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Condominium Owners Association,
Inc. and under Grantor as Arbors at Mountain Shadows Condominium Owners Association, Inc.

AMENDED AND RESTATED DECLARATION
FOR
ARBORS AT MOUNTAIN SHADOWS — A CONDOMINIUM COMMUNITY

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Exhibit A	Legal Description
Exhibit B	Owner's Proportionate Interest/Proportionate Share
Exhibit C	Legal Description of Expansion Property Not Including Phase I
Exhibit D	Recorded Easements, Licenses, Title Matters and Plat Matters

**AMENDED AND RESTATED CONDOMINIUM DECLARATION
F O R
ARBORS AT MOUNTAIN SHADOW – A CONDOMINIUM COMMUNITY**

THIS AMENDED AND RESTATED DECLARATION, made as of the date written below by Arbors at Mountain Shadows Condominium Association, Inc. its successors and assigns:

WITNESSETH:

WHEREAS, a certain “Condominium Declaration for Arbors at Mountain Shadow – A Condominium Community” (“Original Declaration”) was recorded by Arbors at Mountain Shadows Venture, LLC, a Colorado limited liability company as “Declarant” in the records of El Paso County, Colorado at Reception No. 202162700 on September 25, 2002: and

WHEREAS, the Original Declaration made certain real property described therein on Exhibit “A”, which Exhibit is also attached hereto as Exhibit “A”, subject to the terms of the Original Declaration; and

WHEREAS, the Original Declaration was amended ten times to annex Phases 2, 3, 4, 6, 7, 8, 9, 10, 11 and 12 and to make the real estate referenced therein subject to the Original Declaration, which amendments have been recorded in the records of the El Paso County Clerk and Recorder as follows:

Phase 2:	Reception No. 202196233, recorded 11/07/2002
Phase 3:	Reception No. 202196232, recorded 11/07/2002
Phase 4:	Reception No. 203058732, Recorded 03/24/2003
Phase 6:	Reception No. 203199611, Recorded 08/27/2003
Phase 7:	Reception No. 203268354, Recorded 11/14/2003 and re-recorded at Reception No. 204120047 on 07/19/2004 to correct an error
Phase 8:	Reception No. 204079037, Recorded 05/13/2004 and re-recorded at Reception No. 204120035 on 07/19/2004 to correct an error
Phase 9:	Reception No. 204120034, Recorded 07/19/2004
Phase 10:	Reception No. 204165034, Recorded 09/30/2004
Phase 11:	Reception No. 205004744, Recorded 01/10/2005
Phase 12:	Reception No. 205063380, Recorded 05/04/2005; and

WHEREAS, the property described in Exhibit “A” and in the above revered amendments are hereinafter referred to as the “Property”; and

WHEREAS, the condominium project created on the Property is subject to the provisions of the

Colorado Common Interest Ownership Act (C.R.S. 38-33.3-101, et. seq., hereinafter called "CCIOA") of the State of Colorado and the provisions of this Declaration; and

WHEREAS, Article XVII, Section 18.1 of the Original Declaration permits amendment of the Original Declaration upon agreement of Owners of Sixty-Seven percent (67%) of the Proportionate Interests and the agreement of Sixty-Seven percent (67%) of the First Mortgagees.

NOW, THEREFORE, the Arbors at Mountain Shadows Condominium Owners Association, Inc. reaffirms the submittal of the Property by the Declarant to the terms and conditions of the Original Declaration as amended and restated as follows:

I

DEFINITIONS

The terms used herein shall have the meanings stated in the CCIOA, except as otherwise provided herein:

Section 1.1 "Association" means Arbors at Mountain Shadows Condominium Owners Association, Inc., a Colorado nonprofit membership corporation, its successors and assigns. Except as specified herein, the Association shall act by and through its Board of Directors.

Section 1.2 "Board" means the Board of Directors of the Association, and shall also be the "executive board" as defined under the CCIOA. Except as specified herein, or in the Association's Articles of Incorporation or Bylaws or C.R.S. 38-33.3-303(3), or except as otherwise specified in other provisions of CCIOA, the Board may act on behalf of the Association without any vote or consent of the Members.

Section 1.3 "Building" means a separate building improvement located upon the Property and consisting of one or more floors to be used for residential purposes, having access to a public street, and containing one or more individual Units.

Section 1.4 "Common Elements" means and includes all of the Property, and all of the improvements thereto and thereon located, excepting all Units as the same are herein defined. These terms shall have the same meaning as "common elements" under the CCIOA and may be reallocated pursuant to C.R.S. 38-33.3-205(1)(g) and 208. Common Elements shall consist of the General Common Elements and the Limited Common Elements, which are defined as follows:

A. "General Common Elements" means a part of the Common Elements and includes by way of illustration and not limitation any of the following to the extent located within the Project: the real Property described on Exhibit "A", the foundations, columns, girders, beams, supports, main walls, chimneys, roofs, common stairs and stairways, common landscaping, installations of central services such as electricity, water, common utilities, and related tanks, pumps, motors, fans, compressors, pipes, and lines, common sidewalks, private roads and streets located within the

Condominium Project, and in general all property, apparatus and installations existing for common use or normally in common use including, without limitation, the air space above the Property which is not within the respective Condominium Units. General Common Elements shall include all tangible physical properties of this Project, except Limited Common Elements and the Units. No part of the General Common Elements may be conveyed to any person or entity except as specifically provided in this Declaration and except that the Association may lease certain areas designated as General Common Elements.

B. "Limited Common Elements" means those portions of the Common Elements which are either limited to and reserved for the exclusive use and enjoyment of an Owner or limited to and reserved for the common use of more than one, but fewer than all, of the Owners, which may include by way of illustration and not limitation, any items described in C.R.S. 38-33.3-202 and any of the following which are specifically designated on the Condominium Map or supplement thereto as being Limited Common Elements: garages, carports, parking spaces, shutters, awnings, window boxes, doorsteps, stoops, porches, balconies, patios, private yards, private sidewalks and driveways, all exterior doors and windows or other fixtures designed to serve a single unit, even if located outside the unit's boundaries, attics, balconies, crawl spaces or any other area, item or mechanical equipment designated for the exclusive use of a Unit. Limited Common Elements may be designated as being appurtenant to a particular Condominium Unit either by the Condominium Map or supplement thereto or by any deed or other conveyance of a Condominium Unit from Declarant or by other assignment by Declarant under this Declaration or under the CCIOA, but shall not be thereafter severed from the Condominium Unit to which they are assigned, provided however, parking spaces which are not assigned by the Declarant may be assigned by the Board, at its discretion for any reason, including if required by state or federal law, such as any disability law.

Section 1.5 "Common Expenses" means and includes (i) expenses of administration, maintenance, repair or replacement of the Common Elements; (ii) expenses declared common expenses by the Association; (iii) all sums lawfully assessed against the Condominium Units by the Board of Directors of the Association; and (iv) expenses agreed upon as common expenses by the Owners.

Section 1.6 "CCIOA" means the Colorado Common Interest Ownership Act (C.R.S. 38-33.3-101, et seq.), as such act is now enacted and hereafter revised, modified and amended.

Section 1.7 "Condominium Unit" means one Unit together with the undivided interest in the Common Elements appurtenant to such Unit, all fixtures and improvements therein contained, and all other appurtenant rights.

Section 1.8 "Declarant" means Arbors at Mountain Shadows Venture, LLC, a Colorado limited liability company, their agents, employees, successors and assigns, to whom it specifically transfers all or part of its rights as Declarant hereunder, in compliance with C.R.S. 38-33.3-304. The Declarant hereby reserves upon the Property and the Expansion Property for the maximum time allowed by law, statute or set forth herein, any and all "special declarant rights" and "development

rights" as created or set forth in the CCIOA and any other rights as set forth herein. Any such rights shall apply to the Property and Expansion Property and shall terminate upon the earlier of seven (7) years from the date of the recording hereof or as otherwise provided herein. Any special declarant rights may be transferred as provided by C.R.S. 38-33.3-304. The "Period of Declarant Control" means that period during which the Declarant, or persons designated by Declarant, may appoint and remove the officers and members of the Board as set forth in Section 8.3(B) hereof.

Section 1.9 "Declaration" means this Condominium Declaration as contained herein and as it may be amended or supplemented from time to time as herein provided, which shall be indexed in the grantee's index in the name of Arbors at Mountain Shadows and the Association and in the grantor's index in the name of the Declarant executing the Declaration.

Section 1.10 "Expansion Property" means and includes all of the real property described in Exhibit "C" attached hereto and incorporated herein by this reference; whether now owned or hereafter acquired by the Declarant.

Section 1.11 "Guest" means any agent, employee, guest, contractor, licensee or invitee of an Owner.

Section 1.12 "Map" or "Condominium Map" means the engineering drawings and survey containing the information required in Article II of this Declaration and recorded as required by said Article. Either term shall include the original and all supplemental maps, if any.

Section 1.13 "Member" shall mean and refer to every person or entity who holds membership in the Association or, following termination of the Project, of all former unit owners entitled to distributions of proceeds under C.R.S. 38-33.3-218, or their heirs, personal representative, successors or assigns.

Section 1.14 "Mortgage" means and refers to any mortgage, deed of trust or other assignment or comparable security instrument recorded in the records of the office of the Clerk and Recorder of El Paso County, Colorado, and by which a Condominium Unit or any part thereof is encumbered. The term shall also include any executory land sales contract wherein the Administrator of Veterans Affairs, an Officer of the United States of America, is the original Seller, whether such contract is recorded or not (but if not recorded, then written notice thereof shall be delivered to the Board) 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 subsequent assignee who has notified the Board in writing of such assignment. The term shall include a "security interest" as defined by the CCIOA.

Section 1.15 "First Mortgage" means and refers to the unpaid and outstanding Mortgage, having priority of record over all other recorded encumbrances and liens except those governmental liens made superior by statute (such as general ad valorem tax liens and special assessments).

Section 1.16 "Mortgagee" means any person or other entity or any successor to the interest

of such person or entity named as the mortgagee, trust beneficiary, or creditor under any recorded mortgage, deed of trust, or other security instrument by which a Condominium Unit or any interest therein is encumbered. The term shall also include the Administrator of Veterans Affairs, an Officer of the United States of America, and his assigns under any executory land sales contract wherein the said Administrator is identified as the seller, whether such contract is recorded or not but if not recorded, then written notice thereof shall be delivered to the Board. First Mortgagee shall mean the holder of a First Mortgagee.

Section 1.17 "Owner" means any person, corporation, partnership, association, contract sellers or other legal entity or any combination hereof, including Declarant, who owns the record fee simple interest in one or more Condominium Units. The term "Owner" shall include any grantee, transferee, heir, successor, personal representative, executor, administrator, devisee, and assign of any Owner but shall not refer to any Mortgagee as herein defined, or other person or entity having an ownership interest in any Condominium Unit merely as security for the performance of an obligation, unless such Mortgagee has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure. This term shall have the same meaning as "unit owner" under the CCIOA.

Section 1.18 "Owner's Proportionate Interest" means that percentage of the total which is based upon approximate square footages of the Units and equal to such Owner's fractional or percentage interest in the Common Elements, as set forth in Exhibit "B" attached hereto and incorporated herein by this reference and which is subject to adjustment in the event that the Project is expanded as herein provided. "Owner's Proportionate Share" means that percentage of the total which is based upon number of bedrooms and approximate square footages of the Units as determined by the Declarant in its discretion and shown on Exhibit "B" attached hereto. These terms shall have the same meaning as "allocated interests" under the CCIOA.

Section 1.19 "Property" means the real Property described in Exhibit "A" attached hereto and incorporated herein by this reference, together with any property subsequently annexed hereto.

Section 1.20 "Project" or "Condominium Project" means all Buildings and other improvements located on the Property and all rights, easements and appurtenances belonging thereto, and all of the undivided fee simple interest in the Property and shall include any real property subsequently annexed or added to the Project. These terms shall have the same meaning as "common interest community" under the CCIOA. The project is a "condominium" for purposes of the CCIOA.

Section 1.21 "Unit" means an individual air space which is contained within any enclosed room or room occupying part of a floor or floors in a Building to be used for residential purposes and having access to a public street and bounded by the unfinished interior surfaces of the perimeter walls, floors and ceilings, and also bounded by the unfinished interior surfaces of windows, doors and walls surrounding the built-in fireplace. If two or more Units adjoin each other, the adjoining walls, floors and ceiling shall be deemed to be perimeter. The term "Unit" shall include all electrical and plumbing fixtures, cabinets (built-in or other), appliances (built-in or other), interior and exterior doors, windows and improvements which are contained within a Unit and which comprise part of the

Building, together with all interior non-bearing walls within the Unit and the inner decorated and/or finished surfaces of perimeter walls, floors and ceilings, including without limitation, wallboard, plaster, paint, wallpaper and carpet. The term does not include any of the structural components for the Building, if any, located within the Unit, any utilities running through the Unit that serve more than one Unit, or any other Common Element or part thereof located within the Unit. This term shall have the same meaning as "unit" under the CCIOA. The boundaries of any Unit may be relocated pursuant to C.R.S. 38-33.3-212. The boundaries of the Units shall be shown on the recorded Map which shall be incorporated herein by this reference.

Section 1.22 "Unit Assessment" means an assessment against a particular Owner and his Condominium Unit as more particularly described in Article XI hereof.

II

CONDOMINIUM MAP

Section 2.1 Recording. The Map of the Property and the improvements is filed for record on September 25, 2002, in Reception No. 202162698 of the real property records of the office of the Clerk Recorder of El Paso County, Colorado, and the Map, as recorded, is incorporated herein by this reference.

Section 2.2 Contents. Each such map or supplement shall clearly and legibly depict and show at least the following: the legal description of the land and a survey thereof; the location of the Buildings in reference to the exterior boundaries of the Property; the floor and elevation plans; the location of the Units within the Buildings, both horizontally and vertically; the thickness of the common walls between or separating the Units; the location of any structural components or supporting elements of the Buildings located within a Unit; the Condominium Unit designations; the Building designations; the designations of the Limited Common Elements, and the certification of an independent registered land surveyor stating that the Map contains all the information required by C.R.S. 38-33.3-209 and 38-51-102 and that it substantially depicts the location and the horizontal and vertical measurements of the Units, the Unit designations, the Building designations, the locations of the General and Limited Common Elements and the elevations of the constructed unfinished floors and ceilings of the Units as established from a datum plane and an affirmation that such Map was prepared subsequent to substantial completion of the improvements shown thereon in accordance with the plans. Reference to the Map shall include its recorded contents, together with any amendment or supplement thereto. In interpreting the Map, the existing physical boundaries of each separate Unit as constructed shall be conclusively presumed to be its boundaries. Declarant reserves the right to amend the Map, from time to time, without the consent of the Owners being required, to conform the same according to the actual location of any of the improvements and to establish, vacate and relocate easements, access roads, on-site parking areas, garages and/or carports. Declarant's right, as hereinabove set forth, shall terminate on the conveyance by Declarant of all Condominium Units within the Project, or until seven (7) years from the date of the recording hereof, whichever occurs first.

III

NATURE OF OWNERSHIP

Section 3.1 Division of Property into Condominium Units. The Property is hereby divided into separate Condominium Units as shown on the Map and Exhibit "B" hereto, each consisting of a separate fee simple estate in a Unit, an appurtenant, undivided Proportionate Interest as tenant in common in and to the Common Elements, and all rights appurtenant thereto, but subject to adjustment if the Project is expanded as provided herein. Ownership of the Common Elements is shown on Exhibit "B" as Owner's Proportionate Interest and is allocated on the basis of the approximate square footage of a Unit as compared to the approximate square footage of all Units in the Project, including any Units added by expansion of the Project.

Section 3.2 Inseparability of a Condominium Unit. Each Unit, together with the undivided proportionate Interest in the General Common Elements and the Limited Common Elements appurtenant thereto, and all other rights appurtenant thereto, shall be inseparable and may be conveyed, leased, devised, sold, transferred, or encumbered only as a Condominium Unit.

Section 3.3 Nonpartitionability of Common Elements. The Common Elements shall be owned in common by all of the Owners as tenants in common and shall remain undivided. No Owner, group of Owners or the Association shall bring any action for partition or division thereof, it being agreed that this restriction is necessary in order to preserve the rights of the Owners with respect to the operation and management of the Condominium Project, and each Owner hereby expressly waives any and all such rights of partition he may have by virtue of his ownership of a Condominium Unit. Nothing contained herein shall be construed as a limitation of the right of legal partition of a Condominium Unit between the Owners thereof, but such legal partition shall not affect any other Condominium Unit, nor shall any such partition sever any part thereof from such Condominium Unit as a whole.

Section 3.4 Separate Taxation. All taxes, assessments and other charges of the State of Colorado or of any political subdivision or of any special improvement district or of any other taxing or assessing authority shall be assessed against and collected on each Condominium Unit separately and not on any Building or the Project as a whole, and each Condominium Unit shall be carried on the tax books as a separate and distinct parcel. For the purpose of valuation for assessment, the valuation of the Common Elements shall be apportioned among the Condominium Units in proportion to the fractional undivided Proportionate Interests in Common Elements appurtenant to and part of the Condominium Units. The Association or the Declarant shall deliver to the County Assessor of the County of El Paso, Colorado, any written notice required by the CCIOA, setting forth descriptions of the Condominium Units and shall furnish all necessary information with respect to such apportionment of valuation of Common Elements for assessment. The lien for taxes assessed to any Condominium Unit shall be confined to that Condominium Unit. No forfeiture or sale of any Condominium Unit for delinquent taxes, assessments or other governmental charges shall divest or in

any way affect the title to any other Condominium Unit. In the event that such taxes or assessments for any year are not separately assessed to each Owner, but rather are assessed on the Property as a whole, then each Owner shall pay his Proportionate Share thereof in accordance with his ownership interest in the General Common Elements, and, in said event, such taxes or assessments shall be a Common Expense. Without limiting the authority of the Board provided for elsewhere herein, the Board shall have the authority to collect from the Owners their proportionate share of taxes or assessments for any year in which taxes are assessed on the Property as a whole.

Section 3.5 Ownership-Title. A Condominium Unit may be held and owned by 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. Each such Owner shall have and be entitled to the exclusive ownership and possession of his Unit, subject to the provisions of this Declaration and said laws.

Section 3.6 Use of Common Elements. Subject to the restrictions contained in this Declaration, including without limitation the restriction contained in Section 9.8, and without hindering or interfering with the lawful rights of other Owners, each Owner, his family members, Guests, and tenants shall have the non-exclusive right to use and enjoy the General Common Elements for the purpose for which they are intended, and shall have the exclusive right to use and enjoy the Limited Common Elements appurtenant to that Condominium Unit and designated for exclusive use by such Owner.

Section 3.7 Charges for Use. Except for the assessments and other sums set forth herein, no Unit Owner shall be required to pay any additional fees or charges in connection with such Owner's use of any of the Common Elements existing at the recording of this Declaration; provided, however, the Association may undertake on a contractual basis any activity, function or service, for the benefit of all, some or any Owners who agree to pay therefor, separate and apart from the assessments hereunder.

Section 3.8 Recreational Facilities. The major recreational facilities which are existing on or as part of the Common Elements are a clubhouse, pool, lot lot, and related amenities. Owners acknowledge and agree that the Declarant and Declarant's tenants within real property not annexed and their guests, contractors and assigns may use the recreational facilities within the Project, provided however, Declarant shall pay the expenses and charges for such usage pursuant to Section 11.3(D) hereof.

Section 3.9 Relocation of Unit Boundaries And Subdivision of Units. The boundaries between adjoining Units may be relocated as provided by C.R.S. 38-33.3-212. Any Unit may be subdivided by the Declarant into two or more units pursuant to C.R.S. 38-33.3-213.

Section 3.10 New Additions to the Existing Common Elements. If the Declarant or the Association makes any new additions to the General and Limited Common Elements existing within the Project, now or hereafter, then, except as may be otherwise provided in Article XVII hereof, a) each Owner would be responsible for his percentage of any increase in Common Expenses created

thereby, b) each Owner would own, as a tenant in common with the other Owners, an undivided interest in the new additions in accordance with his Proportionate Interest, c) each Owner's interest in the existing General and Limited Common Elements would be unaffected by such additions, and d) each Owner's voting powers in the Association would be unaffected by such additions.

IV

DESCRIPTION, TRANSFER AND CONVEYANCE OF A CONDOMINIUM UNIT

Section 4.1 Description. Every contract for the sale of a Condominium Unit and every deed, lease, mortgage, trust deed, will or other instrument affecting that Condominium Unit, shall describe that Condominium Unit in the following manner, with appropriate insertions, and if applicable, with additional references to any amendments or supplements to this Declaration or the Map and may include references to areas designated as Limited Common Elements:

Condominium Unit _____, Building _____, Arbors at Mountain Shadows — a Condominium Community, according to the Declaration thereof filed for record in the records of the office of the Clerk and Recorder of El Paso County, State of Colorado on, 200_, in Reception No. _____, and as defined and described in the Condominium Map for Arbors at Mountain Shadows — a Condominium Community recorded on in Reception No., in said records.

Section 4.2 Transfer. Every instrument affecting title to or interest in a Condominium Unit which describes it in the manner set forth above, shall be good and sufficient for all purposes to sell, convey, transfer, assign, encumber or otherwise affect not only that Unit, but also, without requiring specific reference thereto, the undivided interest in the General Common Elements and the Limited Common Elements appurtenant thereto and all other appurtenant property rights and interests, together with all easements and all fixtures and improvements therein contained, and to incorporate all of the rights, easements, limitations, and burdens incident to ownership of a Condominium Unit as provided in this Declaration and the Condominium Map; Declarant may assign any Limited Common Element, which is not assigned by the Condominium Map or by separate recorded document, by adding its description to the legal description set forth in Section 4.1 above; all of which shall be incorporated in this Declaration by this reference.

Section 4.3 Amendments and Supplements. The reference to the Map and Declaration in any instrument shall be deemed to include any supplements or amendments to the Map or Declaration without the necessity for specific reference(s) thereto.

V

EASEMENTS

Section 5.1 Recorded Easements and Covenants. The Property, and all portions thereof, shall

be subject to all recorded licenses and easements including without limitation any as shown on any recorded plat affecting the Property, or any portion thereof, and as shown on the Condominium Map; additionally, the recording data for recorded easements and licenses appurtenant to or included in the Project, or which any portion of the Project is or maybe subject by virtue of a reservation in the Declaration, as may be shown on Exhibit "D" attached hereto and incorporated herein by this reference. Owners covenant and agree to be bound by such easement, licenses, exceptions and covenants as described in this Declaration or as shown on Exhibit "D" hereto, and to indemnify Declarant from any claims or liability thereunder for Owners' acts or omissions.

Section 5.2 Ingress and Egress and Support. Subject to the provisions of this Declaration, each Owner, his family members, Guests and tenants shall have a perpetual non-exclusive easement for the purpose of vehicular and pedestrian ingress and egress over, upon, and across the General Common Elements necessary for access to that Condominium Unit, to public or private streets, and to the Limited Common Elements designated for use in conjunction with that Condominium Unit, and each Owner shall have the right to the horizontal and vertical support of his Unit.

Section 5.3 Association Use. The Association, its officers, agents and employees shall have a non-exclusive easement to make such use of and to enter into, upon, across, under or above the General Common Elements as may be necessary or appropriate to perform the duties and functions which it is permitted or required to perform pursuant to this Declaration or otherwise, including but not limited to the right to construct and maintain on the Common Elements any maintenance and storage facilities for use by the Association.

Section 5.4 Repairs - Ordinary and Emergency. If any Common Elements are located within a Unit, or are conveniently accessible only through a Unit, the Association, its officers, agents or employees, shall have the right to enter such Unit after service of reasonable written notice and during regular business hours, for the inspection, maintenance, repair and replacement of any of such Common Elements or after service of such notice, if any, as is reasonable under the circumstances, at any time as may be necessary for making emergency repairs to prevent damage to the Common Elements or to another Unit or Units. Damage to any part of a Unit or Units resulting from the above-described repairs or any damage caused to a Unit by the Common Elements located outside of the Unit, including without limitation, sewer lines or other utilities, shall be a common expense of all of the Owners, unless such damage is the result of the misuse or negligence of the Owner, his family, his tenants or his Guests, in which case such Owner shall be responsible and liable for all of such damage and may be charged for any cost thereof by special assessment. No diminution or abatement of assessments shall be claimed or allowed for inconveniences or discomfort arising from the making of the above-described repairs or from action taken to comply with any law, ordinance or order of any governmental authority. Damaged improvements, fixtures or personality shall be restored to substantially the same condition in which they existed prior to the damage.

Section 5.5 Encroachments. If any part of the Common Elements encroaches upon a Unit or Units, a valid easement for such encroachment and for the maintenance of the same, so long as it stands, shall and does exist. If any portion of a Unit encroaches upon the Common

Elements, or upon any adjoining Unit or Units, a valid easement for the encroachment and for the maintenance of the same, so long as it stands, shall and does exist. In the event that a Building or Condominium Unit is partially or totally destroyed, and then rebuilt, the Owners agree that minor encroachments of parts of the Common Elements due to such construction shall be permitted and that a valid easement for said encroachments and the maintenance thereof shall exist. Encroachments referred to herein include, but are not limited to, encroachments caused by error in the original construction of any Building or Unit constructed on the Property, by error in the Condominium Map, by settling, rising, or shifting of the earth, or by changes in position caused by repair or reconstruction of the Project or any part thereof. Such encroachments and easements shall not be considered or constructed to be encumbrances either on the Limited or General Common Elements or on the Condominium Units. In interpreting any and all provisions of this Condominium Declaration, subsequent deeds, mortgages, deeds of trust or other security instruments relating to Condominium Units, the actual location of a Condominium Unit shall be deemed conclusively to be the property intended to be conveyed, reserved or encumbered, notwithstanding any minor deviations, either horizontally, vertically or laterally, from the location of such Condominium Unit as indicated on the Condominium Map.

Section 5.6 Utilities. Declarant reserves the right to create, grant and transfer non-exclusive easements in, under, over, across, through, and upon the Property, the Common Elements and/or the roofs or walls of any Building for the purpose of installing, maintaining, repairing and replacing any utilities, including but not limited to gas, electric, water, sewer and telephone and cable television lines, any heating or cooling installations, any cable, telephone, or master television antenna system and any other necessary and related facilities. The foregoing easements shall include the right of ingress and egress and the right to erect and maintain the necessary pipes, wires, lines, poles and other equipment. Should any person or party furnishing a service covered by the general easement hereinabove described request a specific easement by separate recordable document, Declarant shall have the right to grant such easement without conflicting with the terms hereof. The foregoing easements shall not affect any other recorded easement on the Property, including but not limited to any easements granted in the Condominium Map. The right reserved herein for Declarant shall pass automatically to the Board upon Declarant's sale of the last Condominium Unit within the Project or seven (7) years from the date of recording of this Declaration, whichever occurs first. Furthermore, easements are hereby declared and granted to install, lay, maintain, repair and replace any pipes, wires, ducts, conduits, public utility lines or structural components running through the Common Elements and the walls of the Units whether or not such walls lie in whole or in part within the Unit boundaries.

Section 5.7 Reservation for Declarant's Further Development. To the fullest extent authorized or permitted by law or statutes, Declarant, for itself and its assigns, shall have the easement and right to ingress and egress over, under, across and through the Property and the Common Elements and the right to store materials thereon and to make such other reasonable use thereof as may be necessary to complete the Project, to provide access or utilities or both to the Expansion Property, or any part thereof, or to change, correct, install or construct such drainage facilities or modification of landscaping and drainage, to construct and assign as Limited Common Elements, any garages, parking spaces, patios, storage areas, privacy fences or similar

improvements, or to exercise any development right or any special Declarant rights hereunder or under the CCIOA, as may be necessary in Declarant's reasonable discretion, except that such use may not unreasonably interfere with the Owners' use and enjoyment of their Condominium Units and the Common Elements, nor with their rights of ingress and egress to their Units from a public or private street. The Declarant shall have the right to execute or record or both any writing or document necessary or advisable to confirm, implement or transfer the rights reserved in this Section 5.7 or otherwise in this Declaration; the rights set forth in this Section 5.7 shall terminate upon the earlier of seven (7) years from the date of the recording of this Declaration or upon Declarant's sale of the last Condominium Unit within the Project, whichever occurs first.

Section 5.8 Public Servants and Emergencies. Subject to the provisions of this Declaration, a non-exclusive easement is further granted to all police, sheriff, fire protection, ambulance and all similar persons to enter upon the streets, Common Elements, and the Project in the proper performance of their duties.

Section 5.9 Easements Deemed Created. The easements, uses and rights herein created for an Owner shall be deemed appurtenant to the Unit of that Owner, and all conveyances of Condominium Units hereafter made, whether by Declarant or otherwise, shall be construed to grant or reserve the easements, uses and rights set forth herein, even though no specific reference to such easements or this Declaration appears in the instrument for such conveyance.

VI

MECHANICS' LIENS

Section 6.1 Mechanics' Liens - Association Work. Labor performed, or services or materials furnished for the Common Elements, if duly authorized by the Board, shall be deemed to be performed or furnished at the express consent of each Owner, provided, however, any Owner may remove his Condominium Unit from any such lien against the Project or against two or more Condominium Units, or against the Common Elements or a portion thereof, by payment to the holder of the lien of the fraction of the total sum secured by such lien, based upon the Owner's Proportionate Interest shown in Exhibit "B", and the Board shall have no authority to bind the Owners beyond their pro rata share as provided above.

Section 6.2 Mechanics' Liens - Owner Work. In the event a lien arises from work or material furnished for use and incorporated in any Unit with the consent of or at the request of the Owner thereof or his agent or his contractor or subcontractor, and not requested by the other Owners or the Board, such Owner shall indemnify, defend and hold harmless all other Owners and the Association from, and against any liability or loss arising from the claim of any such lien. In no event shall the claim of any such individual lien be the basis for the filing of a lien against a Condominium Unit of any other Owner not expressly consenting to or requesting the same, or against any interest in the Common Elements except as to the undivided interest therein appurtenant to the Condominium Unit of the Owner for whom such labor shall have been performed or such materials shall have been furnished;

the filing of any such lien against the Condominium Unit of a non-consenting Owner or against the non-consenting Owner's interest in the Common Elements shall, to the extent permitted by law, be null and void and shall entitle such Owner or the Association to recover damages and expenses, including without limitation attorneys' fees, from the **lienor**.

Section 6.3 Other Liens. As required by the CCIOA, Declarant hereby states that it is possible that additional liens, other than mechanics' liens, assessment liens or tax liens, may be obtained, to the extent permitted by law and by this Declaration, against the Common Elements. To the extent permitted by law, all liens shall be subject to the covenants, terms and provisions of this Declaration.

VII

USE RESTRICTIONS

Section 7.1 Residential Use. Each Unit shall be occupied and used as a private dwelling for the Owner, the members of his family and Guests for residential purposes only. No Unit shall be used for any business, manufacturing or commercial purpose whatsoever; provided, however, if the appropriate zoning so allows and if proper written approval of the Board is obtained, an Owner may use a specifically designated portion of his Unit as a home business office, which approval may thereafter be withdrawn or terminated by the Association at any time, and provided further that a Unit may be leased for residential purposes subject to compliance with this Declaration. The Board may, in its reasonable discretion, restrict the maximum number of persons who are permitted to occupy any Unit.

Section 7.2 Architectural Control. No building, fence, wall or other structure shall be commenced, erected or maintained upon the Common Elements, nor shall an addition to, or change or alteration thereto or to any Unit be made until the plans and specifications showing the nature, shape, height, material and location of the same shall have been submitted to and approved in writing by the Board as to harmony of external design and location in relation to surrounding structures and topography. In the event the Board fails to approve or disapprove such plans and specifications within sixty (60) days after they have been submitted to it and have been receipted in writing by the Association's President, approval will not be required and this Section will be deemed to have been fully complied with. No structures of a temporary character, trailer, basement, tent, shack, garage, barn or other out-buildings shall be used on any portion of the Property at any time as a residence, either temporarily or permanently. No Owner shall undertake any work in his Unit which would jeopardize the soundness or safety of the Building or the Project, reduce the value thereof or impair an easement thereon or thereto, nor shall any Owner enclose, by means of screening or otherwise, any Common Element including without limitation, any yard, balcony, patio or porch which is accessible from, associated with and which adjoins a Unit, without having first obtained the prior written approval of the Board with respect to the materials, design and specifications for such enclosure, as more particular provided in this paragraph. Structural alterations or changes in exterior appearance of a Building, Unit or Common Element shall not be made by an Owner to the Building or in the water, gas or steam pipes, electric conduits, plumbing or other fixtures connected therewith, nor shall an Owner remove any additions, improvements or

fixtures from the Building without the prior written consent of the Board first having been obtained. All drapes, shades, blinds and other window coverings shall be white when viewed from the outside, unless the prior written approval of the Board is obtained.

Section 7.3 Common Elements. The Common Elements shall be used for the furnishing of services and facilities for which the same are reasonably intended and for the enjoyment of the Owners, their families, tenants and Guests. There shall be no obstruction of the Common Elements, nor shall anything be kept or stored on any part of the Common Elements without the prior written consent of the Association, except as specifically provided herein. The Common Elements, including without limitation all improvements and landscaping thereon, shall not be altered, constructed upon, or removed except upon the consent of the Board. The Board may adopt Rules governing the use of Common Elements, and each Owner, by the acceptance of his deed and other instrument of conveyance or assignment agrees to be bound by any such adopted Rules and to insure compliance by his or her family and Guests. No Owner shall enter any meter rooms, mechanical equipment areas, crawl spaces, or attic areas, even if designated as General Common Elements, without the prior written approval of the Board or without the presence of an authorized representative of the Board or of the managing agent.

Section 7.4 Prohibitions.

A. Nothing shall be done or kept in any Unit, or in the Common Elements, or any part thereof, which would result in the cancellation of any insurance on the Project, or in an increase in the rate of any insurance on the Project, without the prior written consent of the Board. No part of the Project or of any Condominium Unit shall be used in any way or for any purpose which may endanger the health, safety or life of any person or which may unreasonably disturb any other Owner. No activities shall be permitted upon any portion of the Project which will violate the provisions of any applicable statute, rule, ordinance, regulation, permit, or other validly imposed requirement of any governmental body. No nuisance shall be allowed upon the Property, nor shall any use or practice be allowed which is a source of annoyance to residents, or which interferes with the peaceful possession and proper use- of the Property by its residents. No damage to or waste of the Common Elements, or any part thereof, or any Unit, shall be committed by any Owner, or any Guest of any Owner, and each Owner shall indemnify and hold the Association and the other Owners harmless against any loss resulting from any such damage or waste caused by him, the members of his family, Guests or tenants. No barbecues or open fires shall be allowed on decks or balconies nor otherwise upon the Property, except in areas which may be designated by the Board, nor in any violation of municipal fire codes.

B. No excessive noise or disturbance shall be allowed upon the Property, provided however, all Owners understand and agree that certain normal sounds may penetrate the common walls between the Units, and although the Board may attempt to regulate or restrict such sounds, neither the Association nor the Board nor the Declarant shall have any liability or responsibility for such sounds.

Section 7.5 Animals. No horses, dogs, cats, snakes, fish, insects, birds, reptiles, cattle, sheep, goats, pigs, rabbits, poultry or similar pets or other animals of any description shall be kept or

maintained within the Project except that Owners may keep, if permitted by Rules of the Board, reasonable numbers of bona fide household pets, which are not kept for commercial purposes, do not make objectionable noises or otherwise constitute a nuisance or inconvenience to any of the residents of adjacent property, and are kept in compliance with all applicable local ordinances and any Rules of the Board. An Owner, family member, tenant or Guest is responsible for any damage caused by his pet and shall be obligated to clean up after his pet while it is on the Property. Dogs, if permitted by the Board, shall be kept on leash and attended by their owners at all times. The Board may institute such Rules as it deems advisable for the control, restriction, or complete elimination of any pets and may impose such fines as are necessary, in its sole discretion, to enforce such Rules and this Declaration.

Section 7.6. Storage Restrictions. All clotheslines, equipment, garbage cans, service yards, wood piles, or storage piles shall be kept screened by adequate planting or fencing so as to conceal them from the view of neighboring Units and streets. Patios and balconies shall not be used as storage areas. Clothing, bedding or similar items shall not be displayed on any patio or balcony area or in open view. The conversion or alteration of garages into living areas, storage areas, workshop areas, or any other modification or alteration of the garages which would hinder, preclude or prevent the parking of the number of vehicles for which garage was originally designed, is hereby prohibited unless the prior written consent of the Board is obtained. Garage doors, if any, shall be kept closed at all times except when in immediate use for ingress or egress of motor vehicles and except when in immediate use for access to public utility meters which shall not be obstructed in any way whatsoever. Garbage and trash shall be kept in receptacles within the Unit except on the day of pick up or unless placed in common trash receptacles.

Section 7.7 Maintenance. Each Owner shall keep the interior of his Unit and the Limited Common Elements appurtenant thereto in a clean, sanitary and attractive condition and in a good state of repair. All rubbish, trash or garbage shall be regularly removed from the Project, and shall not be allowed to accumulate thereon. The Board may, in its discretion, enter into agreements or arrangements for common trash and garbage removal from all Condominium Units.

Section 7.8 Outside Structures. No exterior television or radio antenna, satellite dish, tower or similar structure of any sort shall be placed, allowed or maintained upon any portion of the improvements located upon the Property, without the prior written consent of the Board, which may allow an Owner to install upon that Owner's Limited Common Elements, one (1) small satellite dish, not exceeding thirty (30) inches in diameter or other device specifically authorized by the Federal Telecommunications Act of 1996, so long as such dish or device is for the personal use of the owner, complies with all zoning and building codes, does not cause any damage to the Project, does not increase the Association's maintenance or insurance costs, does not constitute any nuisance or interference to other Owners, and does not otherwise violate this Declaration or the Association's Rules. Any such dish or device shall be subject to the architectural review of the Board prior to installation to the fullest extent permitted by law and statute.

Section 7.9 Leasing of Condominium Units. No Condominium Unit shall be occupied or rented for time-sharing, transient or hotel purposes, which shall be defined as (a) occupancy or rental for any period less than 30 days; or (b) any rental if the occupants are provided customary hotel services,

such as room service for food and beverage, maid service, furnishing laundry and linen, and bellboy service. Other than the foregoing obligations, an Owner shall have the absolute right to lease his Condominium Unit for private residential, living or sleeping purposes and pursuant to the following conditions: (a) the initial term of any lease or other tenancy shall be at least six (6) months in duration; (b) no Owner may lease less than his entire Condominium Unit, (c) all leases shall be in writing, and (d) all leases shall provide that the terms of the Lease, and Lessee's occupancy of the Condominium Unit, shall be subject in all respects to the provisions of this Declaration, the Articles of Incorporation and Bylaws of the Association and the Rules of the Board and that any failure by the lessee to comply therewith shall be a default under the lease. The Board may require that an Owner use an approved form of lease, submit a copy of each lease to the Board, and enforce it against his tenant.

Section 7.10 Parking. There shall be no parking of automobiles, trucks or vehicles of any type upon any part of the Project, including without limitation any private streets, except as assigned by the Declarant or as shown for parking on the Condominium Map or as provided in writing by the Association's Board; violation of this provision shall permit the Board or any owner to remove the offending vehicle at the expense of the owner thereof. No commercial vehicles, campers, trailers, or vans shall be stored on or otherwise parked on any part or any road within the Project except when temporarily engaged in transport or unless parked in a carport, garage or area designated for such purpose by the Board. For the purpose of this Section, a 3/4-ton or smaller vehicle, commonly known as a pickup truck, shall not be deemed to be a commercial vehicle or truck. Recreational vehicles or similar vehicles may not be parked in the Property unless the Board designates a specific area for such parking. No mechanical work shall be performed upon any vehicle located upon the Property unless permitted by the Rules of the Board. The Board may regulate or restrict parking and traffic by Rules, signs, permits or other means. The Board may designate certain unassigned parking spaces or parking areas for the use of individual owners, Guests and visitors; any parking so designated shall not be used by any other persons.

Section 7.11 Abandoned or Junk Vehicles. No abandoned or junk vehicles or parts thereof shall be stored or parked upon any part of the Project, including but not limited to any residential street, alley or way of access within or adjacent to the Project, but excluding any area designated for such purpose by the Board. In the event that the Board shall determine in its sole discretion that a vehicle is an abandoned or junk vehicle, then a written notice describing the vehicle will be personally delivered to the owner thereof (if such owner can be reasonably ascertained) or will be conspicuously placed on the unused vehicle (if the owner thereof cannot be reasonably ascertained), and if the abandoned or junk vehicle is not removed within 72 hours thereafter, the Board shall have the right to remove the vehicle at the sole expense of the owner thereof. For the purpose of this Section, an "abandoned vehicle" is any automobile, truck, motorcycle, motor bike, boat, trailer, camper, motor home, house trailer or other similar vehicle which has not been driven under its own propulsion, or has not been moved for a period of fifteen (15) days or longer, as determined by the Board in its sole discretion. For the purpose of this section, a "junk" vehicle shall be defined in the Association's Rules, as determined by the Board in its sole discretion.

Section 7.12 Signs and Advertising. No signs, advertising, displays, billboards, unsightly objects or nuisances shall be placed, erected or permitted to remain in or on any

Condominium Unit or any part of the Project; provided, however, the Board may adopt Rules which permit a "For Sale" or "For Rent" sign to be placed upon the interior of a window within an Owner's Unit or which permit other locational or identifying signs of reasonable size; notwithstanding the foregoing, the right is reserved by Declarant or its agents to place such signs of any size on the Property as may be required to facilitate the business of disposing of unsold Units.

Section 7.13 Exception for Declarant. Notwithstanding any provisions herein contained to the contrary, it shall be permissible for Declarant, or any contractor involved in the construction of said Condominium Units, or in the development of the Project, to maintain during the period of construction and sale of said Units, upon such portions of the Project as the Declarant may choose, such uses and facilities as may be reasonably required, convenient or incidental to the construction, sale or rental of said Condominium Units, and to the development of the Project, including, but without limitation, use of the Property, including use of any clubhouse or meeting room, for sales office, management office and models and temporary parking and access facilities for prospective and actual tenants, occupants and purchasers, and Declarant may promptly remove any of the foregoing (except any clubhouse or meeting room) if Declarant ceases to be an Owner. The Declarant and contractors may maintain such management offices, signs, model units, construction offices, trailers and sales offices in such numbers, size and locations, as they may determine in their reasonable discretion from time to time. The provisions of this Article VII shall not apply to such use or other construction and sales activities by the Declarant or its contractors, except that such reasonable use by the Declarant or his contractors may not unreasonably interfere with the Owners' use and enjoyment of their Condominium Units and the Common Elements, nor with their right of ingress and egress to their Units from a public or private street. In addition, the Declarant, its agents, employees, financiers, or its contractors shall have such rights of ingress and egress over the Common Elements as in Declarant's discretion shall be necessary to complete the Project and additionally shall have any and all rights set forth in C.R.S. 38-33.3-215 and 216.

Section 7.14 Floors. The Owner of an second story or upper level Unit shall not install wooden, tile, stone, hard surface floors, or other materials which may cause unacceptable sound transmission to neighbors, without the prior written consent of the Board.

Section 7.15 Disclaimers; Landscaping, and Other Conditions.

A. The Association shall maintain the landscaping, drainage, and sprinkler systems upon the Property in such a fashion that the soil surrounding the foundations of the Buildings and other improvements shall not become so impregnated with water that they cause expansion of or shifting of the soils supporting the improvements or other damage to the improvements and do not impede the proper functioning of the drainage, landscaping, or sprinkler systems as originally installed. Such maintenance shall include, where necessary the removal or replacement of improperly functioning landscaping, drainage, or sprinkler system elements and shall also include regrading and resurfacing where necessary to provide for adequate drainage and to prevent any ponding; no changes in landscaping shall be made in such a way as to endanger the structural integrity or the stability of any of the landscaping, drainage or sprinkler systems, or the other improvements upon the Property. The Association shall indemnify the Declarant from any liability, claims and expenses, including

without limitation, reasonable attorneys' fees, resulting from any breach of this Section.

B. Owners acknowledge and understand that soil, ecological and/or environmental conditions, including but not limited to, radon gas, hazardous or toxic substances, may affect this Property and that the Declarant does not warrant and disclaims any liability for any existing or future soil, ecological or environmental conditions affecting the Property, and that the soil in the Colorado area contains clay and other substances which may cause it to swell when wet and so can cause earth movement around a Building's foundation; Owners accept the soil conditions and foundation so installed without any express or implied warranties or representations, and Owners agree to do nothing which would change the grading or landscaping so as to cause or permit poor drainage or other damage to the Buildings.

C. The U.S. Environmental Protection Agency ("EPA") states that exposure to elevated levels of radon gas can be injurious. Any test to measure the level of radon gas can only show the level at a particular time under the circumstances occurring at the time of testing. Declarant, its agents, contractors, successors and assigns are not qualified to measure radon gas or to evaluate all aspects of this complex area of concern. Prior or subsequent to closing of the Owner's purchase of the Unit, the Owner may wish to test for the presence of radon gas and to purchase or install devices that may be recommended by qualified radon specialists. The Declarant, its agents, contractors, successors and assigns, expressly disclaim and the Owner and the Association agree to waive and release the Declarant, its agents, contractors, successors and assigns, from any claims of liability or responsibility with respect to radon gas and related matters and to hold harmless from any claims or liability against the Declarant, its agents, contractors, successors and assigns with respect to radon gas and related matters.

D. Fiberglass insulation (also known as glass wool) is commonly used for insulation of homes. Fiberglass in various thicknesses and values is used in the areas of walls, floor to ceiling assemblies and ceiling to roof assemblies of homes to prevent movement of heat and to reduce noise. The U.S. Department of Health and Human Services produced a report that lists glass wool as a substance "which may be reasonably anticipated to be a carcinogen", but that report merely identifies substances selected for further study because of potential risk. The listing of a substance in the report is not an assessment that there is casual connection between glass wool and illness. The Owners and the Association acknowledge that fiberglass may have been used in the wall and floor to ceiling assemblies, and waive any claims against the Declarant, its agents, contractors, successors and assigns, arising as a result of the use of fiberglass insulation, and agrees to hold Declarant, its agents, contractors, successors and assigns harmless from any claim or liability resulting from the existence of fiberglass insulation in the Unit or the Project.

E. EACH OWNER ACKNOWLEDGES, AGREES AND COVENANTS THAT THE DECLARANT DID NOT CONSTRUCT THE PROPERTY, WHICH IS MANY YEARS OLD AND HAS BEEN USED FOR RENTAL UNITS AND THAT THE SALES PRICE FOR EACH CONDOMINIUM UNIT HAS BEEN BASED UPON IT BEING SOLD IN "AS IS - WHERE IS" CONDITION WITHOUT WARRANTIES, EXPRESS OR IMPLIED, AND SUBJECT TO THE PROVISIONS OF THIS DECLARATION.

F. EACH OWNER FURTHER COVENANTS AND AGREES THAT NO REPRESENTATION, PROMISE OR WARRANTY, HAS BEEN MADE BY DECLARANT, ITS AGENTS, EMPLOYEES, CONTRACTORS, BROKERS, MANAGERS, AND THE SUCCESSORS AND ASSIGNS OF EACH OF THEM (HEREAFTER COLLECTIVELY CALLED THE 'RELEASED PARTIES'), REGARDING THE DEVELOPMENT OF ADJACENT PROPERTIES, THE INVESTMENT POTENTIAL OF THE UNIT, ANY ECONOMIC BENEFITS TO THE OWNERS, THEIR HEIRS, SUCCESSORS AND ASSIGNS, TO BE DERIVED FROM THE MANAGERIAL OR OTHER EFFORTS OF THE RELEASED PARTIES, OR ANY OTHER THIRD PARTY DESIGNATED OR ARRANGED BY THE DECLARANT AND/OR OTHER RELEASED PARTIES, RELATED TO THE OWNERSHIP OR RENTAL OF THE UNIT, OR REGARDING THE CONTINUED EXISTENCE OF ANY VIEW FROM THE UNIT. THE OWNERS, THEIR HEIRS, SUCCESSORS AND ASSIGNS, UNDERSTAND THAT DECLARANT AND/OR OTHER RELEASED PARTIES ARE UNDER NO OBLIGATION WITH RESPECT TO FUTURE PLANS, ZONING OR DEVELOPMENT OF ADDITIONAL PROPERTY IN THE AREA. THE OWNERS, THEIR HEIRS, SUCCESSORS AND ASSIGNS, UNDERSTAND THAT THE SQUARE FOOTAGES, SIZES AND TYPE OF UNITS HAVE BEEN SET FORTH AT THE SOLE DISCRETION OF THE DECLARANT AND/OR OTHER RELEASED PARTIES, AND THAT THE SALES PRICES MAY DECREASE OR INCREASE AT THE SOLE DISCRETION OF THE DECLARANT.

G. BY ACQUIRING TITLE TO A UNIT, THE OWNERS, THEIRS HEIRS, SUCCESSORS AND ASSIGNS COVENANT AND AGREE THAT THE DECLARANT AND/OR OTHER RELEASED PARTIES MAKE NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, OF ANY NATURE, INCLUDING WITHOUT LIMITATION ANY AS TO THE FITNESS, WORKMANLIKE CONSTRUCTION, MERCHANTABILITY, DESIGN, CONDITION, QUALITY, OR HABITABILITY OF THE UNIT, THE PROJECT, OR ANY COMMON ELEMENTS RELATED THERETO OR ANY ELECTRICAL, PLUMBING, HEATING, GAS, WATER, SEWER, STRUCTURAL COMPONENTS, OR OTHER MECHANICAL OR UTILITY SYSTEMS OR COMPONENTS OR APPLIANCES OR FIXTURES RELATED THERETO. THE OWNERS AND THE ASSOCIATION ACCEPT THE FOREGOING DISCLAIMER OF WARRANTIES AND WAIVE, RELEASE AND INDEMNIFY THE DECLARANT AND/OR OTHER RELEASED PARTIES FROM ALL CLAIMS RELATED THERETO, AND ANY EXPENSES AND ATTORNEYS FEES INCURRED BY THE DECLARANT AND/OR OTHER RELEASED PARTIES, TOGETHER WITH ANY CLAIMS FOR BODILY INJURY, PROPERTY DAMAGE AND INCIDENTAL OR CONSEQUENTIAL DAMAGES MADE BY ANY PERSON OR PARTY.

H. THE OWNERS, THEIR HEIRS, SUCCESSORS AND ASSIGNS AND THE ASSOCIATION COVENANT AND AGREE THAT THE DECLARANT AND/OR OTHER RELEASED PARTIES SHALL NOT BE LIABLE FOR CLAIMS RELATING TO THE UNIT OR TO THE COMMON ELEMENTS ARISING OR RELATING TO ANY DEFECT IN WORKMANSHIP OR IN ANY MATERIAL USED IN CONSTRUCTION, AND THE OWNERS, THEIR HEIRS, SUCCESSORS AND ASSIGNS, AND THE ASSOCIATION, EXPRESSLY WAIVE AND RELEASE ALL RIGHTS TO SUE FOR A DEFECT IN CONSTRUCTION OF THE UNIT OR

COMMON ELEMENTS OR BOTH AND SHALL RELY SOLELY ON THE OWNER'S OWN INSPECTION AND EXAMINATION OF THE PROJECT AND NOT ON ANY REPRESENTATIONS OR WARRANTIES OF THE DECLARANT AND/OR OTHER RELEASED PARTIES. THE OWNERS, THEIR HEIRS, SUCCESSORS AND ASSIGNS COVENANT AND AGREE THAT THE SALES PRICES OF THE UNITS ARE BASED IN PART UPON THE RELEASES, WAIVERS AND INDEMNITY CONTAINED IN THIS SECTION AND THE OTHER PROVISIONS OF THE DECLARATION.

I. Any action, dispute, claim or controversy between any person, entity, including without limitation, any Owner and/or the Association, and the Declarant and/or other Released Parties, whether sounding in contract, tort or otherwise, and whether or not concerning an individual Unit or the Common Elements may be submitted by the Declarant, at its option, to be resolved by binding arbitration as set forth in this Section and shall include all disputes arising out of or in connection with any condition of a Unit or Common Element, this Declaration, and any related agreements or instruments and any transaction contemplated hereby. If so submitted, such disputes shall be resolved by binding arbitration before a single arbitrator in accordance with Title 9 of the U.S. Code, Colorado Uniform Arbitration Act, C.R.S. 13-22-201, et. sec., and the Commercial Arbitration rules of the American Arbitration Association ("AAA"). In the event of any inconsistency between such rules and these arbitration provisions, these provisions shall supersede such rules and these arbitration provisions, these provisions shall supersede such rules. All statutes of limitations that would otherwise be applicable shall apply to any arbitration proceeding under this Section. The parties shall be entitled to conduct discovery as if the dispute were pending in a Court of law in the State of Colorado. In any arbitration proceeding subject to these provisions, the arbitrator is empowered to decide pre-hearing motions that are substantially similar to pre-hearing motions to dismiss and motions for summary adjudication. Judgment upon the award rendered may be entered in any court having jurisdiction. Except as otherwise provided, the arbitrator selected under this Section shall be knowledgeable in the subject matter of the dispute. The arbitrator shall be selected through panels of qualified judges maintained by the Denver, Colorado office of the AAA. All such arbitration shall be held in Colorado Springs, Colorado, and venue shall be proper in the District Court for El Paso County, Colorado.

VIII

ASSOCIATION MEMBERSHIP AND VOTING RIGHTS

Section 8.1 Membership. Every Owner shall be a member of the Association and shall remain a Member until such time as his ownership of his Condominium Unit ceases. When more than one person holds title to a Condominium Unit, all such persons shall be Members of the Association, but such multiple or joint ownership shall not increase the voting rights allocable to such Unit. Membership in the Association shall not be transferred, except in connection with the sale or conveyance of a Condominium Unit. However, the rights of membership may be assigned to a Mortgagee as further security for a loan secured by a lien on a Condominium Unit. Membership in the Association is not transferred when an Owner leases his Condominium Unit.

Section 8.2 Voting Membership. The Association shall have one class of voting membership who shall be the Owners. The Owners shall elect all the members of the Board, following the termination of Declarant Control as set forth in Section 8.3 below.

Section 8.3 Voting Right.

A. Each Condominium Unit shall have equal voting rights based upon one vote per Unit as set forth in Exhibit B to the Declaration; the affirmative vote of a majority of the Proportionate Interests shall be required for decisions and action by the Association, unless otherwise provided herein or in the Declaration or Bylaws. If only one of the multiple Owners of a Unit is present at a meeting of the Association, such Owner is entitled to cast all votes allocated to that unit. Alternatively, if more than one person holds an interest in a Condominium Unit, they may appoint one of their co-Owners as proxy to cast the vote for that Condominium Unit. The vote for such Condominium Unit shall be cast as the Owners holding a majority interest in thereof agree, but in no event shall they cast more than the voting rights allocated that Unit on any one question. If such Owners of such Condominium Unit cannot agree as to the manner in which their vote shall be cast when called upon to vote, then they will be treated as having abstained; during any such period, each Owner shall retain all other rights and obligations of membership in the Association.

B. Notwithstanding anything herein to the contrary, the Declarant shall have the right to appoint the Board of Directors as follows: During the Period of Declarant Control, the Declarant, or persons designated by him or her, subject to certain limitations, may appoint and remove the officers and members of the Board. The Period of Declarant Control shall commence upon the recording hereof and shall terminate no later than either sixty (60) days after conveyance of seventy-five (75%) percent of the Units, which may be created, to Owners other than a Declarant, two (2) years after the last conveyance of a Unit by the Declarant in the ordinary course of business, or 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 Directors of the Board before termination of the Period of Declarant Control, but in that event, the Declarant may require, for the duration of the Period of Declarant Control, 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.

C. Not later than sixty (60) days after conveyance of twenty-five (25%) percent of the Units, which may be created, to Owners other than the Declarant, at least one member, and not less than twenty-five (25%) percent of the members of the Board shall be elected by the Owners, other than the Declarant. Not later than sixty (60) days after conveyance of fifty (50%) percent of the Units, which may be created, to Owners other than a Declarant, not less than one-third (1/3) of the members of the Board must be elected by the Owners other than the Declarant.

D. Except as otherwise provided in Paragraph B of this Article, not later than the termination of any Period of Declarant Control, the Owners shall elect a Board of at least three members, at least a majority of whom must be Owners other than the Declarant or designated representatives of Owners other than the Declarant. The Board shall elect the officers. The Board members and officers shall take office upon election or appointment as provided herein.

E. Notwithstanding any provision of the Declaration or Bylaws to the contrary, the Owners, by a vote of Members holding at least sixty-seven percent (67%) of the Proportionate Interests present and entitled to vote at any meeting of the Owners at which a quorum is present, may remove any member of the Board with or without cause, other than a member appointed by the Declarant.

F. Within sixty (60) days after the Owners other than Declarant elect a majority of the members of the Board, the Declarant shall deliver to the Association all property and items described by C.R.S. 38-33.3-303(9).

IX

ASSOCIATION FUNCTIONS

Section 9.1 Management. Subject to Article X, the management and operation of the Project shall be by the Association which shall be organized and shall have all powers and fulfill its functions pursuant to this Declaration, the Articles of Incorporation, the Bylaws, the CCIOA, and all other applicable statutes and common law of the State of Colorado in effect from time to time. The Association shall act by and through its Board, its elected officers, and its agents and employees. The Board may take any action without any vote of the Owners or Members unless such vote is specifically required in this Declaration, the Articles of Incorporation, the Bylaws, or the Rules.

Section 9.2 Association Powers and Responsibilities. The Association, subject to the rights and duties of the Owners as set forth elsewhere in this Declaration, shall be responsible for the management, control, operation, maintenance, replacement and repair of the Common Elements as more specifically provided herein.

Section 9.3 Property of Association. The Association may pay for, acquire and hold real and tangible and intangible personal property and may dispose of the same by sale or otherwise. Subject to the Rules of the Association, each Owner and each Owner's family, tenant and Guests may

use such property. Upon termination of condominium ownership of the Project and dissolution of the Association, if ever, the beneficial interest in any such property shall be deemed to be owned by the then Owners as tenants in common in the same proportion as their respective Proportionate Interests. The transfer of title to a Condominium Unit by sale, conveyance, foreclosure or procedure in lieu of foreclosure shall transfer to the purchaser, without the necessity of any reference thereto, the beneficial interest in such property associated with the Condominium Unit; such beneficial interest shall not be transferable except with the transfer of the Condominium Unit.

Section 9.4 Association's Right to Lease and License General Common Elements. With the prior written consent of Owners entitled to vote sixty-seven percent (67%) of the votes allocated to Condominium Units sold by the Declarant, the Association shall have the right to lease or license or permit the use of, by less than all Owners or by non-Owners, on either a short-term basis or long-term basis with or without charge, and upon such terms as the Association may deem desirable, all or any part of the General Common Elements.

Section 9.5 Restrictions Upon Association and Owners. Except as provided in Articles XV, XVI and XVII hereof and except as provided in C.R.S. 38-33.3-219, unless as least sixty-seven percent (67%) of the First Mortgagees of Units (based upon one [1] vote for each First Mortgage owned or held) and at least sixty-seven percent (67%) of the Owners, other than Declarant (based upon one [1] vote for each Condominium Unit owned), have given their prior written approval, neither the Association nor the Owners shall be empowered or entitled to:

(i) by act or omission, seek to abandon or terminate the Project or the provisions hereof for architectural control and enforcement or for maintenance of the Common Elements as herein provided;

(ii) change the pro rata interest or obligations of any individual Condominium Unit for the purpose of (a) levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards; or (b) determining the pro rata share of ownership of each Condominium Unit in the Common Elements except as provided in Article XVII hereof;

(iii) partition or subdivide any Condominium unit;

(iv) by act or omission seek to abandon, partition, subdivide, encumber, sell or transfer any of the General or Limited Common Elements apart from any Condominium Unit, except as provided by Section 5.6 hereof, but subject to C.R.S. 38-33.3-312;

(v) use hazard insurance proceeds for loss to Condominium Unit and/or Common Elements improvements for other than repair, replacement or reconstruction of such improvements;

(vi) fail to maintain full current replacement cost fire and extended insurance coverage on the Units and Common Elements and such other insurance as is required under this Declaration;

(vii) make a material change in any of the following provisions of this Declaration: voting rights; assessments, assessment liens, or the priority of assessment liens; reserves for maintenance, repair, and replacement of Common Elements; responsibility for maintenance and repairs; reallocation of interests in the Common Elements, or rights to their use; redefinition of any Unit boundaries; convertibility of Units into Common Elements or vice versa; expansion or contraction of the Project, or the addition, annexation, or withdrawal of Property to or from the Project; insurance or fidelity bond; leasing of Units; imposition of any restrictions on an Owner's right to sell or transfer his or her Units; a decision by the Association to establish self-management when professional management had been required previously by this Declaration or by a First Mortgage holder; restoration or repair of the Project (after a hazard damage or partial condemnation) in a manner other than that specified in this Declaration; any action to terminate the legal status of the Project after substantial destruction or condemnation occurs; or any provisions that expressly benefit First Mortgage holders, insurers, or guarantors; or

(viii) notwithstanding any provision hereof or otherwise, threaten, file or pursue any lawsuit, arbitration and/or administrative or similar proceedings against the Declarant, its agents, employees, shareholders, contractors, brokers, successors, assigns or any person or party related to it for any claim, demand, liability, obligation or matter whatsoever, including without limitation, the construction, physical condition, value, assessments, reserves, and any other matters related to the Project.

Section 9.6 Additional Restrictions During Declarant Control. In addition to the provisions of Section 9.5, after the Declarant has obtained evidence of approval for guaranteed or insured loans by Federal Housing Administration or the Department of Veterans Affairs and continuing until such time as the Period of Declarant Control has terminated, the prior written approval of the Department of Veterans Affairs or the Federal Housing Administration of the U.S. Department of Housing and Urban Development shall be required for the following:

- A. Amendment of the Condominium Declaration;
- B. Amendment of the Articles of Incorporation or the Bylaws of the Association;
- C. Annexation of additional properties to this Condominium Declaration;
- D. Dedication or mortgaging of all or any part of the Common Elements by the Declarant, except as provided by Section 5.6 hereof;
- E. Merger, consolidation or dissolution of the Association which shall also comply with C.R.S. 38-33.3-221; and
- F. Any special assessment for capital improvements. "Capital Improvements", as used herein, shall mean the construction, erection or installation of substantial structure(s) or other substantial improvements on the Property, but shall not include the construction,

reconstruction, erection, installation, maintenance, repair or replacement of Common Elements presently located on the Property or which may hereafter be constructed, erected or installed on the Property by the Declarant in its development of the Project.

Section 9.7 Inspection of Records and Notice to First Mortgagees. The Association shall keep financial records sufficiently detailed to enable the Association to provide the certificates of assessments described in Section 11.7(D) hereof. The Association shall make available to Owners and lenders, and to holders, insurers or guarantors of any First Mortgage, current copies of the Declaration, Articles of Incorporation, Bylaws, other Rules concerning the Project and the books, records and financial statements of the Association. "Available" means available for inspection, upon request, during normal business hours or under other reasonable circumstances. Additionally, if the Project contains fifty (50) or more Condominium Units, the Association shall provide an audited, annual financial statement to any First Mortgagee upon written request. If the Project contains less than fifty (50) Condominium Units, the holders of fifty-one percent (51%) or more of First Mortgagees shall be entitled to have an audited financial statement prepared at their expense if one is not otherwise available; said financial statement shall be furnished within a reasonable time following such request. Further, the Association shall, if requested in writing, notify each First Mortgagee recorded on its books of any proposed amendment of the Association's Declaration, Articles of Incorporation or Bylaws or any other action requiring the First Mortgagee's consent at least ten (10) days prior to the effective date of such amendment or action. In addition, the Association shall comply with C.R.S. §7-136-101 through 106.

Section 9.8 Promulgation of Rules. The Board may make such Rules (the "Rules") to enforce the provisions of this Declaration or the Bylaws or to govern the use of the Common Elements or Units or both, as are, in its sole discretion, consistent with the rights and duties established in this Declaration. The Board shall have the sole discretion and authority to change such Rules from time to time and to interpret this Declaration, the Articles of Incorporation, the Bylaws and Rules and to resolve any dispute as to the interpretation thereof; the Board's interpretation shall be final, conclusive and binding on all persons and parties.

Section 9.9 Enforcement. The Board and any aggrieved Owner shall have the power and authority to enforce each and every one of the provisions of this Declaration, the Articles of Incorporation, the Bylaws, and the decisions, resolutions, Rules of the Board. Except as otherwise provided, each Owner shall comply strictly with the provisions of the Declaration, the Articles of Incorporation and Bylaws of the Association, and the decisions, resolutions, and Rules of the Board adopted pursuant thereto as the same may be lawfully made and amended and/or modified from time to time. Failure to comply with any of the same shall mean that (a) the Board may suspend the Owner's voting rights in the Association and any Association services and usage of Association facilities during any period during which such Owner fails to comply, (b) Board may also file and enforce the liens provided for herein and/or take judicial action against the Owner to enforce compliance with such rules, decisions or other obligations, or to obtain damages for non-compliance, all to the extent permitted by law, including recovery of costs and reasonable attorneys' fees, and/or (c) the Board may also fine any Owner, and his family member, Guest, or tenant who violates the terms and provisions of this Declaration, the Bylaws, and/or the Rules, a sum as set forth in the