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**CONDOMINIUM DECLARATION
OF
THE COTTAGES AT FOREST PARK**

APRIL 26, 2005



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CONDOMINIUM DECLARATION OF THE COTTAGES AT FOREST PARK

THIS CONDOMINIUM DECLARATION OF THE COTTAGES AT FOREST PARK (hereinafter referred to as the "Declaration") is made as of this 26th day of APRIL, 2005, by The Cottages at Forest Park, LLC, a Colorado limited liability company ("Declarant").

RECITALS:

This Declaration is made with respect to the following facts:

- A. Declarant owns that certain parcel of land located in Boulder County, Colorado, more particularly described on **Exhibit A** attached hereto, and all improvements on and appurtenances to such land, all of which real property is referred to in this Declaration as the "Property."
- B. In accordance with the provisions of the Colorado Common Ownership Interest Act (the "Act"), Declarant desires to create on the Property a condominium project consisting of twenty (20) condominium units designated for separate ownership and common elements designated for ownership in common by the owners of such condominium units.

DECLARATION

NOW, THEREFORE, Declarant declares as follows:

ARTICLE 1 General; Definitions

1.1 Purposes of Declaration. This Declaration is executed (a) in furtherance of a common and general plan for the development of the Condominium Community, as hereinafter defined; (b) to protect and enhance the quality, value, aesthetic, desirability, and attractiveness of the Condominium Community; (c) to provide for an Association as a vehicle to hold, maintain, care for, and manage Association Properties; (d) to define the duties, powers and rights of the Association; (e) to define certain duties, powers, and rights of Owners of Units within the Condominium Community; (f) to define certain duties, powers and rights of Declarant; (g) to comply with and effectuate the terms and provisions of the Act; and (h) to incorporate herein certain provisions which are mandated by one or more of the Agencies.

1.2 Declaration. Declarant for itself, its successors and assigns, hereby declares that the Property, and all property which becomes subject to this Declaration in the manner hereinafter provided from the date the same becomes subject to this Declaration, shall be owned, held, transferred, conveyed, sold, leased, rented, hypothecated, encumbered, used, occupied, maintained, altered, and improved subject to the covenants, conditions, restrictions, limitations, reservations, exceptions, equitable servitudes, easements, and other provisions set forth in this Declaration. The provisions of this Declaration are intended to and shall run with the land and, until their expiration in accordance with the terms hereof, shall bind, be a charge upon and inure to the mutual benefit of: (a) the Property and all property which becomes part of the Condominium Community; (b) Declarant and its successors and assigns; (c) the Association and its successors and assigns; and (d) all Persons having or acquiring any right, title, or interest in the Property or in any property which becomes part of the Condominium Community, or any improvement thereon, and their heirs, personal representatives, successors, or assigns. This Declaration shall be Recorded in every county in which any portion of the Condominium Community is located and shall be indexed in the Grantee's index in the name of Declarant and the Association and in the Grantor's Index in the name of each person or entity executing this Declaration.

1.3 Definitions. The following defined terms will have the meanings indicated when used herein:



"Act" means the Colorado Common Interest Ownership Act, C.R.S. § 38-33.3-101, *et seq.*

"Affiliate" means any Person who controls, is controlled by, or is under common control with the Declarant. A Person controls the Declarant if the Person: is a general partner, officer, director, or employee of the Declarant; directly or indirectly, or acting in concert with one or more other Persons or through one or more subsidiaries, owns, controls, holds with power to vote, or holds proxies representing more than twenty percent (20%) of the voting interests of the Declarant; controls in any manner the election of a majority of the directors of the Declarant; or has contributed more than twenty percent (20%) of the capital of the Declarant. A Person is controlled by the Declarant if the Declarant: is a general partner, officer, director, or employee of the Person; directly or indirectly, or acting in concert with one or more other Persons or through one or more subsidiaries, owns, controls, holds with power to vote, or holds proxies representing more than twenty percent (20%) of the voting interests of the Person; controls in any manner the election of a majority of the directors of the Person; or has contributed more than twenty percent (20%) of the capital of the Person. Control does not exist if the powers described are held solely as a Security Interest and are not exercised.

"Agencies" means and collectively refers to the Federal National Mortgage Association (FNMA), the Government National Mortgage Association (GNMA), the Federal Home Loan Mortgage Corporation (FHLMC), the Department of Housing and Urban Development (HUD/FHA), the Veterans Administration (VA), the Colorado Housing Finance Authority (CHFA).

"Agency-Mandated Control Period" means the earlier of:

(a) one hundred twenty (120) days after the date by which seventy-five percent (75%) of the Condominiums That May Be Created have been conveyed to Condominium purchasers, or

(b) the later of (i) the date which is seven (7) years following the recordation of this Declaration or (ii) the date which is five (5) years following the recordation of the most recently recorded Supplemental Declaration.

"Alteration" has the meaning set forth in Section 8.3 hereof.

"Annexable Buildings" shall mean the Buildings containing the Annexable Units on the Annexable Property as more particularly described on Exhibit E attached hereto including all rights and easements, if any, appurtenant thereto.

"Annexable Property" means the Annexable Buildings and the Annexable Units, including all rights and easements, if any, appurtenant thereto, which may be annexed to and made a part of the Condominium Community as more particularly provided herein.

"Annexable Units" shall mean the Units located in the Annexable Building, including all rights and easements, if any, appurtenant thereto, which may be annexed to and made a part of the Condominium Community as more particularly provided herein.

"Appointed Directors" has the meaning set forth in Section 6.8 hereof.

"Articles" means the Articles of Incorporation of the Association, as the same may from time to time be amended or restated.

"Assessment Lien" has the meaning set forth in Section 7.7(b) hereof.

"Assessments" has the meaning set forth in Section 7.6(a) hereof.

"Association" means The Cottages at Forest Park Homeowners Association, Inc., a Colorado nonprofit corporation, its successors and assigns.

"Association Properties" shall mean all real and personal property: (a) now or hereafter owned by the Association including, but not limited to all Common Elements and improvements constructed or located thereon (including, without limitation, the clubhouse, ponds and walkways); (b) with respect to which the Association holds an easement or license for the use, care, or maintenance thereof; or (c) for which the Association has a right or duty to maintain and which is held for the common use and enjoyment of the Members as provided herein, or for such other purposes as may be permitted by this Declaration.

"Board" means the Board of Directors of the Association, as the same may from time to time be constituted.

"Boundary Relocation" means (a) the combination of two adjoining Units located on the same floor of the Building, or (b) the alteration of the boundaries between two adjoining Units located on the same floor of the Building.

"Building" means each of the eight (8) multiple Unit buildings comprising part of the Condominium Community.

"Bylaws" means the Bylaws of the Association, as the same may from time to time be amended or restated.

"Casualty" has the meaning set forth in Section 10.1 hereof.

"Central Mechanical Equipment" means all plumbing, electrical, and mechanical equipment in any Building that is designed to provide heated and chilled water for use in the heating and air conditioning of the Building, including the Units and the interior General Common Elements. The Central Mechanical Equipment constitutes a part of the General Common Elements.

"Claims" has the meaning set forth in Section 4.8 hereof.

"Common Allocation" means with respect to each Unit, a fraction, the numerator of which is one (1) and the denominator of which is the Total Number of Units in the Condominium Community as of the date of calculation of any Common Allocations. The Common Allocations as of the date of this Declaration for the existing Units have been determined in accordance with such formula and are as set forth on Exhibit B attached hereto. From and after the date of this Declaration, the Common Allocation of each Unit shall be changed immediately upon the occurrence of any event that would cause them to change in accordance with the formula given above. The Board or the Declarant, without the consent or joinder of any Owner or First Mortgagee, shall amend Exhibit B from time to time to reflect any such change to the Common Allocations (but such change shall be effective whether or not Exhibit B is so amended).

"Common Alteration" has the meaning set forth in Section 8.3(b) hereof.

"Common Element Taking" has the meaning set forth in Section 11.2 hereof.

"Common Elements" means all of the Condominium Community except the portions thereof which constitute Units. Certain items specifically enumerated as Common Elements are set forth in Section 2.7 hereof.

"Common Expenses" means, except for those costs and expenses expressly excluded below, all costs, expenses, expenditures, and financial liabilities, including reasonable reserves, whatsoever incurred by the Association pursuant to this Declaration or the other Project Documents including, without limitation, all costs of operating, managing, administering, securing, protecting, insuring, heating, cooling, ventilating, lighting, decorating, cleaning, maintaining, repairing, renewing, replacing or restoring (to the extent not covered by insurance or condemnation proceeds), and providing water, sewer, waste disposal, electricity, natural gas, and other energy and utilities to, the Common Elements (including, without limitation, the Central Mechanical Equipment) and the Association's personal property and equipment located in, or used in connection with the operation or maintenance of, the Common Elements; taxes on any property owned by the Association; and reasonable reserves for Common Expenses. Except to the extent provided in Sections 7.6 and 7.7 hereof, Common Expenses will not include Limited Benefit Expenses, Reimbursable Expenses, the costs of any Restoration Deficit, Voluntary Capital Expenses, or any other cost or expense which, pursuant

to this Declaration, may be separately assessed (i.e., in addition to General Assessments for Common Expenses) against any Condominium(s).

"Common Parking Spaces" means all paved, striped, and unenclosed parking spaces within the Condominium Community, designated as such, and not constituting Limited Common Elements.

"Condominium" means a Unit, together with the undivided interest in the Common Elements and all Easements, rights, licenses, and appurtenances allocated or made appurtenant to such Unit pursuant to this Declaration, including, without limitation, such rights to use such Limited Common Elements as may have been made appurtenant to such Unit by or in accordance with this Declaration, and all other rights and burdens created by this Declaration and imposed thereon.

"Condominium Community" means the common interest community, as defined in ' 38-33.3-103(9) of the Act, created by this Declaration, consisting of the Property as it may be expanded in accordance with Article 14 herein.

"Condominiums That May Be Created" means forty (40) Units which shall be the maximum number of Units that may be subject to this Declaration.

"Control Turnover Date" has the meaning set forth in Section 6.9 hereof.

"County" means the Boulder County, Colorado.

"Declarant" means The Cottages at Forest Park, LLC, a Colorado limited liability company, its successors and assigns.

"Declarant Control Period" means the period beginning on the date the Association is formed and ending on the first to occur of (a) the expiration of the Statutory Control Period or (b) the expiration of the Agency-Mandated Control Period.

"Declarant Ownership Period" means the period beginning on the date this Declaration is Recorded and ending on the date that all of the Units have been conveyed to Owners other than Declarant.

"Declarant Rights" means the Development Rights, Special Declarant Rights and all other rights granted to or reserved by or for the benefit of Declarant as set forth in this Declaration or the Act.

"Declarant Sales Period" means the period beginning on the date this Declaration is Recorded and ending on the first to occur of (i) 60 days after all of the Condominiums That May Be Created have been conveyed to Owners other than Declarant, or (ii) the 10th anniversary of the date on which this Declaration is Recorded.

"Declaration" means this Condominium Declaration of the Cottages at Forest Park, as the same may be amended or supplemented from time to time.

"Delinquency Costs" has the meaning set forth in Section 7.5(c) hereof.

"Development Rights" means the rights reserved to the Declarant as described in Article 14 hereof.

"Development Rights Period" means the period beginning on the date this Declaration is Recorded and ending on the first to occur of (i) 60 days after all of the Condominiums That May Be Created have been conveyed to Owners other than Declarant, or (ii) the 7th anniversary of the date on which this Declaration is Recorded.

"Easements" means all easements which burden or benefit the Condominium Community, or a portion thereof, established or granted under this Declaration.

"Elected Directors" has the meaning set forth in Section 6.8 hereof.



"Eligible First Mortgagee" means a First Mortgagee who has given a notice to the Association that states the name and address of such First Mortgagee and the identifying number of the Condominium encumbered by its First Security Interest and requests notice from the Association of any proposed action by the Association or Owners that requires the approval of a specified percentage of Eligible First Mortgagees.

"Eligible Holder" means a First Mortgagee or any insurer or guarantor of an obligation secured by a First Security Interest who has given a notice to the Association that states the name and address of such First Mortgagee, insurer, or guarantor, and the identifying number of the Condominium encumbered by its First Security Interest and requests notice from the Association of any proposed action by the Association or Owners that requires the approval of a specified percentage of Eligible First Mortgagees or Eligible Holders.

"Fines" means those fines described in Section 7.3 hereof.

"First Mortgagee" means the holder, from time to time, of a First Security Interest on any Condominium or Condominiums as shown by the Records, including a purchaser at a foreclosure sale upon foreclosure of a First Security Interest until expiration of the mortgagor's period of redemption. If there is more than one holder of a First Security Interest, such holders will be treated as, and act as, one First Mortgagee for all purposes under this Declaration and the Bylaws. A First Mortgagee shall also include the holder of executory land sales contracts wherein the Administrator of Veterans Affairs (Veterans Administration) is the Seller, whether such contract is recorded or not, and whether such contract is owned by the said Administrator or has been assigned by the said Administrator and is owned by the Administrator's assignee, or a remote assignee, and the Records in the office of the Clerk and Recorder of the County, show the said Administrator as having the record title to the Condominium Unit. The term "First Mortgagee" specifically excludes any "Primary Mortgagee" as such term is defined below.

"First Security Interest" means a Security Interest that has priority of record over all other recorded liens except those liens made superior by statute (such as general ad valorem tax liens and special assessments).

"Fiscal Year" means the fiscal accounting and reporting period of the Association selected by the Board from time to time.

"General Assessments" has the meaning set forth in Section 7.1 hereof.

"General Common Elements" means all Common Elements which are not Limited Common Elements.

"Insured Permittee" means any Permittee who is required to maintain, who in fact does maintain, or who is listed as an additional insured under, a policy of property insurance covering a Unit, any portion thereof or any personal property located therein.

"Limited Benefit Expenses" has the meaning set forth in Section 7.2(a) hereof.

"Limited Common Elements" means those portions of the Common Elements which are designated, reserved, allocated by or pursuant to this Declaration, or as indicated on the Map, for the exclusive use of one or more Units but fewer than all of the Units. Certain items specifically enumerated as Limited Common Elements are set forth in Section 2.6 hereof.

"Majority of the Eligible First Mortgagees" means Eligible First Mortgagees who represent at least fifty-one percent (51%) of the votes in the Association that are allocated to Condominiums that are encumbered by First Security Interests held by Eligible First Mortgagees; provided, however, that in determining whether a Majority of the Eligible First Mortgagees has approved any written proposal submitted to the Eligible First Mortgagees pursuant to this Declaration, any Eligible First Mortgagee who fails to respond within 30 days after it receives notice of the proposal properly given pursuant to Section 18.3 hereof will be deemed to have approved such proposal.



"Majority of the Owners" means Owners who represent at least fifty-one percent (51%) of the votes in the Association that are allocated to Condominiums owned by Owners.

"Map" means the plat and map of the Property which is Recorded with and made a part of this Declaration, as such plat and map may hereafter be amended or supplemented in accordance with this Declaration (including but not limited to Article 14 hereof).

"Master Association" shall mean The Forest Park of Lafayette Lotowners Association, a Colorado nonprofit corporation.

"Master Declaration" shall mean the Master Declaration of Forest Park of Lafayette Lotowners Association Inc., Recorded December 29, 200 at Reception No. 1887135, as amended from time to time. 1998

"Member" has the meaning assigned in Section 6.3 hereof.

"Notice and Hearing" means a written notice and an opportunity for a hearing before the Board in the manner provided in the Bylaws.

"Owner" means a Person or Persons, including the Declarant, owning a fee simple interest in a Condominium from time to time. Such term (i) includes a contract vendee under an installment land contract, but does not include the vendor under such a contract, and (ii) does not include a Security Holder (unless and until a Security Holder becomes an owner in fee simple of a Condominium).

"Parking Spaces" means Common Parking Spaces and parking spaces designated as Limited Common Elements pursuant to Section 2.10.

"Patio and Porch Area" has the meaning set forth in Section 2.6(a) hereof.

"Permitted Unit Alteration" has the meaning set forth in Section 8.1 hereof.

"Permittee" means a Person, other than an Owner, rightfully present on, or in rightful possession of, a Unit or Common Element, or any portion thereof, including, without limitation, a tenant of an Owner or the Association or an agent, employee, customer, contractor, licensee, guest, or invitee of an Owner or the Association or of a tenant of either.

"Person" means a natural person, a corporation, a partnership, an association, a trust, a trustee, a limited liability company, a joint venture, or any other entity recognized as being capable of owning real property under Colorado law.

"Primary Mortgagee" means Mt. Audubon Associates, LLC, a Colorado limited liability company, which is the beneficiary under that certain Deed of Trust dated 12/24/03, and Recorded in the Records of the County Clerk and Recorder on February 9, 2004, at Reception No. 2556296, and Heritage Bank – Lafayette 95th, a Colorado Banking corporation, which is the beneficiary under that certain Deed of Trust and Security Agreement dated 8/12/04, and Recorded in the Records of the County Clerk and Recorder on August 30, 2004, at Reception No. 2622447. The term "Primary Mortgagee" shall also include all subsequent holders of the note, or any part or interest thereof or therein, which the aforementioned First Deed of Trust and Security Agreement secures. The term "Primary Mortgagee" shall also mean any holder, from time to time, of a First Security Interest on any Condominium or Condominiums or any part of the Condominium Community owned by Declarant with respect to real property annexed to the Condominium Community pursuant to Article 14.

"Project Documents" means this Declaration and the Map Recorded pursuant to the provisions of the Act, the Articles and Bylaws, and the Rules, if any, as they may be amended from time to time. Any exhibit, schedule, or certification accompanying a Project Document is a part of that Document.



"Property" means the real property legally described on Exhibit A attached hereto, including all improvements thereon and appurtenances thereto as may be expanded from time to time in accordance with Article 14 herein.

"Quorum" means a quorum of the Members, which shall be deemed present throughout any meeting of the Members of the Association if Persons entitled to cast twenty percent (20%) of the votes which may be cast for election of the Board are present, in person or by proxy, at the beginning of the meeting.

"Records" means the real property records of the County; "to Record" or "Recording" means to file or filing for recording in the Records; and "of Record" or "Recorded" means recorded in the Records.

"Reimbursable Expenses" has the meaning set forth in Section 7.2(b) hereof.

"Reserve Fund" has the meaning set forth in Section 6.10(a)(2) hereof.

"Restoration Deficit" has the meaning set forth in Section 7.2(c) hereof.

"Rules" means such rules and regulations as the Association from time to time may adopt.

"Security Interest" means an interest in real estate or personal property created by contract or conveyance which secures payment or performance of an obligation. The term includes a lien created by a mortgage, deed of trust, trust deed, security deed, contract for deed, land sales contract, lease intended as security, assignment of lease or rents intended as security, pledge of an ownership interest in an association, and any other consensual lien or title retention contract intended as security for an obligation.

"Security Holder" means any Person who owns, holds, insures or is a governmental guarantor of a Security Interest encumbering a Condominium.

"Special Assessments" has the meaning set forth in Section 7.2 hereof.

"Special Declarant Rights" means the rights reserved by Declarant in Section 2.9 hereof.

"Statutory Control Period" means the period beginning on the date the Association is formed and ending on the first to occur of:

- (i) Sixty (60) days after seventy-five percent (75%) of the Condominiums That May Be Created have been conveyed to Owners other than Declarant;
- (ii) two (2) years after the last (i.e., most recent) conveyance of a Unit by Declarant in the ordinary course of business; or
- (iii) two (2) years after any right to add new Units was last exercised.

A Declarant may voluntarily surrender the right to appoint and remove officers and members of the Board before termination of the Statutory Control Period. In that event, the Declarant may require, for the duration of the Statutory Control Period, that specified actions of the Association or Board, as described in a Recorded instrument executed by the Declarant, be approved by the Declarant before they become effective.

"Supermajority of the Eligible First Mortgagees" means Eligible First Mortgagees who represent at least sixty-seven percent (67%) of the votes in the Association that are allocated to Condominiums that are encumbered by First Security Interests held by Eligible First Mortgagees, based on one vote for each first Security Interest owned; provided, however, that in determining whether a Supermajority of the Eligible First Mortgagees has approved any written proposal submitted to the Eligible First Mortgagees pursuant to this Declaration, any Eligible First Mortgagee who fails to respond within 30 days after it receives notice of the proposal properly given pursuant to Section 18.3 hereof will be deemed to have approved such proposal.



"**Supermajority of the Owners**" means Owners who represent at least sixty-seven percent (67%) of the votes in the Association that are allocated to Condominiums owned by Owners. A "**Supermajority of the Owners other than Declarant**" means Owners who represent at least sixty-seven percent (67%) of the votes in the Association that are allocated to Condominiums owned by Owners other than Declarant.

"**Supplemental Declaration**" means a written instrument, substantially in the form attached hereto as **Exhibit D**, containing covenants, conditions, restrictions, reservations, easements, or equitable servitudes, or any combination thereof, and which is recorded in conjunction with the annexation of any of the Annexable Property to the Condominium Community.

"**Supplemental Map**" shall mean and include any "map," as defined in the Act, which is Recorded by Declarant for the purpose of annexing the real property described thereon to the Condominium Community.

"**Taking**" has the meaning set forth in Section 11.1 hereof.

"**Termination Agreement**" has the meaning set forth in Section 12.1 hereof.

"**Termination Allocation**" has the meaning set forth in Section 12.3 hereof.

"**Transferee**" has the meaning set forth in Section 7.7(c) hereof.

"**Unit**" means a portion of the Condominium Community designated for separate ownership. Each Unit is designated for separate ownership in this Declaration and its boundaries are delineated on the Map and described in this Declaration.

"**Voluntary Capital Expenses**" has the meaning set forth in Section 7.2(d) hereof.

"**Working Capital Fund**" has the meaning set forth in Section 7.3 hereof.

1.4 **Exhibits.** The Exhibits listed below are attached to and incorporated in this Declaration:

Exhibit A	Legal Description of the Property
Exhibit B	Common Allocations - Map
Exhibit C	Form of Certificate of Completion
Exhibit D	Form of Supplemental Declaration
Exhibit E	Annexable Property
Exhibit F	Recording Data for Recorded Easements and Licenses

ARTICLE 2

**Creation of the Condominium Community; Units and Allocations;
Nature and Incidents of the Condominium Community**

2.1 **Creation.** Declarant declares and establishes that the Property will be and is hereby made a common interest community, as defined in ' 38-33.3-103(8) of the Act. In accordance with ' 38-33.3-205(1)(a) of the Act, the common interest community created hereby is declared to be a condominium within the meaning of ' 38-33.3-103(9) of the Act, and is herein referred to as the "Condominium Community."

2.2 **Name.** The name of the Condominium Community is "The Cottages at Forest Park."

2.3 **Division of Property; Number of Condominiums.** Declarant, pursuant to the Act, does initially hereby divide the Property into the Units identified (by number or by name) on **Exhibit B** and depicted on the Map or Supplemental Maps (not exceeding the number of Condominiums That May Be Created) and the Common Elements, and does hereby designate such Units for separate ownership and the Common Elements for common ownership solely by the



Owners. Declarant intends to construct the Condominium Community in phases as more particularly set forth in Article 14 below. The Condominium Community is hereby initially divided into twenty (20) Condominiums, each consisting of a separate fee simple estate in a particular Unit as identified in Exhibit B, and an appurtenant undivided fee simple interest in the General Common Elements and a fee simple interest in the Limited Common Elements appurtenant thereto. The undivided interest in the General Common Elements appurtenant to a particular Condominium shall be determined in accordance with Section 2.8 hereof and as set forth on Exhibit B attached hereto. Each Owner shall own his appurtenant undivided interest in General Common Elements as a tenant in common with all other Owners. The Declarant has reserved the right (but not the obligation) to create additional Condominiums by the expansion of the Condominium Community as set forth in Article 14; provided, that the maximum number of Condominiums within the Condominium Community shall not exceed the Condominiums That May Be Created.

2.4 Designation of Boundaries.

(a) Units

(1) Determination. The vertical and horizontal boundaries of each of the Units are as described below and as graphically depicted on the Map:

(A) The upper boundary of each Unit is the unfinished surface of the bottom of the ceiling slab above such Unit, and the lower boundary of each Unit is the unfinished surface of the top of the floor slab beneath such Unit. Where areas between floor and ceiling are penetrated by openings (i.e., to accommodate a flue or chase), the boundaries will be deemed to be the surface which would result from the horizontal extension of the nearest adjacent interior unfinished surface of the area in which the opening occurs.

(B) The side boundaries of each Unit are the unfinished interior surfaces of such Unit's perimeter walls, windows, and doors as shown on the Map.

(C) All lath, furring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, finished flooring and any other materials constituting any part of the finished surfaces within a Unit are a part of that Unit. All other portions of the floors, ceilings, and exterior walls of the Condominium Community are General Common Elements.

(D) All structural elements of the Condominium Community, including, without limitation, bearing walls, bearing ceiling/floor slabs, bearing columns, foundations, and footings, regardless of whether the same are located wholly or partially within the boundaries of any Unit, are General Common Elements.

(E) Any shafts, chutes, flues, ducts, vents, chases, pipes, wires, bearing walls, bearing columns, conduits, or utility lines:

(i) that are located completely within the designated boundaries of a Unit and exclusively serve a single Unit are a part of such Unit,

(ii) that are located completely within the designated boundaries of a Unit and exclusively serve a Common Element are a part of such Common Element, and

(iii) that are located fully or partially within the designated boundaries of a Unit or Common Element but do not exclusively serve that Unit or Common Element are Limited Common Elements allocated to the Units or Common Elements which they serve.

(F) Subject to paragraphs (C), (D), (E), and (F) directly above, all spaces, interior partitions, and other fixtures and improvements within the boundaries of any Unit are a part of that Unit.



(G) Any shutters, awnings, window boxes, doorsteps, stoops, porches, balconies, decks, patios, and all exterior doors and windows or other fixtures designed to serve a single Unit, but located outside the Unit's boundaries, are Limited Common Elements allocated exclusively to that Unit.

(H) All areas within the Condominium Community, including land and air space, which are not part of a Unit are part of the Common Elements.

(b) Physical Boundaries. The existing physical boundaries of each separate Unit as constructed shall be conclusively presumed to be its boundaries, notwithstanding minor variance between boundaries shown on the Map and the actual existing boundaries.

2.5 Inseparability, Partition, Subdivisions, Connections, and Boundary Changes.

(a) Inseparability. An Owner's undivided interest in the General Common Elements and interest in the Limited Common Elements appurtenant to such Owner's Condominium, and all other Association Properties, shall not be separated from the Unit to which it is appurtenant; and all such interests shall be deemed to be conveyed or encumbered with the Unit even though the interest is not expressly mentioned or described in a deed or other instrument. Any purported conveyance, encumbrance, judicial sale, or other voluntary or involuntary transfer of an undivided interest in the Common Elements or in the Limited Common Elements appurtenant to a Unit, made without the Unit to which that interest is allocated, is void.

(b) No Partition. The Common Elements shall remain undivided, and no Owner or any other person may bring any action for partition or division of the Common Elements or any of the Association Properties. Similarly, no action shall be brought for the physical partition or subdivision of a Condominium or a Unit between or among the Owners thereof; provided, however, an action of partition of a Condominium shall be permitted by a sale and the division of the sale proceeds. This subsection is not intended, however, to prohibit joint or common ownership by two or more Persons of a Condominium.

(c) Subdivisions, Connections, and Boundary Changes. Except as provided in Section 14.5 hereof, no Unit may be subdivided into two or more Units. However, a Boundary Relocation may be made by Declarant pursuant to Section 2.9(b) hereof.

2.6 Limited Common Elements. The Limited Common Elements consist of those designated in the Act, those designated in Section 2.4(a) hereof, those designated by Declarant pursuant to Sections 2.10, 14.5 and 14.7 hereof, and the following:

(a) Patio and Porch Areas. The areas on the Map, if any, entitled as "patio" or "porch" areas are hereafter individually referred to herein as a "Patio or Porch Area". Each Patio or Porch Area constitutes a Limited Common Element which is hereby allocated for the exclusive use of the Owner of, and made appurtenant to, the Unit to which such Patio or Porch Area is adjacent (as shown on the Map) and which contains the same identifying number as contained in the number of the Patio or Porch Area (e.g., Patio or Porch Area P-1 is allocated to the exclusive use of the Owner of, and is appurtenant to, Unit 1).

(b) Electrical Boxes. Any electrical box located on a Building or otherwise in or adjacent to a Building constitutes a Limited Common Element which is hereby allocated for the exclusive use of the Owner(s) of, and made appurtenant to, the Unit(s) served by such electrical box.

(c) Garage Areas. The areas on the Map, if any, entitled as "garage" areas are hereafter individually referred to herein as a "Garage Area". Each Garage Area constitutes a Limited Common Element which is hereby allocated for the exclusive use of the Owner of, and made appurtenant to, the Unit to which such Garage Area is attached or, in the case of Buildings 2, 8 and 9 is designated as appurtenant to such Unit, (as shown on the Map) and which contains the same identifying number as contained in the number of the Garage Area (e.g., Garage Area G.U. 4 is allocated to the exclusive use of the Owner of, and is appurtenant to, Unit 4).



(d) Parking Spaces. Any Parking Spaces designated as Limited Common Elements pursuant to Section 2.10 below.

(e) Other Limited Common Elements. All of the following shall be Limited Common Elements, and as such shall be for the exclusive use of the Owner of the Unit to which they are appurtenant and may be used in connection with such Unit to the exclusion of the use thereof by the other Owners except by invitation:

(1) any entryway, deck, patio or porch area adjoining and directly accessible from only one Unit;

(2) any attic or other area situated above any Unit (extending vertically from the bottom of the floor joists between such attic area and the Unit immediately below to the top of the roof rafters, and extending horizontally to the exterior surface of all windows in their closed position or (except in the case of windows) to the interior surface of the exterior finishing wall);

(3) any air conditioner servicing only one Unit and the base upon which the air conditioner is installed;

(4) any fireplace, flue, or chimney designed to serve a single Unit;

(5) any exterior doors and exterior windows designed to serve a single Unit; and

(6) any other area identified on the Map with the same designation by which other Limited Common Elements are identified.

2.7 General Common Elements. Without limiting the generality of the definition set forth in Section 1.3 hereof, the following shall (by way of example and not of limitation) constitute General Common Elements:

(a) all of the land, landscaping, driveways, sidewalks, walkways, parking areas, and easements which are a part of the Condominium Community, except those constituting Limited Common Elements;

(b) all foundations, columns, girders, beams, and supports of the Buildings;

(c) the exterior wall shingles or other finishing material of the Buildings, the exterior walls of the Buildings, the main or bearing walls and roof supports within the Buildings, the main or bearing subflooring, and the roofs of the Buildings;

(d) all entrances and entryways to or in the Buildings;

(e) the Clubhouse;

(f) all recreational buildings, rooms, and facilities not contained within a Unit;

(g) all installations, rooms (such as utility, service, and maintenance rooms), facilities, fixtures (including but not limited to exterior lighting fixtures), and apparatus for power, light, gas, air conditioning, heat, telephone, television, cable television, water, incineration, or similar utility service or for maintenance and service purposes relating thereto, provided they do not exist solely to serve an individual Unit;

(h) any other element indicated on the Map to be a General Common Element; and

(i) in general, all other parts of the Condominium Community necessary in common use or convenient to its existence, maintenance, and safety.

2.8 Allocations.



(a) Ownership of Common Elements. There is hereby allocated to each Unit, and the Owner thereof will own, a percentage of undivided interest in the Common Elements equal to its Common Allocation.

(b) Liability for Common Expenses. There is hereby allocated to each Condominium, and the Owner thereof will be liable for, its Common Allocation of all Common Expenses. All other costs and expenses of the Association will be allocated among the Condominiums as otherwise provided in this Declaration (such as the allocation of Limited Benefit Expenses set forth in Section 7.2(a) hereof, the allocation of Reimbursable Expenses set forth in Section 7.2(b) hereof, and the allocation of Voluntary Capital Expenses set forth in Section 7.2(d) hereof).

(c) Votes in the Association. In all matters coming before the Association (or Owners), there will be a total number of votes equal to the total number of Units, and there will be one vote allocated to each Unit. Notwithstanding the foregoing, the Association itself will not be entitled to any vote for any Condominium owned by the Association.

(d) Reallocation of Limited Common Elements. Subject to Sections 14.5 and 14.7 below, any Limited Common Element allocated to one or more Units pursuant to this Declaration or the Act may be reallocated between or among Units upon application made by all affected Owners to the Board in compliance with 38-33.3-208(2) of the Act, approval of such application by the Board and by all Security Holders in each affected Condominium, and the Recording of an appropriate amendment to this Declaration by the Association.

2.9 Special Declarant Rights. Declarant hereby reserves the following Special Declarant Rights:

(a) Improvements. During the Declarant Sales Period, Declarant will have the right, but not the obligation, to complete any one or more of the following improvements or alterations: (1) complete the development of property within the boundaries of the Condominium Community, (2) construct or alter improvements on any property owned by Declarant within the Condominium Community, (3) remodel or refurbish any one or more of the General Common Elements of the Condominium Community; (4) remodel or refurbish any Unit (including any Model Unit) owned by Declarant; (5) install security equipment, such as cameras, monitors and video recorders, on or about the General Common Elements; (6) construct or install a sales or management office and/or sales and marketing signs in the General Common Elements; (7) install such natural gas or other utility lines, on the outside of any Building or on the inside of any Building and, with respect to lines inside a Building, running through existing or newly created chases in the Common Elements or in any or all of the Units, as may be necessary to provide utility service sufficient to operate gas-burning fireplaces in some or all of the Units; (8) install gas-burning fireplaces in one or more of the Units owned by Declarant or in the Units of any other Owners who consent to such installation and, in connection therewith, to install such exhaust and make-up air vents on the exterior of the Building as may be necessary to vent exhaust from, and provide make-up air to, such gas-burning fireplaces; (9) restripe or reconfigure the Parking Spaces to conform to those shown on the Map; and (10) make some or all of the improvements to any Building necessary to meet the life-safety requirements for existing residential buildings set forth in the building code for the County or otherwise required by any governmental subdivision having jurisdiction over the Condominium Community. Nothing contained in this Declaration shall limit the right of Declarant or require Declarant to obtain approvals to: (A) excavate, cut, fill or grade any property owned by Declarant or to construct, alter, demolish or replace any improvements on any property owned by Declarant; (B) use any structure on any property owned by Declarant as a construction, model home or real estate sales office in connection with the sale of any property within the boundaries of the Condominium Community; or (C) to require Declarant to seek or obtain the approval of the Board of Directors or of the Association for any such activity or Improvement to Property on any property owned by Declarant. Nothing in this Declaration shall limit or impair the reserved rights of Declarant as elsewhere provided in this Declaration.

(b) Boundary Relocation. During the Declarant Ownership Period, Declarant will have the right from time to time to make Boundary Relocations affecting any Unit(s) then owned by Declarant, without the consent or joinder of the Owners or First Mortgagees; provided, however, that the consent or joinder of the Primary Mortgagee shall be required for any Boundary Relocation. To effect a Boundary Relocation during the Declarant Ownership Period, Declarant will execute, acknowledge and Record an amendment to this Declaration (including the Map) showing the affected Unit(s), its or their new boundaries and dimensions and any changes to its or their identifying number(s) and revising Exhibit B to show any changes in the Common Allocations resulting from the Boundary Relocation. The revised



Common Allocations resulting from any Boundary Relocation made by Declarant will be based on the formula reflected in the definitions of "Common Allocation Interest" as set forth in this Declaration, so that, for example, if Declarant combines two Units located on one floor of the Building into one Unit, the combined Unit will have a Common Allocation equal to the sum of the Common Allocations of the two Units that were so combined and none of the Common Allocations of any of the other Units will be changed.

(c) Marketing. During the Declarant Sales Period, Declarant will have the right to maintain, in such number, size and location as Declarant reasonably determines, sales offices, management offices, parking areas, lighting facilities, and model Unit(s) in any Unit(s) owned by Declarant or in any part of the General Common Elements not necessary for access to any Unit, and to change the locations of and remove the same from time to time. During the Declarant Sales Period, Declarant may maintain signs on the General Common Elements advertising the Condominiums for sale and directing prospective purchasers to such offices or model Unit(s), in such number, size and location as Declarant reasonably determines.

(d) Easements. Declarant will have the right to use the Easements described in Section 3.5 hereof for so long as such Easements remain in effect. In addition, Declarant shall have the right to record additional documents providing for perpetual easements for the benefit of the Annexable Property, including but not limited to easements for access, drainage of storm water, and utilization of utility facilities, regardless of whether or not all of the Annexable Property ultimately becomes subject to this Declaration.

(e) Appoint Board and Officers. Subject to the provisions of Section 6.8 hereof and the Bylaws, during the Declarant Control Period, Declarant will have the right to appoint and remove the members of the Board and the officers of the Association.

(f) Amend Declaration. In addition to those amendments to this Declaration which Declarant is expressly authorized to make pursuant to the provisions of this Declaration, Declarant will have the right during the Declarant Ownership Period to amend this Declaration (including the Map), without the consent or joinder of the Owners or First Mortgagees, in any manner authorized by the Act, provided that no such amendment will have a material adverse effect on the rights or obligations of any Owner or First Mortgagee.

(g) Development Rights. Declarant shall have the right to exercise the Development Rights described herein.

(h) Declarant's Personal Property. The Declarant reserves the right to retain all personal property and equipment used in the sales, management, construction, and maintenance of the Common Elements that has not been represented as property of the Association. The Declarant reserves the right to remove from the Condominium Community (promptly after the sale of the last Condominium) any and all goods and improvements used in development, marketing, and construction, whether or not they have become fixtures.

(i) Interference with Declarant Rights. Neither the Association nor any Owner may take any action or adopt any rule that will interfere with or diminish any Special Declarant Rights without the prior written consent of the Declarant.

2.10 Parking Spaces.

(a) During the Development Rights Period, Declarant shall have the right, from time to time, to (i) designate on the Map or in the Declaration specific Parking Spaces, including any improvements thereon or thereto, as Limited Common Elements for the exclusive use of the Owner(s) of particular Units(s), and (ii), pursuant to and subject to the requirements of §§ 38-33-208 and 209 of the Act and notwithstanding any other provision hereof, amend or supplement the Declaration or the Map in order to designate or redesignate any Parking Spaces as Limited Common Elements as provided in clause (i), without obtaining the consent or joinder of any Owner or First Mortgagee.

(b) The Common Parking Spaces contained within the Condominium Community shall be a part of the General Common Elements; provided, however, that the Board shall maintain control thereof and shall have the



right to assign and reassign, subject to the rights of Declarant contained in Section 2.10(a) above, Common Parking Spaces to Owners within the Condominium Community. The Common Parking Spaces are not appurtenant to a Unit purchased.

(c) The provisions of Section 13.1 hereof notwithstanding but subject to Section 2.10(a), the Board may amend this Section from time to time to better serve the parking needs of the Condominium Community without the consent or joinder of the Owners or First Mortgagees; provided, however, that the consent or joinder of the Primary Mortgagee shall be required for any amendment to this Section.

2.11 Separate Taxation.

(a) Each Condominium shall be deemed to be a separate parcel of real estate and shall be subject to separate assessment and taxation as to all taxes, assessments, and other charges of the State of Colorado, any political subdivision thereof, any special district, and improvement district, or any other taxing or assessing authority (including ad valorem levies and special assessments); and each Condominium shall be carried on the tax records as a separate and distinct parcel. Neither the Buildings, the Condominium Community, nor any of the Common Elements shall be deemed to be a parcel. The lien for taxes assessed to any Condominium shall be confined to that Condominium. No forfeiture or sale of any Condominium for delinquent taxes, assessments, or other governmental charges shall divest or in any way affect the title to any other Condominium.

(b) For the purpose of valuation for assessment, the valuation of the General Common Elements shall be apportioned among the Condominiums in proportion to each Condominium's Common Allocation.

(c) Upon Recording this Declaration, Declarant will deliver a copy hereof to the assessor of the County in accordance with ' 38-33-105(2) of the Act.

2.12 Condominium Map.

(a) In addition to the requirements set forth in ' 38-33.3-209 of the Act, the Map shall also depict the following, to wit:

- (1) The legal description of the surface of the Condominium Community;
- (2) The linear measurements and location, with reference to the exterior boundaries of the Condominium Community, of the Buildings, and all improvements built within the Condominium Community;
- (3) The floor plans and elevation plans of the Buildings within the Condominium Community, showing the location, the designation, linear dimensions, and identification number of each Unit; parking spaces; and the designation of all of the General Common Elements and Limited Common Elements; and
- (4) The elevations of the unfinished interior surfaces of the floors and ceilings of the Units.

(b) Declarant hereby reserves unto the Board the right, from time to time, without consent or joinder of any Owner or First Mortgagee being required, to amend the Map to (a) insure that the language and all particulars used on the Map and contained in the Declaration are identical, (b) establish, vacate, and relocate access easements, garage spaces, and parking spaces, all outside utility easements, (c) establish certain Common Elements as Limited Common Elements, and (d) satisfy any requirements of the Act. The Board shall have the further right, without first obtaining the approval of any Owner or First Mortgagee, to record amendments or supplements to the Map to reflect any additions to and any alterations, relocations, or removal of any improvements located upon the Property, otherwise approved hereunder.

(c) The Map and any supplements thereto is hereby incorporated herein by reference as if set forth in its entirety.

2.13 Mechanics' Liens. No labor performed or materials furnished for use in connection with any Condominium with the consent or at the request of the Owner thereof or his agent, contractor, or subcontractor shall create any right to file a statement of mechanic's lien against the Condominium of any other Owner not expressly consenting to or requesting the same or against any interest in the Common Elements except the undivided interest therein appurtenant to the Condominium of the Owner for whom such labor shall have been performed or such materials shall have been furnished. Each Owner shall indemnify and hold harmless each of the other Owners from and against liability or loss arising from the claim of any lien against the Condominium of the Owner, or any part thereof, for labor performed or for materials furnished in work on such Owner's Condominium. At the written request of any Owner, the Association shall enforce such indemnity by collecting from the Owner of the Condominium on which the labor was performed or materials furnished the amount necessary to discharge any such lien, and all costs incidental thereto, including attorneys' fees. If not promptly paid, the Association may collect the same in the manner provided herein for collection of Assessments.

2.14 Relationship to Master Association. This Declaration shall, to the extent possible, be interpreted in an manner consistent with the Master Declaration. In the event of a conflict between the Master Declaration or any of the other documents governing the operation of the Master Association and the Articles, Bylaws, Rules and this Declaration, the Master Declaration and the other documents governing the operation of the Master Association shall control. Each Member of the Association shall also be a Member of the Master Association; provided, however, the Association shall have one (1) vote in the Association and the Board shall have the right to exercise such vote on behalf of the Members.

ARTICLE 3 Easements

3.1 General Common Elements. Subject to the provisions of this Declaration, including, without limitation, Section 3.14 hereof, every Owner of a Condominium will have, for itself and its Permittees, a nonexclusive Easement to use each of the General Common Elements for its intended purpose, which shall be appurtenant to and shall pass with the title of the Condominium to such Owner. Without limiting the generality of the foregoing, each Owner will have the following nonexclusive Easements:

(a) Pedestrian Access. Nonexclusive Easements over and across all stairs, elevators, hallways, lobbies, walkways and other pedestrian access-ways designated as General Common Elements on the Map for the purpose of gaining pedestrian access between such Owner's Unit and (i) the public streets and sidewalks adjoining the Property; (ii) all common facilities identified on the Map or otherwise designated herein as General Common Elements.

(b) Vehicular Access. Nonexclusive easements over and across the driveways on the Property that provide access to each Building for the purpose gaining vehicular access between the public streets adjoining the Property and any Building, and non-exclusive easements over and across any driveways contained within any parking areas within a Building, which shall be deemed General Common Elements.

3.2 Owner's Rights in Condominium Units. Subject to the other provisions of this Declaration, each Owner of a Condominium shall have full and complete dominion and ownership of the Unit which is part of the Condominium owned by such Owner, together with the exclusive right to use and enjoy the same.

3.3 Limited Common Elements. To the extent that in accordance with this Declaration any Unit is granted the exclusive use of a particular Limited Common Element (such as, for example, a specified Balcony Area), such Unit will have, and is hereby granted, an Easement for the exclusive use and enjoyment of such allocated Limited Common Element, which shall be appurtenant to and shall pass with the title of the Unit to such Owner. In those cases where a Limited Common Element is appurtenant to more than one Unit pursuant to this Declaration, the Owners of the Units to which such Limited Common Element is appurtenant will have, and are hereby granted, a nonexclusive Easement for the use and enjoyment of such Limited Common Element. Notwithstanding any provision of this Declaration to the contrary, whenever an Owner is granted an Easement to use any Limited Common Element under, or in accordance with, the terms of this Declaration, and regardless of whether such Easement is deemed exclusive or nonexclusive or whether it concerns a Balcony Area, or another Limited Common Element, the right of such Owner and its Permittees to use such Limited Common Element will be subject to the Easements described in Sections 3.4 through 3.10 below.



3.4 Easements Benefitting Association.

(a) The Association, acting through the Board, shall have and is hereby granted a non-exclusive right and easement:

(1) over and across the Common Elements, and over and across such other portions of the Condominium Community as may be necessary or convenient to gain access to the Common Elements, as may be necessary or convenient in order for the Association to exercise its rights and perform its obligations under this Declaration, including, without limitation, its rights and obligations to enforce this Declaration and the other Project Documents and to operate, manage, and control the Common Elements, and

(2) to make such use of General Common Elements, Limited Common Elements, and Units, as may be necessary or appropriate for the performance of the duties and functions which the Association is obligated or permitted to perform under this Declaration.

(b) Some of the Common Elements are or may be located within a Condominium Unit. All Owners shall permit a right of entry to the Board or any other person authorized by the Board, whether the Owner is present or not, for access through each Condominium Unit to all Common Elements, from time to time, as may be necessary for the routine maintenance, repair, or replacement for any of the Common Elements located thereon or accessible therefrom or for making emergency repairs necessary to prevent damage to the Common Elements or to another Condominium Unit.

(c) For routine maintenance and non-emergency repairs, entry shall be made only on a regular business day during regular business hours, after service of at least one day's notice in writing to the Owner. In case of emergency, entry shall be made at any time provided that a reasonable effort according to the circumstances is made to give notice of entry.

(d) The Board and its agents are granted the authority to use such reasonable force as is necessary to gain entry into any Unit in the event of an emergency, if no other means of entry are available in view of the circumstances. The Association shall bear the full responsibility and expense of any physical damages inflicted on the Unit and Common Elements because of such forcible entry.

(e) All damage to the interior or any part of a Condominium Unit resulting from the maintenance, repair, emergency repair, or replacement of any of the Common Elements, at the instance of the Association, shall be paid for as part of the General Assessment by all of the Owners. No diminution or abatement for General Assessments shall be claimed or allowed for inconveniences or discomfort arising from the making of repairs or improvements or from action taken to comply with any law, ordinance or order of any governmental authority. Restoration of the damaged improvements shall be substantially the same as the condition in which they existed prior to damage.

(f) Notwithstanding the foregoing, but subject to Section 9.4 hereof, if any damage to the Condominium Community is the result of the carelessness or negligence of any Owner or his Permittee(s), then such Owner shall be solely responsible for the costs of such repairing such damage. In the event the Owner fails within a reasonable time upon proper notice to pay the cost of the damages incurred, the Board may pay for said damages and charge the Owner responsible as an Reimbursable Expense in accordance with Section 7.2(b) hereof.

3.5 Easements Benefitting Declarant.

(a) Declarant hereby reserves such perpetual and nonexclusive Easements in, over, across, and under the Condominium Community as may be reasonably necessary for the purposes of:

(1) the construction of any improvements or alterations described in Section 2.9(a) or (c) hereof;



(2) the construction of any improvements on the Annexable Property (which Easement shall include, without limiting the generality of the foregoing, (A) an easement for ingress and egress over and across the Condominium Community for pedestrian and motor vehicle traffic to and from the Annexable Property in order to gain access to public streets, sidewalks, thoroughfares, and rights of way, (B) a construction easement over, under, and across the Condominium Community, for the purpose of allowing Declarant to perform surveying, grading, and other construction activities in the Condominium Community in connection with the development of the Annexable Property, and for the purpose of allowing construction personnel and vehicles to enter upon and pass over the Condominium Community when necessary or convenient in connection with the development of the Annexable Property, and (C) a drainage easement over and across the Condominium Community for the purpose of facilitating storm and flood water drainage from the Annexable Property over and across the Condominium Community into existing drainage, detention, and retention facilities, including but not limited to such facilities as may from time to time exist in the Condominium Community);

(3) the construction and installation of any shafts, chutes, flues, ducts, vents, chases, pipes, wires, conduits or utility lines necessary to serve any such improvements or alterations;

(4) the storage of construction materials relating thereto;

(5) the showing of Units and Common Elements to prospective purchasers;

(6) the displaying of signs; and

(7) discharging the Declarant's obligations or exercising Declarant Rights, whether arising under the Act or reserved in this Declaration,

which Easements will exist as long as reasonably necessary for such purposes.

(b) Without limiting the generality of the foregoing, (i) if Declarant elects to install natural gas or other utility lines to provide utility service sufficient to operate gas-burning fireplaces in some or all of the Units, Declarant will have Easements to install such natural gas or other utility lines and chases housing the same on, over, across, under, and through the interior or exterior Common Elements and the Units, including, without limitation, an Easement to enter each Unit to install a natural gas line serving such Unit or Units above or beneath such Unit and/or a chase to house such natural gas line; and (ii) if Declarant elects to install gas-burning fireplaces in one or more of the Units, Declarant will have Easements to install such exhaust and make-up air vents through and on the exterior walls of the Building as may be necessary to provide make-up air to, and to vent exhaust from, gas-burning fireplaces within such Units.

3.6 Easements for Encroachments. In the event that, as a result of the construction, reconstruction, shifting, settlement, restoration, rehabilitation, alteration or improvement of the Condominium Community or any portion thereof, any Common Element now or hereafter encroaches upon any part of any Unit, or any part of any Unit now or hereafter encroaches upon any Common Element or upon any part of another Unit, Declarant hereby establishes and grants an Easement for the continued existence and maintenance of such encroachment which will continue for so long as such encroachment exists and which will burden the Unit or Common Element encroached upon and benefit the encroaching Unit or Common Element. In no event, however, will an Easement for any such encroachment be deemed established or granted if such encroachment is materially detrimental to or interferes with the reasonable use and enjoyment of the Common Element(s) or Unit(s) burdened by such encroachment.

3.7 Easements to Repair, Maintain, Restore, and Reconstruct. With respect to any provisions of this Declaration or the Act that authorize or require any Person, including the Association, to repair, maintain, restore or reconstruct all or any part of any Unit or Common Element, Declarant hereby establishes and grants such Easements as may be necessary for such Person to gain access to the portions of the Condominium Community requiring such repair, maintenance, restoration or reconstruction (and to such other portions of the Condominium Community as may be reasonably necessary or convenient to effectively perform such work), with persons, materials and equipment to the extent and for the periods reasonably necessary to enable the authorized or required Person to perform such authorized or



required repair, maintenance, restoration, or reconstruction. The Easements created under this Section will burden those portions of the Condominium Community through which they run and will benefit the Persons authorized or required to perform, and those portions of the Condominium Community requiring, such repair, maintenance, restoration, or reconstruction.

3.8 Easements for Mechanical Equipment, Support, and Utilities.

(a) Each Unit and Common Element will be benefitted by a nonexclusive Easement hereby established and granted by Declarant for the use of all shafts, chutes, flues, ducts, vents, chases, pipes, wires, conduits and utility lines (including, without limitation, any of the same constructed or installed by Declarant pursuant to the Easements reserved in Section 3.5 hereof) serving such Unit or Common Element that run through any other Unit(s) or Common Element(s) and such other Unit(s) or Common Element(s) will be burdened by such Easement.

(b) Each Unit will be benefitted by a nonexclusive Easement hereby established and granted by Declarant in, over, across, and under the General Common Elements within the Condominium Community, including the General Common Elements within the Unit of another Owner, for horizontal and lateral support of the Unit which is part of his Unit; and for utility service to the Unit, including water, sewer, gas, electricity, telephone and television service.

3.9 Emergency Easements. A nonexclusive easement for ingress and egress is hereby granted to all police, sheriff, fire protection, ambulance, and other similar life safety and emergency agencies or persons, now or hereafter servicing the Condominium Community, to enter upon all driveways located in the Condominium Community, in the performance of their duties.

3.10 Utility Easements. The Board, in its sole discretion, may from time to time grant permits, licenses, and easements in, over, across, and under the General Common Elements to any person or entity, public or private, for roads, water, sewer, gas, electricity, telephone, television, cable television, other utilities, and other purposes reasonably necessary or useful for the proper maintenance or operation of the Condominium Community. The granting of such permits, licenses, and easements shall not be deemed a conveyance or encumbrance subject to 38-33.3-312 of the Act.

3.11 Easements Deemed Appurtenant. The Easements herein created for an Owner shall be perpetual and appurtenant to the Condominium owned by such Owner. All conveyances or any other instruments affecting title to a Condominium shall be deemed to grant and reserve the Easements as provided for herein, as though set forth in said document in full, even though no specific reference to such easements, uses, or rights appear in such conveyance.

3.12 Delegation of Use. Any Owner may delegate his right of enjoyment to the General Common Elements to the members of his family, his Permittees, his tenants, or contract purchasers who reside in his Unit. All uses of the General Common Elements by such persons shall be subject to the provisions of this Declaration at all times.

3.13 Easements Run with Land. Except for the Easements described in Section 3.5 hereof, all Easements established and granted pursuant to this Article are appurtenant to and run with the Property and will be perpetually in full force and effect so long as the Condominium Community exists and will inure to the benefit of and be binding upon Declarant, the Association, Owners, Permittees, Security Holders and any other Persons having any interest in the Condominium Community or any part thereof. The Condominiums will be conveyed and encumbered subject to all Easements set forth in this Article 3, whether or not specifically mentioned in such conveyance or encumbrance.

3.14 Regulation by Association. All Easements established and granted pursuant to this Article 3 other than those reserved pursuant to Section 3.5 will be subject to such reasonable Rules as may be promulgated by the Association concerning the use and enjoyment thereof. Such Rules will be promulgated in accordance with Section 4.7 hereof and may regulate matters such as the permitted number, time and manner of uses of such Easements.

3.15 Recording Data Regarding Easements. The recording data for recorded easements, licenses and other matters appurtenant thereto, or included in the Condominium Community or to which any portion of the Condominium Community is or may become subject to are identified on Exhibit F attached hereto.

ARTICLE 4
Covenants, Conditions, and Restrictions

4.1 Administration. The Condominium Community will be administered in accordance with the provisions of the Act, this Declaration, and the Bylaws. All Common Elements will be subject to the reasonable supervision, operation, management, and control of the Association.

4.2 Compliance.

(a) Each Owner, Permittee, and Security Holder and all parties claiming under them will take and hold their right, title and interest in any Condominium subject to all of the covenants and conditions of the Act, this Declaration and the Bylaws. Each Owner, Permittee, and Security Holder will comply with (and each Owner, by the acceptance of his deed or other instrument of conveyance or assignment, and such Owner's Permittees occupying the Unit agree to comply with) all applicable provisions of the Act, this Declaration, and the other Project Documents, as the same may be amended from time to time.

(b) Each Owner and his Permittees may use the Common Elements in accordance with the purpose for which they are intended, without hindering or encroaching upon the lawful rights of the other Owners. Nothing shall be altered, constructed on, or removed from the General Common Elements except upon the prior written consent of the Board.

(c) The provisions of this Article 4 shall not apply to Declarant in its construction of Units, development and marketing of the Condominium Community or exercise of its Declarant Rights.

4.3 Permitted Uses. The Condominium Community is intended for residential use by individuals of the age of fifty-five (55) or older and, accordingly, each Unit will (subject to Section 4.5(a) hereof) be occupied and used only for residential purposes and uses incidental thereto by individuals of the age fifty-five (55) and older. Provided, however, that: (a) during the Declarant Sales Period, Declarant will be entitled to use one or more Units for sales or management offices or for model Units; and (b) the Association may use any Unit owned by it for any lawful purpose relating to the performance of its obligations under this Declaration or otherwise benefitting the Owners.

4.4 Parking and Vehicles. The Parking Spaces may be used solely for the parking of motor vehicles and other uses incidental thereto or consistent therewith; provided, however, that unless otherwise approved by the Board:

(a) No Parking Space may be used in such a manner that would preclude its use for the accommodation of a motor vehicle.

(b) No Parking Space shall be used for the primary purpose of storage of any property other than motor vehicles or the vehicles described in subsection (c) directly below;

(c) Except in emergencies or as a temporary expedient, none of the following may be kept or parked within the Condominium Community:

(1) commercial vans or other commercial vehicles of any type;

(2) any vehicle larger than one ton; and

(3) boats, off-road motorcycles, campers, camper shells, trailers of any kind, motor homes, or other similar recreational vehicles of any type.

This subparagraph applies to vehicles referred to above even if they are licensed by the State of Colorado or any other jurisdiction as "passenger vehicles."



Notwithstanding anything in this subparagraph to the contrary, the Declarant and/or the Association shall be permitted to utilize a reasonable number of parking spaces for the purpose of storing equipment utilized in the maintenance of the Common Elements.

(d) No abandoned, unlicensed, wrecked, or inoperable vehicles of any kind shall be stored or parked within the Condominium Community except in emergencies. Any "abandoned or inoperable vehicle" shall be defined as any of the vehicles listed in this Section or any other kind of passenger vehicle whatsoever which has not been driven under its own propulsion for a period of one week or longer, or which does not have installed within it an operable propulsion system; provided however, that any vehicle belonging to any Owner which is otherwise permitted will not be deemed to be abandoned while the Owner is hospitalized or out of town. The Board shall have the right to remove and store a vehicle kept in violation of this Section after Notice and Hearing, the expenses of which shall be levied against the Owner of the vehicle as a Reimbursable Expense in accordance with Section 7.2(b) hereof. No vehicle maintenance is allowed within the Condominium Community.

(e) No emergency or temporary parking or storage shall continue for more than seventy-two hours.

(f) The provisions of Section 13.1 notwithstanding, the Board may amend this Section from time to time to better serve the needs of the Condominium Community without the consent or joinder of the Owners or First Mortgagees; provided, however, that the consent or joinder of the Primary Mortgagee shall be required for any amendment to this Section.

4.5 Chip and Putt Golf Area. The Condominium Community contains two (2) chip and putt golf holes (the "Golf Area"). Accordingly, the Owners shall by virtue of ownership thereof be deemed to recognize, assume and waive any claim for loss or damage of any kind, direct or indirect, actual or consequential, arising from the risks of purchasing a Unit within the Condominium Community due to the Golf Area. Such risks include, without limitation, injury to persons and property arising out of, or resulting from, the design, construction, operation, maintenance or use of the Golf Area, noise associated with the Golf Area, golf balls, acts or omissions of persons using or otherwise on the Golf Area, including, without limitation, non-potable water over the Property and without limitation the following: (a) flight of golf balls over, across, and upon the Property; and (b) doing of every act necessary and incident to the playing of golf and other recreational activities on the Golf Area. As a result of its acquisition of a Unit, the Owner for itself and its Permittees shall be deemed to have agreed to be barred from instituting any action or suit at law or in equity against the Declarant, the Association, their respective officers, directors, partners, shareholders, members, employees, agents, servants, and all of their respective successors and assigns, or any of them, and from instituting or prosecuting any claim, demand, or action against such parties for or on account of any damage, loss, or injury to either person, property, or both, resulting directly or indirectly, from the design, construction, operation, maintenance, or use of the Golf Area, including, without limitation, acts of golfers or guests resulting from any risk of loss described above. All Owners and Permittees using the Golf Area shall be required to use only golf balls approved by the Association and acknowledge and agree that any damage to any part of the Condominium Community resulting from such Owner's and/or Permittee's use of the Golf Area shall be the sole responsibility of the Owner and/or Permittee.

4.6 Landscaping and Rocks. The Condominium Community contains landscaping of various grades and materials (including, without limitation, rocks of various sizes and sprinklers). Accordingly, the Owners shall by virtue of ownership thereof be deemed to recognize, assume and waive any claim for loss or damage of any kind, direct or indirect, actual or consequential, arising from the risks of purchasing a Unit within the Condominium Community due to the such landscaping. As a result of its acquisition of a Unit, the Owner for itself and its Permittees shall be deemed to have agreed to be barred from instituting any action or suit at law or in equity against the Declarant, the Association, their respective officers, directors, partners, shareholders, members, employees, agents, servants, and all of their respective successors and assigns, or any of them, and from instituting or prosecuting any claim, demand, or action against such parties for or on account of any damage, loss, or injury to either person, property, or both, resulting directly or indirectly, from the design, construction, operation, maintenance, or use of such landscaping.

4.7 Prohibited Uses. Uses other than permitted uses will be absolutely prohibited unless the Board is expressly empowered to, and does, approve a particular prohibited use. Where the Board is empowered to approve a



particular use or action, the Board may impose such reasonable conditions upon such use or action as it may deem necessary to protect the integrity of the Condominium Community and the rights of other Owners. The prohibited uses include, without limitation, the following specific prohibited uses:

(a) Commercial Purposes. No Condominium will be used for commercial purposes. A Condominium will not be deemed used for commercial purposes if the Owner thereof uses it for an office, provided such use: (i) is incidental to the use of such Condominium for residential purposes; (ii) does not materially increase the use of the General Common Elements; (iii) is not advertised or otherwise identified within the Condominium Community by signage or other media; and (iv) does not violate any applicable zoning laws. Notwithstanding anything to the contrary stated herein, uses described as "day care" or "child care" facilities (licensed or unlicensed) are expressly prohibited.

(b) Time-Share/Transient Use. No Condominium will be used for the creation of any time share estate as presently defined in C.R.S. * 38-33-110. No Condominium will be used for transient or hotel purposes, which will mean (i) any rental of a Unit for any period of less than seven days; or (ii) any rental if the rental Permittee of the Condominium is provided customary hotel services, such as room service for food or beverages, maid services or the furnishing of laundry or linen services.

(c) Insurance Risks. No Condominium will be used for any use which would constitute an unusual fire hazard, would result in jeopardizing any insurance maintained on any part of the Condominium Community or would result in any increase in the premium therefor; provided, however, that the Board may approve such use if adequate safeguards are undertaken at the Owner's expense and any increase in insurance premiums is allocated to, and paid by, such Owner pursuant to Section 7.2(b)(1) hereof.

(d) Overloading. No Condominium will be used for any use beyond the maximum loads the floors of the Condominium Community are designed to carry, unless adequate additional strengthening is undertaken at the sole expense of the Owner and is otherwise performed in accordance with this Condominium Declaration. Further, no Condominium will be used for any use which would place any extraordinary burden on any Common Element, unless the consent of the Board is obtained.

(e) Nuisance. No Condominium will be used for (i) any noxious or offensive activity or any use which would constitute a public or private nuisance or which may be or become an annoyance or nuisance to the Condominium Community or detract from its value as an attractive residential community; (ii) any use which consists of the manufacture of any product; or (iii) any use, including, without limitation, the use of any equipment or machine, which would cause undue odor, noise, vibration, or glare. No activity shall be conducted on any part of the Condominium Community which is or might be unsafe or hazardous to any person. No sound shall be emitted from any Unit or any vehicle or otherwise on any part of the Condominium Community which is unreasonably loud or annoying.

(f) Un sightliness. No activity shall be conducted on any part of the Condominium Community which is or might be unsafe, unsightly, unhealthy, or hazardous to any person. Without limiting the generality of the foregoing, nothing shall be kept or stored on or in the Common Elements, including areas which are Limited Common Elements, and nothing shall be placed on or in windows or doors of Units, which would or might create unsightly appearance. Decks, patios, and balconies shall not be used for storage. No laundry may be hung from any Balcony Area.

(g) Violation of Law. No portion of the Condominium Community will be used for any use which constitutes a violation of any law, statute, ordinance, rule, regulation, or order of any governmental authority having jurisdiction over the Condominium Community, including, without limitation, any of the same that regulate or concern hazardous or toxic waste, substances, or materials.

4.8 Restrictions on Use. The occupation and use of the Condominium Community by each Owner, the Association, and their respective Permittees, will be subject to the following restrictions:

(a) Exterior Appearance. (1) In order to maintain the architectural aesthetics of the Condominium Community, all exterior walls and roofing materials of the Buildings shall be predominantly muted earth tone colors and architectural standards and treatments shall be consistently applied to all Buildings. (2) No Owner may make any



alteration, repair, decoration, or improvement to the exterior of such Owner's Unit or Limited Common Elements that would change the exterior appearance of the Building, including, without limitation, any full or partial enclosure or covering of any Balcony Area, or construct or place any structure or landscaping on a Balcony Area which extends above the exterior railing or wall of such Balcony Area. Nothing in this subsection will be deemed to prohibit Declarant from making any improvement or alteration permitted under Section 2.9(a) hereof.

(b) Pets. No dogs, cats, animals, livestock, insects, rodents, poultry, reptiles, birds, or other animals or pets of any kind or description (collectively, "animal") shall be raised, bred, kept, or boarded in or on any portion of the Condominium Community, subject to the following:

(1) Any Owner may keep and maintain in his Unit an aggregate of not more than one (1) domesticated cat (so long as such cat is solely restricted to the inside of a Unit at all times). In addition, any Owner may keep and maintain in his Unit any animal which is securely confined in a cage (limited to not more than two (2) birds in the aggregate), tank, or aquarium at all times.

(2) The foregoing prohibition on the keeping of dogs shall not apply to so-called "seeing-eye" dogs.

(3) Dogs, cats, or other animals shall not in any event be allowed to run at large within the Condominium Community, but shall at all times be under the leash of such animal's Owner, and such animal shall not be allowed to litter the Common Elements. In the event such animal does litter the Common Elements, the Owner responsible for such animal shall immediately dispose of such litter. Additionally, no animal shall be permitted to disturb any other Owners within the Condominium Community. The Association shall establish rules and regulations with respect to pets, and shall be permitted to take any action necessary, including removal of a pet from the Condominium Community, in response to complaints from other Owners.

(4) In no event may any animal or any fish or amphibian be kept, bred, or maintained in the Condominium Community for any commercial purpose.

(5) The keeping of animals will be subject to such Rules as the Board may adopt from time to time.

(6) Reimbursement for damages caused by any animal (whether or not such animal is permitted to be within the Condominium Community) incurred by the Association, to include attorneys' fees and costs, and in the removal of such animal from the Condominium Community or incurred by the Association in cleanup after such dogs, may be levied after Notice and Hearing against such animal's Owner as a Reimbursable Expense in accordance with Section 7.2(b)(2) hereof.

(c) Leases. Subject to Section 4.5(b) hereof, Owners will have the right to lease their Units provided that the lease:

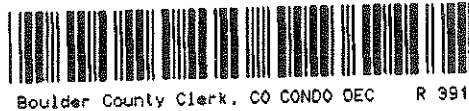
(1) is of the entire Unit (except in cases where the Owner actually resides in his Unit and leases to a roommate, where the lease need not be of the entire Unit);

(2) is in writing;

(3) is expressly made subject to the Project Documents, and expressly states that any breach of the Project Documents by the tenant will also be a breach of the lease;

(4) is for an initial term of not less than one (1) month; and

(5) is, in the case of a two bedroom Unit, to a family of blood relatives or no more than two unrelated people.



As to each lease, the Owner will, within a reasonable time after execution of such lease, provide the Board with: (i) a copy of the fully executed lease; (ii) the current address and telephone number of the Owner; and (iii) a statement by the Owner that the tenant has received a copy of this Declaration, any material amendments to this Declaration, and the other current Project Documents, and that such tenant has been advised that he will have obligations thereunder as a Permittee.

(d) Signs. No signs will be displayed to the public view on or from any Unit or the Common Elements without the prior written approval of the Board, except (i) signs approved by the Board of a reasonable size (and at locations approved by the Board), providing direction, prohibiting trespass, or identifying the Condominium Community, the Owners or their tenants; and (ii) signs maintained and used by Declarant in connection with its initial and ongoing rental or sales activities.

(e) Refuse Removal. All rubbish, garbage, and debris will be regularly removed from the Condominium Community and will not be allowed to accumulate thereon. All trash, garbage, and other debris generated on the Condominium Community and awaiting removal therefrom will be kept only in sanitary containers in accordance with the Rules of the Association.

(f) Obstruction of Common Elements. Nothing will be stored in or on the Common Elements, except in designated storage areas, without the prior written consent of the Board; provided, however, that Declarant will be entitled to store construction materials used in connection with the construction activities more particularly described in Section 2.9(a) hereof in or on the Common Elements. Further, nothing will obstruct or otherwise impair access to the Common Elements.

(g) Antennas. As the exteriors and roofs of the Units are Common Elements, no exterior television or radio antennas, masts, or satellite dishes of any sort shall be placed, allowed, or maintained upon the Condominium Community without prior written approval of the Board. Any application for the installation of a satellite dish or television antenna of the type described in this paragraph shall be acted on as expeditiously as feasible by the Board and in any event within thirty (30) days. If it is now or hereafter lawful to prohibit satellite dishes or television antennas or to place more restrictive provisions governing their installation or use, the Board shall have the right to prohibit the installation of satellite dishes and/or television antennas or to impose more restrictive provisions on their installation and use to the extent permitted by law. All costs associated with the installation and maintenance of satellite dishes and television antennas shall be the responsibility of the Owner.

4.9 Rules. In addition to the foregoing covenants, conditions, and restrictions concerning the use and appearance of the Condominium Community and the Condominiums, reasonable Rules not in conflict with the Act, this Declaration or the Bylaws may be promulgated and amended from time to time by the Board, governing the use and appearance of the Condominium Community. In no event will any Rules materially increase the obligations imposed or materially impair the rights granted by this Declaration or the Bylaws, as the same may be duly amended from time to time in accordance with their terms.

4.10 Indemnity. Subject to Section 9.4 hereof, each Owner will be liable to and will protect, defend, indemnify, and hold the Association and the other Owners harmless from and against any and all damages, claims, demands, liens (including, without limitation, mechanics' and materialmen's liens and claims), losses, costs, and expenses (including, without limitation, reasonable attorneys' fees, court costs, and other expenses of litigation) and liabilities of any kind or nature whatsoever (collectively referred to herein as "Claims") suffered or incurred by, or threatened or asserted against, the Association or any other Owner as a result of or in connection with: (a) the willful misconduct, negligence, or breach of the Act or the Project Documents by the indemnifying Owner or its Permittees; (b) any repair, restoration, replacement, alteration, or other construction, demolition, installation, or removal work on or about the Condominium Community contracted for, or performed by, the indemnifying Owner or its Permittees; or (c) repairs described in Section 3.4(f) hereof. The indemnifying Owner will pay for all Claims suffered or incurred by the Association for which such Owner is responsible hereunder promptly upon receipt of a demand from the Association therefor. The amount of such Claims will constitute a Special Assessment for Reimbursable Expense in accordance with Section 7.2(b)(2) hereof against the indemnifying Owner's Condominium, and may be assessed as such. If the indemnifying Owner fails to make such payment within 30 days after receipt of a demand therefor, the Association will



be entitled to take whatever lawful action it deems necessary to collect such payment including, without limitation, foreclosing its lien or instituting an action at law or in equity. Nothing herein will be deemed to relieve any Permittee from liability for its own acts or omissions. Nothing contained in this Section will be construed to provide for any indemnification which would violate applicable laws, void any or all of the provisions of this Section or negate, abridge, eliminate or otherwise reduce any other indemnification or right which the Association or the Owners have by law.

4.11 Covenants, Conditions, and Restrictions to Run with Land. Each Condominium, Owner, Permittee, and Security Holder will be subject to all covenants, conditions, and restrictions contained in this Declaration and all such covenants, conditions, and restrictions will be deemed to be covenants running with the land or equitable servitudes, as the case may be, and will bind every person having any interest in the Condominium Community and inure to the benefit of the Association and every Owner, unless and until altered or amended by a duly adopted and Recorded amendment to this Declaration.

4.12 Enforcement.

(a) This Declaration and the other Project Documents constitute a general scheme to benefit each Owner in the Condominium Community and may be enforced by the Declarant, the Association, or an aggrieved Owner. In recognition of the fact that a violation of any of the Easements, restrictions, conditions, and covenants set forth in the Project Documents will cause irreparable damage to the Property that is subject to this Declaration, it is hereby declared, and by acquiring an interest in any Condominium all Owners and Security Holders will be deemed to have agreed, that, except to the extent expressly provided to the contrary in this Declaration, any violation or attempted violation of any provision of the Project Documents will give the Declarant, the Association, and any aggrieved Owner the right of action to prosecute a proceeding at law or in equity against the Person (including the Association) who is violating or attempting to violate such provision and the right to have such person enjoined or prevented from doing so by temporary restraining order, preliminary injunction, and permanent injunction.

(b) The Association will be entitled to recover from any Person violating or attempting to violate any provision of this Declaration the reasonable attorneys' fees and other legal costs incurred by the Association in successfully enforcing such provision, regardless of whether or not suit was initiated, and if such Person is an Owner, the amount of such fees and costs will constitute a lien against such Owner's Condominium which may be foreclosed in accordance with Section 7.6 hereof.

(c) In addition to the foregoing, in the event of any failure by an Owner to fully and timely pay such Owner's share of Assessments or to otherwise comply with the Project Documents, the Association will be entitled, after Notice and Hearing, to:

- (1) temporarily suspend such Owner's voting rights in the Association and/or such Owner's right to use or enjoy any of the Common Elements;
- (2) impose Fines (but in the case of the imposition of Delinquency Costs, the Owner shall not be entitled to Notice and Hearing prior to the imposition, enforcement, and collection thereof); and
- (3) impose other appropriate measures.

**ARTICLE 5
Operation, Maintenance, and Repair**

5.1 Association's Duties. Subject to the provisions of Articles 10 and 11, the Association will have the following rights and responsibilities with respect to the operation, maintenance, and repair of the Condominium Community:

- (a) Maintenance of Common Elements.



(1) Except to the extent that the Owners are responsible for the maintenance of certain Limited Common Elements pursuant to Section 5.2(a) hereof, the Association will govern, manage, maintain, insure, repair, replace, and restore the Common Elements (including Parking Spaces designated as Limited Common Elements) and all other Association Properties, and the costs thereof will be included in Common Expenses, except to the extent paid by insurance or condemnation proceeds or by Owners pursuant to Sections 4.8, 5.2(b), 7.2(a), or 7.2(b) hereof.

(2) Without limiting the generality of the foregoing, said obligations shall include:

(A) the keeping of the General Common Elements, other Association Properties and the Parking Areas in good, clean, attractive and sanitary condition, order, and repair;

(B) removing snow and any other materials from General Common Elements and Parking Spaces which might impair access to the Property or to the Units, or other Limited Common Elements of any Condominium;

(C) maintaining the landscaping within the Condominium Community;

(D) keeping the Condominium Community safe, attractive, and desirable; and

(E) making necessary or desirable alterations, additions, betterments, or improvements to or on the General Common Elements and the Parking Spaces and repairing (which term as used herein shall include painting and other surface maintenance required by ordinary wear and tear) Limited Common Elements, except to the extent that the Owners are responsible for such repair pursuant to Section 5.2 hereof.

(3) Maintenance, repair, or replacement of any drainage structure or facilities, or other public improvements required by the local governmental entity as a condition of development of the Condominium Community or any part thereof, shall be the responsibility of the Association, unless such improvements have been dedicated to and accepted by the local governmental entity for the purpose of maintenance, repair, or replacement, or unless such maintenance, repair, or replacement has been authorized by law to be performed by a special district or other municipal or quasi-municipal entity.

(b) Election to Perform Owners' Duties. The Association may elect to maintain, repair, replace or restore any Unit or Limited Common Element, or portion thereof, the maintenance, repair, replacement or restoration of which is the responsibility of an Owner pursuant to Section 5.2(a) hereof if (i) such Owner has failed, for more than 30 days after notice from the Association, to perform its responsibilities under this Declaration with respect to the maintenance, repair, replacement, or restoration of its Unit or Limited Common Element, as applicable, and (ii) such failure has a material effect on the appearance of such Unit or Limited Common Element when viewed from any area outside such Unit or Limited Common Element, or impairs the structural integrity or building systems of any portion of the Condominium Community, or has a materially adverse effect on the use of another Unit or Common Element for its permitted and intended use; provided, however, that if such failure is not susceptible of being cured within such 30-day period, the Association will not be entitled to perform any repairs, maintenance, replacement, or restoration if such Owner commences performance of its obligations within such 30-day period and thereafter diligently completes such performance. Such Owner will pay all costs incurred by the Association in accordance with this subsection. Such payment will be made upon receipt of a demand from the Association therefor. If an Owner fails to make such payment within 30 days of receipt of a demand therefor, the Association will be entitled to take whatever lawful action it deems necessary to collect such payment including, without limitation, foreclosing its lien or instituting an action at law or in equity.

5.2 Owners' Duties. The Owners will have the following responsibilities with respect to maintenance and repair:

(a) Units and Certain Limited Common Elements. Subject to the provisions of Section 5.1(a) and Articles 10 and 11, each Owner will, at its expense: (i) maintain at all times in good and clean condition, and perform all



required repairs, replacements or restorations of, his Unit, including, without limitation, all mechanical, electrical and plumbing systems, lines, equipment or components that are located in, and exclusively serve, such Unit; (ii) clean, maintain, repair, restore, and keep in a sanitary condition the Balcony Area, and all other Limited Common Elements allocated to his Unit; (iii) perform its responsibilities in such a manner so as not to disturb unreasonably other Owners or their Permittees; and (iv) promptly report to the Association any defect or need for repairs for which the Association is responsible.

(b) Damages Caused by Owners. Subject to Section 9.4 hereof, each Owner will pay all costs of repair or replacement of any portion of the Condominium Community that may become damaged or destroyed by reason of the misconduct or negligence of such Owner or any of its Permittees. Such payment will be made upon receipt of a demand from the Association therefor. If an Owner fails to make such payment within 30 days of receipt of a demand therefor, the Association will be entitled to take whatever lawful action it deems necessary to collect such payment including, without limitation, foreclosing its lien or instituting an action at law or in equity.

(c) Maintenance Standard. For the benefit of all Owners, each Owner and the Association will perform its respective maintenance and repair obligations under this Section in a manner consistent with a first class residential Condominium Community located in the Denver Metropolitan Area and substantially similar to the original construction and installation and of the Condominium Community (but such maintenance and repairs may be undertaken with contemporary building materials and equipment).

5.3 Master Association Responsibilities. Notwithstanding anything to the contrary herein, in addition to any other obligations set forth in the Master Declaration, the Master Association shall be responsible for snow removal on the Condominium Community's perimeter sidewalk adjacent to Park Lane, Forest Park Circle and North Park Drive and shall maintain the open spaces and forest area adjacent to the Condominium Community at N. 95th Street and Arapahoe Road.

5.4 Warranty Repairs. Notwithstanding anything to the contrary herein, during the Declarant's construction warranty period on a Unit, any Common Element contiguous with such Unit (e.g. foundations, roof and structural exterior walls) shall be treated as a part of such Unit for the purposes of making claims against such warranty. During such warranty period, the affected Unit Owner shall notify Declarant (not the Association) directly concerning warranty issues and/or claims.

**ARTICLE 6
The Association and Board**

6.1 Name; Formation. The name of the Association is the "The Cottages at Forest Park Homeowners Association." The Association will be formed no later than the date the first Condominium is conveyed to an Owner other than Declarant.

6.2 Purpose. The purpose of the Association is to perform the functions of, and exercise the powers and rights granted to, the Association hereunder, and otherwise to manage the Condominium Community and the Association Properties as provided in this Declaration.

6.3 Membership. The membership of the Association shall consist of all record Owners of Condominiums subject to this Declaration; and each such member is herein sometimes referred to as a "Member." Membership shall be appurtenant to and may not be separated from ownership of any Condominium; and any purported transfer of a membership in the Association will be void and will not be recognized by the Association. Ownership of such Condominium shall be the sole qualification for such membership. Where more than one person holds interest in any Condominium, all such persons shall be Members. Membership in the Association will automatically terminate when a Person ceases to be an Owner, whether through sale, intestate succession, testamentary disposition, foreclosure or otherwise, and the new Owner will automatically succeed to such membership in the Association. The Association will recognize a new Member upon presentation by a new Owner of satisfactory evidence of the sale, transfer, succession, disposition, foreclosure or other transfer of a Condominium. In the event of a termination of the Condominium



Community, the Association's membership will consist of all Owners entitled to share in the distribution of proceeds of a sale of the Property.

6.4 Board of Directors. The affairs of the Association shall be managed by a board of directors (the "Board"), which may by resolution delegate authority to a professional managing agent for the Association as more fully provided for in the Bylaws, provided, that no such delegation shall relieve the Board of final responsibility. Except with respect to the approval or rejection of any matters requiring a vote of the Members of the Association under this Declaration or the Act, and except for those matters with respect to which the Board is prohibited from acting under this Declaration or the Act, the Board may act in all instances on behalf of the Association. Pursuant to ' 38-33.3-303(3) of the Act, and subject to ' 38-33.3-217 of the Act, the Board may not, without the requisite Owners' consent, act on behalf of the Association to amend this Declaration, terminate the Condominium Community, elect members of the Board or determine the qualifications, powers, duties or terms of office of members of the Board, but the Board may fill vacancies in its membership for the unexpired portion of any term.

6.5 Articles and Bylaws. The purposes and powers of the Association and the rights and obligations with respect to Members set forth in this Declaration may and shall be amplified by provisions of the Articles and Bylaws of the Association. In the event either the Articles or Bylaws conflict with the Declaration, the Declaration shall control. In the event the Articles conflict with the Bylaws, the Articles shall control.

6.6 Powers. The Association, acting through the Board, shall have all of the powers, authority and duties permitted pursuant to the Act necessary and proper to manage the business and affairs of the Association, including but not limited to those set forth in ' 38-33.3-302(1) of the Act, and including but not limited to the following:

(a) To borrow money to improve the General Common Elements and to mortgage said Common Elements as security for any such loan; provided, however, that the Association may not subject any portion of the Common Elements to a security interest unless such is approved by Owners to which at least eighty percent (80%) of the votes in the Association are allocated, including eighty percent (80%) of the votes allocated to Units not owned by the Declarant as more fully set forth in ' 38-33.3-312 of the Act. All such encumbrances of the Common Elements shall be subject to the further requirements of ' 38-33.3-312 of the Act. During the Declarant Control Period, neither the Board nor the Declarant shall have the authority to borrow money or authorize the borrowing of money from the Association for any purpose.

(b) To convey or dedicate all or any part of the Common Elements to any public agency, authority, utility or other person for such purposes and subject to such conditions as may be agreed to by the Owners entitled to cast at least eighty percent (80%) of the votes in the Association, including eighty percent (80%) of the votes allocated to Units not owned by the Declarant as more fully set forth in ' 38-33.3-312 of the Act. Provided, that all Owners of Units to which any Limited Common Element is allocated must agree in order to convey that Limited Common Element or subject it to a Security Interest. Provided further, that the granting of permits, licenses, and easements as set forth in Section 3.10 hereof shall not be deemed a conveyance or encumbrance within the meaning of this Section as more fully set forth in ' 38-33.3-312 of the Act. All such conveyances shall be subject to the further requirements of ' 38-33.3-312 of the Act.

(c) To promulgate and adopt Rules with which each Owner and their Permittees shall strictly comply, including but not limited to the right of the Association to establish reasonable charges or admission fees for the use of any recreational facilities located on the General Common Elements.

(d) To take such steps as are reasonably necessary to protect the Common Elements against foreclosure.

(e) To close or limit the use of the Common Elements temporarily while maintaining, repairing and making replacements in the Common Elements, or permanently if approved by Members to which at least eighty percent (80%) of the votes in the Association are allocated, including eighty percent (80%) of the votes allocated to Units not owned by the Declarant as more fully set forth in ' 38-33.3-312 of the Act.



(f) In accordance with the Articles and Bylaws, to create a working capital fund for the Condominium Community equal to two months' assessments for the General Common Elements as provided in Section 7.3 hereof;

(g) Subject to Sections 6.6(b) and 6.12 hereof, to enter into, make, perform, or enforce:

(1) contracts, leases, agreements, licenses, easements, and rights-of-way, for the use by Owners, their Permittees, and other real property owners, of the Condominium Community, and any facilities or improvements thereto and thereon, including the General Common Elements, for pedestrian and vehicular access, ingress, and egress to and from the Property or any portion thereof, or any other real property, for vehicular parking, for recreational use and enjoyment, or otherwise for any purpose the Board may deem to be useful, beneficial, or otherwise appropriate;

(2) contracts, leases, agreements, licenses, easements, and rights-of-way, for the use by adjacent property owners of the portion of the Property subject thereto, for the installation, repair, relocation, or removal of utility lines and facilities, for pedestrian and vehicular access, ingress, and egress including use by construction vehicles;

(3) contracts, leases, licenses, and other agreements for professional real estate management services, accounting services, garbage and trash collection services, security services, firewood, lawn and garden maintenance, common utility services, and for cable or satellite television service to the Condominium Community, or any portion thereof, and other common services.

Any of such contracts, leases, licenses, agreements, easements, and rights-of-way, as provided for in this subsection, shall be upon such terms and conditions as may be agreed to from time to time by the Board, without the necessity of the consent thereto, or joinder therein, by the Owners or First Mortgagees. Such terms and conditions may include provisions by which the Association covenants and agrees that it shall pay part or all of the costs and expenses of maintaining and repairing such real property, and the facilities and improvements thereto and thereon, providing such cable or satellite television service, or other amounts which the Board determines are reasonably necessary to secure any such contracts, leases, licenses, agreements, easements or rights-of-way, and any such costs shall be treated by the Association as Common Expenses.

(h) To retain legal counsel in connection with the exercise of any of the foregoing rights and powers. Notwithstanding anything herein to the contrary, prior to retaining any legal counsel to initiate litigation on behalf of the Association or its Members, the Board shall obtain at least three written estimates from attorneys authorized to practice law within the State of Colorado. Such estimates shall set forth the estimated amount of legal fees expected to be charged by such attorney in conjunction with such attorney's representation of the Association.

(i) To make such use of the Common Elements as may be necessary or appropriate for the performance of the duties and functions which it is obligated or permitted to perform under this Declaration.

(j) To cause additional improvements to be made as a part of the Common Elements.

(k) To exercise the rights granted to the Association in Sections 4.7 and 4.10 hereof.

(l) To undertake any activity, function, or service for the benefit of or to further the interests of all, some, or any Members on a self supporting, General Assessment, or Special Assessment basis.

(m) To enter into agreements and otherwise cooperate with other community association(s) (including any Subassociation) and/or any special district(s), to share the costs and/or responsibility for any maintenance, repair, replacement or other matters, to perform maintenance, repair or replacement for any person(s) in consideration of payment or reimbursement therefor, to utilize the same contractors, subcontractors, managers or others who may perform services for the Association, any other community association(s) and/or any district(s), or to otherwise cooperate with any other community association(s) and/or any district(s) in order to increase consistency or coordination, reduce costs, or as

may otherwise be deemed appropriate or beneficial by the Board of Directors in its discretion from time to time. The costs and expenses for all such matters, if any, shall be shared or apportioned between the Association and/or any other community associations and/or any districts, as the Board of Directors may determine in its discretion from time to time. Additionally, the Association shall have the right and authority at any time, from time to time, to enter into agreements and otherwise cooperate with any other community associations (including any Subassociation), and/or any districts to collect assessments, other charges, or other amounts which may be due to such entity and to permit any such entity to collect assessments, other charges or other amounts which may be due to the Association; in any such instance, the Association shall provide for remittance to such entity of any amounts collected by the Association or to the Association of any amounts collected by such entity.

The Association, acting through the Board, shall otherwise have and may exercise any right or privilege given to it expressly by this Declaration, or reasonably to be implied from the provisions of this Declaration, or given or implied by law, or which may be necessary or desirable to fulfill its duties, obligations, rights, or privileges; and shall have all of the powers necessary to govern, manage, maintain, repair, administer, and regulate the Condominium Community and to perform all of the duties required of it.

6.7 Voting Rights.

(a) The Association shall have one class of voting membership. Members shall be entitled to one vote for each Unit owned.

(b) The vote for such Unit, the ownership of which is held by more than one Member, may be exercised by any one of them, unless an objection or protest by any other holder of an interest of the Unit is made prior to the completion of the vote, in which case the vote for such Unit shall be exercised, as the persons holding such interest shall determine between themselves. Should the joint owners of a Unit be unable, within a reasonable time, to agree upon how they will vote any issue, they shall be passed over and their right to vote on such issue shall be lost.

(c) The total number of votes which may be cast in connection with any matter shall be equal to the total number of Units then existing within the Condominium Community.

(d) Voting by proxy shall be permitted, as set forth in the Bylaws.

(e) The Association itself will not be entitled to any vote for any Condominium owned by the Association.

(f) All other provisions for voting by Members of the Association and for the conduct of Association meetings shall be as set forth in the Articles and Bylaws of the Association.

6.8 Size of Board; Election of Board Members and Officers.

(a) Subject to the limitations hereinafter set forth in this Section, from the formation of the Association until the end of the Declarant Control Period, Declarant will have the right to appoint and remove directors of the Board and officers of the Association. All directors of the Board appointed by Declarant pursuant to this Section are hereinafter called "Appointed Directors" and all directors of the Board elected by the Owners are hereinafter called "Elected Directors."

(b) Notwithstanding subsection (a) above to the contrary:

(1) From the formation of the Association until the date that is 60 days after the date on which twenty-five percent (25%) of the Condominiums That May Be Created have been conveyed to Owners other than Declarant, the Board will consist of three members, all of whom will be Appointed Directors.

(2) From the date that is 60 days after the date on which twenty-five percent (25%) of the Condominiums That May Be Created have been so conveyed until the date that is 60 days after the date on



which fifty percent (50%) of the Condominiums That May Be Created have been conveyed to Owners other than Declarant, the Board will consist of four members, three of whom will be Appointed Directors and one of whom will be an Elected Director.

(3) From the date that is 60 days after the date on which fifty percent (50%) of the Condominiums That May Be Created have been so conveyed until the end of the Declarant Control Period, the Board will consist of five members, three of whom will be Appointed Directors and two of whom will be Elected Directors.

(c) From and after the end of the Declarant Control Period:

(1) the Board will consist of five members (or such greater or lesser number, but never less than three nor more than nine, as may from time to time be set forth in the Bylaws);

(2) the Board will consist solely of Elected Directors and at least a majority of such Elected Directors must be Owners (or designated representatives thereof) other than Declarant;

(3) the Board will elect the officers of the Association; and

(4) such Elected Directors and officers will take office upon election.

(d) During the Declarant Control Period, all Appointed Directors and all officers of the Association may be appointed to and removed from office by Declarant with or without cause at any time and from time to time, and all vacancies of any Appointed Director or officer of the Association may be filled by Declarant.

(e) At such times during the Declarant Control Period as the foregoing provisions require the election of an Elected Director, such Elected Director will be elected by a majority vote of all Persons present and entitled to vote at any meeting of the Members at which a Quorum is present and which is duly called for such purpose (excluding, both for purposes of determining a Quorum and determining a majority of that quorum, the votes of Declarant with respect to any Condominiums owned by it).

(f) Any Elected Directors may be removed from office in accordance with the provisions of the Bylaws; provided, that notwithstanding any provision of this Declaration or the Bylaws to the contrary, the Members, by a vote of at least sixty-seven percent (67%) of the votes in the Association allocated to the Members present and entitled to vote at any meeting of the Members at which a Quorum is present, may remove any Elected Director, with or without cause.

6.9 Delivery of Documents by Declarant. Within sixty days after the date ("Control Turnover Date") that Owners other than the Declarant elect a majority of the members of the Board, the Declarant shall deliver, without expense to the Board, all property of the Owners and of the Association held by or controlled by the Declarant, including without limitation all items required to be delivered in accordance with 38-33.3-303(9) of the Act.

6.10 Budget.

(a) Adoption. The Board will cause to be prepared and adopted annually, not less than 45 days prior to the beginning of each Fiscal Year of the Association, a proposed budget for the Condominium Community (except that, for the first Fiscal Year of the Association, the Board may adopt the estimated budget for the Condominium Community prepared by the Declarant). The proposed budget will include all of the following:

(1) the estimated revenue and expenses (including, without limitation, Common Expenses) of the Association for the subject Fiscal Year, in reasonable detail as to the various categories of revenue and expense;

(2) the current cash balance in the Association's reserve fund for the major repair or replacement of Common Elements, the Association's equipment, furniture, and other Association Properties, and for



contingencies (including, without limitation, the amount of the deductible under the Association's property insurance policy), which fund will be established and maintained by the Board (the "Reserve Fund");

(3) an estimate of the amount required to be spent during the subject Fiscal Year from the Reserve Fund for the major repair or replacement of Common Elements or the Association's equipment, furniture or other Association Properties; and

(4) a statement of the amount required to be added to the Reserve Fund during the subject Fiscal Year to cover anticipated withdrawals and adequately address contingencies and anticipated needs in future Fiscal Years.

(b) Posting. A summary of the budget shall also be posted at a conspicuous location in the Condominium Community. In the event the Association does not have an address for any Member, such posting shall be deemed notice to any such Member. Copies of the budget shall be made available by the Association to any Members requesting a copy of the same upon payment of the reasonable expense of copying the same.

(c) Ratification. Within 30 days after adoption by the Board of any proposed budget for the Condominium Community, the Board will mail, by ordinary first-class mail, or otherwise deliver a summary of the proposed budget to all Members and will set a date for a meeting of the Members to consider ratification of the proposed budget not less than 14 nor more than 60 days after mailing or other delivery of the summary (which meeting may be concurrent with the annual meeting of Members as provided in the Bylaws). Unless at that meeting Members to whom are allocated more than fifty percent (50%) of the votes in the Association vote to reject the proposed budget, the proposed budget will be ratified, whether or not a Quorum is present. In the event that the proposed budget is rejected, the periodic budget last ratified by the Members will continue in effect until such time as the Members ratify a subsequent budget proposed by the Board. For the first Fiscal Year of the Association, the Board may adopt the Declarant's estimated budget for the Condominium Community and assess General Assessments pursuant to Section 7.1(a) based thereon.

6.11 Financial Matters. The Board on behalf of the Association will discharge the following obligations with respect to financial matters:

(a) Books and Records. The Board will cause to be maintained full and complete books and records of the Association's business and operations, including, without limitation, current copies of this Declaration the Articles, the Bylaws, the Rules, the approved budget for the current Fiscal Year, financial statements, books and records reflecting all assets, liabilities, capital, income, and expense of the Association, and supporting materials, such as bank statements and invoices, for at least the prior seven Fiscal Years. All of such books and records will be made available for inspection as provided in Section 16.3(a) hereof.

(b) Returns. The Board will cause to be prepared and filed before delinquency any and all tax, corporate or similar returns or reports that the Association is required by law to so prepare and file, and timely make all elections pertaining thereto.

(c) Annual Financial Statements. The Board will cause to be prepared annually a report with respect to the financial condition of the Association consisting of a balance sheet as of the end of the preceding Fiscal Year, an operating (income) statement for such Fiscal Year, and a statement of changes in the Association's financial position for such Fiscal Year. If such annual report is not audited by an independent certified public accountant, it will be accompanied by the certificate of an officer of the Association certifying that such annual report was prepared from the books and records of the Association without independent audit or review. A copy of such annual report will be distributed to each Owner within 120 days after the close of each Fiscal Year. If such report is unaudited, any Owner or Security Holder may, at its sole expense, cause such report to be audited by an independent certified public accountant.

(d) Account for Reserve and Working Capital Funds. The Board will cause the Reserve Fund and the Working Capital Fund to be maintained in a bank account that is separate from the bank account used for the Association's ordinary receipts and disbursements. Withdrawal of funds in the Reserve Fund or the Working Capital Fund from such separate bank account will require the signatures of two Board members.



6.12 Certain Association Agreements. If any of the following are entered into by the Association during the Declarant Control Period, they (i) shall not exceed one year and (ii) shall provide for termination by either party without cause and without payment of a termination fee or penalty upon not less than ninety (90) days' written notice:

- (a) any management contract, employment contract, or lease of recreational or parking areas or facilities, to which the Association is a party; or
- (b) any other contract or lease between the Association and the Declarant or an Affiliate of the Declarant.

6.13 Indemnification. Each officer, director, and committee member of the Association shall be indemnified by the Association against all expenses and liabilities, including attorney fees, reasonably incurred by or imposed upon him in any proceeding to which he may be a party, or in which he may become involved, by reason of him being or having been an officer, director, or committee member of the Association, or any settlements thereof, whether or not he is an officer, director, or committee member of the Association at the time such expenses are incurred, to the full extent permitted by Colorado law.

6.14 Attorney-in-Fact. The Association, acting through the Board, is hereby irrevocably appointed attorney-in-fact for the Owners of all Condominiums and each of them to manage, control, and deal with the interest of such Owner in Common Elements so as to permit the Association to fulfill all of its duties and obligations hereunder and to exercise all of its rights hereunder, to deal with the Property upon its destruction or obsolescence as herein provided, and to deal with and handle insurance and insurance proceeds and condemnation and condemnation awards as herein provided. The Association shall, without limiting the foregoing, be attorney-in-fact for all Owners for purposes of executing, delivering, and recording such instruments as are necessary to vest or to confirm in each Owner the undivided interest in the Common Elements to which each Owner is entitled under this Declaration and for any other purpose provided herein. The acceptance by any person or entity of any interest in any Condominium shall constitute an appointment by the Association as an attorney-in-fact as provided above and herein.

**ARTICLE 7
Assessments**

7.1 General Assessments. Each Condominium will be subject to assessments for such Condominium's Common Allocation of all Common Expenses (the "General Assessments"). Until the Association makes an Assessment, Declarant shall pay all Common Assessments. Except as otherwise provided herein, General Assessments shall commence as to each Unit within the Condominium Community on the first day of the first month following the date that such Unit is annexed into the Condominium Community. General Assessments will be calculated, paid, adjusted, and reconciled in accordance with the following provisions:

(a) **Budget and Payment.** The Board will assess General Assessments against each Condominium based on the budget adopted by the Board and deemed ratified by the Owners pursuant to Section 6.10(c) hereof. Each Owner will be obligated to pay the Association the General Assessments made against such Owner's Condominium, and such payment will be due in equal monthly installments on or before the first day of each month during each Fiscal Year or in such other reasonable manner as the Board may designate. The Board's failure to fix the General Assessments prior to the commencement of any Fiscal Year will not be deemed a waiver or modification in any respect of the provisions of this Declaration or a release of any Owner from its obligation to pay the General Assessments or any installment thereof for such period, but the General Assessments fixed for the preceding Fiscal Year will continue until the new General Assessments are fixed.

(b) **Adjustment.** If, during any Fiscal Year, it becomes apparent that the estimated expenses and/or revenues of the Association as set forth in the budget upon which the General Assessments were based were in error for any reason, including nonpayment by any Owner of its General Assessments, to the extent that the General Assessments which the Board determines will be received for the balance of such Fiscal Year will be inadequate, or more than required, to meet the Association's obligations intended to be covered by such General Assessments, the Board may



amend the budget and increase or decrease the General Assessments for the balance of such Fiscal Year upon not less than 30 days' prior notice to all Owners. Notwithstanding the foregoing, however, if any such amendment individually or in the aggregate with all previous amendments within any Fiscal Year would increase the total General Assessments for a Fiscal Year by more than ten percent (10%) of the General Assessments called for by the budget previously deemed ratified by the Owners pursuant to Section 6.10(c) hereof, then prior to increasing the General Assessments based on such amended budget the Board must submit the same for ratification by the Owners pursuant to Section 6.10(c) hereof.

(c) Material Increase. Notwithstanding any other provision of this Section or of Section 6.10(c) hereof, after the Board assesses General Assessments for the Association's first Fiscal Year, the Board may not increase General Assessments for any subsequent Fiscal Year by more than twenty-five percent (25%) of the General Assessments for the prior Fiscal Year unless such increase is approved by a Supermajority of the Owners and by a Majority of the Eligible First Mortgagees.

7.2 Special Assessments. The Association may levy from time to time one or more special assessments ("Special Assessments") for the purpose of defraying in whole or in part the cost of any construction, restoration, unexpected repair or replacement of a capital improvement, or for carrying out the other responsibilities of the Association in accordance with this Declaration. Each Special Assessment will be allocated among the Condominiums in accordance with the provisions Sections 7.2(a) through (d) below. Each Owner will pay all Special Assessments assessed against such Owner's Condominium. Special Assessments will be paid at the time(s) and in the manner (for example, by lump sum payment or in installments) reasonably determined by the Board, including, to the extent applicable, the right to require that Special Assessments be paid in advance of the provision of the subject services or materials.

(a) Limited Benefit Expenses. If any costs or expenses are incurred by the Association that solely benefit one or more Condominiums but less than all Condominiums, such as, for example, the costs of repairing a utility line that serves only one or two Condominiums but no others ("Limited Benefit Expenses"), then such Limited Benefit Expenses will be assessed by the Board as a Special Assessment against the Condominium or Condominiums benefitted by such Limited Benefit Expenses as follows: Any Limited Benefit Expenses incurred for the benefit of only one Condominium will be assessed solely to that Condominium. Any Limited Benefit Expenses incurred for the benefit of two or more Condominiums will, unless the Owners of all benefitted Condominiums otherwise agree, be assessed among the benefitted Condominiums in accordance with their respective Common Allocations. The Board will have the authority to assess Special Assessments for Limited Benefit Expenses without the approval of the Owners.

(b) Reimbursable Expenses. If any costs or expenses are incurred by the Association as a result of or in connection with:

- (1) an increase in any insurance premium for which an Owner is responsible pursuant to Section 4.5(c) or 9.1(a) hereof;
- (2) Sections 2.8(d) or 3.4(f) hereof;
- (3) the indemnification set forth in Section 4.8 hereof; or
- (4) bringing an Owner or such Owner's Condominium into compliance with the provisions of this Declaration (including, without limitation, Sections 4.4(d), 4.10, 5.1(b), and 5.2 hereof) or any other document governing the Condominium Community;

then, in each such event, such costs and expenses ("Reimbursable Expenses") will be assessed by the Board as a Special Assessment against the Condominium of such Owner. The Board will have the authority to assess Special Assessments for Reimbursable Expenses without the approval of the Owners; provided, that no Special Assessment for Reimbursable Expenses shall be levied until the Owner or Owners to be so charged have been given a Notice and Hearing as provided for in the Bylaws.

(c) Restoration Deficit. If following any damage, destruction, or Taking of the Common Elements, or any portion thereof, the total costs of performing any restoration thereof required by this Declaration or the



Act exceeds the amount of the insurance proceeds, condemnation award, or other funds available for the cost of restoration (such as funds in the Reserve Fund), then the Board may assess Special Assessments to cover the deficit (a "Restoration Deficit"). In such event, each Condominium will be assessed, and its Owner will be responsible for payment of, its Common Allocation of such Special Assessments. The Board will have the authority to assess Special Assessments for a Restoration Deficit without the approval of the Owners.

(d) Voluntary Capital Expenses.

(1) Provided the requisite number of Owners approve the same as provided below, the Board may make Special Assessments for the purpose of paying Voluntary Capital Expenses. "Voluntary Capital Expenses" means all costs and expenses of any capital improvement to the Common Elements, including all design, construction, and associated financing costs, except for (i) costs incurred in order to reduce Common Expenses (which costs will be included in Common Expenses); (ii) costs required to be incurred to cause the Condominium Community to comply with applicable law (which costs will be included in Common Expenses); or (iii) costs that constitute all or any part of a Restoration Deficit. Any proposal before the Association (or Owners) to make a Special Assessment for Voluntary Capital Expenses must include provisions describing whether all of the Condominiums, or one or more but less than all of the Condominiums, will be subject to such Special Assessment. In addition, if less than all of the Condominiums will be subject to such Special Assessment, such proposal must include provisions describing which Condominiums will be subject to such Special Assessment and the manner in which the total amount of such Special Assessment will be allocated among the Condominiums which are to be subject thereto.

(2) Approval of any Special Assessment for Voluntary Capital Expenses will require the affirmative vote of (A) if all of the Condominiums will be subject to such Special Assessment, a Supermajority of the Owners; or (B) if less than all of the Condominiums will be subject to such Special Assessment, one hundred percent (100%) of the votes in the Association that are allocated to those Condominiums that will be subject to such Special Assessment. If the requisite affirmative vote of Owners is obtained, the Board will assess the total amount of a Special Assessment for Voluntary Capital Expenses against (1) all of the Condominiums, if all of the Condominiums are to be subject to such Special Assessment pursuant to the approved proposal, by allocating to each its Common Allocation of the whole; or (2) those Condominiums that are to be subject to such Special Assessment pursuant to the approved proposal, by allocating to each the portion thereof specified in the approved proposal.

(e) Limitations. Notwithstanding the foregoing, Special Assessments levied during the Declarant Control Period may not be used for the purpose of constructing capital improvements.

7.3 Working Capital Fund.

(a) To provide the Association with sufficient working capital to cover the cost of unforeseen expenditures or to purchase any additional equipment or services, a "Working Capital Fund" will be established in an amount equal to two months' estimated General Assessments for each Condominium (based on the budget for the Association adopted pursuant to Section 6.10).

(b) The first Owner of each Condominium (other than Declarant) will be required to contribute such two months' estimated General Assessments to the Working Capital Fund at the closing of the sale of such Condominium to such Owner. Upon the transfer of a Unit, the Owner of the Unit shall be entitled to a credit from the Owner's transferee (but not from the Association) for the unused portion of the contribution of the Working Capital Fund, provided that such transferee has deposited a like amount with the Association.

(c) Amounts contributed to the Working Capital Fund will not constitute advance payments of General Assessments. Declarant may not use the Working Capital Fund to defray any of Declarant's expenses, reserve contributions or construction costs or to make up any budget deficits during the Declarant Control Period. The Working Capital Fund will be maintained by the Association in the separate bank account described in Section 6.11(d) hereof.



7.4 **Fines.** The Board of Directors of the Association shall have the right to levy a Fine against an Owner or Owners for each violation of the Project Documents. No such Fine shall be levied until the Owner or Owners to be charged have been given a Notice and Hearing as provided for in the Bylaws. Fines may be levied in a reasonable amount as determined from time to time by the Board in its discretion and uniformly applied.

7.5 **Payment of Assessments; Notice and Acceleration.**

(a) **Obligation to Pay.** Each Owner, including Declarant, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, covenants and agrees and shall be personally obligated to pay to the Association all General Assessments, Special Assessments, and Fines (collectively, "Assessments") assessed against such Owner's Condominium by the Board in accordance with the terms of this Declaration, which shall be a continuing lien upon the Condominium against which each such Assessment is levied.

(b) **Separate Obligation; No Offsets.** Each Assessment will be a separate, distinct, and personal debt and obligation of the Owner against whose Condominium the same is assessed. All Assessments shall be payable in the amounts specified in the levy thereof, and no offsets or reduction thereof shall be permitted for any reason including, without limitation, any claim that the Association or the Board is not properly exercising its duties and powers under this Declaration. The obligation of each Owner to pay Assessments will be entirely independent of any obligation of the Association to such Owner or of Declarant or any other Owner to such Owner.

(c) **Delinquency.**

(1) Any Assessment or installment thereof that is not paid within 15 days after the same becomes due will be deemed delinquent. If an Assessment or installment thereof is delinquent, the Association may recover all of the following (collectively, the "Delinquency Costs"):

(A) interest thereon from the date due at the rate established from time to time by the Board (but not to exceed 21 percent per year);

(B) such late charges and other monetary penalties as may be imposed by the Association pursuant to this Declaration and the Act; and

(C) all collection and enforcement costs, including reasonable attorneys' fees and costs, incurred by the Association.

(2) If an Assessment or installment thereof becomes delinquent, the Association may notify the Owner of such delinquency and state in such notice:

(A) the amount and due date of the delinquent Assessment or installment thereof;

(B) the Delinquency Costs accrued to date;

(C) the date by which the delinquent Assessment or installment thereof and all associated Delinquency Costs must be paid, which date may be no less than the later of 60 days from the due date of such Assessment or installment thereof or 30 days from the date such notice is given; and

(D) that failure to pay the delinquent Assessment or installment thereof and all associated Delinquency Costs by the date specified in such notice may result in acceleration of the balance of the Assessment or installments thereof (including in the case of General Assessments, the balance thereof for the current Fiscal Year) and the foreclosure of the Association's lien therefor against such Owner's Condominium.

(3) If the Association gives such a notice and the delinquent Assessment or installment thereof and all associated Delinquency Costs are not paid in full by the due date specified in such notice, then the Board, at its option, may declare all unpaid installments of the subject Assessment (including in the case of



General Assessments, the balance thereof for the current Fiscal Year) to be immediately due and payable in full without further demand or notice and may enforce the collection of such Assessment (including any installments thereof whose due dates were so accelerated) in accordance with Section 7.7 hereof.

7.6 Enforcement of Assessments. The amount of any delinquent Assessments (including any installments thereof whose due dates are accelerated by the Board pursuant to Section 7.6 hereof) and associated Delinquency Costs may be enforced against the Owner liable therefor in either or both of the following ways (to the extent permitted by law or regulation), at the option of the Board:

(a) Suit. The Association may bring a suit or suits at law to enforce any Owner's obligation to pay a delinquent Assessment (including any installments thereof whose due dates are accelerated by the Board pursuant to Section 7.6 hereof) and associated Delinquency Costs. Each such action will be brought in the name of the Association. Any judgment rendered in any such action will include, where permissible under applicable law, a sum for reasonable attorneys' fees and court costs in such amount as the court may adjudge against the defaulting Owner. Upon full satisfaction of any such judgment, it will be the duty of the Association by any officer thereof to execute and deliver to the judgment debtor an appropriate satisfaction thereof.

(b) Lien and Foreclosure.

(1) Assessments and associated Delinquency Costs will constitute a lien on the Condominiums against which they are assessed from the date due; and the Association is hereby granted an assessment lien against each Condominium for any Assessment levied by the Board and for Delinquency Costs when the Owner fails to pay as required by the Declaration ("Assessment Lien"). If an Assessment is payable in installments, the full amount of the Assessment is a lien from the time the first installment thereof becomes due; and the term "Assessment" shall be deemed to include any installments thereof whose due dates are accelerated by the Board pursuant to Section 7.6 hereof. Such lien will be subject to the provisions of ' 38-33.3-316 of the Act.

(2) If an Assessment becomes delinquent (i.e., is not paid within 15 days after its due date), the Association gives a notice concerning such delinquency that substantially complies with the provisions of Section 7.6 hereof, and such delinquent Assessment is not paid in full by the due date specified in such notice, then the Association may foreclose its Assessment Lien therefor, any installments thereof whose due dates are accelerated by the Board pursuant to Section 7.6 hereof, and any associated Delinquency Costs in accordance with the laws of the State of Colorado.

(3) The Association's Assessment Lien shall be superior to all other liens and encumbrances except the following:

(A) real property ad valorem taxes and special assessment liens duly imposed by Colorado governmental or political subdivision or special taxing district, or any other liens made superior by statute; and

(B) the lien of any First Mortgagee except to the extent the Act (including but not limited to ' 38-33.3-316(2)(b) of the Act) grants priority for Assessments to the Association.

(4) Recording of the Declaration constitutes record notice and perfection of the Assessment Lien hereinabove described. No further recordation of any claim of lien for Assessments under this Article is required. However, the Association may prepare, and record in the county in which the Condominium is located, a written notice of Assessment Lien setting forth the amount of the unpaid indebtedness, the name of the Owner of the Condominium, and a description of the Condominium. If such a lien is filed, the cost thereof shall be considered a Delinquency Cost.

(5) In any action by an Association to collect Assessments and Delinquency Costs or to foreclose an Assessment Lien, the court may appoint a receiver for the Owner to collect all sums alleged to be due from the Owner prior to or during the pending of the action. The court may order the receiver to pay any sums held



by the receiver to the Association during the pending of the action to the extent of the Association's General Assessments and Delinquency Costs. The rights of the Association shall be expressly subordinate to the rights of any First Mortgagee of a Condominium under any assignment of rents given in connection with a First Security Interest.

(6) The Assessment Lien hereby given shall also be a lien upon all of the rents and profits of the encumbered Condominium; provided, however, the lien shall be subject and subordinate to the rights of any First Mortgagee of a Condominium under any assignment of rents given in connection with a First Security Interest. Without prejudice to any other right or remedy, the Association may exercise its lien rights to rents and profits by delivering a Notice of Exercise to the occupant or any payor of rents and profits, and thereafter shall be entitled to collect all such rents and profits to the extent of any delinquency.

(7) The Association's Assessment Lien shall be superior to any homestead exemption now or hereafter provided by the laws of the State of Colorado or any exemption now or hereafter provided by the laws of the United States. The acceptance of a deed to a Unit subject to this Declaration shall constitute a waiver of the homestead and any other exemption as against said Assessment Lien.

(c) Transferee Liability.

(1) *General.* In the event of any voluntary or involuntary transfer of a Condominium to any Person (other than a Person taking title through a foreclosure of a First Security Interest), the transferee thereof (the "Transferee") will be jointly and severally liable with the transferor of such Condominium for all unpaid Assessments against such Condominium up to the time of transfer, without prejudice to the Transferee's right to recover from the transferor any amounts paid by the Transferee hereunder. No such sale or transfer shall relieve any Owner from continuing liability for any Assessment thereafter becoming due, nor from the lien thereof.

(2) *First Security Interest Foreclosure.* Subject to Section 16.1(c) hereof, any Person (including a First Mortgagee) acquiring title to a Condominium through foreclosure of a First Security Interest will be liable for any unpaid Assessments which were delinquent at the time of the Recording of such First Security Interest and which become due subsequent to the date such Person acquires title to such Condominium, but such Person's title to such Condominium will not, except to the extent provided in ' 38-33.3-316(2)(b) of the Act, be subject to an Assessment Lien for any Assessments which become due subsequent to the Recording of such First Security Interest and prior to the date such Person acquires title to such Condominium.

7.7 Disputes and Records. Any Owner or Eligible Holder, or their respective authorized representatives will have the right to inspect the books and records of the Association during business hours upon reasonable prior notice. If an Owner disputes the amount of any Assessment against its Condominium and is unable to resolve the issue through an inspection of the Association's books and records, the Owner may cause such dispute to be submitted to arbitration pursuant to Section 18.4 hereof; provided, however, that the Owner will pay in a timely manner the full amount of the disputed Assessment unless and until it is finally determined in such arbitration that the amount is incorrect (in which case the Association will promptly refund any overpayment). If such Owner fails to pay the disputed Assessment during the pendency of the arbitration proceeding, the Association may immediately pursue any of its remedies for such failure (including, without limitation, suit against such Owner and/or foreclosure of its Condominium) and the pendency of such arbitration proceeding will not constitute a bar or defense to any such actions by the Association.

7.8 Surplus Funds. Any surplus funds of the Association remaining after payment of or provision for the Common Expenses and any prepayment of or provision for reserves shall be retained by the Association as unallocated reserves and need not be credited the Owners in proportion to their Common Allocation or credited to them to reduce their future Assessments.

7.9 Prohibition of Exemption from Liability. No Owner may exempt itself from liability for payment of Assessments by waiver of the use or enjoyment of any of the Common Elements, by abandonment of its Condominium or otherwise.



**ARTICLE 8
Alterations**

8.1 Permitted Unit Alterations. An Owner may, subject to the terms and provisions of this Article 8, construct an alteration or improvement to its Unit (a "Permitted Unit Alteration") that:

(a) does not, either during construction or after completion, impair the structural integrity, electrical systems, building systems, or mechanical systems, or lessen the support of any portion of the Condominium Community;

(b) does not, during construction, substantially and unreasonably impair the use of any Common Element by any Owner (or its Permittees) entitled to such use;

(c) does not, during construction, change the appearance or otherwise adversely affect the Common Elements, except for such temporary increases in the use of the Condominium Community's elevators, service entry and trash removal facilities as may be reasonable and necessary in view of the nature of the alteration or improvement;

(d) does not, after completion, change the appearance of or otherwise adversely affect the Common Elements;

(e) does not, after completion, affect the appearance of the Condominium Community, when viewed from any area outside the altered Unit;

(f) does not, either during construction or after completion, impair or adversely affect any Easement or right granted pursuant to this Declaration;

(g) does not involve the painting or alteration in any manner of the exterior of his Unit, including the doors and windows, or the painting or alteration of the exterior of any Building; and

(h) does not otherwise conflict with or constitute a violation of any of the Project Documents.

At least seven (7) days prior to the commencement of construction, an Owner intending to perform a Permitted Unit Alteration will provide plans and specifications for such Permitted Unit Alteration to the Board. Any change, addition, alteration or improvement of any Unit that does not constitute a Permitted Unit Alteration is prohibited (unless otherwise permitted pursuant to this Article 8) and may be enjoined by the Association or any aggrieved Owner.

8.2 Construction. Any Owner(s) performing any construction or demolition work relating to a Permitted Alteration (which may sometimes be referred to hereafter as an "Alteration") must comply with the following additional provisions:

(a) such Owner(s) will obtain all necessary permits and governmental authorizations for the Alteration;

(b) the Alteration and the construction thereof will comply with all applicable zoning and building codes and other applicable law, ordinances and restrictive covenants;

(c) prior to commencing any construction, such Owner(s) will provide the Board with evidence sufficient to the Board that the insurance required to be maintained by such Owner(s) pursuant to Section 9.2 hereof is in full force and effect and that the contractor who will perform the work maintains worker's compensation insurance in the amount required by law and contractor's liability insurance with such limits as the Board may reasonably require;



(d) such Owner(s) will cause the Alteration to be constructed and completed diligently, in a good and workmanlike manner, and free and clear of all mechanics' and materialmen's liens and other claims;

(e) during the construction process, such Owner(s) will, to the extent consistent with good construction practice, keep the area affected thereby in a safe, neat and clean condition;

(f) such Owner(s) will minimize any impact from the construction process on other Units or Common Elements;

(g) such Owner(s) will perform the Alteration work, or cause such work to be performed, in such a manner as to maintain harmonious labor relations and as not to interfere unreasonably with or delay the work of any other contractors then working anywhere on the Condominium Community;

(h) such Owner(s) will reimburse the Association for all costs incurred by the Association in connection with the Alteration, such as the increase in costs of trash removal due to the performance of the Alteration work; and

(i) such Owner(s) will pay or cause to be paid all costs of design and construction of the Alteration.

8.3 Alteration of Common Elements.

(a) By Owner. No Owner or Owner's Permittee will construct anything upon, remove anything from, or alter any of the Common Elements, or paint, decorate, or landscape any portion of the Common Elements. Without limiting the generality of the foregoing, no Owner or Owner's Permittee will do anything which will impair or affect (i) the structural stability or building systems of the Condominium Community; (ii) any Easement or right granted pursuant to this Declaration; or (iii) any Common Element.

(b) By Association. The Association may construct an alteration or improvement to a Common Element (a "Common Alteration") if all of the following conditions are satisfied:

(1) the Common Alteration does not permanently impair the structural stability or building systems of or lessen the support of any portion of the Condominium Community (provided, however, that any impairment will not be deemed permanent if it is susceptible of being cured and will be cured by the proposed Common Alteration);

(2) the Common Alteration does not have a material adverse effect, either during construction or upon completion, upon the use of any Unit or Limited Common Element for its permitted purposes (unless the Owner of the affected Condominium consents in writing to the Common Alteration);

(3) the Common Alteration has been approved by a majority (i.e., more than fifty percent (50%)) vote of a quorum of Owners at a duly called meeting of Owners for such purpose; and

(4) if the cost of the Common Alteration will constitute a Common Expense, a budget that includes such cost has been deemed ratified by the Owners pursuant to Section 6.10(c) hereof, or if the cost of the Common Alteration will constitute a Voluntary Capital Expense, a Special Assessment therefor has been approved pursuant to Section 7.2(d) hereof.

The Association will comply with the provisions of Section 8.2 hereof (except Section 8.2(h)) in constructing any Common Alteration, as if the Association were an Owner. A Common Alteration shall not be deemed to include any of the Association's maintenance obligations pursuant to Section 5.1.

8.4 Alterations by Declarant. Nothing in this Article 8 will be deemed to restrict or prohibit Declarant from making any alteration or improvement that Declarant has reserved the right to make pursuant to Section 2.9(a) or (b)



hereof, and the provisions of this Article 8 will not apply to any alteration or improvement made by Declarant pursuant to Section 2.9(a) or (b) hereof.

ARTICLE 9 Insurance

9.1 Association's Insurance. The Association's responsibilities with respect to insurance will be as follows and as required by the Act and, except as expressly provided to the contrary in this Declaration, the cost of all insurance maintained by the Association hereunder will be included in Common Expenses:

(a) Property Insurance.

(1) The Association will obtain, maintain, and pay the premiums upon, as a Common Expense, a "master" or "blanket" type policy of property insurance covering all of the Common Elements (except land, foundation, excavation, and other items normally excluded from coverage) including fixtures, to the extent they are part of the Common Elements of the Condominium Community, building service equipment and supplies, and other personal property constituting part of the Association Properties. All references herein to a "master" or "blanket" type policy of property insurance, are intended to denote single entity condominium insurance coverage.

(2) In addition, any fixtures, equipment, or other property within the Units which are to be financed by a Security Interest to be purchased by FNMA or FHLMC (regardless of whether or not such property is a part of the Common Elements) shall be covered in such "blanket" or "master" policy.

(3) Such insurance coverage shall be in such amounts, against such risks, and containing such provisions as the Board may reasonably determine from time to time are consistent with the coverage that would be required by prudent institutional mortgage investors in the area in which the Condominium Community is located. At a minimum, such policy shall insure against all risks of direct physical loss for one hundred percent (100%) of the full replacement cost of the insured property (less a customary deductible) at the time such insurance is purchased and at each renewal date.

(4) Such insurance policy shall afford, as a minimum, protection against the following:

(A) loss or damage by fire and other perils normally covered by the standard extended coverage endorsement;

(B) all other perils which are customarily covered with respect to condominiums similar in construction, location and use, including all perils normally covered by the standard "all-risk" endorsement, where such is available.

(5) Such property insurance will be maintained in the name of the Association, for the use and benefit of, and as trustee for, all Owners and Security Holders, who may be named as additional insureds, as their interests may appear.

(6) Such insurance shall include the Units but not the finished interior surfaces of the walls, floors, and ceilings of the Units. Such insurance need not include improvements and betterments installed by Condominium Owners, but if they are covered, any increased charge shall be assessed by the Association to those Owners as a Reimbursable Expense pursuant to Section 7.2(b)(1) hereof.

(7) Such insurance will include the standard mortgage clause or equivalent endorsement (without contribution) which is commonly accepted by private institutional mortgage investors in the area in which the Condominium Community is located and which appropriately names FNMA and FHLMC if such corporations are holders of First Security Interests on a Condominium.



(8) Such insurance provide that it may not be canceled, nor may coverage be reduced, without at least 30 days prior notice to the Association and all additional insureds named therein.

(9) Such insurance shall be written as a primary policy, not contributing with and not supplemental to the coverage that any Owner may carry.

(10) Such insurance shall permit a waiver of claims among, and provide for a waiver of subrogation by the insurer as to claims against, the Association, its directors, officers, employees, and agents, each Owner and the members of such Owner's household, each Security Holder, any other person for whom the Association or any Owner or Security Holder may be responsible, and any Insured Permittee.

(11) If available and commonly required by prudent institutional mortgage investors in the area in which the Condominium Community is located, such policy shall:

(A) contain an agreed amount endorsement and an inflation guard endorsement; and

(B) contain construction code endorsements (such as a demolition cost endorsement, a contingent liability from operation of building laws endorsement, an increased cost of construction endorsement, and a guaranteed replacement cost endorsement) if the Condominium Community is subject to a construction code provision which would become operative and require changes to undamaged portions of the Building(s), thereby imposing significant costs in the event of partial destruction of the Condominium Community by an insured hazard.

(12) Such policy shall:

(A) contain no provisions pursuant to which the insurer may impose a so-called "co-insurance" penalty;

(B) provide that, notwithstanding any provision that gives the insurer an election to restore damage in lieu of making a cash settlement, such option will not be exercisable if the proper party(ies) elect not to restore the damage in accordance with the provisions of this Declaration or the Act;

(C) provide that no act or omission by any Owner, unless acting within the scope of such Owner's authority on behalf of the Association, will void the policy or be a condition to recovery under the policy; and

(D) provide that each Owner shall be included as an additional insured but only for claims and liabilities arising in connection with the ownership, existence, use, or management of the Common Elements.

(13) Policies are unacceptable where: (A) under the terms of the insurance carrier's charter, by-laws, or policy, contributions or assessments may be made against borrowers, FNMA, FHLMC, or the designee of FNMA or FHLMC; (B) by the terms of the carrier's charter, by-laws or policy, loss payments are contingent upon action by the carrier's board of directors, policyholders, or members; or (C) the policy includes any limiting clauses (other than insurance conditions) which could prevent FNMA, FHLMC, or the borrowers from collecting insurance proceeds.

(14) In the event that, as a result of any improvements or alterations made to a Unit by its Owner, the premium for the property insurance policy described above is increased to an amount in excess of what such premium would have been had such Owner not made such improvements or alterations, the Board may assess the amount of such increase in premium against such Owner's Condominium as a Reimbursable Expense pursuant to Section 7.2(b)(1) hereof.

(b) Liability Insurance.



- (1) The Association will maintain comprehensive general liability (i.e., bodily injury and property damage liability) insurance coverage covering all of the Common Elements, commercial space owned and leased by the Association, and public ways of the Condominium Community.
- (2) Coverage under this policy shall include, without limitation, legal liability of the insureds for property damage, bodily injuries and deaths of persons in connection with the operation, maintenance, or use of the Common Elements, and legal liability arising out of lawsuits related to employment contracts of the Association.
- (3) Such policy shall provide that it may not be canceled or substantially modified without at least 30 days prior notice to the Association and all additional insureds named therein.
- (4) Such insurance shall be maintained for the benefit of the Association and its officers, directors, agents, and employees, with all Owners and First Mortgagees named as additional insureds, in such amounts and with such coverage as may be determined from time to time by the Board; provided that, to the extent available on reasonable terms, such liability insurance will B
- (A) provide coverage limits in amounts generally required by private institutional mortgage investors for projects similar in construction, location, and use to the Condominium Project; provided, that such policy shall have a combined single occurrence limit of not less than \$1,000,000;
- (B) be on a commercial general liability form;
- (C) contain a "severability of interest" or "cross-liability" endorsement which will preclude the insurer from denying the claim of any named or additional insured due to the negligent acts, errors or omissions of any other named or additional insured;
- (D) be written as a primary policy, not contributing with and not supplemental to any coverage that any Owner may carry;
- (E) shall permit a waiver of claims among, and provide for a waiver of subrogation by the insurer as to claims against, the Association, its directors, officers, employees, and agents, each Owner and the members of such Owner's household, each Security Holder, any other person for whom the Association or any Owner or Security Holder may be responsible, and any Insured Permittee;
- (F) insure all of the named and additional insured parties against liability for negligence resulting in death, bodily injury, or property damage arising out of or in connection with the operation, use, ownership or maintenance of the Common Elements; and
- (G) provide that each Owner shall be included as an additional insured but only for claims and liabilities arising in connection with the ownership, existence, use, or management of the Common Elements.
- (5) The liability insurance required to be maintained under this subsection will not include coverage for any liability arising out of the operation, use, ownership, or maintenance of any Unit.
- (c) Worker's Compensation and Employer's Liability. The Association will maintain such worker's compensation and employer's liability insurance as may be determined from time to time by the Board, provided that such insurance will in no event be maintained in an amount or with coverages less than that required by applicable law.



(d) Automobile Insurance. If the Association operates owned, hired or non-owned vehicles, the Association will maintain comprehensive automobile liability insurance at a limit of liability of not less than \$500,000 for combined bodily injury and property damage.

(e) Directors' and Officers' Insurance. The Association may maintain directors' and officers' liability coverage in such amount as it determines from time to time.

(f) Fidelity Insurance.

(1) The Association will maintain blanket fidelity insurance or bonds covering losses resulting from dishonest or fraudulent acts committed by the Association's directors, officers, managing agents, trustees, employees or volunteers who manage the funds collected and held for the benefit of the Association. Such policy must name the Association as the insured, include a provision requiring at least 10 days' written notice to the Association before any cancellation of, or material modification in, such policy, and provide coverage in an amount at least equal to three months' General Assessments against all Condominiums, based on the General Assessments most recently approved by the Board. The policy shall contain waivers by the issuer of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees", or similar terms or expressions. The premiums on all bonds required herein, except those maintained by the management agent, shall be paid by the owners association as a common expense.

(2) If the Association engages a managing agent that will handle funds of the Association, such managing agent must also maintain fidelity insurance satisfying the foregoing requirements and provide evidence of such coverage to the Board.

(3) The Association shall also require any independent contractor who manages the Association to obtain and maintain fidelity bond insurance coverage in the same amount, to the extent that it is reasonably available, unless they are covered under the Association's fidelity bond insurance coverage.

(g) Flood Insurance. If the Condominium Community is located within an area which has been officially identified by the Secretary of Housing and Urban Development as having special flood hazards and for which flood insurance has been made available under the National Flood Insurance Program (NFIP), the Association shall obtain and pay the premiums upon, as a Common Expense, a "master" or "blanket" policy of flood insurance on the buildings and any other property covered by the required form of policy (herein insurable property), in an amount deemed appropriate by the Association, but not less than the lesser of (i) the maximum coverage available under the NFIP for all buildings and other insurable property within the Condominium Community to the extent that such buildings and other insurable property are within an area having special flood hazards; or (ii) one hundred percent (100%) of current "replacement cost" of all such buildings and other insurable property within such area.

(h) Other Insurance. The Association may procure and maintain such other insurance as the Board may from time to time deem appropriate to protect the Association or the Owners.

(i) Licensed Insurers. All policies of insurance required to be maintained by the Association will be placed with insurers licensed in the State of Colorado.

9.2 Owners' Insurance. The Owners' responsibilities with respect to insurance will be as follows:

(a) Property Insurance. Each Owner will maintain at its expense (or will cause its Permittee to maintain at its expense) property insurance upon all personal property within such Owner's Unit or in any Limited Common Element appurtenant thereto, in such amounts, against such risks, and containing such provisions as the Owner may reasonably determine from time to time. Any such property insurance will:

(1) permit a waiver of claims among, and provide for a waiver of subrogation by, the insurer as to claims against the Association, its directors, officers, employees, and agents, each Owner and the members of



such Owner's household, each Security Holder, any other person for whom the Association or any Owner or Security Holder may be responsible, and any Insured Permittee;

(2) be written as a primary policy, not contributing with and not supplemental to the coverage that the Association may carry; and

(3) provide that, notwithstanding any provision that gives the insurer an election to restore damage in lieu of making a cash settlement, such option will not be exercisable if the proper party(ies) elect not to restore the damage in accordance with the provisions of this Declaration or the Act.

All insurance carried under this subsection will provide that it may not be canceled, nor may coverage be reduced, without 30 days prior notice to the Association and, notwithstanding that each Owner or Insured Permittee may select the amount and type of such insurance, for purpose of the waiver of claims set forth in Section 9.4 hereof, each Owner and Insured Permittee will be deemed to have elected to obtain such insurance on a 100 percent replacement cost basis.

(b) Liability Insurance. Each Owner will maintain at its expense bodily injury and property damage liability insurance for the benefit of such Owner and such additional insureds as it may elect to name, in such amounts and with such coverage as are from time to time be customarily maintained by prudent owners of similar property; provided that such liability insurance will:

(1) have a combined single occurrence limit of not less than \$100,000;

(2) be written as a primary policy, not contributing with and not supplemental to any coverage that the Association or another Owner may carry; and

(3) insure all of the named and additional insured parties against liability for negligence resulting in death, bodily injury or property damage arising out of or in connection with the operation, use, ownership or maintenance of such Owner's Unit.

(c) Other Insurance. Each Owner may obtain additional insurance, at its own expense, affording personal property, condominium assessment, loss of rents, personal liability, and any other coverage obtainable, to the extent and in the amount such Owner deems necessary to protect its own interests; provided that any such insurance will contain waivers pursuant to Section 9.4 hereof and will provide that it is without contribution as against the insurance maintained by the Association.

(d) Assignment of Proceeds. If a casualty loss is sustained and there is a reduction in the amount of proceeds that would otherwise be payable under any policy of insurance carried by the Association due to the existence of any insurance carried by an Owner or Permittee, such Owner or the Owner of such Permittee's Condominium will be liable to the Association to the extent of such reduction and will pay the amount of such reduction to the Association upon demand; such Owner also hereby assigns the proceeds of its insurance, to the extent of such reduction, to the Association.

9.3 Certificates of Insurance; Notices of Unavailability. Each Owner will provide to the Association at the closing of the purchase of its Condominium and no less than 10 days subsequent to expiration of any coverage, certificate(s) of insurance evidencing the insurance required to be carried under Sections 9.2(a) and 9.2(b) hereof. The Association will, upon the request of any Owner or Eligible Holder, provide certificates of insurance evidencing the insurance required to be carried by the Association under Section 9.1 hereof. If the insurance described in Sections 9.1(a) and (b) hereof is not reasonably available or if any policy of such insurance is canceled or not renewed without a replacement policy therefor having been obtained, the Association promptly will cause notice of such fact to be given to all Owners.

9.4 Waiver of Claims. The Association will make no claim against any Owner or the members of such Owner's household, any Security Holder, any other person for whom any Owner or Security Holder may be responsible,



or any Insured Permittee, and no Owner, Security Holder, or Insured Permittee will make any claim against the Association, its directors, officers, employees, or agents, or any other Owner, Security Holder, or Insured Permittee or any of their respective employees, agents, officers, or directors, for any loss or damage to any portion of the Condominium Community or any personal property located thereon, and all such claims are hereby waived, to the extent that such loss or damage would be covered by any property insurance policy upon the affected property that is required to be maintained by or for the benefit of the waiving Person under this Declaration (assuming such insurance policy is maintained on a 100 percent replacement cost basis), that is in fact maintained by such Person, or under which such Person is named as an additional insured. All property insurance policies carried by the Association or any Owner or Insured Permittee will contain a waiver of subrogation in accordance with the preceding sentence. For purposes of this Section, the deductible amount under any property insurance policy required to be, or in fact, maintained by a waiving Person will be deemed to be "covered" by such policy so that, in addition to waiving claims for amounts in excess of such deductible (up to the covered limits, or deemed covered limits, of such policy), such waiving Person waives all claims for amounts within such deductible.

9.5 Proceeds. Except as provided in Section 9.2(d) hereof, the Association will have no claim to and each Owner will be entitled to receive all proceeds of any insurance policy maintained by such Owner. The Board will be solely responsible for adjustment of any losses under insurance policies maintained by the Association and is hereby irrevocably appointed the agent of all Owners, Security Holders, and other Persons having an interest in the Condominium Community for purposes of adjusting all claims arising under insurance policies maintained by the Association and executing and delivering releases upon the payment of claims. The Association will be entitled to receive all proceeds of any insurance policy maintained by the Association, except other insured parties under liability insurance policies will be entitled to proceeds arising out of their insured losses. The Board will disburse the proceeds of any property insurance relating to damage to any Unit or Common Element in accordance with Section 10.2 hereof.

**ARTICLE 10
Destruction, Damage, or Obsolescence**

10.1 Restoration Decision. In the event of any damage or destruction of any Unit or Common Element by fire or other casualty (a "Casualty"), the provisions of this Article 10 will apply.

(a) Promptly after the occurrence of any Casualty, the Board will obtain at least two bids from licensed contractors for the full and lawful repair and restoration of all damaged Units and Common Elements. Upon receipt of such bids and after sufficient discussions with the adjuster for the Association's insurer, the Board will notify the Owners of the amounts of such bids, the probable amount of insurance proceeds and other funds (such as funds in the Reserve Account) that will be available for restoration, and whether, based on such information, the Board believes a Restoration Deficit will result if the Owners elect to fully restore all damaged Units and Common Elements. In such notice the Board will also call a meeting of the Owners to vote on the question of whether to fully restore all damaged Units and Common Elements.

(b) The Association will fully restore the damaged Common Elements to their condition prior to such Casualty and the Board will promptly enter into construction contracts and proceed with the restoration work, unless at such meeting:

(1) Owners to whom at least seventy-five percent (75%) of the votes in the Association are allocated, including at least sixty-seven percent (67%) of the votes allocated to Condominiums owned by Owners other than Declarant, vote to adopt a Termination Agreement terminating the Condominium Community pursuant to Article 12 and, prior to the stated expiration of such Termination Agreement the same is approved by a Majority of the Eligible First Mortgagees and otherwise becomes effective pursuant to the provisions of Section 12.1 hereof; or

(2) Owners to whom at least eighty percent (80%) of the votes in the Association are allocated, including at least sixty-seven percent (67%) of the votes allocated to Condominiums owned by Owners other than Declarant, and including the vote of the Owner of any Condominium whose boundaries will be changed or the use or enjoyment of which (including such Condominium's Unit or its allocated Limited Common Elements)



will be prevented or materially impaired as a result of not fully restoring all damaged Units and Common Elements, vote:

(A) not to fully restore all damaged Units and Common Elements and not to terminate the Condominium Community;

(B) to approve plans and specifications for a limited restoration that will restore the damaged area to a condition compatible with the remainder of the Condominium Community and that may include, without limitation, demolition, restoration, or alteration of all or part of any damaged Unit or Common Element; and

(C) to adopt, if applicable, an amendment to this Declaration (including the Map) to reflect the conversion of all or part of one or more damaged Unit(s) to Common Elements or of all or part of one or more damaged Common Element(s) to one or more Unit(s), and the corresponding reallocation of Common Allocations and voting rights allocated to the Units pursuant to this Declaration (which reallocation must be based on the same formulas as set forth in Section 2.8 hereof for the allocations being changed).

(c) If the Owners vote to terminate the Condominium Community and a Termination Agreement becomes effective pursuant to Section 12.1 hereof, the Association will perform such limited restoration of the Units and Common Elements as may be necessary to return them to a safe, lawful, and saleable condition. If the Owners vote not to fully restore all damaged Units and Common Elements and not to terminate the Condominium Community, the Association will perform the limited restoration and Record the amendment to this Declaration, if any, approved by the requisite number of Owners and Eligible First Mortgagees pursuant to Section 10.1(b)(2) hereof. If, however, the Owners elect to fully restore all damaged Units and Common Elements, the Board will assess a Special Assessment pursuant to Section 7.2(c) hereof to the extent necessary to cover any Restoration Deficit.

10.2 Disposition of Insurance Proceeds. All proceeds of property insurance received by or disbursed to the Association in connection with a Casualty will be applied first to the full or limited restoration of the damaged Units and Common Elements, as provided above, and then, if any insurance proceeds remain after such full or limited restoration, such excess proceeds will be paid to the Owners, subject to the rights of their Security Holders, as follows:

(a) if the Owners elect not to fully restore all damaged Units and Common Elements and to terminate the Condominium Community pursuant to Article 12, then each Owner will be paid its Condominium's Termination Allocation of such excess proceeds pursuant to Section 12.3 hereof;

(b) if the Owners elect not to fully restore all damaged Units and Common Elements and not to terminate the Condominium Community, then any of such excess proceeds attributable to any damaged Units that are not restored or to any Common Elements that are not restored and were necessary for the use and enjoyment of any Units or Limited Common Elements that are not fully restored will be paid to the Owners of such Units or the Owners of those Units to which such Limited Common Elements were allocated, and each Owner will be paid its Condominium's Common Allocation of the remainder of such excess proceeds, if any; or

(c) if the Owners elect to fully restore all damaged Units and Common Elements, then each Owner will be paid its Condominium's Common Allocation of such excess proceeds.

10.3 Manner of Restoration. The restoration of any Unit or Common Element will be subject to the following requirements:

(a) Plans. Except in the case of a limited restoration in accordance with Section 10.1(a) or (b) hereof, the restoration must be completed in accordance with the as-built plans and specifications of such Unit or Common Element immediately prior to the damage. Any deviation from such as-built plans and specifications will be deemed an alteration and will be subject to the terms and provisions of Article 8.

(b) Requirements. The Association must:



- (1) obtain all necessary permits and governmental authorizations for the restoration;
- (2) comply with all applicable zoning and building codes and other applicable laws, ordinances and restrictive covenants;
- (3) perform the restoration in a diligent, good and workmanlike manner, free and clear of all mechanics' and materialmen's liens and other claims;
- (4) during the construction process, to the extent required by good construction practices, keep the area affected thereby in a safe, neat, and clean condition;
- (5) minimize any impact from the construction process on other Units or Common Elements; and
- (6) perform any restoration or construction work, or cause such work to be performed, in such a manner as to maintain harmonious labor relations and as not to interfere unreasonably with or delay the work of any other contractors then working anywhere on the Condominium Community.

(c) Coordination by Association. The Association will have full authority and responsibility to coordinate the manner of completion and scheduling of any restoration under this Article 10 so as to ensure the completion of the restoration in an efficient manner. Each Owner will cooperate and cause its contractors and agents to cooperate in the Association's coordination of any such restoration. As used in this Article 10, a "restoration" will include any repair, replacement, restoration, reconstruction, construction or demolition required as a result of any damage or destruction.

10.4 No Abatement. Each Condominium will continue to be subject to Assessments following any damage to any portion of the Condominium Community, without abatement or modification as a result of such damage.

10.5 Obsolescence. Owners of more than seventy-five percent (75%) of the votes in the Association may agree that the Condominium Community is obsolete and adopt a plan for renewal and reconstruction. If such a plan for renewal or reconstruction is adopted, notice of such plan shall be recorded and the expense of renewal and reconstruction shall be payable by all of the Owners in accordance with their Common Allocations or in accordance with any other allocation formula approved by seventy-five percent (75%) of the Owners, as a special assessment, whether or not they have previously consented to the plan or renewal and reconstruction. The Association as attorney-in-fact have the absolute right and power to sell the 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 on notice that the Unit of the delinquent Owner shall be sold by the Association. The delinquent Owner shall be required to pay the Association the costs and expenses for filing the notices' interest at the rate of twenty one percent (21%) per annum (or such other rates which may be set from time to time by the Board), on the amount of the assessment and all reasonable attorneys' fees and court costs. The proceeds derived from the sale of such Units shall be used and disbursed by the Association as attorney-in-fact for the same purposes and in the same order as provided in Section 10.2 herein.

(a) Termination of Condominium Project. 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 the entire Property shall be sold by the Association, as attorney-in-fact for all of the Owners, free and clear of the provisions contained in the Project Documents. Any contract of sale for such purpose, if required by the Act, shall be approved by the Owners of more than seventy-five percent (75%) of the votes in the Association. The sales proceeds as a result of the sale of the Condominium Community shall be apportioned among the Owners on the basis of their Common Allocations.



**ARTICLE 11
Condemnation**

11.1 Taking of Condominiums.

(a) In the event of a taking by eminent domain or conveyance in lieu thereof (collectively, a "Taking") of all or any part of any Condominium (including, without limitation, the Taking of the use of any Limited Common Element allocated to a Unit), the Owner thereof will be solely responsible for negotiating with the condemning authority concerning the award for such Taking and will be entitled to receive such award after the liens of all Security Holders on the affected Condominium or portion thereof have been satisfied or otherwise discharged. If only part of a Unit included in a Condominium is acquired by a Taking, the Owner of such Condominium will be responsible for the restoration of its Unit as necessary to return the Unit to a safe and lawful condition that does not adversely affect the use or enjoyment of the other Units or Common Elements or detract from the general character or appearance of the Condominium Community. The plans and specifications for such limited restoration will be subject to approval by the Board. The limited restoration must be completed in accordance with the approved plans and specifications and the provisions of Section 8.2 hereof.

(b) If a Taking occurs by which the condemning authority acquires all or any part of one or more Condominium(s) in such a manner that such Condominium(s) is or are no longer subject to this Condominium Declaration, or if any Taking otherwise requires a reallocation of the Common Allocations or voting rights, then the Association will prepare, execute, and record an amendment to this Declaration reallocating the Common Allocations or voting rights of the various Condominiums hereunder (which reallocation must be based on the same formulas as set forth in Section 2.8 hereof for the allocations being changed).

11.2 Taking of Common Elements. As used herein, a "Common Element Taking" means any Taking by which a condemning authority acquires one hundred percent (100%) of the interests in and to any Common Element without also acquiring one hundred percent (100%) of the Units. The Board will be solely responsible for negotiating, and is hereby authorized to negotiate with the condemning authority on behalf of all Owners concerning, the amount of the award for any Common Element Taking, and the acceptance of an award by the Board will be binding on all Owners. In the event of a Common Element Taking, the Association will be responsible and will perform any restoration of the remaining Common Elements necessary to return them to a safe and lawful condition that does not adversely affect the use or enjoyment of the Units or other Common Elements or detract from the general character or appearance of the Condominium Community. If the net award (i.e., net of costs of collection) received by the Association from any Common Element Taking exceeds the amount actually incurred to perform any required restoration of the Common Elements, the Association will pay or credit each Owner with its Condominium's Termination Allocation of such excess condemnation award, as if such award had resulted from a sale of the Condominium Community pursuant to Section 12.2 hereof; provided, however, that the valuation date to be used to determine the fair market value of each Condominium pursuant to Section 12.3 hereof for purposes of determining the Termination Allocations will be the date immediately preceding the earlier of the date that title or the date that possession is transferred to the condemning authority in connection with the Common Element Taking. If the net amount of the award so received is insufficient to effect such restoration, the Board may assess a Special Assessment to cover the Restoration Deficit in accordance with Section 7.2(c) hereof.

**ARTICLE 12
Termination**

12.1 Termination Agreement.

(a) The Condominium Community may be terminated only pursuant to a written agreement to terminate executed and acknowledged (or ratified and acknowledged in writing) by:

(1) the Owners of Condominiums to which are allocated at least seventy-five (75%) of the votes in the Association, including, if the decision to terminate results from a Casualty or a Taking, a Supermajority of the Owners other than Declarant, and



(2) (A) a Majority of the Eligible First Mortgagees, if the decision to terminate is by reason of a Casualty or a Taking; or

(B) a Supermajority of the Eligible First Mortgagees, if the decision to terminate is for reasons other than a Casualty or a Taking,

(a "Termination Agreement"). A Termination Agreement is not effective until the requisite number of Owners and Eligible First Mortgagees have executed and acknowledged such Termination Agreement or a ratification of it and the Termination Agreement and all such ratifications have been Recorded.

(b) Any Termination Agreement must state a date after which it will become automatically void unless it has become effective by such date (i.e., unless by such date such Termination Agreement or a ratification thereof has been executed and acknowledged by the requisite number of Owners and Eligible First Mortgagees and the Termination Agreement and all such ratifications have been Recorded). Any Termination Agreement must also state that, at such time as the same becomes effective, the Condominium Community will be deemed terminated and the Association will sell the Condominium Community, including all Units and Common Elements, on behalf of all Owners, upon such terms and conditions of sale as may be approved by the Board, but in no event upon any terms of sale less favorable than such minimum terms as are set forth in the Termination Agreement.

12.2 Sale of Condominium Community.

(a) At such time as any Termination Agreement has become effective, the Condominium Community will be deemed terminated and the Entire Condominium Community (i.e., all Units and all Common Elements) will be sold for the benefit of the Owners and the resulting sales proceeds will be allocated in accordance with Section 12.3 hereof. In order to accomplish such a sale of the Condominium Community, upon approval of a Termination Amendment, each Owner (including dissenting Owners) will be deemed to have granted the Association, acting through its officers under the authority of the Board, an irrevocable power of attorney, coupled with an interest, to sell the Condominium Community for the benefit of the Owners and, accordingly, the Association will have full and complete authorization, right and power to make, execute and deliver any contract, deed or other instrument necessary and appropriate to accomplish such purpose.

(b) Notwithstanding the termination of the Condominium Community, the Association (and, accordingly, its officers and the Board) will continue in existence and in office, as the case may be, with all of its and their powers as specified in this Declaration and the Bylaws (including, without limitation, the power to impose Assessments) until such time as the Condominium Community has been sold and all proceeds (sales proceeds and, if applicable, insurance proceeds or condemnation proceeds) have been distributed. Further, unless otherwise specified in the Termination Agreement or otherwise precluded by law, until a sale of the Condominium Community has been concluded, each Owner will have an exclusive right to occupy its former Unit and will remain liable for all Assessments and other obligations imposed on such Owner pursuant to this Declaration.

12.3 Proceeds.

(a) The Association will pay to each Owner its Condominium's Termination Allocation of the net proceeds of any sale of the Condominium Community following termination of the Condominium Community (together with any insurance proceeds or condemnation proceeds); provided, however, that no payment will be made to an Owner until there has first been paid out of its share of such proceeds all liens on its Condominium, in the order of priority of such liens.

(b) A Condominium's "Termination Allocation" means that percentage obtained by dividing the fair market value of such Condominium by the total fair market values of all of the Condominiums. The valuation date to be used in determining the fair market value of each Condominium will be the date immediately prior to the date the Termination Agreement becomes effective (or, if the termination is attributable to a Casualty where the Owners elect to terminate the Condominium Community pursuant to Section 10.1(b) hereof, the valuation date will be the date



immediately prior to the date on which the Casualty occurred). The fair market value of each Condominium as of the appropriate valuation date will be determined by one or more independent appraisers selected by the Board. The values determined by such independent appraisers will be distributed to the Owners and will become final and binding on all Owners for purposes of establishing the Termination Allocations unless within 30 days after such distribution the same are disapproved by the Owners of Condominiums to which at least twenty-five percent (25%) of the votes in the Association are allocated.

**ARTICLE 13
Amendment**

13.1 Required Votes. Except as provided below in this Section or permitted by the Act, and subject to Section 15.3 and Article 16 hereof, this Declaration (including the Map) may be amended by (and only by) the affirmative vote or written consent of a Supermajority of the Owners. Provided, however, that:

(a) The enumerated amendments (as defined in subsection (e) below) may be undertaken as provided in such Sections.

(b) Except for the enumerated amendments, and except to the extent expressly required by the Act, any amendment to this Declaration or the Map that would B

- (1) increase the Special Declarant Rights,
- (2) increase the number of Units, or
- (3) change the boundaries of any Unit, the Common Allocations or voting rights of any Unit, or the uses to which any Unit is restricted,

will require the approval of the Owners of Condominiums to which one hundred percent (100%) of the votes in the Association are allocated.

(c) Any amendment to this Declaration that would change a specific clause or provision hereof that prescribes a certain percentage of affirmative votes or written consents for action to be taken under such clause or provision, will require the affirmative vote or written consent of those Owners to whom at least such percentage (as prescribed in such clause or provision) of the votes in the Association are allocated.

(d) Any amendment to this Declaration or the other Project Documents made during the Declarant Control Period affecting a right that Declarant may exercise during such period, or any amendment to this Declaration or the other Project Documents made during the Declarant Sales Period affecting a right that Declarant may exercise during such period, or any amendment to this Declaration or the Project Documents made during the Declarant Ownership Period affecting a right that Declarant may exercise during such period, must in each case be approved in writing by Declarant.

(e) For the purposes of this Section, the "enumerated amendments" are those described in Section 1.3 hereof concerning amendments to Exhibit B, Section 2.8(d) hereof concerning the reallocation of a Limited Common Element by the affected Owners, Section 2.9(b) hereof concerning a Boundary Relocation by Declarant, Section 2.9(f) hereof concerning amendments by Declarant permitted by the Act, Section 2.10(a) concerning the designation by Declarant of Parking Spaces as Limited Common Elements, Section 2.10(c) concerning parking, Section 2.12(b) concerning certain amendments to the Map, Section 4.4(f) hereof concerning parking and vehicles, Section 10.1(b)(2) hereof concerning a limited restoration following a Casualty, Section 11.1(b) concerning a Taking, and Sections 13.4 and 14.1 hereof concerning certain other amendments by Declarant.

13.2 Amending Documents. Except for any amendment to this Declaration that by the terms hereof is permitted to be, and is duly, executed, acknowledged and Recorded by Declarant or the Board, an amendment to this Declaration will be effective only upon the occurrence of all of the following events:



(a) Approved Writing. The amendment has been reduced to a writing that has been approved (by affirmative vote or written consent) by the applicable required percentage of Owners and by all Eligible First Mortgagees, if any, who are required to approve such amendment pursuant to Section 15.3 hereof.

(b) Certificate by Association. A written certificate, executed and acknowledged by the president or any other authorized officer of the Association, has been attached to the written amendment which states that such amendment was approved by the applicable required percentage of Owners and by all Eligible First Mortgagees, if any, who are required to approve such amendment pursuant to Section 15.3 hereof.

(c) Recording. The approved written amendment described in Section 13.2(a) hereof, including the certificate described in Section 13.2(b) hereof, has been Recorded.

13.3 Presumption of Validity. No action to challenge the validity of an amendment adopted by the Association pursuant to this Article may be brought more than one (1) year after the amendment is Recorded. There will be a presumption subsequent to the Recording of an amendment to this Declaration pursuant to Section 13.2 hereof that all votes and approvals required to pass the same pursuant to this Declaration were duly obtained (at a duly called meeting of the Association, in the case of votes). Such presumption may be rebutted by an action commenced within one year from the date the amendment is Recorded; in the absence of any such action commenced within such one-year period, such presumption will be deemed conclusive.

13.4 Amendments by Declarant. Declarant reserves the right to amend, without the consent or joinder of Owners or First Mortgagees, this Declaration or the other Project Documents, any time within the Development Rights Period, as follows:

(a) To make nonmaterial changes, such as the correction of a technical, clerical, grammatical or typographical error or clarification of a statement;

(b) To comply with any requirements of any of the Agencies or to induce any of the Agencies to make, purchase, sell, insure, or guarantee First Mortgages; or

(c) To comply with any requirements of the Act.

13.5 Expenses. All expenses associated with preparing and recording an amendment shall be allocated in accordance with ' 38-33.3-217(6) of the Act.

**ARTICLE 14
Declarant's Development Rights**

14.1 Phasing of Condominium Community. Declarant shall have and hereby reserves the right, during the Development Rights Period, to create additional Units and/or add real estate to the Condominium Community in phases.

14.2 Annexation of Additional Properties. Declarant hereby reserves the right, for the Development Rights Period, to create additional Units, to annex the Annexable Buildings constructed on the Annexable Property and all the Annexable Units therein, to the Condominium Community, in phases, in accordance with the following terms and provisions:

(a) Right to Annex Buildings. Declarant shall have and hereby reserves the right for the Development Rights Period to annex the Annexable Buildings and Annexable Units, to the Condominium Community and to subject the Annexable Buildings and Annexable Units to the provisions of the Declaration including any portion of the Annexable Buildings which it may have previously conveyed. In accordance with the foregoing, each Owner of a Unit grants to Declarant the right to annex the Annexable Buildings and the Annexable Units into the Condominium Community and to modify such Owner's appurtenant undivided percentage interest in the Common Elements as more particularly set forth in this Article 6. Further, any purchaser of an Annexable Unit within the Annexable Buildings



understands that: (a) the Declarant has specifically reserved the flexibility to annex an Annexable Unit, together with all other Annexable Units within the Annexable Building in which such Annexable Unit is located, upon the issuance of a certificate of occupancy from the applicable governmental authority having jurisdiction over the Condominium Community, which annexation may be prior to conveyance thereof to such purchaser; and (b) and acknowledges and confirms, if such annexation fails to occur for any reason, then the Declarant shall have the right to annex such Annexable Unit, the Annexable Building and all Annexable Units within such Annexable Building even after the conveyance to such purchaser without prior approval of such purchaser. Notwithstanding the foregoing, Declarant reserves the right to convey all or any portion of the Annexable Buildings to such third party or parties as Declarant deems appropriate whether for purposes consistent with the Declaration or otherwise. Declarant makes no assurances that all or any portion of the Annexable Buildings will be annexed to the Community and made subject to the provisions in the Declaration and Declarant reserves the right to annex all or any portion of the Annexable Buildings to the Community in such order and in such a manner as Declarant deems fit in its sole and absolute discretion.

(b) Annexation Procedure. The annexation of Annexable Buildings and the Annexable Units therein to the Condominium Community by Declarant shall be effectuated by the filing of record with the Clerk and Recorder of the County, of: (a) a Supplemental Declaration, generally in the form attached hereto as **Exhibit D** and incorporated herein by this reference, containing a legal description of the Annexable Units within the Annexable Building to be annexed to the Condominium Community and such other terms and provisions as Declarant may prescribe in accordance with the terms and provisions hereof; and, if applicable, (b) a Supplemental Plat (as hereinafter defined) or map which depicts the Annexable Building and the Annexable Units therein to be annexed to the Condominium Community, if not already included on the Map, and which otherwise contains all information required by the Act. The Supplemental Declaration shall incorporate the covenants, conditions and restrictions set forth herein and contain such additional covenants, conditions, restrictions, limitations, reservations, exceptions, equitable servitudes and provisions as Declarant may impose on such annexed property taking into account the unique and particular aspects of the proposed development of the real property encumbered by such Supplemental Declaration. Declarant shall have the right to reserve in a Supplemental Declaration any and all development rights which Declarant deems necessary or appropriate to complete the development of the property being annexed to the Condominium Community or which is otherwise necessary to meet the unique and particular aspects of such property.

(c) Effect of Expansion. Upon recordation of a Supplemental Declaration and a Supplemental Plat, if applicable, the property described therein shall be subject to all covenants, conditions, restrictions, limitations, reservations, exceptions, equitable servitudes and other provisions set forth in this Declaration. In the event any Annexable Unit or Annexable Building is annexed to the Condominium Community as provided herein, the definitions used in this Declaration shall automatically be expanded to encompass and refer to the Condominium Community as expanded. Accordingly, the term "Condominium Community" shall mean the Property described herein plus all additional Property annexed thereto pursuant to a Supplemental Declaration and a Supplemental Plat. The terms "Common Area", "Common Element" and "Units" shall include those areas described as such herein and on the Plats as well as those areas so designated within any Supplemental Declaration or upon any Supplemental Plat. References to this Declaration shall mean this Declaration as so supplemented by any Supplemental Declaration. Upon recordation of a Supplemental Declaration and Supplemental Plat, if applicable, every Owner of a Unit in such annexed area shall, by virtue of ownership of such Unit, be a Member of the Association and shall be entitled to the same rights and privileges and subject to the same duties and obligations as any other Association Member, which rights and obligations shall include, but shall not be limited to, the right to vote in Association matters, the right to use Association Properties and the obligation to pay Assessments. Common Assessments for Units within the area annexed to the Condominium Community shall commence as of the date of the recording of the Supplemental Declaration and shall be prorated as of such date. Except as may otherwise be provided herein, upon the annexation of any property to the Condominium Community, each Owner's: (a) undivided interest in the Association Properties; and (b) voting rights with respect to Association matters shall be reallocated to provide that each Owner's proportionate rights with respect to such matters will be equal to a fraction the numerator of which shall be the number of Units owned by such Member in the Condominium Community and the denominator of which shall be the total number of Units within the Condominium Community.

14.3 Withdrawal of Annexed Property. Property for which a Supplemental Declaration has been recorded may be withdrawn from the Condominium Community by Declarant at any time prior to the time that any Unit contained



therein has been conveyed to a third party. Such withdrawal may be accomplished by the execution, acknowledgment, and recordation of a "Notice of Withdrawal." The Notice of Withdrawal shall: (a) be executed and acknowledged by Declarant, as the Owner of the property being withdrawn; (b) contain an adequate legal description of the property being withdrawn from the Condominium Community; (c) contain a reference to the Supplemental Declaration by which such property was annexed to the Condominium Community including the date thereof and recording information of such Supplemental Declaration; (d) contain a statement and declaration that the such property is withdrawn from the Condominium Community and shall not be thereafter subject to this Declaration or the Supplemental Declaration for such property. The withdrawal of such property from the Condominium Community shall be effective upon the recordation of the Notice of Withdrawal and, upon the recordation of the Notice of Withdrawal, the property described therein shall no longer be part of the Condominium Community or subject to this Declaration or Supplemental Declaration for such property.

14.4 Combination or Subdivision of Condominiums. Declarant shall have and hereby reserves the right, during the Development Rights Period, to combine or resubdivide the space within any Condominium or Condominiums located within the Condominium Community and owned by Declarant, to create additional Condominiums and to designate, redesignate and reallocate Limited Common Elements in connection with any such combination or subdivision. Upon the combination or resubdivision of any Condominium in accordance with the terms and conditions contained herein, each Owner's Common Allocation shall be reallocated as set forth in Section 14.1(c)(3) hereof.

14.5 Leases. Declarant shall have and hereby reserves the right to lease any Unit for a term of less than six months or on a month-to-month basis in addition to its right to lease a Unit as granted in Section 4.6(c) herein.

14.6 Limited Common Elements. Declarant shall have and hereby reserves, during the Development Rights Period, the right to create, change or reallocate Common Elements and Limited Common Elements, including without limitation as described in Section 2.10, in connection with the overall development of the Condominium Community as provided herein.

14.7 Special Declarant Rights. In addition to the foregoing reserved rights, Declarant further reserves the right to exercise all Development Rights, Special Declarant's Rights and other Declarant Rights.

14.8 Exercise of Rights. The exercise of any or all of the Declarant Rights shall be at the sole option and discretion of Declarant. Declarant Rights may be exercised with respect to different portions of the Condominium Community or parcels of real estate at different times. No assurances are made with respect to the boundaries of the portions of the Condominium Community or the parcels of real estate that may be subject to Declarant Rights nor the order in which Declarant Rights may be exercised. If Declarant exercises any Declarant Rights, such Rights may, but need not, be exercised as to all or any other portion of the Condominium Community. Notwithstanding anything in this Declaration to the contrary, no consent or agreement of the Owners, First Mortgagees or any other person shall be required in order to allow Declarant to exercise any of its Declarant Rights, provided such exercise complies with the applicable provisions of this Declaration.

ARTICLE 15
Rights of First Mortgagees

15.1 Subordination. Subject to Section 7.7(c) hereof, all of the covenants, conditions, and restrictions contained in this Declaration will be binding upon and effective against any Owner, including any Owner whose title is derived through foreclosure of any Security Interest.

15.2 Notices. Notwithstanding anything to the contrary stated herein, each Eligible Holder will be entitled to timely written notice of:

(a) Any proposed amendment of the Project Documents effecting a change in: (i) the boundaries of any Unit or the exclusive easement rights appertaining thereto; (ii) the interests in the General or Limited Common Elements appertaining to any Unit or the liability for Common Expenses appertaining thereto; (iii) the number of votes in



the Association appertaining to any Condominium; or (iv) the purposes to which any Condominium or the Common Elements are restricted;

(b) Any proposed termination of the Condominium Community;

(c) Any condemnation loss or any casualty loss which affects a material portion of the Condominium Community or which affects any Condominium on which there is a First Security Interest held, insured, or guaranteed by such Eligible Holder;

(d) Any delinquency in the payment of assessments or charges owed by an Owner of a Condominium subject to the First Security Interest of such Eligible Mortgagee, where such delinquency has continued for a period of sixty (60) days; and

(e) Any lapse, cancellation or material modification of any insurance policy maintained by the Association pursuant to Article 9 hereof.

15.3 Restrictions on Amendments. Notwithstanding any other provision of this Declaration to the contrary, any amendment to this Declaration that would change the provisions hereof, or add provisions, governing any of the following described matters, shall require the approval of a Majority of the Eligible First Mortgagees:

(a) voting rights;

(b) increases in Assessments, Assessment Liens, or the priority of Assessment Liens;

(c) reductions in the Reserve Fund or the Working Capital Fund;

(d) hazard or fidelity insurance requirements;

(e) rights to use of the Common Elements;

(f) responsibility for maintenance and repairs of the Condominium Community;

(g) expansion or contraction of the Condominium Community, or the addition, annexation or withdrawal of property to or from the Condominium Community;

(h) redefinition of Unit boundaries, other than amendments contemplated by Section 2.9(b) hereof;

(i) reallocation of interests in the General Common Elements or Limited Common Elements or rights to their use, other than amendments contemplated by Sections 2.8(d) or 2.9(b) or (c) hereof;

(j) convertibility of Units into Common Elements or vice versa, other than amendments contemplated by Section 2.9(b) hereof;

(k) the leasing of Condominiums;

(l) imposition of any right of first refusal or similar restriction on an Owner's right to sell, transfer, or otherwise convey his Condominium; or

(m) establishment of self-management by the Association where professional management has been required by any of the Agencies.

Provided, that the foregoing approval requirements do not apply to amendments effected by the exercise of any Declarant Rights in accordance with the provisions of this Declaration or the Act.



15.4 Certain Approval Rights of Eligible Mortgagees.

(a) Any restoration or repair of the Condominium Community after a Taking or a Casualty shall be substantially in accordance with this Declaration and the original plans and specifications for the Condominium Community unless the written approval of a Majority of the Eligible Mortgagees is obtained.

(b) Any election to terminate the Condominium Community after a Taking or a Casualty affecting the Condominium Community shall require the written approval of a Majority of the Eligible Mortgagees.

(c) No reallocation of interests in the Common Elements resulting from a Taking (as described in Section 11.1(b) hereof) or a Casualty (as described in Section 10.1(b)(2)(C) hereof) affecting the Condominium Community may be effected without the written approval of a Majority of the Eligible Mortgagees.

15.5 Protection of Provisions for the Benefit of First Mortgagees. The written consent of a Supermajority of the Owners and the written approval of a Majority of the Eligible First Mortgagees shall be required to amend any provision of the Project Documents which are for the express benefit of First Mortgagees or the insurers or guarantors of First Security Interests on Condominiums.

15.6 Payment of Taxes or Insurance on General Common Elements by First Mortgagees. First Mortgagees shall have the right, jointly or singly, to pay taxes or other charges or assessments which are in default and which may or have become a lien against the General Common Elements, and may pay overdue premiums on hazard insurance policies or secure new hazard insurance coverage on the lapse of a policy for the General Common Elements, or the Condominium Unit which secures the subject First Security Interest if the policy therefor is held by the Association, and any First Mortgagees making any such payments shall be owed immediate reimbursement therefor from the Association.

15.7 Implied Approval. Implied approval by a Eligible Mortgagee shall be assumed when a Eligible Mortgagee fails to submit a response to any written proposal for an amendment within thirty days after said Eligible Mortgagee receives proper notice of the proposal, provided this notice was delivered by certified or registered mail with return receipt requested.

15.8 Limitations on Approval Rights. No requirement stated in this Article to obtain the approval of First Mortgagees may operate to:

(a) Deny or delegate control over the general administrative affairs of the Association by the Owners or Board; or

(b) Prevent the Association or the Board from commencing, intervening in, or settling any solicitation or proceeding; or

(c) Prevent any insurance trustee or the Association from receiving and distributing any insurance proceeds pursuant to ' 38-33.3-313 of the Act.

**ARTICLE 16
Agency Provisions**

16.1 Special FHLMC Provisions.

(a) Limitations on Actions of Association. Notwithstanding anything to the contrary stated herein, unless at least a Supermajority of the Eligible Mortgagees and a Supermajority of the Owners (other than Declarant) have given their prior written approval, the Association is not entitled to take any of the following actions:

(1) By act or omission seek to abandon or terminate the Condominium Community.

(2) Change the pro rata interest or obligations of any Condominium in order to levy assessments or charges, allocate distribution of hazard insurance proceeds or condemnation awards, or determine the pro rata share of ownership of each Condominium in the Common Elements, except as stated in Sections 2.8(d), 2.9(b), 10.1(b), 11.1(b), 14.1(c)(3), and 14.5 hereof.

(3) Partition or subdivide any Condominium;

(4) Seek to abandon, partition, subdivide, encumber, sell, or transfer the Common Elements by act or omission, except to the extent necessary to allow the Condominium Community to be expanded pursuant to Article 14 hereof. The granting of easements for public utilities or other public purposes consistent with the intended use of the Common Elements by the Condominium Community is not a transfer in the meaning of this paragraph.

(5) Use hazard insurance proceeds for losses to any part of the Condominium Community for other than the repair, replacement, or reconstruction of the Condominium Community.

(b) No Rights of First Refusal. The right of an Owner to sell, transfer or otherwise convey his Condominium shall not be subject to any right of first refusal or similar restriction; and notwithstanding the purported existence of such a restriction, such Condominium may be sold free of any such restrictions.

(c) Unpaid Dues. Notwithstanding anything stated in Section 7.7(b)(3) hereof to the contrary, if a First Mortgagee acquires title to a Condominium pursuant to the remedies in the mortgage or through foreclosure, such First Mortgagee's title to such Condominium will not in any event be subject to an Assessment Lien for any Assessments (i) which become due subsequent to the Recording of such First Security Interest and prior to the date such Person acquires title to such Condominium and (ii) which are in excess of six (6) months of the Condominium's unpaid regularly budgeted dues or charges.

(d) Notifications to Eligible First Mortgagees. Each Eligible First Mortgagee shall be entitled to written notification from the Association of any default in the performance of any obligation under the Project Documents, not cured within sixty (60) days, by any Owner of a Condominium which secures the First Security Interest held by such First Mortgagee.

16.2 Certain Agency Approvals.

(a) No additional property other than Annexable Property may be added to the Condominium Community without the prior written consent of each of FHA, VA, and FNMA as each may hold, insure, or guaranty any First Mortgage in such existing condominium at the time such property is to be added.

(b) If the Condominium Community has been or is to be approved by the FHA and/or the VA, then until the termination of the Declarant Control Period, the following actions will require the prior approval of the FHA and/or the VA, as the case may be, notwithstanding anything to the contrary stated herein:

- (1) annexation of additional properties other than Annexable Property into the Condominium Community;
- (2) amendment of this Declaration except as described in Section 13.1(e); and
- (3) the assessment of a Special Assessment for Voluntary Capital Expenses.

16.3 Other Agency Provisions.

(a) Books and Records. The Association shall make available to each Owner, First Mortgagee, and insurer or guarantor of a First Security Interest, current copies of this Declaration, the Articles, the Bylaws, the Rules,



and other books, records, and financial statements of the Association. The Association also shall make available to prospective Owners current copies of this Declaration, the Articles, the Bylaws, the Rules, and the most recent annual audited financial statement, if such is prepared. "Available" shall at least mean available for inspection upon prior written request, during normal business hours or under other reasonable circumstances. Upon written request from any of the Agencies which has an interest or prospective interest in the Condominium Community, the Association shall be required to prepare and furnish within a reasonable time an audited financial statement of the Association for the immediately preceding fiscal year.

(b) Annexation of Property.

(1) Any improvements or additions added to the Condominium Community as part of an expansion or other addition to the Community must be completed so that the additions or improvements are consistent with the improvements located in the then-existing Condominium Community in terms of quality of construction.

(2) The reservation of a right by Declarant to expand the condominium regime, the method of expansion, and the result of an expansion must not affect the statutory validity of the Condominium Community or the validity of title to the Condominiums.

(3) Liens arising in connection with the Declarant's ownership of, and construction of improvements upon, the property to be added must not adversely affect the rights of existing Owners, or the priority of First Security Interests on Condominiums in the existing Condominium Community. All taxes and other assessments relating to such property, covering any period prior to the addition of the property, shall be paid or otherwise satisfactorily provided for by the Declarant.

(4) If any Agency holds any First Security Interest in the existing Condominium Community at the time additional property is to be annexed thereto, such Agency shall be furnished with title evidence, in a form satisfactory to it, which discloses any lien, easement, or other encumbrance affecting the property to be annexed or which will affect the existing Condominium Community after such annexation.

ARTICLE 17

Conveyancing and Encumbrancing

17.1 Title. A Condominium may be held and owned by one Person, or more than one Person as joint tenants or as tenants in common, or in any real property tenancy relationship recognized under the laws of the State of Colorado.

17.2 Description of a Condominium.

(a) A sufficient description of a Condominium shall be as follows:

Condominium Unit No. _____, The Cottages at Forest Park Condominiums, according to the Condominium Map of The Cottages at Forest Park Condominiums recorded on _____, 2005, at Reception No. _____, and as defined by the Condominium Declaration of The Cottages at Forest Park Condominiums recorded on _____, 2005, at Reception No. _____, in the Office of the County Clerk and Recorder, Boulder County, Colorado.

(b) In any contract for sale, deed, lease, mortgage, trust deed, will, or other instrument affecting a Condominium or title thereto, a legal description of a Condominium in the foregoing form shall be deemed to include and describe the entire Condominium, including the appurtenant undivided interest in General Common Elements, any Limited Common Element(s) appurtenant thereto, all of the other rights, Easements, obligations, limitations, encumbrances, covenants, conditions, and restrictions as provided in this Declaration.



(c) Any reference to the Map and this Declaration in any instrument shall be deemed to include any supplements or amendments to the Map or this Declaration, as from time to time filed and recorded in the office of the Clerk and Recorder of the County, without specific references thereto.

17.3 Common Elements. The Common Elements or portions thereof may be conveyed or subjected to a lien or security interest by the Association in accordance with Section 6.6(b) hereof. Any net proceeds of the sale of a Common Element will be distributed to the Owners in accordance with Article 11, as if such amounts were an award paid as a result of the condemnation of such Common Element.

17.4 Estoppel Certificates. Within 14 days after receipt of a written request from any Owner or Security Holder, delivered personally or by certified mail, first-class postage prepaid, return receipt requested, to the Association's registered agent, the Association will furnish to such Owner or Security Holder, by personal delivery or by certified mail, first-class postage prepaid, return receipt requested, an estoppel certificate executed by an officer or managing agent of the Association and addressed to such Owner or Security Holder, or the designee of either, stating any then unpaid Assessments due from, or other known defaults by, the requesting Owner or the Owner of the Condominium encumbered by such Security Holder's Security Interest, or stating that there are no unpaid Assessments due from, or other known defaults by, such Owner, as the case may be. Such an estoppel certificate executed in favor of an Owner, Security Holder or other Persons named therein who rely thereon in good faith will be conclusive upon the Association as to the matters set forth therein and such Owner's Condominium will not be subject to a lien for any unpaid Assessments against such Condominium arising before the date of such certificate and in excess of any unpaid amounts stated in such certificate. The Association may charge the Owner of any Condominium as to which such an estoppel certificate is delivered, and such Owner will pay, a reasonable fee for the preparation thereof in an amount determined by the Board from time to time.

17.5 Notification. A Person who becomes an Owner will promptly notify the Association of its ownership of a Condominium.

17.6 Restrictions on Mortgaging Units. There are no restrictions on the right of an Owner to mortgage or otherwise encumber his Condominium. There is no requirement for the use of a specific lending institution or particular type lender.

**ARTICLE 18
General Provisions**

18.1 The Act. The Condominium Community and this Declaration will not be subject to the provisions of any amendment to or replacement of the Act which becomes effective after the date of Recording of this Declaration, unless the provisions of such amendment or replacement are expressly made binding upon existing condominiums; provided, however, that the Association may elect to subject the Condominium Community to any such amendment or replacement by the affirmative vote of all Owners who would be required to approve an amendment to this Declaration pursuant to Section 13.1 hereof concerning the subject matter contained in the subject amendment to or replacement of the Act. Should any of the terms, conditions, provisions, sections or clauses of this Declaration conflict with any provision of the Act, the provisions of the Act will control unless the Act permits this Declaration to override the Act, in which event this Declaration will control.

18.2 Interpretation of Declaration.

(a) In General. The provisions of this Declaration will be liberally construed to effectuate its purpose of creating a uniform plan for the ownership and operation of a first-class multi-family residential Condominium Community.

(b) Numbers and Gender. Whenever appropriate, singular terms may be read as plural, plural terms may be read as singular, and the masculine gender may be read as the feminine or neuter gender.



(c) Captions. The titles, headings, and captions which have been used throughout this Declaration are for convenience only and are not to be used in construing this Declaration or any part hereof.

18.3 Notices. Except for notices concerning meetings of the Association or the Board, which will be given in the manner provided in the Bylaws, any notices required or permitted hereunder or under the Bylaws to be given to any Owner, the Association, the Board, or any Security Holder will be sent by certified mail, first-class postage prepaid, return receipt requested, to the intended recipient at, in the case of notices to an Owner, the address of such Owner at its Condominium; in the case of notices to the Association or the Board, the address of the Association's registered agent; or in the case of notices to a Security Holder, the address thereof most recently given to the Association by notice from such Security Holder. All notices will be deemed given and received three business days after mailed as aforesaid. Any Owner or Security Holder may change its address for purposes of notice by notice to the Association in accordance with this Section. The Association or the Board may change its address for purposes of notice by notice to all Owners in accordance with this Section. Any such change of address will be effective five days after giving of the required notice.

18.4 Arbitration. Any dispute as to the amount of any Assessment, as described in Section 7.9 hereof, will be submitted, and any other dispute among one or more Owners, the Declarant or the Association may, by mutual agreement of all disputing parties, be submitted, to arbitration in Denver, Colorado, before a panel of three arbitrators, under the supervision, rules and procedures of the American Arbitration Association then in effect, as modified herein. Discovery in such arbitration will be conducted in accordance with the Colorado Rules of Civil Procedure, except that all discovery must be completed within 180 days of the selection of the arbitrators. If the parties to the dispute are unable to agree upon the selection of three arbitrators, then the AAA will select and implement a method of selecting the arbitrators. The decision of the arbitrators in such cases will be final and binding. The cost of the arbitration proceedings, including the reasonable attorneys' fees and expenses of the parties, will be paid by the party(ies) which is not or are not the prevailing party(ies) in the arbitration proceedings (in equal shares, if there are more than one such non-prevailing parties). In any arbitration hereunder, the arbitrators will determine, in addition to any matters submitted by the parties, which party(ies) is or are the prevailing party(ies). The prevailing party(ies) will be the party(ies) who prevail(s) on substantially more of the matters submitted to arbitration (including, without limitation, claims, defenses, remedies and amount of damages sought) than any of the other parties to the arbitration.

18.5 Severability. The invalidity of any covenant, restriction, condition, limitation or provision of this Declaration, or the application thereof to any person or circumstance, will not impair or affect in any manner the validity, enforceability or effect of the rest of this Declaration, or the application of any such covenant, restriction, condition, limitation or provision to any other person or circumstances.

18.6 No Waiver. No provision contained in this Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

18.7 Assignment of Declarant Rights. Declarant may assign any or all of the Declarant Rights in accordance with ' 38-33.3-304 of the Act.

18.8 Mergers. The Condominium Community may be merged or consolidated with another condominium community of the same form of ownership by complying with ' 38-33.3-221 of the Act.



IN WITNESS WHEREOF, Declarant has executed this Declaration as of the day and year first above written.

DECLARANT:

THE COTTAGES AT FOREST PARK, LLC,
a Colorado limited liability company

By DOUGLAS TIEFEL
Douglas Tiefel, manager

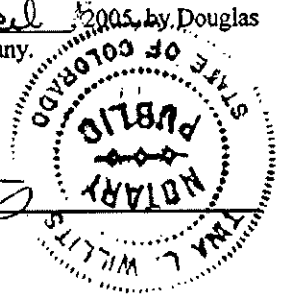
STATE OF COLORADO)
CITY AND) ss.
COUNTY OF BOULDER)

The foregoing Declaration was acknowledged before me this 26th day of April, 2005, by Douglas Tiefel as Manager of The Cottages at Forest Park, LLC, a Colorado limited liability company.

Witness my hand and official seal.

My commission expires: 5/25/05

Tieffels
Notary Public





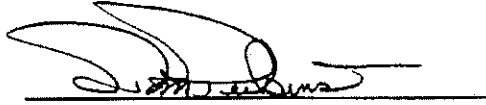
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Boulder County Clerk, CO CONDO DEC R 391.00 D 0.00

CONSENT AND SUBORDINATION

By execution hereof Heritage Bank - Lafayette 95th, a Colorado banking corporation hereby consents to this Declaration and agrees to subordinate its security interest in the Property as created by that Deed of Trust recorded at Reception Number 2622447 Boulder County, Colorado.



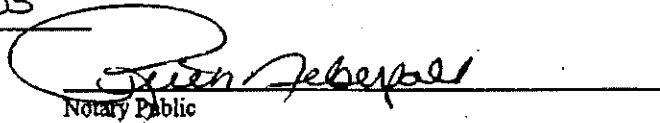
BY: Jim M. Perkins
TITLE: Regional President, Lafayette

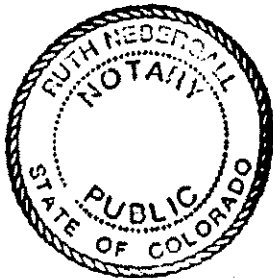
STATE OF COLORADO)
COUNTY OF Boulder) ss.

The foregoing Declaration was acknowledged before me this 26th day of April, 2005, by Jim M. Perkins as Regional President of Heritage Bank - Lafayette 95th, a Colorado banking corporation.

Witness my hand and official seal.

My commission expires: 8-15-05


Notary Public



My Commission Expires Aug. 15, 2005



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EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

LOT 8, BLOCK 2
FOREST PARK SUBDIVISION
CITY OF LAFAYETTE, COUNTY OF BOULDER, STATE OF COLORADO



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EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

LOT 8, BLOCK 2
FOREST PARK SUBDIVISION
CITY OF LAFAYETTE, COUNTY OF BOULDER, STATE OF COLORADO



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EXHIBIT B

COMMON ALLOCATION
[to be revised based upon number of initial units]

Condominium Unit No.	Condominium Building	Undivided Interest In Common Elements Appurtenant	Fraction of Assessment Responsibility Allocable to Condominium Unit *
1	3	1/20	1/20
2	3	1/20	1/20
3	3	1/20	1/20
4	2	1/20	1/20
5	2	1/20	1/20
6	2	1/20	1/20
7	8	1/20	1/20
8	8	1/20	1/20
9	9	1/20	1/20
10	9	1/20	1/20
11	7	1/20	1/20
12	7	1/20	1/20
13	6	1/20	1/20
14	6	1/20	1/20
15	6	1/20	1/20
16	5	1/20	1/20
17	5	1/20	1/20
18	5	1/20	1/20
19	4	1/20	1/20
20	4	1/20	1/20
<p>* The undivided interest in Common Elements appurtenant, and the fraction of assessment responsibility allocable, to each Condominium Unit is subject to change by virtue of annexation of additional property to the Declaration pursuant to Article Fourteen thereof.</p>			



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EXHIBIT C

FORM OF CERTIFICATE OF COMPLETION

I hereby certify that as of this date all structural components of the Buildings within The Cottages at Forest Park Condominiums containing or comprising any Units thereby created are substantially completed.

Dated: 4/25/05

Mike Hascall
Mike Hascall, Registered Land Surveyor
23500

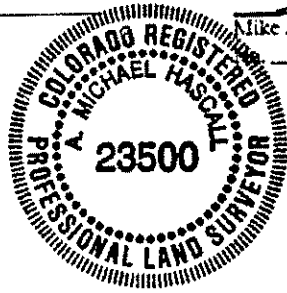




EXHIBIT D

FORM OF SUPPLEMENTAL DECLARATION

SUPPLEMENTAL CONDOMINIUM DECLARATION OF
THE COTTAGES AT FOREST PARK

THE COTTAGES AT FOREST PARK, LLC, a Colorado limited liability company (the "Declarant") executes this Supplemental Condominium Declaration of The Cottages at Forest Park (the "Supplemental Declaration"), this ___ day of _____, 200__.

RECITALS

A. Declarant executed and caused to be recorded that certain Condominium Declaration of The Cottages at Forest Park (the "Declaration") on _____, 200__, in Book ___ at Page ___ under Reception No. _____ of the records of the Office of the Clerk and Recorder of Boulder County, Colorado.

B. Article 14 of the Declaration reserves unto the Declarant the right to annex additional Buildings (each a "New Building") and the Units therein (each, a "New Unit") into the Condominium Community to the Declaration by recordation of one or more supplements to the Declaration.

C. The purpose of this Declaration is to annex certain New Buildings and New Units into the Declaration and to include certain New Buildings and New Units within the Condominium Community, as defined in the Declaration.

Declaration

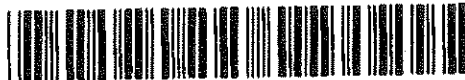
NOW, THEREFORE, Declarant declares that the property described herein is and shall be held, transferred, sold, conveyed and occupied subject to all of the covenants, conditions, restrictions, easements, charges and liens set forth in the Declaration and shall be binding on all persons having or acquiring any right, title or interest in the property described herein, their heirs, successors, and assigns, and shall inure to the benefit of, be binding upon, and be enforceable by Declarant, its successors in interest, each Owner and his successors in interest, and The Cottages at Forest Park Homeowners Association, Inc., a Colorado nonprofit corporation, and its successors in interest.

All captioned terms used herein have the same meaning as set forth in the Declaration.

1. Legal Description of the Property Being Annexed. The property being annexed to the Declaration and the Common Interest Community by this Supplemental Declaration is described in Exhibit A, attached hereto and incorporated herein by this reference (the "Property").

2. Annexation. The Property described in Exhibit A hereof is being annexed to the Declaration and the Common Interest Community pursuant to the provisions of Article 14 of the Declaration.

3. Effect of Annexation. The Property, the Units and any Common Area and Common Element therein, shall be deemed to be included within the Common Interest Community covered by the Declaration and subject to all of the terms, provisions, covenants, conditions, reservations, charges, and liens set forth in the Declaration, including all assessment obligations set forth in the Declaration. The property described in



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Exhibit A and the Units and any Common Area and Common Element located therein is also expressly subject to all of the provisions of the Articles of Incorporation and the Bylaws of The Cottages at Forest Park Homeowners Association, Inc., as more particularly described in the Declaration, the Articles of Incorporation, and the Bylaws.

IN WITNESS WHEREOF, the Declarant has executed this Supplemental Declaration the date and year first above written.

DECLARANT:

THE COTTAGES AT FOREST PARK, LLC,
a Colorado limited liability company

By: _____
Name: _____
Title: _____

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 200__, by _____ as _____ of The Cottages at Forest Park, LLC, a Colorado limited liability company.

Witness my hand and official seal.

My commission expires _____.

Notary Public



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EXHIBIT A

To Supplemental Declaration

Building

Unit

LOT 8, BLOCK 2
FOREST PARK SUBDIVISION
CITY OF LAFAYETTE, COUNTY OF BOULDER, STATE OF COLORADO



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EXHIBIT E

Annexable Property

LOT 3, BLOCK 2
LOT 9, BLOCK 2
FOREST PARK SUBDIVISION
CITY OF LAFAYETTE, COUNTY OF BOULDER, STATE OF COLORADO



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EXHIBIT F

**RECORDING DATA FOR RECORDED EASEMENTS, LICENSES
AND OTHER MATTERS OF RECORD**



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**SCHEDULE B - SECTION 2
EXCEPTIONS**

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The Policy or Policies to be issued will contain exceptions to the following unless the same are disposed of to the satisfaction of the Company:

1. Rights or claims of parties in possession not shown by the public records.
2. Easements, or claims of easements, not shown by the public records.
3. Discrepancies, conflicts in boundary lines, shortage in area, encroachments and any facts which a correct survey and inspection of the premises would disclose and which are not shown by the public records.
4. Any lien or right to a lien, for services, labor or material heretofore or hereafter furnished, imposed by law and not shown by the public records.
5. Defects, liens, encumbrances, adverse claims or other matters, if any, created, first appearing in the public records or attaching subsequent to the effective date hereof but prior to the date the proposed insured acquires of record for value the estate or interest or mortgage thereon covered by this Commitment.

Note: The above exception will not appear on policies where closing and settlement has been performed by the Company.

6. Any and all unpaid taxes and assessments.
7. Oil and gas lease between Lutheran Church Extension Fund-Missouri Synod and CDM Oil & Gas recorded May 23, 1984 at Reception No. 622547, and any interests therein or rights thereunder.
8. Terms, agreements, provisions, conditions and obligations as contained in Agreement recorded July 1, 1991 at Reception No. 1113159.
9. Terms, agreements, provisions, conditions and obligations as contained in Northridge Annexation Agreement recorded September 13, 1991 at Reception No. 1130039.
10. Terms, agreements, provisions, conditions and obligations as contained in Agreement recorded October 16, 1995 at Reception No. 1555165.
11. Terms, agreements, provisions, conditions and obligations as contained in North Park Development Agreement recorded January 2, 1996 at Reception No. 1573756.
12. Terms, agreements, provisions, conditions and obligations as contained in Agreement recorded June 11, 1997 at Reception No. 1705772.
13. Terms, agreements, provisions, conditions and obligations as contained in Hight/Imel Annexation Agreement recorded December 11, 1997 at Reception No. 1754990.
14. Terms, agreements, provisions, conditions and obligations as contained in The Final Plat of Forest Park Subdivision recorded December 29, 1998 at Reception No. 1887132.
15. Terms, agreements, provisions, conditions and obligations as contained in Final P.U.D. Map Forest Park Subdivision recorded December 29, 1998 at Reception No. 1887133.



- 16. Terms, agreements, provisions, conditions and obligations as contained in Forest Park Development Agreement recorded December 29, 1998 at Reception No. 1887134.
- 17. Terms, agreements, provisions, conditions, obligations, easements and restrictions, if any, which do not contain a forfeiture or reverter clause, (deleting any restrictions indicating any preference, limitation or discrimination based on race, color, religion, sex, handicap, familial status or national origin) as contained in instrument recorded December 29, 1998 at Reception No. 1887135.
- 18. Right(s) of way, including its terms and conditions, whether in fee or easement only, for Water Main, as granted to City of Lafayette, in instrument recorded July 16, 2004 at Reception No. 2608333, in which the specific location of the easement(s) is/are not defined.
- 19. Those covenants, conditions, terms, obligations (including Common Expenses, fees and costs under the Common Interest Ownership Act), easements and restrictions which are a burden to subject property described in Schedule A hereunder, but omitting restrictions, if any, based on race, color, religion, sex, handicap, familial status or national origin, as provided in the Condominium Declaration recorded _____ at Reception No. _____.
- 20. Notes and easements as shown on the Condominium Map of The Cottages at Forest Park recorded _____ at Reception No. _____.

NOTE: Pursuant to CRS 10-11-122 notice is hereby given that:

- (A) The subject property may be located in a special taxing district;
- (B) A certificate of taxes due listing each taxing jurisdiction may be obtained from the County Treasurer or the County Treasurer's authorized agent;
- (C) INFORMATION regarding special districts and the boundaries of such districts may be obtained from the Board of County Commissioners, the County Clerk and Recorder, or the County Assessor.

NOTE: If Schedule B of your commitment for an owner's title policy reflects an exception for mineral interest or leases, pursuant to CRS 10-11-123 (HB 01-1088), this is to advise:

- (A) That there is recorded evidence that a mineral estate has been severed, leased, or otherwise conveyed from the surface estate and that there is a substantial likelihood that a third party holds some or all interest in oil, gas, other minerals, or geothermal energy in the property; and
- (B) That such mineral estate may include the right to enter and use the property without the surface owner's permission.