

CONDOMINIUM DECLARATION  
FOR  
INDIAN PEAKS CONDOMINIUMS

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THIS DECLARATION is made this 14th day of November, 1980, by Mid America, Inc., a Nebraska corporation doing business in Colorado as MID AMERICA DEVELOPMENT, INC. (herein referred to as "Declarant"), for itself and its successors and assigns.

Section 1.      RECITALS.

1.1 Declarant is the owner of a certain tract of land legally described as follows:

Lots 3 and 4, Block 2, Replat of Winter Park Ranch, SECOND FILING, according to the map or plat thereof filed for record in the official real estate records of the County of Grand, State of Colorado (the "Property").

1.2 Declarant intends to improve the Property by constructing thereon 26 condominium apartments consisting of three buildings, two of which shall contain nine apartments and one of which shall contain eight apartments, and Declarant hereby declares its desire to establish a condominium project under the Condominium Ownership Act of the State of Colorado.

1.3 Declarant does hereby establish a plan for the ownership in fee simple of the condominium real property estates herein described, subject to taxes, assessments and the reservations and restrictions in this Declaration, consisting of the area or space contained in each of the air space units located in the building improvements and the co-ownership by the owners of such units, as tenants-in-common, of the general common elements hereinafter described.

1.4 The condominium project shall be known as INDIAN PEAKS CONDOMINIUMS, hereinafter referred to as the "Project", which reference shall mean and refer to the entire Property and including all structures and improvements erected or to be erected thereon.

NOW, THEREFORE, Declarant declares that the following terms, covenants, conditions, easements, restrictions, uses, reservations, limitations and obligations shall run with the land, shall be a burden and a benefit to Declarant, its successors and assigns, and any person or entity acquiring or owning an interest in the Project, their grantees, and their heirs, executors, administrators, personal representatives, devisees, successors and assigns and all parties having or acquiring any right, title or interest in and to any part of the Property or the Project.

Section 2.      DEFINITIONS.

2.1 "Association of Owners" or "Association" means the Association formed as a Colorado not-for-profit corporation bearing the name of the Project, the Articles of Incorporation and By-Laws of which shall govern the administration of the Project, and the members of which Association shall be all of the Owners of the Units.

2.2 "Building" means a single building containing Units as shown on the Map.

2.3 "Common expenses" means and includes (i) expenses of administration, operation and management, repair or replacement of the common elements, including without limitation those expenses identified in paragraph 5.8; (ii) expenses declared common expenses by the provisions of this Declaration or the By-Laws of the Association; (iii) all sums lawfully assessed against the general common elements by the Board of Directors of the Association; and (iv) expenses agreed upon as common expenses by the Association of Owners.

2.4 "Condominium Project" or "Project" means all of the Property initially submitted to this Declaration, all structures and improvements

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erected or to be erected on the Property, and the land and improvements subsequently submitted as is provided hereinafter.

2.5 "Condominium Unit" means the fee simple interest and title in and to a Unit together with the undivided interest in the general common elements and the appurtenant limited common elements thereto.

2.6 "Declarant" means Mid America, Inc., a Nebraska corporation doing business in Colorado as MID AMERICA DEVELOPMENT, INC.

2.7 "Declaration" means this Declaration and supplements thereto, if any.

2.8 "General common elements" means and includes: (a) the exact land area on which each building is located; (b) the improvements erected and to be erected on the Property (excluding the Units), including without limitation the foundations, columns, girders, beams, supports, floors, perimeter and supporting walls, drywall thereon, roof, halls, corridors, lobbies and stairways of the buildings; porches used for access to more than one Unit; (c) the yards, gardens and parking areas located within the perimeters of the Property; (d) the installations consisting of the equipment and materials comprising the central services such as power, light, gas, hot and cold water, in the building or on the Property, except for metered utilities to individual Units and installation from the building side of the meter into the building and to each individual condominium unit; (e) the tanks, pumps, motors, fans, compressors, ducts and in general all apparatus existing for common use in any building or on the Property, except as qualified in clause (d) of this paragraph; (f) the recreation facilities shown on the Map; (g) the Manager's office and quarters; and (h) all other parts of the Project not heretofore mentioned, not installed for the benefit of only one Unit, but necessary or convenient to more than one Unit and to the existence, maintenance and safety of the buildings, or normally in common use.

2.9 "Limited common elements" means those parts of the general common elements referred to in paragraph 3.3 hereof which are either limited to and reserved for the exclusive use of an Owner of a Unit or are limited to and reserved for the common use of more than one but fewer than all of the Unit Owners.

2.10 "Map" or "Condominium Map" means the engineering survey of the Project, described in paragraph 3.4 hereof, depicting and locating on the Property all of the improvements and the floor and elevation plans, as amended and revised from time to time in accordance with the provisions of this Declaration.

2.11 "Mortgage" means a mortgage or deed of trust and mortgagee means the holder of a mortgage or the beneficiary of a deed of trust.

2.12 "Owner" or "Unit Owner" means a person, persons, firm, corporation, partnership, association or other legal entity, or any combination thereof, who owns an interest in one or more Units.

2.13 "Property" means the real estate described in paragraph 1.1 of this Declaration.

2.14 "Unit" means one individual air space which is contained within the perimeter walls, floors, ceilings, windows and doors of each unit as shown on the Condominium Map to be filed for record, together with all fixtures and improvements therein contained but not including the structural components of the building, if any, located within the unit.

### Section 3. DIVISION OF PROPERTY INTO CONDOMINIUM UNITS.

3.1 Division. The Property and the improvements thereon are hereby divided into fee simple estates as is set forth on the attached Exhibit "A" which is by this reference made a part hereof. Each such estate shall consist of the separately designated Unit identified on the Map and the undivided interest in and to the general common elements appurtenant to such Unit as set forth in said Exhibit "A".

3.2 Right to Change Units. There is reserved the right to (i) physically combine the space within one Unit with the space within one or more adjoining Units, or (ii) combine a part of or combination of parts of the space within one Unit with part or parts of the space within one or more adjoining Units. Any such physical changes to Units

shall be reflected by an amendment to Exhibit "A" and the Map, which amendment shall set forth the reapportioned undivided interests of the Units affected. No such physical changes shall be made without the written consent of the mortgagee of the Units affected and the cost and expenses incurred for legal, architectural and engineering fees relative to preparation of such amendment shall be borne by the person requesting such physical change to the Unit.

3.3 Limited and General Common Elements. A portion of the general common elements is reserved for the exclusive use of the individual owners of the respective Units, and such areas are herein referred to as "limited common elements". The limited common elements so reserved shall be identified on the Map; provided, however, that any court or balcony which is accessible from, associated with and which adjoins a Unit and any other limited common elements so identified on the Map shall, without further reference thereto, be used in connection with such Unit to the exclusion of the use thereof by the other Owners of the general common elements, except by invitation. All of the Owners of Units in the Project shall have a non-exclusive right in common with all of the other Owners to the use of sidewalks, pathways, roads and any streets located within the entire Project. No reference need be made to the limited common elements in any deed, instrument of conveyance or other instrument, whether such limited common elements are exclusive or nonexclusive.

3.4 Condominium Map. The Map may be filed for record in whole or in parts, sections or supplements, as construction of the Units and other improvements are substantially completed. The Map (or any part or section thereof) depicting Units shall not be filed for record until the building in which the Units are located has been substantially completed in order to permit the location of the Units within the building, both horizontally and vertically. The applicable portion of the Map shall be filed for record prior to the conveyance of the Units shown thereon. The Map shall depict and show at least the following: the legal description of the land and a survey thereof; the location of the buildings; the floor and elevation plans; the location of the Units within the buildings, both horizontally and vertically; the thickness of the common walls between or separating the Units; the location of any structural components or supporting elements of a building located within a Unit; and, the Unit designations and building symbols. Each portion of the Map shall contain the certificate of a registered professional engineer or licensed architect or both, certifying that the Map substantially depicts the location and the horizontal and vertical measurements of the Units, the Unit designations, building symbols, ceilings as constructed, the elevations of the unfinished floors and that such Map was prepared subsequent to substantial completion of the improvements. In interpreting the Map, the existing physical boundaries of each separate Unit as constructed shall be conclusively presumed to be its boundaries. Declarant reserves the right to amend the Map, from time to time, to conform to the actual location of any of the constructed improvements and to establish, vacate and relocate easements, access road easements and on-site parking areas.

3.5 Legal Description of Condominium Unit.

(a) Every contract for the sale of a Condominium Unit written prior to the filing for record of the Map or Declaration may legally describe a Condominium Unit by its identifying Unit designation, the building symbol, followed by the name of the Project. The location of such Unit on the Property shall be depicted on the Map subsequently filed for record.

(b) Every contract, deed, lease, mortgage, trust deed, will or other instrument may legally describe a Condominium Unit by its identifying Unit designation, the building symbol, followed by the name of the Project, with further reference to the Map and Declaration filed for record. Every such description shall be good and sufficient for all purposes to sell, convey, transfer, encumber or otherwise affect not only the Unit, but also the general common elements and the limited

common elements appurtenant thereto. Each such description shall be construed to include a non-exclusive easement for ingress and egress to an Owner's Unit and use of all of general and the limited common elements.

3.6 Permissible Forms of Ownership. A Condominium Unit may be held and owned in any real property estate or tenancy relationship recognized under the laws of the State of Colorado.

3.7 Inseparability of Condominium Unit. Each Unit, the appurtenant undivided interest in the general common elements and the appurtenant limited common elements shall together comprise one Condominium Unit, shall be inseparable and may be conveyed, leased, devised or encumbered only as a Condominium Unit, provided, however, Units may be changed as provided in paragraph 3.2 hereof.

3.8 Notice to Assessor of Creation of Condominium Units. Declarant shall give written notice to the County Assessor of the creation of condominium real property ownership interests in the Property, as is provided by law, so that each Unit and the undivided interest in the general common elements and the limited common elements appurtenant thereto shall be deemed a parcel and subject to separate assessment and taxation.

3.9 Non-Partitionability of General Common Elements. The general common elements shall be owned in common by all of the Owners of the Units and Declarant (as long as it owns unsold Units or lots on which Units are to be constructed), shall remain undivided, and no Owner shall bring any action for partition or division of the general common elements. Nothing contained herein shall be construed as a limitation of the right of partition of a Condominium Unit between the owners thereof, but such partition shall not affect any other Condominium Unit. Declarant shall be the Owner of all undivided interests in and to the general common elements appurtenant to unsold and unconstructed Units.

3.10 Easements for Encroachments. If a Unit is partially or totally destroyed and then rebuilt, the Owners agree that minor encroachments upon parts of the general common elements shall be permitted and that a valid easement for said encroachments and the maintenance thereof shall exist. Such encroachments and easements shall not be considered or determined to be encumbrances either on the general common elements or on the Units for purposes of marketability of title or otherwise.

3.11 Termination of Mechanic's Lien Rights and Indemnification. Subsequent to the completion of the improvements described on the Map, no labor performed or materials furnished and incorporated in a Unit with the consent or at the request of the Unit Owner, his agents, his contractor or subcontractor shall be the basis for filing of a lien against the general common elements or against the Unit of any other Unit Owner who did not expressly consent to or request the services or materials. Each Owner shall indemnify and hold harmless each of the other owners from and against all liability arising from the claim of any lien against the Unit of any other Owner or against the general common elements for construction performed or for labor, materials, services or other products incorporated in an Owner's Unit at such Owner's consent or request. The provisions of this paragraph are subject to the reserved rights as set forth in paragraph 5.1.

Section 4. CREATION AND OPERATION OF INDIAN PEAKS CONDOMINIUM ASSOCIATION.

4.1 Governing Documents. The interest of all owners shall be governed and administered by the Articles of Incorporation and By-Laws of Indian Peaks Condominium Association, Inc.

4.2 Membership. Every Owner shall be a member of the Association and shall remain a member for so long as he is an Owner and Declarant shall be a member as long as it owns any part of INDIAN PEAKS CONDOMINIUMS.

4.3 Appointment of Manager. The Board of Directors of the Association may retain and pay for the services of a Manager as provided in the By-Laws of the Association.

4.4 Compliance with Declaration. Each Owner shall comply with the provisions of this Declaration, the Articles of Incorporation and By-laws of the Association, and the Rules and Regulations, decisions and resolutions of the Association as the same may be lawfully adopted and amended from time to time. Failure to comply with any of the same shall be grounds for an action to recover sums due for damages or injunctive relief, or both, and for reimbursement of all attorney's fees incurred in connection therewith, which action shall be maintainable by the Board of Directors on behalf of the Owners, or by an aggrieved Owner or by the Association.

4.5 Revocation or Amendment to Declaration. Except as otherwise provided herein, this Declaration shall not be revoked unless the Owners representing an aggregate ownership of all the general common elements and all of the holders of any recorded mortgages covering or affecting any or all of the Condominium Units consent and agree to such revocation by a duly recorded instrument. Except as otherwise provided herein, this Declaration shall not be amended unless the owners representing an aggregate ownership interest of 75 percent, or more, of the general common elements and 75 percent of the holders of recorded first mortgages consent to such amendment by a duly recorded instrument; provided, however, such consent shall not be required for an amendment made to the Map or pursuant to paragraph 3.2 hereof to Exhibit "A" hereof; and provided, further, that the undivided interests in the general common elements appurtenant to each Unit shall have a permanent character and, except as provided in paragraph 3.2, shall not be altered without the consent of the Owners representing an aggregate ownership of all the general common elements and all of the holders of first mortgages, and no amendment changing the pro rata interest or obligation of any Unit for purposes of levying assessments and charges and determining shares of the common elements and proceeds of the Project shall become effective without receiving approval of all holders of first mortgage liens.

4.6 Certificate of Identity of Management Body. There shall be recorded from time to time a Certificate of Identity and the addresses of the persons then comprising the management body (directors and officers) of the Association together with the address of the Manager. Such Certificate shall be conclusive evidence of the facts stated therein in favor of any person relying thereon in good faith, regardless of the time elapsed since the date thereof. The first such Certificate shall be recorded on or before 90 days after recording this Declaration.

Section 5. MAINTENANCE, REPAIRS EMERGENCIES AND COMMON EXPENSES.

5.1 Right of Access. The Owners have the irrevocable right, to be exercised by the Manager or Board of Directors of the Association, to have access to each Unit from time to time during reasonable hours as may be necessary for the maintenance, repair or replacement of any of the general or limited common elements therein or accessible therefrom; provided, however, that such right of access shall be immediate for making emergency repairs therein in order to prevent damage to the general or limited common elements or to another Unit.

5.2 Responsibility for Damage. Damage to the interior or any part of a Unit resulting from the maintenance, repair, emergency repair or replacement of any of the general or limited common elements or as a result of emergency repairs within another Unit shall be a common expense of all of the Owners. If any damage to a Unit, the general common elements or limited common elements is caused by the negligent or tortious act of a Unit Owner, members of his family, his agent, employee, invitee, licensee or tenant, then such Unit Owner shall be responsible and liable for all such damage. All damaged improvements shall be restored substantially to the same condition in which they existed prior to the damage. In the event any Unit Owner fails to restore the Unit, general common elements or limited common elements as set forth herein, the Association may perform such work, invoice the responsible Unit Owner for the cost thereof and secure and enforce a lien against the Unit of the responsible Owner in like manner as for the nonpayment of assessments for common expenses and assessments.

5.3 Owner's Maintenance Responsibility. For maintenance purposes, an Owner shall be obligated to keep in good repair and condition, at his own expense, the interior of his own Unit and the supporting walls, and the materials, including, but not limited to, plaster, gypsum dry wall, paneling, wallpaper, paint, wall and floor tile and flooring, (not including the sub-flooring) which make up the finished surfaces of the perimeter walls, ceilings and floors within his Unit. including Unit doors and windows together with all fixtures and equipment installed within the Unit commencing at a point where the utilities enter the Unit, whether or not the same are general common elements or limited common elements. The lines, pipes, wires, conduits or systems which the general common elements in part comprise shall not be disturbed or relocated by an Owner without the written consent and approval of the Board of Directors. An Owner's right to repair, alter and remodel the interior of his Unit shall be coupled with the obligation to replace any finishing or other materials removed with similar or other types or kinds of materials of at least the same quality and possessing the same sound-absorbing characteristics. No Owner shall do any act nor perform any work that will impair or tend to impair the structural soundness or integrity of the building or interfere with or tend to interfere with any easement or hereditament. In the event any Unit Owner fails to perform the maintenance required by this paragraph, the Association may perform such work, invoice the responsible Unit Owner for the cost thereof and secure and enforce a lien against the Unit of the responsible Owner in like manner as for the nonpayment of assessments for common expenses and assessments.

5.4 Owner's Maintenance Responsibility for Certain Limited Common Elements. In addition to the maintenance required by paragraph 5.3, each Owner shall be obligated to keep in good repair and condition, at his expense, those limited common elements which comprise patios, decks and garden areas adjoining his Unit and appurtenant thereto. In the event any Unit Owner fails to perform the maintenance required by this paragraph, the Association may perform such work, invoice the Unit Owner for the cost thereof and secure and enforce a lien against the Unit in like manner as for the nonpayment of assessments for common expenses and assessment.

5.5 Maintenance of General Common Elements. Except as otherwise provided herein, the maintenance and operation of the general common elements shall be the responsibility of the Association and shall be paid for by assessments levied against all Owners.

5.6 Additions, Alterations or Improvements to Common Elements. There shall be no additions, alterations or improvements of or to the general and limited common elements by the Association requiring an assessment in excess of \$100.00 per Unit in any one calendar year without prior approval of Owners representing an aggregate ownership interest of fifty percent or more of the general common elements. Such approval shall be expressed by a vote in favor thereof at a special or regular meeting of the Association members. Such expenditure shall be a common expense, and unless otherwise provided by the vote approving any additions, alterations or improvements, (i) all costs therefor shall be borne by all Owners in accordance with their respective interests in the general common elements; (ii) such additions, alterations and improvements shall have no effect on any Owner's voting rights; and (iii) each Owner shall have the same interest therein as he has in other general common elements. The limitation set forth in the first sentence of this paragraph shall not be applicable to the repair and maintenance of any general or limited common element or common personal property.

5.7 Assessment for Common Expenses. All Owners shall be obligated to pay the estimated assessments imposed by the Board of Directors or Manager of the Association to meet the common expenses. The assessments shall be made according to each Owner's interest in and to the general common elements and as is provided in paragraph 5.8 hereafter. Except as provided in paragraph 5.4 hereof, the limited common elements shall be maintained from assessments the same as general common elements, and Owners having exclusive use thereof shall not be subject to any special charges or assessments for the repair or maintenance thereof. Assessments for the estimated common expenses shall be due in advance on the first day of each calendar month, or at such other intervals as may be determined

by the Board of Directors or Manager, and the Manager or Board of Directors shall prepare and deliver or mail to each Owner statements for the common expenses. Prior to the time construction is completed on all buildings, the common expenses shall be allocated equally among the Owners of existing Units and with respect to that part of the land described above which is undeveloped but on which Condominium Units are to be constructed, Declarant shall pay only the real estate taxes. The assessments provided for herein shall commence as to all Units in any building on the first day of the month following the conveyance of the first Unit in such building by Declarant. The annual assessment period shall commence with the first day of the Association's fiscal year as established by the Board of Directors and shall terminate on the last day of such year. The first annual assessment shall be adjusted according to the number of months remaining in the fiscal year and the Board of Directors shall fix the amount of the first assessment on or about the 15th day of the month following the conveyance of the first Unit. Thereafter, the annual assessment shall be determined as provided in paragraph 5.8 hereof.

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5.8 Determination of Amount of Assessments and Time for Making Such Determination. Within 30 days prior to the end of each fiscal year, the Board of Directors shall determine by estimate the amount of the assessment necessary to make payment of all estimated expenses growing out of or connected with the maintenance, repair, operation, additions, alterations and improvements of and to the general and limited common elements, which sum may include, but shall not be limited to, expenses of management, taxes and special assessments until separately assessed, premiums for insurance, landscaping and care of grounds, common lighting and heating, repairs and renovations, trash and garbage collection, wages, common water and sewer charges, legal and accounting fees, management fees, expense and liabilities incurred by the Manager or Board of Directors on behalf of the Unit Owners under or by reason of this Declaration or any corporate documents, for any deficit remaining under the previous period as more fully set forth above, for the creation of a reasonable contingency reserve, working capital and fund as well as other costs and expenses required to be paid pursuant to this Declaration or the By-Laws of the Association and relating to the general and limited common elements. Notwithstanding the foregoing, the per-Unit assessment in any one year may not be increased by more than 15 percent of the preceding year's assessment without approval of owners representing an aggregate ownership of 75 percent, or more, of the general common elements at a regular or special meeting of the Association. Within 15 days after making its determination, the Board of Directors shall give written notice to each Owner of the amount of his estimated annual assessment. The omission or failure to fix the assessment or deliver or mail a statement for any period shall not be deemed a waiver, modification or release Owners from their obligation to pay the same.

5.9 Owner's Personal Obligation for Payment of Assessments. The amount of the common expenses assessed against each Condominium Unit shall be the personal and individual debt of each Owner thereof. No Owner may exempt himself from liability for his contribution towards the common expenses by waiver of the use of enjoyment of any of the common elements or by abandonment of his Unit. Both the Board of Directors and Manager shall have the responsibility to take prompt action to collect any unpaid assessment which remains unpaid for more than 10 days from the due date for payment thereof. In the event of default in the payment of the assessment, the Unit Owner shall be obligated to pay interest at the rate of 18 percent per annum on the amount of the assessment from due date thereof (or such lesser rate as is then the maximum permissible by law), together with all expenses, including attorney's fees incurred in collecting such assessment, together with such late charges as may be provided for by the By-laws of the Association. Suit to recover a money judgment for unpaid common expenses shall be maintainable without foreclosing the lien providing for in paragraph 5.10 hereafter, and such suit shall not be construed to be a waiver of the lien.

5.10 Effect of Nonpayment of Assessments and Remedies of the Association. Any assessment chargeable to a Condominium Unit not paid within 10 days after it is due shall constitute a lien on such Unit superior to all other liens and encumbrances, except liens for taxes, special assessments and first mortgages. As evidence of such lien, the Board of Directors shall prepare a written notice of assessment lien setting forth the amount of such unpaid indebtedness, the amount of the



accrued interest and late charges thereon, the name of the Owner of the Condominium Unit and a legal description of such Unit. Such notice of lien shall be signed by one member of the Board of Directors on behalf of the Association and shall be recorded in the office of the County Clerk and Recorder of the County of Grand, State of Colorado. Such lien shall be effective from the due date of the assessment until all sums, with interest and other charges thereon provided for herein shall have been paid.

5.11 Foreclosure of Lien. Any lien arising as provided in paragraph 5.10 above may be enforced by the foreclosure of the defaulting Owner's Condominium Unit by the Association in like manner as a mortgage on real property upon the recording of a notice of claim thereof. In any such proceedings, the Owner shall be required to pay the costs, expenses and attorney's fees incurred for filing the lien, and in the event of foreclosure proceedings, all additional costs, expenses and reasonable attorney's fees incurred. The Owner of the Condominium Unit being foreclosed shall be required to pay to the Association the monthly assessments for the Condominium Unit during the period of foreclosure and the Association shall be entitled to a receiver during foreclosure. The Association shall have the power to bid on the Condominium Unit at foreclosure or other legal sale and to acquire and hold, lease, mortgage, vote the votes appurtenant to, convey and otherwise deal with the same.

5.12 Right of Mortgagee with Respect to Unpaid Assessment and Owner's Default. Any mortgagee holding a mortgage on a Condominium Unit may pay, but shall not be required to pay, any unpaid assessments payable with respect to such Unit, and upon such payment, such mortgagee shall have a lien on such Unit for the amount paid of the same rank and priority as the lien of his mortgage without the necessity of recording a notice or claim of such lien. The Association shall report to the mortgagee any unpaid assessment remaining unpaid for longer than 30 days after the same is due and shall further report to the mortgagee any other default by the Owner of his obligations under this Declaration if the default is not cured within 30 days.

5.13 Statement of Unpaid Assessments. Upon written request by an Owner or his agent, or a prospective buyer or mortgagee of a Condominium Unit, the Association shall furnish a written statement of the amount of any unpaid assessments, the amount of the current assessments, the dates that assessments are due, the amount of any advance payments made, prepaid items such as insurance premiums and reserves therefor and deficiencies in reserve accounts. Such statement shall be conclusive upon the Association in favor of all persons who rely thereon in good faith. Unless such request is complied with within ten days after receipt of written request therefor, all unpaid common expenses which become due prior to the date of such request shall be subordinate to the rights of the person requesting such statement. A reasonable service fee shall be paid for furnishing the statement of account.

5.14 Priorities of Association's Liens. To the extent permitted by law, any lien other than a first mortgage shall always be subordinate to the prior and paramount lien of the Association for unpaid assessments for common expenses and for compliance by the Owner with all the terms, conditions, covenants, restrictions, uses, limitations and obligations under this Declaration and corporate documents governing the Association. To the extent permitted by law, any lienor other than the holder of the first mortgage shall release, for purposes of restoration of any improvements upon the encumbered Condominium Unit, all of his right, title and interest in and to the proceeds under all insurance policies upon said premises by the Association. Such release shall be furnished forthwith by each lienor other than the holder of a first mortgage upon written request of the Association, and if such request is not complied with a release may be executed by the Association as attorney-in-fact for such lienor.

Section 6. INSURANCE, DAMAGE, DESTRUCTION AND OBSOLESCENCE.

6.1 Destruction, Damage or Obsolescence. Each of the Owners, by



acceptance of a deed for his Condominium Unit, irrevocably constitutes and appoints the Association as attorney-in-fact to deal with the Project upon its destruction or damage, for its repair and reconstruction or for declaring it obsolete as more fully set forth hereafter. The Association, as attorney-in-fact, may maintain, repair and improve the Condominium Units, buildings and general and limited common elements. Title to each Condominium Unit is declared and expressly made subject to the terms and conditions of this Section 6. All of the Owners irrevocably constitute and appoint the Association their true and lawful attorney in their name, place and stead for the purpose of dealing with the Project upon its damage, destruction or becoming obsolete as is hereinafter provided. As attorney-in-fact, the Association, by its President and Secretary or Assistant Secretary or its other duly authorized officers or agents, shall have full and complete authorization, right and power to make, execute and deliver any contract, deed or any other instrument with respect to the interest of a Unit Owner which is deemed necessary or appropriate to exercise any of the powers herein granted. Repair and reconstruction of the improvements as used in the succeeding paragraphs means restoring the improvements to substantially the same condition in which they existed prior to the damage, with each Unit and the general and limited common elements having substantially the same vertical and horizontal boundaries as before. The proceeds of any insurance collected shall be available to the Association for the purpose of repair, restoration, reconstruction or replacement unless the Owners and all first mortgagees agree not to rebuild in accordance with the provisions set forth hereinafter. In the event of damage or destruction due to fire or other disaster, the insurance proceeds, if sufficient to reconstruct the improvements, shall be applied by the Association, as attorney-in-fact, to such reconstruction, and the improvements shall be promptly repaired and reconstructed.

6.2 Association to Maintain Insurance. The Board of Directors shall obtain and maintain, to the extent obtainable, the following insurance: (i) fire insurance with extended coverage, vandalism and malicious mischief endorsements, insuring the entire condominium improvements and the furniture, furnishings and personal property other than that owned by an Owner individually, in an amount equal to the full replacement value thereof, without deduction for depreciation. The policy shall contain a standard mortgage clause in favor of each mortgagee of a Condominium Unit which shall provide that the loss, if any, shall be payable to such mortgagee as its interest may appear, subject, however, to the loss payment provision in favor of the Board of Directors set forth in paragraph 6.1; (ii) public liability insurance in such limits as the Board of Directors may from time to time determine, covering each member of the Board, the Manager and each Unit Owner, but not covering individual Units. Such public liability insurance shall also cover cross liability claims of one insured against the other. Initially, such public liability insurance shall be in a single limit of \$1,000,000.00 covering all claims for bodily injury or property damage arising out of one occurrence and the policy limits may be increased from time to time as the Board of Directors deems appropriate; (iii) plate or other glass insurance; (iv) workmen's compensation insurance; (v) such other insurance as the Board of Directors may determine. All policies of public liability insurance shall contain waivers of subrogation and waivers of any defense based on co-insurance or of invalidity arising from any acts of an insured and shall provide that such policies may not be canceled or substantially modified without at least ten days' prior written notice to all of the insured parties including mortgagees. Duplicate originals of all policies and renewals thereof together with proof of payments of premiums shall be delivered to all mortgagees at least ten days prior to expiration of the then-current policies. The insurance shall be carried in blanket form naming the Association as the insured and as Attorney-in-fact for all the Unit Owners, and the policy or policies shall set forth each Owner's name, Unit number and building designation. Prior to obtaining any policy of fire insurance or renewal thereof, the Board of Directors shall obtain an appraisal of the full replacement value of the entire Project improvements, without deduction for depreciation, for the purpose of determining the amount of the insurance to be obtained pursuant to the provisions hereof. In no event shall the insurance policy contain

a co-insurance clause for less than 90 percent of the full replacement cost.

6.3 Unit Owners Insurance. Unit Owners may carry other insurance for their benefit and at their own expense, provided that all such policies shall contain waivers of subrogation, and provided, further, that the liability of the carriers issuing insurance obtained by the Board of Directors shall not be affected or diminished by reason of any such additional insurance carried by any Unit Owner. Insurance coverage on furnishings and other items of personal or other property belonging to an Owner and public liability coverage within each Unit shall be the sole and direct responsibility of the Owner thereof, and the Board of Directors, the Association and the Manager shall have no responsibility therefor.

6.4 Action to be Taken if Insurance Proceeds are Insufficient to Repair and Damage is not More Than 60 Percent of Replacement Cost. If the insurance proceeds are insufficient to repair and reconstruct the improvements and if repair of such damage will not cost more than 60 percent of the total replacement cost of all of the buildings in the Project, not including land, such damage or destruction shall be promptly repaired and reconstructed by the Association, as attorney-in-fact, using the proceeds of insurance and, if insurance proceeds are insufficient, the proceeds of a special assessment to be made against all of the Owners and their Condominium Units. Such deficiency assessment shall be a common expense and shall be due and payable within 30 days after written notice thereof has been mailed to each Owner. Subject to the foregoing, the Association shall have full authority, right and power, as attorney-in-fact, to cause the repair or restoration of the improvements using all of the insurance proceeds for such purpose notwithstanding the failure of an Owner to pay the assessment. Assessments for common expenses shall not be abated during the period of insurance adjustment and repair and reconstruction unless otherwise determined by the Board of Directors.

6.5 Special Assessment Lien. The assessment provided for in paragraph 6.4 shall be a personal debt of each Owner and a lien upon his Condominium Unit and may be enforced and collected as provided in paragraphs 5.9 and 5.11 above, and the Owner shall be required to pay to the Association all amounts provided for in said paragraph. In addition, the Association, as attorney-in-fact, shall have the absolute right and power to sell the Condominium Unit of any Owner refusing or failing to pay such assessment within the time provided, and if not so paid, the Association shall cause to be recorded a notice that the Condominium Unit of the delinquent Owner shall be sold by the Association as attorney-in-fact, pursuant to the provisions of this paragraph. The proceeds derived from such sale shall be used and disbursed in the following order:

1. For payment of customary expenses of sale and the balance of the lien of any first mortgage;
2. For payment of taxes and special assessment liens in favor of any assessing entity;
3. For payment of unpaid common expenses and all costs, expenses and fees incurred by the Association;
4. For payment of junior liens and encumbrances in the order and to the extent of their priority.

The balance remaining, if any, shall be paid to the Unit Owner.

6.6 Action to be Taken if Insurance Proceeds are Insufficient to Repair and Damage is More than 60 Percent of Replacement Cost.

(a) Sale of Project. If the insurance proceeds are insufficient to repair and reconstruct the damaged improvements, and if such damage is more than 60 percent of the total replacement cost of all of the buildings not including land, and if the Owners representing 51 percent of the general common elements do not within 100 days after the damage has occurred make provisions for reconstruction and obtain the approval for such action of at least 51 percent of the first mortgagees of record, then the Association shall forthwith record a notice setting forth such facts and thereafter the entire remaining premises shall be sold by the Association pursuant to the provisions of this paragraph, as attorney-in-fact for all of the

Owners, free and clear of the provisions contained in this Declaration, the Map, Articles of Incorporation and the By-Laws. Assessments for common expenses shall not be abated during the period prior to sale. The insurance settlement proceeds and net sales proceeds shall be collected by the Association, and shall be divided by the Association according to each Owner's interest in the general common elements. The proceeds shall be paid into separate accounts, each such account representing one of the Condominium Units. Each such account shall be in the name of the Association and shall be identified by the Unit designation and the name of the Owner. From each account the Association shall disburse monies in the order set forth in paragraph 6.5 above.

(b) Reconstruction. If the insurance proceeds are insufficient to repair and reconstruct the damaged improvements and if such damage is more than 60 percent of the total replacement cost of all the buildings not including land, and if the Owners representing 51 percent of the general common elements within 100 days after the damage has occurred adopt a plan for reconstruction, then all the Owners shall be bound by the terms and other provisions of such plan. In that event such damage or destruction shall be promptly repaired and reconstructed by the Association, as attorney-in-fact, using the proceeds of insurance and the proceeds of a special assessment to be made against all of the Owners and their Units in accordance with the plan of reconstruction. Such assessment shall be a common expense and made according to each Owner's interest in the general common elements and shall be due and payable within 30 days after written notice thereof has been mailed to each Owner. Subject to the foregoing, the Association shall have full authority, right and power, as attorney-in-fact, to cause the repair or restoration of the improvements using all of the insurance proceeds for such purpose notwithstanding the failure of an Owner to pay the assessment. Assessments for common expenses shall not be abated during the period of insurance adjustment and repair and reconstruction unless otherwise determined by the Board of Directors.

(c) Special Assessment Lien. The Assessment provided for in subparagraph 6.6(b) shall be a personal debt of each Owner and a lien on his Condominium Unit and may be enforced and collected by either of the methods provided for in paragraphs 5.9 and 5.11 above, and the Owner shall be required to pay to the Association all amounts provided for in said paragraphs. If the Association elects to sell the Condominium Unit, the proceeds shall be disbursed as set forth in paragraph 6.5 above.

6.7 Obsolescence of General Common Elements. The Owners representing an aggregate ownership interest of at least 80 percent of the general common elements may agree that the general common elements are obsolete and adopt a plan for their renewal and reconstruction, which plan must be approved by at least 80 percent of the first mortgagees of record at the time of the adoption of such plan. If a plan for renewal and reconstruction is adopted, notice of such plan shall be recorded, and the expense of renewal and reconstruction shall be specially assessed against all of the Owners and their Units as a common expense in accordance with the plan for renewal and reconstruction, whether or not they have previously consented to the plan of renewal and reconstruction. The assessment provided for herein shall be a personal debt of each Owner and a lien on his Unit and may be enforced and collected by either of the methods provided in paragraphs 5.9 and 5.11 above, and the Owner shall be required to pay to the Association all amounts provided for in said paragraphs. If the Association elects to sell the Condominium Unit, the proceeds shall be disbursed as set forth in paragraph 6.5 above.

6.8 Obsolescence of Condominium Units. The Owners representing an aggregate ownership interest of 80 percent or more of the general common elements may agree that the Condominium Units are obsolete and that the same should be sold. Such agreement must have the unanimous approval of every first mortgagee. The Association shall record a notice setting forth such agreement, and, upon the recording of such notice, the Project shall be sold by the Association, as attorney-in-fact, for all of the

Owners free and clear of the provisions contained in this Declaration, the Map, the Articles of Incorporation and the By-laws. The net sales proceeds shall be collected by the Association and shall be divided according to each Owner's interest in the general common elements. The proceeds shall be placed into separate accounts, each such account representing one of the Condominium Units. Each such account shall be in the name of the Association and shall be identified by the Unit designation and the name of the Owner. From each account the Association shall disburse monies in the order set forth in paragraph 6.5 above.

Section 7. RIGHT TO ACQUIRE ADDITIONAL PROPERTY.

The Association may acquire and hold for the benefit of all of the Unit Owners real and tangible and intangible personal property and may dispose of the same by sale or otherwise. The cost of any such property shall be borne by, and the beneficial interest in any such property shall be owned by, all of the Unit Owners in the same proportions as their respective interests in the general common elements, and such interest therein shall not be transferable except with a conveyance of a Condominium Unit as provided in this Section 7. The Unit Owners interest in all general and limited common elements shall remain as it was before any additions of or to the general or limited common elements, and there shall be no change in voting power of any Owner in the Association. A conveyance of a Condominium Unit shall transfer to the grantee ownership of the grantor's beneficial interest in such additional real and personal property without any reference thereto.

Section 8. RESTRICTIVE COVENANTS AND OBLIGATIONS.

8.1 Residential Use; Structures. The Property is hereby restricted to residential dwellings for residential use and uses related to the convenience and enjoyment of such residential use. All buildings or structures erected upon the Property shall be of new construction, and no buildings or structures shall be moved from other locations onto the Property, and with the exception of buildings constructed as part of the general common elements, no buildings other than buildings shown on the Map shall be erected or constructed on the Property except by vote of consistent majority of common elements the Owners of a majority of all Units. No structures of a temporary character, trailers, basements, tents shacks, barns or other outbuildings shall be used or permitted to be kept or stored on any portion of the Property at any time, either temporarily or permanently, except as provided in paragraph 8.2 hereof.

8.2 Construction Period Facilities. Notwithstanding any provisions herein contained to the contrary, it shall be expressly permissible for the Declarant, its agents, employees and contractors to maintain during the period of construction and sale of the Condominium Units, upon such portion of the Property as Declarant may choose, such facilities as in the sole opinion of the Declarant may be reasonably required, convenient or incidental to the construction and sale or rental of Condominium Units including, without limitation, a business office, storage area, construction yards, signs, model units, sales office, construction office, parking areas and lighting.

8.3 Use of Property. No advertising signs (except one "For Rent" or "For Sale" sign per Unit of not more than four square feet), billboards, unsightly objects or nuisances shall be erected, placed or permitted to remain on the premises, nor shall the premises be used in any way or for any purpose which may endanger the health or unreasonably disturb the Owner of any Condominium Unit or any resident thereof. No business activities of any kind whatever shall be conducted in any building or on any portion of the Property except as provided in paragraph 8.2. The foregoing covenants shall not apply to the business activities, signs and billboards or the construction and maintenance of buildings and improvements, if any, of the Declarant, its agents, contractors and assigns during the construction and sale and rental period, and of the Association, its successors and assigns, in furtherance of its powers and purposes as hereinafter set forth. Signs indicating public pedestrian

access shall be located in such a way as to be readily visible but shall be designed in such a manner as to be in character with the general architecture of the Project. Any house numbers or other signs identifying Units or their occupants shall be designed in such a manner as to be in character with the general architecture of the Project.

8.4 Exteriors. Except for those improvements erected or installed by Declarant, no exterior additions, alterations or decorating to any buildings, nor changes in fences, hedges, walls and other structures shall be commenced, erected or maintained until the plans and specifications showing the nature, kind, shape, height, materials, location and approximate costs of the same shall have been submitted to and approved in writing as to conformity and harmony of external design and location with existing structures on the Property by the Association or by a representative designated by it. All exterior materials shall be wood or simulated wood only and all roofs shall consist of wood shingles, shake shingles or earhttone metal. Exterior colors shall be limited to earhttones from tans to dark browns with changes in hues towards gray, olive or rust, except for accent colors, unless the Board of Directors of the Association grants variance.

8.5 Antennae. No exterior television or radio antennas of any sort shall be placed, allowed or maintained upon any portion of the improvements to be located upon the Property, nor upon any structure situated upon the Property, other than an aerial for a master antenna system for each building, should such system or systems be utilized and require any exterior antenna, unless written permission is obtained from the Association.

8.6 Variiances. Any variance or adjustment of the provisions of this Section 8 granted by the Board of Directors of the Association or any acquiescence or failure to enforce any violation of the conditions and restrictions of this Section 8 shall not be deemed to be a waiver of any of the conditions and restrictions hereof in any other instance.

8.7 Trailers, etc. No trailers, detached campers, boats or mobile homes shall be parked or stored on any site unless parked or stored in a closed garage.

8.8 Nuisance. No nuisance shall be allowed on the condominium Property, nor shall any use or practice be permitted which is a source of annoyance to residents or which interferes with the peaceful enjoyment or possession and proper use of the Project by its residents. All parts of the Project shall be kept in a clean and sanitary condition, and rubbish, refuse and garbage shall be regularly removed and shall not be allowed to accumulate, nor shall any fire hazard be permitted to exist. All clotheslines, garbage cans, service yards, wood piles, and storage piles shall be kept screened by adequate planting or fencing so as to conceal them from view of neighboring residences and streets. No Unit Owner shall permit any use of his Unit or make any use of the common elements which will increase the rate of insurance upon the Project. The Association may adopt By-laws and Rules and Regulations relative to abatement and enjojment of nuisances.

8.9 Lawful Use. No improper, offensive or unlawful use shall be permitted or made of the Project or any part thereof. All valid laws, ordinances and regulations of all governmental bodies having jurisdiction shall be observed.

8.10 Regulations. Rules and regulations may be adopted by the Board of Directors concerning and governing the use of the general and limited common elements; provided, however, such rules and regulations shall be uniform and non-discriminatory. Copies of all such rules and regulations shall be furnished to Unit Owners prior to the time that they become effective.

## Section 9. GENERAL RESERVATIONS.

9.1 Declarant's Rights. Declarant reserves the right to establish

easements, reservations, exceptions and exclusions consistent with the condominium ownership of the Project and for the best interest of all of the Unit Owners, including the Declarant, in order to serve the entire Project.

9.2 Control of Association. Notwithstanding any other provision expressly or impliedly to the contrary contained in this Declaration, the Articles of Incorporation or By-laws of the Association, Declarant reserves the right to exercise the rights, duties and functions of the Board of Directors of the Association until 75 percent of all Condominium Units to be built on the above described property have been sold.

Section 10. MISCELLANEOUS PROVISIONS.

10.1 Registration of Mailing Address and Transfer of Ownership. Each Owner shall register his mailing address with the Association, and notices or demands required to be served upon an Owner shall be sent by mail, postage prepaid, addressed to the Owner at such registered mailing address. In the event of failure of an Owner to register his mailing address, notice may be served upon an Owner by leaving a copy thereof at his Unit. Upon sale or other transfer of his Condominium Unit, each Owner shall give notice to the Association of the home and address of his transferee, and the Association shall be justified in relying upon the latest information received by it with respect to any question involving the ownership of a Unit.

10.2 Period of Condominium Ownership. The separate condominium estates created by this Declaration and the Map shall continue until this Declaration is revoked in the manner and as is provided in paragraph 4.5 above or until terminated as provided in Section 6 hereof.

10.3 Acceptance of Provisions of Documents. The conveyance or encumbrance of a Condominium Unit shall be deemed to include the acceptance of all of the provisions of this Declaration, the Articles of Incorporation, By-laws and Rules and Regulations, and the same shall be binding upon each grantee and encumbrancer without the necessity of inclusion of such an express provision in the instrument of conveyance or encumbrance.

10.4 Automobile Parking Facilities. All automobile parking facilities shall be under the control of the Association; provided, however, that the Association by its President or other officer shall cause to be assigned to the Owner of a Unit one parking space on the Property, which parking space, to the extent possible, shall be located relatively proximate to that Owner's Unit; provided, further, that all assigned parking spaces may from time to time, be reassigned in order to accomplish the purpose stated.

10.5 Assessment Reserves. The Association or the Manager may require an Owner other than Declarant to deposit with the Association up to three times the amount of the estimated monthly common assessment, without interest, which sum shall be held by the Manager as a reserve to be used for paying such Owner's monthly common assessment and for working capital. Such an advance payment shall not relieve an Owner from making the regular monthly payment of the monthly common assessment as the same comes due. Upon the sale of his Unit an Owner shall be entitled to a credit from his grantee for any unused portion thereof.

10.6 Recreational Facilities. There shall be no major recreational facilities in the Project except as shown on the Map. All recreational facilities shall be available to all Unit Owners without charge.

Section 11. GENERAL PROVISIONS.

11.1 Invalidity. If any of the provisions of this Declaration or any paragraph, sentence, clause, phrase or word, or the application thereof in any circumstance be invalidated, such invalidity shall not affect the validity of the remainder of this Declaration, and the application of any such provision, paragraph, sentence, clause, phrase or word in any other circumstances shall not be affected thereby.

11.2 Interpretation. The provisions of this Declaration shall be in addition to and supplemental to the Condominium Ownership Act of the State of Colorado and to all other provisions of law. Whenever used herein, unless the context shall otherwise require, the singular number shall include the plural, the plural the singular, and the use of any

easements, reservations, exceptions and exclusions consistent with the condominium ownership of the Project and for the best interest of all of the Unit Owners, including the Declarant, in order to serve the entire Project.

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11.3 Titles. Section and paragraph titles are for convenience of reference and are not intended to limit, enlarge or change the meaning hereof or affect the interpretation hereof.

IN WITNESS WHEREOF, Declarant has duly executed this Declaration this 14th day of November, A.D., 1980.



WITNESST:

Randall W. Christofferson  
Secretary

MID AMERICA, INC., d/b/a  
MID AMERICA DEVELOPMENT, INC.

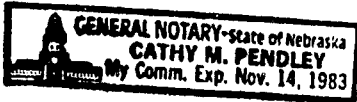
By: Robert A. Hatten  
President

STATE OF NEBRASKA)  
  ) ss.  
COUNTY OF DOUGLAS)

The foregoing instrument was acknowledged before me this 14th day of November, 1980, by Robert A. Hatten, President of Mid America, Inc., on behalf of the corporation.

Witness my hand and official seal.

(SEAL)



Cathy M. Pendley  
Notary Public

My commission expires: 11/14/83

EXHIBIT "A"  
 ATTACHED TO AND MADE A PART OF  
 CONDOMINIUM DECLARATION FOR  
 INDIAN PEAKS CONDOMINIUMS  
 COUNTY OF GRAND  
 STATE OF COLORADO

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<u>Unit</u>	<u>Building</u>	<u>Appurtenant Undivided Interest in Common Elements</u>
A-101	A	1/26
A-102	A	1/26
A-103	A	1/26
A-201	A	1/26
A-202	A	1/26
A-203	A	1/26
A-301	A	1/26
A-302	A	1/26
A-303	A	1/26
B-101	B	1/26
B-102	B	1/26
B-201	B	1/26
B-202	B	1/26
B-203	B	1/26
B-301	B	1/26
B-302	B	1/26
B-303	B	1/26
C-101	C	1/26
C-102	C	1/26
C-103	C	1/26
C-201	C	1/26
C-202	C	1/26
C-203	C	1/26
C-301	C	1/26
C-302	C	1/26
C-303	C	1/26

**Property Management Agreement**

This is an agreement between Indian Peaks Condominium Association and Indian Peaks Interval Owners Association, Winter Park Resort Services Incorporated.

Indian Peaks Condominium Association is the master association for Indian Peaks Resort located at 817 Grammer Ave, Fraser Colorado. Here in as follows known as Winter Park Resort Services inc, is a resort service overseeing the Association and known here in as follows as(Company).

Company will manage, maintain, protect and serve the Association, its Board and its homeowners as follows:

**A. Maintain grounds.** physical plant, roofs, driveways, exteriors and interiors of buildings, walkways, hot tubs and any other areas of the Association's resort. Association President agrees to inspect this area of responsibility semiannually for approval.

1. **Grounds** - Keep free of litter and debris. Control hazards, maintain lawns, water as needed weekly, and fertilize.

2. **Walkways/Driveway** - Maintain walkway and driveways free and clear washed, snow removed as needed for guest usage.

3. **Building Exterior** - Company will inspect and maintain buildings for weather and other aging and damaging factors. Company will keep roof free of ice and snow build-up and or under control and free of hazards. Company will do repairs as needed, and will report on any major problems that may arise for repair approval.

4. **Building Interior** - Company will inspect and maintain units for hazards and repairs. Painting units as needed, replace and stock items as needed or requested by Association President.

5. **Hot Tubs** - Hot tubs will be inspected and maintained and cleaned to industry standards. Company agrees to replace water in each hot tub on a weekly basis or sooner as needed to maintain hot tub operation at a safe level. Replacement parts and chemicals are the responsibility of the Association.

6. **General Maintenance** - Company will supply to resort quantified maintenance personnel to work at the resort approximately forty (40) hours per week.

**B. Records**-Company agrees to manage the business affairs of the Association from insurance, accounting and collections to homeowner & guest check-in and information and reservations. Company will report directly to Association President.

1. **Accounting**-Company will maintain collections accounts and billing information, bank accounts, reporting information to association accountant for budgeting and balancing and auditing.

2. **Maintain and Insure** that daily operational invoices, insurance and taxes be kept paid and current in order to not jeopardize the financial well being of the Association.

3. **Handle** all owner and guest correspondences in a professional and timely manner. Insure that semiannual newsletter be sent to all owners.

4. **Maintain** records of the resort and its Associations for the board of directors.

5. **Maintain** correspondence and communication with Association attorneys in reference to resort affairs, collections and foreclosures.

**C. Reservations:** Company will secure reservations for its homeowners. Encourage homeowners to travel to Indian Peaks Resort or a location of their choice. Company understands that a homeowner owns a given deeded week. Homeowner is in full control of his/her said week if homeowner is current on all or any maintenance fees. If a past due maintenance fee week is used, the using party is responsible to the Association including Management. If owner elects not to utilize his/her week, company at its discretion may utilize said week for the purpose of offering another owner the opportunity to utilize said week first, then place week in an exchange pool of company.

If an owner does not reserve his/her week in advance or use week, company will automatically bank said week to guarantee that owner will have future credit for said week and year. As an industry standard and disclosure statements states:

Company fully understands the Owners rights to use any exchange service of his/her choice. Company will guarantee 100% all owners weeks regardless of any loss or misunderstanding by them, company, or any other exchange service.

Company from time to time will lease out units/weeks that may otherwise go unused. These weeks are the responsibility of the company. The company does not lease out units as an agent for any owner or entity. Any income derived on an exchange or leasing is compensation for an exchange of the 100% owner guarantee program by the company.

Association will review reservation and exchange policies and questions, but does not guarantee or profit from any said services.

Company will account for and control all reservations to insure all industry standards and policies are adhered to.

Company will supply guest services and front desk operations at approximately 30 (thirty) hours per week or as needed.

**D. Housekeeping:** Company will prepare and clean all resort units to industry standards. Company will insure unit readiness upon check-in and in addition will supply units with a mid-week trash and towel service.

Weekly Responsibilities:

1. Replacement of all linens (one per week, per unit).
2. Replacement of towels and trash removal midweek
3. Clean all glass and surfaces
4. Clean and disinfect bath and kitchen
5. Clean and vacuum all floors
6. Replacement of all supplies
7. Inventory units for loss and damage
8. Clean hot tubs - replace water
9. Wash and restock linens
10. Second person inspection
11. Spring Clean Units.
12. Oversee sub-contractor of carpet cleaning.

**Compensation:** Association agrees to pay company for services rendered in accordance with prescribed by-laws of the Association and its long established budget and current cost audits per accountant. Compensation can be paid on monthly or semiannual annual bases. ( See attached Budget).

**Misc. Terms:** This is the only agreement in effect and any other agreements and changes must be in writing and signed by both parties.

Company will hold Association harmless in regards to exchange program. Company will supply board of directors with semiannual report. Quarterly financial statements. Association will inspect company & resort on semiannual bases.

Company agrees to maintain bonding and liability insurance. Company is responsible for all sale taxes and employee liabilities. Company and Association both agrees to carry each other as Co-insures under these policies.

The terms of this agreement are for two (2) calendar years to run from January 5, 1993 to January 5, 1995. This agreement may ~~not be cancelled~~ not cancelled unless agreed by both parties.

*[Handwritten initials]*

~~Company Disclosure Statement:~~ Steve Palm is a Colorado Real Estate Broker/ Indian Peaks Owner/Vice President of Indian Peaks Homeowner Association/ Owner of Winter Park Resort Services. Most policies and budget of the Association were developed and set in place in early 1988 and were developed by industry standards the board of managers and not solely by Steve Palm.

Indian Peaks Interval Owners Association/President  
Indian Peaks Condominium Association /President

X *William R. Graves* Date *2/9/93*  
William Graves

Winter Park Resort Services Inc./ Sec., Treas.

X *Angela Palm* Date *2/9/93*  
Angela Palm

Witness: X *Steve Palm* Date *2/9/93*  
Steve Palm



*My Commission Expires  
11-17-94  
Sheree Forbes*

Revenue	Total	Jan.	Feb.	Mar.	Apr.	May	Jun.	Jul.	Aug.	Sep.	Oct.	Nov.	Dec.
Total Assemt.	66156												
OA													
2003	2100												
2002	2100												
Uncollectables	0												
Total Revenue	70356												
509 MANAGEMENT	\$1800.00	\$1500.00	\$1500.00	\$1500.00	\$1500.00	\$1500.00	\$1500.00	\$1500.00	\$1500.00	\$1500.00	\$1500.00	\$1500.00	\$1500.00
510 SUPPLIES	\$2600.00	\$216.66	\$216.66	\$216.66	\$216.66	\$216.66	\$216.66	\$216.66	\$216.66	\$216.66	\$216.66	\$216.66	\$216.74
522 FIREWOOD	\$600.00	\$50.00	\$50.00	\$50.00	\$50.00	\$50.00	\$50.00	\$50.00	\$50.00	\$50.00	\$50.00	\$50.00	\$50.00
524 LANDSCAPING	\$2200.00	\$266.66	\$266.66	\$266.66	\$266.66	\$266.66	\$266.66	\$266.66	\$266.66	\$266.66	\$266.66	\$266.66	\$266.74
525 SNOW REMOVAL	\$900.00	\$533.33	\$533.33	\$533.33	\$533.33	\$533.33	\$533.33	\$533.33	\$533.33	\$533.33	\$533.33	\$533.33	\$533.35
526 ELECTRICITY	\$1400.00	\$1166.66	\$1166.66	\$1166.66	\$1166.66	\$1166.66	\$1166.66	\$1166.66	\$1166.66	\$1166.66	\$1166.66	\$1166.66	\$1166.74
530 BUILDING REPAIR	\$3500.00	\$291.66	\$291.66	\$291.66	\$291.66	\$291.66	\$291.66	\$291.66	\$291.66	\$291.66	\$291.66	\$291.66	\$291.74
532 WATER SEWER	\$7400.00	\$625.00	\$625.00	\$625.00	\$625.00	\$625.00	\$625.00	\$625.00	\$625.00	\$625.00	\$625.00	\$625.00	\$625.00
533 ROOF SNOW MAINT	\$900.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
535 INSURANCE	\$1800.00	\$233.33	\$233.33	\$233.33	\$233.33	\$233.33	\$233.33	\$233.33	\$233.33	\$233.33	\$233.33	\$233.33	\$233.37
564 LEGAL	\$100.00	\$100.00	\$100.00	\$100.00	\$100.00	\$100.00	\$100.00	\$100.00	\$100.00	\$100.00	\$100.00	\$100.00	\$100.00
565 ACCOUNTING	\$200.00	\$100.00	\$100.00	\$100.00	\$100.00	\$100.00	\$100.00	\$100.00	\$100.00	\$100.00	\$100.00	\$100.00	\$100.00
567 COMMON UNIT	\$2100.00	\$175.00	\$175.00	\$175.00	\$175.00	\$175.00	\$175.00	\$175.00	\$175.00	\$175.00	\$175.00	\$175.00	\$175.00
508 COMMONS HOT	\$3900.00	\$325.00	\$325.00	\$325.00	\$325.00	\$325.00	\$325.00	\$325.00	\$325.00	\$325.00	\$325.00	\$325.00	\$325.00
565 OTHER	\$64700.00	\$5583.30	\$5483.30	\$5583.30	\$5583.30	\$5049.97	\$5049.97	\$5049.97	\$5049.97	\$5049.97	\$5049.97	\$5583.30	\$5583.68
Reserve account	\$5555.00												
	\$70356.00												\$64700.00

2/3/93 This is approved for next year budget - *[Signature]*  
 I.P. Calico, Assoc.

	Jan.	Feb.	Mar.	Apr.	May	Jun.	Jul.	Aug.	Sep.	Oct.	Nov.	Dec.	
Revenue													
Total													
Total Assetmnt.	\$35,960.00												
Reserve	<24,480.00>												
Uncollectables 5%	<17,748.00>												
Interest	\$360.00												
Aisc.	\$750.00												
Total Revenue	\$31,384.20												
Expenses													
Condo. Assoc.	\$66156.00	\$5513.00	\$5513.00	\$5513.00	\$5513.00	\$5513.00	\$5513.00	\$5513.00	\$5513.00	\$5513.00	\$5513.00	\$5513.00	\$66156.00
Bank Charges	\$132.00	\$11.00	\$11.00	\$11.00	\$11.00	\$11.00	\$11.00	\$11.00	\$11.00	\$11.00	\$11.00	\$11.00	\$132.00
Cleaning Fees	\$66096.00	\$5508.00	\$5508.00	\$5508.00	\$5508.00	\$5508.00	\$5508.00	\$5508.00	\$5508.00	\$5508.00	\$5508.00	\$5508.00	\$66096.00
Electric 60%	\$24000.00	\$2000.00	\$2000.00	\$2000.00	\$2000.00	\$2000.00	\$2000.00	\$2000.00	\$2000.00	\$2000.00	\$2000.00	\$2000.00	\$24000.00
Insurance	\$3900.00	\$325.00	\$325.00	\$325.00	\$325.00	\$325.00	\$325.00	\$325.00	\$325.00	\$325.00	\$325.00	\$325.00	\$3900.00
Inventory Replaced	\$7351.00	\$612.58	\$612.58	\$612.58	\$612.58	\$612.58	\$612.58	\$612.58	\$612.58	\$612.58	\$612.58	\$612.58	\$7350.96
Hot Tub Maint.	\$12000.00	\$1000.00	\$1000.00	\$1000.00	\$1000.00	\$1000.00	\$1000.00	\$1000.00	\$1000.00	\$1000.00	\$1000.00	\$1000.00	\$12000.00
Legal	\$833.33	\$833.33	\$833.33	\$833.33	\$833.33	\$833.33	\$833.33	\$833.33	\$833.33	\$833.33	\$833.33	\$833.37	\$10000.00
Accounting	\$482.25	\$482.25	\$482.25	\$482.25	\$482.25	\$482.25	\$482.25	\$482.25	\$482.25	\$482.25	\$482.25	\$482.25	\$5787.00
Maint.	\$200.00	\$2100.00	\$2100.00	\$2100.00	\$2100.00	\$2100.00	\$2100.00	\$2100.00	\$2100.00	\$2100.00	\$2100.00	\$2100.00	\$25200.00
Firewood	\$500.00	\$125.00	\$125.00	\$125.00	\$125.00	\$125.00	\$125.00	\$125.00	\$125.00	\$125.00	\$125.00	\$125.00	\$1500.00
Painting	\$1600.00	\$133.33	\$133.33	\$133.33	\$133.33	\$133.33	\$133.33	\$133.33	\$133.33	\$133.33	\$133.37	\$133.37	\$1600.00
Meeting Expnses.	\$500.00	\$416.66	\$416.66	\$416.66	\$416.66	\$416.66	\$416.66	\$416.66	\$416.66	\$416.66	\$416.74	\$416.74	\$5000.00
Office	\$8,400.00	\$700.00	\$700.00	\$700.00	\$700.00	\$700.00	\$700.00	\$700.00	\$700.00	\$700.00	\$700.00	\$700.00	\$8400.00
Management	\$28800.00	\$2400.00	\$2400.00	\$2400.00	\$2400.00	\$2400.00	\$2400.00	\$2400.00	\$2400.00	\$2400.00	\$2400.00	\$2400.00	\$28800.00
Owner Entertmt.	\$2520.00	\$210.00	\$210.00	\$210.00	\$210.00	\$210.00	\$210.00	\$210.00	\$210.00	\$210.00	\$210.00	\$210.00	\$2520.00
Property Taxes	\$28000.00	\$2333.33	\$2333.33	\$2333.33	\$2333.33	\$2333.33	\$2333.33	\$2333.33	\$2333.33	\$2333.33	\$2333.37	\$2333.37	\$28000.00
Cable	\$540.00	\$450.00	\$450.00	\$450.00	\$450.00	\$450.00	\$450.00	\$450.00	\$450.00	\$450.00	\$450.00	\$450.00	\$5400.00
Phone	\$6000.00	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00	\$6000.00
Transportation	\$6000.00	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00	\$6000.00
Total	\$31,384.20	\$26153.48	\$26153.48	\$26153.48	\$26153.48	\$26153.48	\$26153.48	\$26153.48	\$26153.48	\$26153.48	\$26153.48	\$26153.68	\$31384.96
P/L	\$0.00												

2/3/93  
 I.P. HARBURN  
 Approved - *[Signature]*  
 J.P. [Signature]



Recorded at 2:00 P.M. OCT 1 1981

157332  
Johny Lou Petty  
Grand County Recorder

AMENDMENT TO THE  
CONDOMINIUM DECLARATION FOR  
INDIAN PEAKS CONDIMINIUMS

BOOK 299 PAGE 362

This Declaration of Covenants, Conditions and Restrictions, hereinafter called "Declaration", is made and executed in Grand County, Colorado, this 21st day of September, 1981, by Mid America, Inc., a Nebraska Corporation doing business in Colorado as Mid America Development, Inc., hereinafter called "Declarant", pursuant to the provisions of the Colorado "Condominium Ownership Act" as amended:

RECITALS:

WHEREAS, a Condominium Declaration was recorded for INDIAN PEAKS CONDIMINIUMS on November 18, 1980 at Book 283, Page 727 of the Grand County records;

WHEREAS, said Declarations permit further Amendment thereof upon approval of (1) SEVENTY-FIVE PER CENT (75%) of the Holders of any first mortgage or Deed of Trust covering or affecting any or all of the Condominium Units in the Project and (2) the Owners representing an aggregate ownership interest of SEVENTY-FIVE PER CENT (75%) or more of the General Common Elements in the Condominium Project;

WHEREAS, the Declarant, MID AMERICA INC. a Nebraska Corporation, doing business as MID AMERICA DEVELOPMENT, INC., is the owner of SEVENTY-FIVE PER CENT (75%) or more of the General Common Elements of the Project;

WHEREAS, the undersigned first mortgage or Deed of Trust Holder constitute all of the Holders of the first mortgages or Deeds of Trust covering or affecting the Project or units thereof;

WHEREAS, it is the desire of the undersigned to amend the prior Declarations so that the herein stated Amendments are included therein and shall henceforth encumber the real property described herein.

NOW THEREFORE, pursuant to said Declarations and the Colorado Condominium ownership Act, the Declarant and parties signed hereunder do hereby amend the original Exhibit "A" to the Declarations to read in its entirety as the attached "Amended Exhibit A" does and amends the aforescribed Declarations to include the following Section 12.

## SECTION 12. PLAN OF INTERVAL OWNERSHIP.

12.1 PLAN OF INTERVAL OWNERSHIP. Declarant reserves the right for itself its successors and assigns, to submit all or some of the Condominium Units in the Project to the Plan of Interval Ownership as set forth in Section 12. The provisions of Section 12 relate only to those Condominium Units submitted to the Plan of Interval Ownership and shall govern the Ownership of Interval Estates in said Condominium Units and the rights, duties and obligations of Interval Owners for so long as a Condominium Unit remains an Interval Unit. The right to submit a Condominium Unit to the Plan of Interval Ownership shall extend only to Declarant, and its successors or assigns, and shall specifically not be available to purchasers of Condominium Units in the Project, their successors and assigns. Submission of a Condominium Unit to a Plan of Interval Ownership shall be subject to the prior written consent of any first Mortgagee or any Holder of a first Deed of Trust of record.

The following definitions apply to those Condominium Units which are submitted to and sold under the plan of Interval Ownership set forth in Article 12 hereof:

- A. "Interval Estate" means a time-span estate consisting of an undivided interest as tenant-in-common in the present estate in fee simple in a Condominium Unit during an annual recurring period of time, "Interval Week" defined in Section 12.1 F below.
- B. "Interval Owner" means a person vested with legal title to a Interval Estate during his designated Interval Week.
- C. "Interval Unit" means a Condominium Unit which is divided into Interval Weeks pursuant to Section 12 of this Declaration.
- D. "Maintenance Week" means those Interval Weeks designated by Declarant as Maintenance Weeks which are to be conveyed to the Interval Owners' Association by Declarant, during which period the Interval Owners' Association or Managing Agent, shall service, clear, repair, maintain and refurbish the Interval Unit.
- E. "Interval Unit Maintenance Fee" means the fee paid by the Interval Owners as more specifically set forth in Section 12.7 hereof.
- F. "Interval Week" means a period of exclusive possession and occupancy of an Interval Unit. Interval Weeks are computed as follows:

"Interval Week No. 1 is the seven (7) days commencing at noon the first Friday in each year. Unit Week No. 2 is the seven (7) days next succeeding Unit Week No. 1 Additional Unit Weeks consecutively numbered occupy each of the following successive seven (7) day period up to and including week No. 51. Week No. 52 contains the seven (7) day period immediately following the end of Unit Week No. 51 plus, Week No. 52 shall include any other days prior to the beginning of Week No. 1 regardless of the month or the year. Unit Weeks run from noon on the first Friday of the Interval to noon on the last day of the Interval, provided however, that the right of possession and occupancy shall not commence until 6:00 P.M. local time on the first Friday of the interval and shall end at 10:00 A.M. local time on the last day of the interval.

- G. "Interval Owners' Association" means the INDIAN PEAKS INTERVAL OWNERS ASSOCIATION, A COLORADO CORPORATION, not for profit, its successors and assigns, the Articles of Incorporation and By-Laws of which, together with this Declaration, shall govern the administration of Interval Units in this project, the members of which shall be all of the Interval Owners.
- H. Each Owner shall have the non-exclusive right, together with all other Owners, to use all General Elements, open spaces, recreational facilities, grass and landscaping areas and all other areas in the entire Project which are not herein specifically dedicated to the use of less than all the Owners. This easement shall be irrevocable and shall be for the purpose of egress and ingress, recreational and social use and shall apply to all Property hereinafter committed to this Condominium Project.

12.2 PLAN OF INTERVAL OWNERSHIP. Declarant reserves the right for itself or its successors and assigns, to submit all or some of the Condominium Units in the Project to the Plan of Interval Ownership set forth in this Section. The provisions of this Article relate only to those Condominium Units submitted to the Plan of Interval Ownership and shall govern the ownership of Interval Estates in said Condominium Units and the rights, duties and obligations of Interval Owners for so long as a Condominium Unit remains an Interval Unit. The right to submit a Condominium Unit to the plan of Interval Ownership shall extend only to the Declarant, its successor or assigns, and shall specifically not be available to purchasers of Condominium Units in the Project, their successors and assigns, unless authorized in writing by the Declarant. Submission of a Condominium Unit to a Plan of Interval Ownership shall be subject to the prior written consent of any first Mortgagee or any Holder of a first Deed of Trust of record. A purchaser may acquire more than one Interval Estate and thereafter convey or encumber each Interval Estate so acquired separately. In no event, however, shall an Interval Owner convey or encumber less than an Interval Estate as defined herein, or attempt to subdivide an Interval Estate into lesser interests. In the event all Interval Estates in an Interval Unit are acquired by one Owner, such Condominium Unit may at such Owner's election by notice duly recorded, be withdrawn from this plan of Interval Ownership. In the event such election is made the Interval Owners' Association shall reconvey the Maintenance Weeks associated with the Interval Unit to the Owner so electing. The provisions of this Declaration shall apply to the Interval Estates created hereunder, provided however, in the event of an inconsistency between this Article and the remaining provisions of the Declaration with respect to the ownership of an Interval Estate and the rights, duties, and obligations of Interval Owners, then the provisions of this section shall control.

- 12.3 SUBMISSION OF CONDOMINIUM UNIT TO INTERVAL OWNERSHIP. Declarant, may submit a Condominium Unit to Interval Ownership either by recording a properly acknowledged notice executed by Declarant, describing the Condominium Unit to be submitted to Interval Ownership and reciting Declarant's intention to do so or by Declarant's execution, delivery and recordation of a deed conveying an Interval Estate to an Interval Owner. Each Interval Estate shall constitute an estate in real property separate and distinct from all other Interval Estates in the Unit and other Units, which estate may be separately conveyed and encumbered. By acceptance of a deed to an Interval Estate, each Interval Owner waives his right to bring a suit for partition except in accordance with the provisions of this Declaration. Declarant may, by recording a written notice, establish the commencement day of Interval Week No. 1 for the Unit being committed to Interval Ownership as any day of the week, the contrary provisions of 12.1 F notwithstanding. The form of such notice shall be as follows:

KNOW ALL MEN BY THESE PRESENTS, that  
Condominiums Unit \_\_\_\_\_,

Building,  
INDIAN PEAKS CONDOMINIUMS,  
According to the Map(s) thereof, filed for record, and according to the Condominium Declaration for INDIAN PEAKS CONDOMINIUMS, recorded November 18 \_\_\_\_\_, 1980 in Book 283 \_\_\_\_\_, at Page 727 \_\_\_\_\_, as amended.

County of Grand,  
State of Colorado.

is hereby submitted to a Plan of Interval Ownership as provided in Section 12 of the Declarations for INDIAN PEAKS CONDOMINIUMS as amended.

FURTHER, the determination of Interval Weeks shall be in accordance with the following:

Interval Week No. 1 for Unit \_\_\_\_\_, \_\_\_\_\_ building is the seven (7) days commencing at noon the first \_\_\_\_\_ in each year. Unit Week No. 2 is the seven (7) days next succeeding Unit Week No. 1. Additional Unit Weeks consecutively numbered occupy each of the following successive seven (7) day period up to and including Week No. 51. Week No. 52 contains the seven (7) day period immediately following the end of Unit Week No. 51, plus, Week No. 52 shall include any other days prior to the beginning of Week No. 1 regardless of the month or the year. Unit Weeks run from noon on the first \_\_\_\_\_ of the Interval to noon on the last day of the Interval, provided however, that the right of possession and occupancy shall not commence until 6:00 P.M. local time on the first \_\_\_\_\_ of the Interval and shall end at 10:00 A.M. local time on the last day of the Interval.

MID AMERICA INC.,  
doing business as  
MID AMERICA DEVELOPMENT INC.

By: \_\_\_\_\_

Failure to record the above statement with regard to any Unit being submitted to Interval Ownership prior to the recording of a deed conveying an Interval Week in said Unit shall result in that Unit's Interval Weeks being determined according to Section 12.1 F hereof.

12.4 LEGAL DESCRIPTION OF AN INTERVAL ESTATE. A contract for sale of an Interval Estate written prior to the filing for record of this Declaration and the Map may legally describe an Interval Estate as follows:

Condominium Unit \_\_\_\_\_,  
Interval Week \_\_\_\_\_,  
\_\_\_\_\_ Building,  
INDIAN PEAKS CONDOMINIUMS,

According to the Maps thereof filed for record, and according to the Condominium Declaration for INDIAN PEAKS CONDOMINIUMS recorded November 18, 1980, in Book 283, at Pages 727-743, as amended.

County of Grand,  
State of Colorado.

After submission of a Condominium Unit to Interval Ownership, every contract for sale, deed, lease, mortgage, trust deed, or other instrument relating to an Interval Estate as follows:

Condominium Unit \_\_\_\_\_,  
Interval Week \_\_\_\_\_,  
\_\_\_\_\_ Building,  
INDIAN PEAKS CONDOMINIUMS,

According to the Maps thereof filed for record, and according to the Condominium Declaration for INDIAN PEAKS CONDOMINIUMS recorded November 18, 1980 in Book 283, at Pages 727-743, as amended.

County of Grand,  
State of Colorado.

Every such description shall be good and sufficient for all purposes to sell, convey, transfer and encumber or otherwise effect an Interval Estate and all Common Elements and easements appurtenant thereto. Such legal description shall also convey to the grantee named in the document an undivided interest in all furniture and furnishings then located in the Interval Unit and used for the operation thereof in the same ownership interest as the Interval Owner's undivided interest as tenant-in-common in the Interval Unit, as well as any furniture and furnishings thereafter acquired for the Interval Unit. The transfer of an interest in Interval Estate shall transfer to the grantee ownership of all of the transferer's undivided interest in such personal property without further reference thereto.

12.5 ADMINISTRATION AND MANAGEMENT; ASSOCIATION, MANAGING AGENT. The INDIAN PEAKS Interval Owners' Association will be formed as a Colorado Corporation not for profit, to manage the Interval Units and to further the interest of all Interval Owners. The Interval Owners' Association shall have all powers necessary or desirable to effectuate such purposes. Subject to the provisions of this Declaration, the administration and management of the Interval Owners' Association shall be governed by the Articles of Incorporation and By-Laws thereof. An Interval Owner, upon becoming the Owner of an Interval Estate, shall be a member of the Interval Owners' Association and shall remain a member for the period of his ownership. An Interval Owner shall be entitled to a vote, the size of which vote shall be based upon each Interval Owner's undivided interest as tenant-in-common in the Interval Unit. Voting by proxy shall be permitted. The affairs of the Interval Owners' Association shall be managed by a Board of Managers as is provided in the Articles of Incorporation and By-Laws of the Interval Owners' Association. Notwithstanding anything to the contrary provided herein, until two-thirds (2/3) of the Interval Estates in the Project, have been sold (meaning title to said Interval Estate has been conveyed by the Declarant), or until December 31, 1995, whichever first occurs, the members of the Board of Managers shall be appointed by the Declarant and need not be Interval Owners. Declarant shall have the option at any time to turn over the control of the Board of Managers to the Interval Owners at any meeting of the Interval Owners' Association called for that purpose. The Board of Managers may by resolution delegate any of its duties, powers and functions to a person or firm which shall act as Managing Agent. Such Managing Agent may, but does not have to be the same Managing Agent as is retained by the INDIAN PEAKS Condominium Association. In order to effectuate the representation of the Interval Owners in the INDIAN PEAKS Condominium Association, each Interval Owner, by accepting a deed to an Interval Ownership Estate, revocably appoints for a 10 year period commencing on the recordation of this Declaration, the Board of Managers of the Interval Owners' Association as his Attorney-in-fact to represent such Interval Owner at any and all regular and special meetings of the INDIAN PEAKS Condominium Association, and thereat to vote the interests of the Interval Owners as members of the INDIAN PEAKS Condominium Association, according to the votes assigned to Condominium Units submitted to Interval Ownership. Such appointment shall

be automatically renewed for successive 10 year periods until termination of the plan of Interval Ownership, unless the Interval Owners at the Annual Meeting of the Interval Owners' Association or a special meeting called for such purpose vote to revoke the appointment and thereafter independently exercise their vote in the INDIAN PEAKS Condominium Association.

12.6 POWERS AND DUTIES OF THE INTERVAL OWNERS' ASSOCIATION. By way of enumeration and without limitations, the Interval Owners' Association shall have the following powers and duties:

- A. Coordinate the plans of Interval Owners for moving their personal effects into and out of the Interval Units with a view toward scheduling such move so that there will be a minimum of inconvenience to other Owners.
- B. Maintain business-like relations with Interval Owners whose service requests shall be received, considered, and recorded in a systematic fashion in order to show the action taken with respect to each request.
- C. Cause each Interval Unit to be maintained in a first class manner and condition. The Interval Owners' Association shall determine the color scheme, decor and furnishing of each Interval Unit as well as the proper time for redecorating and replacement thereof.
- D. Bill each Interval Owner for the expense of occupancy of an Interval Unit during said Interval Owners' Interval Weeks, which the Interval Owners' Association determines are the individual expenses of the particular Interval Owner including, but not limited to, long distance and other extraordinary telephone charges, extraordinary repairs or charges for damages to the Interval Unit, its furniture, furnishings, equipment, fixtures, appliances and carpeting caused by an Interval Owner or his guests, firewood, other charges for services rendered by the Managing Agent on behalf of the particular Interval Owner, janitorial and maid service provided for each Interval Week and included within the Interval Unit Maintenance Fee provided for in Section 12.7 below.
- E. Collect the Interval Unit Maintenance Fee provided for in Section 12.7 below.
- F. Accept from the Declarant, conveyance of title to the Maintenance Weeks designated by Declarant for each Condominium Unit submitted to this plan in Interval Ownership.
- G. Prepare a calendar of Interval Weeks which shall at all times establish the dates of each Interval Week at least five years into the future.



12.7 INTERVAL UNIT MAINTENANCE FEE. In addition to the Assessment for Common Expenses established by the INDIAN PEAKS Condominium Association to meet the Common Expenses of the Project, the Interval Owners' Association shall also establish a separate Interval Unit Maintenance Fee which will be Assessed against Interval Units to cover the additional costs of operating the Interval Unit including, but not limited to the following:

- A. The pro rata share of the Common Expenses as defined in the Declaration attributable to each Interval Estate.
- B. Maintenance, and regularly scheduled cleaning and maid service and upkeep of the Interval Unit.
- C. Repair and replacement of furniture, fixtures, appliances, carpeting, and utensils.
- D. Any additional premium for property or liability insurance occasioned by the submission of a Condominium Unit to Interval Ownership.
- E. Utilities separately metered to the Interval Unit.
- F. Real and personal property taxes assessed against the Interval Estates.
- G. Management fees assessed by the Managing Agent to cover cost of operating a Unit pursuant to this plan of Interval Ownership which are in addition to the management fee set by the Managing Agent (if the Managing Agent for the Association and Interval Owners' Association are the same, and if not, then the Management Fee assessed by the Managing Agent for the Interval Owners' Association).
- H. Any other expenses incurred in the normal operation of the Project attributable to operation of the Condominium Unit as an Interval Unit and not included within the definition of Common Expenses provided for in this Declaration.

The Interval Unit Maintenance Fee shall be assessed and pro rated among the Interval Owners on the basis of each Interval Owner's undivided interest as tenant-in-common in the Interval Unit. The Interval Unit Maintenance Fee shall be paid by Interval Owners pursuant to a schedule established by the Board of Managers of the Interval Owners' Association. These Assessments shall be the personal obligation of the Interval Owner as provided in Paragraph 6.7 of the Declaration for Common Assessments and all sums Assessed but

unpaid, shall constitute a lien against the Interval Estate pursuant to section 5.10. of the Declaration.

12.8 ACCEPTANCE OF PLAN OF INTERVAL OWNERSHIP; ENFORCEMENT, INDEMNIFICATION. By acceptance of a Deed to an Interval Estate an Interval Owner agrees to be bound by the terms and conditions of the Declaration, specifically including, but not limited to, the provisions of this section. In addition to the foregoing, in the event any Interval Owner fails to vacate an Interval Unit after termination of his Interval week(s) or otherwise uses or occupies or prevents another Interval Owner from using or occupying an Interval week, that Interval Owner shall be in default hereunder and shall be subject to immediate removal, eviction or ejection from the Interval Unit wrongfully occupied; shall be deemed to have waived any notices required by law with respect to any legal proceedings regarding the removal, eviction or ejection; and shall pay to the Interval Owner entitled to use the Interval Unit during such wrongful occupancy, as liquidated damages for the wrongful use of the Interval Unit, a sum equal to two hundred percent (200%) of the fair rental value per day for the Interval Unit wrongfully occupied as determined by the Interval Owners' Association in its sole discretion for each day, or portion thereof, including the day of surrender, during which the Interval owner wrongfully occupies a unit, plus all costs and reasonable attorneys' fees involved in the enforcement of this provision which amount may be collected by the Interval Owners' Association in the manner provided herein for the collection of Assessments.

Any Interval Owner who suffers or allows a Mechanic's Lien or other lien to be placed against his Interval Estate or the entire Condominium Unit, shall indemnify, defend and hold each of the other Interval Owners harmless from and against all liability or loss arising from the claim of such lien. The Interval Owners' Association shall enforce such indemnity by collection from the Interval Owner who suffers or allows such a lien the amount necessary to discharge the lien and all costs incidental thereto, including reasonable attorneys' fees. If such amount is not promptly paid, the Interval Owners' Association may collect the same in the manner provided herein for the collection of Assessments.

12.9 PERIOD OF CONDOMINIUM OWNERSHIP. The separate Condominium Estates created by this Amendment to the Condominium Declaration for INDIAN PEAKS CONDOMINIUMS and the Map shall continue until this Amended Declaration is revoked in the manner provided in these Declarations.

12.10 INTERVAL OWNERSHIP OF COMMON ELEMENTS. The undivided percentage interest in Common Elements for each Condominium Unit as provided for in the Declaration for INDIAN PEAKS CONDOMINIUMS shall be allocated among the Interval Owners of each such Unit committed to Interval Ownership pro rata according to the number of Interval Weeks owned.

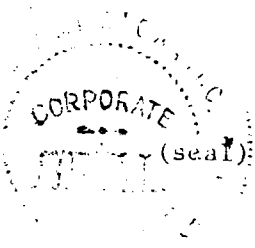
The fee title to each Interval Week shall include the Unit Week(s) and the respective equal undivided interest as described above. A

conveyance or encumbrance of the Interval Week shall be deemed to include the applicable undivided interest. Any attempt to separate the Interval Week from its applicable undivided interest shall be null and void.

- 17.10 PARKING. The use of automobile parking spaces by an Interval Owner whether a part of the General Common Elements or specifically appurtenant to a Condominium Unit, shall be limited to the period of occupancy of the Interval Week(s) each year owned by such Interval Owner.

IN WITNESS WHEREOF, Declarant has executed this Amendment to the Declaration this 21st day of September, 1981.

MID AMERICA, INC., a Nebraska corporation  
D/B/A MID AMERICA DEVELOPMENT, INC.



Randal W. Christofferson  
By: RANDAL W. CHRISTOFFERSON, Vice President

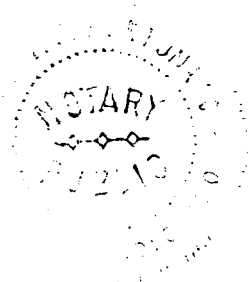
Jean E. Christofferson  
Attest: JEAN E. CHRISTOFFERSON  
Assistant Secretary

STATE OF COLORADO     )  
                                      ) ss.  
COUNTY OF GRAND     )

The foregoing instrument was acknowledged before me this 21st day of September, 1981 by RANDAL W. CHRISTOFFERSON and JEAN E. CHRISTOFFERSON as Vice President and Assistant Secretary, respectively, of MID AMERICA, INC., a Nebraska corporation, D/B/A MID AMERICA DEVELOPMENT, INC.

Witness my hand and official seal.

My commission expires: 5/23/82



Andrea J. Holmbeck  
Notary Public  
Notary's Address: 2012 S. 31st  
Olathe, Mo., 64522

IN WITNESS WHEREOF, the undersigned Holder of a First Deed(s) of Trust secured by the INDIAN PEAKS CONDOMINIUM PROJECT has executed this Declaration this 21<sup>st</sup> day of September, 1981.



BANK OF WINTER PARK

By: [Signature]

Attest:

[Signature]

STATE OF COLORADO )  
) ss.  
COUNTY OF GRAND )

The foregoing instrument was acknowledged before me this 21<sup>st</sup> day of September, 1981, by A. A. Crance and Sharon G. Crance as vice President (title) and Treasurer (title), respectively, of BANK OF WINTER PARK.

Witness my official hand and seal.

My commission expires: 10/12/84



Dianna E. McNamee  
Notary Public  
Dianna E. McNamee  
28515 U.S. Highway 40  
Winter Park, CO 80982

AMENDED EXHIBIT "A"

ATTACHED TO AND MADE A PART OF

CONDOMINIUM DECLARATION FOR

INDIAN PEAKS CONDOMINIUMS

COUNTY OF GRAND

STATE OF COLORADO

<u>Unit</u>	<u>Building</u>	<u>Appurtenant Undivided Interest in Common Elements</u>
A-101	A	
A-102	A	1/26
A-103	A	1/26
A-201	A	1/26
A-202	A	1/26
A-203	A	1/26
A-301	A	1/26
A-302	A	1/26
A-303	A	1/26
B-101	B	
B-103	B	1/26
B-201	B	1/26
B-202	B	1/26
B-203	B	1/26
B-301	B	1/26
B-302	B	1/26
B-303	B	1/26
C-101	C	
C-102	C	1/26
C-103	C	1/26
C-201	C	1/26
C-202	C	1/26
C-203	C	1/26
C-301	C	1/26
C-302	C	1/26
C-303	C	1/26

Filed for record at 1:30 P.M. o'Clock NOV 25 1980  
Reception No. 178801 Johnny Lou Petty

ARTICLES OF INCORPORATION

OF

BOOK **284** PAGE **92**

INDIAN PEAKS CONDOMINIUM

ASSOCIATION, INC.

For the purpose of forming a nonprofit corporation pursuant to the provisions of the Colorado Nonprofit Corporation Act, as amended, the undersigned hereby signs and acknowledges the following Articles of Incorporation for such corporation.

ARTICLE I - NAME

The name of this nonprofit corporation shall be: Indian Peaks Condominium Association, Inc. (hereinafter in these Articles it will sometimes be called the "Association").

ARTICLE II - DURATION

The period of duration of the Association shall be perpetual.

ARTICLE III - PURPOSES

The business, objectives and purposes for which the Association is formed are as follows:

A. To be and constitute the Association to which reference is made in the Condominium Declaration for Indian Peaks Condominiums, a condominium project (herein sometimes called the "Declaration") of record, or which will be of record in the office of the Clerk and Recorder of Grand County, Colorado, relating to a condominium ownership project (herein sometimes called the "Condominium Project") in Grand County, Colorado and to perform all obligations



and duties of the Association and to exercise all rights and powers of the Association, specified therein as well as those more fully set forth herein.

B. To provide an entity for the furtherance of the interests of the Owners of Condominium Units, as defined in the Declaration, in the Condominium Project.

#### ARTICLE IV - POWERS

In furtherance of its purposes, but not otherwise, the Association shall have the following powers:

A. All Common Law and Statutory Powers. All of the powers conferred upon nonprofit corporations by the common law and statutes of the State of Colorado in effect from time to time.

B. Powers Needed to Effectuate the Declaration. All of the powers necessary or desirable to perform the obligations and duties and to exercise the rights and powers of the Association under the above-referenced Declaration (terms which are defined in the Declaration shall have the same meanings herein unless otherwise defined), including without limitation, the following powers:

1. Assessments. To make and collect assessments against members for the purposes of defraying the costs, expenses and any losses of the Association, or of exercising its powers or of performing its functions.

2. Common Elements. To manage, control, operate, maintain, repair and improve the common elements.

3. Enforce Restrictions, etc. To enforce covenants, restrictions and conditions affecting any property to the

extent the Association may be authorized under any such covenants, restrictions or conditions and to make and enforce rules and regulations for use of property in the Condominium Project.

4. Advance Owners' Interests. To engage in activities which will actively foster, promote and advance the common ownership interests of Owners of Condominium Units.

5. Buy, Sell, Lease, etc. To buy or otherwise acquire, sell or otherwise dispose of, mortgage or otherwise encumber, exchange, lease, hold, use, operate and otherwise deal with and in, real, personal and mixed property of all kinds, and any right or interest therein, for any purpose of the Association.

6. Borrow. To borrow money and secure the repayment of monies borrowed for any purpose of this corporation, limited in amount or in other respects as may be provided in the By-Laws of the Association or in the Declaration.

7. Contract. To enter into, make, perform, or enforce contracts of every kind and description, including, without limitation, a contract for management services, and to do all things necessary, appropriate or advisable in carrying out any purpose of the Association with or in association with any person, firm, association, corporation or other entity or agency, public or private.

8. Represent Others. To act as agent, trustee or other representative of other corporations, firms, and individuals and as such to advance the business or ownership interests

of such corporations, firms or individuals.

BOOK 284 PAGE 23

9. By-Laws. To adopt, alter, and amend or repeal such By-Laws as may be necessary or desirable for the proper management of the affairs of the Association, provided, however, that such By-Laws may not be inconsistent with or contrary to any provisions of these Articles of Incorporation or the Declaration.

10. Powers Not Limited, Restricted. The foregoing enumeration of powers shall not limit or restrict in any manner the exercise of other and further rights and powers which may now or hereafter be allowed or permitted by law; and the powers specified in each of the paragraphs of this Article IV are independent powers, not to be restricted by reference to or inference from the terms of any other paragraph or provisions of this Article IV.

C. Limits On Powers. Notwithstanding the above, unless at least one hundred percent (100%) of the first mortgagees of Units (based upon one vote for each first mortgage owned or held) and the owners of at least 75 percent of the Condominium Units have given their prior written approval, the Association shall not be empowered or entitled to:

a. By act or omission, seek to abandon or terminate the Condominium Project.

b. Partition or subdivide any Condominium Unit into separate ownership parcels, except as provided in paragraph 3.2 of the Declaration;

c. By act or omission seek to abandon, partition, subdivide, encumber, sell or transfer any of the General or Limited Common Elements of the Condominium Association.

d. Use hazard insurance proceeds for loss to the improvements for other than repair, replacement or reconstruction.

#### ARTICLE V - MEMBERSHIPS

A. Shares, One Class. The Association shall be a membership corporation without certificates or shares of stock. There shall be one class of membership, and there shall be one membership in the corporation for the aggregate ownership interest of each Unit.

B. Voting. All members shall be entitled to vote on all matters, with the vote per Unit being equal to the percentage ownership in the General Common Elements of the Condominium Project attributable to the particular Unit in question, except as provided in paragraph E of this Article V. If title to any Unit shall be held by two or more co-tenants, then each such co-tenant shall be a member of the Association and shall be entitled to vote equal in weight to such co-tenant's percentage of ownership of the Unit. The co-tenant's percentage of ownership of a Unit shall be as determined by the title document of such Unit; in the absence of specific limitation, co-tenants shall be presumed to have equal undivided interests. No person or entity other than an owner of a Unit may be a regular member of the Association.

C. Membership Appurtenant to Condominium Unit. A membership in the Association and the share of a member in the assets of the Association shall not be assigned, encumbered or transferred in any manner except as an appurtenance to transfer of title to the Condominium Unit to which the membership appertains, provided, however, that the rights of membership may be assigned to the

expire annually.

B. Elected Directors to be Owners. Members of the Board of Directors shall be elected in the manner determined by the By-Laws. The persons comprising the Board of Directors shall be natural persons and Owners of Units, except as provided herein. The initial Directors (named below) need not be Owners.

C. Vacancies. Directors may be removed and vacancies on the Board of Directors shall be filled in the manner provided in the By-Laws. Any vacancies in the Board of Directors occurring before the first election of Directors by members shall be filled by vote of the remaining Directors.

D. Initial Board. The names and addresses of the following three (3) natural persons over the age of twenty-one years shall comprise the initial Board of Directors and shall serve until the first election of Directors by the members and until their successors are duly elected and qualified:

<u>Name</u>	<u>Address</u>
Robert A. Hatten	912 South 152nd Circle Omaha, NE 68154
Randal W. Christofferson	16517 Martha Street Omaha, NE 68130
Thomas E. Whitmore	10838 Old Mill Road, Suite 2 Omaha, NE 68154

#### ARTICLE VII - OFFICERS

The Board of Directors shall at each Annual Meeting of the Directors, elect a President of the Association, one or more Vice Presidents, a Secretary, a Treasurer, and such other officers as

the Board, in accordance with the provisions of the By-Laws, believes will be in the best interest of the Association. The officers shall have such duties as may be prescribed in the By-Laws of the Association and shall serve one year terms from the Annual Meeting of Directors at the pleasure of the Board of Directors.

#### ARTICLE VIII - CONVEYANCES AND ENCUMBRANCES

Association property may be conveyed or encumbered by authority of the Association and its Board of Directors. Conveyances or encumbrances shall be by instrument executed by the President or Vice President and by the Secretary or the Treasurer or an Assistant Secretary or Assistant Treasurer or executed by such other person or persons to whom such authority may be specifically delegated by the Board.

#### ARTICLE IX - INITIAL REGISTERED OFFICE AND AGENT

The initial registered office of the Corporation shall be Box 513, Winter Park, Colorado 80482. The initial registered agent at such office shall be Randolph S. Atwater.

#### ARTICLE X - INCORPORATOR

The following is the name and address of one natural person over the age of twenty-one years and of full, unimpaired legal capacity who is the incorporator of this corporation:

<u>Name</u>	<u>Address</u>
Thomas E. Whitmore	10838 Old Mill Road, Suite 2 Omaha, NE 68154

#### ARTICLE XI - DISSOLUTION

In the event of the dissolution of the Association, either voluntarily by the members hereof, by operation of law, or other-

wise, then the assets of this Association shall be deemed to be owned by the members at the date of dissolution in proportion to each member's ownership of the general common elements of the Condominium Project.

ARTICLE XII - AMENDMENTS

Amendments to these Articles of Incorporation shall be adopted, if at all, in the manner as set forth in the Colorado Nonprofit Corporation Act, provided however, that no amendment to these Articles of Incorporation shall be contrary to or inconsistent with any provisions of the Declaration.

Executed this 20th day of November, 1980.

INCORPORATOR:

Thomas Whitmore  
Thomas E. Whitmore

STATE OF NEBRASKA)  
  ) ss.  
COUNTY OF DOUGLAS)

20 The foregoing instrument was acknowledged before me this 20th day of November, 1980, by Thomas E. Whitmore, as incorporator of Indian Peaks Condominium Association, Inc.

Witness my hand and official seal.

My commission expires: 11/14/83



Cathy M. Pendley  
Notary Public

AMENDED AND RESTATED  
ARTICLES OF INCORPORATION OF  
INDIAN PEAKS CONDOMINIUM ASSOCIATION, INC.

NOT FOR PROFIT

FILED

BOOK 288 PAGE 219

INDIAN PEAKS CONDOMINIUM ASSOCIATION, INC was originally incorporated by filing its original Articles of Incorporation with the Secretary of State of the State of Colorado on November 21, 1980. These Restated Articles of Incorporation were duly adopted by the Board of Directors of the corporation in accordance with the provisions of Section 7-21-110 of the Colorado Nonprofit Corporation Act on January 27, 1981. These Amended and Restated Articles of Incorporation correctly set forth the provisions of the Articles of Incorporation of Indian Peaks Condominium Association, Inc., as amended, and these Amended and Restated Articles of Incorporation have been duly adopted as required by law and supercede the original Articles of Incorporation and all amendments thereto.

ARTICLE I - NAME

The name of this nonprofit corporation shall be: INDIAN PEAKS CONDOMINIUM ASSOCIATION, INC. (hereinafter in these Articles it will sometimes be called the "Association").

ARTICLE II - DURATION

The period of duration of the Association shall be perpetual.

ARTICLE III PURPOSES

The business, objectives and purposes of which the Association is formed are as follows:

A. To be and constitute the Association to which reference is made in the Condominium Declaration for Indian Peaks Condominiums, a condominium project (herein sometimes called the "Declaration") of record, or which will be of record in the office of the Clerk and Recorder of Grand County, Colorado, relating to a condominium ownership project (herein sometimes called the "Condominium Project") in Grand County, Colorado and to perform all obligations



and duties of the Association and to exercise all rights and powers of the Association, specified therein as well as those more fully set forth herein.

B. To provide an entity for the furtherance of the interests of the Owners of Condominium Units, as defined in the Declaration, in the Condominium Project.

#### ARTICLE IV - POWERS

In furtherance of its purposes, but not otherwise, the Association shall have the following powers:

A. All Common Law and Statutory Powers. All of the powers conferred upon nonprofit corporations by the common law and statutes of the State of Colorado in effect from time to time.

B. Powers Needed to Effectuate the Declaration. All of the powers necessary or desirable to perform the obligations and duties and to exercise the rights and powers of the Association under the above-referenced Declaration (terms which are defined in the Declaration shall have the same meanings herein unless otherwise defined), including without limitation, the following powers:

1. Assessments. To make and collect assessments against members for the purposes of defraying the costs, expenses and any losses of the Association, or of exercising its powers or of performing its functions.

2. Common Elements. To manage, control, operate, maintain, repair and improve the common elements.

3. Enforce Restrictions, etc. To enforce covenants, restrictions and conditions affecting any property to the

extent the Association may be authorized under any such covenants, restrictions or conditions and to make and enforce rules and regulations for use of property in the Condominium Project.

4. Advance Owners' Interests. To engage in activities which will actively foster, promote and advance the common ownership interests of Owners of Condominium Units.

5. Buy, Sell, Lease, etc. To buy or otherwise acquire, sell or otherwise dispose of, mortgage or otherwise encumber, exchange, lease, hold, use, operate and otherwise deal with and in, real, personal and mixed property of all kinds, and any right or interest therein, for any purpose of the Association.

6. Borrow. To borrow money and secure the repayment of monies borrowed for any purpose of this corporation, limited in amount or in other respects as may be provided in the By-Laws of the Association or in the Declaration.

7. Contract. To enter into, make, perform, or enforce contracts of every kind and description, including, without limitation, a contract for management services, and to do all things necessary, appropriate or advisable in carrying out any purpose of the Association with or in association with any person, firm, association, corporation or other entity or agency, public or private.

8. Represent Others. To act as agent, trustee or other representative of other corporations, firms, and individuals and as such to advance the business or ownership interests

of such corporations, firms or individuals.

9. By-Laws. To adopt, alter, and amend or repeal such By-Laws as may be necessary or desirable for the proper management of the affairs of the Association, provided, however, that such By-Laws may not be inconsistent with or contrary to any provisions of these Articles of Incorporation or the Declaration.

10. Powers Not Limited, Restricted. The foregoing enumeration of powers shall not limit or restrict in any manner the exercise of other and further rights and powers which may now or hereafter be allowed or permitted by law; and the powers specified in each of the paragraphs of this Article IV are independent powers, not to be restricted by reference to or inference from the terms of any other paragraph or provisions of this Article IV.

C. Limits On Powers. Notwithstanding the above, unless at least one hundred percent (100%) of the first mortgagees of Units (based upon one vote for each first mortgage owned or held) and the owners of at least 75 percent of the Condominium Units have given their prior written approval, the Association shall not be empowered or entitled to:

a. By act or omission, seek to abandon or terminate the Condominium Project.

b. Partition or subdivide any Condominium Unit into separate ownership parcels, except as provided in paragraph 3.2 of the Declaration;

c. By act or omission seek to abandon, partition, subdivide, encumber, sell or transfer any of the General or Limited Common Elements of the Condominium Association.

d. Use hazard insurance proceeds for loss to the improvements for other than repair, replacement or reconstruction.

#### ARTICLE V - MEMBERSHIPS

A. Shares, One Class. The Association shall be a membership corporation without certificates or shares of stock. There shall be one class of membership, and there shall be one membership in the corporation for the aggregate ownership interest of each Unit.

B. Voting. All members shall be entitled to vote on all matters, with the vote per Unit being equal to the percentage ownership in the General Common Elements of the Condominium Project attributable to the particular Unit in question, except as provided in paragraph E of this Article V. If title to any Unit shall be held by two or more co-tenants, then each such co-tenant shall be a member of the Association and shall be entitled to vote equal in weight to such co-tenant's percentage of ownership of the Unit. The co-tenant's percentage of ownership of a Unit shall be as determined by the title document of such Unit; in the absence of specific limitation, co-tenants shall be presumed to have equal undivided interests. No person or entity other than an owner of a Unit may be a regular member of the Association.

C. Membership Appurtenant to Condominium Unit. A membership in the Association and the share of a member in the assets of the Association shall not be assigned, encumbered or transferred in any manner except as an appurtenance to transfer of title to the Condominium Unit to which the membership appertains, provided, however, that the rights of membership may be assigned to the

holder of a mortgage, deed of trust, or other security instrument on a Condominium Unit as deed of trust, or other security instrument or a Condominium Unit as further security for a loan secured by a lien on such Condominium.

D. Transfer. A transfer of membership shall occur automatically upon the transfer of title to the Condominium Unit to which the membership pertains, provided, however, that the By-Laws of the corporation may contain reasonable provisions and requirements with respect to recording such transfers on the books and records of the Association.

E. Suspension of Voting Rights. The Association may suspend the voting rights of a member for failure to comply with rules, regulations, or By-Laws of the corporation or for failure to comply with any other obligations of the Owners of a Unit under the Declaration, or agreement created pursuant thereto.

F. By-Laws Applicable to Members' Rights. The By-Laws may contain provisions, not inconsistent with the foregoing, setting forth the rights, privileges, duties and responsibilities of the members.

#### ARTICLE VI - BOARD OF DIRECTORS

The business and affairs of this Association shall be conducted, managed and controlled by its Board of Directors.

A. Number Terms. The Board of Directors, (hereinafter sometimes called "Board") shall consist of not less than three (3) nor more than eight (8) members, the specified number to be set forth from time to time in the By-Laws of the Association. In the absence of any provisions in the By-Laws, the Board shall consist of three (3) members. In all events, however, the terms of at least one-third (1/3) of the members of the Board shall

expire annually.

B. Elected Directors to be Owners. Members of the Board of Directors shall be elected in the manner determined by the By-Laws. The persons comprising the Board of Directors shall be natural persons and Owners of Units, except as provided herein. The initial Directors (named below) need not be Owners.

C. Vacancies. Directors may be removed and vacancies on the Board of Directors shall be filled in the manner provided in the By-Laws. Any vacancies in the Board of Directors occurring before the first election of Directors by members shall be filled by vote of the remaining Directors.

D. Initial Board. The names and addresses of the following three (3) natural persons over the age of twenty-one years shall comprise the initial Board of Directors and shall serve until the first election of Directors by the members and until their successors are duly elected and qualified:

<u>Name</u>	<u>Address</u>
Robert A. Hatten	912 South 152nd Circle Omaha, NE 68154
Randal W. Christofferson	16517 Martha Street Omaha, NE 68130
Thomas E. Whitmore	10838 Old Mill Road, Suite 2 Omaha, NE 68154

#### ARTICLE VII - OFFICERS

The Board of Directors shall at each Annual Meeting of the Directors, elect a President of the Association, one or more Vice Presidents, a Secretary, a Treasurer, and such other officers as

the Board, in accordance with the provisions of the By-Laws, believes will be in the best interest of the Association. The officers shall have such duties as may be prescribed in the By-Laws of the Association and shall serve one year terms from the Annual Meeting of the Directors at the pleasure of the Board of Directors.

#### ARTICLE VIII - CONVEYANCES AND ENCUMBRANCES

Association property may be conveyed or encumbered by authority of the Association and its Board of Directors. Conveyances or encumbrances shall be by instrument executed by the President or Vice President and by the Secretary or the Treasurer or an Assistant Secretary or Assistant Treasurer or executed by such other person or persons to whom such authority may be specifically delegated by the Board.

#### ARTICLE IX - DISSOLUTION

In the event of the dissolution of the Association, either voluntarily by the members hereof, by operation of law, or otherwise, then the assets of this Association shall be deemed to be owned by the members at the date of dissolution in proportion to each member's ownership of the general common elements of the Condominium Project.

#### ARTICLE X - AMENDMENTS

Amendments to these Articles of Incorporation shall be adopted, if at all, in the manner as set forth in the Colorado Nonprofit Corporation Act, provided however, that no amendment to these Articles of Incorporation shall be contrary to or inconsistent with any provisions of the Declaration.

Executed this 28th day of January, 1981.

INDIAN PEAKS CONDOMINIUM ASSOCIATION, INC.

By: *Robert A. Hatten*  
Robert A. Hatten, President

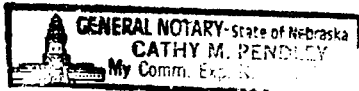
ATTEST:

*Thomas E. Whitmore*  
Thomas E. Whitmore, Asst. Sec.

STATE OF NEBRASKA)  
) ss.  
COUNTY OF DOUGLAS)

BE IT REMEMBERED that on this 28th day of January, 1981, personally came before me, a notary public in and for the county and state aforesaid, Robert A. Hatten, President of Indian Peaks Condominium Association, Inc., a Colorado nonprofit corporation, and duly executed the above and foregoing Amended and Restated Articles of Incorporation before me and acknowledged the said certificate to be his act and deed and the act and deed of said corporation and that the facts stated therein are true.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of office the day and year aforesaid.



*Cathy M. Pendley*  
Notary Public

My commission expires:

12/31/83