

When recorded  
return to:

Kutak Rock  
The Omaha Building  
1650 Farnam Street  
Omaha, NE 68102  
Att: David A. Weill, Esq.

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GEORGE J. DUNN, JR.  
REGISTERED CLERK  
DOUGLAS COUNTY, NE



2001 574 DEED



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DECLARATION

This Declaration is made and executed as of October 26, 1994 by JOSEPH MANDOLFO, NANCY MANDOLFO (together, "Mandolfo") and ADVANCE GROCERY SYSTEMS, INC., a Nebraska corporation ("AGS").

ARTICLE I

RECITALS

*Section 1.1.* AGS and Mandolfo are the owners of the Property (as hereinafter defined).

*Section 1.2.* Declarant, by recording this Declaration, submits the Property to the provisions of the Nebraska Condominium Act, Neb. Rev. Stat. 76-801 et seq. (the "Act").

*Section 1.3.* The covenants, conditions and restrictions contained in this Declaration shall be enforceable equitable servitudes and shall run with the land.

ARTICLE II

DEFINITIONS

The terms used herein shall have the same meanings as set forth in the Act and as follows, unless the context otherwise requires:

"Declaration" means this instrument by which the Property is submitted to the provisions of the Act and its lawful amendments.

"Owners" means the AGS owner of the property depicted as Unit 2 of Exhibit B attached hereto and incorporated herein, and Mandolfo, the owner of the property depicted as Unit 1 on Exhibit B attached hereto and incorporated herein.

"Property" means the land, the buildings, improvements and structures as legally described on Exhibit A attached hereto and incorporated herein together with all easements, servitudes, rights and appurtenances belonging thereto, and all chattels intended for use in

connection therewith, which have been or are intended to be submitted to the provisions of the Act.

"Unit" means a divided portion of the Property together with the undivided interest in the Common Elements (as hereinafter defined) appertaining to that Unit.

### **ARTICLE III**

#### **DESCRIPTION OF THE CONDOMINIUM**

*Section 3.1.* This Declaration hereby creates the Mandolfo Condominiums. The Mandolfo Condominiums will initially consist of one building containing not less than two Units, one of each owned by AGS and Mandolfo, respectively.

*Section 3.2.* Except as provided in § 76-839 of the Act, the Common Elements shall be equally owned by the Owners and shall mean all land and all portions of the Property not contained within any Unit, including, but not by way of limitation, roofs, foundations, pipes, ducts, flues, floors, ceilings, conduits, wires and other utility installations to the outlets, bearing walls and perimeter walls, to the undecorated or unfinished interior surfaces thereof, regardless of location, walkways, gardens, recreational areas and facilities that are now or hereafter contained within the Property.

### **ARTICLE IV**

#### **UNIT NUMBER AND PERCENTAGES OF UNDIVIDED INTEREST IN COMMON ELEMENTS**

Each Unit shall be assigned a vote that is to be exercised by the Owner thereof. The percentage of undivided interest in the Common Elements appurtenant to any Unit shall not be changed, except with the unanimous consent of all of the Owners of all of the condominiums expressed in an amendment to this Declaration duly executed by all such Owners and recorded.

### **ARTICLE V**

#### **PURPOSE OF PROPERTY**

The purpose of the Property is to provide residential housing, parking, general office space and recreational facilities for the Owners, their respective families, tenants, guests, employees, agents, licensees, invitees and customers.

## ARTICLE VI

### MAINTENANCE, ALTERATION AND IMPROVEMENT

The maintenance, replacement and repair of the Common Elements shall be the responsibility of the Owners and the cost thereof may be considered a common expense.

## ARTICLE VII

### TERMINATION

*Section 7.1.* If at least 51% of the Owners vote to remove the Property from the provisions of the Act, the Property shall be removed from the provisions of the Act by an instrument duly recorded to that effect, provided that the holders of all liens affecting any of the Units consent or agree, by instruments duly recorded, that their liens be transferred to the percentage of the undivided interest of the other Owners in the Property.

*Section 7.2.* After removal of the Property from the Act, the Owners shall own the Property and all assets of the association as tenants in common and the respective mortgagees and lienors shall be the same as the percentage of undivided interest in the Common Elements appurtenant to the Owners' Units prior to removal from the Act.

*Section 7.3:* This Article VII cannot be amended without consent of all Owners and all record Owners or mortgagees of the Property.

## ARTICLE VIII

### AMENDMENT

The provisions of this Declaration may be amended only by an instrument in writing signed and acknowledged by those Owners who own undivided percentage interests of not less than 51% of the Mandolfo Condominiums, which amendment shall be effective upon recording.

## ARTICLE IX

### SEVERABILITY

The provisions of this Declaration shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any one provision or portion hereof shall not affect the validity or enforceability of any other provision hereof.

## **ARTICLE X**

### **CAPTIONS**

The captions to this Declaration are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope of this Declaration or the intent of any provision hereof.

## **ARTICLE XI**

### **LAW CONTROLLING**

This Declaration, the condominium plat and plans and the Bylaws shall be construed and controlled by and under the laws of the State of Nebraska.

## **ARTICLE XII**

### **EFFECTIVE DATE**

This Declaration shall take effect when recorded.

IN WITNESS WHEREOF, the undersigned has executed this instrument this 26 day of October, 1994.

ADVANCE GROCERY SYSTEMS, INC.

By Joseph Mandolfo  
Joseph Mandolfo, President

Joseph Mandolfo  
Joseph Mandolfo

Nancy Mandolfo  
Nancy Mandolfo

STATE OF NEBRASKA                    ]  
  ] SS.  
COUNTY OF Cass                    ]

The foregoing instrument was acknowledged before me as of October 24, 1994 by Joseph Mandolfo, President of Advance Grocery Systems, Inc., a Nebraska corporation, on behalf of the corporation.



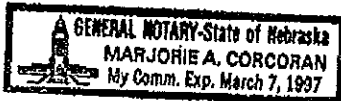
Marjorie A. Corcoran  
Notary Public

My Commission Expires:

NOTARIAL SEAL AFFIXED  
REGISTER OF DEEDS

STATE OF NEBRASKA                    ]  
  ] SS.  
COUNTY OF Cass                    ]

The foregoing instrument was acknowledged before me as of October 24, 1994 by Joseph Mandolfo.



Marjorie A. Corcoran  
Notary Public

My Commission Expires:

NOTARIAL SEAL AFFIXED  
REGISTER OF DEEDS

STATE OF NEBRASKA    ]  
                                  ] SS.  
COUNTY OF *Cass*        ]

The foregoing instrument was acknowledged before me as of October *16* 1994 by Nancy Mandolfo.



*Majorie A. Corcoran*  
\_\_\_\_\_  
Notary Public

My Commission Expires:

\_\_\_\_\_

NOTARIAL SEAL AFFIXED  
REGISTER OF DEEDS

**EXHIBIT A**

**LEGAL DESCRIPTION**

    /   /   /   /   /  
Lots 46, 47, 50, 51, 52 and 53 in Lindon Estates, a Subdivision, as surveyed, platted and recorded in Douglas County, Nebraska.



# EXHIBIT B

