans and specifications from the Architectural Committee, Declarant or Association;

(g) The Architectural Committee shall have all powers required to meet it duties and obligations as set forth in this Article 4, and elsewhere in this Declaration, and may make such rules and regulations as it deems fit a proper to govern the submission of plans and specifications, the review of such plans and specifications, the conduct of meetings for the purpose of reviewing such plans and specifications, and the approval or rejection, conditional or unconditional, of such plans and specifications;

(h) In the event of any litigation involving the duties and responsibilities of the Architectural Committee, and their exercise thereof, the successful party shall be entitled to recover any and all costs and expenses incident to such litigation, including reasonable attorneys' fees.

4.4 **Outdoor Fixtures**. Outdoor fixtures, including without limitation outbuildings, satellite dishes, sheds and similar items (except for chimneys and weather vanes), shall not be permitted without the prior written permission of the Architectural Committee.

4.5 **Reflective Finishes**. Reflective finishes and reflective glass shall not be used on exterior surfaces, including, without limitations, walls, roofs, windows, doors, trim, retaining walls and fences; except that the foregoing shall not prohibit skylights.

4.6 **Utilities**. All water, sewer, gas, electrical, telephone, cable television and other utility pipes or lines shall be buried underground and shall not be carried on overhead poles or above the surface of the ground. Any areas of natural vegetation or terrain disturbed by the burying of utility lines shall be revegetated by and at the expense of the Owner causing the installation of the utilities no later than the next growing season following such installation.

4.7 **Animals**. No horses, cows, fowl or other farm animals or livestock shall be kept on any part of the Property. Domestic pets, such as dogs and cats, shall be permitted, subject to the rules and regulations with respect thereto as may be promulgated from time to time by the Association or as may be otherwise provided herein. The Association shall have the right to enforce the above provisions by injunctive relief and any other remedy available at law or equity and may impose and collect fines of up to $500.00 for the first violation, $1,000.00 for the second violation, $1,500.00 for the third violation. In addition, the Association shall have the right to impose and collect at least the following fines for any dog caught running at large and/or for excessive barking: $75.00 for the first violation, $150.00 for the second violation, and $300.00 for the third violation. Upon the third violation for running at large and/or excessive barking, the dog(s) must be permanently removed from the Property. In the event that an Owner shall not recover an animal which has been impounded by the Association within ten (10) days of impoundment, the animal may be entrusted to the appropriate government agency or humane society chapter for permanent disposal. Any fines referred to herein may be collected by the use of any remedy available to the Association, including foreclosure of liens, as set forth in Article 8 hereafter.

4.8 **Enclosure Of Unsightly Facilities and Equipment**. Any motor home, trailer, boat, truck, tractor, snow removal or garden equipment and any similar items shall be kept at all times, except when in actual use, in an enclosed garage approved by the Association. Any refuse or trash containers, tanks, utility meters or other facilities, service area, or storage pile shall be enclosed within a structure or appropriately screened from view by planting or fencing approved by the Architectural Committee and adequate to conceal the same from neighbors and public and private roads. No lumber, metals, materials, scrap, refuse or trash shall be kept, stored or allowed to accumulate on any Lot, except building materials during the course of construction and only for such reasonable periods of time as is necessary prior to the collection of or disposal thereof.

4.9 **No Water Wells or Appropriation**. Individual water wells shall not be permitted on any part of the property and no owner shall be permitted to drill for water on the Property. No Owner shall divert water from any surface drainage or ditch for any use or any purpose, except as allowed by the Association.

Each structure designed for occupancy or use by humans on any part of the Property shall connect with water services made available by Declarant or the Association at any time in the future.

4.10 **Impairment of Drainage**. No Owner shall do anything which shall impair or adversely affect the natural drainage of the Property, or divert drainage water unto another Lot, or deprive any other Unit of its natural drainage course

4.11 **No Subdivision**. No Unit shall be subdivided into smaller units or conveyed or encumbered in any less than the full dimensions thereof as shown on the Plat.

4.12 **Private Roads**. The Declarant shall, at Declarant's cost, construct the private road as shown on the Plat. Thereafter, the costs of the maintenance and repair of said Private Road, including snow removal, shall be payable by the Owners through the Association by assessment.

4.13 **Emergency Access Easement**. A nonexclusive easement for ingress and egress is hereby granted to all police, sheriff, fire protection, ambulance, and other similar emergency agencies of persons, now or hereafter servicing the Subdivision and its residents, to enter upon all roads, private roads, and driveways located in the planned community, and on any property in the Subdivision in the lawful performance of their duties.

4.14 **Easements**. The Units shall be subject to the easements shown and described on the Plat and to such further easements as are provided for and/or authorized in this Declaration; specifically an easement for the Declarant or the Association, their contractors or laborers, to enter upon the Property for purposes of maintaining the exteriors of structures built thereon, if such maintenance is determined by the Declarant or the Association to be necessitated by the Owner's neglect.

4.15 **Signs**. Other than signs of reasonable, standard size and format which advertise the sale or rental of a particular Unit, no signs, billboards or other advertising structure of any kind shall be erected, constructed or maintained on any part of the Property, for any purpose whatsoever, except such signs as have been approved by the Architectural Committee or the Association, either for identification of residences or other approved uses and except as are in compliance with the regulations of the City of Glenwood Springs.

4.16 **Trash**. No trash, ashes or other refuse shall be thrown or dumped anywhere on the Property. There shall be no burning or other disposal of refuse out of doors. There shall also be no burning of materials or refuse during construction.

4.17 **Parking of Vehicles**. There shall be no open parking of trucks, campers, trailers, recreational vehicles or similar vehicles on any part of the Property without the specific written approval of the Association. Such vehicles may be maintained and parked within structures for that purpose and as approved by the Architectural Committee. Off road vehicle parking shall be provided to each Unit in a ratio of two (2) parking units for each Unit.

4.18 **Fireplaces**. All fireplaces within all Units shall be gas fire or other legally permitted fuel type units as set forth in then applicable regulations of the City of Glenwood Springs, Colorado.

4.19 **Trees**. All trees naturally existing upon any the Common Areas, except to the extent necessary for construction purposes, shall not be cut, trimmed or removed from the properties, except that the Architectural Committee may recommend or approve some cutting, removing, thinning or trimming if it seems desirable.

4.20 **Landscaping/Building Exteriors**. The Association shall be responsible for defining appropriate landscaping requirements on the Common Areas. Maintenance of landscaping on the Commaon Areas by the Association shall be a special assessment against the Owners on a pro rata basis.

4.21 Temporary Structures. No temporary structure, excavation, basement, trailer or tent shall be permitted on the Property, except as may be determined to be necessary during construction and specifically authorized by the Architectural Committee and by the city of Glenwood Springs, in writing.

4.22 Nuisance. No noxious or offensive activity shall be carried on any part of the Property, or within or about any Unit, or on the Common Areas, nor shall anything be done or permitted which shall constitute a public nuisance therein. No chain saws may be used on any part of the Property except as permitted by the Association.

4.23 Damage by Owners. Each Owner is responsible for any damage caused to roads, ditches, fences, trails, natural draining courses, utilities, Association property, or to other Units, or property thereon during the construction of improvements upon his land by any vehicle belonging either to him or anyone using the roads while engaged in any activity benefiting the Owner. Each Owner shall also be responsible for any damage caused by utility cuts in roads, washouts and runoff damage caused by failure to properly install culverts, and to repair any such damage in a timely manner.

ARTICLE 5

PROVISIONS APPLICABLE TO THE COMMON AREAS

5.1 Allocation of Interest. The respective fractional interest of each Owner in the Common Areas, if any, shall be an undivided 1/8 fractional interest, and shall be subject to this Declaration and the Bylaws of the Association as may be amended from time to time, for the purpose of governing the management of the Subdivision upon completion. The combined fractional interests of the Owners shall equal one (1).

5.2 **Benefit of Owners**. The Common Areas as shown on the Plat shall be maintained and managed by the Association for the benefit of the Owners for the uses and purposes set forth in this Declaration. Appurtenant to each Unit shall be a nonexclusive easement to use the Common Areas, subject to the right of the Association to reasonably limit and regulate the use of the Common Areas by the Owners.

5.3 **Development**. The Common Areas shall be developed in accordance with the Subdivision Improvements Agreements, this Declaration, and in recognition of all of the easements now and hereafter granted with respect thereto.

5.4 **Easements**. The Common Areas shall be subject to the easements as shown on the Plat and to such other and further easements as are provided for and/or authorized in this Declaration. The Association, upon acquiring ownership of the Common Areas, shall have the right to grant easements with respect thereto, either public or private, in furtherance of the intents and purposes of this Declaration.

5.5 **Compliance with Law**. No Owner, his lessees, nor his family members and guests, shall do anything, or keep anything, in or on the Common Areas which would be in violation of this Declaration, or any statute, rule, ordinance, regulation, permit or other validly imposed requirement of any governmental or quasi-governmental body.

5.6 **Obligations for Maintenance and Management**. Except for those obligations to be performed by Declarant with respect to the development of the Common Areas and Common Facilities, the Association, upon acquiring ownership of the Common Areas and Common Facilities, shall assume and perform all obligations for the Maintenance of the Common Areas, and other areas of the Subdivision, as provided for in this Declaration, and Declarant shall automatically be released from said obligations. Such maintenance responsibility may be delegated by the Association to third parties subject to the terms of the Bylaws of the Association.

5.7 **Conveyance of Common Areas and Common Facilities to Association**. As early as is legally permitted, but in no event later than upon the sale of fifty percent (50%) of the Units as contemplated hereby, Declarant shall convey ownership of the Common Areas and Common Facilities to the Association as defined in this Declaration, together with all rights and easements appurtenant thereto, to the Association, subject to this Declaration and all reservations, exceptions, easements and restrictions pertaining thereto, but free from all monetary liens except the lien for general real estate taxes for the calendar year of such conveyance. Such conveyance shall be made without monetary consideration and may be made from time to time either before or after Declarant has constructed the improvements thereon to be constructed by Declarant pursuant to the Subdivision Improvements Agreements or elsewhere provided for herein; provided that the conveyance thereof shall not release Declarant of Declarant's obligations to construct such improvements.

5.8 **Release of Declarant's Obligations**. Upon the execution of an agreement between Declarant and the City of Glenwood Springs acknowledging that the Declarant has performed all of Declarant's obligations under the Subdivision Improvements Agreements for the Subdivision, Declarant shall automatically be released of Declarant's obligation for the construction of the improvements on the Common Areas and Common Facilities as provided for in the Subdivision Improvements Agreements.

5.9 **Private Road Easements**. All roads as shown on the Plat, exist to provide access to, and are for the exclusive use and benefit of, the Units of the Subdivision accessed thereby. There is reserved to the Declarant and the Association permanent perpetual easements under, over, and across said roads for the purposes of operating, installing, constructing, maintaining and repairing these roads, the water distribution systems and other utilities, and for such other purposes as are described in this Declaration and on the Plat. The Association shall have the obligation to maintain said private roads in good condition and repair and to provide for snow removal; provided, however, that the cost of such maintenance and snow removal for such private roads shall be allocated and assessed exclusively to the Owners accessed by said private roads in proportion to the number of such Units owned by each of them, and shall not constitute a common expense allocable and assessable to all of the Owners.

5.10 **Prohibited Uses of Common Areas.** The Association may, in its discretion, provide rules and regulations for the use of snow mobiles, motor bikes, and motorcycles, and for the engagement of recreational activities, such as cross country skiing, on the Common Areas. Except as specifically authorized by the Association, none of the aforementioned activities may be carried on in the Property.

ARTICLE 6

THE ASSOCIATION

6.1. **Business and Membership.** The Executive Board of the Association shall consist of three (3) persons. The Association through its Executive Board shall govern and manage the Common Areas and shall enforce the provisions of this Declaration. All Owners shall automatically be Members of the Association, and such membership shall automatically cease upon termination of the Owner's interest in his Unit, and shall be subject to the right of the Declarant to appoint persons to the Executive Board until all the Units are sold. Membership shall be appurtenant to a Unit and shall not be separately conveyed, encumbered or abandoned. Declarant shall continue to appoint members to the Executive Board until such time as the Declarant has sold, transferred and conveyed 90% or more of the total aggregate number of Units. Notwithstanding the foregoing, if and for so long as the Colorado Common Interest Ownership Act requires it, not later than sixty (60) days after the conveyance of twenty-five percent (25%) of the Units to Owners other than the Declarant, at least one person to the Executive Board and not less than twenty-five percent (25%) of the Board shall be elected by Owners other than the Declarant. Not later than sixty (60) days after conveyance of fifty percent (50%) of the Units to Owners other than the Declarant, not less than thirty-three and one-third percent (1/3) of the Board must be elected by Owners other than Declarant, provided, however, the Owners, by a vote of sixty-seven percent (67%) of the quorum entitled to vote at any meeting may remove any member of the Board with or without cause, other than any person of the Board appointed by the Declarant.

6.2 **Binding Effect**. Each Owner, his lessees, their families and guests and any other persons using or occupying a Unit shall be bound by and shall strictly comply with the provisions of this Declaration, the Bylaws, the Rules and Regulations as hereafter adopted, any deed restrictions and covenants and all rules, regulations and agreements lawfully made by the Association. The Association shall have the right and power to bring suit in its own name for either legal, equitable or injunctive relief for any lack of compliance with any such provisions. The failure of the Association to insist upon the strict performance of any such provisions or to exercise any right or option available to it, or to serve any notice or to institute any action, shall not be a waiver or a relinquishment for the future, of any such provision. If any court proceedings are instituted in connection with the rights of enforcement and remedies provided in this Declaration, the prevailing party shall be entitled to reimbursement of its costs and expenses, including reasonable attorneys' fees, in connection therewith.

6.3 **Powers of the Association**. Each Owner agrees that the Association has all the powers granted it by the Colorado Unincorporated Non-Profit Association Act and the Colorado Common Interest Ownership Act and any amendments thereto or replacements thereof. Such powers shall include, without limitation, levying assessments against Owners, imposing a lien on Units for any unpaid or uncollected assessments or penalties, and foreclosing any such liens, enforcing any deed restrictions and covenants, acquiring, holding, owning, leasing, mortgaging and disposing of property including but not limited to real property or personal property used or in connection with the Common Areas or Common Facilities, the adoption of the Rules and Regulations, the defending, prosecuting or intervention in litigation on behalf of all Owners, the borrowing of monies for Association purposes and the right to pledge future income in order to secure such borrowings. The term "pledge of future income" shall include the right to impose a special assessment for repayment of such borrowings and to assign such special assessment (and all lien and collection rights appurtenant thereto) to the lender as security for repayment thereof. The Association may exercise any other right, power or privilege given to it expressly by this Declaration, the Bylaws, or by the Colorado Common Interest Ownership Act, and every other right, power or privilege reasonably to be implied from the existence of any right, power or privilege given to it herein or reasonably necessary to effectuate any such right, power or privilege.

6.4 **Association Rules**. The Association may from time to time adopt, amend and repeal Rules and Regulations to be known as the "340 Thirteenth Homeowners' Association Rules" (hereinafter the "Rules") by the majority vote of the Board. The purpose of these Rules shall be to implement, supplement or otherwise carry out the purposes and intentions of this Declaration. The Rules shall be consistent with this Declaration.

6.5 **Maintenance of Common Areas and Common Facilities**. The Association shall be responsible for Maintenance and operation of all Common Areas and Common Facilities as a Common Expense.

(a) The Association shall have the right to suspend the right to the use of the Common Areas and Common Facilities and any recreational facilities or amenities thereon of a member or members of his family for any period during which any such member remains delinquent in the payment of any Association assessments.

(b) The Association may also suspend or limit the right of any Owner or other person to use the Common Areas or Common Facilities and improvements or amenities thereon for any violation of these Covenants, Conditions and Restrictions, the Bylaws or Rules and Regulations adopted by the Association or Architectural Committee; provided, however, that before suspending or limiting any such right, the Association shall give ten (10) days written notice to the Owner or other person to cease or correct the violation. If the violation is corrected or ceased, the Association shall take no action to suspend or limit such use of the Common Areas or Common Facilities.

(c) The Association shall have the right to limit the number of guests of the members using the Common Areas.

(d) The Association shall have the right to dedicate or transfer all or any part of the Common Areas or Common Facilities or improvements thereon to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Owners; provided, however, that no such dedication or transfer shall be effective unless written notice of the proposed dedication or transfer is sent to every Owner at least twenty (20) days, and not more than sixty (60) days prior to the decision to make such dedication or transfer, and unless an instrument is signed by the Owners entitled to cast two-thirds (2/3) of the votes agreeing to such dedication or transfer.

6.6 **Additional Association Functions**. The Association may undertake, to the extent the Board, in its sole discretion so elects, to provide any other function for the benefit of or to further the interests of all, some or any Owners on a self-supporting, special assessment, or general assessment basis. The Board shall determine, in its sole discretion, whether the expenses in connection with any such function shall be designated as Common Expenses or as charges allocated solely to Owners utilizing such services. Any such charge shall be reasonable and shall be uniformly applied. Such functions may be provided by the Association's employees, or by an independent contractor retained by the Association.

6.7 **Fines**. In addition to the enforcement actions provided herein, the Executive Board of the Association shall have the right, after affording notice and an opportunity to be heard to an Owner, to fine the Owner, in a reasonable amount, for any violation of this Declaration. Any sum amounts that an Owner is fined shall be deemed a personal obligation and/or lien against such Owner or that Owner's Unit, and may be collected and foreclosed on in the same manner as is provided herein for the collection of common expense assessments, including reasonable attorney fees and costs.

6.8 **Other Rights of the Association**. The Association may exercise any other right, power or privilege given to it expressly by this Declaration, the Bylaws, or by law, and every other right, power or privilege reasonably to be implied from the existence of any right, power or privilege given to it herein or reasonably necessary to effectuate any such right, power or privilege.

6.9 **Notice to Maintain**. An Owner shall immediately report to the Association the need for any Maintenance which is the Association's responsibility to provide. In the event of any disagreement as to the need for or the responsibility of the Association to provide the Maintenance, the decision of the Board shall be final.

6.10 **Mechanic's Liens**. Declarant shall be responsible for the release of all mechanics' liens filed with respect to the Common Areas, or any part thereof, if any such liens arise or are alleged to arise from labor performed or materials furnished at the instance of Declarant, its agents, contractors or subcontractors. Except as the result of labor performed or materials furnished at the instance of the Board, no labor performed or materials furnished with respect to the Common Areas, Common Facilities, or Units shall be the basis for filing a lien against the Common Areas or Common Facilities. No labor performed or materials furnished at the instance of the Board shall be the basis for filing a lien against any Unit.

ARTICLE 7

ASSESSMENTS

7.1 **Obligation to Pay Assessments**. Each Owner of a Unit shall be subject to such general or special assessments as the Association may levy from time to time. The assessments collected shall be used exclusively to promote the operation, administration, Maintenance and management of the Common Areas, Common Facilities, and the Property for the use and benefit of all Owners. Each Owner shall be obligated to pay and agrees to pay all such assessments levied against his Unit and may not exempt himself from liability by waiver of the use and enjoyment of the Common Areas or by an abandonment of his Unit.

7.2 **General Assessments**. General assessments shall be based upon a budget for a fiscal year to be designated by the Board, shall include funds for the Common Expenses, and shall also include funds as a reserve for Maintenance which cannot be expected to occur on a regular annual basis. A brief summary of the annual budget shall accompany each annual general assessment notice and shall be ratified by the members as set forth in the Colorado Common Interest Ownership Act. The failure of the Board to establish a budget for the next fiscal year before the expiration of any fiscal year shall not release the Owners from their obligation to pay any assessments or installments thereof for that or any subsequent year. The budget and assessment installments established for a preceding year shall continue until a new budget is fixed.

7.3 **Special Assessments**. If the estimated cash requirements set forth in the budget prove to be inadequate for any reason, including non-payment of any Owner's assessment, or there are inadequate funds in the reserve, the Board may levy special assessments from time to time. This Section shall not be construed as an independent source of authority for the Board to incur expenses, but shall be construed to prescribe the manner of assessing for expenses authorized by other Sections.

7.4 **Apportionment of Assessments**. Except as otherwise specifically provided in this Declaration with respect to the private road or otherwise, the amounts assessed pursuant to this Declaration as a common expense, shall be allocated and assessed among the Owners in accordance with the proportions set forth in Paragraph 5.1 hereof. Assessments which are attributable to only particular Units may be allocated, in the sole judgment of the Board, on an appropriate equitable basis.

7.5 **Refunds**. If in any fiscal year the assessments collected by the Board exceed Common Expenses incurred, the Board shall have the right, but not the obligation, to make refunds or give credits against future assessments. Refunds or credits shall be apportioned in the same manner as the general and special assessments which created such surplus. Owners whose Units were subject to this Declaration for less than the full fiscal year shall receive only a proportionate refund or credit based upon the number of days the Unit was subjected to this Declaration.

7.6 **Assessments Adjustments**. With respect to any assessment, credit or refund, the Board shall have the power to round off and make other minor adjustments of less than $10.00 in each Owner's allocation for the following purposes: (i) to create whole round numbers for the convenience of the payor; or (ii) to correct any discrepancy between the total of each Owner's allocation of any such assessment, credit, or refund, and the total amount of either the expenses actually subject to assessment or the surplus actually available for a refund or credit.

7.7 **Collection and Enforcement Remedies.**

(a) All assessments or installments thereof and fines imposed under the Declaration or the rules and regulations of the Association shall be due and payable within twenty (20) days after the due date. Overdue assessments shall bear interest at eighteen percent (18%) per annum, or such other lawful rate or charge as the Board may determine from time to time. The payment of any assessment or fine payable in installments may be accelerated by the Board for failure to pay any installment when due.

(b) An assessment or fine shall be the personal obligation of the Owner at the time the assessment or fine is levied against the Unit. A suit to recover a money judgment for unpaid assessments or fines may be maintained against any Owner without waiving or otherwise prejudicing the Association's right to pursue any other remedy provided herein or established by law. The Association shall be entitled to recover the costs, expenses and reasonable attorneys' fees as additional sums due under any lien which may be filed or otherwise which are incurred in enforcing any action for payment of assessments or fines or to enforce compliance with any provision contained herein including those set forth by rule and regulation adopted by the Association.

(c) The Association shall have a lien against a Unit, and any improvements thereon, for any assessments or fines against the Unit which are due and unpaid from the date of the assessment or fine. Costs of collection, including without limitation, reasonable attorneys' fees and other court Costs, shall be added to the assessment or fine lien amount. All amounts unpaid may be evidenced by a statement executed by the Association and recorded in the office of the Clerk and Recorder of Garfield County, Colorado. The assessment or fine lien against a Unit shall be subordinate only to the First Mortgage on said Unit, except as may be otherwise provided in the Colorado Common Ownership Interest Act.

(d) For the purposes of this Section, the term "assessments" includes any amounts due in accordance with the terms of the Declaration including any fines imposed hereunder or under the Rules and Regulations of the Association.

The Association shall have the right to foreclose such lien in the manner provided by Colorado law for mortgages upon real property, to the appointment of a receiver and to the rental value of the Unit and its improvements during the period of delinquency through the period of foreclosure until expiration of the period of redemption. The Association shall have the power to bid on the Unit at a foreclosure sale and to acquire, hold, lease, mortgage and convey the same.

7.8 **Grantee and Mortgagee Assessment Obligations**. No Owner shall convey or mortgage his Unit unless and until all sums due the Association, whether or not evidenced by a recorded statement, are currently paid, but no Mortgage transaction shall be voidable by the Association nor shall the superior position of a First Mortgagee be adversely affected by a lien of the Association. At least ten (10) business days prior to any conveyance or Mortgage, the Owner shall deliver written notice to the Association advising it of the proposed transaction and the names and addresses of all transferees and Mortgagees involved. If any assessment or fine is due and owing by the Owner, his grantee or Mortgagee shall apply the proceeds of any such transaction to the payment of delinquent amounts due the Association before paying or disbursing any amount to the Owner. The grantee of a Unit shall be jointly and severally liable with his grantor for all unpaid assessments against the latter up to the time of the grant or conveyance, without prejudice to the grantee's right to recover from the grantor any amounts paid by the grantee therefor. Upon written request and payment of such reasonable fee as may be set by the Association, the Association shall issue a written statement to such grantee or mortgagee verifying the status of all assessments and fines or charges affecting the Unit. Any statement as to the existence or amount of any delinquencies shall conclusively bind the Association. A First Mortgagee, who takes title to a Unit pursuant to the remedies in the deed of trust encumbering that Unit shall take such Unit free and clear of all unpaid assessments and the lien therefor.

7.9 **Assessments for Tort Liability**. In the event of any tort liability against the Association which is not covered completely by insurance, each Owner shall contribute for the payment of such liability as a special assessment in the proportion described in this Declaration. The Association may, however, require a larger contribution from fewer than all Owners under any legal or equitable principle regarding liability for negligent or willful acts or omissions.

ARTICLE 8

INSURANCE

8.1 **Types of Insurance**. The Association shall obtain and keep in full force and effect, if appropriate, the following insurance coverage, individually naming the Declarant, as an Owner, and each Owner as an additional insured:

(a) Property and fire insurance with extended coverage and standard all-risk endorsements, including vandalism and malicious mischief, of the Common Areas. The total amount of insurance, after application of deductibles shall be one hundred percent (100%) of the replacement value of the insured property exclusive of land, foundations and other items normally excluded from property policies.

(b) Public liability and property damage insurance, including medical payments insurance, in an amount to be determined by the Board from time to time, covering all occurrences commonly insured against for death, bodily injury and property damage arising out of or in connection with the ownership, operation or Maintenance, or other use of Common Areas. This policy shall also cover operation of automobiles on behalf of the Association.

(c) Workmen's compensation and employer's liability insurance in the amounts and in the forms required by law.

(d) Fidelity coverage against the dishonesty of employees, destruction or disappearance of money or securities, and forgery. This policy shall also cover persons who serve the Association without compensation.

(e) Coverage of members of the Board and officers of the Association against libel, slander, false arrest, invasion of privacy and errors and omissions and other forms of liability generally covered in officers and directors liability policies. The Declarant and Declarant's designees shall be included as an additional insured in such Declarant's capacity as a Board Member.

(f) Coverage against such other risk of a similar or dissimilar nature as the Board deems appropriate.

8.2 Conditions of Insurance. Such insurance shall be at standard premium rates as established by the Colorado Insurance Commissioner and written with companies licensed to do business in Colorado having a Best insurance report rating of Class 6 or better. No policy shall be obtained where:

(a) contributions or assessments may be made against the Mortgagor (or Mortgagee's designee) under the terms of the insurance company's charter, bylaws or policy;

(b) by the terms of the carrier's charter, bylaws or policy, loss payments are contingent upon action by the company's board of directors, policyholders or members; or

(c) the policy includes any limiting clauses (other than insurance conditions) which could prevent Mortgagees from collecting insurance proceeds.

8.3 **Named Insured and Interests.** Policies of property insurance shall name the Association as the insured and the entity to which payment is to be made. The certificate or memoranda of insurance, duplicate originals of all policies and renewals, and proof of payment of premiums shall be issued to the Association, and upon request, to any Owner or Mortgagee.

8.4 **Invalidation or Reduction of Coverage.** Insurance policies carried pursuant to this section must provide the following:

(a) that the insurer waives its right to subrogation under the policy against any Owner, any lessee and their families;

(b) that no act or omission by any occupant will void the policy or be a condition to recovery under the policy, unless that person is acting within the scope of his authority as an officer of the Association or as a member of the Board;

(c) that if, at the time of a loss under the policy, there is other insurance in the name of an Owner or any lessee covering the same property covered by the policy, the policy is primary insurance not contributing to the owner's individual insurance; and

(d) that each Owner is an insured person under the policy with respect to liability arising out of such Owner's membership in the Association.

ARTICLE 9

DAMAGE, DESTRUCTION AND OBSOLESCENCE

9.1 **Insurance Proceeds**. The Association shall receive the proceeds of any insurance described in Paragraph 9.1(a) purchased by the Association as the owner of the Common Areas. Any proceeds shall be used for the purpose of Maintenance, unless the Owners decide to terminate this Declaration in accordance with the provisions set forth herein.

9.2 **Mandatory Maintenance**. In the event of damage or destruction due to fire or other disaster, if the insurance proceeds are sufficient to reconstruct the improvements, the Association shall promptly cause such Maintenance to occur. If the insurance proceeds are not sufficient for such purpose, the Association may levy special assessments against the Owners for such deficiency pursuant to this Declaration.

9.3 **Plan for Maintenance**. Members holding two-thirds or more of the votes outstanding and entitled to be cast under the Bylaws may agree that the Common Areas, or any part thereof, are obsolete and may adopt a written plan for Maintenance. The Association shall duly record such plan in the offices of the Clerk and Recorder of Garfield County, Colorado.

9.4 **Payment for Maintenance**. The expense of Maintenance shall be payable by all of the Owners as Common Expenses. Assessments for the estimated cost of Maintenance shall be levied pursuant to Article 8 hereof and shall be allocated and collected as provided in that Article. Further levies may be made in like manner if the amounts collected prove insufficient to complete the Maintenance. Dissenting Owners shall not be relieved of their obligation to pay their proportionate share of any Common Expenses. If the

Association collects more money pursuant to this Section than is ultimately required for Maintenance, the Association shall return such excess to the Owners by a credit against the next installments of the annual assessment, or by a cash distribution to each Owner, in an amount proportionate to the respective amount collected from each Owner. The Association shall have full authority, right, and power to maintain, repair or replace the improvements on the Common Areas notwithstanding the failure of an Owner to pay the assessment.

ARTICLE 10

TAKING OF COMMON AREAS BY EMINENT DOMAIN

If any portion of all of the Common Areas is taken or condemned by any authority having the power of eminent domain, all compensation and damages on account of the taking of the Common Areas, exclusive of compensation for consequential damages to affected Units, shall be payable to the Association as Owner of the Common Areas. Such proceeds shall be used promptly by the Association to the extent necessary for repair and reconstruction of such remaining Common Areas in as substantial compliance to the original plan of development as possible. If there is an award in excess of the amount necessary to so substantially repair or reconstruct such remaining Common Areas, it shall, at the Board's discretion, be either refunded or retained by the Association for such uses as it deems appropriate.

ARTICLE 11

TERM, REVOCATION AND AMENDMENT OF DECLARATION

11.1 **Term Of Declaration**. The term of this Declaration shall be perpetual.

11.2 Revocation of Declaration. Except as restricted by the terms of the Colorado Common Interest Ownership Act and Paragraph 11.4 below, this Declaration may be revoked if seventy percent (70%) of the ownership interests in the Common Areas agree to such revocation by an executed, acknowledged instrument recorded in the offices of the Clerk and Recorder of Garfield County, Colorado. The prior written approval of sixty percent (60%) of the First Mortgagees of Common Areas will be required for any such revocation; except in the case of obsolescence, substantial destruction by fire or other casualty, taking by condemnation or eminent domain, or abandonment or termination provided by law.

11.3 Disbursement of Proceeds. Upon revocation of this Declaration, the Common Areas shall be sold by the Association, in whole or in parcels, as the Board may deem appropriate. All sales proceeds and all amounts recovered under any insurance policy shall be allocated among the Owners in the same proportion as is set forth in Paragraph 5.1 hereof. The funds shall be disbursed, without contribution from one Owner to another, by the Association for the following purposes and in the following order:

(a) payment in full of the customary expenses of sale;

(b) payment in full of the allocable taxes and special assessment liens in favor of any governmental assessing entity;

(c) payment in full of the balance of the lien of any First Mortgage on the Common Areas;

(d) payment in full of allocable unpaid Common Expenses and the unpaid costs, expenses, and fees incurred by the Association;

(e) payment in full of recorded junior liens and encumbrances on the Common Areas in the order of and to the extent of their priority; and

(f) payment of any balance to the Owners.

11.4 Amendment of Declaration. Except as restricted by the terms of the Colorado Common Interest Ownership Act, this Declaration may be amended if the Owners holding seventy percent (70%) or more of the votes outstanding and entitled to be cast under the Bylaws agree thereto by an executed, acknowledged instrument recorded in the office of the Clerk and Recorder of Garfield County, Colorado. The prior written approval of sixty percent (60%) of the First Mortgagees of all Units and will be required for any such amendment to take effect. No amendment to the Declaration may be made without Declarant's prior written consent.

ARTICLE 12

MISCELLANEOUS

12.1 Declarant's Rights Transferable. Any right or interest of the Declarant established or reserved in this Declaration may be transferred by Declarant either separately or with one or more of such rights or interests pursuant to the provisions of the Colorado Common Ownership Interest Act.

12.2 Provisions Incorporated in Deeds. Each provision contained in this Declaration shall be deemed incorporated in each or other instrument by which any right, title or interest in the Property is granted, devised or conveyed, whether or not set forth or referred to in such deed or other instrument.

12.3 Number and Gender. Unless the context shall otherwise provide, a singular number shall include the plural, a plural number shall include the singular, and the use of any gender shall include all genders.

12.4 Construction. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development of certain common facilities and functions and for the Maintenance of the Common Areas.

12.5 No Dedication. Nothing contained in this Declaration shall be deemed to be a gift or dedication of all or any part of the Property to the public or for any public use.

12.6 Notices. Any notice permitted or required to be delivered as provided in this Declaration shall be in writing and may be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered 48 hours after a copy of the same has been deposited in the United States mail, postage prepaid for first class mail and addressed to the receiving party at the address last given by such party to the Association. Any notice to the Association shall be sent to such address as it may from time to time designate in writing to each Owner or if not so designated, to its last known address.

12.7 Mortgagee Notice Rights. Any First Mortgagee will, upon request, be entitled to:

(a) inspect the books and records of the Association during normal business hours;

(b) receive financial statements of the Association within 90 days following the end of any fiscal year; and

(c) receive written notice of meetings of the Association and be permitted to designate a representative to attend all such meetings.

12.8 Successors and Assigns of Declarant. Any rights or responsibilities granted or retained by Declarant under these Covenants shall inure to and be binding upon any successors in interest or assigns of Declarant, and any person or entity which accedes to the rights and obligations of Declarant with respect to the real property governed by this Declaration, including all affiliates of Declarant, as that term is defined in the Colorado Common Ownership Interest Act; and such rights and obligations shall become the obligations of such successor or assign, at which time the Declarant shall be relieved of any and all such obligations and liabilities except as may be otherwise provided by said Colorado Common Interest Ownership Act.

12.9 **Disclaimer**. No representations or warranties of any kind, express or implied, have been given or made by Declarant or its agents or employees in connection with the Property, or any portion thereof, or any improvement thereon, its physical condition, zoning, compliance with the applicable laws, fitness or intended use, or in connection with the Subdivision's sale, operation, Maintenance, costs of Maintenance, taxes or regulations hereof as a planned unit development, except as expressly set forth in this Declaration.

12.10 Limited Liability. The Association and the Board shall not be liable to any party for any action or for any failure to act with respect to any matter if the action taken or failure to act was in good faith and without malice. The Owners severally agree to indemnify the Association and the Board against loss resulting from such action or failure to act if the Association and the Board acted or failed to take action in good faith without malice.

(a) Except as otherwise provided in the Colorado Common Interest Ownership Act or by this Declaration for Board members and officers appointed by the Declarant, neither the Association nor its past, present or future officers, directors, nor any other employee, agent or committee member of the Association shall be liable to any Owner or to any other person for actions taken or omissions made except for wanton and willful acts omissions. Without limit to the foregoing, the Association and the Board shall not be liable to any party for any action or for any failure to act with respect to any matter if the action taken or failure to act was in good faith and without malice. Acts taken upon the advise of legal counsel, certified public accountants, registered or licensed engineers, architects or surveyors shall conclusively be deemed to be in good faith and without malice. To the extent insurance carried by the Association for such purposes shall not be adequate, the Owners severally agree to indemnify the Association or Board against loss resulting from such action or failure to act, provided that the Association and the Board acted or failed to act in good faith and without malice.

(b) Any member or officer of the Association appointed by the Declarant as provided for herein shall exercise in the performance of their duties the standard of care required of fiduciaries of the Owners.

12.11 Severability. Invalidation of any one of the provisions of this instrument by judgment or by court order or decree, shall in no way affect the validity of any of the other provisions hereof which shall remain in full force and effect.

12.12 Rule Against Perpetuities. If any of the terms, covenants, conditions, easements, restrictions, uses, limitations or obligations created by this Declaration shall be unlawful or void for violation of:

(a) the rule against perpetuities or some analogous statutory provision;

(b) the rule restricting restraints on alienation; or

(c) any other statutory or common law rules imposing like or similar time limits, such provisions shall continue only for the period of the life of Kenneth L. Melby, II, his now living descendants, and the survivor of them, plus twenty-one (21) years.

12.13 Run With The Land. Declarant, for itself, its successors and assigns, hereby declares that all of the 340 Thirteenth Subdivision shall be held, used and occupied subject to the provisions of this Declaration, and to the covenants and restrictions contained herein, and that the provisions hereof shall run with the land and be binding upon all persons who hereafter become the Owner of any interest of any land or estate within the 340 Thirteenth Subdivision.

IN WITNESS WHEREOF, Declarant has executed this Declaration the day and year first above written.

KLM PROPERTIES, INC., a Colorado Corporation

Seal

By: ______________________

Kenneth L. Melby, as President

NOTARY PUBLIC
CINDY HUGHES DENNEY
STATE OF COLORADO

STATE OF COLORADO)
) ss.
COUNTY OF GARFIELD)

The foregoing instrument was acknowledged before me this 4th day of December 1997, by Kenneth L. Melby as President of KLM Properties, Inc., a Colorado corporation, the Declarant.

Witness my hand and official seal.
My commission expires: 05/17/99.

Cindy Hughes Denney
Notary Public

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36 of 37 R 186.00 D 0.00 GARFIELD COUNTY CO

EXHIBIT "A"

LOT 2
BLAKEWOOD COURT SUBDIVISION
(A/K/A ALPINE CONCEPTS)
ACCORDING TO THE PLAT THEREOF, RECORDED
DECEMBER 3, 1991, AS RECEPTION NO. 429609.
CITY OF GLENWOOD SPRINGS

COUNTY OF GARFIELD
STATE OF COLORADO

EXHIBIT "B"

2.10 (cont) "Condominium Unit" shall mean and refer to the fee simple interest in and to an Individual Air Space Unit, together with all fixtures and improvements therein contained, and together with the undivided interest in the Common Areas.

"Individual Air Space Unit" shall mean and refer to the air space contained within the enclosed rooms occupying part of a floor or floors in a Condominium Building and bounded by the interior surfaces of the perimeter walls (or the adjoining walls, if two or more Individual Air Space Units adjoin each other), floors (or lower-most floors, if it is an Individual Air Space Unit containing more than one level), ceilings (or the upper-most ceilings, if it is an Individual Air Space Unit containing more than one level), windows and window frames, door and door frames of a Condominium Building and separately identified on the Condominium Plat.