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ENABLING DECLARATION
OF
INTERWEST CONDOMINIUM
PROJECT
(PHASE - A)

2-7-74
RUTH EAMES OLSEN
WEBER COUNTY RECORDER
Ruth Eames Olsen

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THIS DECLARATION is made and executed this 7 day of FEB, 1974, by ALYUCAN INTERSTATE CORPORATION, (hereinafter referred to as Declarant), pursuant to the provisions of the Utah Condominium Ownership Act (Sections 57-8-1 through 57-8-35, Utah Code Annotated (1953)).

RECITALS:

- A. Declarant is the owner of that certain parcel of real property hereinafter more particularly described.
- B. Declarant has constructed, or is in the process of constructing, upon said parcel a condominium project, including certain units commonly referred to as "mini-warehouse storage units" and other improvements. All of such construction has been, or is to be, performed in accordance with the plans and specifications contained in the Record of Survey Map.
- C. Declarant desires, by filing this Declaration and the Survey Map, to submit said parcel and all improvements now or hereafter constructed thereon to the provisions of the Act as a condominium project to be known as Interwest Condominium Project.
- D. Declarant intends to sell to various purchasers the fee title to the individual units contained in the project, together with the undivided ownership interests in the common areas and facilities appurtenant to such units, subject to the covenants, restrictions and limitations herein set forth.
- E. Declarant anticipates that the project created hereby will be completed in stages of construction in accordance with the Survey Map and as provided by paragraph 33 of this Enabling Declaration. Accordingly, Declarant wishes to reserve

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the right to include each additional stage as a part of one project, requiring additional record of survey maps identifying individual units, including its unit number or symbol.

NOW THEREFORE, for the foregoing purposes, Declarant hereby publishes and declares that the following terms, covenants, conditions, easements, restrictions, uses, reservations, limitations and obligations shall be deemed to run with the land, shall be a burden and a benefit to Declarant, its representatives and assigns and any person or entity acquiring or owning an interest in the real property improvements and their grantees, heirs, executors, administrators, devisees, successors or assigns.

1. Definitions, unless the context shall expressly provide otherwise,

(a) "Act" means and refers to the Utah Condominium Ownership Act (Sections 57-8-1 through 57-8-35 Utah Code Annotated (1953));

(b) "Unit" means one individual storage unit which is designated as a unit on the Record of Survey Map and in Exhibit "A" attached hereto and by this reference incorporated herein. A wall on the perimeter of a unit shall, from and including the surface of such wall to its center, constitute a part of the unit to which it relates. A unit shall include any walls or partitions which are wholly contained within its perimeters and the surfaces of any floors and ceiling which bound it. A unit shall not include pipes, wires, conduits or other utility lines running through it which are utilized for or which serve more than one unit;

(c) "Condominium storage unit" means the fee simple interest and title in and to a unit together with the undivided interest in the common areas and facilities;

(d) "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 condominium units;

(e) "Common areas and facilities" means and includes the Parcel herein described and the improvements thereon except the units; the structural components of the building and all other parts of such land and the improvements thereon necessary or convenient to its existence, maintenance and safety which are normally and reasonably in common use, including the air space above such land and the roadways, turnarounds and parking necessary for access to and use of the storage units, all of which shall be owned, as tenants in common, by the owners of the separate units, each owner of a unit having an undivided interest in such common areas and facilities as is provided hereinafter;

(f) "Parcel" means and refers to each portion of the entire tract which is separately submitted to the terms of the Act with the intention that it shall thereby comprise or in the future may become a part of the Project. The real property which this Declaration submits to the terms of the Act constitutes a Parcel.

(g) "Phase" means and refers to each separate step in development of the entire tract which is initiated through the submission of a Parcel separately submitted to the terms of the Act. The term shall also include all improvements which are constructed and all appurtenances, rights, obligations and legal relationships which come into existence in conjunction with the submission of any single Parcel. The phases are more particularly described in paragraph 33 of this Enabling Declaration. The submission which is effected by this Declaration, the rights and obligations which are created by this Declaration and the improvements described in the Survey Map which have been or will be constructed together constitute a Phase, Phase A, of the Condominium Project;

(h) "Declaration" means this Enabling Declaration and supplements thereto, if any;

(i) "Condominium Project" or "Project" means and refers to the Interwest Condominium Project. At any point in time, the Project shall consist of Phase A and all Phases which theretofore have been added to and merged with Phase A;

(j) "Common expenses" means and refers to all sums which are expended on behalf of all the unit owners and all sums which are required by the management committee to perform or exercise its functions, duties or rights under the Act, this Declaration, the management responsibilities and such rules and regulations as may from time to time be adopted;

(k) "Association of unit owners" or "Association" means the Association formed as a Utah not-for-profit corporation bearing the name of this Condominium Project, the Articles of Incorporation and Bylaws of which shall govern the administration of this condominium property, the members of which Association shall be all of the owners of the condominium units;

(l) "Record of Survey Map" or "Survey Map" means and refers to the Record of Survey Map filed herewith, dated the ____ day of _____, 1974, consisting of _____ sheets and prepared and certified to by Reeve Engineering Co., Inc., 4185 So. 300 W., Ogden, Utah, duly registered Utah Land Surveyors.

(m) "Unit Number" means and refers to the number, letter, or combination thereof which designates a unit in the attached exhibit "A" and in the Record of Survey Map;

(n) "Entire Tract" means and refers to the following described tract of land situated in the City of Ogden, County of Weber, State of Utah, together with all appurtenances thereto:

The part of the west half of Section 31, Township 6 North, Range 1 West, Salt Lake Base and Meridian, United States survey beginning at a point on the East line of Pennsylvania Avenue 30 feet East and 1369 feet South of the Northwest corner of the South half of the Northwest quarter of said Section 31, and running thence South 89°59' East 632.5 feet

thence South 245.5 feet to the North line of Santa Fe Street, thence West 632.50 feet, thence North 235 feet to point of beginning.

All those parts of lots 25 to 48 inclusive, Block 24 of Fairmount Park Annex, Ogden City, described as follows: Beginning at the Northeast corner of said Block 24 and running West 600 feet along the North line of said Block 24, thence South along West line of said Block 56 feet, thence easterly along a straight line 600 feet more or less to a point on the east of said Block 24, that is 45.5 feet South from point of beginning thence North along East line of said Block 45.5 feet to point of beginning.

(o) "Building" means a single building containing units as shown on the map.

2. Submission.

Declarant hereby submits to the provisions of the Act as the Parcel associated with Phase A of the Project the following described real property situated in the City of Ogden, County of Weber, State of Utah:

The part of the Southwest quarter of Section 31, Township 6 North, Range 1 West, Salt Lake Base and Meridian, United States survey beginning on the North line of the Oregon Short-line Railroad Company property at a point South 1,730 feet, East 30 feet and North 89°58' East 257 feet from the Northwest corner of the South half of the Northwest quarter of Section 31, thence North 89°58' East 400.90 feet, thence North 0°42' West 120.02 feet, thence South 89°59' West 399.44 feet, thence South 120.40 feet to the point of beginning.

3. Division of Property into Condominium Units.

(a) The Parcel herein described and the improvements thereon are hereby divided into the fee simple estates as is set forth on the attached Exhibit "A" which contains the Survey Map. Each such estate shall consist of the separately designated units and the undivided interest in and to the general common areas and facilities appurtenant to each unit as set forth therein.

(b) The improvements included in Phase A of the Project are now or will be located upon the Parcel described above, and all of such improvements are described in the Survey Map set forth

Also, a part of Lots 35 to 48, Blk 24, Fairmount Park Annex

as Exhibit "A". The buildings are to be constructed principally of the following materials: 8-inch concrete block wall with reinforcement bars, concrete floors, hot mopped gravel roof and metal doors with individual locks.

(c) Declarant reserves the right to (i) physically combine the space within one unit with the space within one or more adjoining units or (ii) to 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. If Declarant makes any such physical changes to units, prior to recording of the Declaration and Survey Map, such changes shall be made by a revision to Exhibit "A" and the Survey Map which shall reflect the reapportioned undivided interests of the affected units; provided, however, that the written consent of the mortgagee(s) of any such affected unit(s) shall be first obtained, and the cost and expense incurred for legal, architectural or engineering fees shall be born by that person requesting such physical change(s). Subsequent to recording of the Declaration and Survey Map, such changes shall be made by amendments to the Declaration and Survey Map and the other conditions herein provided shall obtain.

(d) The Record of Survey Map shows, with respect to Phase A of the Project, the unit number of each unit, its location, dimensions from which its area may be determined and those common areas and facilities to which it has immediate access. All units shall be capable of being independently owned, encumbered and conveyed.

4. Survey Map.

The Survey 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. Each such Survey Map shall be filed for record prior to the conveyance of the condominium units shown thereon. Each such Survey Map shall depict and show at least the following as provided by Utah Code Annotated

57-8-13 (1953): The legal description of the land and a survey thereof including all angular and linear data along the exterior boundaries of the property and the location of the building(s); the floor and elevation plans; the location of the unit within the building, 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 number designations and the building symbol. Each such Map shall contain the certificate of a registered professional engineer or licensed architect, or both, certifying that the Survey 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 Survey Map was prepared subsequent to substantial completion of the improvements. In interpreting the Survey 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 Survey Map, from time to time, to conform the same according 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, if any.

5. Description of Condominium Storage Unit.

(a) Every contract for the sale of a condominium storage unit written subsequent to the filing for record of the Survey Map or Declaration may legally describe a condominium storage unit by identifying unit number followed by the name of this condominium. The location of such condominium storage unit shall be depicted on the Survey Map filed for record.

(b) Every contract, deed, lease, mortgage, trust deed, will or other instrument may legally describe a condominium storage unit by its identifying unit number, the building symbol, followed by the name of this condominium, with further reference

to the Survey 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 common areas and facilities appurtenant thereto. Each such description shall be construed to include a nonexclusive easement for ingress and egress to an owner's unit.

6. Computation of Undivided Interests.

For purposes of determining the percentages of undivided interest in the common areas and facilities which are appurtenant to the various units, a weighted figure representing the floor space associated with a unit has been used as a measure of value. Such figure is with respect to each storage unit the approximate floor space actually contained in the unit.

7. Forms of Ownership - Title.

A condominium unit may be held and owned in any real property tenancy relationship recognized under the laws of the State of Utah.

8. Inseparability of a Condominium Unit.

Each unit, the appurtenant undivided interest in the common areas and facilities shall together comprise one condominium unit, shall be inseparable and may be conveyed, devised or encumbered only as a condominium unit.

9. Separate Assessment and Taxation of Condominium Units - Notice to Assessor.

Declarant shall give written notice to the County Assessor of the creation of condominium real property ownership interests in this property, as is provided by law, so that each unit and undivided interest in the common areas and facilities appurtenant thereto shall be deemed a unit and subject to separate assessment and taxation.

10. Non-Partitionability of Common Areas and Facilities.

The common areas and facilities shall be owned in common

by all of the owners of the units and shall remain undivided, and no owner shall bring any action for partition or division of the common area and facilities. 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.

11. Voting and Membership.

Every beneficial owner of a condominium unit within the Project, as distinguished from a security owner, shall automatically become a member of the Association upon acquiring ownership. The Association shall have one class only. Voting shall be on a percentage basis and the percentage of vote to which the owner is entitled is the percentage assigned to his condominium(s) in Exhibit "B" to the Declaration.

12. Easements for Encroachments.

If any portion of the general common areas and facilities encroaches upon a unit or units, or if any portion of a unit encroaches upon the common area and facilities or upon an adjoining unit or units, a valid easement for the encroachment and for maintenance of same, so long as it stands, shall and does exist. Such encroachments and easements shall not be considered or determined to be encumbrances either on the common areas and facilities or on the units for purposes of marketability of title or other purposes.

13. Termination of Mechanic's Lien Rights and Indemnification.

Subsequent to the completion of the improvements described on the Survey Map, no labor performed or materials furnished and incorporated in a unit with the consent or at the request of the unit owners, his agent, his contractor or subcontractor shall be the basis for filing of a lien against the general common areas and facilities 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 areas and facilities 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 herein contained are subject to the reserved rights as set forth in paragraph 16.

14. Interwest Condominium Association, Inc.

(a) The interests of all owners of condominium storage units shall be governed and administered by the Articles of Incorporation and Bylaws of the Interwest Condominium Association, Inc.

(b) An owner of a condominium storage unit upon becoming an owner, shall be a member of the Association and shall remain a member for the period of his ownership.

(c) The first acting Board of Trustees and successor Boards of Trustees may delegate by Management Agreement the maintenance and operation of the common areas and facilities.

(d) A rental service, if any, shall be provided solely through the efforts of the respective owners whose units are rented or leased. In no event, shall the Declarant, the developers or any successor in interest to the Declarant or the developers or any entity associated with either the Declarant or the developers have any part or function in the rental or lease of any unit.

15. Certificate of Identity of Management Body to be Recorded.

There shall be recorded from time to time a Certificate of Identity and the addresses of the persons then comprising the

management body (Trustees and Officers), together with the address of the Managing Agent. Such Certificate shall be conclusive evidence thereof in favor of any persons relying thereon in good faith regardless of time elapsed since date thereof. The first such Certificate shall be recorded on or before ninety (90) days after recording this Declaration.

16. Access to Units for Maintenance, Repair and Emergencies.

(a) The owners shall have the irrevocable right, to be exercised by the Managing Agent or Board of Trustees 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 common areas and facilities 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 common areas and facilities or to another unit.

(b) Damage to the interior or any part of a unit resulting from the maintenance, repair, emergency repair or replacement of any of the common area and facilities or as a result of emergency repairs within another unit shall be a common expense of all of the owners; provided, however, that if such damage is caused by negligent or tortuous 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 of such damage. All damaged improvements shall be restored substantially to the same condition in which they existed prior to the damage. All maintenance, repairs and replacements of the common areas and facilities whether located inside or outside of units (unless necessitated by the negligence, misuse or tortuous act of a unit owner, in which case such expense shall be charged to such unit owner), shall be the common expense of all of the owners.

17. Owner's Maintenance Responsibility for His Unit.

(a) For maintenance purposes, an owner shall be obligated to keep in good repair and condition the supporting walls, ceilings and floors within his unit, including unit doors. The lines, pipes, wires, conduits or systems (which for brevity are herein and hereafter referred to as utilities) running through his unit which serve one or more other units are common areas and facilities. Such utilities shall not be disturbed or relocated by an owner without the written consent and approval of the Trustees or Managing Agent. 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 type or kinds of materials of at least the same quality.

(b) An owner shall maintain and keep in repair the interior of his own unit, including the fixtures thereof. All fixtures and equipment installed within the unit commencing at a point where the utilities enter the unit shall be maintained and kept in good repair and condition by the owner thereof. An owner shall do no act nor any work that will impair the structural soundness or integrity of the building or impair any easement or hereditament.

18. Maintenance of the Common Areas and Facilities.

(a) The maintenance and operation of the common areas and facilities shall be the responsibility and the expense of the Association and a common expense of all the condominium owners.

(b) There shall be no additions, alterations or improvements of or to the common areas and facilities by the Association requiring an assessment in excess of One Hundred Twenty Dollars (\$120.00) per unit in any one calendar year without prior approval of a majority of the owners. Such approval shall be expressed by a vote in favor thereof by the owners of a majority in interest at a special or regular meeting of Association members. Such

expenditure(s) shall be a common expense. Such limitation shall not be applicable to the replacement, repair, maintenance or obsolescence of any common areas and facilities.

19. Compliance with Provisions of Declaration Mandatory.

Each owner shall comply with the provisions of this Declaration, the Articles of Incorporation and Bylaws of the Association, and the Rules and Regulations, decisions and resolutions of the Association adopted pursuant thereto 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 attorneys' fees incurred in connection therewith, which action shall be maintainable by the Board of Trustees or the Managing Agent in the name of the Association on behalf of the owners or, in a proper case, by an aggrieved owner.

20. Revocation or Amendment to Declaration.

Except as is otherwise provided, this Declaration shall not be revoked unless all of the owners and all of the holders of any recorded mortgage or Deed of Trust covering or affecting any or all of the condominium storage units consent and agree to such revocation by instrument(s) duly recorded. The vote of at least 75 percent of the unit owners shall be required to amend this Declaration or the Record of Survey Map. Any amendment so authorized shall be accomplished through the recording of an instrument executed by the Board of Trustees. In such instrument the Board of Trustees shall certify that the vote required by this paragraph for an amendment has occurred. The undivided interest in the common areas and facilities appurtenant to each unit shall have a permanent character and shall not be altered without the consent of all of the unit owners duly recorded.

21. Assessment for Common Expenses.

(a) All owners shall be obligated to pay the estimated assessments imposed by the Board of Trustees or Managing Agent of the Association to meet the common expenses. The assessments shall be made according to each owner's interest in and to the common areas and facilities and as is provided herein. Assessments for the estimated common expenses shall be due in advance on the first day of each calendar month, or less frequently as may be determined by the Board of Trustees or Managing Agent. The Managing Agent or Board of Trustees shall prepare and deliver or mail to each owner a statement for the common expenses.

(b) In the event the ownership of a condominium storage unit, title to which is derived from Declarant, commences on a day other than the first day of the assessment period, the assessment for that period shall be prorated.

(c) Assessments shall be based upon the cash requirements deemed to be such aggregate sum as the Managing Agent or the Board of Trustees of the Association shall from time to time determine is to be paid by all of the condominium storage unit owners, including Declarant, to provide for the payment of all estimated expenses growing out of or connected with maintenance, repair, operation, additions, alterations and improvements of and to the common areas and facilities, which sum may include, but shall not be limited to, expenses of management, taxes, and special assessments until separately assessed; premiums for insurance; care of grounds; common lighting; repairs and renovations; wages; legal and accounting fees; management fees; expenses and liabilities incurred by the Managing Agent or Board of Trustees on behalf of the unit owners under or by reason of this Declaration and the Articles of Incorporation and Bylaws of the Association; for any deficit remaining from a previous period; for the creation of a reasonable contingency, reserve, working capital, and sinking funds as well as other costs and expenses relating to the common areas and facilities.

(d) 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 a release of the owners from their obligation to pay the same.

22. Insurance.

(a) The Board of Trustees or Managing Agent shall obtain and maintain, to the extent obtainable, the following insurance:

(i) fire insurance with extended coverage, vandalism, and malicious mischief endorsements, on the project, without deduction for depreciation, and which shall contain a standard mortgage clause in favor of each mortgagee of a condominium unit which shall provide that the loss, if any, thereunder shall be payable to such mortgagee as its interest may appear, subject, however, to the loss payment provisions in favor of the Board of Trustees hereinafter set forth in paragraph 27 (ii) public liability insurance in such limits as the Board of Trustees may from time to time determine, covering each trustee of the Board, the Managing Agent, and each unit owner. Such public liability coverage shall also cover cross liability claims of one insured against the other. Initially, such public liability insurance shall be in a single limit of Three Hundred Thousand Dollars (\$300,000.00) covering all claims for bodily injury or property damage arising out of one occurrence and in a limit of One Hundred Thousand Dollars (\$100,000.00) for each occurrence; (iii) workmen's compensation insurance; and (iv) such other insurance as the Board of Trustees may determine.

(b) 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 the insured and shall provide that such policies may not be canceled or substantially modified without at least ten (10) days' prior written notice to all of the insured, 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 (10) days prior to expiration of the then current policies. The insurance shall be carried in blanket form naming the Association as the insured, as attorney-in-fact for all of the condominium storage unit owners, which policy or policies shall identify the interest of each condominium storage unit owner (owner's name, unit number and building designation).

(c) Prior to obtaining any policy of fire insurance or renewal thereof, the Board of Trustees shall obtain an appraisal from a fire insurance company or otherwise of the full replacement value of the entire condominium improvements, without deduction for depreciation, for the purpose of determining the amount of the insurance to be effected pursuant to the provisions of this Insurance paragraph. In no event shall the insurance policy contain a co-insurance clause for less than ninety percent (90%) of the full replacement cost.

(d) Unit owners may carry other insurance for their benefit and at their 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 Trustees shall not be affected or diminished by reason of any such additional insurance carried by any unit owner.

(e) 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 unit owner thereof, and the Board of Trustees, the Association, and the Managing Agent shall have no responsibility therefor.

23. 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 the

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owner thereof. No owner may exempt himself from liability for his contribution towards the common expenses by waiver of the use or enjoyment of any of the common areas and facilities or by abandonment of his unit. Both the Board of Trustees and Managing Agent shall have the responsibility to take prompt action to collect any unpaid assessment which remains unpaid for more than ten (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 twelve percent (12%) per annum on the amount of the assessment from the due date thereof, together with all expenses, including attorney fees, incurred together with such late charges as provided by the Bylaws of the Association. Suit to recover a money judgment for unpaid common expenses shall be maintainable without foreclosing the lien, nor shall such suit be or construed to be a waiver of the lien.

24. Association Lien for Nonpayment of Common Expenses.

(a) All sums assessed but unpaid for the share of common expenses chargeable to any condominium storage unit shall constitute a lien on such unit superior to all other liens and encumbrances, except only for tax and special assessments liens on the condominium storage unit in favor of any assessing unit, and all sums unpaid on a first mortgage or first deed of trust of record, including all unpaid obligatory sums as may be provided by such encumbrances. To evidence such lien, the Board of Trustees or the Managing Agent shall prepare a written notice of lien assessment 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 description of the condominium storage unit. Such a notice of lien shall be signed by one of the Board of Trustees or by one of the officers of the Association and shall be recorded in the office of the County clerk and Recorder. Such lien shall attach and be effective from the due date of the assessment until all sums, with interest and other charges thereon, shall have been fully paid.

(b) Such lien may be enforced by the foreclosure of the defaulting owner's condominium storage 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 fees incurred for filing the lien, and in the event of foreclosure proceedings, all additional costs, all expenses, and reasonable attorney fees incurred but not less than the amount recommended by the subject County Bar Association according to the then current published and recommended fee schedule for foreclosure proceedings (for foreclosure proceedings through Court). The owner of the condominium storage unit being foreclosed shall be required to pay to the Association the monthly assessment for the condominium storage unit during the period of foreclosure. The Association shall have the power to bid on the condominium storage unit at foreclosure or other legal sale and to acquire and hold, lease, mortgage, vote the votes appurtenant to, convey, or otherwise deal with the same.

(c) Any mortgagee holding a lien on a condominium storage unit may pay, but shall not be required to pay, any unpaid common expenses payable with respect to such unit, and upon such payment, such encumbrancer shall have a lien on such unit for the amount paid of the same rank as the lien of his mortgage or encumbrance without the necessity of having to record a notice or claim of such lien. Upon request of a mortgagee, the Association shall report to the mortgagee of a condominium storage unit any unpaid assessment remaining unpaid for longer than thirty (30) days after the same is due; provided, however, that a mortgagee shall have furnished to the Managing Agent or to the Board of Trustees notice of such encumbrance.

(d) The recorded lien may be released by recording a Release of Lien to be signed by an office of the Association or by the Managing Agent on behalf of the Association.

25. Ascertainability of Unpaid Common Expenses.

(a) Upon written request for a Statement of Account by an owner or his agent, prospective mortgagee, or prospective grantee of a condominium storage unit, the Association or the Managing Agent shall furnish a written statement of the amount of any unpaid common expenses, the amount of the current assessments, the dates that assessments are due, the amount for any advanced payments made, prepaid items such as insurance premiums and reserves therefor, deficiencies in reserve accounts, which statement shall be conclusive upon the Association in favor of all persons who rely thereon in good faith. Unless such request shall be complied within ten (10) days after receipt of such written request, 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 service fee of not more than Fifty Dollars (\$50.00) shall be paid for furnishing the Statement of Account.

(b) The provisions set forth in this paragraph shall not apply to the initial sales and conveyances of the condominium storage units made by Declarant, and such sales shall be free from all common expenses to the date of conveyance made or to a date as agreed upon by Declarant and Declarant's grantee.

26. Priorities of Association.

The owner of a condominium storage unit may create a junior mortgage (junior to the first mortgage), liens, or encumbrances on his condominium storage unit; provided, however, that any such junior mortgages, liens, or encumbrances shall always be subordinate to the prior and paramount lien of the Association for common expenses and all of the terms, conditions, covenants, restrictions, uses, limitations, and obligations under this Declaration, Association Articles of Incorporation and Bylaws and provided, further, that such junior encumbrancer(s) shall release,

for purposes of restoration of any improvements upon the encumbered condominium storage 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 a junior mortgagee upon written request of the Association and if such request is not granted, such release may be executed by the Association as attorney-in-fact for such junior mortgagee.

27. Destruction, Damage, or Obsolescence - Association as Attorney-in-Fact.

This Declaration does hereby make mandatory the irrevocable appointment of an attorney-in-fact to deal with the property upon its destruction or damage, for its repair and reconstruction or its obsolescence and to maintain, repair and improve the condominium storage units, buildings, and common areas and facilities. Title to any condominium storage unit is declared and expressly made subject to the terms and conditions hereof, and acceptance by any grantee of a deed or other instrument of conveyance from the Declarant or from any owner or grantor shall constitute appointment of the attorney-in-fact herein provided. 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 property upon its damage or destruction or obsolescence 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 condominium storage unit owner which are necessary and appropriate to exercise the powers herein granted. Repair and reconstruction of the improvement(s) as used in the succeeding subparagraphs means restoring the improvement(s) to substantially the same condition in which they existed prior to the damage, with

each unit and the general common areas and facilities 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 herein-after.

(a) In the event of damage or destruction due to fire or other disaster, the insurance proceeds, if sufficient to reconstruct the improvement(s), shall be applied by the Association, as attorney-in-fact, to such reconstruction, and the improvements shall be promptly repaired and reconstructed. The Association shall have full authority, right, and power, as attorney-in-fact, to cause the repair and restoration of the improvements. Assessments for common expenses shall not be abated during the period of insurance adjustment and repair and reconstruction.

(b) If the insurance proceeds are insufficient to repair and reconstruct the improvements, and if such damage is not more than sixty percent (60%) of the total replacement cost of all of the condominium storage units in this project, not including land, such damage or destruction shall be promptly repaired and reconstructed by the Association, as attorney-in-fact, using all the proceeds of insurance and the proceeds of a special assessment to be made against all of the owners and their condominium storage units. Such deficiency assessment shall be a common expense and made pro rata according to each owner's interest in the common areas and facilities and shall be due and payable within thirty (30) days after written notice thereof. The Association shall have full authority, right, and power, as attorney-in-fact, to cause the repair or restoration of the improvement(s) using all of the insurance proceeds for such purpose notwithstanding the failure

of an owner to pay the assessment. The assessment provided for herein shall be a debt of each owner and a lien on his condominium unit and may be enforced and collected as is provided in paragraph 24. In addition thereto, the Association, as attorney-in-fact, shall have the absolute right and power to sell the condominium storage unit of any owner refusing or failing to pay such deficiency assessment within the time provided; and if not so paid, the Association shall cause to be recorded a notice that the condominium storage unit of the delinquent owner shall be sold by the Association, as attorney-in-fact, pursuant to the provisions of this paragraph. Assessments for common expenses shall not be abated during the period of insurance adjustment and repair and reconstruction. The delinquent owner shall be required to pay to the Association the costs and expenses for filing the notices, interest at the rate of eight percent (8%) per annum of the amount of the assessment and all reasonable attorney fees. The proceeds derived from the sale of such condominium storage unit shall be used and disbursed by the Association, as attorney-in-fact, in the following order:

1. For payment of taxes and special assessments liens in favor of any assessing entity and the customary expense of sale;
2. For payment of the balance of the lien of any first mortgage;
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 of and to the extent of their priority; and
5. The balance remaining, if any, shall be paid to the condominium storage unit owner.

(c) If the insurance proceeds are insufficient to repair and reconstruct the damaged improvement(s) and if such damage is more than sixty percent (60%) of the total replacement cost

of all of the condominium storage units (in this project), not including land, and if the owners representing an aggregate ownership interest of fifty-one percent (51%), or more, of the common areas and facilities do not voluntarily, within one hundred (100) days thereafter, made provisions for reconstruction, which plan must have the approval or consent of fifty-one percent (51%), or more, of the first mortgagees of record, then the Association shall forthwith record a notice setting forth such fact or facts; and upon the recording of such notice by the Association's President and Secretary or Assistant Secretary, 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 Survey Map, Articles of Incorporation and the Bylaws. Assessments for common expenses shall not be abated during the period prior to sale. The insurance settlement proceeds shall be collected by the Association, and such proceeds shall be divided by the Association according to each owner's interest in the common areas and facilities and such divided proceeds shall be paid into separate accounts, each such account representing one of the condominium storage units. Each such account shall be in the name of the Association and shall be further identified by the condominium storage unit designation and the name of the owner. From each separate account the Association, as attorney-in-fact, shall forthwith use and disburse the total amount (of each) of such accounts, without contribution from one account to another, toward the partial or full payment of the lien of any first mortgage against the condominium storage unit represented by such separate account. Thereafter, each such account shall be supplemented by the apportioned amount of the proceeds obtained from the sale of the entire property. Such apportionment shall be based upon each

condominium storage unit owner's interest in the general common areas and facilities. The total funds of each account shall be used and disbursed, without contribution from one account to another by the Association, as attorney-in-fact, for the same purposes and in the same order as is provided in subparagraph (b) 1 through 5 of this paragraph.

(d) In the event of such damage or destruction under subparagraph (c) of this paragraph, and if a plan for reconstruction is adopted as therein provided, then all of the owners shall be bound by the terms and other provisions of such plan. Any assessment made in connection with such plan shall be a common expense and made pro rata according to each owner's interest in the general common areas and facilities and shall be due and payable as provided by the terms of such plan, but not sooner than thirty (30) days after written notice thereof. The Association shall have full authority, right, and power, as attorney-in-fact, to cause the repair or restoration of 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. The assessment provided for herein shall be a debt of each owner and lien on his condominium unit and may be enforced and collected as is provided in paragraph 24. In addition thereto, the Association, as attorney-in-fact, shall have the absolute right and power to sell the condominium storage 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 storage unit of the delinquent owner shall be sold by the Association. The delinquent owner shall be required to pay to the Association the costs and expenses for filing the notices, interest at the rate of eight percent (8%) per annum on the amount of the

assessment and all reasonable attorney fees. The proceeds derived from the sale of such condominium storage unit shall be used and disbursed by the Association, as attorney-in-fact, for the same purposes and in the same order as is provided in subparagraph (b) 1 through 5 of this paragraph.

(e) The owners represent an aggregate ownership interest of eighty-five percent (85%), or more, of the general common areas and facilities may agree that the condominium storage units are obsolete and that the same should be sold. Such plan or agreement must have the unanimous approval of every first mortgagee. In such instance, the Association shall forthwith record a notice setting forth such fact or facts; and upon the recording of such notice by the Association's President and Secretary or Assistant Secretary, the entire premises 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 Survey Map, the Articles of Incorporation and the Bylaws. The sales proceeds shall be apportioned among the owners on the basis of each owner's interest in the common areas and facilities and such apportioned proceeds shall be paid into separate accounts each such account representing one condominium storage unit. Each such account shall be in the name of the Association and shall be further identified by the condominium storage unit number and the name of the owner. From each separate account, the Association, as attorney-in-fact, shall use and disburse the total amount (of each) of such account, without contribution from one account to another, for the same purposes and in the same order as is provided in subparagraph (b) 1 through 5 of this paragraph.

28. Association Right to Acquire Additional Property.

The Association may acquire and hold for the benefit of all of the condominium storage unit owners, real, tangible and intangible personal property and may dispose of the same by sale

or otherwise. The beneficial interest in any such property shall be owned by all of the condominium unit owners in the same proportions as their respective interests in the common areas and facilities, and such interest therein shall not be transferable except with a conveyance of a condominium storage unit. A conveyance of a condominium storage unit shall transfer to the grantee ownership of the grantor's beneficial interest in such personal property associated with the foreclosed condominium storage unit.

29. Registration of Mailing Address.

Each owner shall register his mailing address with the Association, and notices or demands intended to be served upon an owner shall be sent by mail, postage prepaid, addressed in the name of the owner at such registered address.

30. Period of Condominium Ownership.

The separate condominium estates created by this Declaration and the Survey Map shall continue until this Declaration is revoked in the manner and as is provided in paragraph 20 of this Declaration or until termination in the manner and as is provided in subparagraph (c) or (e) of paragraph 27 of this Declaration.

31. Purposes and Restrictions.

(a) The purpose for which the units are to be constructed and used is storage, warehousing, and related uses. 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 said premises; and no subsequent buildings in Phase A other than buildings shown on the Survey Map shall be erected or constructed on the property except by vote of the majority in interest of the condominium storage unit owners. No structures of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuilding shall be used or permitted to be kept or stored on any portion of the premises at any time either temporarily or permanently.

(b) Notwithstanding any provisions herein contained to the contrary, it shall be expressly permissible for the Declarant, his agent, employees, and contractors to maintain during the period of construction and sale of the condominium storage units in this condominium project, upon such portion of the property as Declarant may be reasonably required, convenient or incidental to the construction and sale or rental of condominium storage units and interests, including, but without limitation, a business office, storage area, construction yards, signs, model units, sales office, construction office, parking areas and lighting. During the period of construction and sale, parking areas may, from time to time, be relocated by Declarant to accommodate and facilitate the construction, provided, however, that each condominium storage unit owner shall be provided with an area to accommodate access to his condominium storage unit during the period of construction.

(c) No rubbish, refuse or garbage be allowed to accumulate nor any fire hazard to exist. No unit owner shall permit any use of his unit or make use of the common areas and facilities which will increase the rate of insurance upon the condominium property. The Association may adopt Bylaws and Rules and Regulations relative to abatement and enjoinder of nuisances.

(d) Rules and regulations may be adopted by the Board of Trustees concerning and governing the use of the common areas and facilities; provided, however, that 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.

(e) Except for those improvements erected or installed by Declarant, no exterior additions, alterations nor changes in walls and other structures shall be commenced, erected or maintained until the plans and specifications showing the nature, kind, shape, heights, materials, location and approximate cost of same shall have been submitted to and approved in writing by the Board of Trustees as to conformity and harmony of external design and location with existing structures in the property by the Association or by a representative designated by it.

32. Assessment Reserves.

The Association or the Managing Agent may require an owner other than Declarant to deposit with the Association up to three (3) times the amount of the estimated monthly common assessment, without interest, which sum shall be held by the Managing Agent 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 condominium storage unit, an owner shall be entitled to a credit from his grantee for any unused portion thereof.

33. Reservation to Enlarge and Supplement Condominium Project.

(a) Declarant, for itself, its heirs, executors, administrators and assigns expressly reserves the right to enlarge this condominium project by submitting an additional parcel or parcels of the entire tract now owned by Declarant. Such addition to this condominium project shall be expressed in and by a duly recorded Supplement to this Declaration and a Supplement to the Survey Map. The condominium storage units submitted under this Declaration are referred hereinafter as Phase A and the condominium storage units to be subsequently submitted by Supplement are referred to hereinafter as the Phase B project, Phase C project and so on as additional phases are added.

(b) The Supplement to this Declaration (submitting the Phase B project) shall provide for a division of the Phase B project on additional storage complexes into condominium storage units similar to the division made of the Phase A project in this Declaration. Each unit shall be separately designated, and the

building in the Phase B project shall be identified by the symbol "B." The undivided interest in and to the common areas and facilities appurtenant to each such unit in the Phase B project shall not be a part of the common areas and facilities of the condominium storage units in the Phase A project, nor shall the undivided interest in and to the general common areas and facilities appurtenant to each unit in the Phase A project be a part of the common areas and facilities of the condominium units in the Phase B project. The same limitations shall be applied to further phases as added from time to time.

(c) Except as is otherwise provided by the provisions of such Supplement(s) to this Declaration, all of the provisions contained in this Declaration shall be applicable to such additional phases and condominium storage units.

34. General Reservations.

(a) Declarant reserves the right to establish easements, reservations, exceptions and exclusions consistent with the condominium ownership of the condominium project for the best interests of all of the condominium storage unit owners and the Association in order to serve all of the owners within the entire condominium project and to submit additional parcels to that property herein set forth.

(b) Notwithstanding any other provisions expressly or impliedly to the contrary contained in this Declaration, the Articles of Incorporation or Bylaws of the Association, Declarant reserves the right to exercise the rights, duties and functions of the Board of Trustees of the Association until all of the condominium storage units in the entire project have been sold. During such period of development and sale, the monthly assessment for common expenses shall be based upon the actual cost, and shall

not include any estimated amount for contingencies, reserves or sinking funds. Declarant shall pay its pro rata share thereof based on his ownership of condominium storage units.

35. Acceptance of Provisions of All Documents.

(a) The conveyance or encumbrance of a condominium storage unit shall be deemed to include the acceptance of all of the provisions of this Declaration, the Articles of Incorporation, and Association Bylaws and Rules and Regulations, and shall be binding upon each grantee or encumbrancer without the necessity of inclusion of such an express provision in the instrument of conveyance or encumbrance.

(b) These Condominium Declarations shall be deemed covenants that run with the land and shall serve to bind and inure to the benefit of all successors, heirs or assigns of any condominium storage unit owner.

36. General.

(a) If any of the provisions of this Declaration of 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 provisions, paragraph, sentence, clause, phrase or word in any other circumstances shall not be affected thereby.

(b) "Declarant" as used herein means the named Declarant, personal representatives and assigns.

(c) The provisions of this Declaration shall be in addition to and supplemental to the Act of the State of Utah and to all other provisions of law.

(d) That whenever used herein, unless the context shall otherwise provide, the singular number shall include the

plural, the plural the singular and the use of any gender shall include all genders.

(e) Paragraph titles are for convenience of reference and are not intended to limit, enlarge or change the meaning of the contents of the various paragraphs.

37. Service of Process

The name of the person to receive service of process in behalf of the project is Scott A. Whimpey, who resides at 927 25th Street, Ogden, Utah.

IN WITNESS WHEREOF, Declarant has duly executed this Declaration this 7 day of FEB, 1974.

THE ALYUCAN INTERSTATE CORPORATION

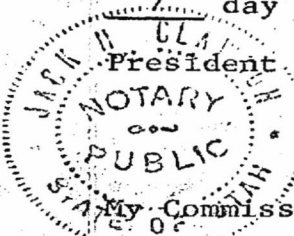
ATTEST:

By Scott Whimpey
President

Ronald C. Douglas
Secretary

STATE OF UTAH)
 : ss.
COUNTY OF WEBER)

The foregoing instrument was acknowledged before me this 7th day of Feb., 1974, by Scott Whimpey President of the Alyucan Interstate Corporation.



My Commission Expires: May 10, 1977

Jack H. Clauson
Notary Public
Residing at: Huntsville, Utah

EXHIBIT A

<u>Unit Number</u>	<u>Location</u>	<u>Approx. Square Feet</u>	<u>Number of Rooms</u>	<u>Immediate Common Area of Access</u>
1	Building A	300	1	30 ft. road adjacent to door
2	"	"	"	"
3	"	"	"	"
4	"	"	"	"
5	"	"	"	"
6	"	"	"	"
7	"	"	"	"
8	"	"	"	"
9	"	"	"	"
10	"	"	"	"
11	"	"	"	"
12	"	"	"	"
13	"	"	"	"
14	"	"	"	"
15	"	"	"	"
16	"	"	"	"
17	"	"	"	"
18	"	"	"	"
19	"	"	"	"
20	"	"	"	"
21	"	"	"	"
22	"	"	"	"
23	"	"	"	"
24	"	"	"	"
25	"	"	"	"
26	"	"	"	"
27	"	"	"	"
28	"	"	"	"
29	"	"	"	"
30	"	"	"	"

EXHIBIT A (Continued)

<u>Unit Number</u>	<u>Location</u>	<u>Approx. Square Feet</u>	<u>Number of Rooms</u>	<u>Immediate Common Area of Access</u>
31	Building A	300	1	30 ft. road adjacent to door
32	"	"	"	"
33	"	"	"	"
34	"	"	"	"
35	"	"	"	"
36	"	"	"	"
37	"	"	"	"
38	"	"	"	"
39	"	"	"	"
40	"	"	"	"
41	"	"	"	"
42	"	"	"	"
43	"	"	"	"
44	"	"	"	"
45	"	"	"	"
46	"	"	"	"
47	"	"	"	"
48	"	"	"	"
49	"	"	"	"
50	"	"	"	"

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EXHIBIT B

<u>Unit Number</u>	<u>Square Footage</u>	<u>Voting Percentage</u> (of 100%)
1	300	2%
2	"	"
3	"	"
4	"	"
5	"	"
6	"	"
7	"	"
8	"	"
9	"	"
10	"	"
11	"	"
12	"	"
13	"	"
14	"	"
15	"	"
16	"	"
17	"	"
18	"	"
19	"	"
20	"	"
21	"	"
22	"	"
23	"	"
24	"	"
25	"	"
26	"	"
27	"	"
28	"	"
29	"	"
30	"	"
31	"	"
32	"	"
33	"	"
34	"	"
35	"	"
36	"	"
37	"	"
38	"	"
39	"	"
40	"	"
41	"	"
42	"	"
43	"	"
44	"	"
45	"	"
46	"	"
47	"	"
48	"	"
49	"	"
50	"	"