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Boulder County Clerk, CO

CONDOMINIUM DECLARATION
OF
NORTHFIELD VILLAGE EIGHT-PLEX CONDOMINIUMS

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B LEGAL DESCRIPTION OF THE REAL PROPERTY THAT MAY BE SUBMITTED TO THE CONDOMINIUM DECLARATION OF THE NORTHFIELD VILLAGE EIGHT-PLEX CONDOMINIUMS

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CONDOMINIUM DECLARATION
OF
NORTHFIELD VILLAGE EIGHT-PLEX CONDOMINIUMS

PREAMBLE

THIS CONDOMINIUM DECLARATION OF NORTHFIELD VILLAGE EIGHT-PLEX CONDOMINIUMS is made on the date hereinafter set forth by NORTHFIELD VILLAGE RESIDENTIAL DEVELOPMENT, LLC, a Colorado limited liability company ("Declarant").

WHEREAS, Declarant is the owner of certain real property located in the County of Boulder, Colorado, as more particularly described on the attached Exhibit A;

WHEREAS, the Declarant intends to create a residential condominium common interest community on the real property together with other improvements thereon; and

WHEREAS, Declarant will convey the real property, subject to the protective covenants, conditions, and restrictions as hereinafter set forth.

NOW THEREFORE, Declarant hereby submits the real property described on Exhibit A, together with all rights, and appurtenances thereto, and improvements thereon to the provisions of the Colorado Common Interest Ownership Act, as it may be amended from time to time. In the event the Act is repealed, the Act as it exists on the date this Declaration is recorded shall remain applicable.

Declarant hereby declares that all of the real property described on the attached Exhibit A shall be held and conveyed subject to the following covenants, conditions, and restrictions, all of which are declared and agreed to be for the protection of the value of the real property, and for the benefit of any persons having any right, title or interest in the real property. The covenants, conditions, and restrictions shall be deemed to run with the land and shall be binding on and a burden and a benefit to any persons acquiring the interest, their grantees, heirs, legal representatives, successors and assigns and acceptance of the interest by any persons shall constitute that person's agreement and to be bound by the same.

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ARTICLE ONE: DEFINITIONS

As used in this Declaration, unless the context otherwise requires, the terms hereinafter set forth shall have the following meanings:

- 1.1 ACT means the Colorado Common Interest Ownership Act, C.R.S. § 38-33.3-101, *et seq.* as it may be amended from time to time.
- 1.2 AFFORDABLE UNIT means those Units within the Condominium Community that are subject to deed restrictions including without limitation Unit resale price limitations, buyer income limitations, and owner-occupancy requirements as specified in the permanently affordable housing covenant for each Affordable Unit.
- 1.3 AGENCIES mean and collectively refer to the Federal National Mortgage Association (FNMA), the Federal Home Loan Mortgage Corporation (FHLMC), the Department of Housing and Urban Development (HUD/FHA), the Veterans Administration (VA) or any other governmental or quasi-governmental agency or any other public, quasi-public or private entity which performs (or may in the future perform) functions similar to those currently performed by any of these entities.
- 1.4 ALLOCATED INTERESTS mean the Percentage Ownership Interest in the Common Elements, the Common Expense Assessment Liability and the votes in the Association that are allocated to each of the Units in the Community. The formulas used to establish the Allocated Interests are as follows:
 - (a) Unit Common Expense Assessment Liability and Interest in the Common Elements. The Common Expense Assessment Liability and Percentage Ownership Interest in the Common Elements levied on all Units is allocated on the basis of the percentage that the approximate square footage area of each Unit bears to the total approximate square footage area of all Units then within the Community, and is as set forth in Exhibit C attached hereto and incorporated herein by reference.

The square footage area of each Unit has been determined by the Declarant based on approximate dimensions and the calculation of the Percentage Ownership Interest, and the Common Expense Assessment Liability has been rounded. The Declarant shall have the authority to correct any errors in the determination of square footage and to execute and record an appropriate Amendment to Exhibit C to the Declaration in applicable circumstances.

- (b) Voting Rights. The Owner of each Unit in the Community is entitled to one vote for each Unit owned in the Community as set forth in Paragraph 4.6.

In the event the Declarant exercises its rights to incorporate Units into this Planned Community and enlarge the Planned Community by incorporating into and submitting to the Planned Community additional Units and real property in accordance with ARTICLE TWELVE hereof, the Common Expense Assessment Liability set forth above will be allocated and reallocated to the Units in the Planned Community by the Declarant in accordance with this Paragraph 1.4.

- 1.5 ARTICLES mean the Articles of Incorporation of the Association as they may be amended from time to time.
- 1.6 ASSESSMENT LIEN means the statutory lien on a Unit for any Assessment levied against that Unit together with all Costs of Enforcement as herein defined. All Costs of Enforcement are enforceable as Assessments. If an Assessment is payable in installments, the full amount of the Assessment is a lien from the time the first installment becomes due.
- 1.7 ASSESSMENTS mean the (a) Common Expense Assessments, (b) Special Assessments, (c) Individual Assessments, (d) Fines, (e) Costs of Enforcement and (f) Joint Use and Maintenance Assessments levied pursuant to this Declaration.
- 1.8 ASSOCIATION means NORTHFIELD VILLAGE EIGHT-PLEX CONDOMINIUM ASSOCIATION, a Colorado nonprofit corporation, its successors and assigns, the Articles of Incorporation and Bylaws that, along with this Declaration, shall govern the administration of the Community. The Members of the Association are the Owners of the Units in the Community.
- 1.9 BOARD OF DIRECTORS or BOARD means the Board of Directors of the Association duly elected pursuant to the Bylaws of the Association or appointed by the Declarant as therein provided. The Board of Directors is the governing body of the Association and shall act on behalf of the Association. The term Board of Directors as used herein is synonymous with the term Executive Board as the latter term is used in the Act.
- 1.10 BUDGET means the annual budget of the Association prepared and adopted in accordance with Paragraph 4.11 hereof.
- 1.11 BUILDINGS mean any of the buildings located in the Community.
- 1.12 BYLAWS mean the Bylaws that are adopted by the Board of Directors for the regulation and management of the Association as they may be amended from time to time.
- 1.13 CARPORT SPACES means the Carport Spaces, if applicable, designated as (1) Limited Common Elements appurtenant to a designated Unit and (2) as Common Elements as Reserved Carport Spaces as set forth on the Map. It is not anticipated that there will be Carport Spaces.
- 1.14 CITY/COUNTY means the City of Boulder, a Colorado municipal corporation, and the County of Boulder, State of Colorado.
- 1.15 COMMON ELEMENTS mean all of the Community as herein defined, except the portions thereof that constitute Units as defined in Paragraph 1.20 herein; the Common Elements include those parts of the Common Elements that are assigned to the exclusive use of one or more, but not all, of the Owners (Limited Common Elements).

Without limiting the generality of the foregoing, the following are Common Elements:

- (a) all of the real property (including all improvements thereon), landscaping,

driveways, sidewalks, and easements designated as Common Elements on the Map; and

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

The Common Elements are owned in common by the Owners, allocated in accordance with Paragraph 1.4 hereof. Any conveyance, encumbrance, judicial sale, or other transfer (voluntary or involuntary) of an individual interest in the Common Elements will be void unless the Unit to which the interest is allocated is also transferred.

1.16 COMMON EXPENSE ASSESSMENTS mean the funds required to be paid by each Owner for payment of the Owner's Common Expense Assessment Liability as defined in Paragraph 1.17 hereof (see Paragraphs 1.4 and 5.2 hereof).

1.17 COMMON EXPENSE ASSESSMENT LIABILITY means the liability for the Common Expense Assessment allocated to each Unit that is determined in accordance with that Unit's Allocated Interests as set forth in Paragraph 1.4 hereof.

1.18 COMMON EXPENSES mean expenditures made by or liabilities incurred by or on behalf of the Association, together with allocations to reserves.

1.19 COMMUNITY means the common interest community located on the real property described on the attached Exhibit A and all improvements located thereon and known as the NORTHFIELD VILLAGE EIGHT-PLEX CONDOMINIUMS.

1.20 CONDOMINIUM UNIT or UNITS mean the fee simple interest and title in and to the building improvements that constitute a single Condominium Unit as shown on the Map and as defined in Paragraph 2.5 herein, together with the appurtenant undivided interest in the Common Elements. Each Condominium Unit is shown on the Map and is identified thereon with a number.

1.21 COSTS OF ENFORCEMENT means all fees, late charges, interest, expenses, including receiver's fees, and reasonable attorneys' fees and costs incurred by the Association (a) in connection with the collection of the Assessments and Fines, or (b) in connection with the enforcement of the terms, conditions and obligations of the Project Documents.

1.22 DECLARANT means NORTHFIELD VILLAGE RESIDENTIAL DEVELOPMENT LLC, a Colorado limited liability company, its successors and assigns.

1.23 DECLARANT RIGHTS mean the development, special declarant, and other rights granted to or reserved by Declarant for the benefit of Declarant as set forth in this Declaration and the Act.

1.24 DECLARATION means this Declaration, the Map, and any supplements and amendments thereto recorded in the Office of the Clerk and Recorder of Boulder County, Colorado.

1.25 ELIGIBLE MORTGAGEE means a holder, insurer or guarantor of a First Security Interest who has delivered a written request to the Association containing its name, address, and the legal description, and address of the Unit encumbered by its First Security Interest, requesting that the Association notify it of any proposed action requiring the consent of the specified percentage of Eligible Mortgagees.

1.26 FINES means those fines described in Paragraph 5.4(c) hereof.

1.27 FIRST MORTGAGEE means any Person that owns, holds, insures or is a governmental guarantor of a Security Interest, which is a First Security Interest encumbering a Unit within the Community. A First Mortgagee shall also include the holder of executory land sales contracts wherein the Administrator of Veterans Affairs (Veterans Administration) is the Seller, whether the contract is recorded or not.

1.28 FIRST SECURITY INTEREST means a Security Interest that has priority of record over all other recorded liens except those liens made superior by statute (such as general ad valorem tax liens and Special Assessments).

1.29 GUEST means (a) any person who resides with an Owner within the Community; (b) a guest, agent or invitee of an Owner; (c) an occupant or tenant of a Unit within the Community, and any members of his or her household, invitee or cohabitant; or (d) a contract purchaser.

1.30 IMPROVEMENTS mean:

(a) all exterior improvements, structures, auxiliary structures, and any appurtenances thereto or components thereof of every type or kind;

(b) the grading, excavation, filling or similar disturbance to the surface of the land including, without limitation, change of grade, change of ground level, and change of drainage pattern;

(c) all landscaping features, including, but not limited to, buildings, outbuildings, auxiliary buildings, patios, patio covers, awnings, painting or other finish materials on any visible structure, additions, walkways, sprinkler systems, driveways, fences, screening walls, retaining walls, stairs, decks, landscaping, hedges, windbreaks, plantings, trees, shrubs, flowers, vegetables, sod, gravel, bark, exterior light fixtures, poles, signs, cooling, heating and water softening equipment; and

(d) any change, alteration, modification, expansion, or addition to any previously approved Improvements, including any change of exterior appearance, finish material, color, or texture.

1.31 INDIVIDUAL ASSESSMENTS mean those Assessments described in Paragraph 5.4(b) hereof.

1.32 LIMITED COMMON ELEMENTS mean those parts of the Common Elements which are limited to and reserved for the exclusive use of the Owner of one or more Units but fewer

than all the Units designated, allocated, or reserved by or pursuant to the Declaration or as indicated on the Map or as designated in the Act.

Without limiting the generality of the foregoing, the following shall constitute Limited Common Elements:

(a) all private yards, decks, patios and carports designated as Limited Common Elements on the Map for a particular Unit; and

(b) all utility, service and maintenance areas, fixtures, apparatus, lines, cables, installations and facilities for power, light, gas, telephone, television, hot water, cold water, heating, incineration, or similar utility, service or maintenance purposes, that serve a particular Unit and which are located outside the foundation of a Unit.

1.33 MANAGING AGENT means the Person the Board of Directors may engage to administer and manage the affairs of the Association.

1.34 MAP means the CONDOMINIUM MAP OF NORTHFIELD VILLAGE EIGHT-PLEX CONDOMINIUMS which is an engineering survey (and any supplements and amendments thereto) of the condominium project depicting and locating thereon the location of the Buildings which constitute the Units with their identification numbers, the Common Elements and Limited Common Elements, the floors and elevations, and all of the land and improvements thereon, which Map is incorporated herein and made a part of this Declaration by reference.

Declarant hereby reserves unto the Board of Directors the right, without the consent of any Owner or First Mortgagee, to amend the Map and any supplements thereto to (a) insure that the language and all particulars used on the Map and contained in the Declaration are consistent, (b) establish, vacate, reconfigure, and relocate easements, (c) establish certain Common Elements as Limited Common Elements, and (d) satisfy any requirements of the Act or governmental authorities.

Declarant reserves to itself the right, without the consent of any Owner or First Mortgagee, to amend the Map and any supplement hereto (a) in accordance with ARTICLE TWELVE thereof, and (b) in accordance with Paragraph 14.3 hereof.

In all other cases, the Map may be amended in accordance with Paragraph 14.2 hereof. The Map and any supplements thereto are hereby incorporated herein by reference as if set forth in their entirety.

1.35 MEMBER means each Owner, as defined in Paragraph 1.40 hereof.

1.36 MASTER DECLARATION means the Declaration of Covenants Conditions and Restrictions for Northfield Village. MASTER ASSOCIATION means the Association established under the Master Declaration. MASTER ASSOCIATION ASSESSMENTS means any assessments passed on the Association by the Master Association.

- 1.37 NOTICE AND HEARING means a written notice and an opportunity for a hearing before the Board of Directors in the manner provided in the Bylaws.
- 1.38 OWNER means the owner(s) of record of the fee simple title to any Unit that is subject to this Declaration.
- 1.39 PARKING SPACES mean the Parking Spaces, as applicable, designated on the Map as Limited Common Elements or Common Elements or otherwise provided for as described in Paragraph 2.13 herein. Parking Spaces may be allocated for the exclusive use of Units or Owners on the Map or as set forth in paragraph 2.13.
- 1.40 PERCENTAGE OWNERSHIP INTEREST IN THE COMMON ELEMENTS mean the ownership interest in the Common Elements allocated to each Unit determined in accordance with that Unit's Allocated Interest as set forth in Paragraph 1.4 hereof.
- 1.41 PERIOD OF DECLARANT CONTROL means that period of time defined in Paragraph 4.7 hereof.
- 1.42 PERSON means a natural person, a corporation, a partnership, an association, a trustee, a limited liability company, a joint venture, or any other entity recognized as being capable of owning real property under Colorado law.
- 1.43 PHASES mean each phase of development of the Community as determined from time to time by Declarant.
- 1.44 PROJECT DOCUMENTS mean this Declaration, the Map, the Articles, the Bylaws, and the Rules, if any, as they may be amended or supplemented from time to time.
- 1.45 RULES mean the rules and regulations adopted by the Board of Directors for the regulation and management of the Community as amended from time to time.
- 1.46 SECURITY INTEREST means an interest in real estate or personal property created by contract that secures payment of an obligation. The term includes a lien created by a deed of trust, mortgage, contract for deed, land sales contract, or UCC-1.
- 1.47 SPECIAL ASSESSMENTS mean those Assessments defined in Paragraph 5.4(d) hereof.
- 1.48 SUPPLEMENTAL DECLARATION means a written instrument that is recorded to supplement this Declaration to add additional Units to the Project in accordance with ARTICLE TWELVE hereof.
- 1.49 UNITS THAT MAY BE CREATED means twenty four Units or the maximum number of Units allowed by any governmental entity having jurisdiction over the Community pursuant to any development plan, including those Units that may be added and made subject to the Declaration. Declarant shall not be obligated to expand the Community beyond the number of Units initially submitted to this Declaration.

1.50 "VA APPROVAL" AND/OR "FHA APPROVAL" means that the Condominium Community has been or may be approved by the Veterans Administration and/or the Federal Housing Administration so that those agencies will insure or guarantee loans made on the Units within the Community.

In the event additional real property or Units are made subject to this Declaration in the manner provided for in ARTICLE TWELVE hereof, the terms defined above shall be expanded to encompass all of the property and Units from the date the additional real property or Units are made subject to this Declaration.

ARTICLE TWO: NATURE AND INCIDENTS OF THE COMMUNITY

2.1 The Community. The name of the Community is NORTHFIELD VILLAGE EIGHT- PLEX CONDOMINIUMS.

2.2 Initial Number of Units. The number of Units in the First Phase of the Community is as set forth in Exhibit A. The Declarant reserves the right but not the obligation to create additional Units by the expansion of the Community in accordance with ARTICLE TWELVE hereof.

2.3 Division into Units, Estates of an Owner. The Community is hereby divided into Units as set forth on Exhibit A, each consisting of a separate fee simple estate in a particular Unit, and an appurtenant undivided fee simple interest in the Common Elements. The undivided interest in the Common Elements appurtenant to a particular Unit is determined in accordance with that Unit's Allocated Interest as set forth in Paragraph 1.4(a) hereof and is as set forth on the attached Exhibit C.

2.4 Title. A Unit may be held and owned in any real property tenancy relationship recognized under the laws of the State of Colorado.

2.5 Description of a Condominium Unit. Every contract for the sale of a Unit written prior to the filing for record of the Map and this Declaration may legally describe a Unit by its identifying Unit number designation followed by the words "NORTHFIELD VILLAGE EIGHT- PLEX CONDOMINIUMS" with further reference to the Map thereof to be filed for record and the Declaration to be recorded. After the Map and the Declaration are recorded in the Office of the Clerk and Recorder of Boulder County, Colorado, the description shall be conclusively presumed to relate to the therein-described Units.

Every deed, lease, mortgage, trust deed, will or other instrument may legally describe a Unit by its identifying number and Building number and followed by the words "NORTHFIELD VILLAGE EIGHT-PLEX CONDOMINIUMS."

A sufficient description of a Unit shall be as follows:

UNIT ____, BUILDING ____, NORTHFIELD VILLAGE EIGHT-PLEX CONDOMINIUMS, according to the CONDOMINIUM MAP OF NORTHFIELD VILLAGE EIGHT-PLEX CONDOMINIUMS, recorded on _____, 200__ as Reception No. _____, and as defined by the

CONDOMINIUM DECLARATION OF NORTHFIELD VILLAGE EIGHT-
PLEX CONDOMINIUMS, recorded on _____, 200__, as Reception

No. _____, both recorded in the Office of the Clerk and Recorder of Boulder
County, Colorado.

Each description shall be good and sufficient for all purposes to assign, sell, convey, transfer, encumber or otherwise affect not only the Unit, but also the Common Elements and the right to the use of the Limited Common Elements appurtenant thereto. Each description shall be construed to include a nonexclusive easement for ingress and egress throughout the Community and for the use of the Common Elements together with the right to the exclusive use of designated Limited Common Elements.

The reference to the Map and Declaration in any instrument shall be deemed to include any supplements or amendments to the Map or Declaration, without specific references thereto. The undivided interest in the Common Elements appurtenant to any Unit shall be deemed conveyed or encumbered with that Unit, even though the legal description and the instrument conveying or encumbering the Unit may only refer to the Unit. The reference to the Map or Declaration in any instrument shall be deemed to include any Supplements or Amendments thereto without specific reference thereto.

2.6 Unit Boundaries. The interior unfinished surfaces of the perimeter walls, lowermost floors and uppermost ceilings shall mark the perimeter boundaries of a Unit as shown on the Map, and all lath, furring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, finished flooring and any other materials constituting any part of the finished surfaces thereof are a part of the Units, and all other portions of the walls, floors, or ceilings are part of the Common Elements. If any chute, flue, duct, wire, conduit, bearing wall, bearing column, or any fixtures (including, but not limited to, swamp coolers) lies partially within and partially outside the designated boundaries of a Unit, any portion thereof serving only that Unit is a Limited Common Element allocated solely to that Unit, and any portion thereof serving more than one Unit or any portion of the Common Elements is a part of the Common Elements. Any shutters, awnings, window boxes, window wells, doorsteps, stoops, porches, balconies, decks, patios, and all exterior doors and windows or other fixtures designed to serve a single Unit, but located outside the Unit's boundaries, are Limited Common Elements allocated exclusively to that Unit.

2.7 Inseparability of a Unit. An Owner's undivided interest in the Common Elements shall not be separated from the Unit to which it is appurtenant and shall be deemed to be conveyed or encumbered with the Unit even though the interest is not expressly mentioned or described in a deed or other instrument.

2.8 No Partition. The Common Elements shall remain undivided, and no Owner or any other person shall bring any action for partition or division of the Common Elements. Similarly, no action shall be brought for the physical partition or subdivision of a Unit between or among the Owners thereof, provided, however, an action of partition of a Unit shall be permitted by a sale and the division of the sale proceeds.

2.9 Limited Common Elements. The Limited Common Elements shall be identified on the Map. Any Limited Common Elements that are accessible from, associated with, or that adjoin a

Unit identified as Limited Common Elements on the Map shall, without further reference thereto, be used in connection with the Unit to the exclusion of the use thereof by the other Owners except by invitation.

A Limited Common Element may be reallocated between and among Units on compliance with the procedures set forth in § 38-33.3-208 of the Act.

2.10 Compliance with the Provisions of the Project Documents. Each Owner shall comply strictly with, and shall cause each of his or her Guests to comply strictly with, all of the provisions of the Project Documents, as the same may be amended and supplemented from time to time. Failure to comply with the Project Documents shall be grounds for an action to recover sums due and for damages or injunctive relief or both, along with costs of suit and reasonable attorneys' fees, maintainable by the Board of Directors in the name of the Association on behalf of the Owners, or, in a proper case, by any aggrieved Owner.

2.11 Separate Taxation. Each Unit shall be deemed to be a parcel and shall be subject to separate assessment and taxation by each assessing unit and special district for all types of taxes authorized by law, including ad valorem levies and Special Assessments. The Common Elements shall not be deemed to be a parcel. The lien for taxes assessed to any Unit shall be confined to that Unit. No forfeiture or sale of any Unit for delinquent taxes, assessments or other governmental charges shall divest or in any way affect the title to any other Unit.

2.12 Mechanic's Liens Against the Units. After the completion of the Community by the Declarant and payment of all of the costs thereof, no mechanic's lien shall arise or be effective against the Community.

Mechanic's liens can only arise or be created against a Unit in the same manner and under the same conditions as mechanic's liens can arise or be created on any other parcel of real property subject to individual ownership.

No labor performed or materials furnished, with the consent or at the request of an Owner or his or her agent, shall be the basis for the filing of a mechanic's lien pursuant to law against the Unit of another Owner not expressly consenting to or requesting the same, except that express consent shall be deemed to be given by the Owner of any Unit to the Board in the case of emergency repairs.

Labor performed or materials furnished for the Common Elements, if duly authorized by the Board of Directors in accordance with the Declaration or Bylaws, shall be deemed to be performed or furnished with the express consent of each Owner, and shall be the basis for the filing of a mechanic's lien pursuant to law against each of the Units within the Community.

In the event a mechanic's lien is recorded against two or more Units, an Owner of an attached Unit may remove his/her Unit from the mechanic's lien by payment of the fractional or proportional amount attributable to each of the Units affected.

Individual payment shall be determined in accordance with and in proportion to the respective Percentage Ownership Interests in the Common Elements as set forth in Paragraph 1.4

hereof. On payment, discharge or other satisfaction, the Unit shall promptly be released from the lien. Partial payment, satisfaction or discharge shall not prevent the lienor from proceeding to enforce his or her rights against any Unit not so released.

Each Owner shall indemnify and hold each of the other Owners harmless from and against liability or loss arising from the claim of any mechanic's lien against the Unit of the Owner, or any part thereof, for labor performed or for materials furnished in the course of work performed on the Owner's Unit.

At the written request of any Owner, the Board shall enforce the indemnity by collecting from the Owner of the Unit on which the labor was performed and materials furnished the amount necessary to discharge any mechanic's lien and all costs incidental thereto, including reasonable attorneys' fees by an Individual Assessment against the Owner in accordance with Paragraph 5.4(b) hereof.

2.13 Parking Spaces. The Parking Spaces are designated on the Map as part of the Common Elements, subject to the following. A Parking Space may be identified on the Map as a Limited Common Element of a Unit. In addition, during the Period of Declarant Control, with respect to Parking Spaces that are not Limited Common Elements, the Declarant may, by recorded document, designate all or any portion of the Parking Spaces for the exclusive (or non exclusive) use of any Unit or Owner (a Parking Designation). A Parking Designation may be exclusive, perpetual, and appurtenant to a Unit or Units or other interests in the Condominiums, or on such other terms as may be set forth in the Parking Designation. The Declarant may make a Parking Designation by one or more instruments denominated as such, or also by any deed, easement, grant or other conveyance. A Parking Designation may be appurtenant to a property, building, or any Unit or interest therein, or may be a conveyance for the benefit of the Association for the benefit of the Unit Owners therein. The Parking Designation shall be considered a grant, license, easement and right, and the right to use the surface of the Parking Space in accordance with the Parking Designation. During the Period of Declarant Control, a Parking Designation may be amended or terminated by the Declarant. Otherwise, a Parking Designation is effective in accordance with its terms and may not be amended, revoked or terminated, including amendment or termination pursuant to this Declaration, except with the written consent of the beneficiary or holder of the Parking Designation and the Association. A Parking Designation shall run with the land, and benefit and burden the respective propert(ies) in accordance with the terms of the Parking Designation. Any Parking Spaces that are not Limited Common Elements and have not been subjected to a Parking Designation during the period of Declarant Control shall be held for the joint use of the Community. The rights associated with a Parking Designation may be transferred or assigned for the benefit of another property, or otherwise modified by the holder thereof, only if so provided in the Parking Designation. Otherwise, such rights are to the benefited property as identified in the Parking Designation. If no such transfer, assignment or modification right is provided in the Parking Designation, such rights may be transferred, assigned or modified only with the consent of all of the following: the owner of the benefited property, the Declarant (during any period of Declarant Control) and the Association, through its Board of Directors.

Any contract, deed, lease, assignment, mortgage, deed of trust or other instrument used to convey, lease, assign, encumber or otherwise affect the right to use a Parking Space including

rights pursuant to a Parking Designation shall describe the Parking Space by adding to the appropriate description, as set forth in Paragraph 2.5 hereof, the additional language "together with the exclusive right to use Parking Space No. _____."

2.14 Leasing of a Reserved Parking Space. Any exclusive right to use a Parking Space (as a Limited Common Element or pursuant to a Parking Designation) may be leased by the Owner thereof only to other Unit Owners or a tenant thereof.

2.15 Storage Units. Storage Space, if any, may be designated on the Map as either (i) Limited Common Element to a Unit or (ii) Reserved for Designation. Any Storage Space designated as a Limited Common Element may be reallocated between and among Units on compliance with the procedures set forth in § 38-33.3-208 of the Act. With respect to any Storage Space that is Reserved for Designation (a Reserved Storage Space) or otherwise not allocated to a Unit, the following shall apply. During the Period of Declarant Control, the Declarant may, by recorded document, designate a Reserved Storage Space for any use, purpose or property related to Northfield Village, including the exclusive (or non exclusive) use by a Unit, an Owner, the Association, the Community, the Declarant, Northfield Village or any Unit, Owner, or Property in Northfield Village, all as set forth in the designation ("Storage Designation"). The Storage Designation shall be considered a grant, license, easement and right, and the right to use the Storage Space, including access thereto. During the Period of Declarant Control, a Storage Designation may require that the Declarant consent to any transfer thereof. Otherwise, a Storage Designation is effective in accordance with its terms and may not be amended, revoked or terminated, including amendment or termination pursuant to this Declaration, except with the written consent of the beneficiary or holder of the Storage Designation. Unless otherwise stated in the Storage Designation, the holder or beneficiary of a Storage Designation, or the owner of a property to which a Storage Designation is appurtenant, may, by subsequent Storage Designation, transfer the rights to the subject Reserved Storage Space to any person, property or entity that could have been subject to an initial Storage Designation. Any Reserved Storage Spaces that are not the subject of a Storage Designation during the period of Declarant Control shall be allocated and used as determined by the Association. All Reserved Storage Spaces, including those subject to a Storage Designation, shall be treated as a Common Element for all purposes hereunder, provided that all personal property within a Storage Space shall be at the sole risk of the Owner or Beneficiary of the Storage Space.

2.16 Restrictions on Sale of a Condominium Unit. Certain of the Units That May Be Created within the Condominium Community are Affordable Units and will be subject to the permanently affordable housing covenants containing certain restrictions on the rights of the Owners of Affordable Units within the Community to sell, transfer, or otherwise convey these Affordable Units as determined by the City.

Any right of first refusal contained in the permanently affordable housing covenants shall not impair the rights of a First Mortgagee to (i) foreclose or take title to an Affordable Unit pursuant to its rights, (ii) accept a deed or assignment in lieu of foreclosure in the event of default by the mortgage holder or (iii) to sell or lease an Affordable Unit acquired by a First Mortgagee.

For all other Units without such designation, the right of an Owner to sell, transfer, or otherwise convey that Owner's Unit shall not be subject to any right of first refusal or similar restriction and that Unit may be sold free of any such restrictions.

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

ARTICLE THREE: VARIOUS RIGHTS AND EASEMENTS

3.1 Owner's Rights in the Common Elements. Every Owner and such Owner's Guests shall have the nonexclusive right to use and enjoy the Common Elements, (subject to the provisions of Article Two) which shall be appurtenant to and shall pass with the title of the Unit to such Owner, subject to the following rights of the Board of Directors:

- (a) To borrow money to improve the Common Elements and to mortgage the Common Elements as security for any such loan; provided, however, that the Association may not subject any portion of the Common Elements to a security interest unless such is approved by Owners to which at least sixty-seven percent (67%) of the votes in the Association are allocated and all Owners of Units to which any Limited Common Element is allocated that is to be subject to the security interest.
- (b) To convey or dedicate all or any part of the Common Elements to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Owners to which at least sixty-seven percent (67%) of the votes in the Association are allocated and all Owners of Units to which any Limited Common Element is allocated that is to be conveyed or dedicated.

The granting of leases, permits, licenses and easements on, through or over the Common Elements shall not be deemed a conveyance or encumbrance within the meaning of this Article as more fully set forth in § 38-33.3-302 and § 38-33.3-312 of the Act.

- (c) To promulgate and adopt Rules with which each Owner and the Owner's Guests shall strictly comply.
- (d) To take such steps as are reasonably necessary to protect the Common Elements against foreclosure.
- (e) Subject to Paragraph 4.1.4, to enter into, make, perform or enforce any contracts, leases, agreements, licenses, easements and rights-of-way, for the use of the Common Elements by Owners and Guests for any purpose the Board may deem to be useful, beneficial or otherwise appropriate.

- (f) To close or limit the use of the Common Elements temporarily while maintaining, repairing and making replacements in the Common Elements, or permanently if approved by Owners to which at least sixty-seven percent (67%) of the votes in the Association are allocated.
- (g) To make such use of the Common Elements as may be necessary or appropriate for the performance of the duties and functions it is obligated or permitted to perform under this Declaration.
- (h) The rights granted to the Board of Directors in Paragraph 4.14 hereof.

3.2 Owner's Rights in the Limited Common Elements. Each Owner and the Owner's Guests shall have an exclusive right to use and enjoy the Limited Common Elements appurtenant to the Unit owned by such Owner.

3.3 Delegation of Use. Any Owner may delegate his or her right of enjoyment to the Common Elements and Limited Common Elements and facilities to his or her Guests subject to the Rules of the Association.

3.4 Easements Generally. The Community is subject to all easements as shown or created on the Map, those of record, those provided in the Act and those set forth in this Article and other provisions of this Declaration.

3.5 Utility Easements. There is hereby created and granted a blanket easement on, over, in, under, and through the Community for the installation, replacement, repair, operation and maintenance of utilities, including but not limited to, water, sewer, gas, telephone, electricity, fiber optic, satellite and cable systems. The blanket easement includes future utility services not presently available to the Community that may reasonably be required in the future.

By virtue of this easement, it shall be expressly permissible to erect and maintain the necessary facilities, equipment, and appurtenances within, in, on, over, under, or across any part of the Common Elements, including the Limited Common Elements.

Should any utility company furnishing a service covered by the easement herein created request a specific easement by separate recordable document, the Association shall have, and hereby reserves, the right and authority to grant such easement upon, across, over, or under any part or all of the Community without conflicting with the terms hereof.

The easement granted in this Paragraph shall in no way affect, avoid, extinguish or modify any other recorded easement(s) on, over, in, under, and through the Community.

3.6 Owner's Easement for Support and Utilities. Each Owner shall have a non-exclusive easement in and over the Common Elements within the Community for horizontal and lateral support of the Owner's Unit, and for utility service to the Unit, including but not limited to water, sewer, gas, electricity, telephone, cable and satellite television service.

No Owner shall tamper with any utility lines or connections, or alter them in any way, or undertake any work that would jeopardize or interfere with any utilities serving the Building, the Units, the Common Elements, the Community or any portion thereof.

3.7 Easements for Encroachments. If any part of the Common Elements encroaches or shall hereafter encroach upon a Unit, an easement for the existence of such encroachment and for the maintenance of the same shall and does exist. If any part of a Unit encroaches or shall hereafter encroach on the Common Elements, or on another Unit, the Owner of that Unit shall and does have an easement for the existence of the encroachment and for the maintenance of same. The easement shall extend for whatever period of time the encroachment exists.

Such easements for encroachments shall not be considered to be encumbrances either on the Common Elements or on a Unit. Encroachments referred to herein include, but are not limited to, unintentional encroachments caused by error in the original construction of the Buildings, by error in the Map, by settling, rising, or shifting of the earth, or by changes in position caused by repair or reconstruction of the Community or any part thereof or by any other movement of any portion of the improvements located upon the Community.

3.8 Easements in Units for Repair, Maintenance, and Emergencies. All Owners shall permit a right of entry to the Board of Directors or any other person authorized by the Board of Directors, whether the Owner is present or not, for access through each Unit to all Common Elements, from time to time, as may be necessary for the routine maintenance, repair, or replacement for any of the Common Elements located thereon or accessible there from or for making emergency repairs necessary to prevent damage to the Common Elements or to another Unit.

For routine maintenance and non-emergency repairs, entry shall be made only on a regular business day during regular business hours, after service of at least one (1) day's notice in writing to the Owner. In case of emergency, entry shall be made at any time provided that a reasonable effort according to the circumstances is made to give notice of entry.

The Board of Directors or its agents is granted the authority to use such reasonable force as is necessary to gain entry into the Unit in the event of an emergency, if no other means of entry are available in view of the circumstances. The Association shall bear the full responsibility and expense of all damages incurred to the Unit and/or Common Elements because of such forcible entry.

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

Notwithstanding the foregoing, if any such damage is the result of the carelessness or negligence of any Owner, then such Owner shall be solely responsible for the costs of repairing

such damage. In the event the Owner fails within a reasonable time upon proper notice to pay the cost of the damages incurred, the Board of Directors may pay for the damages and charge the Owner responsible for such costs as an Individual Assessment in accordance with Paragraph 5.4(b) hereof.

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

3.10 Director's Easements. Subject to Paragraph 4.12, the Board of Directors has the right to grant leases, permits, licenses and easements on, over, in, under and through the Common Elements for utilities, driveways, and other purposes the Board may deem to be useful, beneficial, or otherwise appropriate. (See also Paragraphs 3.1(e) and 4.14(b).)

3.11 Recording Data Regarding Easements. Pursuant to § 38-33.3-205(1)(m) of the Act, the recording data for recorded easements and licenses appurtenant to, or included in the Community or to which any portion of the Community is or may become subject to are identified on the attached Exhibit D or as may be set forth on the Map.

3.12 Owner's Easement for Access. Each Owner shall have a nonexclusive easement for access between the Owner's Unit and the streets adjacent to the Community.

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

3.14 Easement for Unit. Each Owner shall have a permanent and exclusive easement for the location and placement of the physical structure of their Unit in, on, and over the Common Elements within the Community. The location of this easement shall coincide with the Unit's Boundary as described in Paragraph 2.6 herein.

ARTICLE FOUR: THE ASSOCIATION

4.1 Name. The name of the Association is NORTHFIELD VILLAGE EIGHT-PLEX CONDOMINIUM ASSOCIATION.

4.2 Purposes and Powers. The Association, through its Board of Directors, shall manage, operate, care for, insure, maintain, repair, and reconstruct the Common Elements and keep them in a safe, attractive, and desirable condition for the use and enjoyment of the Owners and the Guests of the Community. The Association shall have all the power necessary or desirable to effectuate such purposes.

The Board of Directors shall have all of the powers, authority and duties permitted pursuant to the Act necessary and proper to manage the business and affairs of the Association.

4.3 Board of Directors, Delegation Authority. The affairs of the Association shall be managed by a Board of Directors, who may by resolution delegate authority to a Managing Agent for the Association as more fully provided for in the Bylaws, provided no such delegation shall relieve the Board of final responsibility.

4.4 Articles and Bylaws. The purposes and powers of the Association and the rights and obligations with respect to Members set forth in this Declaration may and shall be amplified by provisions of the Articles and Bylaws. Also see Paragraph 15.6 hereof.

4.5 Membership. There shall be one (1) class of membership. Members of the Association shall be every Owner of a Unit subject to this Declaration. Membership shall be appurtenant to and may not be separated from ownership of any Unit. Ownership of such Unit shall be the sole qualification for such membership. Where more than one (1) Person holds interest in any Unit, all such Persons shall be Members.

The membership of the Association at all times shall consist exclusively of all Unit Owners or, following termination of the Community, of all former Unit Owners entitled to distributions of the proceeds under § 38-33.3-218 of the Act, or their heirs, personal representatives, successors or assigns.

4.6 Voting Rights. The Association shall have one (1) class of voting membership. An Owner shall have one (1) vote for each Unit owned in the Community; provided, however, in any election of Directors, each Owner shall have for each Unit owned the number of votes equal to the number of directors to be elected, to be cast no more than one (1) vote per candidate (up to the number of directors to be elected) as set forth in the Bylaws.

If a Unit is owned by more than one person, the vote for the Unit may be exercised by any one of them unless an objection or protest by any other holder of an interest in the Unit is made prior to the completion of the vote, in which case the vote for such Unit shall be exercised as the persons holding such interest shall determine between themselves. Should the persons holding such interest be unable, within a reasonable time, to agree on how they will vote any issue, they shall be passed over and that Unit's right to vote on such issue shall be lost.

4.7 Period of Declarant Control. Subject to provisions of Paragraph 4.8 hereof, there is a "Period of Declarant Control" during which the Declarant may appoint and remove any officer of the Association or any member of the Board of Directors. The Period of Declarant Control is a length of time commencing with the recording of this Declaration and terminating seven (7) years thereafter; provided, however, that the Period of Declarant Control shall terminate no later than the earlier of (a) sixty (60) days after conveyance of seventy-five percent (75%) of the Units That May Be Created to Owners other than the Declarant; or (b) two (2) years after the last conveyance of a Unit by the Declarant in the ordinary course of business to Owners other than the Declarant; or (c) two (2) years after any right to add new Units to the Community was last exercised.

In the event the process of entitlement for the Declarant to obtain building permits to construct additional Units in the Project is placed on "hold" (e.g., moratorium, anti-growth

legislation, etc.) for reasons beyond the control of the Declarant, the time limitations set forth herein shall be extended until the impediment to entitlement is removed.

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

4.8 Election by Owners. The Board of Directors shall consist initially of two Members appointed by the Declarant. Not later than sixty (60) days after conveyance of twenty-five percent (25%) of the Units That May Be Created to Owners other than the Declarant, the Board of Directors shall be increased to three members and at least one (1) member of the Board of Directors must be elected by Owners other than the Declarant and the same right shall continue until the termination of the Period of Declarant Control. Any director(s) to be appointed by Declarant may be so appointed by Declarant without formal notice or other formal designation or procedure, and may be changed from time to time in the discretion of the Declarant.

Not later than the termination of the Period of Declarant Control as set forth in Paragraph 4.7 hereof, the Owners shall elect a Board of Directors consisting of three (3) members, at least a majority of whom shall be Owners other than the Declarant. The Board shall elect the officers. The Owners elected to the Board shall take office on election.

4.9 Delivery of Documents by Declarant. Within sixty (60) days after the Owners other than the Declarant elect a majority of the members of the Board of Directors as set forth in Paragraph 4.8, the Declarant shall deliver without expense to the Board all property of the Owners and of the Association relating to the Community held by or controlled by the Declarant, including, without limitation, the following items:

- (a) The original or a certified copy of the recorded Declaration, with all amendments and supplements thereto, the Association's Articles of Incorporation, together with a current Certificate of Good Standing issued by the Colorado Secretary of State, Bylaws, minute books, other books and records, including all income tax returns filed, and any Rules which may have been promulgated;
- (b) An accounting for Association funds and audited financial statements from the date the Association received funds and ending on the date the Period of Declarant Control ends in accordance with § 38-33.3-303(9)(b) of the Act;
- (c) The Association funds or control thereof;
- (d) An inventory of all of the Declarant's personal property that has been represented by the Declarant to be the property of the Association that is necessary for and has been used exclusively in the operation and enjoyment of the Common Elements;

- (e) A copy (for the nonexclusive use of the Association) of any Plans and Specifications used in the construction of Improvements to Common Elements in the Community;
- (f) All insurance policies then in force in which the Owners, the Association, or its directors and officers are named as insured persons;
- (g) Copies in Declarant's possession of (i) any certificates of occupancy issued with respect to any improvements comprising the Community and (ii) any other permits in Declarant's possession issued by governmental bodies applicable to the Community and which are currently in force or which were issued within one (1) year prior to the date on which Owners other than the Declarant took control of the Association;
- (h) Written warranties of the contractors, subcontractors, suppliers and manufacturers that are assignable and still effective (to the extent not already assigned);
- (i) A roster of Owners and Eligible Mortgagees and their addresses and telephone numbers, if known, as shown on the Declarant's records;
- (j) Employment contracts in which the Association is a contracting party; and
- (k) Any service contract in which the Association is a contracting party or in which the Association or the Owners have any obligation to pay a fee to the persons performing the services.

4.10 Budget:

(a) Annual Budget. In accordance with § 38-33.3-303 of the Act, the Board of Directors shall cause to be prepared, at least sixty (60) days prior to the commencement of each calendar year, a Budget for that calendar year. Within thirty (30) days after the adoption of any Budget by the Board, the Board shall mail, by ordinary first-class mail, or otherwise deliver, a summary of the Budget to each Owner and shall set a date for a meeting of the Owners to consider ratification of the Budget not less than fourteen (14) days nor more than sixty (60) days after delivery of the summary.

Unless at that meeting Owners to which at least sixty-seven percent (67%) of the votes in the Association are allocated reject the Budget, the Budget shall be deemed ratified whether or not a quorum is present. In the event the Budget is rejected, the Budget last ratified by the Owners must be continued until such time as the Owners ratify a subsequent budget adopted by the Board of Directors.

(b) Amended Budget. If the Board of Directors deems it necessary or advisable to amend a Budget that has been ratified by the Owners pursuant to Paragraph 4.10(a) above, the Board may adopt a proposed amendment to the Budget, deliver a summary of the proposed amendment to all Owners and set a date for a meeting of the Owners to consider ratification of the proposed amendment. The date of such meeting shall not be less than fourteen (14) days, nor more than sixty (60) days, after the delivery of the summary of the proposed amendment.

Unless at that meeting Owners to which at least sixty-seven percent (67%) of the votes in the Association are allocated reject the amended Budget, the amended Budget shall be deemed ratified whether or not a quorum is present.

4.11 Association Agreements. Any agreement for professional management of the Community may not exceed one (1) year. Any such agreement must provide for termination by either party without cause and without payment of a termination fee or penalty upon thirty (30) days written notice.

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

4.13 Certain Rights and Obligations of the Association:

(a) Attorney-in-Fact. This Declaration makes mandatory the irrevocable appointment of an attorney-in-fact as herein provided to deal with the Community upon its damage, destruction, condemnation and/or obsolescence.

The Board of Directors is hereby irrevocably appointed attorney-in-fact for the Owners, and each of them, to manage, control and deal with the interest of such Owner in the Common Elements so as to permit the Association to fulfill all of its duties and obligations hereunder and to exercise all of its rights hereunder, to deal with the Community upon its destruction, condemnation or obsolescence as hereinafter provided.

Acceptance of any interest in a Unit will constitute an appointment of the Board of Directors as attorney-in-fact as provided above and hereinafter.

(b) Contracts, Easements, and Other Agreements. Subject to Paragraph 4.12 above, the Board of Directors shall have the right to enter into, grant, perform, enforce, cancel and vacate: contracts, easements, licenses, leases, agreements, and/or rights-of-way, for the use by Owners, their Guests, and other persons, concerning the Common Elements. (See also Paragraph 3.1(e).)

Any of such contracts, licenses, leases, agreements, easements, and/or rights-of-way, shall be upon such terms and conditions as may be agreed to from time to time by the Board of Directors, without the necessity of the consent thereto, or joinder therein by the Owners or First Mortgagees.

(c) Other Association Functions. The Association may undertake any activity, function or service for the benefit of or to further the interests of all, some or any Members on a self-supporting, Special Assessment or Common Expense Assessment basis.

(d) Implied Rights. The Board of Directors shall have and may exercise any right or privilege given to it expressly by this Declaration, or reasonably to be implied from the provisions of this Declaration, or given or implied by law, or which may be necessary or desirable to fulfill its duties, obligations, rights or privileges.

4.14 Certain Rights and Obligations of the Declarant. So long as there are unsold Units within the Community owned by the Declarant, the Declarant shall enjoy the same rights and assume the same duties as they relate to each individual unsold Unit.

4.15 Disclaimer Regarding Security. The Association may, but shall not be obligated to, take measures or maintain or support certain activities within the Community designed to make the Community more secure than it otherwise might be. Neither the Association nor Declarant, or any representative or agent of either of them, shall in any way be considered insurers or guarantors of safety or security within the Community, nor shall either of them be held liable for any loss or damage by reason of failure to provide adequate security or of the ineffectiveness of any such security measures taken. No representation or warranty is made that any fire protection system, burglar alarm system or other security system cannot be compromised or circumvented, nor that any such systems or security measures undertaken will prevent loss or provide the detection or protection for which the system is designed or intended.

4.16 Access Easement and Maintenance. The Community may be subject to, served by or require easements across adjacent property to provide access, utilities or other services, including related agreements that may require the Community to contribute to construction, maintenance or other costs. The Board is authorized to enter into any such agreements that it deems necessary or advisable. Any expenses associated therewith may be included in the Common Expenses for the Community.

4.17. Responsible Governance Policies. The Association shall establish responsible governance policies pursuant to Article 209.5 of the Act.

ARTICLE FIVE: ASSESSMENTS

5.1 Obligation. Each Owner, including Declarant, shall be personally obligated to pay to the Association: (a) Common Expense Assessments, (b) Special Assessments, (c) Fines, (d) Individual Assessments, (e) Costs of Enforcement and (f) Joint Use and Maintenance Assessments, which shall be a continuing lien upon the Unit against which each such Assessment is levied.

The obligation for payments by each Owner to the Association is an independent personal covenant with all amounts due, from time to time, payable in full when due without notice or demand and without setoff or deduction. All Owners of each Unit shall be jointly and severally liable to the Association for the payment of all Assessments and Costs of Enforcement attributable to their Unit.

The personal obligation for delinquent assessments shall not pass to such Owner's successors in title unless expressly assumed by them. No Owner may waive or otherwise escape liability for the Common Expense Assessment provided for herein by the non-use of the Common Elements or the abandonment of such Owner's Unit. The omission or failure of the Board of Directors to levy the Common Expense Assessment for any period shall not be deemed a waiver, modification or a release of the Owners from their obligation to pay.

5.2 Purpose of the Assessments. The Assessments shall be used exclusively for the purpose of promoting the welfare and interests of the residents of the Community and the Members of the Association. Such purposes shall include, but not be limited to, (a) the administration and management of the Community, (b) the providing of common services for the Owners, (c) the upkeep, improvement, repair, maintenance, reconstruction and insuring of the Common Elements, (d) performing all the other obligations of the Association under the Project Documents, and (e) any other purpose reasonable, necessary or incidental to such purposes.

The Assessments shall include the establishment and maintenance of a Reserve Fund for the improvement, maintenance, reconstruction, and repair of the Common Elements on a periodic basis, provided, however, that such Assessments levied during the Period of Declarant Control may not be used for the purpose of constructing capital improvements.

The Assessments shall include any assessments to the Units or Property from the Master Association or arising under the Master Declaration.

The Association shall pay all utilities or services that are provided to the Units or the Property on a shared basis without individual metering or billing to individual Units. Each Unit shall pay its pro rata share, based on allocated interests, of such shared utility or service costs as an inclusion within or an addition to Common Expense Assessments. However, in the event a Unit uses an excessive share of any utility or service in comparison to other Units, as determined in the sole discretion of the Board of Directors, the Board of Directors may allocate a greater share of such shared costs to such Unit as an Individual Assessment.

5.3 Date of Commencement of the Assessments; Declarant's Right to Offset. The Common Expense Assessment shall commence as to all Units then within the Condominium Community no later than sixty (60) days after the first Unit is conveyed to an Owner other than the Declarant.

Until the commencement of the collection of the Common Expense Assessment, the Declarant shall pay all of the expenses incurred and paid for by the Association, and before and after such time may advance operating funds to the Association. Declarant shall be entitled to offset such amounts so paid or advanced as a credit against future Common Expense Assessments, payable by the Declarant

5.4 Levy of Assessments and Fines:

(a) Common Expense Assessments. Common Expense Assessments shall be levied on all Units based on a Budget of the Association's requirements. The Common Expense Assessment Liability shall be allocated among the Units in accordance with a Unit's Common

Expense Assessment Liability as set forth in Paragraph 1.4(b) hereof, and shall commence in accordance with Paragraph 5.3 hereof.

To the extent that any Common Expenses or a portion thereof benefit fewer than all of the Unit Owners, such expenses may be assessed exclusively against the Units benefited as provided in § 38-33.3-315(3)(b) of the Act.

(b) Individual Assessments. The Board of Directors shall have the right to individually levy on an Owner amounts as provided for by this Declaration, including but not be limited to, charges levied under Paragraphs 2.12, 3.8, 6.3, 6.5, 6.10, 6.18, 7.2, 7.6, 8.3, 9.1, and 9.5 hereof.

No Individual Assessment shall be levied until the Owner has been given a Notice and Hearing as provided for in the Bylaws of the Association. Individual Assessments shall be collected as part of the Costs of Enforcement. Individual Assessments may be levied at any time as required and are exempt from any voting requirements by the membership required for other Assessments called for under the Declaration.

(c) Fines. The Board of Directors shall have the right to levy a Fine against an Owner for each violation of the Project Documents. No such Fine shall be levied until the Owner to be charged has been given a Notice and Hearing as provided for in the Bylaws.

Fines may be levied in a reasonable amount as determined from time to time by the Board of Directors in its discretion and uniformly applied. Fines shall be collected as part of the Costs of Enforcement. Fines may be levied at any time as required and are exempt from any voting requirements by the membership required for other assessments called for under the Declaration.

(d) Special Assessments. In addition to the other Assessments authorized herein, the Board of Directors, subject to the limitations set forth below, may levy a Special Assessment for the purpose of defraying, in whole or in part, any unexpected expense including but not be limited to, the cost of any construction, reconstruction, improvement, repair or replacement of a capital improvement on the Common Elements, including fixtures and personal property relating thereto, or for the funding of any operating deficit incurred by the Association provided that any such Assessment shall have the approval of Owners to whom at least sixty-seven percent (67%) of the votes in the Association are allocated, who are voting in person or by proxy at a meeting duly called for this purpose.

Any such Special Assessment shall be levied against each Unit in accordance with that Unit's Common Expense Assessment Liability determined in accordance with Paragraph 1.4(b) hereof. Notwithstanding the foregoing, Special Assessments levied during the Period of Declarant Control may not be used for the purpose of constructing capital improvements.

If the Community has been or may be approved by the Federal Housing Administration and/or Veterans Administration, then until the termination of the Period of Declarant Control in accordance with Paragraph 4.7 hereof, all Special Assessments for capital improvements in

addition to the approval of the Owners as required above will require the written consent of the Veterans Administration and/or the Federal Housing Administration.

5.5 Due Date. Fines and Individual Assessments shall be due and payable as established by the Board of Directors.

Common Expense Assessments shall be levied on an annual basis and shall be due and payable in monthly installments in advance, provided that the first Assessment levied shall be adjusted to reflect the time remaining in the Association's first fiscal year. Any Owner purchasing a Unit between annual due dates shall pay a prorated share.

Special Assessments shall be due and payable as established by the Board of Directors, but may be payable on an installment basis as determined by the Board. Written notice of all Assessments shall be sent to each Owner subject thereto specifying the type of Assessment, the amount and the date such Assessment is due. Mortgagees are not required to collect assessments.

5.6 Remedies for Nonpayment of Assessments. If any Assessment (including Costs of Enforcement) is not fully paid within fifteen (15) days after the same becomes due and payable, then interest shall accrue at the default rate set by the Board of Directors on any amount of the Assessment in default accruing from the due date until date of payment, and the Board may assess a Late Fee in an amount as determined in the Board's discretion. In addition, the Board may:

- (a) accelerate and declare immediately due and payable all unpaid installments of the Assessment payable for the balance of the fiscal year during which such default occurred;
- (b) bring an action at law against any Owner personally obligated to pay the Assessment and obtain a judgment for the amounts due;
- (c) proceed to foreclose its lien against the Unit pursuant to the power of sale granted to the Association by this Declaration in the manner and form provided by Colorado law for foreclosure of real estate mortgages; and/or
- (d) suspend any services provided to a delinquent Owner's Unit.

An action at law or in equity by the Association against an Owner to recover a judgment for unpaid Assessments may be commenced and pursued by the Association without foreclosing or in any way waiving the Association's lien for the Assessments. Failure to pay assessments does not constitute a default under an insured mortgage. The Association shall be entitled to collect all Costs of Enforcement in connection with any assessment default or remedy to collect the same, which Costs of Enforcement shall be added to the Assessments chargeable to the defaulting Owner and Unit.

5.7 Assessment Lien. The Association is hereby granted an Assessment Lien against each Unit for any Assessment levied by the Board of Directors and for Costs of Enforcement when the Unit Owner fails to pay as required by the Declaration. All Costs of Enforcement incurred

pursuant to this Declaration are enforceable as Assessments. If an Assessment is payable in installments, the full amount of the Assessment is a lien from the time the first installment thereof becomes due.

The Association's lien on a Unit for Assessments shall be superior to all other liens and encumbrances except the following:

- (a) liens and encumbrances recorded prior to the recording of this Declaration;
- (b) real property ad valorem taxes and special assessment liens duly imposed by Colorado governmental or political subdivision or special taxing districts, or any other liens made superior by statute; and
- (c) the lien of any loan evidenced by a first deed of trust or mortgage, including a mortgage and any executory land sales contract wherein the Administrator of Veterans Affairs (Veterans Administration) is seller, whether such contract is owned by the Veterans Administration or its assigns, and whether such contract is recorded or not, except to the extent the Act grants priority for Assessments to the Association.

The Act does not affect the priority of mechanic's or materialmen's liens.

Recording of the Declaration constitutes record notice and perfection of the lien. No further recordation of any claim of lien for Assessments under this Article is required. The Board of Directors, however, may prepare, and record in the Office of the Clerk and Recorder of Boulder County, Colorado, a written notice setting forth the amount of the unpaid indebtedness, the name of the Owner of the Unit, and a description of the Unit. If a lien is filed, the cost thereof shall be considered a Cost of Enforcement.

Sale or transfer of any Unit shall not affect the lien for the Assessments except that sale or transfer of any Unit pursuant to foreclosure of any first deed of trust or mortgage, or any proceeding in lieu thereof, including deed in lieu of foreclosure, may extinguish the Assessment Lien only to the extent provided by Colorado law. A foreclosure sale or deed in lieu of foreclosure shall not relieve any Owner from continuing personal liability for any Assessment thereafter becoming due, or from the lien thereof.

A First Mortgagee who acquires title to a Unit by virtue of foreclosing a first deed of trust or mortgage or by virtue of a deed in lieu of foreclosure will take the Unit free of any claims for unpaid Assessments and Costs of Enforcement against that Unit which have accrued prior to the time such First Mortgagee acquires title to the Unit.

The Association shall be entitled to the appointment of a receiver to take control of the Unit of the defaulting Owner, collect all rents and income therefrom, and to pay assessments and other obligations prior to or during the pendency of the action. The costs of the receiver shall be a Cost of Enforcement recoverable from the Owner as part of the assessment lien.

The Assessment Lien hereby given shall also be a lien on all of the rents and profits of the encumbered Unit; provided, however, the lien shall be subject and subordinate to the rights

of any First Mortgage of a Unit under any assignment of rents given in connection with a first deed of trust or mortgage. Without prejudice to any other right or remedy, the Association may exercise its lien rights to rents and profits by delivering a Notice of Exercise to the occupant or any payor of rents and profits, and thereafter shall be entitled to collect all such rents and profits to the extent of any delinquency.

The Association's lien on a Unit for Assessments and Costs of Enforcement shall be superior to any homestead exemption now or hereafter provided by the laws of the State of Colorado or any exemption now or hereafter provided by the laws of the United States. The acceptance of a deed to a Unit subject to this Declaration shall constitute a waiver of the homestead and any other exemption as against the Assessment lien.

5.8 Assignment of Assessments. The Board of Directors has the unrestricted right to assign its right to receive Common Expense Assessments and other future income, either as security for obligations of the Association or otherwise, provided that any such assignment must be in writing by Owners to which at least sixty-seven percent (67%) of the votes in the Association are allocated, including sixty-seven percent (67%) of the votes allocated to Units not owned by the Declarant.

5.9 Surplus Funds. Any surplus funds of the Association remaining at the close of the Association's fiscal year after payment of the Common Expenses and funding the Reserve Fund shall be retained by the Association as unallocated reserves and need not be credited to the Owners to reduce their future Assessment Liability.

5.10 Working Capital Fund. At the closing of the initial sale, and each subsequent resale, of a Unit to an Owner other than the Declarant, a non-refundable contribution shall be made by that Owner or subsequent Owner to the Working Capital Fund of the Association in an amount equal to two (2) months Common Expense Assessment then in effect. The contribution shall be collected and transferred to the Association at the time of closing of the sale of each Unit and shall be held by the Association for the use and benefit of the Association, including meeting unforeseen expenditures and purchasing additional equipment or services.

Such contribution to the Working Capital Fund shall not relieve an Owner from making regular payments of Assessments as the same become due. On the later sale or transfer of his or her Unit, an Owner shall NOT BE ENTITLED to a credit from the Association for the aforesaid contribution.

The Declarant is prohibited from using the Working Capital Fund to defray any of its expenses, reserve contributions or construction costs, or to make up any budget deficits during the Declarant Control Period.

5.11 Certificate of Assessment Status. The Association shall furnish to an Owner or such Owner's First Mortgagee on written request to the Association's Registered Agent, a statement setting forth the amount of unpaid Assessments currently levied against such Owner's Unit.

The statement shall be furnished within fourteen business (14) days after receipt of the request and is binding on the Association, the Board of Directors, and every Owner. If no

statement is furnished to the Owner or First Mortgagee, then the Association shall have no right to assert a priority lien on the Unit for unpaid Assessments that were due as of the date of the request.

5.12 No Offsets. All Assessments shall be payable in the amounts specified in the levy thereof, and no offsets or reduction thereof shall be permitted for any reason including, without limitation, any claim that the Association or the Board of Directors is not properly exercising its duties and powers under this Declaration. The Declarant is exempt from the provisions of this Paragraph 5.12.

ARTICLE SIX: RESTRICTIVE COVENANTS AND OBLIGATIONS

6.1 Use and Occupancy of the Units. Each Owner shall be entitled to the exclusive ownership and possession of that Owner's Unit. Subject to the Declarant Rights reserved or described herein and the exemptions for the Declarant set forth in Paragraph 6.16 hereof, no Unit within the Community shall be used for any purpose other than single-family residential purposes as generally defined, provided however, Owners may conduct business activities within their Units provided that all of the following conditions are satisfied in the sole discretion of the Board of Directors, and subject to such terms as the Board of Directors may establish:

(a) the business conducted is clearly secondary to the residential use of the Unit and is conducted entirely within the Unit;

(b) the existence or operation of the business is not reasonably detectable from outside of the Unit by sight, sound, smell or otherwise, or by the existence of signs indicating that a business is being conducted;

(c) the business does not result in an undue volume of traffic or parking within the Community, which determination shall be made by the Board of Directors in its sole discretion from time to time;

(d) the business conforms to all zoning requirements and is lawful in nature; and

(e) the business conforms to any Rules that may be imposed by the Board of Directors from time to time on a uniform basis.

Uses described as "day care" or "child care" facilities (licensed or unlicensed) are expressly prohibited except with the prior written permission of the Board of Directors.

6.2 Use of the Common Elements. Each Owner and such Owner's Guests may use the appurtenant Common Elements in accordance with the purpose for which they are intended, without hindering or encroaching on the lawful rights of the other Owners. The Board of Directors may adopt Rules governing the use of the Common Elements, and the Rules shall be uniform and nondiscriminatory.

There shall be no obstruction of the Common Elements, nor shall anything be stored on any part of the Common Elements without the prior written consent of the Board of Directors.

Nothing shall be altered, constructed on, or removed from the Common Elements except on the prior written consent of the Board of Directors.

6.3 Pets Within the Community. No animals, birds, poultry, reptiles or insects of any kind, shall be raised, bred, kept or boarded in or on any portion of the Condominium Community, except that not more than two (2) total customary household pets may be kept in any Unit, which number shall not include more than one dog in a Unit. Permitted dogs (no more than one in a Unit) are restricted to small breeds that can reasonably be expected to weigh not more than approximately 25 pounds fully grown. No pets or other animals of any kind shall be raised, bred, or maintained for any commercial purpose. All pets shall be kept in a manner that does not create a nuisance or material inconvenience to any resident of the Planned Community, including noise or aggressive behavior. An Owner is responsible for the actions and behavior of any pet and any damage or impact caused by a pet.

An Owner is responsible for any damage caused by a pet kept by the Owner or the Owner's Guests and the Owner shall be obligated to clean up after the pet in the Community. The Board of Directors shall have the right and authority to determine in its sole discretion if a pet or group of pets is creating a nuisance. The Board of Directors shall take such action or actions as it deems reasonably necessary to correct the violation including, after Notice and Hearing, directing permanent removal of a pet from the Community. The Board of Directors as it deems appropriate may establish Rules relating to the number and types of pets allowed (including Rules further restricting the number or types of pets allowed), the control of such pets and the keeping and care thereof.

A pet shall not be allowed to run at large within the Community, and shall at all times be under the control of such pet's owner or caretaker and such pet shall not be allowed to litter the Common Elements.

Reimbursement for damages caused by a pet and costs incurred by the Association, to include attorneys' fees and costs, in the removal of a pet from the Community or incurred by the Association in cleanup after such pet may be levied after Notice and Hearing against such Owner of the Unit where the pet is or was kept as an Individual Assessment in accordance with Paragraph 5.4(b) hereof.

6.4 Nuisances. No noxious or offensive activity shall be carried on within the Community, nor shall anything be done or maintained thereon that may be or become an annoyance or nuisance or detract from its value as an attractive community.

6.5 Vehicular Parking, Storage and Maintenance. No house trailer, camping trailer, horse trailer, camper, camper shell, boat trailer, hauling or other trailer, ATV, snowmobile, boat or boat accessories, truck with a rated load capacity of more than two (2) tons, recreational vehicle or equipment, motor home, mobile home, or other similar vehicle or equipment may be parked or stored anywhere within the Community (except in an enclosed Garage) unless they are being actively loaded or unloaded and only as approved by the Board of Directors. This applies to vehicles referred to above even if they are licensed by the State of Colorado or any other jurisdiction as "passenger vehicles."

No wrecked, abandoned, inoperable, or unlicensed vehicles of any kind shall be stored or parked within the Community except in emergencies. Any "wrecked vehicle" shall be as determined by the Board of Directors in its sole discretion. Any "abandoned or inoperable vehicle" shall be defined as any of the vehicles listed above or any other kind of passenger vehicle that has not been driven under its own propulsion for a period of one week or longer, or that does not have installed within it an operable propulsion system.

The Board of Directors shall have the right to remove a vehicle in violation of this Paragraph, the expenses of which shall be levied against the Owner of the vehicle by an Individual Assessment in accordance with Paragraph 5.4(b) hereof.

No vehicle maintenance of any kind shall be allowed within the Community.

Notwithstanding the foregoing, emergency vehicles may be parked and stored in accordance with Section 106.5 of the Act.

6.6 Unsafe, Unsanitary, or Unhealthy Activities. No activity shall be conducted by anyone on any part of the Community that is or might be unsafe, unsightly, unhealthy, or hazardous to any other person. Without limiting the generality of the foregoing, nothing shall be kept or stored on or in the Common Elements, including areas that are Limited Common Elements; and nothing shall be placed on or in windows or doors of Units, that would or might create unsightly appearance. Decks, porches, balconies, and yards shall not be used for storage, shall be maintained in a clean and orderly condition, and shall not be utilized in any manner that is unreasonable or disruptive as determined by the Board of Directors in its discretion. No laundry or other articles may be hung in or on or from yards, decks, or patios or any other portions of the Units or the Common Elements. All rubbish, trash, or garbage shall be regularly removed from the Community and shall not be allowed to accumulate thereon. The Board shall have the discretion to determine when any activity violates the requirements of this paragraph and to take appropriate steps as determined by the Board to enforce the terms hereof or to remedy any such violation.

6.7 Prohibition of Certain Activities. Nothing shall be done or kept in any Unit or in the Common Elements or any part thereof that would result in the cancellation of the insurance on the Community or increase the rate of the insurance on the Community over what the Association, but for such activity, would pay, without the prior written consent of the Board of Directors.

Nothing shall be done or kept in any Unit or in the Common Elements that would be in violation of any governmental law.

No sound or vibration shall be emitted on any part of the Community that is unreasonably loud or annoying. No light shall be emitted from any portion of the Community that is unreasonably bright or causes unreasonable glare, and no sound or odor shall be emitted from any portion of the Community that would reasonably be found by others to be noxious or offensive. Without limiting the generality of the foregoing, no exterior spot lights, searchlights, speakers, horns, whistles, bells, or other light or sound devices shall be located or used on any portion of the Community except with the prior written approval of the Board of Directors.

No firearms shall be discharged upon any portion of the Community and no fires shall be lighted or permitted on any portion of the Community, except in a contained barbecue unit.

No Owner shall undertake any work in his or her Unit that would jeopardize or interfere with the soundness, safety or operation of such Unit or any other Unit without the prior written approval of the Board of Directors, which approval may be withheld for any reason, and then only after obtaining any necessary governmental permits and otherwise complying with all applicable governmental laws, regulations, codes and ordinances.

6.8 Exterior Equipment Prohibition. No exterior equipment or fixtures, including, but not limited to, the following shall be permitted without the written consent of the Board of Directors: air conditioning units, swamp coolers, or other ventilating equipment; and any type or kind of wiring, ducts, or pipes (exclusive of a reasonable amount of holiday lighting).

6.9 Antennas and Satellite Dishes. No conventional television antennas of any kind or satellite dishes, antennas, and similar devices for the transmission or reception of television, radio, satellite, or other signals of any kind shall be permitted or may be installed on the exterior of any Unit in the Community except as have been expressly approved and authorized by the Board of Directors. To the extent that the installation of any of these devices is governed by and/or subject to the Telecommunications Act of 1996 and the rules and regulations promulgated by the Federal Communications Commission (FCC) then the Board of Directors shall comply with and adhere to all applicable FCC requirements.

6.10 Owner Caused Damages. If, due to the breach of any of the requirements of Article 6 or the act or neglect of an Owner or that Owner's Guests, loss or damage shall be caused to the Association, Common Elements or Limited Common Elements, that Owner shall be liable and responsible for the payment of same. The amount of such loss or damage, together with costs of collection and reasonable attorneys' fees and costs, if necessary, may be collected by the Board of Directors from such Owner as an Individual Assessment against that Owner in accordance with Paragraph 5.4(b) hereof.

6.11 Lease of a Unit. With the exception of a First Mortgagee who has acquired title to a Unit by virtue of foreclosing a first deed of trust or mortgage or by virtue of a deed in lieu of foreclosure, an Owner shall have the right to lease his or her Unit upon such terms and conditions as the Owner may deem advisable, subject to the following:

- (a) any such lease or rental agreement must be in compliance with applicable local, state, and federal laws, including requirements of the Agencies, and this Article 6.11 shall automatically be deemed to be modified to comply with any such requirements;
- (b) no Owner may lease or rent for a term of no less than thirty days and no more than six months.
- (c) such lease or rental agreement shall state that the failure of the lessee or renter to comply with the terms of this Declaration, or the Articles, Bylaws or the Rules of the Association shall constitute a default and such default shall be enforceable by either the Board of

Directors or the lessor, or by both of them, including, but not be limited to, eviction of the lessee from the Unit; and

(d) the Board of Directors shall be furnished with a copy of the lease or rental agreement upon its request.

6.12 Waiver of Summary Abatement. The Association waives the right to use summary abatement or similar means to enforce the restrictions herein contained. Judicial proceedings must be instituted before any items of construction can be altered or demolished.

6.13 Exterior Lighting. Any exterior lighting installed on a Building shall be downward directed and of such controlled focus and intensity so as to not disturb other residents.

6.14 Enforcement. The Association, acting through its Board of Directors, shall have the power to enforce all of the above restrictive covenants and obligations.

6.15 Waiver. The strict application of the foregoing limitations and restrictions in any specific case may be modified or waived in whole or in part by the Board of Directors if such strict application would be unreasonable or unduly harsh under the circumstances. Any such modification or waiver must be in writing.

6.16 Exemptions for the Declarant. For so long as the Declarant owns a Unit within the Community, the Declarant shall be exempt from to the provisions of this ARTICLE SIX to the extent that it impedes the Declarant's marketing, sales or leasing activities as determined by Declarant in its discretion.

6.17 Signs and Displays. No sign, flag or other display may be placed on the Common Elements or on or in any window, door, balcony or other visible area without the consent of the Board, subject to section 106.5 of the Act and other applicable law. The Board may include in the Rules or Responsible Governance Standards appropriate restrictions consistent with applicable law.

6.18 Installations on Common Elements. There shall be no installations, equipment, systems, devices or other items affixed to or installed on the common elements or limited common elements without the approval of the Board, which may be granted or refused in its sole discretion. The Board may attach such conditions, requirements or restrictions as it deems appropriate to any such approval, including requirements as to duration of the approval and the maintenance and removal of the installation. The Board may adopt and include provisions relating to such installations in the Rules. Any of the foregoing authority shall be exercised subject to the requirements of CRS 38-30-168. In all cases, the installing Owner and all successors to such Owner shall be responsible for and immediately pay on demand (i) all costs, expenses, losses, damages, claims and liabilities related to or caused by such installation; (ii) additional costs incurred by the Association in connection with repair and maintenance of the Common Elements (iii) all costs of the removal and maintenance of the installation (iv) additional costs resulting from the installation, incurred by the original Builder or any Contractor in performing work on Common Elements, including warranty or correction work; and (v) any other additional cost, expense or liability that results from or relates to the installation. The

installing Owner and all Successors to such Owner shall indemnify and hold the Association and other Owners harmless from any costs, expenses, losses, damages, claims and liabilities of any kind or nature whatsoever relating to or resulting from the installation, including any of the items listed in the foregoing sentence and costs and attorneys fees incurred by the Association in connection with the evaluation and defense of any such claim or issue. With respect to any such installation, the Board may execute and record an appropriate notice of the obligations relating to an installation that may be appurtenant to the subject Unit, but all successors shall be bound by this provision whether or not such notice is recorded. Notwithstanding the approval of any installation, the Board may at any time require the removal of any installation where the installation is or appears likely to cause damage to a Common Element or any Unit or material additional expense or liability to the Association, or where the subject Owner or successor is not performing its obligations hereunder or does not comply with the terms of any approval. Any cost, expense, loss or damages incurred by the Association related to an installation, including all obligations provided for in this paragraph and any Costs of Enforcement relating to any installation, may be assessed against the subject Owner(s), including any successors thereto, and the subject Unit(s), as Individual Assessments pursuant to section 5.4(b).

6.19. Interior Floors and Floor Coverings. Floor coverings within units may have a direct impact on sound transmission through the common elements to other Units. Accordingly, the following restrictions apply. There shall be no changes to affixed floor coverings in Units without the approval of the Board of Directors except: (i) affixed carpeting may be replaced, provided the new carpeting is of the same or similar grade and has the same or greater coverage; (ii) affixed carpeting may be added to areas that did not previously have carpeting; and (iii) non affixed floor coverings, mats or similar items may be added or removed at any time, provided there is no change to the underlying affixed surface. Without limiting the generality of the foregoing, affixed carpeting (including replacement or additional carpeting under (i) or (ii) above) shall not be removed and replaced with hard surface flooring without the consent of the Board of Directors. In connection with any proposed change to floor covering, the Board of Directors may require that the Owner of the Unit for which the change is proposed provide, at such Owner's expense, an analysis by an acoustic engineer or such other information as the Board of Directors may require. Any change may be granted or refused in the discretion of the Board of Directors.

6.20. Smoking. There shall be no smoking in common areas within any buildings or outdoors within twenty five feet of any building.

6.21. Rules. The Board of Directors may from time to time make and amend rules and regulations to implement the foregoing or to otherwise manage the Common Interest Community.

6.22. Pest Control and Mitigation. Notwithstanding the Association responsibility for maintenance of Common Elements, each Owner shall, with respect to the exterior walls, roofs, eaves, and other Common Areas or Common Elements, including limited common elements, immediately exterior to or adjacent to such Owner's Unit (i) take reasonable steps to mitigate, control or reduce bird, insect, animal or other pests (including pigeons and other birds, rodents, raccoons, bees, wasps and spiders) (ii) take reasonable steps to eliminate nests, hives, burrows and other structures or areas in which such pests may use and (iii) make reasonable efforts to

clean up feathers, defecation or other accumulations relating to such pests. Any such Owner shall notify the Association in writing in the event, despite and after such reasonable efforts, such pests appear to be having a detrimental effect on the Common Areas or Common Elements.

6.23 Sound Transmission Issues. The Board may regulate and control the type, loudness, manner of fixation, insulation and other aspects of sound generating equipment, including stereos, televisions and other devices to control the extent of sound transmission.

ARTICLE SEVEN: INSURANCE

7.1 Association Insurance. The Association shall maintain the following types of insurance coverage on the Common Elements to the extent reasonably available and at a reasonable cost:

(a) Property Insurance. The Association shall obtain and maintain comprehensive, "special form/open peril" form policy of hazard insurance with extended coverage, vandalism, malicious mischief, windstorm, sprinkler leakage (if applicable), debris removal, and cost of demolition insuring all the insurable improvements located on the Common Elements that are not part of the Units including one hundred percent (100%) of the current replacement cost of all insurable improvements in the Common Elements and personal property owned by the Association less applicable deductibles at the time the insurance is purchased and at each renewal date. The property insurance policy shall also contain the following endorsements or their equivalent, if applicable and if available at a reasonable cost: No Control Endorsement, Contingent Liability from Operation of Building Laws or Codes Endorsement, Cost of Demolition Endorsement, Increased Cost of Construction Endorsement) Agreed Amount Endorsement, and Inflation Guard Endorsement.

The Units and their contents are to be covered and insured by the Owner's insurance.

The Board of Directors shall, consistent with good business practices and at reasonable intervals, obtain a written appraisal for insurance purposes, showing that the insurance represents one hundred percent (100%) of the current replacement cost for all insurable improvements located on the Common Elements that are not part of the Units, together with any personal property owned by the Association.

(b) Comprehensive General Liability Insurance. The Association shall obtain and maintain comprehensive general liability insurance against claims and liabilities arising in connection with the ownership, existence, use, or management of the Common Elements and the Association (including eviction, libel, slander, false arrest and invasion of privacy) insuring the Board, the Association, the Managing Agent, and their respective employees, agents, and all persons acting on their behalf.

The Owners shall be included as additional insureds but only for claims and liabilities arising in connection with the ownership, existence, use or management of the Common Elements. Declarant shall be included as an additional insured in Declarant's capacity as an Owner and Board member, as applicable. The insurance shall cover claims of one or more insured parties against other insured parties and shall include coverage for, without limitation, the legal liability of the insureds for property damage, bodily injuries and deaths of persons that result from the operation, maintenance or use of the Common Elements and the legal liability arising out of lawsuits relating to employment contracts in which the Association is a party.

Reasonable amounts of "umbrella" liability insurance in excess of the primary limits may also be obtained.

(c) Fidelity Insurance. The Association shall obtain and maintain, to the extent reasonably available, comprehensive fidelity insurance coverage or fidelity bonds for Owners and the Association, including officers or employees who handle or are responsible for funds held or administered by the Association. The insurance shall name the Association as insured, and shall contain waivers of any defense based upon the exclusion of persons who serve without compensation from any definition of "employee" or similar expression.

The fidelity insurance policy should cover the maximum funds (including Reserve Funds) that will be in the custody of the Association or its management agent at any time while the policy is in force; provided however, in any event the aggregate amount of such insurance shall be not less than three (3) months aggregate Assessments on all Units, plus Reserve Funds. The Association may carry fidelity insurance in amounts greater than required above.

In the event the Association has delegated some or all of its responsibility for the handling of funds to a Managing Agent, the Association may require the Managing Agent to purchase, at its own expense, a policy of fidelity insurance or bond that fully complies with the provisions of this subsection.

(d) Worker's Compensation Insurance. If the Association has employees, the Association shall obtain and maintain worker's compensation or similar insurance with respect to its employees in the amount and form as may now or hereafter be required by law.

(e) Special Flood Hazard Insurance. If the area where the Condominium Community is located has been identified by the Secretary of Housing and Urban Development (HUD) or the Director of the Federal Emergency Management Agency (FEMA) as a Special Flood Hazard Area, flood insurance that covers the Common Elements shall be maintained providing coverage equivalent to that provided under the National Flood Insurance Program in an amount of one hundred percent (100%) of the current replacement cost of the improvements on the Common Elements. If the Condominium Community at the time of the recording of this Declaration is not identified as a Special Flood Hazard Area but becomes reclassified at a later date as such, the Board of Directors shall obtain flood insurance that covers the Common Elements in accordance with the above. Conversely, flood insurance may be discontinued if the Condominium Community is reclassified out of the Special Flood Hazard Area.

(f) Officer and Director Liability Insurance. The Association shall obtain and maintain directors and officers liability insurance for errors and omissions on all directors and officers including non-monetary and monetary claims coverage to be written in an amount that the Board of Directors deems adequate.

(g) Other Insurance. The Association may obtain and maintain any other insurance that the Board of Directors considers appropriate and prudent to protect the Association, the Owners and the Common Elements.

7.2 Insurance Policy Provisions. All policies carried by the Association shall, to the extent reasonably available at a reasonable cost, comply with the requirements of this paragraph 7.2.

Insurance shall be carried in blanket policy form naming the Association as insured, or its designee as trustee and attorney-in-fact for all Owners, and naming each Owner as an insured person under the policies with respect to liability arising out of any Owner's membership in the Association or their ownership, existence, use or management of the Common Elements.

The Association shall make available for review a certified copy or duplicate original of such policy or renewal thereof, with proof of premium payment and a certificate identifying the interest of the Owner in question, to any party in interest, including a Security Interest holder, upon request. The policies shall also contain waivers of subrogation against the Declarant, the Association, the Board, the Managing Agent or the Owners and members of their households, their respective agents, employees and Guests.

All policies shall contain waivers of any defense based on invalidity arising from any acts or neglect of an Owner where the Owner is not under the control of the Association. All policies must provide that no assessment may be made against a First Mortgagee, its successors or assigns and that any assessment made against others shall not become a lien on a Unit superior to the lien of a First Mortgagee.

All policies of insurance shall be written by reputable companies duly authorized and licensed to do business in the State of Colorado with an A.M. Best's rating of "B+" or better if reasonably available, or, if not reasonably available, the most nearly equivalent rating.

All insurance policies shall contain a standard mortgagee clause or equivalent endorsement (without contribution) naming the First Mortgagee(s) and their successors and assigns as additional insureds in the policy (but only to the extent a First Mortgagee has a Security Interest in any of the Common Elements insured by the Association).

All policies shall not be canceled, invalidated or suspended due to the conduct of any Owner, their Guests or any Member, officer or employee of the Board of Directors or the Managing Agent without a prior demand in writing that the Board or the Managing Agent to abate or cure the conduct complained of and the conduct shall not have abated or been cured within forty-five (45) days after the demand is issued.

The policies shall also provide that any "no other insurance" clause expressly excludes individual Owners' policies from its operation so that the property insurance policy purchased by the Board of Directors shall be deemed primary coverage and any individual Owners' policies shall be deemed excess coverage, and in no event shall the insurance coverage obtained and maintained by the Board of Directors provide for or be brought into contribution with insurance purchased by a individual Owners or their First Mortgagees, unless otherwise required by law.

The insurance described in Paragraphs 7.1 and 7.2 shall be carried naming the Association as the owner and beneficiary thereof for the use and benefit of the Association and provide that all claims are to be settled on a replacement cost basis.

The deductible, if any, on an insurance policy shall be as the Directors determine to be consistent with good business practice and which shall be consistent with the requirements of the First Mortgagees. Any loss falling within the deductible portion of a policy shall be paid by the Association, provided that the Board shall have the authority to levy, after Notice and Hearing,

against Owners causing a loss to the Association for the reimbursement of all deductibles paid by the Association as an Individual Assessment in accordance with the terms hereof. Funds to cover the deductible amounts should be included in the Association's Reserve Funds and be so designated.

7.3 Insurance to be Maintained by Owners. EACH OWNER SHALL PURCHASE AND MAINTAIN IN EFFECT A UNIT OWNER'S POLICY (HO-6 OR ITS EQUIVALENT) FOR ALL OF THE OWNER'S PERSONAL PROPERTY, FURNITURE, FURNISHINGS, EQUIPMENT, AND RELATED ITEMS, LOCATED WITHIN THE OWNER'S UNIT. THE POLICY SHALL ALSO INSURE ANY AND ALL IMPROVEMENTS MADE TO THE UNIT'S INTERIOR FINISHED SURFACES OF ITS PERIMETER WALLS, FLOORS AND CEILINGS BY THE CURRENT OWNER, TENANT OR GUEST, AND SHALL PROVIDE COMPREHENSIVE GENERAL LIABILITY COVERAGE IN THE MINIMUM AMOUNT OF COVERAGE OF NO LESS THAN \$1,000,000.00. EACH OWNER, EXCEPT FOR DECLARANT AND FIRST MORTGAGEES WHO HAVE BECOME OWNERS OF A NON-OWNER-OCCUPIED UNIT, SHALL PURCHASE AND MAINTAIN IN EFFECT A SUFFICIENT CONDOMINIUM UNIT OWNER'S RENTAL LIABILITY POLICY OR ITS EQUIVALENT WHICH SHALL ALSO INSURE ANY AND ALL IMPROVEMENTS MADE TO THE UNIT'S INTERIOR FINISHED SURFACES OF ITS PERIMETER WALLS, FLOORS AND CEILINGS BY THE CURRENT OWNER. THE ASSOCIATION DOES NOT PROVIDE SUCH COVERAGE IN ITS MASTER POLICIES. EACH UNIT OWNER'S POLICY SHALL INCLUDE COVERAGE TO PAY THE ASSOCIATION'S CONDOMINIUM INSURANCE DEDUCTIBLE AMOUNT IF A CLAIM ARISES WITHIN THE OWNER'S INDIVIDUAL UNIT THAT IS BELOW THE ASSOCIATION'S CONDOMINIUM INSURANCE DEDUCTIBLE AMOUNT.

In addition, an Owner may obtain such other additional insurance coverage on and in relation to the Owner's Unit as the Owner in the Owner's sole discretion shall deem desirable. Insurance obtained by an Owner shall not affect any insurance coverage obtained by the Association or cause the diminution or termination of the Association's insurance coverage or result in apportionment of insurance proceeds as between policies of insurance of the Association and the Owner. An Owner shall be liable to the Association for the amount of any diminution of insurance proceeds to the Association as a result of insurance coverage maintained by the Owner, and the Association shall be entitled to collect the amount of the diminution from the Owner as an Individual Assessment pursuant to Paragraph 5.4(b). Any insurance obtained by an Owner shall include a provision waiving the particular insurance company's right of subrogation against the Association and other Owners.

7.4 General Insurance Requirements. The cost of any insurance obtained by the Association shall be paid by the Owners as part of the Common Expense Assessment Liability pursuant to Paragraph 1.3. The Board of Directors shall review at least annually all of its insurance policies in order to insure that the coverages contained in the policies are sufficient.

The Board of Directors or management company engaged by the Board of Directors shall promptly furnish to each Owner and/or an Owner's First Mortgagee, if requested, written notice of the procurement of, changes in or termination of insurance coverages obtained on behalf of the Association.

following criteria are satisfied: (a) the Director or officer was acting within the scope of his or her duties; (b) the Director or officer was acting in good faith; and (c) the act or omission was not willful, wanton or grossly negligent.

13.14 Binding Effect. This ARTICLE THIRTEEN and the obligation to arbitrate shall be specifically enforceable under the applicable arbitration laws of the State of Colorado. The arbitration award shall be final and binding, and judgment may be entered on it in any court of competent jurisdiction in the County to the fullest extent permitted under the laws of the State of Colorado.

13.15 Utilization of Funds Resulting from the Cause of Action. In the event the Association receives funds as a result of any settlement, mediation, arbitration or judgment based on a cause of action, after payment of fees and costs incurred in connection with prosecution of such action, the Association shall: (a) deposit the proceeds in a special, interest-bearing account; and (b) utilize the proceeds only for the purpose of performing remedial or repair work on the conditions which were the subject of the Claim or otherwise for purposes of remedying the Claim.

13.16 Exclusive Remedy. The provisions contained in this Article shall be the sole and exclusive remedy that the Association and other Parties shall have against Declarant or any Party as defined above for any Claim. Should any Party commence litigation or any other action against any other Party, in violation of the terms of this Article, such Party shall reimburse the costs and expenses, including attorney's fees, incurred by the other Party seeking dismissal of such litigation or action.

13.17 Amendment. This ARTICLE THIRTEEN shall not be amended unless such amendment is approved by a majority of the Board of Directors and Owners to whom at least sixty-seven percent (67%) of the votes in the Association are allocated.

ARTICLE FOURTEEN: DURATION, AMENDMENT, AND TERMINATION OF THE DECLARATION

14.1 Duration. The covenants, conditions, and restrictions of this Declaration shall run with and bind the land in perpetuity until this Declaration is terminated in accordance with Paragraph 14.7 below.

14.2 Amendments by Owners. Except in case of amendments that may be executed by the Board of Directors as provided herein or under applicable law or by the Declarant pursuant hereto, including ARTICLE TWELVE and Paragraph 14.3, and subject to Paragraphs 11.2, 11.3 and 14.5 hereof, the Owners shall have the right to amend the Declaration, the Map and the Articles, by the written approval of the Owners to which at least sixty-seven percent (67%) of the votes in the Association are allocated. In particular, any amendment to the Declaration, Map or Articles to (a) create or increase Declarant Rights; (b) increase the number of Units; (c) change the uses to which a Unit is restricted; or (d) change the Allocated Interests of a Unit shall require the written approval of the Owners to which at least sixty-seven percent (67%) of the votes in the Association are allocated, including at least sixty-seven percent (67%) of the votes allocated to

Units not owned by Declarant. Amendments may be made by the Board of Directors pursuant to Paragraphs 1.36 and 8.5 and by Declarant pursuant to ARTICLE TWELVE and Paragraph 14.3.

Notwithstanding any other provisions set forth in this Declaration, there shall be no reallocation of interests in a Limited Common Element that is appurtenant to a Unit or redefinition of Unit boundaries without the prior written consent of the Owner of the Unit affected.

Any amendment to the Declaration shall be effective upon the recording of the amendment together with a notarized certificate of an officer of the Association certifying that the requisite number of Owners and Eligible Mortgagees, if required, have given their written consent to the amendment. The officer shall further certify that originals of the written consents by Owners and Eligible Mortgagees, as applicable, along with the recorded amendment, are in the records of the Association and available for inspection. Each amendment to the Declaration must be recorded in the Office of the Clerk and Recorder of Boulder County, Colorado. Signatures of Owners on the amendment or written consent need not be notarized.

Amendments may be executed in counterparts, provided that the recorded document shall also contain a certification of the Secretary of the Association that all counterparts, as executed, are part of the whole. All signatures on any amendment or written consent shall be irrevocable even upon the death of an Owner or the conveyance of the Unit, except that if an amendment is not recorded within three (3) years of the date of signature, then the executing Owner or their successor or assigns may revoke their signature by a written and notarized document delivered to the Secretary of the Association.

No action shall be commenced or maintained to challenge the validity of any aspect of any amendment of the Association's Declaration, Articles or Bylaws unless it is commenced within one (1) year from the date of the recording of the amendment, unless fraud or willful misconduct is asserted and proven.

14.3 Amendments by Declarant. Declarant reserves the right to amend, without the consent of Owners or First Mortgagees this Declaration, the Map, the Articles and the Bylaws, any time within the limitations set forth in Paragraph 10.3 hereof, as follows:

- (a) to make nonmaterial changes, such as the correction of a technical, clerical, grammatical or typographical error or clarification of a statement;
- (b) to comply with any requirements of any of the Agencies or to induce any of the Agencies to make, purchase, sell, insure, or guarantee First Mortgagees; or
- (c) to comply with any requirements of the Act or governmental authorities.

The foregoing power shall include a right to correct any error in calculating or setting forth the square footage of a Unit for purposes of Article 1.4. The amendments cannot impair the lien of a First Mortgagee or any warranties made to any First Mortgagee prior to the amendment.

14.4 Consent of Eligible Mortgagees Required. Amendments may be subject to the consent requirements of Eligible Mortgagees as more fully set forth in ARTICLE ELEVEN hereof.

14.5 Consent of Declarant Required. During the Period of Declarant Control, and as long as Declarant has any rights or obligations under or pursuant to this Declaration or any of the other Project Documents, any proposed amendment of any provision of this Declaration shall require Declarant's written consent to such amendment. Any amendment made without Declarant's written consent as required herein shall be null and void and shall have no effect.

14.6 FHA/VA Approval. If the Community has been or may be approved by the Federal Housing Administration and/or the Veterans Administration, then until the termination of the Period of Declarant Control in accordance with Paragraph 4.7 hereof, the following actions will require the prior approval of the Federal Housing Administration and/or the Veterans Administration: annexation of additional properties, except as provided for in ARTICLE TWELVE hereof, amendment of this Declaration, amendment to the Association's Bylaws and the Assessment of a Special Assessment.

14.7 Termination. The Community may be terminated only in accordance with Paragraphs 11.2(c) and (d) hereof. The proceeds of any sale of real estate together with the assets of the Association shall be held by the Board of Directors as trustee for Owners and holders of Security Interests on the Units as their interests may appear as more fully set forth in § 38-33.3-218 of the Act.

ARTICLE FIFTEEN: GENERAL PROVISIONS

15.1 Right of Action. Subject to the provisions of ARTICLE THIRTEEN hereof, the Association and any aggrieved Owner shall have an appropriate right of action against Owners for failure to comply with the Declaration, the Bylaws, the Articles of Incorporation and the Rules of the Association or with decisions of the Board of Directors. Owners shall have a similar right of action against the Association.

15.2 Successors and Assigns. This Declaration shall be binding on and shall inure to the benefit of the Declarant, the Association, and each Owner, and the heirs, personal representatives, successors and assigns of each of them.

15.3 Severability. If any part of any provision of this Declaration shall be invalid or unenforceable under applicable law, the part shall be ineffective to the extent such invalidity or unenforceability only, without in any way affecting the remaining parts of the provision or the remaining provisions of this Declaration.

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

15.5 Registration by Owner of Mailing Address. Each Owner shall register his or her mailing address with the Association, and except for monthly statements and other routine notices, which

The Board of Directors shall not obtain any policy where under the terms of the insurance company's charter, bylaws, or policy: (1) contributions or assessments may be made against the Association, Owners or First Mortgage; (2) loss payments are contingent upon action by the carrier's board of directors, policyholders or members; or (3) the policy includes any limiting clauses (other than insurance conditions) which could prevent Owners or First Mortgagees from collecting insurance proceeds.

7.5 Insurance Proceeds. Any loss covered by the policies carried by the Association under this ARTICLE SEVEN shall be adjusted exclusively by the Board of Directors. The insurance proceeds for any loss shall be payable to any insurance trustee designated for that purpose, or otherwise to the Association, and not to any holder of a Security Interest. The insurance trustee or the Association shall hold any insurance proceeds in trust for the Owners and First Mortgagees as their interests may appear. Subject to the provisions of Paragraph 7.8 below, the proceeds must be disbursed first for the repair or restoration of the damaged property. The Association, Owners and First Mortgagees are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the damaged property has been completely repaired or restored or the regime created by this Declaration is terminated. The Association or the insurance trustee shall hold and apply any insurance proceeds to fulfill the Association's obligations and responsibilities to maintain, repair, and reconstruct the Common Elements in accordance with this Declaration. The proceeds shall be disbursed first for the repair or restoration of the damaged Common Elements.

7.6 Association Policies for Reimbursement. The Association may adopt and establish written nondiscriminatory 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 claims for damages to the property, it shall have the authority to assess negligent or responsible Owners causing such loss or benefiting from such repair or restoration all or any equitable portion of the deductibles and any premium increase paid by the Association.

7.7 Insurer's Obligation. An insurer that has issued an insurance policy described in this ARTICLE SEVEN shall issue certificates or memoranda of insurance to the Association and, on request, to any Owner or Mortgagee. Unless otherwise provided by statute, the insurer issuing the policy may not cancel or refuse to renew it until thirty (30) days after notice of the proposed cancellation or refusal to renew has been mailed to the Association by certified mail (return receipt requested) and to each Owner and Mortgagee to whom a certificate or memorandum of insurance has been issued at their respective last-known addresses by certified mail (return receipt requested).

7.8 Repair and Replacement with Insurance Proceeds. Any portion of the Common Elements for which insurance is required under this ARTICLE SEVEN that is damaged or destroyed must be repaired or replaced promptly by the Association unless:

- (a) The Condominium Community regime created by this Declaration is terminated;
- (b) Repair or replacement would be illegal under any applicable state or local statute or ordinance governing health or safety;

- (c) The Owners to whom at least eighty percent (80%) of the votes in the Association are allocated agree in writing not to rebuild; or
- (d) Prior to the conveyance of any Unit to a person other than Declarant, a lien holder having a Security Interest on the damaged portion of the Common Elements rightfully demands all or a substantial part of the insurance proceeds.

The cost of repair or replacement in excess of insurance proceeds and reserves is a Common Expense. All insurance proceeds attributable to the damaged Common Elements will be used to restore the damaged areas to a condition compatible with the remainder of the Condominium Community. If additional insurance proceeds are available, the insurance proceeds will be distributed to all the Owners or Eligible Mortgagees in proportion to their respective ownership interests in the Common Elements.

7.9 Decision Not to Utilize Insurance. The Board may determine not to file an insurance claim where (i) the amount of the damage is less than \$15,000 (increased hereafter to reflect increases in the CPI after the date hereof) or (i) the amount of the damage is such that the benefits of the net insurance recovery after payment of the deductible will be outweighed, in the reasonable judgment of the Board, by the affect of such claim on the ability of the Association to procure insurance at a reasonable cost. In such circumstances, the Board may determine (i) to pay the loss through assessments or reserves (ii) to seek recovery against any responsible person, including an Owner or occupant of a Unit, whose breach, negligence or omission has resulted in the loss; (iii) to pursue any other remedy at law or in equity; or (iv) to use any combination of the foregoing.

ARTICLE EIGHT: REPAIR AND RECONSTRUCTION ON DAMAGE OR DESTRUCTION AND CONDEMNATION

- 8.1 Duty to Repair and Reconstruct. Any portion of the Common Elements covered by insurance carried by the Association that is damaged or destroyed must be repaired or reconstructed promptly by the Board of Directors, subject to the provisions of § 38-33.3-313 of the Declaration.
- 8.2 Plans. The Common Elements shall be repaired and restored in accordance with the original plans and specifications or other plans and specifications that have been approved by the Board of Directors.
- 8.3 Repair and Reconstruction by the Association. The Board of Directors or their agents, as their attorney-in-fact, shall represent the Owners in all proceedings, negotiations and agreements with insurance companies for the settlement of any insurance claim for any part of the damaged Common Elements.
- All insurance proceeds shall be payable to the Association as attorney-in-fact to be held in trust for the use and benefit of the Owners and the holders of their Security Interests as they may appear. No Owner or any other party shall be entitled to priority over First Mortgagees with respect to any distribution of insurance proceeds.

If the insurance proceeds with respect to the damage or destruction are insufficient to repair and reconstruct the damage, the Board of Directors shall levy an Individual Assessment in the aggregate amount of the insufficiency pursuant to Paragraph 5.4(b) hereof, and shall proceed to make such repairs or reconstruction. The amount of each Owner's Individual Assessment shall be such Owner's Common Expense Assessment Liability determined in accordance with Paragraph 1.4(b) hereof.

8.4 Repair and Reconstruction of Units. If due to casualty or for any other reason a Unit is so damaged that the Unit is no longer habitable, the Board of Directors, with the advice and consultation of the Owner of the damaged Unit, shall proceed promptly and in good faith to settle the insurance claim with the insurance companies responsible for paying the claims. The Owner of the Unit shall, within a reasonable time not to exceed one-hundred twenty (120) days after the event resulting in the damage and subject to the availability of insurance proceeds from and/or through the Association, either commence and diligently pursue repair or reconstruction of the Unit or demolish the Unit. All repair and reconstruction shall be in accordance with plans approved by the Board of Directors in the event the plans and specifications differ from the original approved plans and specifications.

Demolition of a Unit shall include removal of any foundation slab, basement walls and floors, regrading to a level condition and the installation of landscaping as may be required by the Board of Directors pursuant to a plan submitted to the Board of Directors by the Owner of the Unit.

If an Owner does not commence repair, reconstruction or demolition activities within a reasonable time as provided hereinabove and does not diligently pursue the same in conformance with plans approved by the Board of Directors, then the Association may, in its reasonable discretion, after providing the Notice and Hearing, enter and demolish the balance of the Unit and landscape the area in conformance with approved plans. The cost related to such demolition and landscaping shall be levied against the Owner as an Individual Assessment in accordance with Paragraph 5.4(b) hereof, but only to the extent those costs are not covered by insurance proceeds available to the Association.

8.5 Condemnation. The Board of Directors shall represent the Owners as their attorney-in-fact in any negotiations, settlements and/or agreements with the condemning authorities for the condemnation of any part of the Common Elements or Limited Common Elements. An Owner together with the Board of Directors shall participate in any negotiations, settlements and/or agreements with the condemning authorities for the condemnation of any part of an Owner's Unit.

All compensation, damage, or other proceeds paid by a condemning authority for condemnation of any part of the Common Elements or Limited Common Elements shall be payable to the Association as attorney-in-fact to be held in trust for the use and benefit of the Owners and holders of their Security Interests as their interests may appear. All compensation, damage, or other proceeds paid by a condemning authority for condemnation of a Unit or any part thereof shall be payable to the Owner of the Unit which is taken by the condemning

authority. No Owner or any other party shall be entitled to priority over First Mortgagees with respect to any distribution of any condemnation proceeds.

Upon the complete condemnation of a Unit, all of the allocated interests of that Unit shall be reallocated as if that Unit did not exist and the Board of Directors shall promptly prepare, execute and record an amendment to this Declaration reflecting the reallocations without the necessity of the consent thereto or joinder therein by the Owners or First Mortgagees.

ARTICLE NINE: MAINTENANCE, REPAIR AND RECONSTRUCTION

9.1 By the Association. The Association shall provide for the repair, maintenance and/or reconstruction of all of the Common Elements including the Limited Common Elements (except as provided in Paragraphs 9.2 and 9.4 herein) and shall keep the same attractive, clean, functional and in good repair and may make necessary or desirable alterations or improvements thereon or thereto or replacements thereof as necessary.

The obligation to repair, maintain or reconstruct the Limited Common Elements shall pertain to Limited Common Elements that were constructed as a part of the original construction of the Community. Any change or upgrade to a Limited Common Element from that of the original construction shall be repaired, maintained or reconstructed at the Owner's sole expense and responsibility unless the Board of Directors assumes in writing the duty to repair, maintain or reconstruct.

The maintenance obligation on the part of the Association shall apply to the maintenance required by ordinary wear and tear and shall not apply to maintenance, repair and/or reconstruction resulting from the act, omission, neglect or destruction by an Owner or such Owner's Guests.

In the event any repair, maintenance and/or reconstruction results from the act, neglect, omission or destruction by an Owner or the Owner's Guests, the Board of Directors shall have the right to charge the costs of the repair, maintenance and/or replacement, to the Owner by an Individual Assessment in accordance with Paragraph 5.4(b) hereof.

Determination of whether the repair, maintenance and/or reconstruction is the obligation of the Association and the determination of when, the magnitude and the manner of the above described maintenance, repair and/or reconstruction shall rest solely with the Board of Directors, that will also have the sole responsibility for determining the kind and type of materials used in such repair and maintenance.

Determination with respect to whether or not a particular activity or occurrence shall constitute a violation of this Paragraph 9.1 shall be made by the Board of Directors and shall be final.

9.2 By the Owner. An Owner shall be responsible for all maintenance and repairs to any and all parts of his or her Unit. An Owner shall keep his or her Unit, including the entire interior and exterior, in good order, condition and repair and in a clean and neat condition. An Owner shall

do all interior redecorating and interior painting, as necessary from time to time, to maintain the good appearance and condition the interior and the exterior of the Owner's Unit. An Owner shall keep the Limited Common Elements appurtenant to his or her Unit in a clean and neat condition.

In addition, an Owner shall be responsible for all damage to any other Units or to the Common Elements including the Limited Common Elements resulting from his or her failure or negligence in making any of the repairs required by this Paragraph 9.2. An Owner shall perform his or her responsibility in such manner as shall not unreasonably disturb or interfere with the other Owners. An Owner shall promptly report to the Board of Directors any defect or need for repairs for which the Association is responsible.

9.3 Manner of Repair and Replacement. All repairs and replacements shall be substantially similar to the original construction and installation and shall be of first-class quality, but may be done with contemporary building materials and equipment.

9.4 Additions, Alterations, Improvements, and Replacements by the Unit Owners (Architectural Control). No Owner shall make any Improvements, structural additions, or alterations to his or her Unit, including paint or in any way altering the exterior of his or her Unit, including the doors, windows and light fixtures, or change the drainage pattern around the Unit from that established by the Declarant, without the prior written consent of the Board of Directors and the consent of the City of Boulder.

The Board of Directors shall respond to any request within a reasonable time. The Board of Directors may promulgate Rules to implement the provisions of this Paragraph, which Rules may provide for the payment of a fee to accompany each request for approval hereunder. The Owner applying for approval hereunder shall be responsible to apply for all permits and approvals required by the City and/or County.

9.5 Maintenance of Approved Exterior Modifications. In the event an Owner constructs an approved exterior modification to his or her Unit, the expense of repair, maintenance and reconstruction of the exterior modification shall be the responsibility of the Owner. As part of the design review process, an agreement shall be entered into between the Owner and the Board of Directors to reflect this responsibility that shall be recorded. In the event the exterior modification is not properly repaired, maintained or reconstructed by the Owner of the Unit, the Board of Directors, after Notice and Hearing, shall have the right to perform the work as is reasonably required to restore the exterior modification to a condition of good order and repair and charge the cost thereof to the Owner as an Individual Assessment in accordance with Paragraph 5.4(b) hereof.

9.6 Schedule of Maintenance Responsibilities. Notwithstanding the general provisions for maintenance and repair set forth above, specific maintenance and repair responsibilities and the costs attributable thereto shall, to the extent set forth thereon, be determined pursuant to the Schedule of Maintenance and Repair Responsibilities as shown on the attached Exhibit E.

ARTICLE TEN: DECLARANT RIGHTS

10.1 Reservation. The Declarant reserves the following Declarant Rights that may be exercised, where applicable, anywhere within the Community:

- (a) To complete the improvements as planned;
- (b) To exercise any Declarant Rights reserved or described herein;
- (c) To maintain business/sales offices, management offices, storage areas, nursery, construction yard, signs, advertising and model Units and to conduct general sales activities;
- (d) To post and maintain signs, displays and advertising on the Common Elements to advertise the Community and to promote sales of the Units;
- (e) To expand, without in any way being bound, the Community in Phases from time to time, by adding additional Units to the Community in accordance with this ARTICLE TEN and ARTICLE TWELVE hereof;
- (f) To have and use and to permit others to have and use easements through the Common Elements as may be reasonably necessary for construction within the Community, and for the purpose of discharging Declarant's obligations under the Act and this Declaration;
- (g) To merge or consolidate the Community with another Community;
- (h) To amend the Declaration and/or the Map in connection with the exercise of any Declarant Rights or to correct minor or technical errors or omissions; and
- (i) To exercise any other Declarant Rights created by any other provisions of this Declaration.

10.2 Rights Transferable. Declarant Rights reserved or described herein for the benefit of Declarant may be transferred to any Person by an instrument describing the Declarant Rights transferred and recorded in the Office of the Clerk and Recorder of Boulder County, Colorado. The instrument shall be executed by the transferor Declarant and the transferee.

10.3 Limitations. The Declarant Rights shall terminate at the option of the Declarant by its written notice to the Secretary of the Association, but in any event the Declarant Rights shall terminate without further act or deed seven (7) years after recording of this Declaration. Earlier termination of certain rights may occur by statute.

Declarant shall have a right to create in one or more phases the maximum number of Units allowed by any governmental entity having jurisdiction over the Community, pursuant to any development plan for the Community. Declarant shall not be obligated to expand the Community beyond the number of Units initially submitted to this Declaration. Declarant's Rights of development shall be exercised in phases and on those proportions of the real estate shown on the final Map.

In the event that the process of entitlement for the Declarant to obtain building permits is delayed or placed on "hold" (e.g., moratorium, anti-growth legislation, etc.) for reasons beyond the control of the Declarant, the time limitations set forth herein shall be extended until the impediment to entitlement is removed.

10.4 Interference with Declarant Rights. The Association or any Owner may not take any action or adopt any rule that will interfere with or diminish any Declarant Rights without the prior written consent of the Declarant.

10.5 Use by Declarant. The exercise of any Declarant Right by Declarant shall not unreasonably interfere with the access, enjoyment or use of any Unit by any Owner, access, enjoyment or use of the Common Elements or in a manner that might be unsafe, unhealthy, or hazardous to any person.

10.6 Models, Sales Offices and Management Offices. Declarant, its duly authorized agents, representatives, and employees may maintain any Units owned or leased by the Declarant as model Units, or as a sales, leasing and/or management office (and may locate one or more sales trailers within the Community for any of such purposes).

10.7 Declarant's Easements. The Declarant reserves the right to perform warranty work, repairs and construction work on Units and Common Elements, to store materials in secure areas, and to control and have the right of access to work and repair until completion and reserves easements on, over, in, under and through the Units and Common Elements for such purposes. All work may be performed by the Declarant without the consent or approval of the Board of Directors.

The Declarant reserves an easement on, over, in, under and through the Common Elements as may be reasonably necessary for the purpose of discharging the Declarant's obligations or exercising Declarant Rights, whether arising under the Act or reserved herein. These easements shall be for the benefit of Declarant and its duly authorized agents, representatives, employees and contractors.

Notwithstanding any other provision of this Declaration, the easements reserved herein shall remain in effect for the benefit of Declarant until the termination of all applicable warranty periods with respect to any particular Unit, Common Element or improvement thereto.

10.8 Signs and Marketing. The Declarant reserves the right for Declarant and its duly authorized agents, representatives, employees and contractors to post signs and advertising in the Common Elements in order to promote sales of Units. Declarant also reserves the right for Declarant to conduct general sales activities in a manner that will not unreasonably disturb the rights of Owners.

10.9 Other Reserved Rights. The Declarant Rights reserved in this ARTICLE TEN are in addition to all other rights reserved by or granted to Declarant in this Declaration or by the Act.

10.10 Exercise of Declarant Rights. The exercise of any or all of the Declarant Rights shall be at the sole option and discretion of Declarant. Except as set forth expressly herein, no other

assurances are made with regard to the reserved development rights. If any development rights are exercised in any portion of the real estate subject to development rights, Declarant shall have no obligation to exercise such development rights in all or any portion of the remainder of that real estate.

On exercise of any of the development right reserved herein, Declarant shall comply with § 38-33.3-209 and § 38-33.3-210(1) of the Act pertaining to the preparation, execution and recordation of the amendments to the Declaration and the Map. Accordingly, Declarant shall have the unrestricted right to amend the Declaration and the Map in order to exercise the Declarant Rights. Notwithstanding anything in this Declaration to the contrary, no consent or agreement of, or notice to, the Owners or any Eligible Mortgagee shall be required in order to allow Declarant to exercise any of its Declarant Rights, provided such exercise otherwise complies with the applicable provisions of this Declaration.

10.11 Declarant's Personal Property. The Declarant reserves the right to retain all personal property and equipment used in the sales, management and construction, and maintenance of the Units and the Common Elements that have not be represented as property of the Association. The Declarant reserves the right to remove from the Community any and all goods and improvements used in development, marketing and construction, whether or not they have become fixtures, on completion of the development and sales of all Units That May Be Created.

ARTICLE ELEVEN: FIRST MORTGAGEE PROVISIONS

The following provisions are for the benefit of holders, insurers, or guarantors of holders of first deeds of trusts or mortgages recorded against Units within the Community who qualify as Eligible Mortgagees as defined by Paragraph 1.25 hereof. To the extent applicable, necessary, or proper, the provisions of this ARTICLE ELEVEN apply to this Declaration and to the Articles and Bylaws of the Association.

11.1 Notices of Action. Upon written notice and request, an Eligible Mortgagee shall be entitled to timely written notice of:

- (a) any material condemnation loss or any casualty loss which affects a material portion of the Community or any Unit in which there is a first mortgage held, insured, or guaranteed by such Eligible Mortgagee;
- (b) any sixty (60) day delinquency in the payment of Assessments or charges owed by an Owner of any Unit on which an Eligible Mortgagee holds a Security Interest;
- (c) any lapse, cancellation, or material modification of any mandatory insurance policy or fidelity bond maintained by the Association;
- (d) any proposed action which would require the consent of a specified percentage of Eligible Mortgagees; and
- (e) any material judgment rendered against the Association.

11.2 Amendment to Documents/Special Approvals.

(a) The consent of Owners to which at least sixty-seven percent (67%) of the votes in the Association are allocated and consent of fifty-one percent (51%) of the Eligible Mortgagees shall be required to add to or amend any material provisions of this Declaration or the Articles or Bylaws of the Association. A change to any of the following would be considered material:

- (i) voting rights;
- (ii) increases in the Common Expense Assessment by more than thirty-five percent (35%) over the previously levied Common Expense Assessment, Assessment Liens, or the priority of the Assessment Liens;
- (iii) reduction in the reserves for maintenance, repair and replacement of the Common Elements;
- (iv) responsibility for maintenance and repairs;
- (v) redefinition of any Unit boundaries;
- (vi) convertibility of Units into Common Elements or vice versa;
- (vii) hazard or fidelity insurance requirements;
- (viii) imposition of any restrictions on the leasing of Units;
- (ix) imposition of any restrictions on a Unit Owner's right to sell or transfer his or her Unit (other than as set forth in this Declaration);
- (x) restoration or repair of the Community (after damage or partial condemnation) in a manner other than that specified in the Project Documents;
- (xi) any provision that expressly benefits mortgage holders, insurers or guarantors; or
- (xii) subject to the provisions of ARTICLE TWELVE, the reallocation of interests in the Common Elements or Limited Common Elements or rights to their use; or the expansion or contraction of the Community; or the addition, annexation or withdrawal of property to or from the Community.

(b) The Association may not take any of the following actions without the consent of Owners to which at least sixty-seven percent (67%) of the votes in the Association are allocated and the approval of at least fifty-one percent (51%) of the Eligible Mortgagees:

- (i) reconstruct or repair the Community after damage due to an insurable hazard or a partial condemnation in a manner other than specified in the Project Documents;
 - (ii) merge or consolidate the Community with any other Community. Such action shall also require the written approval from the Federal Housing Administration and/or the Veterans Administration if the Community has been or may be approved by such agencies;
 - (iii) not repair or reconstruct, in the event of substantial destruction, any part of the Common Elements; or
 - (iv) alter any partition or create any aperture between adjoining Units (when Unit boundaries are not otherwise being affected), for which only the owners of Units affected and Eligible Mortgagees of those Units need approve the action.
- (c) Any action to terminate the legal status of the Community after substantial destruction or condemnation occurs must be agreed to by Owners to which at least eighty percent (80%) of the votes in the Association are allocated, and by fifty-one percent (51%) of the Eligible Mortgagees.
- (d) Any action to terminate the legal status of the Community for reasons other than substantial destruction or condemnation must be agreed to by Owners to which at least eighty percent (80%) of the votes in the Association are allocated, and by sixty-seven percent (67%) of the Eligible Mortgagees.

11.3 Special FHLMC Provisions. Except as provided by statute or in case of a condemnation or a substantial loss to the Units and/or Common Elements, and unless the consent of sixty-seven percent (67%) of the Eligible Mortgagees or Owners (other than Declarant) have given their prior written approval, the Association may not:

- (a) by act or omission seek to abandon or terminate the Community;
- (b) subject to the provisions of ARTICLE TWELVE hereof, change the pro rata interest or obligations of any Unit in order to levy Assessments, allocate distribution of hazard insurance proceeds or condemnation awards or determine the pro rata share of ownership of each Unit in the Common Elements;
- (c) partition or subdivide any Unit;
- (d) seek to abandon, partition, subdivide, encumber, sell or transfer the Common Elements by act or omission; or
- (e) use hazard insurance proceeds for losses to any condominium property (whether Units or Common Elements) for other than the repair, replacement or reconstruction of the condominium property.

The granting of easements for public utilities or other purposes consistent with the intended use of the Common Elements or as otherwise provided in Paragraph 3.1(b) is not a transfer within the meaning of this Paragraph 11.3(d) above.

11.4 Implied Approval. Implied approval by an Eligible Mortgagee shall be assumed when an Eligible Mortgagee fails to submit a response to any written proposal for an amendment or consent within sixty (60) days after the Eligible Mortgagee receives proper notice of the proposal, provided this notice was delivered by certified or registered mail with return receipt requested or as provided by law.

11.5 Books and Records. Owners and their mortgagees shall have the right to examine the books and records of the Association at the office of the Association in accordance with the procedure set forth in the Association's Bylaws.

ARTICLE TWELVE: EXPANSION

12.1 Reservation of Right to Expand. Declarant reserves the right (without in any way being bound) to enlarge the Community in Phases, without the necessity of the consent thereto or the joinder therein by the Owners or First Mortgagees, by preparing and recording from time to time a Supplemental Map and a Supplemental Declaration adding any of the real property to the Community described in Exhibit B attached hereto.

If the Community has been or may be approved by the Federal Housing Administration and/or the Veterans Administration, the addition, expansion or annexation must be according to a General Plan heretofore filed with and approved by the Federal Housing Administration or the Veterans Administration and the addition, expansion or annexation must be supported by the written consent of the Federal Housing Administration or the Veterans Administration, evidence of which may (but need not) be recorded.

12.2 Supplemental Declarations and Supplemental Condominium Maps. The expansion will be accomplished by the Declarant recording, in the Office of the Clerk and Recorder of Boulder County, Colorado, a supplement to this Declaration describing the additional Units to be added to the Community, together with a Supplemental Map. The expansion may be accomplished in stages or phases by successive supplements or in one supplemental expansion.

All future improvements will be consistent with the initial improvements in structure type and quality of construction and will be substantially completed prior to being brought into the Community.

12.3 Expansion of Definitions. In the event of the expansion, the definitions used in this Declaration shall be expanded automatically. For example, "Unit" shall mean the Condominium Units described herein plus any additional Units added by a Supplemental Declaration, and reference to this Declaration will mean this Declaration as supplemented. All conveyances of Units will be effective to transfer rights in the Community as expanded, without additional references to the Supplemental Declaration and the Supplemental Map.

12.4 Declaration Operative on New Properties. The additional Units added to the Community shall be subject to all the covenants, conditions, and restrictions of this Declaration as amended or supplemented, on the recording by the Declarant in the Office of the Clerk and Recorder of Boulder County, Colorado, of a Supplemental Declaration and Supplemental Map.

12.5 Interests on Enlargement. An Owner at the time of the Owner's purchase of a Unit that has been brought into the Community by a Supplemental Declaration shall be a Member of the Association. The Owner shall be entitled to the same voting privileges as those Owners of the initial property brought into the Community through the original Declaration and shall be subject to the same Assessments. The Assessments for that Phase shall commence for all Owners within that Phase including the Declarant on the recording of the Supplemental Declaration and Supplemental Map for that Phase.

Whenever any additional property is brought into the Community, the Common Expense Assessment Liability and Percentage Ownership Interest in the Common Elements of each Owner after such addition will change and will be reallocated by the Declarant in accordance with Paragraph 1.4 hereof.

The Supplemental Declaration recorded at the time of expansion will set forth the new Percentage Ownership Interest and the new Common Expense Assessment Liability of the existing Units and the newly added Units.

12.6 Taxes, Assessments and Other Liens. All taxes and other assessments then due and owing relating to the real property described in Exhibit A attached hereto covering any period of time prior to the addition of such property or any portion thereof to the Community will be paid or otherwise provided for by the Declarant to the satisfaction of all First Mortgagees.

Liens arising out of the construction of improvements in later Phases shall not extend into prior Phases and shall not adversely affect the rights of Owners or the priority of first mortgages and deeds of trust on any Unit constructed in a prior Phase.

12.7 Project Treated as a Whole. For all purposes hereof, each of the Phases of the Community after the recording of the Supplemental Map and Supplemental Declaration submitting each Phase to the Community, shall be treated as a part of the Community developed as a whole from the beginning, except to the extent expressly otherwise provided for herein. It is the express purpose hereof to provide that from and after the date of the submission of a Phase of the Community in accordance with the above, that such Phase shall be treated as though such Phase had been owned and occupied by the Owners thereof as a single undivided Community.

12.8 Termination of the Right of Expansion. The right of expansion will terminate at the option of the Declarant by its written notice to the Secretary of the Association, but in any event the right of expansion will terminate without further act or deed in accordance with the limitations set forth in Paragraph 10.3 hereof.

ARTICLE THIRTEEN: MANDATORY DISPUTE RESOLUTION

The provisions of ARTICLE THIRTEEN are not intended to waive or alter the applicability of C.R.S. § 13-20-801 *et seq.*, to any action brought by Owners or by the Association, as the term "action" is defined by C.R.S. § 13-20-802.5(1). It is intended that Owners and the Association fully comply with all applicable provisions of both (1) ARTICLE THIRTEEN and (2) C.R.S. § 13-20-801 *et seq.*

13.1 Statement of Clarification. Without modifying or restricting the scope of this Article and as a statement of clarification only, nothing contained in this Article is intended to prevent the parties from attempting to resolve any differences between them through the normal course of business and communications. It is only when the parties are unable to resolve their differences and they wish to proceed further through the assertion of a "claim" as defined herein, that the Mandatory Dispute Resolution provisions contained in this Article are activated.

13.2 Alternative Method for Resolving Disputes. Declarant, the Association, its officers and directors, all Owners, design professionals, builders including any of their subcontractors and suppliers; and any Person not otherwise subject to this Declaration but who agrees to submit to this Article (each of the foregoing being referred to as a "Party"), agree to encourage the amicable resolution of disputes involving the Community and all of its improvements without the emotional and financial costs of litigation. Accordingly, each Party covenants and agrees to submit all Claims each alleges to have to the procedures set forth in this ARTICLE THIRTEEN and not to a court of law.

13.3 Claims. Except as specifically excluded in Paragraph 13.4, a "Claim" is any claim, dispute and other controversy arising out of or in any way relating to:

- (a) any agreement or contract for sale and purchase of a Unit between Declarant and any Owner;
- (b) the Property (as defined in any such agreement or contract) or the Unit or any portion of the Common Elements;
- (c) the purchase of the Property or the Unit;
- (d) the interpretation, application or enforcement of this Declaration;
- (e) the soils of any property that lies within the Community;
- (f) land development, design and/or construction of the improvements within the Community and/or any alleged defect therein;
- (g) any rights, obligations and duties of any Party under this Declaration;
- (h) any Limited Warranty Agreement between Declarant and any Owner and/or the Association; and/or
- (i) any breach of any of the foregoing referenced documents.

Any claim shall be subject to and resolved by submitting the Claim to mediation and, if not resolved during mediation, shall be resolved by Mandatory Binding Arbitration all in accordance with this ARTICLE THIRTEEN of the Declaration and not in a court of law.

13.4 Claims Subject to Approval. Unless Declarant and Owners to whom at least sixty-seven percent (67%) of the votes in the Association are allocated agree to the contrary, the following shall not be Claims and shall not be subject to the provisions of this ARTICLE THIRTEEN:

(a) any suit by the Association against any Party to enforce the provisions of ARTICLE FIVE (Assessments);

(b) any suit by the Association or Declarant to obtain a temporary restraining order or injunction and such other ancillary relief as the court may deem necessary in order for the Association or Declarant to act under and enforce the provisions of ARTICLE SIX (Restrictive Covenants and Obligations);

(c) any suit by an Owner to challenge the actions of Declarant or the Association, or any other committee with respect to the enactment and application of standards or Rules; and

(d) any suit between or among Owners, which does not include Declarant or the Association as a party.

13.5 Notice of Claim. Any Party alleging a Claim ("Claimant") against any other Party ("Respondent") shall submit all of its Claims by written notification delivered to each Respondent, stating plainly and concisely:

(a) the nature of the Claim, including the Persons involved and the Respondent's role in the Claim;

(b) the legal or contractual basis of the Claim (i.e., the specific authority out of which the Claim arises); and

(c) the specific relief and/or proposed remedy sought.

13.6 Timely Initiation. All Claims shall be initiated by the Claimant within a reasonable time after the Claim has arisen, and in no event shall it be made after the date when institution of legal or equitable proceedings based on such Claim would be barred by the applicable statute of limitations or repose.

13.7 Right to be Heard. On receipt of a Claim and prior to the Association or any Owner asserting the Claim commencing any arbitration, judicial or administrative proceeding which may fall within the scope of this ARTICLE THIRTEEN, Declarant shall have the right to be heard by the Claimant, the affected Owners, and the Association in an effort to resolve the Claim.

13.8 Right to Inspect. If the Claim is based on the land development, design and/or construction of any Improvements within the Community then, subject to any affected Owner's

prior written approval which shall not be unreasonably withheld, Declarant and any other Party shall have the right to access the affected area at a reasonable time(s) for purposes of inspecting the condition complained of including but not be limited to, any investigative or destructive testing.

The Association shall have the same right to inspect for any Claims by an Owner against the Association in accordance with the above.

In the exercise of the inspection rights contained herein, the party causing the inspection to be made ("Inspecting Party") shall:

- (a) be careful to avoid any unreasonable intrusion on, or harm, damage or costs to the affected party including, without limitation, using its best efforts to avoid causing any damage to, or interference with, any improvements on the property being inspected ("Property");
- (b) minimize any disruption or inconvenience to any person who occupies the Property;
- (c) remove daily all debris caused by the inspection and located on the Property; and
- (d) in a reasonable and timely manner, at the Inspecting Party's sole cost and expense, promptly remove all equipment and materials from the Property and repair and replace all damage, and restore the Property to the condition of the Property as of the date of the inspection, unless the Property is to be immediately repaired.

The repair, replacement and restoration work shall include, without limitation, the repair or replacement to any structures, driveways, landscaping, utility lines or other improvements on the Property that were damaged, removed or destroyed by Inspecting Party. In the event the Inspecting Party wishes to make appropriate and necessary repairs to resolve the subject matter of the Claim, the same shall be made on terms and conditions acceptable to all affected Parties.

The Inspecting Party shall not permit any claim, lien or other encumbrance arising from the exercise of its right to inspect to accrue against or attach to the Property. The Inspecting Party shall indemnify, defend and hold harmless the affected Owners and their tenants, Guests, employees and agents, against any and all liability, claims, demands, losses, costs and damages incurred, including court costs and attorney's fees, resulting from any breach of this Paragraph by the Inspecting Party.

13.9 Good Faith Negotiations. The Parties shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation. Any Party may be represented by attorneys and independent consultants to assist such Party in negotiations and to attend meetings.

13.10 Mediation:

- (a) If the Parties do not resolve the Claim through negotiations within thirty (30) days after the date of submission of the Claim to Respondent(s), as may be extended on agreement of

all affected Parties, Claimant shall have thirty additional (30) days to submit the Claim to mediation under the auspices of an independent mediation service acceptable to all Parties. Such Mediation shall be a condition precedent to further proceedings, including arbitration as required below.

- (b) Any settlement of the Claim through mediation shall be documented in writing by the mediator and signed by the Parties.
- (e) Each Party shall bear its own costs, including attorney's fees, and each Party shall share equally all charges rendered by the mediator(s) and all filing fees and costs of conducting the mediation proceeding.
- (f) If the Parties agree to a resolution of any Claim through negotiation or mediation in accordance with this ARTICLE THIRTEEN, such agreement shall be enforceable in any court of competent jurisdiction in the County. If any Party thereafter fails to abide by the terms of such agreement, then any other affected Party may file suit to enforce such agreement without the need to again comply with the procedures set forth in this ARTICLE THIRTEEN. In such event, the Party taking action to enforce the agreement shall be entitled to recover from the non-complying Party all costs incurred in enforcing such agreement, including, without limitation, attorney's fees and court costs.

13.11 Arbitration:

- (a) If the Parties do not reach a settlement of the Claim through mediation or otherwise, the Claim shall be subject to mandatory binding arbitration in accordance with the Arbitration Procedures contained in Exhibit F hereof.
 - (b) The Parties agree that where any Claim, dispute or other controversy existing between them is submitted to arbitration, and any other Party may have liability with respect thereto, all parties including any third parties agree that the third parties may be joined as additional Parties in the arbitration, or if a separate arbitration or other proceeding exists or is separately initiated, to the consolidation of all proceedings. It is the intent of the Parties to resolve all rights and obligations of all interested Parties be resolved in a single proceeding to the extent practicable.
 - (c) The award rendered by the Arbitrator shall be final and binding, may be filed with any court of competent jurisdiction in the County in accordance with applicable law and judgment obtained thereon, and execution may issue.
- 13.12 Consensus for Association Action. The Association shall not commence any action, mediation or arbitration against Declarant for a Claim unless at least a majority of the Board of Directors and Owners to which at least sixty-seven percent (67%) of the votes in the Association are allocated agree to such proceedings.
- 13.13 Liability for Failure to Maintain an Action Against Declarant. No Director or officer of the Association shall be liable to any person for failure to institute or maintain or bring to conclusion a cause of action, mediation or arbitration for a claim against Declarant if the

shall be personally delivered or sent by regular mail, all other notices or demands intended to be served on an Owner shall be delivered personally or sent by either registered or certified mail, postage prepaid, addressed in the name of the Owner at such registered mailing address.

All notices, demands or other notices intended to be served on the Board of Directors of the Association or the Association shall be sent by certified mail, postage prepaid, to the Registered Agent for the Association on file in the Office of the Secretary of State, State of Colorado.

15.6 Conflict. The Project Documents are intended to comply with the requirements of the Act and the Colorado Revised Nonprofit Corporation Act. If there is any conflict between the documents and the provisions of the statutes, the provisions of the statutes shall control. In the event either the Articles of Incorporation or Bylaws conflict with this Declaration, this Declaration shall control. In the event the Articles conflict with the Bylaws, the Articles shall control.

15.7 Certificate of Completion. The Certificate of Completion required by § 38-33.3-201(2) of the Act will be found on the Map.

15.8 Captions. The captions and headings in this Declaration are for convenience only and shall not be considered in construing any provision of this Declaration.

15.9 Numbers and Genders. Whenever used herein, unless the context shall otherwise provide, the singular number shall include the plural, plural the singular, and the use of any gender shall include all genders.

14th day of February, 2011.
IN WITNESS WHEREOF, the Declarant has caused this Declaration to be executed this

NORTHFIELD VILLAGE RESIDENTIAL
DEVELOPMENT LLC,
a Colorado limited liability company

By: [Signature]
Michael Markel, President

By: North Boulder Residential Development, LLC
By: [Signature]
Jeff Eckert, Manager

STATE OF COLORADO)
)ss.
COUNTY OF BOULDER)

**EXHIBIT A
TO CONDOMINIUM DECLARATION
OF
NORTHFIELD VILLAGE EIGHT-PLEX CONDOMINIUMS**

**LEGAL DESCRIPTION OF THE REAL PROPERTY
SUBMITTED TO CONDOMINIUM DECLARATION
OF
NORTHFIELD VILLAGE EIGHT-PLEX CONDOMINIUMS**

Unit A, B, C, D, E., F, G and H
Building 1
Lot 61
Northfield Village
Boulder, Colorado

**EXHIBIT B
TO CONDOMINIUM DECLARATION
OF
NORTHFIELD VILLAGE EIGHT-PLEX CONDOMINIUMS**

**LEGAL DESCRIPTION OF THE PROEPRTY THAT MAY BE
SUBMITTED TO CONDOMINIUM DECLARATION**

**OF
NORTHFIELD VILLAGE EIGHT-PLEX CONDOMINIUMS**

All or any portion of:

Lots 59, 60, 61
Northfield Village
Boulder, Colorado

Any Improvements, Buildings, Units or interests that may be created on any of the foregoing
Lots

Any other Lot, Unit or Interest in Northfield Village, Boulder, Colorado.

**EXHIBIT C
TO CONDOMINIUM DECLARATION
OF
NORTHFIELD EIGHT-PLEX CONDOMINIUMS**

TABLE OF INTERESTS

Subject to the provisions of ARTICLE TWELVE hereof, each Unit is hereby vested with an undivided Percentage Ownership Interest in the Common Elements and is subject to a Common Expense Assessment Liability as set forth below.

UNIT NO./ BLDG. NO.	SQUARE FOOTAGE	OWNERSHIP INTEREST	COMMON EXPENSE ASSESSMENT LIABILITY
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Building 1, Lot
61

A	1047	12%	12%
B	1047	12%	12%
C	1047	12%	12%
D	1047	12%	12%
E	1115	13%	13%
F	1115	13%	13%
G	1115	13%	13%
H	1115	13%	13%

Building 2

A
B
C
D
E
F
G
H

Building 3

A
B
C
D
E

F
G
H

100%

The Percentage Interest in the Common Elements and Common Expense Assessment Liability has been determined by the Declarant in accordance with Paragraph 1.4 hereof.

Whenever any additional property or Units are brought into the Community, in accordance with ARTICLE TWELVE hereof, the Common Expense Assessment Liability and the Percentage Ownership Interest in the Common Elements of each Owner after such addition will change and shall be reallocated by the Declarant in accordance with Paragraph 1.4 hereof after such addition.

The Supplemental Declaration recorded at the time of expansion shall set forth the new Common Expense Assessment Liability and Percentage Ownership Interests in the Common Elements of the existing Units and the newly added Units. The Percentage Ownership Interest and Common Expense Assessment Liability shown for each Unit is subject to change in accordance with ARTICLE TWELVE hereof.

The Association shall have one class of voting membership. Owners shall be entitled to one vote for each Unit owned in the Community; provided, however, in any election of Directors, each Owner shall have the number of votes equal to the number of Directors to be elected, one vote to be cast for each Director.

EXHIBIT D
TO CONDOMINIUM DECLARATION
OF
NORTHFIELD VILLAGE EIGHT-PLEX CONDOMINIUMS

**THE RECORDING DATA FOR RECORDED EASEMENTS, LICENSES AND
OTHER MATTERS WHICH THE CONDOMINIUM COMMUNITY
IS OR MAY BECOME SUBJECT TO:**

1. All easements as contained in ARTICLE THREE hereof or otherwise set forth in the Declaration.
2. All easements as per the recorded Plat of the Northfield Village.
3. Permanent Easement granted to the County of Boulder, a body corporate and politic recorded November 29, 1994 at Reception No. 1481588.
4. Terms, conditions, provisions, agreements and obligations contained in Ordinance No. 7341 recorded April 7, 2004 at Reception No. 2573554.
5. The effect, if any, of Deed of Dedication recorded April 23, 2004 at Reception No. 2579832 and 2579833.
6. Terms, conditions, provisions, agreements and obligations specified under the Annexation Agreement by and between the City of Boulder, a Colorado home rule city and Norman W. Vojta and Alvena M. Vojta recorded May 5, 2004 at Reception No. 2583601.
7. Terms, conditions, provisions, agreements and obligations specified under the Development Agreement by and between Norman W. Vojta and Alvena M. Vojta and the City of Boulder, a Colorado municipal corporation recorded September 2, 2004 at Reception No. 2623672.
8. The following matters as set forth in ALTA/ASCM Land Title Survey, prepared by Drexel Barrell and Co., dated August 9, 2005:
 - a. 8 inch vent pipe as depicted
 - b. Gas valve as depicted
 - c. Any discrepancy of boundaries evidenced by location of barbed wire fence lines
 - d. Apparent easement for overhead power lines
 - e. Apparent easement for underground power lines
 - f. Rights of others in ditches as depicted
 - g. Telephone box and telephone lines
 - h. Power poles as depicted
9. Subdivision Agreement recorded January 30, 2009 at Reception No. 2976120 in the Office of the Clerk and Recorder of Boulder County, Colorado.
10. Avigation Easement recorded January 30, 2009 at Reception No. 2976123 in the Office of the Clerk and Recorder of Boulder County, Colorado.
11. Restrictive Covenant recorded January 30, 2009 at Reception No. 2976122 in the Office of the Clerk and Recorder of Boulder County, Colorado.

12. Agreement to Cross Lateral and Construct Facilities within the Farmers Ditch South Jay Road Irrigation Lateral Right of Way, recorded January 30, 2009 at Reception No. 2976121 in the Office of the Clerk and Recorder of Boulder County, Colorado.
13. Terms, conditions, provisions, agreements and obligations contained in the Easement for Tail Ditch Water recorded October 16, 2008 at Reception No. 2959947.
14. Notes and easements as shown on the plat of Northfield Village Subdivision recorded January 30, 2009 at Reception No. 2976119.
15. Terms, conditions, provisions, agreements and obligations contained in the Permanently Affordable Condominium Unit Interim Covenant recorded March 24, 2009 at Reception No. 2987371.
16. Covenants, conditions, restrictions, reservations and lien rights, which do not include a forfeiture or reverter clause, set forth in the Declaration, recorded April 16, 2009 at Reception No. 2992348.
17. Any other document of record as of the recording hereof.

All recordings are in the records of the Office of the Clerk and Recorder of Boulder County, Colorado.

**TO CONDOMINIUM DECLARATION
OF
NORTHFIELD VILLAGE EIGHT-PLEX CONDOMINIUMS**

SCHEDULE OF MAINTENANCE RESPONSIBILITIES

I	II	III	IV
ITEMS	COMMON ELEMENTS UNDER ASSOCIATION RESPONSIBILITY	LIMITED COMMON ELEMENTS UNDER ASSOCIATION RESPONSIBILITY	UNIT OWNER'S RESPONSIBILITIES WITHOUT RESPECT TO OWNERSHIP OF THE COMPONENTS
All of the real property, landscaping, grounds and other improvements thereon lying outside the Building's foundations	All, in all regards		
Decks, Patios and Porches		All, in all regards, except routine cleaning	Routine cleaning
The Building's roof, foundations, exterior, bearing and utility walls	All, in all regards		
Windows	Exterior painting and exterior caulking, window mechanisms, and window frames serving a Residence, all, in all regards		Routine cleaning, repair and replacement of glass and screens in the windows
Doors	Regular scheduled maintenance for all surfaces which are not exposed to the interior of a Residence, including panel, buck, trim, and sill		Residence side of door panel, interior trim, door frame, all hardware including lock, door chime assembly, hinges/closure and weather stripping, replacement of glass, if any, all, in all regards
Electrical and related systems and components thereof, including fixtures	Systems including fixtures and appliances serving more than one Residence, all in all regards		Systems including fixtures and appliances serving only one Residence, including exterior fixtures serving primarily only one Residence, all, in all regards, except for those that are maintained by the Association in accordance with column II herein
Heating and cooling systems and components thereof	Systems serving more than one Residence, all in all regards		Systems and related components thereof serving only one Residence, all in all regards, except for those that are maintained by the Association in accordance with column II herein
Plumbing and related systems and components thereof	Plumbing providing service to more than one Residence, all, in all regards, and all equivalent		All plumbing and related systems and components thereof serving only one Residence, all in all regards, except for those that are maintained by the Association in accordance with column II herein

EXHIBIT E, Page 2 of 2

**EXHIBIT E
TO CONDOMINIUM DECLARATION
OF
NORTHFIELD VILLAGE EIGHT-PLEX CONDOMINIUMS
SCHEDULE OF MAINTENANCE RESPONSIBILITIES**

I	II	III	IV
ITEMS	COMMON ELEMENTS UNDER ASSOCIATION RESPONSIBILITY	LIMITED COMMON ELEMENTS UNDER ASSOCIATION RESPONSIBILITY	UNIT OWNER'S RESPONSIBILITIES WITHOUT RESPECT TO OWNERSHIP OF THE COMPONENTS
Trash collection system	All, in all regards		
Carports (except Reserved Carport Spaces)	Reserved Carport Spaces, all, in all regards	All, in all regards	
Parking Spaces	All, in all regards		
Window wells		All, in all regards, except routine cleaning	Routine cleaning
Skylights	All, in all regards, except routine cleaning		Routine cleaning

EXHIBIT F
TO CONDOMINIUM DECLARATION
OF
NORTHFIELD VILLAGE EIGHT-PLEX CONDOMINIUMS

ARBITRATION PROCEDURES

1. All Claims subject to arbitration shall be decided by a single private party arbitrator to be appointed by the parties.
2. If the parties are unable to agree upon an Arbitrator within thirty (30) days from the date of the Arbitration Notice, the presiding judge of the District Court in which the Community is located shall appoint a qualified arbitrator upon application of a party.
3. No person shall serve as the arbitrator where that person has any financial or personal interest in the result of the arbitration or any family, social or significant professional acquaintance with any other party to the arbitration. Any person designated as an arbitrator shall immediately disclose in writing to all Parties any circumstance likely to affect the appearance of impartiality, including any bias or financial or personal interest in the outcome of the arbitration ("Arbitrator Disclosure"). If any Party objects to the service of any arbitrator within fourteen (14) days after receipt of that Arbitrator's Disclosure, such arbitrator shall be replaced in the same manner in which that arbitrator was selected.
4. The Arbitrator shall fix the date, time and place for the hearing. The arbitration proceedings shall be conducted in the County in which the Community is located unless otherwise agreed by the Parties.
5. Except as modified herein the arbitration shall be conducted pursuant to the then current Construction Industry Rules of Arbitration of the American Arbitration Association to the extent applicable, but shall not be conducted or administered by the American Arbitration Association.
6. No formal discovery shall be conducted in the absence of an order of the Arbitrator or express written agreement among all the Parties.
7. The Arbitration Award shall address each specific Claim to be resolved in the arbitration, provide a summary of the reasons therefore and the relief granted, and be rendered promptly after the close of the hearing and no later than fourteen (14) days from the close of the hearing, unless otherwise agreed by the Parties. The Award shall be in writing and shall be signed by the Arbitrator.
9. The Arbitrator shall have authority, in the sound exercise of discretion, to award the party whose position is substantially favored such party's costs and expenses, including reasonable attorney's fees. In exercising the foregoing authority, the arbitrator may calculate, allocate or apportion such costs and fees based on the relative success of the parties on the issues presented at hearing.