

**DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS AND EASEMENTS
FOR LAREDO LOFTS TOWNHOMES**

THIS DECLARATION FOR Laredo Lofts Townhomes, (this "Declaration") dated April 28, 2003, shall be effective upon recordation and is made by Laredo Lofts Townhomes, d/b/a AP Development Corporation, a Minnesota corporation, ("Declarant"). Declarant is the owner of certain real property located in the County of Summit, State of Colorado and more fully described on Exhibit A attached hereto (the "Property"). Declarant hereby makes the following grants, submissions and declarations:

ARTICLE 1. IMPOSITION OF COVENANTS

Section 1.1 Purpose: The purpose of this Declaration is to create a residential project known as Laredo Lofts Townhomes, (the "Project") by submitting the Property to ownership and use as a Planned Community pursuant to the Colorado Common Interest Ownership Act, Article 33.3, Title 38, Colorado Revised Statutes, as amended and supplemented from time to time (the "Act").

Section 1.2 Intention of Declarant: Declarant desires to protect the value and desirability of the Project and other property owned by Declarant, to further a plan for the improvement, sale and ownership of the Project, to create a harmonious and attractive development and to promote and safeguard the health, comfort, safety, convenience and welfare of the owners of Lots in the Project.

Section 1.3 Declaration: To accomplish the purposes and intentions recited above, Declarant hereby submits the Property, together with all improvements, appurtenances and facilities relating to or located on the Property now and in the future, to the Act, and hereby imposes upon all of the Property the covenants, conditions, restrictions, easements, reservations, rights-of-way and other provisions of this Declaration, and the Declarant hereby declares that all of the Property shall be held, sold, conveyed, encumbered, leased, rented, occupied and improved, subject to the provisions of this Declaration.

Section 1.4 Covenants Running With the Land: All provisions of this Declaration shall be deemed to be covenants running with the land, or as equitable servitudes, as the case may be. The benefits, burdens and other provisions contained in this Declaration shall be binding upon and shall inure to the benefit of Declarant, all Lot Owners and their respective heirs, executors, administrators, personal representatives, successors and assigns.

ARTICLE 2. DEFINITIONS

The following words, when used in this Declaration, shall have the meanings designated below unless the context expressly requires otherwise:

Section 2.1 "Act" means the Colorado Common Interest Ownership Act as defined in Section 1.1 hereof. In the event the Act is repealed, the Act, on the effective date of this Declaration, shall remain applicable to this Declaration.

Section 2.2 "Assessments" means the annual, special and special purpose assessment levied pursuant to this Declaration.

Section 2.3 "Association" means the Laredo Lofts Townhomes Association, Inc., a Colorado nonprofit corporation, and its successors and assigns.

Section 2.4 "Bylaws" means instrument, however denominated, which are adopted by the Association for the regulation and management of the Association, including the amendments thereto.

Section 2.5 "Common Access Road" means the common access road shown on the Plat.

Section 2.6 "Common Areas" shall mean all real property and any improvements thereon or thereto owned by the Association for the common use and enjoyment of the Lot Owners. The Common Areas owned by the Association at the time of the recording of this Declaration includes all portions of the Property except the individual Lots and further includes the Common Access Road, those areas identified as such on the Plat of the Property recorded at approximately the same time as this Declaration is recorded, and shall include any portion of the Property designated as Common Areas on any amendments or supplements to the Plat for the Property, any and all real and personal property owned or controlled by the Association for the common use and benefit of all of the Owners and the Project, together with all improvements thereon, if any, together with any easements and rights of way which are appurtenant to the Common Areas. Every Owner, and the successors and assigns thereof, shall be deemed to have consented to the use and control of said Common Areas by the Association for the benefit and enjoyment of all Owners in accordance with the provisions of this Declaration, the Articles of Incorporation, the Bylaws and any rules and regulations of the Association. Notwithstanding the foregoing, if the Declarant elects to develop the Property in phases or in separate filings it shall only be obligated to convey to the Association those portions of the Common Areas which pertain to the particular filing at the time of filing the Plat therefore. For the purposes hereof, the roof and the exterior portion of all Improvements in the Project, the crawl spaces below the Lots and driveway providing access to the Lots in the Project shall be repaired and maintained by the Association as Common Areas and the costs thereof shall be a Common Expense.

Section 2.7 "Development Rights" means the rights set forth as described in Article 14 of this Declaration.

Section 2.8 "Common Expenses" means expenditures made or liabilities incurred by or on behalf of the Association, together with any allocations to reserves, including, without limiting the generality of the foregoing, the following items:

- (a) expenses of administration, insurance, operation and management, repair, or replacement of the Common Areas, except to the extent such repairs and replacements are responsibilities of a Lot Owner as provided in this Declaration;
- (b) expenses declared Common Expenses by the provisions of the Act, this Declaration or the Bylaws;
- (c) all sums lawfully assessed against the Lots by the Executive Board;
- (d) monthly water charges in excess of \$100.00 per quarter charged to Lot 1, for landscaping and watering of the Common Areas.

Section 2.9 "Common Expense Liability" means the liability for Common Expenses allocated to each Lot pursuant to this Declaration.

Section 2.10 "Costs of Enforcement" means all monetary fees, fines, late charges, interest, expense, costs, including receiver's and appraiser's fees and reasonable attorneys' fees and disbursements, including legal assistants' fees, incurred by the Association in connection with the collection of Annual, Special and Special Purpose Assessments or in connection with the enforcement of the terms, conditions and obligations of the Project Documents.

Section 2.11 "Declarant" means AP Development Corporation, and its successors and assigns.

Section 2.12 "Declaration" means this Declaration, together with any supplement or amendment to this Declaration and any other recorded instrument however denominated which exercises a Development Right(s), executed by Declarant and recorded in the real property records. The term Declaration includes all Maps and Plats recorded with this Declaration without specific reference thereto.

Section 2.13 "Eligible First Mortgagee" means a First Mortgagee which has notified the Association in writing of its name and address and status as a First Mortgagee and has requested that it receive notices provided for in the Article entitled "Mortgagee Protections".

Section 2.14 "Executive Board" or "Board" means the governing body of the Association, as provided in this Declaration and in the articles of incorporation and Bylaws of the Association and in the Act.

Section 2.15 "First Mortgagee" means a holder of a Security Interest on a Lot which has priority over all other Security Interests on the Lot.

Section 2.16 "Improvement(s)" means the building(s) (including all fixtures and improvements contained within them) located on the Property.

Section 2.17 "Lot" shall mean and refer to any individual Lot shown on the Plat for Laredo Lofts Townhomes, together with all appurtenances and improvements constructed thereon. "Lot" and "Unit" shall have the same meaning.

Section 2.18 "Lot Owner" means the Declarant or any other person who owns record title to a Lot (including a contract seller, but excluding a contract purchaser) and excluding any person having a Security Interest in a Lot unless such person has acquired record title to the Lot pursuant to foreclosure or any proceedings in lieu of foreclosure.

Section 2.19 "Management Agreement" means any contract or arrangement entered into for purposes of discharging the responsibilities of the Executive Board relative to the operation, maintenance and management of the Project.

Section 2.20 "Managing Agent" means a person, firm, corporation, or other entity employed or engaged as an independent contractor pursuant to a Management Agreement to perform management services for the Association.

Section 2.21 "Occupant" means any member of a Lot Owner's family, or a Lot Owner's guests, invitees, servants, tenants, employees, or licensees who occupies a Lot or is on the Common Areas for any period of time.

Section 2.22 "Period of Declarant Control" means the maximum period of time defined and limited by the Act and Section 6.6 of this Declaration during which the Declarant may, at its option, control the Association.

Section 2.23 "Plat" means the recorded subdivision plat for the Laredo Lofts Townhomes, recorded on the ____ day of _____, 2007, under Reception No. _____ in the Summit County Clerk and Recorder's Office, and such future filings thereof.

Section 2.24 "Project Documents" means the basic documents creating and governing the Project, including, but not limited to, this Declaration, the Articles of Incorporation of the Association and the Bylaws, the Plat and any procedures, Rules and Regulations, or policies relating to the Project adopted under such documents by the Association or the Executive Board.

Section 2.25 "Property" means the real property described in Exhibit A attached hereto.

Section 2.26 "Project" means Laredo Lofts Townhomes and additions thereto.

Section 2.27 "Purchaser" means a person, other than a Declarant, who by means of a transfer acquires a legal or equitable title in a Lot, other than a leasehold estate in a Lot of less than forty (40) years or a Security Interest.

Section 2.28 "Real Estate" means any leasehold or other estate or interest in, over, or under land, including structures, fixtures and other improvements and interests that, by custom, usage, or law, pass with the conveyance of land though not described in the contract of sale or instrument of conveyance.

Section 2.29 "Records" means the Office of the Clerk and Recorder of Summit County, Colorado.

Section 2.30 "Rules and Regulations" means the rules and regulations promulgated by the Executive Board for the management, preservation, safety, control and orderly operation of the Project in order to effectuate the intent and to enforce the obligations set forth in the Project Documents, as amended and supplemented from time to time.

Section 2.31 "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 terms 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. The holder of a Security Interest includes any insurer or guarantor of a Security Interest.

Section 2.32 "Special Declarant Rights" means those rights reserved by Declarant in Article 14 of this Declaration.

ARTICLE 3. LOTS AND PROPERTY RIGHTS

Section 3.1 Lots:

- (a.) The number of Lots in the Project is ten (10);
- (b.) The identification number of each Lot is shown on the Plat; and
- (c.) Every deed, lease, mortgage, deed of trust or other instrument shall legally describe a Lot in the following manner:

"Lot _____, Laredo Lofts Townhomes, according to the Plat thereof and subject to the Declaration of Covenants, Conditions and Restrictions of Laredo Lofts Townhomes on file in the Office of the Clerk and Recorder, County of Summit, State of Colorado."

ARTICLE 4. PLAT

Section 4.1 Plat: The Plat shall be filed in the Real Property Records. Any Plat filed subsequent to the first Plat shall be termed a supplement to such Plat, and the numerical sequence of such supplements shall be shown thereon. The Plat shall be filed following substantial completion of the Improvement(s) depicted on the Plat and prior to the conveyance of any Lot depicted on the Plat to a Purchaser. The Plat shall include a Plat which shows the following:

- (a) the name and a general schematic map of the entire Project;
- (b) the location and dimensions of all Real Estate not subject to Development Rights, if any, or subject only to the Development Rights to withdraw, and the location and dimensions of all existing improvements within that Real Estate;
- (c) a legally sufficient description of any Real Estate subject to Development Rights, labeled to identify the rights applicable to it;
- (d) the extent of any existing encroachments across any Project boundary;
- (e) to the extent feasible, a legally sufficient description of all easements serving or burdening any portion of the Project; and

- (f) the distance between any noncontiguous parcels of Real Estate comprising the Project.

The Plat shall contain a certificate of a registered and licensed land surveyor certifying that the Plat contains all information required by this Declaration and the Act. Each supplement or amendment shall set forth a like certificate when appropriate. In interpreting the Plat, the existing physical boundaries of each separate Lot as constructed shall be conclusively presumed to be its boundaries.

ARTICLE 5. LOT OWNERS' PROPERTY RIGHTS IN COMMON AREAS

Section 5.1 Common Areas: Every Lot Owner and Occupant shall have a perpetual right and easement of access over, across and upon the Common Areas for the purpose of access to and from the Lot from public ways for both pedestrian and vehicular travel, which right and easement shall be appurtenant to and pass with the transfer of title to such Lot; provided, however, that such right and easement shall be subject to the following:

- (a) the covenants, conditions, restrictions, easements, reservations, rights-of-way and other provisions contained in this Declaration and the Plat;
- (b) the right of the Association to adopt, from time to time, any and all rules and regulations concerning vehicular traffic, parking and travel upon, in, under and across the Common Areas; and
- (c) the right of the Association to adopt, from time to time, any and all rules and regulations concerning the Project as the Association may determine is necessary or prudent for the management, preservation, safety, control and orderly operation of the Project for the benefit of all Lot Owners and Occupants, and for facilitating the greatest and most convenient availability and use of the Lots and Common Areas by Lot Owners and occupants.

ARTICLE 6. MEMBERSHIP AND VOTING RIGHTS IN ASSOCIATIONS

Section 6.1 Association Membership: The Association's articles of incorporation shall be filed no later than the date the first Lot in the Project is conveyed to a Purchaser. Every Lot Owner shall be a member of the Association and shall remain a member for the period of the Lot Owner's ownership of a Lot. No Lot Owner, whether one or more persons or entities, shall have more than one membership per Lot owned, but all of the persons or entities owning a Lot shall be entitled to rights of membership and of use and enjoyment appurtenant to ownership of a Lot. Membership in the Association shall be appurtenant to, and may not be separated from, ownership of a Lot. If title to a Lot is held by more than one individual, by a firm, corporation, partnership, association or other legal entity or any combination thereof, such individuals, entity, or entities shall by written instrument executed by all such parties and delivered to the Association appoint and authorize one person or alternate persons to represent the Lot Owners of the Lot. Such representative shall be a natural person who is a Lot Owner, or a designated board member or officer of a corporate Lot Owner, or a general partner of a partnership Lot Owner, or a comparable representative of any other entity, and such representative shall have the power to cast votes on behalf of the Lot Owners as elected, subject to the provisions of and in accordance with the procedures more fully described in the Bylaws of the Association. Notwithstanding the foregoing, if the Association has not received the written instrument required above and if only one of the multiple Lot Owners of a Lot is present at a meeting of the Association, such Lot Owner is entitled to cast all of the votes allocated to that Lot. If the Association has not received the written instrument required above and if more than one of the multiple Lot Owners are present, the Association may assume that any Lot Owner who casts the vote allocated to that Lot is entitled to do so unless one or more of the other Lot Owners of the Lot promptly protest to the person presiding over the meeting. If such protest is made, the vote allocated to the Lot may only be cast by written instrument executed by all Lot Owners who are present at the meeting.

Section 6.2 Voting Rights and Meeting: Each Lot in the Project shall have one equal vote; provided, however, no votes allocated to a Lot owned by the Association may be cast. A meeting of the Association shall be held at least once each year. Special meetings of the Association may be called by the President, by a majority of the Executive Board, or by Lot Owners having twenty percent (20%), or any lower percentage specified in the

Bylaws, of the votes in the Association. Not less than ten (10) and no more than fifty (50) days in advance of any meeting, the Secretary or other officer specified in the Bylaws shall cause notice to be hand-delivered or sent prepaid by United States Mail to the mailing address of each Lot Owner. The notice of any meeting must state the time and place of the meeting and the items on the agenda including the general nature of any proposed amendment to this Declaration or Bylaws, any budget changes, and any proposal to remove an officer or member of the Executive Board. Unless the Bylaws provide for a lower percentage, a quorum is deemed present throughout any meeting of the Association of persons entitled to cast twenty percent (20%) of the votes which may be cast for election of the Executive Board are present, in person or by proxy at the beginning of the meeting.

Section 6.3 Meeting to Approve Annual Budget: At the annual meeting of the Association or at a special meeting of the Association called for such purpose, the Lot Owners shall be afforded the opportunity to ratify a budget of the projected revenues, expenditures and reserves for the Association's next fiscal year as proposed by the Executive Board. A summary of the proposed budget approved by the Executive Board shall be mailed to the Lot Owners within thirty (30) days after its adoption along with a notice of a meeting of the Association to be held not less than fourteen (14) nor more than sixty (60) days after mailing of the summary to the Lot Owners. Unless at the meeting a majority of all Lot Owners, rather than a majority of those present and voting in person or by proxy, reject the proposed budget, the budget is ratified whether or not a quorum is present at the meeting. In the event the proposed budget is rejected, the budget last ratified by the Lot Owners continues until such time as the Lot Owners ratify a subsequent budget proposed by the Executive Board as provided above.

Section 6.4 Lot Owners' and Association's Addresses for Notices: All Lot Owners of each Lot shall have one and the same registered mailing address to be used by the Association or other Lot Owners for notices, demands and all other communications regarding Association matters. The Lot Owner or the representative of the Lot Owners of a Lot shall furnish such registered address to the secretary of the Association within ten (10) days after transfer of title to the Lot to such Lot Owner or Lot Owners. Such registration shall be in written form and signed by all of the Lot Owners of the Lot or by such persons as are authorized to represent the interests of all Lot Owners of the Lot. If no address is registered or if all of the Lot Owners cannot agree, then the address of the Lot shall be deemed their registered address until another registered address is furnished as required under this Section. If the address of the Lot is the registered address of the Lot Owner(s), then any notice shall be deemed duly given if delivered to any person occupying the Lot or, if the Lot is unoccupied, if the notice is held and available for the Lot Owners at the principal office of the Association. All notices and demands intended to be served upon the Executive Board shall be sent to the following address or such other address as the Executive Board may designate from time to time by notice to the Lot Owner(s):

Executive Board
Kent Weicht
797 Ventura Street
Aurora, CO 80011

Notices given in accordance with this Section may be sent by personal delivery, which shall be effective upon receipt; by overnight courier service, which shall be effective upon deposit with the courier service; or regular, registered or certified mail, postage prepaid, which shall be effective three (3) days after deposit in the U.S. Mail.

Section 6.5 Transfer Information: All Purchasers of Lot(s) shall provide to the Association written notice of the Purchaser's name, address, Lot owned, date of transfer and name of the former Lot Owner within ten (10) days of the date of transfer. The Purchaser shall also provide a true and correct copy of the recorded instrument conveying or transferring the Lot or such other evidence of the conveyance or transfer as is reasonably acceptable to the Association. In addition, the Association may request such other information as the Association determines is necessary or desirable in connection with obtaining and maintaining information regarding conveyances and transfers of Lots. The Association or Managing Agent shall have the right to charge the Purchaser a reasonable administrative fee for processing the transfer in the records of the Association.

Section 6.6 Declarant Control of the Association: There shall be a Period of Declarant Control of the Association, during which a Declarant, or persons designated by the Declarant, may appoint and remove the officers and members of the Executive Board. The Period of Declarant Control shall commence upon filing of the Articles of Incorporation of the Association and shall terminate no later than the earlier of:

- (a) sixty (60) days after conveyance of seventy-five (75%) of the Lots that may be conveyed to Lot Owners other than a Declarant; or
- (b) two (2) years after Declarant's last conveyance of a Lot in the ordinary course of business but in no event later than five (5) years after the date of recording of this Declaration.

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

Section 6.7 Required Election of Lot Owners: Not later than sixty (60) days after conveyance of twenty-five percent (25%) of the Lots that may be created to Lot Owners other than a Declarant, at least one (1) member and not less than twenty-five percent (25%) of the members of the Executive Board shall be elected by Lot Owners other than the Declarant. Not later than sixty (60) days after conveyance of fifty percent (50%) of the Lots that may be created to Lot Owners other than a Declarant, not less than thirty-three and one-third percent (33-1/3%) of the members of the Executive Board must be elected by Lot Owners other than the Declarant. Not later than the termination of any Period of Declarant Control, the Lot Owners shall elect an Executive Board of at least three (3) members, at least a majority of whom shall be Lot Owners other than the Declarant or designated representatives of Lot Owners other than Declarant. The Executive Board shall elect the officers. The members of the Executive Board and officers shall take office upon election.

Section 6.8 Removal of Members of the Executive Board: Notwithstanding any provision of this Declaration or the Bylaws to the contrary, following notice and an opportunity to be heard as required by this Declaration and the Act, the Lot Owners, by a two-thirds (2/3) vote of all persons present and entitled to vote at a meeting of the Lot Owners at which a quorum is present, may remove a member of the Executive Board with or without cause, other than a member appointed by the Declarant.

Section 6.9 Requirements for Turnover of Declarant Control: Within sixty (60) days after the Lot Owners, other than the Declarant, elect a majority of the members of the Executive Board, the Declarant shall deliver to the Association all property of the Lot Owners and of the Association held by or controlled by the Declarant, including without limitation the following items:

- (a) the original or a certified copy of the recorded Declaration as amended, the Association's Articles of Incorporation, Bylaws, minute books, other books and records and any Rules and Regulations which may have been promulgated;
- (b) an accounting for Association funds and financial statements, from the date the Association received funds and ending on the date the Period of Declarant Control ends. The financial statements shall be audited by an independent certified public accountant and shall be accompanied by the accountant's letter, expressing either the opinion that the financial statements present fairly the financial position of the Association in conformity with generally accepted accounting principles or a disclaimer of the accountant's ability to attest to the fairness of the presentation of the financial information in conformity with generally accepted accounting principles and the reasons therefor. The expense of the audit shall not be paid for or charged to the Association;
- (c) the Association funds or control thereof;
- (d) all of the Declarant's tangible personal property that has been represented by the Declarant to be the property of the Association or all of the Declarant's tangible personal property that is necessary for, and has been used exclusively in, the operation and enjoyment of the Common Areas and inventories of these properties;

- (e) a copy of any plans and specifications used in the construction of the improvements which were completed within two (2) years before this Declaration was recorded;
- (f) all insurance policies then in force, in which the Lot Owners, the Association or its members of the Executive Board and officers are named as insured persons;
- (g) copies of any certificates of occupancy that may have been issued with respect to the improvements;
- (h) any other permits issued by governmental bodies applicable to the Project and which are currently in force or which were issued within one year prior to the date on which Lot Owners other than the Declarant took control of the Association;
- (i) written warranties of the contractor, subcontractors, suppliers and manufacturers that are still effective;
- (j) a roster of Lot Owners and Eligible First Mortgagees and the addresses and telephone numbers, if known, as shown on the Declarant's records;
- (k) employment contracts in which the Association is a contracting party; and
- (l) any service contract in which the Association is a contracting party or in which the Association or the Lot Owners have any obligation to pay a fee to the persons performing the services.

ARTICLE 7. ASSOCIATION POWERS AND DUTIES

Section 7.1 Association Management Duties: Subject to the rights and obligations of the Declarant and other Lot Owners as set forth in this Declaration and subject to the obligations of the Association under Article 9 and other portions of this Declaration, the Association shall be responsible for the administration and operation of the Project and for the exclusive management, control, maintenance, repair, replacement and improvement of the Common Areas and the Perimeter Areas, the exterior of Lots and shall keep the same in good, clean, attractive and sanitary condition, order and repair. The expenses, costs and fees of such management, control, operation, maintenance, repair, replacement and improvement by the Association shall be part of the Amended Assessments, and prior approval of the Lot Owners shall not be required in order for the Association to pay any such expenses, costs and fees. The Association shall establish and maintain, out of the installments of the Annual Assessments, an adequate reserve account for maintenance, repair or replacement of those Common Areas and portions of the improvements on structures located on Lots that must be maintained, repaired or replaced on a periodic basis. The Association shall adopt and amend budgets for revenues, expenditures and reserves which will be the basis for the collection of Assessments for Common Expenses from Lot Owners. The Association shall keep financial records sufficiently detailed to enable the Association to comply with the requirement that it provide statements of status of Assessments. All financial and other records of the Association shall be made reasonably available for examination by any Lot Owner and such Lot Owner's authorized agents.

Section 7.2 Association Powers: The Association shall have, subject to the limitations contained in this Declaration and the Act, the powers necessary for the administration of the affairs of the Association and the upkeep of the Project; which shall include, but not be limited to, the power to:

- (a) adopt and amend Bylaws and Rules and Regulations;
- (b) adopt and amend budgets for revenues, expenditures and reserves;
- (c) collect assessments from Lot Owners;
- (d) hire and discharge managing agents;

- (e) hire and discharge employees and agents, other than managing agents, attorneys, accountants and independent contractors;
- (f) institute, defend or intervene in litigation or administrative proceedings or seek injunctive relief for violation of the Association's Declaration, Bylaws or Rules and Regulations in the Association's name on behalf of the Association or two or more Lot Owners on matters affecting the Project;
- (g) make contracts and incur liabilities;
- (h) regulate the use, maintenance, repair, replacement and modification of the Common Areas;
- (i) cause additional improvements to be made as part of the Common Areas;
- (j) acquire, hold, encumber and convey in the Association's name any right, title or interest to real property or personal property, but Common Areas may be conveyed or subject to a Security Interest only pursuant to the requirements of the Act;
- (k) grant easements, including permanent easements, leases, licenses and concessions, through or over the Common Areas;
- (l) impose and receive a payment, fee or charge for the use, rental or operation of the Common Areas and for services provided to Lot Owners;
- (m) impose a reasonable charge for late payment of assessments, recover reasonable attorney fees and other legal costs for collection of assessment and other actions to enforce the powers of the Association, regardless of whether or not suit was initiated and, after notice and hearing, levy reasonable fines for violations of this Declaration, Bylaws and Rules and Regulations of the Association;
- (n) impose a reasonable charge for the preparation and recordation of amendments to this Declaration or for statement of unpaid Assessments;
- (o) provide for the indemnification of the Association's officers and Executive Board and maintain Executive Board' and officers' liability insurance;
- (p) assign the Association's right to future income, including the right to receive Assessments;
- (q) regulate the use of Lots including but not limited to changes or modification to the exterior surfaces and areas of Lots;
- (r) exercise any other powers conferred by the Act, this Declaration or the Bylaws;
- (s) exercise any other power that may be exercised in this state by legal entities of the same type as the Association;
- (t) exercise any other power necessary and proper for the governance and operation of the Association; and
- (u) by resolution, establish committees of the Executive Board and/or Lot Owners, permanent and standing, to perform any of the above functions under specifically delegated administrative standards, as designated in the resolution establishing the committee.
- (v) to grant Lot Owners easements or licenses to use portions of the Common Areas.
- (w) impose a reasonable administrative fee for processing the transfer of ownership of Lots 1,

including statement so account.

Section 7.3 Actions by Executive Board: Except as specifically otherwise provided in this Declaration, the Bylaws or the Act, the Executive Board may act in all instances on behalf of the Association; provided, however, the Executive Board may not act on behalf of the Association to amend this Declaration, to terminate the Project or to elect members of the Executive Board or determine the qualifications, powers and duties, or terms of office of members of the Executive Board, but the Executive Board may fill vacancies in its membership for the unexpired portion of any term.

Section 7.4 Executive Board Meetings: All meetings of the Executive Board, at which action is to be taken by vote, will be open to the Lot Owners, except that meetings of the Executive Board may be held in executive session(s), without giving notice and without the requirement that they be open to Lot Owners, in the following situations:

- (a) no action is taken at the executive sessions requiring the affirmative vote of the members of the Executive Board; or
- (b) the action taken at the executive session involves personnel, pending litigation, contract negotiations, enforcement actions, or matters involving the invasion of privacy of individual Lot Owners, or matters which are to remain confidential by request of the affected parties and agreement of the Executive Board.

Section 7.5 Right to Notice and Hearing: Whenever the Project Documents require that an action be taken after "notice and hearing", the following procedure shall be observed: The party proposing to take the action (e.g., the Executive Board, a committee, an officer, the Managing Agent) shall give notice of the proposed action to all Lot Owners whose interests the proposing party reasonably determines would be significantly affected by the proposed action. The notice shall be delivered personally or mailed not less than three (3) days before the proposed action is to be taken. The notice shall include a general statement of the proposed action and the date, time and place of the hearing. At the hearing, the affected person shall have the right, personally or by a representative, to give testimony orally, in writing or both (as specified in the notice), subject to reasonable rules of procedure established by the party conducting the hearing to assure a prompt and orderly resolution of the issues. Such evidence shall be considered in making the decision but shall not bind the decision makers. The affected person shall be notified of the decision in the same manner in which notice of the hearing was given. Any Lot Owner having a right to notice and hearing shall have the right to appeal to the Executive Board from a decision of a proposing party other than the Executive Board by filing a written notice of appeal with the Executive Board within ten (10) days after being notified of the decision. The Executive Board shall conduct a hearing within forty-five (45) days, giving the same notice and observing the same procedures as were required for the original hearing. The Association shall have the right to assess to the right to assess to the Lot Owner as a Special Purpose Assessment, any costs, including reasonable attorneys fees incurred by the Association in connection with any such notice and hearing.

Section 7.6 Payments to Working Capital Account: In order to provide the Association with adequate working capital funds, the Association may collect from Purchasers at the time of the initial sale of each Lot by Declarant, an amount equal to three (3) months worth of annual Assessments based on the Association's budget in effect at the time of the sale. Such payments to this fund shall not be considered advance payments of annual Assessments and shall not be returned or credited back to such initial Purchaser or their successor Owners.

ARTICLE 8. ASSESSMENTS

Section 8.1 Commencement of Annual Assessments: Until the Association makes an Assessment for Common Expenses, the Declarant shall pay all Common Expenses. After any Assessment has been made by the Association, Assessments shall be made no less frequently than annually. Initially Assessments shall be due at such time as a Lot first receives a certificate of occupancy.

Section 8.2 Annual Assessments: The Association shall levy on Annual Assessment to pay for the Common Expenses levied pursuant to this Declaration. The total Annual Assessments shall be based upon a budget

of the Association's cash requirements for the Project including maintenance, repair and replacement of the Common Areas and the exterior of areas and surfaces of Lots as required by the Act and the Project Documents. Any surplus funds of the Association remaining after payment of or provision for Common Expenses and any prepayment of or provision for reserves shall be credited to the Lot Owners in proportion to their Common Expense Liability or credited to them to reduce their future Assessments for Common Expenses.

Section 8.3 Apportionment of Annual Assessments: The total Annual Assessment for any fiscal year of the Association shall be assessed to the Lots by dividing the total assessment by the total number of Lots, so that the assessment will be the same for each Lot, subject to: (a) Common Expenses which are separately metered or assessed to the Lots by third parties; (b) Common Expenses associated with some but not all Lots which shall be assigned, equally or on such other equitable basis as the Executive Board shall determine, to the Lots to which the specific ; expenses are applicable; (c) Common Expenses or portions thereof predominately or exclusively benefiting fewer than all of the Lots which shall be assessed against the Lots benefited specifically; (d) any increased cost of insurance based upon risk which shall be assessed to Lots in proportion to the risk; (e) any Common Expense caused by the misconduct of any Lot Owner(s), which may be assessed equally or on such other equitable basis as the Executive Board shall determine against such Lot Owner(s); (f) any expenses which are charged equally to the Lots and (g) the right of the Board of Managers to apportion assessments to Lots that have improvements constructed on them as opposed to vacant Lots that do not utilize services included in the Annual Assessment. All such allocations of Common Expenses to Lots on a basis other than on an equal basis shall be made at the sole discretion of the Executive Board. Any billing for an installment of an Assessment may indicate items that are specially allocated as set forth above or items that are included in the Assessment but would commonly be the separate expense of the Lot Owner, e.g., utility charges.

Section 8.4 Special Assessments: In addition to the annual Assessments authorized above, the Executive Board may at any time and from time to time determine, levy and assess in any fiscal year a Special Assessment applicable to that particular fiscal year (and for any such longer period as the Executive Board may determine) for the purpose of defraying, in whole or in part, the unbudgeted costs, fees and expenses of any construction, reconstruction, repair, demolition, replacement, renovation or maintenance of the Project, specifically including any fixtures and personal property related to it. Any amounts determined, levied, and assessed pursuant to this Declaration shall be assessed to the Lot pursuant to the provisions in the Section entitled "Apportionment of Annual Assessments" set forth above. Any Special Assessment shall be subject to the same requirement for review and approval by the Lot Owners as is the annual budget.

Section 8.5 Special Purpose Assessments: All Costs of Enforcement assessed against a Lot Owner pursuant to the Project Documents, or any fine imposed by the Association against a Lot or any expense or charge which is specific to one Lot or Lots, but is not a charge or expense common to all Lots, which is the obligation of a Lot Owner pursuant to the Project Documents shall become a Special Purpose Assessment assessed against the Lot Owner's Lot. Notice of the amount and demand for payment of such Special Purpose Assessment shall be sent to the Lot Owner prior to enforcing any remedies for non-payment hereunder.

Section 8.6 Due Dates for Assessment Payments: Unless otherwise determined by the Executive Board, the Annual Assessments and any Special Assessments which are to be paid in installments shall be paid monthly in advance and shall be due and payable to the Association at its office or as the Executive Board may otherwise direct in any Management Agreement, without notice (except for the initial notice of any special Assessment), on the first day of each month. If any such installment shall not be paid within thirty (30) days after it shall have become due and payable, then the Executive Board may assess a late charge, default interest charge, fee or such other charge as the Executive Board may fix by rule from time to time to cover the extra expenses involved in handling such delinquent assessment installment. Until established or changed by the Executive Board, the default interest charge shall be made at the rate of fifteen percent (15%) per annum. A Lot Owner's assessment shall be prorated if the ownership of a Lot commences or terminates on a day other than the first day or last day, respectively, of a month or other applicable payment period.

Section 8.7 Covenant of Personal Obligation for Assessments: The Declarant, by creating the Lots pursuant to this Declaration, and all other Lot Owners, by acceptance of the deed or other instrument of transfer of his Lot (whether or not it shall be so expressed in such deed or other instrument of transfer), are deemed to

personally covenant and agree, jointly and severally, with all other Lot Owners and with the Association, and hereby do so covenant and agree to pay to the Association the (a) Annual Assessments, (b) Special Assessments, and (c) Special Purpose Assessments applicable to the Lot Owner's Lot. No Lot Owner may waive or otherwise escape personal liability for the payment of the Assessments provided for in this Declaration by not using the Common Areas or the facilities contained in the Common Areas or by abandoning or leasing his Lot.

Section 8.8 Lien for Assessments; Assignment of Rents: The Annual, Special and Special Purpose Assessments (including installments of the Assessments) arising under the provisions of the Project Documents shall be burdens running with, and a perpetual lien in favor the Association, upon the specific Lot to which such Assessments apply. To further evidence such lien upon a specific Lot, the Association shall prepare a written lien notice setting forth the description of the Lot, the amount of Assessments on the Lot unpaid as of the date of such lien notice, the rate of default interest as set by the Rules and Regulations, the name of the Lot Owner or Lot Owners of the Lot, and any and all other information that the Association may deem proper. The lien notice shall be signed by a member of the Executive Board, an officer of the Association, or the Managing Agent and shall be recorded in the Records. Any such lien notice shall not constitute a condition precedent or delay the attachment of the lien, but such lien is a perpetual lien upon the Lot and attaches without notice at the beginning of the first day of any period for which any Assessment is levied. Upon any default in the payment of Annual, Special or Special Purpose Assessments, the Association shall also have the right to appoint a receiver to collect all rents, profits, or other income from the Lot payable to the Lot Owner and to apply all such rents, profits and income to the payment of delinquent Assessments. Each Lot Owner, by ownership of a Lot, agrees to the assignment of such rents, profits and income to the Association effective immediately upon any default in the payment of Annual, Special, or Special Purpose Assessments.

Section 8.9 Remedies for Nonpayment of Assessments: If any Annual, Special, or Special Purpose Assessment (or any installment of the Assessment) is not fully paid within thirty (30) days after the same becomes due and payable, then as often as the same may happen, (a) interest shall accrue at the default rate set by the Rules and Regulations on any amount of the Assessment in default, accruing from the due date until date of payment, (b) the Association may accelerate and declare immediately due and payable all unpaid installments of the Annual Assessment or any Special Assessment otherwise due during the fiscal year during which such default occurred, (c) the Association may therefore bring an action at law or in equity, or both, against any Lot Owner personally obligated to pay the same, and (d) the Association may proceed to foreclose its lien against the particular Lot pursuant to the power of sale granted to the Association by this Declaration or in the manner and form provided by Colorado law for foreclosure of real estate mortgages. An action at law or in equity by the Association (or counterclaims or cross-claims for such relief in any action) against a Lot Owner to recover a money judgment for unpaid Assessments (or any installment thereof) may be commenced and pursued by the Association without foreclosing or in any way waiving the Association's lien for the Assessments. Foreclosure or attempted foreclosure by the Association of its lien shall not be deemed to stop or otherwise preclude the Association from again foreclosing or attempting to foreclose its lien for any subsequent Assessments (or installments thereof) which are not fully paid when due or for any subsequent Special Purpose Assessments. The Association shall have the power and right to bid in or purchase any Lot at foreclosure or other legal sale and to acquire and hold, lease mortgage, and to convey, or otherwise deal with the Lot acquired in such proceedings.

Section 8.10 Purchaser's Liability for Assessments: Notwithstanding the personal obligation of each Lot Owner to pay all Assessments on the Lot, and notwithstanding the Association's perpetual lien upon a Lot for such Assessments, all Purchasers shall be jointly and severally liable with the prior Lot Owner(s) for any and all unpaid Assessments against such Lot, without prejudice to any such Purchaser's right to recover from any prior Lot Owner any amounts paid thereon by such Purchaser. A Purchaser's obligation to pay Assessments shall commence upon the date the Purchaser becomes the Lot Owner of a Lot. For Assessment purposes, the date a Purchaser becomes the Lot Owner shall be determined as follows: (a) in the event of a conveyance or transfer by foreclosure, the date a Purchaser becomes the Lot Owner shall be deemed to be upon the expiration of all applicable redemption periods; (b) in the event of a conveyance or transfer by deed in lieu of foreclosure, a Purchaser shall be deemed to become the Lot Owner of a Lot upon the execution and delivery of the deed or other instruments conveying or transferring title to the Lot, irrespective of the date the deed is recorded; and (c) in the event of conveyance or transfer by deed, a Purchaser shall be deemed to become the Lot Owner of a Lot upon the execution and delivery of the deed or other instruments conveying or transferring title of the Lot, irrespective of the date the deed is recorded.

However, such Purchaser shall be entitled to rely upon the existence and status of unpaid Assessments as shown upon any certificate issued by or on behalf of the Association to such named Purchaser pursuant to the provisions set forth below in this Declaration.

Section 8.11 Waiver of Homestead Exemption; Subordination of Association's Lien for Assessments: By acceptance of the deed or other instrument of transfer of a Lot, each Lot Owner irrevocably waives the homestead exemption provided by Part 2, Article 41, Title 38, Colorado Revised Statutes, as amended. The Association's perpetual lien on a Lot for Assessments 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 a 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 grants priority for Assessments to the Association.

Any First Mortgagee who acquires title to a Lot by virtue of foreclosing a First Mortgage or by virtue of a deed or assignment in lieu of such a foreclosure, or any Purchaser at a foreclosure sale of the First Mortgage, will take the Lot free of any claims for unpaid Assessments and Costs of Enforcement against the Lot which accrue prior to the time such First Mortgagee acquires title to the Lot except to the extent the amount of the extinguished lien may be reallocated and assessed to all Lots as a Common Expense and except to the extent the Act grants lien priority for Assessments to the Association. All other persons not holding liens described in this Section and obtaining a lien or encumbrance on any Lot after the recording of this Declaration shall be deemed to consent that any such lien or encumbrance shall be subordinate and inferior to the Association's lien for Assessments and Costs of Enforcement as provided in this Article, whether or not such consent is specifically set forth in the instrument creating any such lien or encumbrance.

Sale or other transfer of any Lot, (a) except as provided above with respect to First mortgagees, (b) except in the case of foreclosure of any lien enumerated in this Section and (c) except as provided in the next Section, shall not affect the Association's lien on such Lot for Assessments due and owing prior to the time such Purchaser acquired title and shall not affect the personal liability of each Lot Owner who shall have been responsible for the payment thereof. Further, no such sale or transfer shall relieve the Purchaser of a Lot from liability for, or the transfer shall relieve the Purchaser of a Lot from liability for, or the Lot from the lien of, any Assessments made after the sale or transfer.

Section 8.12 Statement of Status of Assessments: Upon ten (10) days' written notice to the Managing Agent or Executive Board and payment of a reasonable fee set from time to time by the Executive Board, any Lot Owner, holder of a Security Interest, prospective Purchaser of a Lot or their designees shall be furnished a statement of the Lot Owner's account setting forth:

- (a) the amount of any unpaid Assessments then existing against a particular Lot;
- (b) the amount of the current installments of the annual Assessment and the date that the next installment is due and payable;
- (c) the date(s) for payment of any installments of any special Assessments outstanding against the Lot; and
- (d) any other information, deemed proper by the Association, including the amount of any delinquent Assessments created or imposed under the terms of this Declaration.

Upon the issuance of such a certificate signed by a member of the Executive Board, by an officer of the Association, or by a Managing Agent, the information contained therein shall be conclusive upon the Association as to the person or persons to whom such certificate is addressed and who rely on the certificate in good faith.

ARTICLE 9. MAINTENANCE AND REPAIR RESPONSIBILITY

Section 9.1 Common Areas: The Association is herewith charged with the direct and continuing responsibility for maintenance, repair, replacement, operation, protection, extension and improvement of the Common Areas. The obligations of the Association as set forth herein shall include, but shall not be limited to, all maintenance, including snow removal, of any private driveways and parking areas serving the Property.

Section 9.2 Exterior and Perimeter Area Maintenance and Repair:

(a.) In addition to maintenance of and improvements to the Common Areas, the Association shall provide exterior surface maintenance and repair of each Lot which is subject to assessment hereunder, including, but not limited to the following: paint, repair, replacement, maintenance and care of roofs, gutters, downspouts, exterior walls, porches, decks, patios and steps. All other maintenance shall be by the Lot Owner. The Association's exterior maintenance responsibility shall not include cleaning or replacement of glass surfaces or snow removal from or cleaning of porches, decks, patios or steps of each Lot. The Association may assume responsibility for the maintenance of perimeter areas such as the unimproved portions of the Lots. In addition, each Lot Owner shall be required to keep the external areas of their Lot, including the patios, deck and steps clean and in compliance with the Rules and Regulations. Those areas excluded from maintenance responsibility by the Association shall be the responsibility of each Lot Owner.

(b.) In the event that the need for maintenance or repair of the exterior of any Improvement on the Perimeter Area or any Common Element is caused through the willful or negligent acts of the family, tenants, guests or invitees of an Owner, the cost of such maintenance or repair shall be added to and become part of the assessment for the Lot owned by said Owner.

(c.) Whenever the Association determines that (a) damages occur to Lots or Common Areas, or (b) expenses are incurred by the Association, due to any kind of malfunction of equipment, fixtures, service lines or personal property, the Manager shall investigate to determine whether the damages or expenses were caused by the failure of the Owner to keep a Lot in good repair and condition (including preventative maintenance work) or by the negligence or tortuous act of any Owner, etc. Any determination may be rebutted by the Owner, and Owners shall be entitled to a hearing by making a written request for a hearing.

(d.) The Association shall seek reimbursement from an Owner or insurance company for any losses, damages and expenses caused by (a) any failure to maintain and repair a Lot and fixtures within a Lot, or (b) the negligence or tortuous acts of any Owner, etc. The Owner of the Lot and fixtures that cause the damages and expenses shall be liable to the Association for any such losses, damages and expenses, but may obtain public liability insurance to cover the liability.

ARTICLE 10. PARTY WALLS

Section 10.1 Party Walls:

(a.) General Rules of Law to Apply: Each wall which is built as a part of the original construction of any of the Lots subject to this Declaration and is located or placed on the dividing line between the Lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

(b.) Sharing of Repair and Maintenance: The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners of the Lots on either side of such party wall.

(c.) Destruction by Fire or Other Casualty: If a party wall is destroyed or damaged by fire or other casualty, either Owner of the Lots on either side of the wall may restore it, and the Owner of the Lot on the other side of the wall shall contribute one-half (½) of the cost of restoration thereof, without prejudice, however, to the right of any such Owner to call for a larger contribution from the other Owner under any rule of law regarding

liability for negligent or willful acts or omissions.

(d.) Right to Contribution Runs with Land: The right of any Owner to contributions from any other Owner under this Article shall be appurtenant to the land and shall pass to each such Owner's successors in title.

ARTICLE 11. MECHANICS' LIENS

Section 11.1 Mechanics' Liens: Subsequent to recording of this Declaration and the filing of the Plat in the Records, no labor performed or materials furnished for use and incorporated in any Lot with the consent of or at the request of the Lot Owner or the Lot Owner's agent, contractor or subcontractor, shall be the basis for the filing of a lien against a Lot of any other Lot Owner not expressly consenting to or requesting the same, or against any interest in the Common Areas. Each Lot Owner shall indemnify and hold harmless each of the other Lot Owners, the Association and the Declarant from and against any liability or loss arising from the claim of any mechanics' lien or for labor performed or for materials furnished in work on such Lot Owner's Lot, against the Lot of another Lot Owner or against the Common Areas, or any part thereof.

Section 11.2 Enforcement by the Association: At its own initiative or upon the written request of any Lot Owner (if the Association determines that further action by the Association is proper), the Association shall enforce the indemnity provided by the provisions of this Article by collecting from the Lot Owner of the Lot on which the labor was performed or materials furnished the amount necessary to discharge by bond or otherwise any such mechanics' lien, including all costs and reasonable attorneys' fees incidental to the lien, and obtain a release of such lien. If the Lot Owner of the Lot on which the labor was performed or materials furnished refuses or fails to indemnify within five (5) days after the Association shall have given notice to such Lot Owner of the total amount of the claim, then the failure to so indemnify shall be a default by such Lot Owner under the provisions of this Section, and such amount to be indemnified shall automatically become a Special Purpose Assessment determined and levied against such Lot, and enforceable by the Association pursuant to this Declaration.

ARTICLE 12. USE RESTRICTIONS

Section 12.1 Use of Lots: Except for uses reserved to Declarant in the Article entitled "Special Declarant Rights and Additional Reserved Rights", and subject to the terms hereof, all Lots, shall be used for dwelling and lodging purposes only. Lot Owners of the Lots may rent or lease such Lots to others for these purposes and may use these Lots for home occupations which do not cause unreasonable disturbance to other Lot Owners and which are permitted by applicable zoning codes.

Section 12.2 Use of Common Areas: There shall be no obstruction of the Common Areas, nor shall anything be kept or stored on any part of the Common Areas by any Lot Owner without the prior written approval of the Association. Nothing shall be altered on, constructed in, or removed from the Common Areas by any Lot Owner without the prior written approval of the Association.

Section 12.3 Prohibition of Increases in Insurable Risks and Certain Activities: Nothing shall be done or kept in any Lot or in or on the Common Areas, or any part thereof, which would result in the cancellation of the insurance on all or any part of the Project or in an increase in the rate of the insurance on all or any part of the Project or Lots over what the Association, but for such activity, would pay, without the prior written approval of the Association. Nothing shall be done or kept in any Lot or in or on the Common Areas which would be in violation of any statute, rule, ordinance, regulation, permit or other imposed requirement of any governmental body having jurisdiction over the Project. No damage to or waste of the Common Areas shall be committed by any Lot Owner, or Purchaser. Failure to so indemnify shall be a default by such Lot Owner under this Section. At its own initiative or upon the written request of any Lot Owner (and if the Association determines that further action by the Association is proper), the Association shall enforce the foregoing indemnity as a Special Purpose Assessment levied against such Lot.

Section 12.4 Structural Alterations and Exterior Appearance: No structural alterations to any Lot, including the construction of any additional skylight, window, door, the alteration or enclosure of any external deck, stairs or patios or other alteration visible from the exterior of the Lot or to any Common Element shall be made or caused to be made by any Lot Owner without the prior written approval of the Declarant during the Period of

Declarant Control and thereafter the Association. No window coverings or other improvements, alterations or decorations visible from outside a Lot shall be added by a Lot Owner without the prior written approval of the Declarant during the Period of Declarant Control and thereafter the Association. No alteration or subdivision of Lots or relocation of boundaries between adjoining Lots shall be made by the Lot Owners without the prior written approval of the Declarant during the Period of Declarant Control and thereafter by the Association. The Association shall promulgate Rules and Regulations establishing procedures for the approvals required by this Section. Such Rules and Regulations shall include, but shall not be limited to, requirements that the applicant submit plans and specifications showing the nature, kind, shape, height, color, materials and location of the proposed alterations in sufficient detail for the Association and Declarant to review them, and pay any processing and/or review fees, which may include any professional fees the Association or Declarant might incur in retaining architects or engineers to review the plans and specifications. The Rules and Regulations shall specifically consider the impact of the alteration on the harmony of external design and location in relation to surrounding structures and topography.

Section 12.5 Other Use Restrictions: No animal pens, sheds, fences or other outbuildings of any kind shall be erected by any Lot Owner. No activity shall be allowed which interferes unduly with the peaceful possession and proper use of the Project by the Lot Owners, nor shall any fire hazard or unsightly accumulation of refuse be allowed. No lights shall be emitted which are unreasonably bright or cause unreasonable glare; no sound shall be emitted which is unreasonably loud or annoying; and no odor shall be emitted which is nauseous or offensive to others. No animals, birds, insects or livestock of any kind shall be raised, bred, or kept on or in the Project. Lot Owners shall be permitted to keep a reasonable number of domesticated dogs, cats or other household pets, subject to Rules and Regulations adopted by the Executive Board.

Section 12.6 Limit on Timesharing: No Lot Owner shall offer or sell any interest in such Lot under a "timesharing" or "interval ownership" plan, or any similar plan without the specific prior written approval of the Declarant during the Period of Declarant Control, and thereafter the Association.

Section 12.7 Restriction on Signs: No signs, billboards, posterboards or advertising structure of any kind shall be displayed, erected or maintained for any purpose whatsoever except such signs as have been approved by the Declarant during the Period of Declarant Control, and thereafter the Association. Any signs which are permitted under the foregoing restrictions shall be erected or maintained on the Project only with the prior written approval of the Declarant during the Period of Declarant Control, and thereafter the Association, which approval shall be given only if such signs are of attractive design and as small a size as reasonably possible and shall be placed or located as directed or approved by the Declarant or the Association. Notwithstanding the foregoing, no signs advertising Lots for sale or for rent may be displayed in windows of Lots or on balconies or patios or in any other location on the Lot or on the Common Areas, that is visible from the Common Areas or adjacent property.

Section 12.8 Antennas: No exterior television or radio antennas of any sort shall be placed, allowed or maintained upon the Property without prior written approval and authorization by the Board of Directors, and any such antenna allowed shall be placed in such a manner as to be hidden from view, as much as is possible, from all Lots which it does not serve;

Section 12.9 Fireplaces: No fireplace or other similar device installed in any Lot shall be used to burn wood or any other solid fuel. Fireplaces and other similar devices (producing a flame) shall use and burn only natural gas.

Section 12.10 Rubbish: Refuse piles or other unsightly objects or materials shall not be allowed to be placed or to remain upon the Property. The Association shall have the right to remove such refuse piles or other unsightly objects or materials at the expense of the Owner responsible therefor, and any entry upon or into an Owner's Lot for the purpose of enforcing this provision shall not be deemed a trespass provided three (3) days prior notice has been given to the Owner and the Owner failed to remove same during said three (3) day period;

Section 12.11 Mailboxes: No free-standing mailbox or newspaper box shall be erected unless approved by the Board of Directors;

Section 12.12 Trash: Trash, garbage or other waste shall be disposed of in a sanitary manner, pursuant to rules and regulations adopted by the Association. In the event there is no common trash dumpster or removal of trash provided for the Project, each Lot Owner shall be responsible for removal of trash generated within that

Owner's Lot and shall be required to independently contract for and have trash removed. All trash containers must be kept indoors at all times except on trash pickup day. All containers must have lids securely in place when outside. The foregoing notwithstanding, the Association may contract with one company for trash removal for all Lots, in which event the Board of Directors shall promulgate rules and regulations pertaining to trash removal which rules and regulations shall be binding upon all Lot Owners.

Section 12.13 Storage of Boats and Recreational Vehicles: No boats, watercraft, trailers or recreational vehicles may be stored overnight on the Lots and the Association may adopt Rules & Regulations concerning the same.

Section 12.14 Parking: Parking shall be prohibited in non-designated areas on the Common Areas.

ARTICLE 13. EASEMENTS

Section 13.1 Easement of Enjoyment: Every Lot Owner shall have a non-exclusive easement for the use and enjoyment of the Common Areas, which shall be appurtenant to and shall pass with the title to every Lot, subject to the easements set forth in this Article. Such easement of enjoyment shall include the right of owners to use portions of the Common Areas for parking subject to the rules and regulations of the Association.

Section 13.2 Delegation of Use: Any Lot Owner may delegate, in accordance with the Project Documents, the Lot Owner's right of enjoyment in the Common Areas to an Occupant of the Lot Owner's Lot.

Section 13.3 Recorded Easements: The Property shall be subject to any easements as shown on any recorded Plat affecting the Property, and as shown on the recorded Plat and as reserved or granted under this Declaration.

Section 13.4 Easements for Encroachments: The Project, and all portions of it, are subject to easements hereby created for encroachments between Lots and the Common Areas as follows:

- (a) in favor of all Lot Owners so that they shall have no legal liability when any part of the Common Areas encroaches upon a Lot:
- (b) in favor of each Lot Owner so that the Lot Owner shall have no legal liability when any part of his Lot encroaches upon the Common Areas or upon another Lot; and
- (c) in favor of all Lot Owners, the Association, and the Lot Owner of any encroaching Lot for the maintenance and repair of such encroachments.

Encroachments referred to in this Section include, but are not limited to, encroachments caused by error or variance from the original plans in the construction of the Improvements or any Lot constructed on the Property, by error in the Plat, by settling, rising or shifting of the earth, or by changes in position caused by repair or reconstruction of any part of the Project or encroachments for eaves, roofs, dormers or other portions of a Lot on or over the Common Areas. Such encroachments shall not be considered to be encumbrances upon any part of the Project; provided, however, that encroachments created by the intentional act of a Lot Owner shall not be deemed to create an easement on the Property and shall be considered an encroachment upon the Project. Such encroachment shall be removed at Lot Owner's expense immediately upon notice from the Association. In the event such encroachment is not timely removed, the Association may effect removal of the encroachment and the expense thereof shall be a Special Purpose Assessment to the Lot Owner.

Section 13.5 Utility Easements: There is hereby created a general easement upon, across, over, in and under all of the Property for ingress and egress and for the installation, replacement, repair and maintenance of all utilities, including but not limited to water, sewer, gas, telephone, electricity, crawl spaces, sprinkler systems and cable communication system. By virtue of this easement, it shall be expressly permissible and proper for the companies providing such utilities to erect and maintain the necessary equipment on the Property and to affix and maintain electrical, communications and telephone wires, circuits, pipes and conduits under the Property. Any

utility company using this general easement shall use its best efforts to install and maintain the utilities provided without disturbing the uses of other utilities, the Lot Owners, the Association and Declarant; shall complete its installation and maintenance activities as promptly as reasonably possible; and shall restore the surface to its original condition as soon as possible after completion of its work. Should any utility company furnishing a service covered by this general easement request a specific easement by separate recordable document, Declarant or the Executive Board shall have, and are hereby given, the right and authority to grant such easement upon, across, over or under any part or all of the Property without conflicting with the terms hereof. The easements provided for in this Section shall in no way affect, avoid, extinguish or modify any other recorded easement on the Property.

Section 13.6 Maintenance Easement: An easement is hereby granted to the Association and any Managing Agent and their respective officers, agents, employees and assigns upon, across, over, in and under the Common Areas and a right to make such use of the Common Areas as may be necessary or appropriate to perform the duties and functions which they are obligated or permitted to perform pursuant to this Declaration.

Section 13.7 Easements of Access for Repair, Maintenance and Emergencies: The Lot Owners of other Lots and the Association shall have the irrevocable right, to be exercised by the Association as the Lot Owners' agent, to have access to each Lot and to all Common Areas from time to time during such reasonable hours as may be necessary for the maintenance, repair, removal or replacement of any of the Common Areas therein or accessible therefrom or for making emergency repairs therein necessary to prevent damage to the Common Areas or to any Lot. Unless caused by the negligent or willful act or omission of a Lot Owner or Occupant, damage to the interior of any part of a Lot resulting from the maintenance, repair, emergency repair, removal or replacement of any of the Common Areas or as a result of emergency repair within another Lot at the instance of the Association or of the Lot Owners shall be a Common Expense.

Section 13.8 Easements Deemed Created: All conveyances of Lots hereafter made, whether by Declarant or otherwise, shall be construed to grant and reserve the easements contained in this Article, even though no specific reference to such easements or to this Article appears in the instrument for such conveyance.

ARTICLE 14. SPECIAL RIGHTS AND ADDITIONAL RESERVED RIGHTS

Section 14.1 Special Declarant Rights: The Declarant hereby reserves the right, from time to time, to perform the acts and exercise the rights hereinafter specified (the "Special Declarant Rights"). Declarant's Special Declarant Rights include the following:

- (a) Completion of Improvements: The right to complete improvements indicated on Plats and Maps filed with this Declaration.
- (b) Sales Management and Marketing: The right to maintain sales offices, management offices, signs advertising the Project and models within designated Lots and on the Common Areas. The number, size and location of sales offices, management offices and models shall be specified on the Plat. Declarant shall have the right to relocate sales offices, management offices and models to comparable Lots or areas on the Common Areas.
- (c) Construction Easements: The right to use easements through the Common Areas for the purpose of making improvements within the Project or within Real Estate which may be added to the Project.
- (d) Merger: The right to merge or consolidate the Project with another Project of the same form of ownership.
- (e) Control of Association and Executive Board: The right to appoint or remove any officer of the Association or any member of the Executive Board.
- (f) Amendment of Declaration: The right to amend this Declaration in connection with the exercise of any Development Rights.

- (g) Amendment of Plat: The right to amend the Plat in connection with the exercise of any Development Rights. Without limiting the foregoing if the Declarant elects to develop the Property in separate phases or filings it shall have the right to amend the Plat or Amendments thereto to show the actual location of Lots after completion of construction of a Lot and to thereby change the location of the Common Areas to be owned by the Association.
- (h) Signs: The right to maintain signs on the Common Area advertising the Project.

Section 14.2 Additional Reserved Rights: In addition to the Special Declarant Rights set forth in Section 14.1 above, Declarant also reserves the following additional rights (the "Additional Reserved Rights"):

- (a) Dedications: The right from time to time to establish, by dedication or otherwise and to vacate utility and other easements for purposes including but not limited to streets, paths, walkways, skiways, drainage, recreation areas, parking areas, driveways, ducts, shafts, flues, conduit installation areas and to create other reservations, exceptions and exclusions for the benefit of and to serve the Lot Owners within the Project.
- (b) Use Agreements: The right to enter into, establish, execute, amend and otherwise deal with contracts and agreements for the use, lease, repair, maintenance or regulation of parking, and/or recreational facilities, which may or may not be a part of the Project for the benefit of the Lot Owners and/or the Association.
- (c) Easement Rights: The rights to an easement through the Common Areas as may be reasonably necessary for the purpose of discharging Declarant's obligations arising under this Declaration or the Act.
- (d) Other Rights: The right to exercise any Additional Reserved Rights created by any other provision of this Declaration.

Section 14.3 Limitations on Special Declarant Rights and Additional Reserved Rights: Unless sooner terminated by an amendment to this Declaration executed by the Declarant, any Special Declarant Rights or Additional Reserved Rights may be exercised by the Declarant anywhere on the Property or within the Improvements so long as the Declarant (a) owns any Lot; or (b) holds a Security Interest in any Lot(s), or for ten (10) years after the date of recording this Declaration, whichever eventuality grants to Declarant the longest possible period for exercise of Special Declarant Rights.

Section 14.4 Interference with Special Declarant Rights: Neither the Association nor any Lot Owners may take any action or adopt any Rule and/or Regulation that will interfere with or diminish any Special Declarant Rights or Additional Reserved Rights without the prior written consent of the Declarant. In the event any controversy, dispute or litigation involving exercise of the reserved Special Declarant Rights by Declarant, this Declaration shall be interpreted so as to give the Declarant the broadest, most flexible Special Declarant Rights allowed by the Act.

Section 14.5 Rights Transferable: Any Special Declarant Rights or Additional Reserved Rights created or reserved under this Article for the benefit of Declarant may be transferred to any person by an instrument describing the rights transferred to any person by an instrument describing the rights transferred and recorded in the Records. Such instrument shall be executed by the transferor Declarant and the transferee.

ARTICLE 15. INSURANCE AND INDEMNIFICATION

Section 15.1 Insurance: All insurance, other than title insurance, carried in connection with the Lots, Buildings, Property, Common Areas or improvements thereon or thereto shall be governed by the provisions of this Article 16.

Section 15.2 Insurance Requirements Generally:

(a) The Association shall obtain and maintain in full force and effect at all times, certain casualty, liability, and other insurance as hereinafter provided. All such insurance shall be obtained, to the extent possible, from responsible companies duly authorized and licensed to do business in the State of Colorado.

(b) To the extent possible, the casualty, property, and liability insurance shall: (i) provide for a waiver of subrogation by the insurer as to claims against the Association, its directors, officers, employees, agents, and members; (ii) provide that the insurance cannot be canceled, invalidated or suspended on account of the conduct of the Association, its officers, directors, employees, and agents; and (iii) provide that the policy of insurance shall not be terminated, canceled or substantially modified without at least thirty (30) days prior written notice to the Association; and provide as required by Section 313 of the Act, as it may be amended from time to time.

(c) Any insurance policy may contain such deductible provisions as the Association deems consistent with good business practice and which shall be consistent with the requirements of the holders of any first mortgage or deeds of trust. Any loss falling within the deductible portion of a policy shall be borne by the Association. The cost and expense of all insurance obtained by the Association shall be paid out of Association funds collected by assessments and otherwise as elsewhere provided in this Declaration.

Section 15.3 Casualty Insurance:

(a) The Association or its agents shall obtain and maintain at all times insurance coverage providing all risk coverage or the nearest equivalent available for the full replacement cost of the improvements on the Common Areas, and any personal property of the Association. The insurance shall name the Association as the insured, and shall provide that it cannot be canceled by the insurance company until after at least thirty (30) days prior written notice is given to the Association.

(b) The insurance described in this paragraph shall be inflation coverage insurance, if such insurance is available, which insurance at all times represents one hundred percent (100%) of the replacement value of the improvements except land, foundation, excavation and other items normally excluded.

Section 15.4 Public Liability and Property Damage Insurance: The Association shall obtain and maintain comprehensive general liability insurance including non-owned and hired automobile liability coverage, owned automobile liability coverage (if there are any owned automobiles), personal injury liability coverage covering liabilities of the Association, its officers, directors, employees, agents, and members arising in connection with ownership, operation, maintenance, occupancy, or use of the Common Areas and any other area the Association is required to restore, repair, or maintain pursuant to this Declaration with bodily injury liability limits not less than Two Million Dollars (\$2,000,000.00) for each occurrence and property damage liability limits of not less than One Million Dollars (\$1,000,000.00) aggregate. Each policy shall include a "severability of interest" endorsement.

Section 15.5 Insurance by Owners: (a) Unless otherwise obtained by the Association, each Owner shall obtain and maintain, at such Owner's cost and expense, casualty, hazard, and liability insurance for that Owner's Lot and all of the improvements located thereon, in an amount deemed adequate by the Association, which amount for such casualty insurance shall be equal to one hundred percent (100%) of the replacement cost of that portion of such Owner's Lot and except as provided by this Article, the Association shall not be responsible for providing any such insurance. The Association shall be named as an additional insured on every policy of casualty insurance carried by any Owner covering any Lot or Building, or any portion thereof, and shall be a payee of all sums payable under each such policy which sums are paid for a casualty claim due to loss or damage to any Building. The Association may require that each Owner provide to the Association the name and address of such Owner's insurance carrier and the policy number of each policy providing insurance coverage on such Owner's Lot.

The failure of any Owner to carry casualty insurance on such Owner's Lot shall render that Owner liable to the Association in an amount equal to any and all payments for claims which would have, had such insurance been in force and effect at the time of any loss, been made payable in full or in part to the Association, or in an amount equal to the loss or damage which would have been covered by such insurance, whichever is greater, plus all reasonable costs of collection thereof.

Instead of requiring individual Lot Owners to obtain such hazard and casualty liability insurance on their Lots, the Association may elect to obtain a blanket insurance policy on behalf of all Owners, which policy may or may not provide for coverage of personal property or interior contents for each individual Lot. The costs thereof shall be assessed to the Lot Owner as a Special Purpose Assessment as provided herein.

Section 15.6 Other Insurance: The Executive Board may also procure insurance against such additional risks of a type normally carried with respect to properties of comparable character and use that the Executive Board deems reasonable and necessary in order to protect the Condominium Project, the Association and the Unit Owners.

Section 15.7 Owners' Policies: Each Owner may obtain additional insurance at his own cost for his own benefit so long as all such policies shall contain waivers of subrogation and provide further that the liability of the carriers issuing the insurance to the Association hereunder shall not be affected or diminished by reason of any such insurance carried by any Owner.

Section 15.8 Required Provisions: All insurance policies carried to the requirements of this Article must provide that:

- (a) each Owner is an insured person under the policy with respect to liability arising out of such Owner's interest in the Common Elements or membership in the Association;
- (b) the insurer waives its rights to subrogation under the policy against any Owner or member of its household;
- (c) 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 condition to recovery under the policy;
- (d) if, at the time of a loss under the policy, there is other insurance in the name of an Owner covering the risks covered by the policy, the Association's policy provides primary insurance. This shall include policies of insurance obtained for Quarter Ownership Property;
- (e) any loss covered by the policies must be adjusted with the Association;
- (f) the insurance proceeds for any loss shall be payable to the Association and not to any holder of a Security Interest;
- (g) the insurer shall issue certificates or memoranda of insurance to the Association and, upon request, to any Owner or holder of a Security Interest; and
- (h) the insurer issuing the policy may not cancel or refuse to renew it until thirty (30) days after notice of the proposed cancellation or non-renewal has been mailed to the Association and any Owner(s) to whom a certificate or memorandum of insurance has been issued at their respective last known address.

Section 15.9 Notice Upon Loss: In the event of any damage or destruction to, or loss to, a Lot, written notice of such damage or loss shall be given by the Owner to the Association within ten (10) days after the later of the occurrence of such event or receipt of notice by the Owner of such event. In the event that there shall be any damage or destruction to, or loss to a Lot or Building which exceeds Five Thousand Dollars (\$5,000.00), then written notice of such damage or loss shall be given by the Owner to the Association and to the holder of the first mortgage or deed of trust on the Lot upon which Lot is located within ten (10) days after the later of the occurrence of such event or receipt of notice by the Owner of such event.

Section 15.10 Other Insurance: The Association may obtain such additional insurance coverage against such additional risks as it shall determine to be appropriate.

Section 15.11 Indemnification:

(a) Indemnification. The Association shall indemnify each Director, Officer, property manager, their respective successors, personal representatives, and heirs, against all losses, costs and expenses, including attorney's fees, reasonably incurred by them in connection with any action, suit or proceeding to which they may be made a party by reason of their position with or employment by the Association, except as to matters as to which such person(s) shall be finally adjudged in such action, suit or proceeding to be liable for gross negligence or willful misconduct. In the event of a settlement, indemnification shall be provided only in connection with such matters covered by the settlement as to which the Association is advised by counsel that the person to be indemnified has not been guilty of gross negligence or willful misconduct in the performance of his duty as such Director, Officer or property manager in relation to the matter involved. The foregoing rights shall not be exclusive of other rights to which such Director, Officer or property manager is entitled. All liability, loss, damage, cost and expense incurred or suffered by the Association by reason of or arising out of or in connection with the foregoing indemnification provisions shall be treated and handled by the Association as a common expense, provided, however, that nothing in this Section 16 contained hereto shall be deemed to obligate the Association to indemnify any member or Owner who is or has been a Director, Officer or property manager of the Association with respect to any duties or obligations assumed or liabilities incurred by him as a member or Owner under and by virtue of this Declaration.

(b) No independent contractor, including a Director, Officer, member or Owner providing services to the Association as an independent contractor, shall be protected by this indemnification provision, any indemnification provision provided for in the Bylaws of the Association or any insurance policy obtained by the Association in relating to any such indemnification provision.

Section 15.12 Adjustment of Claims: The Association may adopt and establish written non-discriminatory policies and procedures relating to the submittal of claims, responsibility for deductibles and any other matters of claims adjustment. To the extent the Association settles a property insurance claim, it shall have the authority to assess negligent Owners causing such loss or benefiting from such repair or restoration of all deductibles paid by the Association.

ARTICLE 16. DAMAGE AND DESTRUCTION OF LOTS

Section 16.1 Association as Attorney-In-Fact:

(a) This Declaration does hereby make mandatory the irrevocable appointment of an attorney-in-fact to deal with all Lots in the Project upon their total or partial destruction.

(b) Title to any Lot is declared and expressly made subject to the terms and conditions hereof, and acceptance by any grantee of a deed from the Declarant or from any subsequent Owner shall constitute appointment of the attorney-in-fact herein provided. All of the Owners irrevocably constitute and appoint the Association, in their names, place, and stead for the purpose of dealing with the Lot upon the total or partial destruction of any Lot. As attorney-in-fact, the Association, by its officers, shall have full and complete authorization, right and power to make, execute, and deliver any contract, deed or any other instrument with respect to the interest of an Owner which is necessary and appropriate to exercise the power herein granted. Repair and reconstruction of the Improvement(s) means restoring the Improvements to substantially the same condition in which it existed prior to the damage, with each Improvement and Lot having substantially the same vertical and horizontal boundaries as before. Except as otherwise herein provided, the proceeds of any insurance collected shall be available to the Association for the purpose of repair, restoration, or replacements unless the Owners and all Mortgagees agree not to rebuild in accordance with the

provisions set forth herein.

(c) Assessments by the Association for those purposes stated herein shall not be abated during the period of insurance adjustment and repair and reconstruction.

Section 16.2 Reconstruction: In the event of damage or destruction to any Improvement or Lot, the insurance proceeds, if sufficient to reconstruct the Improvement or Lot(s) shall be applied by the Association, as attorney-in-fact, to such reconstruction, and the Improvement or Lot(s) shall be promptly repaired and reconstructed. The Association shall have full authority, right, and power, as attorney-in-fact, to cause the repair and restoration of the or Lots.

Section 16.3 Deficiency of Insurance: If the insurance proceeds are insufficient to repair and reconstruct the Improvements or Lots, such damage or destruction shall be promptly repaired and reconstructed by the Association, as attorney-in-fact, using the proceeds of insurance and the proceeds of an assessment to be made by the Association against each of the Lots in an Improvement which have been damaged or destroyed, and their Owners. Such deficiency assessments shall be a common expense and made pro rata according to the number of Lots which have sustained damage or destruction, and shall be due and payable within thirty (30) days after written notice thereof. The Association shall have full authority, right and power, as attorney-in-fact, to cause the repair or restoration of a Lot using all of the insurance proceeds and such assessment. The assessment provided for herein shall be a debt of each Owner and a lien on his Lot and be enforced and collected as is provided in Article 8 hereof.

Section 16.4 Extended Destruction: In the event that insurance proceeds are insufficient to repair an Improvement or Lot(s), and if such damage is more than sixty-six and two thirds percent (66 2/3%) of the total replacement cost of all the Improvements or Lots constructed on the Property, not including land, such damage or destruction shall be promptly repaired and reconstructed by the Association, as attorney-in-fact, as provided in Section 17.3 hereof, except that the Owners representing an aggregate ownership interest of seventy-five percent (75%) or more of the Lot and all of the holders of Mortgages of record may agree not to repair or reconstruct the Improvement or Lot(s). In such an event, the Association shall forthwith record a notice setting forth such fact or facts, and upon the recording of such notice by the Association the Property and all remaining improvements thereon shall be sold by the Association pursuant to the provisions of this paragraph as attorney-in-fact, for all of the Owners, free and clear of the provisions contained in this Declaration, the Plat of the Property, the Articles of Incorporation, and Bylaws. Assessments shall not be abated during the period prior to sale. The insurance settlement proceeds shall be collected by the Association, such proceeds shall be divided by the Association equally, and such divided proceeds shall be paid into separate accounts, each such account representing one of the Lots. Each such account shall be in the name of the Association, and shall be further identified in the name of the Association, and shall be further identified by Lot designation and the name of the Owner. From each separate account, the Association, as attorney-in-fact shall use and disburse the total amount of each such account without contribution from the account to another toward the partial or full payment of the lien of any Mortgage encumbering the Lot represented by such separate account. Thereafter, each such account shall be supplemented by the apportioned amount of the proceeds obtained from the sale of the entire property. Such apportionment shall be used and disbursed, without contribution, from one account to another by the Association, as attorney-in-fact, in the following order:

- (a) for payment of the balance of the lien of any first mortgage or deed of trust;
- (b) for payment of taxes and special assessment liens in favor of any assessing entity;
- (c) for payment of unpaid Assessments;
- (d) for payment of junior mortgages, deeds of trust and other encumbrances in the order of and to the extent of their priority; and
- (e) the balance remaining, if any, shall be paid to the Lot Owner.

ARTICLE 17. CONDEMNATION

Section 17.1 Consequences of Condemnation: If at any time or times pursuant to this Declaration, all or any part of the Property shall be taken or condemned by any public authority, or sold or otherwise disposed of in lieu or in avoidance of such condemnation, the provisions of this Article shall apply.

Section 17.2 Proceeds: All compensation, damages, or other proceeds therefrom, the sum of which is hereafter called the "Condemnation Award", shall be payable to the Association.

Section 17.3 Complete Taking:

(a) In the event that the entire Project is taken or condemned, or sold, or otherwise disposed of in lieu of or in avoidance of a condemnation, ownership pursuant to this Declaration shall terminate. The Condemnation Award shall be apportioned equally among the Owners, provided that if a standard different from the value of the Property as a whole is employed to measure the Condemnation Award in the negotiation, judicial decree, or otherwise, the same standard shall be employed to the extent it is relevant and applicable, in determining the share of each individual Lot Owner.

(b) The Association shall disburse any Condemnation Award as soon as practicable in the same manner provided for the distribution of sales proceeds in Article 16, Section 4.

Section 17.4 Partial Taking: In the event that less than the entire Project is taken or condemned, or sold, or otherwise disposed of in lieu of or in avoidance thereof, ownership hereunder shall not terminate. Each Owner shall be entitled to a share of the Condemnation Award to be determined as herein provided. As soon as practicable the Association shall, reasonably and in good faith, allocate the Condemnation Award between compensation, damages, or other proceeds, and shall apportion the amounts so allocated to taking or injury as follows; (1) the respective amount allocated to the taking or injury to a particular Lot shall be apportioned to that particular Lot, (ii) the total amount allocated as severance damages shall be apportioned to those Lots which were not taken or condemned, (iii) the amount allocated to consequential damages and any other taking or injuries shall be apportioned as the Association determines to be equitable in the circumstances. If an allocation of the Condemnation Award is already established in negotiation, judicial decree, or otherwise, then in allocating the Condemnation Award the Association shall employ such allocation to the extent it is relevant and applicable. Disbursement of apportioned proceeds shall be made by checks payable jointly to the respective Owners and their respective Mortgagees.

Section 17.5 Reorganization: In the event a partial taking results in the taking of a complete Lot, the Owner thereof automatically shall cease to be a member of the Association, and such Owner's interest shall thereupon terminate, and the Association, as attorney-in-fact for such Owner, may take whatever action is necessary and execute such documents as are necessary to reflect such termination. Thereafter, the Association shall reallocate the ownership, voting rights, and assessment ratio determined in accordance with this Declaration according to the same principles employed in this Declaration at its inception and such reallocation or amendment of this Declaration.

ARTICLE 18. SPECIAL CONSIDERATION

Section 18.1 Two-Thirds Vote: Except as otherwise provided for herein, unless at least sixty seven percent (67%) of the Owners of the Lots (based upon one vote for each Lot) on the Project have given their prior written approval, the Association shall not:

(a) by act or omission seek to abandon, partition, encumber, sell or transfer the Common Areas owned, directly or indirectly, by the Association for the benefit of the Lots, provided, however, that the granting of easements for public utilities or for other public purposes consistent with the intended use of such Common Areas shall not be deemed a transfer within the meaning of this clause;

(b) change the method of determining the obligations, assessments, dues or other charges which may be levied against a Lot or an Owner;

(c) by act or omission change, waive or abandon any scheme of regulations, or enforcement thereof, pertaining to the architectural design or the exterior appearance of buildings, the exterior maintenance of buildings, the maintenance of the Common Areas;

(d) fail to maintain fire and extended coverage on insurable Common Areas, and other property of the Association on a current replacement cost basis in an amount not less than one hundred percent (100%) of the insurable value based on current replacement costs; and

(e) use hazard insurance proceeds for losses to any Common Areas, buildings or other property for other than the repair, replacement or reconstruction of such property.

Section 18.2 Majority Vote: In all other respects, the affirmative vote of a majority of the membership represented at a meeting of the Association and entitled to vote on the subject matter shall be the act of the Association unless another number is specifically designated as the required affirmative vote by the specific provision of this Declaration under consideration.

ARTICLE 19. MORTGAGEE PROTECTIONS

Section 19.1 Introduction: This Article establishes certain standards and covenants which are for the benefit of First Mortgagees. This Article is supplemental to, and not in substitution for, any other provisions of this Declaration, but in the case of any conflict, this Article shall control.

Section 19.2 Percentage of First Mortgagees: Unless specifically provided otherwise, wherever in this Declaration the approval or consent of a specified percentage of First Mortgagees is required, it shall mean the approval or consent of sixty-seven percent (67%) of First Mortgagees. Each First Mortgagee shall be entitled to one vote for each Security Interest held by such First Mortgagee.

Section 19.3 Notice of Actions: If requested in writing to do so, the Association shall give prompt written notice of the following to each First Mortgagee making such request:

- (a) any condemnation loss or any casualty loss which affects a material portion of the Common Areas or any Lot in which an interest is held by the Eligible First Mortgagee;
- (b) any delinquency in the payment of Assessments which remains uncured for sixty (60) days by a Lot Owner whose Lot is encumbered by a Security Interest held by such Eligible First Mortgagee;
- (c) any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association;
- (d) any proposed action which would require the consent of First Mortgagees as set forth in this Article; and
- (e) any judgment rendered against the Association.

Section 19.4 Notice of Objection: Unless a First Mortgagee provides the Secretary of the Association with written notice of this objection, if any, to any proposed amendment or action requiring the approval of First Mortgagees within thirty (30) days, following the receipt of notice of such proposed amendment or action, the First Mortgagee will be deemed conclusively to have consented to or approved the proposed amendment or action.

Section 19.5 First Mortgagees' Rights:

- (a) Advances: First Mortgagees, jointly or singly, may pay taxes or other charges which are in default and which may or have become a charge against any of the Common Areas or improvements thereon, and may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for the Common Areas. First Mortgagees making such payments shall be owed immediate reimbursement from the Association.
- (b) Cure Rights: First Mortgagees shall be entitled to cure any delinquency of the Lot Owner encumbered by a First Mortgage in the payment of Assessments. In that event, the First Mortgagee shall be entitled to obtain a release from the lien imposed or perfected by reason of such delinquency.

Section 19.6 Limitations on First Mortgagee's Rights: No requirement for approval or consent by a First Mortgagee provided in this Article shall operate to:

- (a) deny or delegate control over the general administrative affairs of the Association by the Lot Owners or the Executive Board;
- (b) prevent the Association or Executive Board from commencing, intervening and/or settling any legal proceeding; or
- (c) prevent any insurance trustee or the Association from receiving and distributing any insurance proceeds in accordance with the requirements of the Article entitled "Restoration Upon Damage or Destruction".

Section 19.7 Special Declarant Rights: No provision or requirement of this Article entitled "Mortgagee Protections" shall apply to any Special Declarant Rights reserved to Declarant in this Declaration.

ARTICLE 20. DURATION OF COVENANTS; AMENDMENT AND TERMINATION

Section 20.1 Term: This Declaration and any amendments or supplements to it shall remain in effect from the date of recordation for a period of fifty (50) years. Thereafter, these Covenants shall be automatically extended for five (5) successive periods of ten (10) years each, unless otherwise terminated or modified as provided in this Article.

Section 20.2 Amendment of Declaration: Except to the extent that this Declaration and the Act expressly permit or require amendments that may be executed by the Declarant or by the Association, this Declaration (including the Plat) may be amended only by a vote or agreement of Lot Owners to which at least sixty-seven percent (67%) of the votes in the Association are allocated;

Section 20.3 Execution of Amendments; Expenses: Any amendment shall be prepared, executed and recorded either by the Declarant or by an officer of the Association designated for that purpose or, in the absence of a designation, by the President of the Association. All expenses associated with preparing and recording an amendment to this Declaration shall be the sole responsibility of (a) any Lot Owners desiring an amendment as provided for in this Declaration or the Act; (b) the Declarant, to the extent the right to amend this Declaration; and (c) in all other cases by the Association as a Common Expense.

Section 20.4 When Modifications Permitted: Notwithstanding the provisions of the Section above, no amendment or termination of this Declaration shall be effective in any event during the Period of Declarant Control, unless the written approval of Declarant is first obtained.

Section 20.5 Recording of Amendments: Any amendment to this Declaration made in accordance with this Article shall be immediately effective upon the recording of the executed amendment in the Records together with a duly authenticated certificate of the Declarant or the Secretary of the Association stating that the required vote of Lot Owners, if any, and required consents of First Mortgagees and/or Eligible First Mortgagee, as applicable) were obtained and are on file in the office of the Association. The amendment must be indexed in the

Grantee's Index in the name of the Project and the Association and in the Grantor's Index in the name of each person or entity executing the amendment.

Section 20.6 Rights of Eligible First Mortgagees: To the extent allowed by the Act, Eligible First Mortgagees shall be given notice of any proposed amendment to the Declaration in the manner provided in the Act and shall have the rights to approve specified action of the Lot Owners or the Association as a condition to the effectiveness of those actions as provided in the Article entitled "Mortgagee Protections", and as provided in the Act.

Section 20.7 Termination of the Project: The Project may only be terminated as provided in the Act of this Declaration.

ARTICLE 21. RENTAL RESTRICTIONS

Section 21.1 Board Review: All leases or rental agreements shall be submitted to the Association for its review for compliance with this Declaration.

Section 21.2 Occupancy Regulations: The Association shall have the authority to adopt reasonable rules and regulations limiting the number of persons who may occupy Lots as tenants or guests of tenants or Owners at any one time. All leases shall be expressly subject to this Declaration, the Articles, Bylaws and the Rules and Regulations adopted by the Association.

Section 21.3 Validity-Enforcement: Any lease or occupancy agreement or any tenancy otherwise created or maintained in violation of this Declaration, the Articles, Bylaws and Rules and Regulations of the Association, shall be void and of no effect. In such event, the Association shall have the specific individual right to enforce the same, including, without limitation, the right to evict or cause the removal of any persons occupying a Lot. Such Owner shall be responsible for all damages and costs, including reasonable attorney's fees incurred by the Association by reason of the acts of their guests, tenants and occupants of their Lot.

ARTICLE 22. MISCELLANEOUS

Section 22.1 Enforcement: Enforcement of the covenants, conditions, restrictions, easements, reservations, rights-of-way and other provisions contained in this Declaration and the other Project Documents shall be through any proceedings at law or in equity brought by any aggrieved Lot Owner. Such actions may seek remedy by injunction or restraint of a violation or attempted violation, or an action for damages, or any of them, without the necessity of making an election.

Section 22.2 Nonwaiver: Failure by Declarant, the Association, or any Lot Owner, Occupant or Eligible First Mortgagee to enforce any covenant, condition, restriction, easement, reservation, right-of-way or other provision contained in the Project Documents shall in no way or event be deemed to be a waiver of the right to do so thereafter.

Section 22.3 Severability: The provisions of this Declaration shall be deemed to be independent and severable, and the invalidity of any one or more of the provisions of it by judgment or court order or decree shall in no way affect the validity or enforceability of any of the other provisions, which provisions shall remain in full force and effect. Any provision which would violate the rule against perpetuities and the rule prohibiting unlawful restraints on alienation shall be construed in a manner as to make this Declaration valid and enforceable.

Section 22.4 Number and Gender: Unless the context provides or requires to the contrary, the use of the singular herein shall include the plural, the use of the plural shall include the singular, and the use of any gender shall include all genders.

Section 22.5 Captions: The captions to the Articles and Sections and the Table of Contents at the beginning of this Declaration are inserted only as a matter of convenience and for reference and are in no way to be construed to define, limit or otherwise describe the scope of this Declaration or the intent of any provision of this Declaration.

Section 22.6 Conflicts in Legal Documents: In case of conflicts between the provisions in this Declaration and the articles of incorporation of the Association or the Bylaws, this Declaration shall control. In case of conflicts in the provisions in the articles of incorporation of the Association and the Bylaws, the articles of incorporation of the Association shall control.

Section 22.7 Vesting of Interests: Any interest in property granted under this Declaration shall vest, if at all, on or before the date of the death of the survivor of the now living children of Prince Charles, Prince of Wales, plus twenty-one years.

Section 22.8 Exhibits: All the Exhibits attached to and described in this Declaration are incorporated in this Declaration by this reference.

Section 22.9 Choice of Law: This Declaration shall be construed and interpreted in accordance with the laws of the State of Colorado.

IN WITNESS WHEREOF, AP Development Corporation has caused its name to be hereunto signed and affixed by its duly authorized officers this ____ day of _____, 2007.

AP DEVELOPMENT CORPORATION

BY: _____

STATE OF _____)
)ss.
COUNTY OF _____)

SUBSCRIBED AND SWORN to before me this ____ day of _____, 2007 as _____
_____ of AP Development Corporation, a Minnesota corporation.

Witness my hand and official seal.
My Commission expires: _____.

Notary Public

EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

Lot 23R, Wildernest Filing No. 2, also known as 81 Buffalo Drive, Summit County, Colorado.