

ARTICLES OF INCORPORATION  
OF  
SUN VAIL CONDOMINIUM ASSOCIATION

The undersigned, desiring to establish a nonprofit corporation pursuant to the Colorado Nonprofit Corporation Act, hereby certifies:

ARTICLE I

The name of the corporation shall be: SUN VAIL CONDOMINIUM ASSOCIATION.

ARTICLE II

The corporation shall have perpetual existence.

ARTICLE III

(a) Purposes. The objects and purposes of the corporation shall be: (i) to provide for the care, upkeep and supervision of Sun Vail Condominiums in Eagle County, Colorado (the "Premises"), as further described in a condominium declaration recorded in the Eagle County real property records and all amended and supplemental declarations filed from time to time (the "Declaration") including the general common elements and all recreational facilities maintained thereon from time to time (if any); (ii) to regulate and control the relationships between the owners (the "Owners") of condominium units ("Units") on the Premises in connection with their ownership of the Units; (iii) to provide for the pleasure and recreation of the Owners; and (iv) to promote

the best interests of the Owners for the purpose of securing for them the fullest utilization and enjoyment of the Premises.

(b) Powers. In furtherance of the foregoing purposes, but not otherwise, the corporation (which is sometimes hereinafter called the Association) shall have and may exercise all of the following powers:

(i) Real and personal property. To acquire, by gift, purchase, trade or any other method, own, operate, build, manage, sell, develop, encumber, and otherwise deal in and with real and personal property of every kind and character, tangible and intangible, wherever located, and interests of every sort therein; however, the Association may not seek to abandon, partition, subdivide, encumber, sell or transfer any general or limited common elements (as defined in the Declaration) without the prior written consent of at least 75% of all first lienors (as defined in the Declaration) and 75% of all Owners having an interest in such common elements (other than Declarant, as defined in the Declaration), except that the Association may grant easements for public utilities or for other public purposes consistent with the intended use of the such common elements.

(ii) Borrowing. To borrow funds or raise moneys in any amount for any of the purposes of the Association and from time to time to execute, accept, endorse and deliver as evidences of such borrowing, all kinds of instruments and securities, including, but without limiting the generality of the foregoing, promissory notes, drafts, bills of exchange, warrants, bonds, debentures, property certificates, trust certificates and other negotiable or non-negotiable instruments and evidences of indebtedness, and to secure the payment and performance of such securities by mortgage on, or pledge, conveyance, deed or assignment in trust of, the whole or any part of the assets of the Association, real, personal or mixed, including contract rights, whether at the time owned or hereafter acquired.

(iii) Contracts. To enter into, make, amend, perform and carry out, or cancel and rescind, contracts, leases, permits and concession agreements for any lawful purposes pertaining to its business.

(iv) Guaranties. To make any guaranty respecting securities, indebtedness, notes, interest, contracts or other obligations created by any individual, partnership, association, corporation or other entity, and to secure such guaranties by encumbrance upon any and all assets of the Association, to the extent that such guaranty is made in pursuance of the purposes herein set forth.

(v) Loans. To lend money for any of the purposes above set forth; to invest its funds from time to time and take and hold real and personal property as security for payment of funds so loaned or invested.

(vi) Assessments. To levy monthly assessments and special assessments against the Owners for common expenses (including but not limited to the costs of repairing and maintaining general common elements, and utility charges which are not charged directly to the Owners by the utility company), to charge interest on unpaid assessments and to collect dues, fees and interest in accordance with its bylaws, and to enforce liens given as security for such assessments, dues, fees and interest.

(vii) General powers. To do everything necessary, suitable or proper for the accomplishment of any of the purposes, the attainment of any of the objects, or the furtherance of any of the powers above set forth, either alone or in connection with other corporations, firms or individuals, and either as principal or agent, and to do every act or thing incidental or appurtenant to, or growing out of, or connected with any of the aforesaid objects, purposes or powers.

(viii) Rule making. To make and enforce rules and regulations with regard to the management and operation of the Premises.

(ix) Management, maintenance and repair. To provide for the management, maintenance and repair of the Premises.

(x) Federal Home Loan Mortgage Corporation. To take any action or enter into any agreement that may be required as a condition to allow any first lienor to sell his interest in any Unit to the Federal Home Loan Mortgage Corporation.

(xi) Powers conferred by law. The foregoing enumeration of specific powers shall not limit or restrict in any manner the general powers of the Association and the enjoyment and exercise thereof as now or hereafter conferred by the laws of Colorado.

(c) Restrictions upon purposes and powers. The foregoing purposes and powers of the Association are subject to the following limitations:

(i) That the Association shall be organized and operated exclusively for pleasure, recreational and other non-profitable purposes as set forth in Section 501(c)(7) of the Internal Revenue Code of 1954, as it is now or may hereafter be amended, or in any corresponding provision of any future law of the United States of America providing for exemption of similar organizations from income taxation; and

(ii) That no part of the net earnings of the Association shall inure to the benefit of any member.

(d) Dividends, Distributions, etc. The Association shall not pay any dividends. No distribution of the corporate assets to members, as such, shall be made until all corporate debts are paid, and then only upon final dissolution of the Association by the affirmative vote of at least 75 percent of the votes of all the members at any regular or special meeting called for that purpose at which a quorum shall be represented. Upon such dissolution and distribution, the assets remaining after payment of all debts shall be distributed among the members of the Association in accordance with the Owners' "Sharing Ratio" as defined in paragraph 1(1) of the Declaration.

#### ARTICLE IV

The operations of the Association shall be conducted at such places within or outside of the United States as may from time to time be determined by the board of directors. The address of the initial registered and principal office of the corporation is The Tivoli Lodge, 386 Hanson Ranch Road, P. O. Box 1325, Vail, Colorado 81657. The name of its initial registered agent at such address is Robert T. Lazier.

#### ARTICLE V

(a) Members. Any individual, corporation, partnership, association, trust or other legal entity or combination of entities owning an undivided fee simple interest in a Unit, shall automatically be a member of the Association. Such membership shall be continuous throughout the period that such ownership

continues. A membership shall terminate automatically without any Association action whenever such individual, organization or group ceases to own a Unit. Termination of membership shall not relieve or release any former member from any liability or obligation incurred by virtue of or in any way connected with ownership of a Unit, or impair any rights or remedies which the Association or others may have against such former Owner and member arising out of or in any way connected with such ownership or membership.

(b) Classes of membership. The Association shall have the following classes of membership:

(i) Individual membership. Any individual acquiring such an interest in a Unit shall automatically become an individual member of the Association.

(ii) Organizational membership. Any corporation, partnership, association, trust or other legal entity acquiring such an interest in a Unit shall automatically become an organizational member of the Association. Each organizational member shall from time to time designate one or more individuals who may represent it at meetings and vote on behalf of such member. The secretary of the Association shall maintain a list of the persons entitled to vote on behalf of such member, and until the Association is notified to the contrary, any action taken by such persons purporting to act on behalf of the organizational member shall be binding on such member.

(iii) Declarant membership. Declarant, as defined in the Declaration, shall be a member of the Association as long as he owns an interest in a Unit. Declarant shall, from time to time, designate one or more individuals who may represent him at meetings and vote on his behalf.

(c) Number of votes. The total number of votes of all members shall be 10,000. Each member shall be entitled to cast one vote at all meetings of members for each .01 percent of interest in the general common elements of the Premises appurtenant to the apartment unit (as defined in the Declaration) owned by said member, said interest being determined by the Owner's Sharing Ratio. Each member who is a co-owner of a Unit (including a joint tenant) shall have the right to vote only a number of votes equal to the product of his undivided interest in a Unit multiplied by the total number of votes appurtenant to the Unit. For purposes of this paragraph, each joint tenant of a Unit shall be deemed to own an undivided interest in his Unit equal to 100 percent divided by the total number of joint tenants.

(d) Amendment. This Article V may be amended only by the unanimous vote of all members.

#### ARTICLE VI

(a) The control and management of the affairs of the Association and the disposition of its funds and property shall be vested in a board of directors. The number of directors (which may not be less than three), their terms of office and the manner of their selection or election shall be determined according to the bylaws from time to time in effect. Cumulative voting shall not be allowed in the election of directors or for any other purpose. The names and addresses of those comprising the first board of directors, to serve until their successors shall be duly elected, are as follows:

Robert T. Lazier

P. O. Box 1325  
Vail, Colorado 81657

Diane Lazier

P. O. Box 1325  
Vail, Colorado 81657

Jay K. Peterson

P. O. Box 3149  
Vail, Colorado 81657

(b) The board of directors may by resolution designate two or more of their number to constitute an executive committee which shall have and exercise all of the power of the board of directors in the management of the business and affairs of the Association or such lesser authority as may be set forth in such resolution. No such delegation of authority shall relieve the board of directors or any member of the board from any responsibility imposed by law.

#### ARTICLE VII

The Association shall have such officers as may from time to time be prescribed by the bylaws. Their terms of office and the manner of their designation or selection shall also be determined according to the bylaws from time to time in effect.

#### ARTICLE VIII

The board of directors shall have power to appoint a manager, which may be a corporation, to carry on day-to-day maintenance, repair and service functions for the Association. The Association may enter into a contract with such manager if

the contract may be terminated by the Association without cause or payment of a termination fee on 90 days or less written notice and such contract has a term of not more than three years (including all renewals) and with such other provisions as the board of directors may approve.

#### ARTICLE IX

Authority to convey or encumber the property of the Association and to execute any deed, contract or other instrument on behalf of the Association for itself or as attorney-in-fact for one or more of the members is vested in the president or any vice president. All instruments conveying or encumbering such property (whether or not executed as such attorney-in-fact) shall be executed by the president or a vice president and attested by the secretary or an assistant secretary of the Association.

#### ARTICLE X

The following provisions are inserted for the management of the business and for the conduct of the affairs of the Association, and the same are in furtherance of and not in limitation or exclusion of the powers conferred by law:

(a) Board of directors to exercise general power. All corporate powers except those which by law or by these articles expressly require the consent of the members shall be exercised by the board of directors or the executive committee.

(b) Removal of directors. One or more or all of the directors may be removed with or without cause by the vote of a



majority of the votes of the members then entitled to vote at an election of directors. Such vacancies shall be filled only by the vote of the members so represented, as if such meeting were a regular annual meeting for the election of directors, the person or persons having the highest number of votes in consecutive order being declared elected to the board of directors.

(c) Compensation of directors and members. The board of directors is hereby authorized to make provision for reasonable compensation to its members and to members of the Association for their services, and to reimburse such members for expenses incurred in connection with furthering the purposes of the Association. The board of directors shall fix the basis and conditions upon which such compensation and reimbursement shall be paid. Any director of the Association may also serve in any other capacity and receive compensation and reimbursement for such other work.

#### ARTICLE XI

(a) Definitions. For purposes of this Article XI, the following terms shall have the meanings set forth below:

(i) Action - Any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative;

(ii) Derivative Action - Any Action by or in the right of the Association to procure a judgment in its favor;

(iii) Third Party Action - Any Action other than a Derivative Action; and

(iv) Indemnified Party - Any person who is or was a party or is threatened to be made a party to any Action by reason of the fact that he is or was a director or officer of the Association.

(b) Third Party Actions. The Association shall indemnify any Indemnified Party against expenses (including attorneys' fees), judgments, fines, excise taxes, and amounts paid in settlement actually and reasonably incurred by him in connection with any Third Party Action if, as determined pursuant to Paragraph (e) below, he acted in good faith and in a manner he reasonably believed to be in the best interests of the Association and, with respect to any criminal Action, had no reasonable cause to believe his conduct was unlawful. The termination of any Third Party Action by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent, shall not of itself create either a presumption that the Indemnified Party did not act in good faith and in a manner which he reasonably believed to be in the best interests of the Association or, with respect to any criminal Action, a presumption that the Indemnified Party had reasonable cause to believe that his conduct was unlawful.

(c) Derivative Actions. The Association shall indemnify any Indemnified Party against expenses (including attorneys' fees but excluding amounts paid in settlement) actually and reasonably incurred by him in connection with the defense or settlement of any Derivative Action if, as determined pursuant to Paragraph (e) below, he acted in good faith and in a manner he reasonably believed to be in the best interests of the Association, except that no indemnification shall be made in respect of any claim,

issue, or matter as to which such person is or has been adjudged to be liable for negligence or misconduct in the performance of his duty to the Association unless and only to the extent that the court in which such Action was brought determines upon application that, despite the adjudication of liability and in view of all circumstances of the case, such Indemnified Party is fairly and reasonably entitled to indemnification for such expenses which such court deems proper. If any claim that may be made by or in the right of the Association against any person who may seek indemnification under this Article XI is joined with any claim by any other party against such person in a single Action, the claim by or in the right of the Association (and all expenses related thereto) shall nevertheless be deemed the subject of a separate and distinct Derivative Action for purposes of this Article XI.

(d) Success on Merits. If and to the extent that any Indemnified Party has been successful on the merits in defense of any Action referred to in Paragraphs (b) or (c) of this Article XI, or in defense of any claim issue, or matter therein, he shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by him in connection therewith without the necessity of any determination that he has met the applicable standards of conduct set forth in Paragraphs (b) or (c) of this Article XI.

(e) Determination. Except as provided in Paragraph (d), any indemnification under Paragraphs (b) or (c) of this Article XI

(unless ordered by a court) shall be made by the Association only upon a determination that indemnification of the Indemnified Party is proper in the circumstances because he has met the applicable standards of conduct set forth in said Paragraphs (b) or (c). Any indemnification under Paragraph (d) of this Article XI (unless ordered by a court) shall be made by the Association only upon a determination by the Association of the extent to which the Indemnified Party has been successful on the merits. Any such determination shall be made (a) by a majority vote of a quorum of the whole board of directors consisting of directors who are not or were not parties to the subject Action or (b) upon the request of a majority of the directors who are not or were not parties to such Action, or if there be none, upon the request of a majority of a quorum of the whole board of directors, by independent legal counsel (which counsel shall not be the counsel generally employed by the Association in connection with its corporate affairs) in a written opinion, or (c) by the members of the Association at a meeting called for such purpose.

(f) Payment in Advance. Expenses (including attorneys' fees) or some part thereof incurred by an Indemnified Party in defending any Action, shall be paid by the Association in advance of the final disposition of such Action if a determination to make such payment is made on behalf of the Association as provided in Paragraph (e) of this Article XI; provided that no such payment may be made unless the Association shall have first received

a written undertaking by or on behalf of the Indemnified Party to repay such amount unless it is ultimately determined that he is entitled to be indemnified by the Association as authorized in this Article XI.

(g) Other Indemnification. The indemnification provided by this Article XI shall not be deemed exclusive of any other rights to which any Indemnified Party or other person may be entitled under these articles of incorporation, any agreement, bylaw, vote of the members or disinterested directors or otherwise, and any procedure provided for by any of the foregoing, both as to action in his official capacity and as to action in another capacity while holding such office.

(h) Period of Indemnification. Any indemnification pursuant to this Article XI shall continue as to any Indemnified Party who has ceased to be a director or officer of the Association, and shall inure to the benefit of the heirs and personal representatives of such Indemnified Party. The repeal or amendment of this Article XI or of any Paragraph or provision thereof which would have the effect of limiting, qualifying or restricting any of the powers or rights of indemnification provided or permitted in this Article XI shall not, solely by reason of such repeal or amendment, eliminate, restrict or otherwise affect the right or power of the Association to indemnify any person, or affect any right of indemnification of such person, with respect to any act or omission which occurred prior to such repeal or amendment.

(i) Insurance. By action of the board of directors, notwithstanding any interest of the directors in such action, the Association may purchase and maintain insurance, in such amounts as the board may deem appropriate, on behalf of any Indemnified Party against any liability asserted against him and incurred by him in his capacity of or arising out of his status as an Indemnified Party, whether or not the Association would have the power to indemnify him against such liability under applicable provisions of law.

(j) Right to Impose Conditions to Indemnification. The Association shall have the right to impose, as conditions to any indemnification provided or permitted in this Article XI, such reasonable requirements and conditions as to the board of directors or members may appear appropriate in each specific case and circumstances, including but not limited to any one or more of the following: (a) that any counsel representing the person to be indemnified in connection with the defense or settlement of any Action shall be counsel mutually agreeable to the person to be indemnified and to the Association; (b) that the Association shall have the right, at its option, to assume and control the defense or settlement of any claim or proceeding made, initiated or threatened against the person to be indemnified; and (c) that the Association shall be subrogated, to the extent of any payments made by way of indemnification, to all of the indemnified person's right of recovery, and that the person to be

indemnified shall execute all writings and do everything necessary to assure such rights of subrogation to the Association.

#### ARTICLE XII

The initial bylaws of the Association shall be as adopted by its board of directors. The board shall have power to alter, amend or repeal the bylaws. The bylaws may contain any provisions for the regulation or management of the affairs of the Association which are not inconsistent with law, the Declaration or these articles of incorporation, as the same may from time to time be amended.

#### ARTICLE XIII

The Association reserves the right to amend, alter, change or repeal any provision contained in these articles of incorporation by, unless a higher voting requirement is set forth herein with respect to any particular provision, the vote of the holders of at least 75 percent of the votes of the members at any regular or special meeting called for that purpose at which a quorum shall be represented; provided that no amendment shall be contrary to or inconsistent with any provision of the Declaration.

#### ARTICLE XIV

The name and address of the incorporator is:

Robert T. Lazier

P. O. Box 1325  
Vail, Colorado 81657

Dated: \_\_\_\_\_, 1979

\_\_\_\_\_  
Robert T. Lazier

VERIFICATION

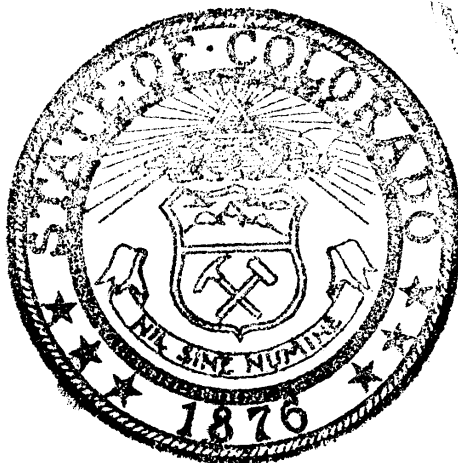
STATE OF COLORADO    )  
                              )   ss.  
COUNTY OF EAGLE     )

I, \_\_\_\_\_, a notary public,  
hereby certify that on the \_\_\_\_\_ day of \_\_\_\_\_, 1979,  
personally appeared before me ROBERT T. LAZIER, who being by me  
first duly sworn, severally declared that he was the person who  
signed the foregoing documents as incorporator and that the  
statements therein contained are true.

My commission expires:

\_\_\_\_\_  
Notary Public





**STATE OF COLORADO**  
**DEPARTMENT OF STATE**

I hereby certify that this is a true and  
complete copy of the document filed in  
this office and admitted to record in  
File 377059

DATED May 16, 1987  
Rafaela Lopez  
Secretary of State

By C. Noriega

**ARTICLES OF AMENDMENT  
TO THE  
ARTICLES OF INCORPORATION  
FOR**

**SUN VAIL CONDOMINIUM ASSOCIATION**

Pursuant to the provisions of the Colorado Non-Profit Corporation Act, the undersigned non-profit corporation adopts the following Articles of Amendment to the Articles of Incorporation:

FIRST: The name of the Corporation is:

Sun Vail Condominium Association

SECOND: The following amendment to the Articles of Incorporation was adopted at a meeting of the members of the Association held on JULY 29, 1989 in the manner prescribed in the Colorado Non-Profit Corporation Act. A Quorum was present at the meeting and the amendment was adopted by the vote of at least three-quarters of the members present, in person or proxy.

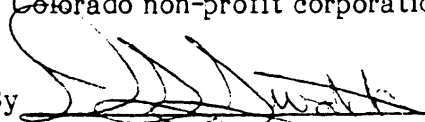
a) Effective upon the filing of these Articles of Amendment with the Colorado Secretary of State, the following shall be an additional purpose and power of the Corporation, and shall be added to the Third Article of the Articles of Incorporation:

III(b)(xii) "The Board of Directors shall have the power to eliminate or limit the personal liability of a Director to the Corporation or to its members for monetary damages for breach of fiduciary duty as a Director as allowed by law.

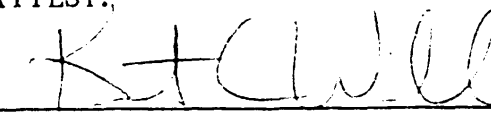
THIRD: No other amendments are presently made by the Corporation.

SUN VAIL CONDOMINIUM ASSOCIATION,  
a Colorado non-profit corporation

By

  
\_\_\_\_\_, President

ATTEST:

  
\_\_\_\_\_, Secretary

**ORTEN & HINDMAN, P.C.**

ATTORNEYS AT LAW

1125 SEVENTEENTH STREET

SUITE 2310

DENVER, COLORADO 80202

FACSIMILE: (303) 295 - 2176

TELEPHONE: (303) 292-9999

JERRY C.M. ORTEN  
THOMAS J. HINDMAN  
BARBARA K. PURVIS  
JERSEY M. GREEN

*Of Counsel*  
CHARLES R. CUCHIARA, JR.

January 16, 1991

Sun Vail Condominium Association  
c/o Vail Resort Rentals & Realty, Inc.  
605 North Frontage Road, #1  
Vail, Colorado 81657

Attention: Kit Williams

Re: Sun Vail Condominium Association  
Our File No. 9278-9001

Dear Kit:

Enclosed please find a copy of the Certificate from the Secretary of State accepting the amendment to the Articles Of Incorporation for the Sun Vail Condominium Association. The original is in our file.

Should you have any questions with respect to this matter, please do not hesitate to contact us.

Very truly yours,

ORTEN & HINDMAN, P.C.

By Linda Ralph  
Linda Ralph  
Legal Assistant

/lr  
enc.



# STATE OF COLORADO

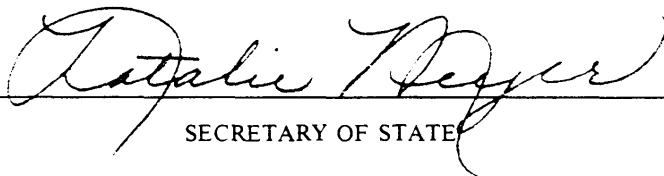
DEPARTMENT OF  
STATE

## CERTIFICATE

I, NATALIE MEYER, Secretary of State of the State of Colorado hereby certify that the prerequisites for the issuance of this certificate have been fulfilled in compliance with law and are found to conform to law.

Accordingly, the undersigned, by virtue of the authority vested in me by law, hereby issues A CERTIFICATE OF AMENDMENT TO SUN VAIL CONDOMINIUM ASSOCIATION, A NON-PROFIT CORPORATION.

Dated: DECEMBER 31, 1990

  
\_\_\_\_\_  
SECRETARY OF STATE

NOT FOR PROFIT

ARTICLES OF INCORPORATION  
OF

377059

FILED

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DEPARTMENT OF STATE  
STATE OF COLORADO

SUN VAIL CONDOMINIUM ASSOCIATION

5 JUL 79

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The name of the corporation shall be: SUN VAIL  
CONDOMINIUM ASSOCIATION.

ARTICLE II

The corporation shall have perpetual existence.

ARTICLE III

(a) Purposes. The objects and purposes of the corporation shall be: (i) to provide for the care, upkeep and supervision of Sun Vail Condominiums in Eagle County, Colorado (the "Premises"), as further described in a condominium declaration recorded in the Eagle County real property records and all amended and supplemental declarations filed from time to time (the "Declaration") including the general common elements and all recreational facilities maintained thereon from time to time (if any); (ii) to regulate and control the relationships between the owners (the "Owners") of condominium units ("Units") on the Premises in connection with their ownership of the Units; (iii) to provide for the pleasure and recreation of the Owners; and (iv) to promote

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the best interests of the Owners for the purpose of securing for them the fullest utilization and enjoyment of the Premises.

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(b) Powers. In furtherance of the foregoing purposes, but not otherwise, the corporation (which is sometimes hereinafter called the Association) shall have and may exercise all of the following powers:

(i) Real and personal property. To acquire, by gift, purchase, trade or any other method, own, operate, build, manage, sell, develop, encumber, and otherwise deal in and with real and personal property of every kind and character, tangible and intangible, wherever located, and interests of every sort therein; however, the Association may not seek to abandon, partition, subdivide, encumber, sell or transfer any general or limited common elements (as defined in the Declaration) without the prior written consent of at least 75% of all first lienors (as defined in the Declaration) and 75% of all Owners having an interest in such common elements (other than Declarant, as defined in the Declaration), except that the Association may grant easements for public utilities or for other public purposes consistent with the intended use of the such common elements.

(ii) Borrowing. To borrow funds or raise moneys in any amount for any of the purposes of the Association and from time to time to execute, accept, endorse and deliver as evidences of such borrowing, all kinds of instruments and securities, including, but without limiting the generality of the foregoing, promissory notes, drafts, bills of exchange, warrants, bonds, debentures, property certificates, trust certificates and other negotiable or non-negotiable instruments and evidences of indebtedness, and to secure the payment and performance of such securities by mortgage on, or pledge, conveyance, deed or assignment in trust of, the whole or any part of the assets of the Association, real, personal or mixed, including contract rights, whether at the time owned or hereafter acquired.

(iii) Contracts. To enter into, make, amend, perform and carry out, or cancel and rescind, contracts, leases, permits and concession agreements for any lawful purposes pertaining to its business.

(iv) Guaranties. To make any guaranty respecting securities, indebtedness, notes, interest, contracts or other obligations created by any individual, partnership, association, corporation or other entity, and to secure such guaranties by encumbrance upon any and all assets of the Association, to the extent that such guaranty is made in pursuance of the purposes herein set forth.

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(v) Loans. To lend money for any of the purposes above set forth; to invest its funds from time to time and take and hold real and personal property as security for payment of funds so loaned or invested.

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(vi) Assessments. To levy monthly assessments and special assessments against the Owners for common expenses (including but not limited to the costs of repairing and maintaining general common elements, and utility charges which are not charged directly to the Owners by the utility company), to charge interest on unpaid assessments and to collect dues, fees and interest in accordance with its bylaws, and to enforce liens given as security for such assessments, dues, fees and interest.

(vii) General powers. To do everything necessary, suitable or proper for the accomplishment of any of the purposes, the attainment of any of the objects, or the furtherance of any of the powers above set forth, either alone or in connection with other corporations, firms or individuals, and either as principal or agent, and to do every act or thing incidental or appurtenant to, or growing out of, or connected with any of the aforesaid objects, purposes or powers.

(viii) Rule making. To make and enforce rules and regulations with regard to the management and operation of the Premises.

(ix) Management, maintenance and repair. To provide for the management, maintenance and repair of the Premises.

(x) Federal Home Loan Mortgage Corporation. To take any action or enter into any agreement that may be required as a condition to allow any first lienor to sell his interest in any Unit to the Federal Home Loan Mortgage Corporation.

(xi) Powers conferred by law. The foregoing enumeration of specific powers shall not limit or restrict in any manner the general powers of the Association and the enjoyment and exercise thereof as now or hereafter conferred by the laws of Colorado.

(c) Restrictions upon purposes and powers. The foregoing purposes and powers of the Association are subject to the following limitations:

(1) That the Association shall be organized and operated exclusively for pleasure, recreational and other non-profitable purposes as set forth in Section 501(c)(7) of the Internal Revenue Code of 1954, as it is now or may hereafter be amended, or in any corresponding provision of any future law of the United States of America providing for exemption of similar organizations from income taxation; and

(ii) That no part of the net earnings of the Association shall inure to the benefit of any member.

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(d) Dividends, Distributions, etc. The Association shall not pay any dividends. No distribution of the corporate assets to members, as such, shall be made until all corporate debts are paid, and then only upon final dissolution of the Association by the affirmative vote of at least 75 percent of the votes of all the members at any regular or special meeting called for that purpose at which a quorum shall be represented. Upon such dissolution and distribution, the assets remaining after payment of all debts shall be distributed among the members of the Association in accordance with the Owners' "Sharing Ratio" as defined in paragraph 1(1) of the Declaration.

#### ARTICLE IV

The operations of the Association shall be conducted at such places within or outside of the United States as may from time to time be determined by the board of directors. The address of the initial registered and principal office of the corporation is The Tivoli Lodge, 386 Hanson Ranch Road, P. O. Box 1325, Vail, Colorado 81657. The name of its initial registered agent at such address is Robert T. Lazier.

#### ARTICLE V

(a) Members. Any individual, corporation, partnership, association, trust or other legal entity or combination of entities owning an undivided fee simple interest in a Unit, shall automatically be a member of the Association. Such membership shall be continuous throughout the period that such ownership



continues. A membership shall terminate automatically without any Association action whenever such individual, organization or group ceases to own a Unit. Termination of membership shall not relieve or release any former member from any liability or obligation incurred by virtue of or in any way connected with ownership of a Unit, or impair any rights or remedies which the Association or others may have against such former Owner and member arising out of or in any way connected with such ownership or membership.

(b) Classes of membership. The Association shall have the following classes of membership:

(i) Individual membership. Any individual acquiring such an interest in a Unit shall automatically become an individual member of the Association.

(ii) Organizational membership. Any corporation, partnership, association, trust or other legal entity acquiring such an interest in a Unit shall automatically become an organizational member of the Association. Each organizational member shall from time to time designate one or more individuals who may represent it at meetings and vote on behalf of such member. The secretary of the Association shall maintain a list of the persons entitled to vote on behalf of such member, and until the Association is notified to the contrary, any action taken by such persons purporting to act on behalf of the organizational member shall be binding on such member.

(iii) Declarant membership. Declarant, as defined in the Declaration, shall be a member of the Association as long as he owns an interest in a Unit. Declarant shall, from time to time, designate one or more individuals who may represent him at meetings and vote on his behalf.

(c) Number of votes. The total number of votes of all members shall be 10,000. Each member shall be entitled to cast one vote at all meetings of members for each .01 percent of interest in the general common elements of the Premises appurtenant to the apartment unit (as defined in the Declaration) owned by said member, said interest being determined by the Owner's Sharing Ratio. Each member who is a co-owner of a Unit (including a joint tenant) shall have the right to vote only a number of votes equal to the product of his undivided interest in a Unit multiplied by the total number of votes appurtenant to the Unit. For purposes of this paragraph, each joint tenant of a Unit shall be deemed to own an undivided interest in his Unit equal to 100 percent divided by the total number of joint tenants.

(d) Amendment. This Article V may be amended only by the unanimous vote of all members.

#### ARTICLE VI

(a) The control and management of the affairs of the Association and the disposition of its funds and property shall be vested in a board of directors. The number of directors (which may not be less than three), their terms of office and the manner of their selection or election shall be determined according to the bylaws from time to time in effect. Cumulative voting shall not be allowed in the election of directors or for any other purpose. The names and addresses of those comprising the first board of directors, to serve until their successors shall be duly elected, are as follows:

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Robert T. Lazier

P. O. Box 1325  
Vail, Colorado 81657

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Diane Lazier

P. O. Box 1325  
Vail, Colorado 81657

Jay K. Peterson

P. O. Box 3149  
Vail, Colorado 81657

(b) The board of directors may by resolution designate two or more of their number to constitute an executive committee which shall have and exercise all of the power of the board of directors in the management of the business and affairs of the Association or such lesser authority as may be set forth in such resolution. No such delegation of authority shall relieve the board of directors or any member of the board from any responsibility imposed by law.

#### ARTICLE VII

The Association shall have such officers as may from time to time be prescribed by the bylaws. Their terms of office and the manner of their designation or selection shall also be determined according to the bylaws from time to time in effect.

#### ARTICLE VIII

The board of directors shall have power to appoint a manager, which may be a corporation, to carry on day-to-day maintenance, repair and service functions for the Association. The Association may enter into a contract with such manager if

the contract may be terminated by the Association without cause or payment of a termination fee on 90 days or less written notice and such contract has a term of not more than three years (including all renewals) and with such other provisions as the board of directors may approve.

#### ARTICLE IX

Authority to convey or encumber the property of the Association and to execute any deed, contract or other instrument on behalf of the Association for itself or as attorney-in-fact for one or more of the members is vested in the president or any vice president. All instruments conveying or encumbering such property (whether or not executed as such attorney-in-fact) shall be executed by the president or a vice president and attested by the secretary or an assistant secretary of the Association.

#### ARTICLE X

The following provisions are inserted for the management of the business and for the conduct of the affairs of the Association, and the same are in furtherance of and not in limitation or exclusion of the powers conferred by law:

(a) Board of directors to exercise general power. All corporate powers except those which by law or by these articles expressly require the consent of the members shall be exercised by the board of directors or the executive committee.

(b) Removal of directors. One or more or all of the directors may be removed with or without cause by the vote of a

majority of the votes of the members then entitled to vote at an election of directors. Such vacancies shall be filled only by the vote of the members so represented, as if such meeting were a regular annual meeting for the election of directors, the person or persons having the highest number of votes in consecutive order being declared elected to the board of directors.

(c) Compensation of directors and members. The board of directors is hereby authorized to make provision for reasonable compensation to its members and to members of the Association for their services, and to reimburse such members for expenses incurred in connection with furthering the purposes of the Association. The board of directors shall fix the basis and conditions upon which such compensation and reimbursement shall be paid. Any director of the Association may also serve in any other capacity and receive compensation and reimbursement for such other work.

#### ARTICLE XI

(a) Definitions. For purposes of this Article XI, the following terms shall have the meanings set forth below:

(i) Action - Any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative;

(ii) Derivative Action - Any Action by or in the right of the Association to procure a judgment in its favor;

(iii) Third Party Action - Any Action other than a Derivative Action; and

(iv) Indemnified Party - Any person who is or was a party or is threatened to be made a party to any Action by reason of the fact that he is or was a director or officer of the Association.

(b) Third Party Actions. The Association shall indemnify any Indemnified Party against expenses (including attorneys' fees), judgments, fines, excise taxes, and amounts paid in settlement actually and reasonably incurred by him in connection with any Third Party Action if, as determined pursuant to Paragraph (e) below, he acted in good faith and in a manner he reasonably believed to be in the best interests of the Association and, with respect to any criminal Action, had no reasonable cause to believe his conduct was unlawful. The termination of any Third Party Action by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent, shall not of itself create either a presumption that the Indemnified Party did not act in good faith and in a manner which he reasonably believed to be in the best interests of the Association or, with respect to any criminal Action, a presumption that the Indemnified Party had reasonable cause to believe that his conduct was unlawful.

(c) Derivative Actions. The Association shall indemnify any Indemnified Party against expenses (including attorneys' fees but excluding amounts paid in settlement) actually and reasonably incurred by him in connection with the defense or settlement of any Derivative Action if, as determined pursuant to Paragraph (e) below, he acted in good faith and in a manner he reasonably believed to be in the best interests of the Association, except that no indemnification shall be made in respect of any claim,

issue, or matter as to which such person is or has been adjudged to be liable for negligence or misconduct in the performance of his duty to the Association unless and only to the extent that the court in which such Action was brought determines upon application that, despite the adjudication of liability and in view of all circumstances of the case, such Indemnified Party is fairly and reasonably entitled to indemnification for such expenses which such court deems proper. If any claim that may be made by or in the right of the Association against any person who may seek indemnification under this Article XI is joined with any claim by any other party against such person in a single Action, the claim by or in the right of the Association (and all expenses related thereto) shall nevertheless be deemed the subject of a separate and distinct Derivative Action for purposes of this Article XI.

(d) Success on Merits. If and to the extent that any Indemnified Party has been successful on the merits in defense of any Action referred to in Paragraphs (b) or (c) of this Article XI, or in defense of any claim issue, or matter therein, he shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by him in connection therewith without the necessity of any determination that he has met the applicable standards of conduct set forth in Paragraphs (b) or (c) of this Article XI.

(e) Determination. Except as provided in Paragraph (d), any indemnification under Paragraphs (b) or (c) of this Article XI

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(unless ordered by a court) shall be made by the Association only upon a determination that indemnification of the Indemnified Party is proper in the circumstances because he has met the applicable standards of conduct set forth in said Paragraphs (b) or (c). Any indemnification under Paragraph (d) of this Article XI (unless ordered by a court) shall be made by the Association only upon a determination by the Association of the extent to which the Indemnified Party has been successful on the merits. Any such determination shall be made (a) by a majority vote of a quorum of the whole board of directors consisting of directors who are not or were not parties to the subject Action or (b) upon the request of a majority of the directors who are not or were not parties to such Action, or if there be none, upon the request of a majority of a quorum of the whole board of directors, by independent legal counsel (which counsel shall not be the counsel generally employed by the Association in connection with its corporate affairs) in a written opinion, or (c) by the members of the Association at a meeting called for such purpose.

(f) Payment in Advance. Expenses (including attorneys' fees) or some part thereof incurred by an Indemnified Party in defending any Action, shall be paid by the Association in advance of the final disposition of such Action if a determination to make such payment is made on behalf of the Association as provided in Paragraph (e) of this Article XI, provided that no such payment may be made unless the Association shall have first received

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a written undertaking by or on behalf of the Indemnified Party to repay such amount unless it is ultimately determined that he is entitled to be indemnified by the Association as authorized in this Article XI.

(g) Other Indemnification. The indemnification provided by this Article XI shall not be deemed exclusive of any other rights to which any Indemnified Party or other person may be entitled under these articles of incorporation, any agreement, bylaw, vote of the members or disinterested directors or otherwise, and any procedure provided for by any of the foregoing, both as to action in his official capacity and as to action in another capacity while holding such office.

(h) Period of Indemnification. Any indemnification pursuant to this Article XI shall continue as to any Indemnified Party who has ceased to be a director or officer of the Association, and shall inure to the benefit of the heirs and personal representatives of such Indemnified Party. The repeal or amendment of this Article XI or of any Paragraph or provision thereof which would have the effect of limiting, qualifying or restricting any of the powers or rights of indemnification provided or permitted in this Article XI shall not, solely by reason of such repeal or amendment, eliminate, restrict or otherwise affect the right or power of the Association to indemnify any person, or affect any right of indemnification of such person, with respect to any act or omission which occurred prior to such repeal or amendment.

(i) Insurance. By action of the board of directors, notwithstanding any interest of the directors in such action, the Association may purchase and maintain insurance, in such amounts as the board may deem appropriate, on behalf of any Indemnified Party against any liability asserted against him and incurred by him in his capacity of or arising out of his status as an Indemnified Party, whether or not the Association would have the power to indemnify him against such liability under applicable provisions of law.

(j) Right to Impose Conditions to Indemnification.

The Association shall have the right to impose, as conditions to any indemnification provided or permitted in this Article XI, such reasonable requirements and conditions as to the board of directors or members may appear appropriate in each specific case and circumstances, including but not limited to any one or more of the following: (a) that any counsel representing the person to be indemnified in connection with the defense or settlement of any Action shall be counsel mutually agreeable to the person to be indemnified and to the Association; (b) that the Association shall have the right, at its option, to assume and control the defense or settlement of any claim or proceeding made, initiated or threatened against the person to be indemnified; and (c) that the Association shall be subrogated, to the extent of any payments made by way of indemnification, to all of the indemnified person's right of recovery, and that the person to be

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indemnified shall execute all writings and do everything necessary  
to assure such rights of subrogation to the Association.

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#### ARTICLE XII

The initial bylaws of the Association shall be as adopted by its board of directors. The board shall have power to alter, amend or repeal the bylaws. The bylaws may contain any provisions for the regulation or management of the affairs of the Association which are not inconsistent with law, the Declaration or these articles of incorporation, as the same may from time to time be amended.

#### ARTICLE XIII

The Association reserves the right to amend, alter, change or repeal any provision contained in these articles of incorporation by, unless a higher voting requirement is set forth herein with respect to any particular provision, the vote of the holders of at least 75 percent of the votes of the members at any regular or special meeting called for that purpose at which a quorum shall be represented; provided that no amendment shall be contrary to or inconsistent with any provision of the Declaration.

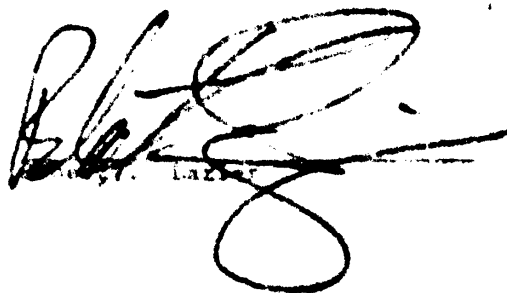
#### ARTICLE XIV

The name and address of the incorporator is:

Robert T. Lazier

P. O. Box 1325  
Vail, Colorado 81657

Dated: July 5, 1974



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VERIFICATION

STATE OF COLORADO )  
                          ) ss.  
COUNTY OF EAGLE )

I, Jay S. Peterson, a notary public,  
hereby certify that on the 5<sup>th</sup> day of July, 1979,  
personally appeared before me ROBERT T. LALIER, who being by me  
first duly sworn, severally declared that he was the person who  
signed the foregoing documents as incorporator and that the  
statements therein contained are true.

My commission expires:

Jay S. Peterson  
Notary Public

My Commission expires  
February 8, 1981

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SECRETARY OF STATES OFFICE

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