

Declarant shall have and does hereby establish and reserve a transferrable easement in favor of Declarant and its assignees on and over the Common Elements for the purpose of making improvements on the Property and for the purpose of doing all things reasonably necessary and appropriate in connection therewith. All public and private utilities serving the Condominium are hereby granted the right to lay, construct, renew, operate and maintain conduit, cables, pipes, wires, transformers, switching apparatus and other equipment into and through the Condominium for the purpose of providing utility services to the Development Area. The County of Douglas, the City of Omaha, and any political subdivision which has jurisdiction over the Development Area or which undertakes to provide services to the Development Area are hereby granted, declared and reserved access easements for ingress and egress to, over and across the Condominium for the purpose of providing any such services. The owners from time to time of portions of the Development Area which are not part of the Condominium are hereby granted and reserved a perpetual, non-exclusive easement of access over and across the roads and streets located in the Condominium.

8.5 Additional Easements. In addition to the easements provided for herein, the Executive Board, on behalf of the Unit Owners, shall have the right and power (a) to grant such easements in respect of the Common Elements (except the Limited Common Elements) as the Executive Board deems necessary and proper, including without limitation, access easements for emergency and service vehicles operated by any governmental authority or private enterprise, or easements related to the installation and operation of a cable or satellite television system, a wireless network or other communication systems, or (b) to cancel, or alter, change or modify, any easement which affects the Condominium but does not benefit a Unit Owner, as the Executive Board shall, in its discretion, determine. Without limiting the foregoing, until such time as Declarant no longer holds title to a portion of the Development Area, the Executive Board shall grant such easements as Declarant may from time to time request including, but not limited to, such easements as may be required to construct, keep and maintain improvements upon the Common Elements or portions of the Development Area which are not part of the Condominium or to provide Owners of the Development Area with necessary utility services. Each Person, by acceptance of a deed, mortgage, trust deed or other instrument relating to a Unit, shall be deemed to grant a power coupled with an interest to the Executive Board, as attorney-in-fact, to grant, cancel, alter or otherwise change the easements provided for in this section. Any instrument executed pursuant to the power granted herein shall be executed by the President and attested to by the Secretary of the Association and duly Recorded.

8.6 Sales and Management Offices, Model Units Easement. Declarant and its assigns shall have, and there is hereby established and reserved, a transferrable easement in favor of Declarant and its assigns for the maintenance of sales or management offices or model units on the Property, such easement to continue so long as Declarant owns or occupies any Dwelling Unit primarily for the purpose of sale. Such sales or management offices and/or model units may be maintained in such number and size as is reasonably determined by Declarant and may be located or relocated on the Property as reasonably determined by Declarant. In addition thereto, Declarant shall have, and there is hereby established and reserved, a transferrable easement in favor of Declarant and its assigns for use of the Common Elements for any purpose related to the development of the Property or the Development Area, which easement shall continue until a date which is one (1) year after the last Dwelling Unit is sold.

8.7 Effect of Easements. All easements and rights herein established shall run with the Land and inure to the benefit of and be binding upon the Declarant, its successors and assigns, and any Unit Owner, purchaser, mortgagee or other Person having an interest in any portion of the Property herein described, whether or not such easements are maintained or described in any deed of conveyance.

8.8 Right of Entry. The Executive Board or its agents, upon reasonable notice or, in the case of an emergency without notice, shall have the right to enter any Unit, including any of the appurtenant Limited Common Elements, when necessary in the exercise of its authority under Section 9.10 hereof, or in connection with any maintenance, repair or replacement for which the Association is responsible. Such entry shall be made with as little inconvenience to the Unit Owner as is practicable, and any damage caused thereby shall be repaired by the Association, as a Common Expense.

9. Use of Units and Compliance with Condominium Instruments and Community Rules.

9.1 No Commercial Use. No business, trade, occupation or profession of any kind may be conducted, maintained or permitted on any part of the Property, without the prior written authorization of the Association; provided however, until construction of the Units and the Common Elements is completed and all of the Units are sold, Declarant and its successors and assigns may conduct such construction, improvement, sales and marketing activities on the Property as are deemed appropriate by Declarant. No "for sale" or "for rent" signs may be displayed by any Person on the Property except as specifically authorized in writing by the Association to reasonably facilitate the sale or lease of a Unit. A Dwelling Unit may be used only as a private, single family residence and no activities shall be conducted or maintained in any Unit or upon any of the Common Elements which are not in conformity with the zoning regulations of the City of Omaha. Occupancy (except for temporary occupancy by visiting guests) shall not exceed two persons per bedroom. A Person occupying a Dwelling Unit for more than one month who is not related to the Voting Member of such Dwelling Unit by blood (within the second degree of consanguinity) or marriage shall be deemed a lessee for purposes of this Declaration. All present and future Unit Owners, tenants and occupants of Units, and any person who uses any part of the Condominium in any manner, are subject to, and shall comply with, the provisions of the Condominium Instruments and the Community Rules. The acquisition, rental or occupancy of a Unit or the use of any part of the Condominium by any Person shall constitute such Person's agreement to be subject to and bound by the provisions of the Condominium Instruments and the Community Rules, and such provisions shall be deemed to be enforceable equitable servitudes and covenants running with the Land and shall bind any Person having at any time any interest or estate in such Unit, as though such provisions were recited and stipulated in full in each and every deed of conveyance or lease thereof.

9.2 Pets. No animals, livestock, fowl or poultry of any kind shall be raised, bred or kept in a Unit, except domestic cats or dogs which are not kept, bred or maintained for any commercial purpose and do not endanger the safety, health or unreasonably disturb Persons residing in the Units. The Association may make reasonable Rules and Regulations in respect of the accommodation of pets.

9.3 Improvements: Alterations. No architectural changes or modifications to the Limited Common Elements shall be made or are permitted without the prior written approval of the Association. No television antenna, satellite dish, communications receiver, or other similar device shall be attached to or installed on any portion of the Property, unless contained entirely within the interior of a Unit or other structure, nor shall radio or television signals, nor any other form of electromagnetic radiation be permitted to originate from any Unit which may unreasonably interfere with the reception of television, radio or other signals within the Condominium, provided, however, the Declarant or the Association shall not be prohibited from installing equipment necessary for a master antenna, satellite dish, cable television, security, mobile radio, or other similar systems throughout the Condominium. Subject to such rules and regulations as may be adopted by the Executive Board, a Unit Owner may make improvements or alterations to such Unit Owner's Unit, so long as such alterations or improvements do not disturb or adversely affect the sound control underlayment system, impair the structural integrity of any portion of the Condominium, or otherwise weaken, damage, endanger or remove any load bearing wall or column in the Condominium.

9.4 Vehicles. No vehicle shall be parked on the Property other than in authorized parking areas, and no vehicle repairs, other than emergency repairs or repairs of minimal nature needed to be performed to move a vehicle off the Property, shall be allowed on the Property. The Association is expressly authorized to tow away any vehicle which is in violation hereof or which is placed on the Property in violation of the rules and regulations governing parking as may be adopted by the Association. No trailers, boats, boat trailers, campers, recreational vehicles or vehicles with commercial writings on their exterior shall be stored, allowed to remain, or parked on the Property, except as otherwise approved in writing by the Association. Vehicular parking upon the Common Elements and Limited Common Elements shall be regulated by the Executive Board. Each parking area may be subject to designation of individual spaces as a Limited Common Element appurtenant to certain designated Units. Designated parking and the areas in front of garages are restricted to use as parking space for vehicles.

9.5 General Appearance: Nuisance Prohibition. Except as placed or erected by Declarant or its successors or assigns, nothing shall be placed or permitted to be placed on or in the Common Elements, including but not limited to the outside walls of the Building or the Roof, without the prior written consent of the Executive Board. No signs, billboards, clothes, sheets, blankets, laundry or other articles shall be hung or exposed on any part of the Common Elements. The Common Elements shall be kept free and clear of rubbish, debris and other materials. No noxious or offensive activity shall be carried on in any Unit or in the Common Elements, nor shall anything be done therein, either willfully or negligently, which, in the reasonable judgment of the Executive Board, is an annoyance or nuisance to the Unit Owners.

9.6 Trash Containers and Collection. No garbage or trash shall be placed or kept on the Property except in covered containers of a type, size and style which are approved in writing by the Association. The Association shall have the right to purchase trash service for the use and benefit of the Association and all Unit Owners, and to adopt and promulgate rules and regulations regarding garbage, trash, trash containers and collection. No incinerators shall be kept or maintained on the Property.

9.7 Acts Affecting Insurance. A Unit Owner shall not permit or suffer anything be done or kept in such Unit Owner's Unit which will increase the cost of casualty or liability insurance maintained by the Association or which would adversely effect the insurability of any Unit.

9.8 Lawful Use. All laws, zoning ordinances and regulations promulgated by any governmental body having jurisdiction over the Property shall be observed. Any violation of such laws, zoning ordinances or regulations shall also be deemed a violation of this Declaration.

9.9 Rules and Regulations. In addition to the foregoing restrictions, the Executive Board shall have the right to make and enforce Community Rules governing the Condominium.

9.10 Maintenance.

(a) *By the Owner.* Each Unit Owner shall maintain, in good, clean and attractive condition and, when necessary, repair and replace, all portions of his, her or its Unit, any patio, porch or balcony appurtenant to the Unit, and all pipes, lines, ducts, conduits and other facilities and equipment serving only such Owner's Unit. Whenever the Executive Board shall determine, in its reasonable discretion, that any maintenance, repair or replacement of any Dwelling Unit or the Exclusive Limited Common Elements appurtenant thereto is necessary to protect the Common Elements or any other portion of the Condominium:

- (i) if such work is made necessary through the fault of the Unit Owner, the Executive Board may direct the Unit Owner thereof to perform such maintenance, repair or replacement and pay the cost thereof to the extent not covered by insurance; or
- (ii) if such work is made necessary through no fault of the Unit Owner, the Executive Board may cause the work to be done and may, in its reasonable discretion, assess the cost thereof directly to the Unit Owners of the Dwelling Units or Exclusive Limited Common Elements appurtenant thereto with respect to which the work is done on the basis of Allocated Interests, equal shares or such other reasonable basis as the Executive Board shall deem appropriate.

If a Unit Owner fails or refuses to perform any such maintenance, repair or replacement within a reasonable time after being so directed by the Executive Board, the Executive Board may cause such maintenance, repair or replacement to be performed at the expense of such Unit Owner. The determination of whether or not the work is made necessary through the fault of the Unit Owner shall be made by the Executive Board and its determination shall be final and binding.

(b) *By the Association.* The Association shall maintain, in good, clean and attractive condition and, when necessary, repair and replace (but only if and to the extent sufficient funds are available therefor), all of the Property, except the Units

and the patio, porch or balcony appurtenant to certain Units, and all pipes, lines, ducts, conduits and other facilities and equipment serving only one Unit.

9.11 Real Estate Taxes. Real estate taxes, special assessments and any other ad valorem charges are to be separately taxed to each Unit Owner for his Unit as provided in the Act. In the event that any real estate taxes or special assessments are assessed with respect to a portion of the Condominium other than on a Dwelling Unit by Dwelling Unit basis, the Unit Owners shall be responsible for the payment thereof based on each Unit Owner's Percentage Interest and, if the tax assessments affect the Condominium as a whole or portions of the Common Elements, each Owner shall pay his proportionate share thereof in accordance with his Percentage Interest. Upon the initial sale of each Unit, if the Unit has not been separately and individually assessed for real estate tax purposes, the amount of the real estate taxes attributable to such Unit (computed by multiplying the amount of real estate taxes for the entire Condominium becoming delinquent in the year in which the closing occurs times the Percentage Interest in respect of such Unit) shall be prorated as of the date of closing in accordance with the custom prevailing in urban Douglas County, Nebraska.

9.12 Lease of Units. No Garage Unit may be separately leased; all Garage Units must be leased with and as a part of the lease of a Dwelling Unit. A Unit Owner may lease such Owner's Dwelling Unit subject to the following conditions precedent:

(a) the lease or rental agreement must be in writing, must provide that the lease is subject to the terms of the Condominium Instruments and that any failure of the lessee to comply with the terms of the Condominium Instruments shall be a default under the lease, upon the occurrence of which the Association shall have the right to evict the lessee from the Dwelling Unit; and

(b) the lease must be a lease of the entire Dwelling Unit.

The Executive Board shall have the power and authority to adopt rules and regulations regarding leasing of Dwelling Units, including rules and regulations implementing the provisions of this section. This section shall also apply to subleases and assignments and renewals of leases, and no lease approved by the Executive Board shall be amended or modified or its term extended without the written approval of the Executive Board. The provisions of this section shall not apply to any Unit owned by Declarant.

#### 10. Administration of Condominium

10.1 Association. Prior to the conveyance of the first Unit, Declarant shall cause a Nebraska not-for-profit corporation named "Aspen Condominium Association", or a name similar thereto, to be incorporated pursuant to the Nebraska Nonprofit Corporation Act, which corporation shall be the governing body responsible for the maintenance, repair, replacement, administration and operation of the Condominium. The Board of Directors of the Association shall be the "Executive Board" referred to herein and in the Condominium Act.

**10.2 Association Membership.** The members of the Association shall consist of one natural person per Dwelling Unit, which natural person must be a Unit Owner of Record of the Dwelling Unit and which natural person must be the legal or equitable owner, directly or indirectly, of fifty percent (50%) or more of the interest in the Dwelling Unit. If the Unit Owner is a corporation, limited liability company, partnership, association or other entity, the natural person designated by the Unit Owner as a member of the Association in respect of the Dwelling Unit must own not less than fifty percent (50%) of the equity interest in the entity. If two natural persons each own, directly or indirectly, a fifty percent (50%) interest in a Dwelling Unit, the membership in the Association in respect of such Dwelling Unit shall be unanimously designated by them or by a court of competent jurisdiction. Each member of the Association shall be entitled to vote on all matters upon which members of the Association are entitled to vote; each such member of the Association is hereinafter referred to as a "Voting Member"; and each Voting Member shall be entitled to cast one vote for each Dwelling Unit as to which such Member is the Voting Member.

**10.3 Proxy Voting.** A Voting Member may vote in person or by proxy. All proxy designations must be made in writing and delivered to the Executive Board and shall be revokable at any time by actual notice to the Executive Board of the death or judicially declared incompetence of the proxy designator, or by written notice to the Executive Board by the Voting Member. Each Voting Member shall be entitled to cast one vote for each Dwelling Unit as to which he is the Voting Member.

**10.4 Executive Board.** The initial Executive Board, consisting of three (3) natural Persons, and the officers thereof shall be appointed by Declarant. Not later than sixty (60) days after conveyance of twenty-five percent (25%) of the Units to Unit Owners other than Declarant, at least one member and not less than 25% of the members of the Executive Board shall be elected exclusively by Voting Members other than Declarant, and not later than sixty (60) days after conveyance of fifty percent (50%) of the Units to Unit Owners other than Declarant, not less than 33 1/3% of the members of the Executive Board shall be elected exclusively by Voting Members other than Declarant. Subject to the foregoing, Declarant shall continue to control the Association and have the right to appoint and remove officers and members of the Executive Board appointed by Declarant for a period ending on the earlier of (i) sixty (60) days after conveyance of ninety percent (90%) of the Units to Unit Owners other than Declarant, or (ii) two (2) years after Declarant has ceased to offer Units for sale in the ordinary course of business ("Period of Declarant Control"). Subsequent to the Period of Declarant Control, the Executive Board shall be increased to five (5) members. Declarant may voluntarily surrender the right to appoint and remove officers and members of the Executive Board prior to the termination of the Period of Declarant Control set forth hereinabove and, in such event, Declarant may require, for the duration of the Period of Declarant Control, that the actions of the Association or the Executive Board be approved by Declarant before they become effective.

**10.5 Executive Board and Officer Liability.** Neither the members of the Executive Board nor officers of the Association, whether elected or designated by Declarant, shall be personally liable to the Unit Owners for any mistake of judgment or for any other acts or omissions of any nature whatsoever as such Executive Board members or officers, except for acts or omissions found by a court to constitute criminal conduct, gross negligence or fraud. The Association hereby agrees to indemnify, defend and hold harmless each of the members of the Executive Board and each of the

officers of the Association against all contractual and other liabilities to others arising out of contracts made by or other acts of the members of the Executive Board or the officers of the Association on behalf of the Unit Owners or the Association, or arising out of their status as members of the Executive Board or officers of the Association, unless any such contract or act shall have been made criminally, fraudulently or with gross negligence. The foregoing undertaking of indemnity includes indemnification against and in respect of all costs and expenses, including attorney fees, actually and reasonably incurred in connection with the defense of any claim, action, suit or proceeding, whether civil, administrative or criminal, in which a member of the Executive Board or officer of the Association is involved by virtue of being or having been a member of the Executive Board or officer of the Association, and such indemnification includes all amounts necessary to discharge judgments and fines and amounts paid in settlement.

**10.6 Special Declarant Rights.** During the Period of Declarant Control, Declarant shall have the right to add the Development Area to the Condominium, create additional Units, Common Elements and Limited Common Elements, within all or any part of the Condominium or Development Area, and otherwise to exercise any or all Special Declarant Rights provided for under the Act.

**11. Operation, Maintenance and Extraordinary Expense Assessments.** Prior to the conveyance of the first Unit, the Executive Board shall prepare an initial operating budget, estimate the Common Expenses, and establish the initial monthly assessment in respect of each Unit based on such operating budget and the Percentage Interest of each Unit ("Initial Assessment Amount"). Each Unit Owner's obligation to pay the Initial Assessment Amount in respect of such Unit Owner's Unit shall begin on the first day of the month in which title to the Unit is conveyed to such Unit Owner and shall, together with an amount equal to two (2) months of the Initial Assessment Amount or Common Expense Liability assessment amount, as the case may be, be paid at the closing of the sale of such Unit. Each Unit Owner shall be liable for and shall pay the Initial Assessment Amount to the Association each month on or before the first day of each month. If title to a Unit is derived from Declarant, the Initial Assessment Amount for the month in which the closing occurs shall be prorated to the date of the closing. Thereafter, on or before December 1, 2007, and on or before December 1 of each subsequent year, the Executive Board shall estimate the Common Expenses, including the total amount necessary to pay the expenses of maintaining, repairing and insuring the Condominium for the succeeding year, together with reasonable amounts for reserves for contingencies and replacements and, on before December 15 of such year, notify each Unit Owner in writing of the amount of such estimate, accompanied by a reasonable itemization thereof ("Annual Budget"). On December 31 of each year, each Unit Owner shall be assessed, and shall become personally liable for the payment of, an amount equal to the amount of the Annual Budget times the Percentage Interest allocated to such Unit Owner's Unit ("Common Expenses Liability"). On January 10 of the immediately succeeding year, and on the tenth day of each month of such year, 1/12th of the Common Expenses Liability in respect of each Unit shall become delinquent. Any failure or delay of the Executive Board in determining the Annual Budget or notifying Unit Owners of the amount payable in respect of a new year shall not constitute a waiver or release of Unit Owners' obligations to pay maintenance costs and necessary reserves when such amounts are determined and, in the absence of an Annual Budget or notice of the amount payable in respect a new year, each Unit Owner shall continue to pay the Common Expenses Liability amount established for the prior year and continue payment of such amount until the new Common Expenses Liability

amount is determined. In the event an unanticipated or extraordinary expense or liability, or necessary capital expenditure, occurs or arises and such expense or liability is not included in the Annual Budget, the Executive Board may assess each Unit Owner an amount equal to the total amount of such expense or liability times the Percentage Interest allocated to such Unit Owner's Unit ("Extraordinary Expense Assessment"). The Executive Board shall notify each Unit Owner of the amount of the Extraordinary Expense Assessment payable by such Unit Owner and the date or dates the Extraordinary Expense Assessment is due and payable. The amount of the Extraordinary Expense Assessment shall become delinquent if not paid within ten (10) days of the date or dates due and payable. Expenses incurred or to be incurred for the construction, maintenance, repair or replacement of Limited Common Elements shall be specially assessed against the Units to which the Limited Common Elements are allocated, as reasonably determined by the Executive Board, and the Executive Board shall notify affected Unit Owners of the amount of such assessments and the date or dates such assessments are due and payable. Such Limited Common Element assessments shall become delinquent if not paid within ten (10) days of the date or dates due and payable. Any amount payable by a Unit Owner hereunder, including Common Expenses Liability amounts and Extraordinary Expense Assessment amounts, which have become delinquent shall bear interest, from the date of delinquency to the date paid in full, at an annual rate equal to the lesser of sixteen percent (16%), or the Prime Rate plus six percent (6%). "Prime Rate", as used herein, means the annual rate of interest quoted as the "Prime Rate" in the Money Rates Section of The Wall Street Journal, Midwest Edition. The Association shall have a lien on a Unit for any amount payable by a Unit Owner hereunder or under the Community Rules from the time the amount payable becomes due and a notice stating the dollar amount of such lien is recorded in the office of the Register of Deeds of Douglas County, Nebraska. Such lien shall be subordinate to the lien of any First Mortgage recorded prior to the recording of the notice of such lien. The Association's lien may be foreclosed in like manner as a mortgage on real estate but the Association shall give reasonable notice of its action to all lienholders in respect of the Unit whose interest would be effected. In lieu of enforcing such lien, the Association may initiate an action at law to collect the amounts due and payable. Common Expenses Liability assessments, Extraordinary Expense Assessments, and all other amounts payable by a Unit Owner pursuant to this Declaration or the Community Rules are the personal, individual debts of such Unit Owner and, if a Unit is owned by more than one Person, the liability of such Persons in respect thereof shall be joint and several. A Unit Owner's liability for such amounts is and shall not be affected by any waiver of the right to use or non-use of any of the Common Elements or by abandonment of such Unit Owner's Unit.

12. Insurance, Damage, Destruction and Reconstruction.

12.1 Scope of Coverage. Commencing not later than the date of the first conveyance of a Unit to a Person other than Declarant, the Association shall maintain, to the extent reasonably available:

- (a) Property insurance on the Common Elements and Units, exclusive of improvements and betterments installed by Unit Owners, insuring against all risks of direct physical loss commonly insured against, in an amount equal to the maximum insurable replacement value of the Common Elements and Units, as determined by the Executive Board; provided, however, that the total amount of insurance after application of any deductibles shall not be less than eighty percent (80%) of the



actual cash value of the insured property at the time the insurance is purchased and at each renewal date, exclusive of land, excavations, foundations and other items normally excluded from property policies.

(b) Comprehensive general liability insurance, including medical payments insurance, in an amount determined by the Executive Board, but not less than One Million Dollars (\$1,000,000.00) per injury or injuries, including death, arising out of a single occurrence, and Fifty Thousand Dollars (\$50,000.00) property damage; or in the alternative, a liability policy affording coverage for bodily injury and property damage with a combined single limit in an amount not less than One Million Fifty Thousand Dollars (\$1,050,000.00), covering all occurrences commonly insured against for death, bodily injury and property damage arising out or in connection with the use, ownership or maintenance of the Common Elements.

(c) Such other insurance as the Executive Board shall determine from time to time to be appropriate to protect the Association or the Owners.

(d) The property and liability insurance policies must provide that: (i) each Unit Owner is an insured Person under the policy with respect to liability arising out of his or her interest in the Common Elements or membership in the Association; (ii) the insurer waives its right to subrogation under the policy against any Unit Owner or member of his or her household; (iii) no act or omission by any Unit Owner, unless acting within the scope of his or her authority on behalf of the Association, will void the policy or be a condition to recovery under the policy; (iv) if, at the time of a loss under the policy there is other insurance in the name of a Unit Owner covering the same risk covered by the policy, the Association's policy provides primary insurance. The property insurance policies (i) shall contain standard mortgage clause endorsements in favor of Mortgagees as their respective interests appear, (ii) shall provide that such policies may not be cancelled or substantially modified without at least thirty (30) days written notice to the Mortgagee of each Dwelling Unit, and (iii) shall provide that notwithstanding any provision thereof which gives the insurer an election to restore damage in lieu of making a cash settlement thereof, such option shall not be exercisable if the Unit Owners elect to sell the Condominium or terminate the Condominium.

12.2 Certificates of Insurance. An insurer that has issued an insurance policy to the Association shall issue certificates or memoranda to the Association and, upon written request, to any Unit Owner or Mortgagee. Insurance policies obtained pursuant to this paragraph shall provide that they may not be canceled or non-renewed until thirty (30) days after written notice of the proposed cancellation or non-renewal has been mailed to the Association, to each Unit Owner, and to each Mortgagee to whom a certificate or memorandum of insurance has been issued at their respective last known addresses.

12.3 Payment of Premiums. Premiums for all insurance obtained by the Association pursuant to this paragraph shall be a Common Expense and shall be paid for by the Association.

**12.4 Insurance Obtained by Owners.** The issuance of insurance policies to the Association shall not prevent a Unit Owner from obtaining insurance for such Unit Owner's own benefit. THE ASSOCIATION DOES NOT MAINTAIN PERSONAL PROPERTY INSURANCE COVERAGE FOR ANY UNIT OWNER.

**12.5 Payment of Insurance Proceeds.** Any loss covered by property insurance obtained by the Association pursuant to this paragraph must be adjusted with the Association and the insurance proceeds shall be payable to the Association or to an insurance trustee designated for that purpose, and not to any Mortgagee. The Association or the insurance trustee shall hold any insurance proceeds in trust for the Unit Owners and Mortgagees as their interests may appear. Subject to the provisions of section 12.6 hereof, the proceeds must be disbursed first for the repair or restoration of the damaged property, and Unit Owners and Mortgagees shall not be entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the property has been completely repaired or restored, or the Condominium is terminated. The rights of Mortgagees under any standard mortgage clause endorsement shall, notwithstanding anything to the contrary therein contained, at all times be subject to the provisions in the Act and this Declaration with respect to the application of insurance proceeds for the repair or reconstruction of the Units or Common Elements. Payment by an insurance company to the Association or to an insurance trustee designated by the Association of the proceeds of any policy, and the receipt of a release from the Association of the company's liability under such policy, shall constitute a full discharge of such insurance company, and such company shall be under no obligation to inquire into the terms of any trust under which proceeds may be held pursuant hereto, or to take notice of any standard mortgage clause endorsement inconsistent with the provisions hereof, or to see to the application of any payments of the proceeds of any policy by the Association or an insurance trustee designated by the Association.

**12.6 Repair or Replacement.** Any portion of the Condominium which is damaged or destroyed shall be repaired or replaced promptly by the Association unless (i) the Condominium is terminated, (ii) repair or replacement would be illegal under any state or local health or safety statute or ordinance, or (iii) eighty percent (80%) of the Unit Owners vote not to repair or replace. The cost of repair or replacement in excess of insurance proceeds and reserves is a Common Expenses Liability. If the entire Condominium is not repaired or replaced (i) the insurance proceeds attributable to the damaged Common Elements must be used to restore the damaged area to a condition compatible with the remainder of the Condominium, (ii) the insurance proceeds attributable to Units and Limited Common Elements which are not rebuilt must be distributed to the owners of those Units and the owners of the Units to which those Limited Common Elements were allocated, or to Mortgagees, as their interests may appear, and (iii) the remainder of the proceeds must be distributed to all the Unit Owners or lienholders, as their interests may appear, in proportion to the Allocated Interests of all the Units. If the Unit Owners vote not to rebuild any Unit, that Unit's Allocated Interests are automatically reallocated upon the vote as if the Unit had been condemned under subsection (a) of Neb. Rev. Stat. § 76-831, and the Association shall promptly prepare, execute and record an amendment to the Declaration reflecting the reallocations. Notwithstanding the provisions of this section, Neb. Rev. Stat. § 76-855 governs the distribution of insurance proceeds if the Condominium is terminated.

12.7 Insurance Unavailability. If the insurance described in this paragraph 12 is not reasonably available, the Association shall promptly cause notice of that fact to be hand delivered or sent prepaid by United States mail to all Unit Owners.

12.8 Other Insurance. The Executive Board may obtain such other insurance as the Executive Board deems necessary or appropriate or which is required under the Act or under applicable requirements or guidelines of the Federal National Mortgage Association including, without limitation, workers' compensation insurance, employers' liability insurance, fidelity bonds, and director and officer liability insurance.

13. Condemnation. In the event of a taking or condemnation by competent authority of any part of the Condominium, the Association shall, if necessary, restore the improvements in the remaining portion of the Condominium to conform as closely as possible to the general design, structure and materials used with respect to the improvements, as they existed prior to the taking or condemnation. Any proceeds or awards paid to the Association shall be applied first to the cost of any restoration, and any remaining portion of such proceeds or awards shall be, in the discretion of the Executive Board, either (i) applied to pay Common Expenses, or (ii) distributed to the remaining Unit Owners and their respective Mortgagees, as their interests may appear, based on their current Allocated Interests. Each Unit Owner appoints the Association as attorney-in-fact for the purpose of representing such Unit Owner in any condemnation proceedings or in negotiations, settlements or agreements with the condemning authority. In the event part or all of one or more Units is taken or condemned, the portion so taken or condemned shall be deemed to have been removed from the provisions of the Declaration and the Act, and the Association shall equitably adjust Allocated Interests of the remaining Units.

14. Amendment of Declaration.

14.1 Amendment Procedure. Except in those instances specifically identified in Neb. Rev. Stat. § 76-854, the Declaration may be amended only in accordance with and pursuant to Neb. Rev. Stat. § 76-854. Every amendment to the Declaration must be recorded in the office of the Register of Deeds of Douglas County, Nebraska, and such amendment shall be effective only upon its recordation. Amendments to the Declaration required to be recorded by the Association shall be prepared, executed, recorded and certified on behalf of the Association by any officer of the Association designated for that purpose or, in the absence of designation, by the president of the Association.

14.2 Challenge to Amendment. No action to challenge the validity of an amendment adopted by the Association pursuant to Neb. Rev. Stat. § 76-854 may be brought more than one (1) year after the amendment is recorded.

14.3 Certain Amendments. Except to the extent expressly permitted or required by sections of the Nebraska Condominium Act other than § 76-854, no amendment may create or increase special Declarant rights, increase the number of Units, or change the boundaries of any Unit, the Allocated Interests of a Unit, or the uses to which any Unit is restricted in the absence of the unanimous consent of all Unit Owners and all First Mortgagees.

14.4 Other Material Amendments. Material amendments to the Declaration other than those specifically addressed hereinabove at Section 14.3 must also be approved by the holders of mortgages that represent not less than fifty-one percent (51%) of the votes allocated to Units that are subject to such mortgages. If such mortgagee fails to submit a response to any written proposal for an amendment within sixty (60) days after it receives proper notice of the proposed amendment, such mortgagee shall be automatically deemed to have approved such amendment if such notice was delivered to such mortgagee by certified or registered mail, postage prepaid, return receipt requested.

15. Termination. The Condominium may be terminated only in accordance with and pursuant to Neb. Rev. Stat. § 76-855; provided however, in the event of substantial destruction or condemnation of the Condominium, the Condominium may be terminated only with the approval of sixty-seven percent (67%) or more of the Voting Members and by mortgagees representing not less than fifty-one percent (51%) of the votes allocated to Units that are subject to such mortgages.

16. Miscellaneous Provisions.

16.1 Mortgagee Notice. Upon written request to the Executive Board, any Mortgagee shall be provided a copy of any and all notices permitted or required by this Declaration to be provided to the Unit Owner whose Unit is subject to such Mortgagee's First Mortgage. In addition, the Mortgagee and guarantor of such mortgage, if any, on any Unit shall be provided timely written notice of:

- (a) any condemnation or casualty loss that affects either a material portion of the Condominium or the Unit securing its mortgage;
- (b) any sixty (60) day delinquency in the payment of Common Expense Liability, Extraordinary Expense Assessment, or any other amount payable by the Unit Owner of the Unit on which the Mortgagee holds a mortgage;
- (c) a lapse, cancellation or material modification of any insurance policy maintained by the Association; and
- (d) any proposed action that requires the consent of a specified percentage of Mortgagees.

16.2 Unit Owner Waiver of Subrogation. Each Unit Owner hereby waives and releases any and all claims which he, she or it may have against any other Unit Owner, the Association, the Executive Board, members of the Executive Board, Declarant, and their respective employees and agents, for damage to the Common Elements, the Units, or any personal property located in the Units or Common Elements, caused by fire or other casualty, to the extent that such damage is covered by fire or other form of casualty insurance.

16.3 Notices. Any notice required or permitted by this Declaration or the Condominium Act shall be in writing and shall be addressed to the Executive Board or the Association, or any Unit Owner, as the case may be, at 8941 Miami Street, Omaha, Nebraska 68134 (indicating

thereon the number of the respective Unit if addressed to a Unit Owner). The Association or the Executive Board may designate a different address or addresses for notices to them, respectively, by giving written notice of such change of address to all Unit Owners. Any Unit Owner may also designate a different address for notices to him, her or it by giving written notice of change of address to the Executive Board. Notices addressed in compliance herewith shall be deemed delivered three (3) business days after mailing when mailed by certified mail, return receipt requested; on actual delivery to the intended recipient when delivered in person; or, if addressed to a Unit Owner who has not indicated a different address for notice, when deposited in such Unit Owner's mailbox in the Building or at the door of his, her or its Unit.

16.4 Effect of Declaration. Each grantee of Declarant and its successors and assigns, and each subsequent owner of a Unit, by acceptance of a deed of conveyance to the Unit, accepts the same subject to all restrictions, conditions, covenants and reservations of this Declaration, and the rights and powers granted or reserved by this Declaration to Declarant.

16.5 Waiver. No covenant, restriction, condition or provision of this Declaration shall be deemed to have been waived or abrogated by reason of any failure to enforce the same at any time, irrespective of the number of violations or breaches which may occur.

16.6 Captions. The captions (headings) contained herein are included solely as a matter of convenience and shall not define, limit or expand any term or provision of this Declaration.

16.7 Gender: Number. Whenever the context so requires, the use of the plural shall include the singular, the singular shall include the plural, and any gender shall be deemed to include all genders.

16.8 Severability. The invalidity or unenforceability of any covenant, restriction, condition, limitation or other provision of this Declaration shall not affect or render the remainder of the Declaration invalid or unenforceable, and to this end the provisions hereof are severable.

IN WITNESS WHEREOF, the Declarant has executed and acknowledged this Declaration on and as of the date first above written.

ReCorp Investments, LLC,  
a Nebraska limited liability company

By Catherine D. Bull  
Title: Member

STATE OF NEBRASKA )  
 ) ss.  
 COUNTY OF DOUGLAS )

The foregoing instrument was acknowledged before me this 21<sup>st</sup> day of May, 2007, by Colleen J. Bull, a Member of ReCorp Investments, LLC, a Nebraska limited liability company, on behalf of the company.

[SEAL]



Barbara J. Russo  
 Notary Public

### CONSENT TO AND RATIFICATION OF DECLARATION

American National Bank, a banking corporation ("Lender"), hereby consents to the foregoing Condominium Declaration; agrees that the Property identified in Exhibit A of said Condominium Declaration shall be owned, held, transferred, sold, leased, conveyed, developed, used, occupied, operated, improved, mortgaged or otherwise, encumbered subject to the provisions of said Condominium Declaration; agrees that said Condominium Declaration and all of its provisions shall be and are covenants running with the Property, and shall be binding upon Lender and its successors and assigns; and Lender hereby ratifies and approves the recordation of said Condominium Declaration in the office of the Register of Deeds of Douglas County, Nebraska.

LENDER:

AMERICAN NATIONAL BANK

By

E. Kelleher  
 Title Sr. Vice President

STATE OF NEBRASKA )  
 ) ss.  
 COUNTY OF DOUGLAS )

The foregoing instrument was acknowledged before me this 30<sup>th</sup> day of May, 2007, by Ed Kelleher, a Sr. Vice President of American National Bank, a banking corporation on behalf of the bank.



Lori Olsen  
 Notary Public

**CONSENT TO AND RATIFICATION OF DECLARATION**

U.S. Small Business Administration ("Lender"), hereby consents to the foregoing Condominium Declaration; agrees that the Property identified in Exhibit A of said Condominium Declaration shall be owned, held, transferred, sold, leased, conveyed, developed, used, occupied, operated, improved, mortgaged or otherwise, encumbered subject to the provisions of said Condominium Declaration; agrees that said Condominium Declaration and all of its provisions shall be and are covenants running with the Property, and shall be binding upon Lender and its successors and assigns; and Lender hereby ratifies and approves the recordation of said Condominium Declaration in the office of the Register of Deeds of Douglas County, Nebraska.

LENDER:

U.S. SMALL BUSINESS ADMINISTRATION

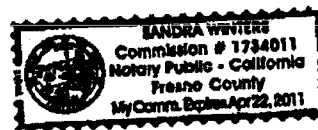
By

Title

S. Loan Specialist

STATE OF CALIFORNIA )  
COUNTY OF FRESNO ) ss.

On MAY 25, 2007 before me, SANDRA WINTERS, a Notary Public, personally appeared GARY A. WINTERS, personally known to me to be the person whose name is subscribed to this instrument and acknowledged to me that he/she executed this instrument in his/her authorized capacity, and that by his/her signature on the instrument the United States Small Business Administration executed the instrument.

Sandra Winters  
Notary Public

**EXHIBIT "A"**  
**Legal Description of the Land**  
**Aspen Condominiums**

Lot 6 and the east 66 feet of Lot 7, Block 20, West Benson, a subdivision, in Douglas County,  
Nebraska.

FIASPEN CONDOMINIUM Condominium Declaration



## ASPEN CONDOMINIUMS

I HEREBY CERTIFY THAT THIS DRAWING WAS MADE UNDER MY DIRECT PERSONAL SUPERVISION AND THAT I AM A DULY REGISTERED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF NEBRASKA.

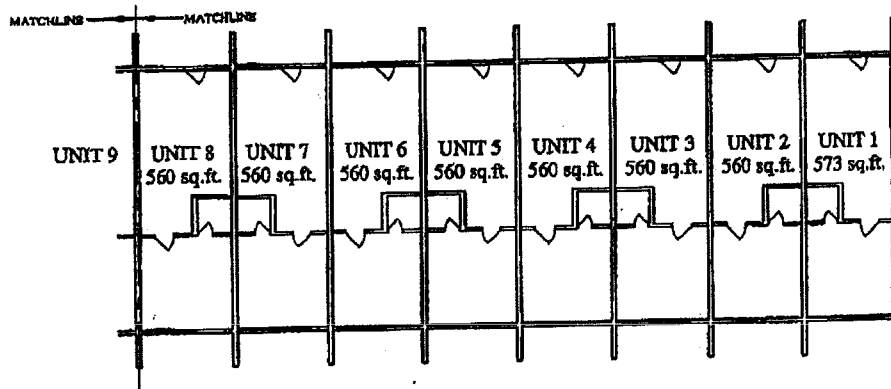
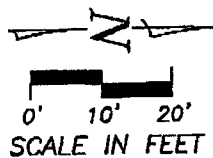


APRIL 17, 2007

DATE

DAVID H. NEEF  
NEBRASKA R.L.S. 475

NOTE:  
SQUARE FOOTAGE WAS CALCULATED TO  
THE EXTERIOR FACE OF EXTERIOR  
WALLS AND TO THE CENTERLINE OF  
WALLS BETWEEN UNITS.

FIRST FLOOR  
(NORTH HALF)

SCALE IN FEET

SHEET 1 OF 7

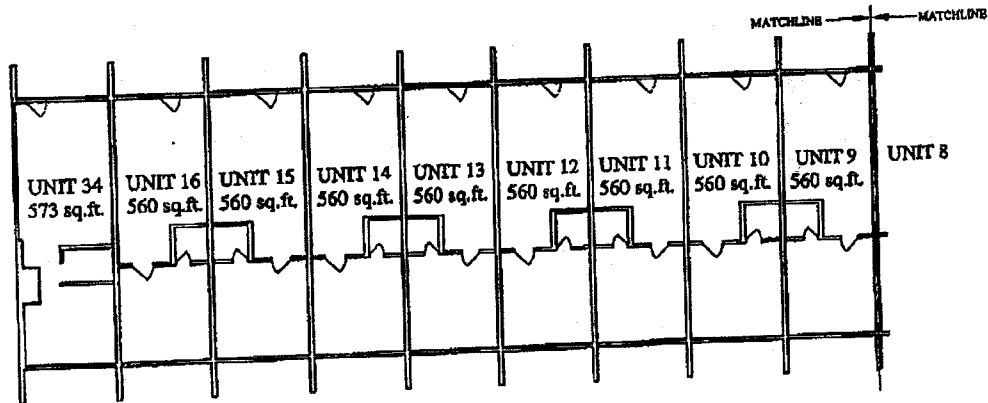
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THOMPSON, DREESSEN & DORNER, INC., 10838 OLD MILL ROAD, OMAHA, NEBRASKA 68154, 402-330-8860

JOB NO. 1439-104-1

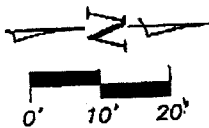
EXHIBIT "A-1"  
(Page 1 of 7)

# ASPEN CONDOMINIUMS

NOTE:  
SQUARE FOOTAGE WAS CALCULATED TO  
THE EXTERIOR FACE OF EXTERIOR  
WALLS AND TO THE CENTERLINE OF  
WALLS BETWEEN UNITS.



**FIRST FLOOR  
(SOUTH HALF)**



SCALE IN FEET

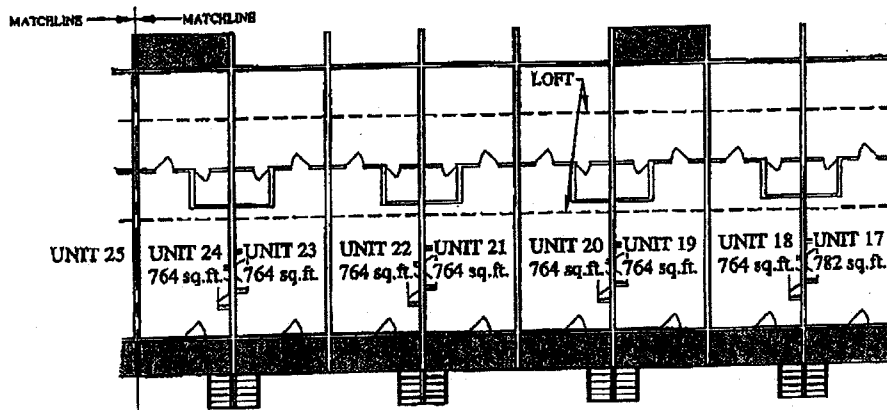
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THOMPSON, DREESSEN & DORNER, INC., 10836 OLD MILL ROAD, OMAHA, NEBRASKA 68154, 402-330-8860

EXHIBIT "A-1"  
(Page 2 of 7)

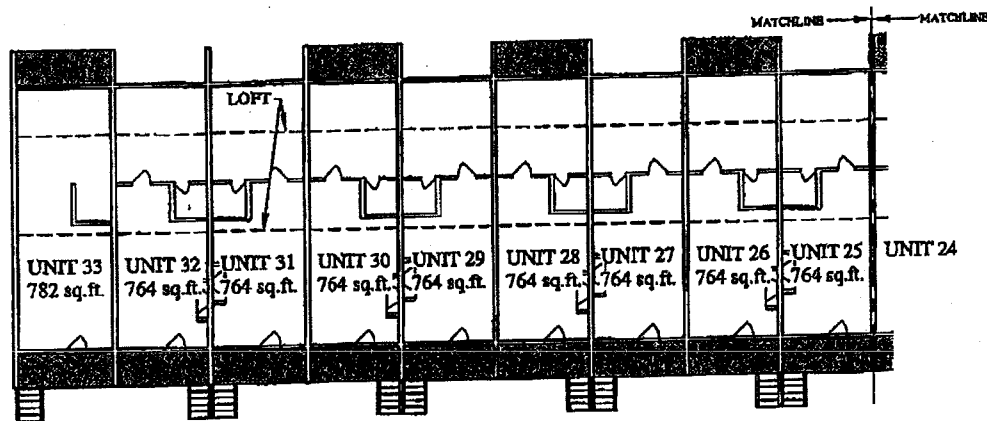
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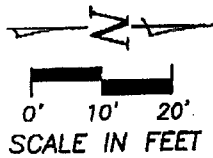
# ASPEN CONDOMINIUMS



## SECOND FLOOR (NORTH HALF)



## SECOND FLOOR (SOUTH HALF)



SCALE IN FEET



LIMITED COMMON ELEMENTS

NOTE:  
SQUARE FOOTAGE WAS CALCULATED 1  
THE EXTERIOR FACE OF EXTERIOR  
WALLS AND TO THE CENTERLINE OF  
WALLS BETWEEN UNITS.

**SHEET 3 OF 7**

CORPORATE RELOCATION SERVICES, INC.

JOB NO. 1439-104-1

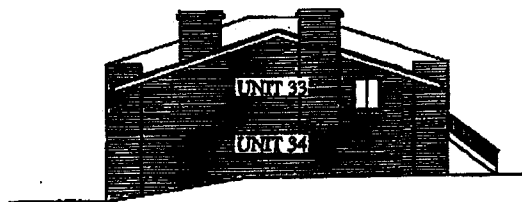
THOMPSON, DREESSEN & DORNER, INC., 10838 OLD MILL ROAD, OMAHA, NEBRASKA 68154, 402-330-8860

EXHIBIT "A-1"  
(Page 3 of 7)

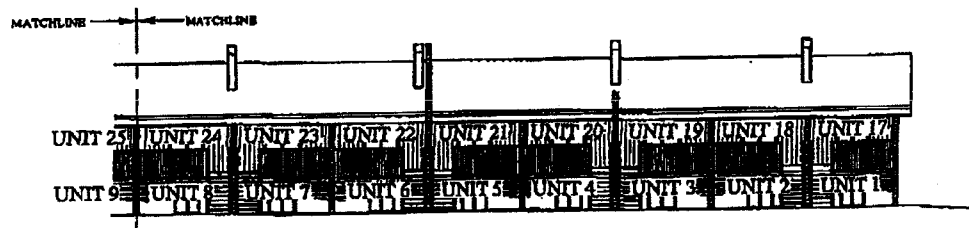
## ASPEN CONDOMINIUMS



NORTH ELEVATION



SOUTH ELEVATION

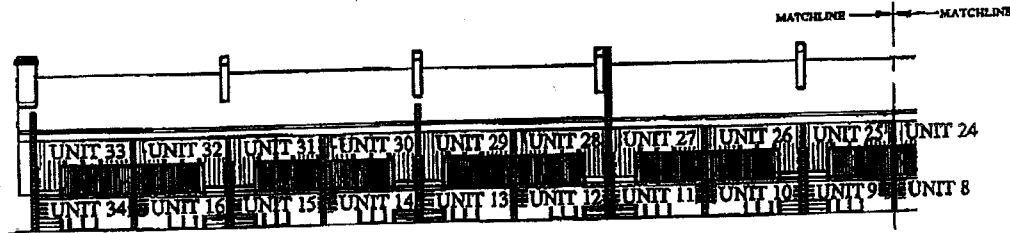


EAST ELEVATION  
(NORTH HALF) SHEET 4 OF 7

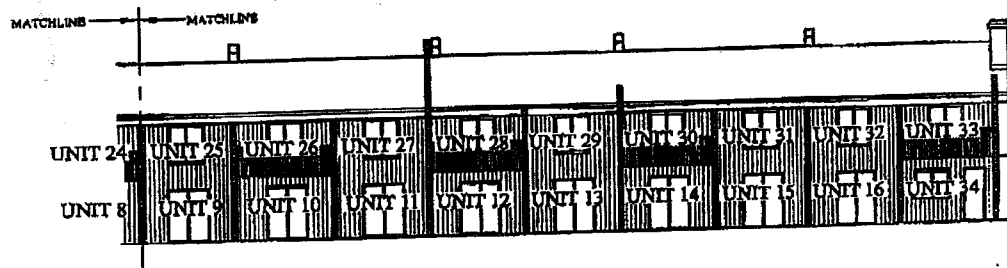
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THOMPSON, DREESSEN & DORNER, INC., 10836 OLD MILL ROAD, OMAHA, NEBRASKA 68154, 402-330-8860

EXHIBIT "A-1"  
(Page 4 of 7)

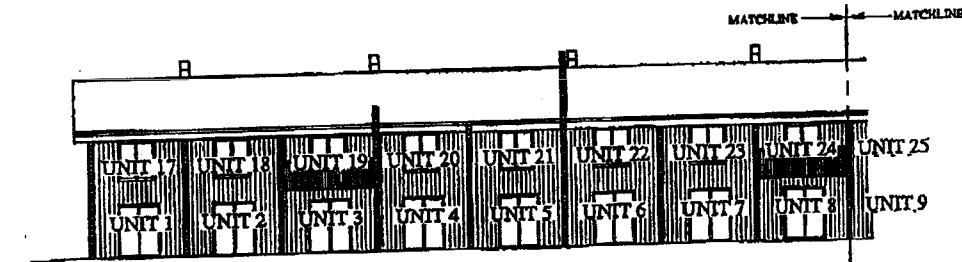
# ASPEN CONDOMINIUMS



**EAST ELEVATION  
(SOUTH HALF)**



**WEST ELEVATION  
(SOUTH HALF)**



**WEST ELEVATION  
(NORTH HALF) SHEET 5 OF 7**

CORPORATE RELOCATION SERVICES, INC. JOB NO. 1439-104-1  
 THOMPSON, DREESSEN & DORNER, INC., 10836 OLD MILL ROAD, OMAHA, NEBRASKA 68154, 402-330-8860  
 EXHIBIT "A-1"  
 (Page 5 of 7)

# ASPEN CONDOMINIUMS

G4	G3	G2	G1
269	259	259	269
sq.ft.	sq.ft.	sq.ft.	sq.ft.

**GARAGES**  
(UNITS G1 THROUGH G4)

G8	G7	G6	G5
272	264	264	272
sq.ft.	sq.ft.	sq.ft.	sq.ft.

**GARAGES**  
(UNITS G5 THROUGH G8)

G9	G10	G11	G12	G13
272	264	264	264	272
sq.ft.	sq.ft.	sq.ft.	sq.ft.	sq.ft.

**GARAGES**  
(UNITS G9 THROUGH G13)

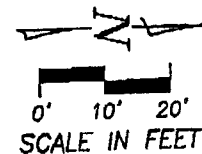
G14	G15	G16
258	251	258
sq.ft.	sq.ft.	sq.ft.

**GARAGES**  
(UNITS G14 THROUGH G16)

NOTE:  
SQUARE FOOTAGE WAS CALCULATED TO  
THE EXTERIOR FACE OF EXTERIOR  
WALLS AND TO THE CENTERLINE OF  
WALLS BETWEEN UNITS.

CORPORATE RELOCATION SERVICES, INC.  
THOMPSON, DREESSEN & DORNER, INC., 10836 OLD MILL ROAD, OMAHA, NEBRASKA 68154, 402-330-8860

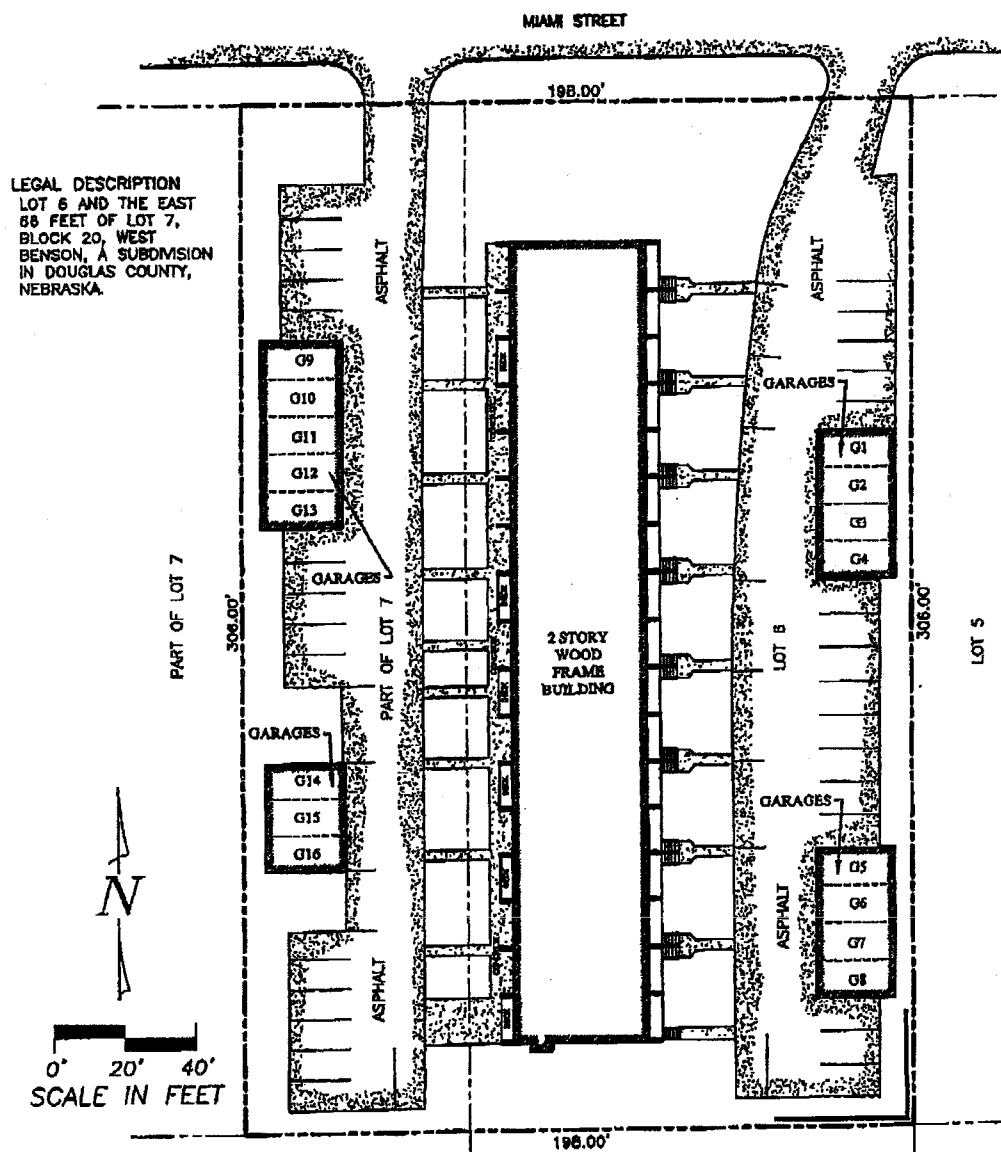
EXHIBIT "A-1"  
(Page 6 of 7)



**SHEET 6 OF 7**

JOB NO. 1439-104-1

# ASPEN CONDOMINIUMS



## SHEET 7 OF 7

CORPORATE RELOCATION SERVICES, INC. JOB NO. 1439-104-1  
THOMPSON, DREESSEN & DORNER, INC., 10836 OLD MILL ROAD, OMAHA, NEBRASKA 68154, 402-330-8860

EXHIBIT "A-1"  
(Page 7 of 7)

**Aspen Condominiums**  
Exhibit B

**Estimated Per Unit Monthly Assessment**

Total Estimated Annual Budget:	\$35,478.00
Total Estimated Monthly Budget:	\$2,957.00
Total Square Footage of All Units:	26,801 sq. ft.

Unit Dwelling Units	Unit Sq. Ft.	Percentage Interest	Est. Monthly Unit Assessment
1	573	2.00%	\$59.14
2	560	2.00%	\$59.14
3	560	2.00%	\$59.14
4	560	2.00%	\$59.14
5	560	2.00%	\$59.14
6	560	2.00%	\$59.14
7	560	2.00%	\$59.14
8	560	2.00%	\$59.14
9	560	2.00%	\$59.14
10	560	2.00%	\$59.14
11	560	2.00%	\$59.14
12	560	2.00%	\$59.14
13	560	2.00%	\$59.14
14	560	2.00%	\$59.14
15	560	2.00%	\$59.14
16	560	2.00%	\$59.14
17	573	2.00%	\$59.14
18	782	3.00%	\$88.71
19	764	3.00%	\$88.71
20	764	3.00%	\$88.71
21	764	3.00%	\$88.71
22	764	3.00%	\$88.71
23	764	3.00%	\$88.71
24	764	3.00%	\$88.71
25	764	3.00%	\$88.71
26	764	3.00%	\$88.71
27	764	3.00%	\$88.71
28	764	3.00%	\$88.71
29	764	3.00%	\$88.71
30	764	3.00%	\$88.71
31	764	3.00%	\$88.71
32	764	3.00%	\$88.71
33	764	3.00%	\$88.71
34	782	3.00%	\$88.71



**Aspen Condominiums  
Exhibit B****Detached Garage Units**

<b>Garage</b>	<b>Garage Sq. Ft.</b>	<b>Percentage Interest</b>	<b>Est. Monthly Unit Assessment</b>
G1	269	1.00%	\$29.57
G2	259	1.00%	\$29.57
G3	259	1.00%	\$29.57
G4	269	1.00%	\$29.57
G5	272	1.00%	\$29.57
G6	264	1.00%	\$29.57
G7	264	1.00%	\$29.57
G8	272	1.00%	\$29.57
G9	272	1.00%	\$29.57
G10	264	1.00%	\$29.57
G11	264	1.00%	\$29.57
G12	264	1.00%	\$29.57
G13	272	1.00%	\$29.57
G14	258	1.00%	\$29.57
G15	251	1.00%	\$29.57
G16	258	1.00%	\$29.57
<b>TOTALS:</b>	<b>26,801 sq. ft.</b>	<b>Monthly Budget:</b>	<b>\$2,857.00</b>
		<b>Annualized Budget:</b>	<b>\$35,476.00</b>

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P. 038

37

Class - Register of Deeds Docs

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Doc. Type  
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