

DECLARATION OF COVENANTS, CONDITIONS & RESTRICTIONS FOR GOOD HOPE SUBDIVISION

This Amended and Restated Declaration of Covenants, Conditions and Restrictions for the Good Hope Subdivision (the "Declaration") is made and declared this 2nd day of December, 2021, by the owners of the lots located within the Good Hope Subdivision and Good Hope Subdivision Filing No. Two (the "Community"), as defined below, (collectively, the "Owners") pursuant to the provisions of C.R.S. § 38-33.3-120, § 38-33.3-217(1) and Article X, Section 7, of the Declaration of Covenants, Conditions and Restrictions dated April 29, 1980, and recorded in the records of the Mesa County Clerk and Recorder (the "Clerk") at Reception No. 1222823, and Article X, Section 5, of the Declaration, Conditions and Restrictions dated January 12, 1981, and recorded in the Clerk's records at Reception No. 1245424 (together, the "Original Declarations").

RECITALS

A. The Community, consisting of the real property (the "Property") described on that certain plat map of Good Hope Subdivision, recorded in the records of the Clerk on October 2, 1979, at Reception No. 1204515, and that certain plat map of Good Hope Subdivision Filing No. 2, recorded in the Clerk's records on January 12, 1981, at reception no. 1223974 (the "Maps"), as amended by the re-plat filed with the Clerk on December 1, 1981, at reception no. 1275972, and as described in Exhibit A, began in approximately 1980 as a townhome style planned community. Each Lot, as defined below, including each Lot's identifying number, is depicted on the Maps, defined below, and incorporated herein by reference.

B. The Owners desire to update and consolidate the two Original Declarations in order to better address the needs of the Community and ensure consistency, and have determined to amend the Original Declarations in their entirety and replace them with this Declaration, it being their intention that the Original Declarations should be of no further force or effect and that the Property be subject, instead, to the following covenants, conditions and restrictions. The affairs of the Association, as defined below, remain subject to the Association's duly adopted Bylaws and other Association Documents, defined below.

NOW, THEREFORE, the Owners declare that the Community, and any part thereof, shall be held and conveyed subject to the following restrictions under a general plan or scheme of improvement for the benefit of each and all of the included Lots and of the future owners of those Lots, which shall run with the land and be binding on all parties and heirs, successors, and assigns of parties having any right, title or interest in all or any part of the Community.

ARTICLE 1.
DEFINITIONS

1.1 "Act" means the Colorado Common Interest Ownership Act, presently codified at C.R.S. §38-33.3-101, *et seq.*, as it may be amended, supplemented, repealed and re-enacted and otherwise modified in the future.

1.2 "Allocated Interests" shall mean and refer to the common expense liability and votes in the Association as set forth in this Declaration. The formulas for the Allocated Interests are as follows:

1.2.1. *Percentage share of Common Expenses.* Each Lot shall be responsible for a fraction of the Common Expenses equal to one (1) over the total number of Lots.

1.2.2. *Voting.* Each Lot shall have 1 vote in the Association.

1.3 "Articles" shall mean and refer to the Articles of Incorporation of the Association, as amended from time to time.

1.4 "Association" shall mean the Good Hope Townhomes, a Colorado nonprofit corporation, its successors or assigns.

1.5 "Association Documents" means the Articles, Bylaws, Policies, Procedures, Rules and Regulations of the Association, and the fence map described in paragraph 1.9.3., as defined herein, as each of them may be modified from time to time.

1.6 "Board" shall mean and refer to the Association's Board of Managers.

1.7 "Buildings" shall mean and refer to any structure having a roof and walls, intended for use as a human habitation, including all fixtures and improvements thereto, situated on the Property.

1.8 "Bylaws" shall mean and refer to the Bylaws of the Association.

1.9 "Common Elements" means all portions of the Property shown on the Maps, except the Lots, and any property of any kind, real or personal, owned by the Association, and specifically includes, without limitation, the following. The Common Elements shall be owned and controlled by the Association.

1.9.1. The tracts described in this Declaration;

1.9.2. The Buildings' exteriors, including siding, roofs, fascia, soffit, and siding, but excluding cooling units, doors, windows, stoops and porches, personal sidewalks only serving to provide access to private units; foundations, crawlspaces, any interior plumbing; exterior water spigots; and

1.9.3. Association fencing, as shown on a map thereof maintained by the Board and updated from time to time.

1.10 “Common Expenses” means (i) all expenses expressly declared to be common expenses by this Declaration; (ii) all other expenses of administering, servicing, conserving, managing, maintaining, repairing, or replacing the Common Elements; (iii) insurance premiums; (iv) utilities not separately metered to specific Lots; (v) a reasonable and adequate contingency or other reserve or surplus fund for insurance deductibles and general routine maintenance, repairs and replacement of improvements within the Common Elements on a periodic basis, as needed; (vi) all expenses lawfully determined to be common expenses by the Board; (vii) other costs which the Act permits to be added to an assessment including, but not limited to, costs of collection, fines, fees, interest, and attorneys’ fees.

1.11 “Declaration” shall mean and refer to this Declaration.

1.12 “Manager” shall mean and refer to one or more members of the Board elected as provided in the Bylaws.

1.13 “Improvements” shall mean and refer to any and all structures and all associated facilities of any kind, including, without limitation, exterior architectural elements, fixtures, utilities services, outlets, and related facilities, awnings, solar paneling, parking areas, fences, screening fences, retaining walls, stairs, decks, hedges, windbreaks, plantings, trees, shrubs, signs, objects of art, mailboxes, and other facilities, such as pumps, pipes and sprinklers and other structures of every type and kind situated on the Property.

1.14 “Lot” shall mean and refer to that part of the Property owned in fee simple by the Owners. The boundaries of each Lot, and an identifying number for each Lot, are reflected on the Maps.

1.15 “Member” shall mean and refer to a person or entity which is a member of the Association as defined in the Bylaws and in Article 4, below.

1.16 “Officer” shall mean and refer to an officer of the Association, appointed to serve as an officer pursuant to the provisions of the Bylaws.

1.17 “Owner” shall mean and refer to the record owner, whether one or more Persons, of fee simple title to any Lot, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

1.18 “Party Wall” shall mean any foundation, wall, or other structure, regardless of its technical description or name, which lies along or over any property line between Lots and which foundation, wall or other structure is common to the Building(s) constructed on either side of such property line and shall include those portions of such foundation, wall or other structure from the bottom of the foundation to top of the roof.

1.19 "Person" shall mean any natural person, corporation, limited liability company, partnership, association, or any other entity or combination thereof.

1.20 "Maps" shall mean and refer those certain plats of the Property, described above.

1.21 "Policies, Procedures, Rules and Regulations" means, collectively, all written terms and conditions, however denominated, that are adopted by the Association for the management, regulation, use, operation or any other aspect of all or any part of the Property, including any amendments thereto.

1.22 "Security Interest" shall mean an interest in real estate or personal property constituting, attached to, or located on the Property, or any portion thereof, including any Lot, created by contract or conveyance which secures payment or performance of any obligation. The term includes a lien created by a mortgage, deed of trust, trust deed, security deed, contract for deed, land sales contract, lease intended as security, assignment of lease or rents intended as security, pledge of an ownership interest in the Association, and any other consensual lien or title retention contract intended as security for an obligation.

1.23 "Security Interest Holder" means any person named as a secured party, security interest holder or beneficiary, or in a similar capacity, under any Security Interest

1.24 "Townhome" shall mean a Building or portion thereof constructed within the boundaries of a Lot, as shown on the Plat, and designed for residential occupancy, including an attached garage, but excluding any other accessory Buildings or Improvements.

ARTICLE 2. GENERAL DECLARATION

2.1 Intent. By making the Declaration, the Owners specifically intend to enhance, perfect and preserve the value, desirability and attractiveness of the Property and, to provide for the maintenance of the Common Elements, the Buildings and Improvements in a manner beneficial to all Owners. By this Declaration, the Owners expressly intend and do hereby subject the Property to the provisions of the Declaration. All easements, restrictions, conditions, covenants, reservations, liens, charges, rights, benefits, and privileges which are granted, created, reserved or declared by this Declaration shall be deemed to be covenants appurtenant, running with the land and shall at all times inure to the benefit of and be binding upon any person having at any time any interest or estate in the Property, and their respective heirs, successors, representatives or assigns.

2.2 Owners' Estates and Rights to Common Elements. The Property is divided into Lots. Owners of Lots shall have a nonexclusive right and easement of enjoyment in and to the Common Elements, plus a right and easement of ingress and egress over, across and upon the Common Elements, for the purpose of access, ingress and egress to and from his or her Lot and public ways, for both pedestrian and vehicular travel, which rights and easements shall be appurtenant to and pass with the transfer of title to every Lot, within the restrictions imposed by

this Declaration and the Association Documents, without hindering or encroaching upon the lawful rights of the other Owners. Any Owner may delegate his or her right of enjoyment to the Common Elements and facilities for the members of his or her family, his or her tenants, or contract purchasers who reside on the Property. Each Owner of a Lot shall be entitled to the exclusive ownership and possession thereof and title to said Lot may be held or owned by any Person in any manner in which title to other real property may be held or owned in the State of Colorado, including, without limitation, joint tenancy or tenancy in common. Ownership of each Lot shall not carry any ownership interest, right, or title in or to the Common Elements aside from the right of enjoyment described and reserved in this section.

2.3 Extent of Owners' Easements. The rights and easements created hereby shall be subject to the following:

2.3.1. The terms, provisions, covenants, conditions, restrictions, easements, reservations, uses, limitations, and obligations contained in this Declaration; and

2.3.2. The right of the Association, in accordance with its Articles and Bylaws, to borrow money for the purpose of improving the Common Elements and to mortgage or otherwise encumber the Common Elements to secure any such loan; provided, however, that the Association may not subject any portion of the Common Elements to a Security Interest unless, in conformity with the Act, such is approved by Members casting at least sixty-seven percent (67%) of the votes in the Association; and

2.3.3. The right of the Association to take such steps as are reasonably necessary to protect the Common Elements against foreclosure; and

2.3.4. The right of the Association to promulgate, amend, repeal, re-enact and publish rules and regulations with which each Member shall strictly comply; and

2.3.5. The right of the Association to regulate and/or restrict vehicular parking, storage and repairs; and

2.3.6. The right of the Association to suspend the voting rights of a Member for any period during which any assessment against the Member's Lot or any other amount due from such Member to the Association remains unpaid and, for a period not to exceed sixty (60) days, for any infraction of the Bylaws of the Association or the Association's rules and regulations; and

2.3.7. The right of the Association to dedicate or transfer 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 Members, provided that no such dedication or transfer shall be effective unless first approved by the Members entitled to cast at least sixty-seven percent (67%) of the votes in the Association, and unless written notice of the proposed agreement and the proposed dedication or transfer is sent to every Member at least thirty (30) days in advance of any action taken. Notwithstanding the

foregoing, the granting of permits, licenses and easements for public utilities, roads or for other purposes reasonably necessary or useful for the proper maintenance or operation of the Property shall not be deemed a transfer within the meaning of this subsection; and

2.3.8. The right of the Association, through its Board, to enter into, make, perform or enforce any contracts, leases, agreements, licenses, easements and rights-of-way, for the use of real property or Improvements by Owners, other Persons, their family members, guests and invitees, for any purpose(s) the Board may deem to be useful, beneficial or otherwise appropriate; and

2.3.9. The right of the Association to close or limit the use of the Common Elements while maintaining, repairing and making replacements in the Common Elements.

2.4 Conveyance or Encumbrance of Common Elements.

2.4.1. Portions of the Common Elements may be conveyed or subjected to a Security Interest by the Association only if persons entitled to cast at least sixty-seven percent (67%) of the votes in the Association agree to that action.

2.4.2. An agreement to convey Common Elements or subject them to a Security Interest must be evidenced by the execution of an agreement, or ratification thereof, in the same manner as a deed, by the Owners having the requisite number of votes in the Association. The agreement must specify a date after which the agreement will be void unless recorded before that date. The agreement and all ratifications thereof must be recorded in every county in which a portion of the Property is situated and is effective only upon recordation.

2.4.3. The Association, on behalf of all Owners, may contract to convey an interest in the Property pursuant to this section, but the contract is not enforceable against the Association until approved, executed and ratified. Thereafter, the Association has all powers necessary and appropriate to affect the conveyance or encumbrance, including the power to execute deeds or other instruments.

2.4.4. Unless in compliance with this section, any purported conveyance, encumbrance, judicial sale or other transfer of Common Elements is void.

2.4.5. A conveyance or encumbrance of Common Elements pursuant to this section shall not deprive any Lot of its rights of ingress and egress to the lot and support of the Lot.

2.4.6. A conveyance or encumbrance of Common Elements pursuant to this section does not affect the priority or validity of preexisting encumbrances.

2.5 Changing Boundaries. Lots may not be further subdivided or combined.

ARTICLE 3.
RESTRICTIONS ON USE

3.1 Building Restrictions.

3.1.1. Subject to the provisions of the Association Documents, the Owners may make any modification or alterations to their respective Lots that do not impair the structural integrity or functionality of any Building, electrical systems, communication systems, water systems, wastewater systems, mechanical systems, or lessen the support of any Common Element. No Improvement or alteration shall be erected without the prior written approval of the Association as provided in Section 4.5.

3.1.2. No structure of a temporary character, nor any recreational vehicle, manufactured homes, mobile homes, trailer, teepee, tent, shack, garage, barn or other outbuilding used or intended for occupancy as a residence shall be placed, kept, stored or erected, on any portion of the Property either temporarily or permanently.

3.1.3. An Owner shall not change, modify, paint, decorate, alter or in any way make any change to any Common Element, or to any exterior wall, surface, roof, entry, landscaping, paving, trees, shrubbery or other Improvements without the approval of the Association as provided in Section 4.5.

3.2 Maintenance Obligations.

3.2.1. *Maintenance of Lots.* The Owners of all Lots, at their sole expense, shall keep, maintain and repair their Lot and all Improvements thereon, including, without limitation, any Buildings, except as provided in 1.9 and its subsections, walkways, driveways, glass surfaces, screens, doors and windows, and all landscaping, in good repair, and in a clean, safe, and attractive manner, free from the accumulation of trash or debris or visual deterioration. All vegetation shall be properly cultivated (including watering) and neatly trimmed. In the event any Owner fails or refuses to perform maintenance required by this section, the Association may cause such work to be performed and assess such Owner for the costs thereof pursuant to Section 5.4.

3.2.2. *Maintenance of Common Elements.* The Association shall keep, maintain and repair the Common Elements in a neat, clean, cultivated, attractive and well maintained condition, in proper working condition, and free from the accumulation of trash or debris or visual deterioration. The Owners shall promptly report to the Association, or its designated agent, any defect or need for repairs or maintenance for which the Association is responsible. The Owners shall not make any alterations in the portions of the Property which are to be maintained by the Association or remove any portion thereof or make any additions thereto or do anything which would or might jeopardize or impair the safety or soundness of the Buildings without first obtaining the written consent of the Association. The costs and expenses incurred for the purpose of

owning, maintaining, repairing and restoring the Common Elements and Improvements thereon shall be borne by the Owners as a common expense assessment as provided in Article 5, hereof. The Association shall not be required to obtain the prior approval of the Owners to cause such maintenance or repairs to be accomplished, regardless of the cost thereof.

3.2.3. *Maintenance Necessitated by Owner's Negligence.* Notwithstanding anything to the contrary contained in this Declaration, in the event that the need for maintenance, repair or reconstruction of the Common Elements, a Lot, or any other Improvement on the Property is caused by the willful or negligent act or omission of any Owner, any member of such Owner's family or by a guest or invitee of such Owner, the cost of such repair, maintenance, reconstruction or expense to avoid such damage shall be the personal obligation of such Owner to the extent that said Owner would be liable for the acts of such persons under the laws of the State of Colorado; and any costs, expenses and fees incurred by the Association for such maintenance, repair or reconstruction shall be added to the assessment to which such Owner's Lot is subject and shall be subject to all of the terms and provisions of this Declaration. A determination of the negligence or willful act or omission of any Owner, or any member of an Owner's family or a guest or invitee of any Owner, and the amount of the Owner's liability shall be determined by the Association, acting through the Board, in its sole and absolute discretion, exercised in accordance with the Association Documents.

3.2.4. *Party Wall Repair, Maintenance and Restoration Costs.* The costs and expenses of necessary and reasonable repair, maintenance or restoration of any portion of a Party Wall, including restoration in the event of damage or destruction due to fire or other casualty, shall be shared equally by the Owner of each Lot sharing the Party Wall, without prejudice however, to the right of any such Owner to recover from the other such Owner, or another party, under any rule of law with respect to liability for negligent or willful acts or omissions. However, nothing contained herein shall require an Owner to share the costs and expenses of repair and maintenance of any Improvement which is attached to the framing or other structural features of such Party Wall and is interior to Building on another Owner's Lot. Except as otherwise specifically provided herein, the general rules of law applicable to Party Walls and of liability for property damage arising from negligence or willful acts or omissions shall apply with respect to any Party Wall.

3.3 Use Restrictions and Offensive Activities.

3.3.1. *No Accumulation of Trash.* No Lot shall be used as a dumping ground for rubbish. No garbage, rubbish or trash shall be allowed to accumulate on the Common Elements or on the Lots. All garbage, rubbish and trash shall be disposed of in appropriate trash receptacles and shielded from view.

3.3.2. *Residential Use Only.* No Lot shall be used for any purpose other than residential purposes and home occupations. For purposes of this section, "home

occupations”, shall mean an occupation by the resident conducted entirely within the Building constructed on a Lot, which does not entail the employment of third persons on the premises, does not entail the delivery of goods or services to customers upon the premises, and does not entail visits by customers to the premises. For example, but not by limitation, an insurance agent may use a Lot as a personal office so long as his or her customers are not permitted to come to his or her personal office; however, the establishment of a barber shop would be prohibited.

3.3.3. *Nuisances and Decisions Regarding Use.* No obnoxious, offensive, or otherwise disturbing or annoying activity which would constitute a public or private nuisance or annoyance shall be permitted. In the event a dispute arises as to whether a particular use of a Lot constitutes a nuisance or annoyance to the Property under this section, the Association, acting through the Board, shall determine the matter in its sole and absolute discretion, exercised in accordance with the Association Documents.

3.3.4. *Hazardous Activities.* No activities shall be conducted within or upon the Property or on any Lot, which are or may be unreasonably hazardous to any person or property. Except as expressly permitted in the Association Documents, no Owner shall use or permit its Lot to be used for the manufacture, storage, use, or disposal of any substance classified or categorized as hazardous by federal, state or local law or regulation (“Hazardous Material”), nor will any Owner do or permit any act or omission anywhere within the Property that is in violation of any federal, state or local law or regulation. No Owner shall do or permit any act or omission anywhere within the Property that would or may cause the cancellation of any insurance. Each Owner shall indemnify and hold each other Owner, and the Association, harmless from and against all costs, including attorney fees and other expert or professional consultant’s fees, expenses, losses, liabilities, and damages of any nature, including personal injury, property damage, and remediation costs, which result or arise, in whole or in part, from the manufacture, storage, use, or disposal of any Hazardous Material within the Property.

3.4 Pets. No animals shall be kept on the Property by the Owners other than domestic pets. Not more than three (3) household pets, consisting of no more than two (2) dogs, shall be kept within a Lot and only if kept solely as a household pet for private use and not for commercial purposes. No animal may be kept which is a nuisance or annoyance to other Owners. Household pets shall be contained in its Owner’s Lot or on a leash and shall not be permitted to run loose. At the request of any Owner, the Board shall determine whether a particular animal shall be considered a household pet, a nuisance, or whether the number of any such animals on any Lot is in compliance with the Association Documents. Habitually barking and/or vicious dogs are prohibited, at the sole discretion of the Association. For purposes of this section, the term “household pets” means and refers to any domestic animal of any kind or type kept for pleasure or companionship and includes, without limitation, all types and kinds of canines, felines, fish, reptiles, amphibians, rodents, mustelids, and birds, but excluding chickens, horses, cows, and other livestock.

3.5 Rentals. All tenants or future tenants are subject to the covenants, conditions and restrictions of the Declaration. The mere rental of any Lot or the mere act of occupancy of any Building located upon any Lot shall signify that the covenants, conditions and restrictions set forth in this Declaration are accepted. The Lots shall not be rented by the Owners for transient or hotel purposes, which shall be defined as: (a) rental for a period over thirty (30) days; and/or (b) any rental if the occupants are provided customary hotel services. Other than the foregoing obligations and restrictions, the Owners shall have the absolute right to lease the Lots, provided that the lease is made subject to the covenants, conditions and restrictions set forth in this Declaration.

3.6 Parking. All motor vehicles shall be parked, kept and stored in garages, driveways, or designated parking areas only. Parking on the Property may be further limited or restricted by the Association Documents or the Board of Directors. All Recreational Vehicles of any kind must be parked in the RV Storage and shall not be parked anywhere else except for loading and unloading within the Association. No vehicle repairs of any kind are allowed in the Association. All-Terrain Vehicles, Side by Sides, OHVs of any kind are prohibited from being driven in the Association, except where used for snow removal or other sanctioned services by the Board of Directors.

3.7 Signs. Political campaign signs shall be permitted in the Property at such times and in such manner as specifically provided by federal, state, or local law; this means that one (1) political sign or flag may be erected 45 days prior to an election and removed seven (7) days after an election. Aside from one political campaign sign, as provided, no sign of any kind shall be displayed to the public view on any Lot except one professional sign of not more than four (4) square feet, and a sign of not more than five (5) square feet advertising a Lot for sale or rent. Signs located on the Common Elements are governed by the Association.

3.8 Roof-Mounted Equipment and Facilities. Subject to the provisions of section 4.5, the Owner of each Lot shall have the right to install, operate, maintain, repair, and replace machinery, equipment, or personal property of any kind, including, roof maintained evaporative coolers. Ground mounted air conditioning units are allowed on the Lots, if the location has been approved by the Association.

3.9 Miscellaneous.

3.9.1. No portion of the Property shall be used in any manner whatsoever to explore for or to remove any water, oil or other hydrocarbons, minerals of any kind, gravel, earth or any earth substances or other mineral of any type.

3.9.2. All facilities for permanent utilities service shall be kept or maintained underground, or in the original condition at such time the Lot are first completed.

3.9.3. No antenna for transmission or reception of television signals or any other form of electromagnetic radiation shall be erected, used or maintained out of doors,

except as shall be approved and permitted by the Association, acting in accordance with federal, state, and local law or regulation.

3.9.4. No elevated tanks of any kind, including, without limitation, oil, gas and water tanks, shall be permitted.

3.9.5. All short-term rentals with agreements/leases under 30 days are strictly prohibited. After any lease longer than 30 days expires, they may be renewed month to month in accordance with Section 3.5.

3.9.6. Cannabis: No cannabis of any kind, whether it be marijuana, or any related vegetation shall be grown outdoors in the Association. All exterior growing of cannabidiol vegetation or plants is prohibited. This means that grow-houses located anywhere on the exterior Lot are prohibited.

3.9.7. Smoking any cannabidiol/cannabis inhalants outdoors is prohibited at all times due to obnoxious exhalants impacting other owners.

3.9.8. No firearms, fireworks, explosives, air rifles, BB guns, crossbows or similar devices shall be discharged on the Properties or in the Association.

3.9.9. No business shall operate out of/on any Lot/Unit/Home located in the Association. Remote work that does not include customers visiting the Lot or home is allowed in accordance with Section 3.3.2.

3.10 Easement for Maintenance and Entry. Each Owner shall afford to the Association and the other Owners, and to their agents or employees, access through such Owner's Lot reasonably necessary for maintenance, repair and replacement of any Common Elements and any other property or Improvements. If damage is inflicted, or a strong likelihood exists that it will be inflicted, on the Common Elements, any other property, or any Lot, the Owner responsible for the damage or expense to avoid damage, or the Association if it is responsible, is liable for the cost of prompt repair or avoidance. Further, each Lot shall be subject to an easement in favor of the Association (including its agents, employees and contractors) for performing maintenance, repair and/or reconstruction as provided in this Article during reasonable hours after reasonable notice to the Owners or occupants, except that in emergency situations entry upon a Lot may be made at any time provided that the Owner or occupants shall be warned of impending emergency entry as early as is reasonably possible.

3.11 Utilities. There is hereby created a blanket easement upon, across, over and under the Common Elements for utilities and the installation, replacement, repair and maintenance of utilities, including, but not limited to, the Domestic Water System and Drainage System, water, sewer, gas, telephone, electricity, computer cable, and master television antenna or cable or satellite television systems, if any. By virtue of this blanket easement it shall be expressly permissible to erect and maintain the necessary facilities, equipment and appurtenances on the Common Elements and to affix, repair, and maintain water and sewer pipes, gas, electric,

telephone, computer and television wires, cables, circuits, conduits and meters. The easements provided for in this section shall in no way affect, avoid, extinguish or modify any other recorded easement(s) affecting the Property.

ARTICLE 4.
THE ASSOCIATION, MEMBERSHIP AND VOTING RIGHTS

4.1 Purpose and Membership. By acceptance of a deed to a Lot, each Owner shall be a Member of the Association organized for the general purpose of being and constituting an entity for the furtherance of the mutual interests of the Owners of the Property pursuant to this Declaration and the Association Documents, including without limitation, enforcement of the Declaration; repairing and maintaining the Common Elements; levying and enforcing assessments to defray the cost and expenses of operation; providing other utilities and services pursuant to the Association Documents; and for all other purposes, with such powers, as are enumerated in the Act.

4.2 Managers of the Association. The affairs of this Association shall be managed by a board of three (3) Directors or Managers. Managers shall meet the qualifications described in the Association Documents.

4.3 Voting Rights.

4.3.1. Association membership shall be appurtenant to and may not be separated from ownership of any Lot.

4.3.2. The Association shall have one class of voting membership. Votes may be cast as the Owners determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

4.4 Limitation Upon Liability.

4.4.1. *Indemnification of Officers and Board Members.* Neither the Association, any member of the Board, any officer of the Association, nor any agent or employee of the Association, shall be liable to any Owner or other person or entity for any action or for any failure to act with respect to any matter if the action taken or failure to act was in good faith and without willful or intentional misconduct. The Association shall indemnify and hold harmless any member of the Board, any officer of the Association or any agent or employee of the Association from any and all reasonable costs, damages, charges, liabilities, obligations, fines, penalties and claims, demands, or judgments and any and all expenses, including, without limitation, attorneys' fees, incurred in the defense or settlement of any action arising out of or claimed on account of any act, omission, error or negligence of such person or of the Association, the Board, or any committee of the Association, provided that such person has acted in good faith and without willful or intentional misconduct.

4.4.2. *Limitation Upon Liability of Association.* Notwithstanding the duty of the Association to maintain and repair parts of the Property, the Association shall not be liable for injury or damage, other than the normal costs of the maintenance and repair, caused by any latent condition of the Property or by the conduct of the Owners or other Persons or by casualties for which insurance pursuant to this Declaration is not required, or for which insurance is not provided by the Association.

4.5 Architectural Control. No Improvements of any kind shall be erected, placed or altered on any Common Element or on any Lot until the construction plans and specifications, and a plan showing the location of the structure or Improvements, have been approved by the Association, acting through its ACC, as to quality of workmanship and materials, harmony of design with existing structures, and as to siting and/or location, all in conformity with the Association Documents, including, but not limited to, the requirements set forth in Section 3.1.

4.5.1. The ACC shall consist of three (3) persons. The method and manner of the extension, replacement and/or removal, as well as method of operation of the ACC, to the extent not provided herein, shall be as set forth in the Association Documents.

4.5.2. Duplicate copies of plans and specifications relating to any Improvements shall be submitted to the ACC for review and final approval, one (1) copy of which will be retained by the ACC for its records. Plans and specifications shall contain, without limitation, the plot plans showing layout, floor plans showing overall dimensions, roof plans, materials, colors, elevations showing doors and windows, a perspective sketch, if requested, and other details necessary to explain any feature or component of the Improvements requested by the ACC, or required by the Association Documents.

4.5.3. The ACC's approval or disapproval shall be in writing. In the event the ACC, or its designated representative, fails to approve or disapprove within forty-five (45) days after sufficient plans and specifications have been submitted to it, approval will not be required. Receipt of submitted plans and/or specifications should be documented in writing. Approval or disapproval as required in this Declaration shall be determined by majority vote of the members of the ACC.

4.5.4. The ACC and the members thereof shall make decisions concerning the approval or denial of an Owner's application for architectural review in accordance with the standards and procedures set forth in the Association Documents and shall not be made arbitrarily or capriciously. Notwithstanding the foregoing, the ACC and the members thereof shall not be liable for damage to any person submitting requests for approval or to any Owner by reason of any action, failure to act, approval, disapproval, or failure to approve or disapprove with regard to such request to the fullest extent permitted by law. The actions of the ACC shall be deemed conclusively binding upon the Owners.

4.5.5. Neither the members of the ACC, nor such representatives as it may designate to carry out its functions under this Declaration and/or the Association Documents, shall be entitled to any compensation for services performed. Nothing in this

Section 4.5.5 shall restrict the authority of the ACC, or its designated representatives, to engage and pay for the services of an appropriately qualified professional, such as an engineer or architect, for the purpose of evaluating applications. Persons so engaged shall not be construed to be representatives of the Association.

4.5.6. In addition to all the other criteria herein set forth, the ACC shall generally determine whether the proposed Improvements will protect the value of the Property both at the time of the request and in the future. The ACC shall, in the exercise of its judgment and determination, use reason and good faith. Among the other considerations applied, the ACC will determine and base its approval or rejection upon the fact of whether said proposed Improvements are reasonably compatible with other Improvements erected and planned in the Property. The ACC shall evaluate the proposed construction as to location of the Improvements, harmony of design, materials and colors with existing Improvements and surroundings, and other criteria it deems necessary for the purposes set forth in this section.

4.6 Acquiring and Disposing of Real and Personal Property. The Association may acquire, own and hold for the use and benefit of all Owners tangible and intangible personal property and real property for such uses and purposes as the Board may in its discretion deem appropriate from time to time, and may dispose of the same by sale or otherwise. Each Owner may use any of the Association's personal and/or real property in accordance with the purposes for which such property is intended and in accordance with such conditions, limitations, restrictions, and rules and regulations as may be placed on any such property by the Board in its sole discretion from time to time, provided that such use of any Owner shall not hinder or encroach upon the lawful rights of other Owners.

4.7 Specific Powers and Duties of the Association. The Association shall have all rights, privileges and powers provided by this Declaration, the Association Documents, and the Act.

ARTICLE 5. ASSESSMENTS

5.1 Owner's Obligation. By accepting a deed to any Lot, each Owner agrees to pay to the Association all the assessments, to be fixed and levied from time to time as provided in this Declaration, and the Association Documents. Such assessments, together with interest accruing or a flat fee/fine thereon and the costs of collection in the event of a delinquency of payment, shall be the personal obligation of the person who is the Owner, or the persons who are jointly and severally the Owner, at the time the assessment was made.

5.2 Common Expense Assessments.

5.2.1. The common expense assessments made for Common Expenses shall be based upon the advance estimate of the cash requirements by the Association to provide

for the payment of all Common Expenses growing out of or connected with the maintenance of the Common Elements and operation of the Association, which sums may include, among other things, sewer and water fees, expenses of management, taxes and special assessments, premiums for all insurance which the Association is required or permitted to maintain, landscaping and care of grounds, common lighting and heating, repairs and renovations, legal and accounting fees, management fees, expenses and liabilities incurred by the Association under or by reason of this Declaration, the Articles and the Bylaws, any deficit remaining from a previous period, the creation of a reasonable contingency or other reserve or surplus fund and any other expenses and liabilities which may be incurred by the Association for the benefit of the Owners, less an amount equal to the anticipated balance (exclusive of any reserves) in the operating fund at the start of such year which is attributable to the operation and maintenance assessments for the prior year. The sum or net advanced estimate so determined shall be uniformly assessed to the Owners as a common expense assessment by allocating each Lot its share of Common Expenses. Assessments shall be paid in uniform, monthly installments.

5.2.2. Within ten (10) days after adoption of any proposed budget for the Association, the Board shall mail, by ordinary first-class mail, or otherwise deliver a summary of the budget to all the Owners and shall set a date for a meeting of the Owners to consider ratification of the budget not less than ten (10) nor more than fifty (50) days after mailing or other delivery of the summary.

5.2.3. If the budget does not include an increase in the annual assessment of more than ten percent (10%), the budget may be passed unless the Owners entitled to cast sixty-seven percent (67%) of the votes in the Association reject the budget. Then the budget shall be ratified, whether or not a quorum is present in person or by proxy.

5.2.4. If the annual assessment is greater than ten percent (10%) of the previous annual assessment, the budget shall be approved at a meeting called for this purpose and can be approved by a simple majority of those present when quorum has been met. In the event that the proposed budget is rejected, the periodic budget last ratified by the Owners shall be continued until such time as the Owners ratify a subsequent budget proposed by the Board.

5.3 Special Assessments. If at any time during the fiscal year the common expense assessment levied pursuant to section 5.2, above, proves inadequate for any reason, including, without limitation, nonpayment of any Owner's share of common expenses, the Board may levy a further assessment in the amount of such actual or estimated inadequacy. Any special assessment so levied shall be assessed to the Owners according to each Lot's allocated interest, as provided above. Such special assessment shall be paid as the Association directs.

5.4 Capital Improvement Assessments. An assessment may also be levied for the purpose of defraying in whole or in part the cost of any capital Improvement upon the Property,

including fixtures, landscaping or personal property related thereto, provided that such assessment shall have the assent of Owners entitled to cast a majority of the votes at a valid meeting of the Association called pursuant to the Association Documents.

5.5 Reimbursement Assessment. The Board may levy a reimbursement assessment against any Owner as a result of such Owner's failure to restore or maintain his or her Lot as provided herein. Such reimbursement assessment shall be for the purpose of reimbursing the Association for its actual costs and expenses incurred for the repair, maintenance or restoration of such Owner's Lot and shall be due and payable as the Association directs.

5.6 Reserve Fund. The Association shall establish a reserve fund, funded through common expense assessments, for the maintenance, repair and replacement of the Property. The amount held in reserve may be increased or decreased as determined by the Association and shall be held by the Association in a separate account, which may be an interest-bearing account, to be held in trust for the Owners for such purposes.

5.7 Enforcement. In the event any assessment is not paid when due, the Association may enforce payment of such obligation by any or all of the following remedies:

5.7.1. The Association may elect to accelerate and declare immediately due and payable the remaining balance of regular or special assessments for such fiscal year.

5.7.2. The Association may bring a suit at law to collect the delinquent assessments, including any accelerated assessment. Any judgment rendered in such action shall include a sum for costs of suit, including reasonable attorney's fees.

5.7.3. All delinquent assessments shall be a lien on the Owner's Lot as provided for in Section 5.8.

5.8 Out-of-State Owners Who Are Not Occupants. In the event an Owner shall not occupy his residence and shall further maintain his principal residence outside of the State of Colorado, the Board may, to insure and guarantee payment of the assessments provided herein, require such out-of-state Owner who does not occupy his residence to:

5.8.1. Post a surety bond with the Association indemnifying the Association against the default of such Owner in the payment of any assessment levied herein, the amount of such surety bond to be twice the amount of the regular assessment for the preceding fiscal year; or

5.8.2. Pay the full annual common expense assessment pursuant to Section 5.2 hereof in advance by the 10th day of the first month of the fiscal year; or

5.8.3. Both of the immediately preceding subsections.

5.9 Lien for Assessments.

5.9.1. The Association has a statutory lien on a Lot for any assessment levied against that Lot. Fees, charges, late charges, attorney fees, fines and interest charged pursuant to this Declaration are enforceable as assessments. The amount of the lien shall include all those items set forth in this section from the time such items become due. If an assessment is payable in installments, each installment is a lien from the time it becomes due, including the due date set by any valid acceleration of installment obligations.

5.9.2. Recording of this Declaration constitutes record notice and perfection of the lien. No further recordation of any claim of lien for assessments is required. However, the Association may prepare, and record in the records of Mesa County, a written notice setting forth the amount of the unpaid indebtedness, the name of the Owner of the Lot, and a description of the Lot. If a lien is filed, the costs and expenses thereof shall be added to the assessment and collected as a part thereof. The Association's lien may be foreclosed in like manner as a mortgage on real estate.

5.10 Priority of Association Lien.

5.10.1. Pursuant to the Act, and as provided therein, a lien under this Article 5 is prior to all other liens and encumbrances. Notwithstanding anything herein to the contrary or anything in the Act to the contrary, if federal law applies, no liens for assessments shall be prior to the lien of a mortgage insured or guaranteed by the FHA, VA or other government agencies to the extent required by such federal law.

5.10.2. This section does not affect the priority of mechanics' liens or the priority of liens for other assessments made by the Association.

ARTICLE 6.
INSURANCE

6.1 Insurance. The Association shall maintain the following types of insurance on the Common Elements within the Property, including those Improvements described in section 1.9.2, to the extent that such insurance is reasonably available, considering the availability, cost and risk coverage provided by such insurance, and the cost of said coverage shall be paid by the Association as Common Expenses. In addition, the Association may maintain such insurance on such other property as the Board may determine in its discretion from time to time, or as may be hereinafter required. Notwithstanding any of the specific insurance requirements specified in this Article, the Association may also consider, in determining the types and amount of insurance it needs to obtain, the then-existing requirements of any governmental agencies with respect to their insurance, guaranty or purchase of security interests.

6.1.1. Property insurance for broad form coverage causes of loss; except that the total amount of insurance must not be less than the full insurable replacement cost of all

the insured property less applicable deductibles at the time the insurance is purchased and at each renewal date, exclusive of land, foundations, excavations and other matters normally excluded from property policies.

6.1.2. Commercial general liability insurance against claims and liabilities arising in connection with the ownership, existence, use or management of the Common Elements, insuring the Association in an amount not less than One Million Dollars (\$1,000,000.00) per occurrence, insuring the Board, the Association, any managing agent, and their respective employees, agents and all Persons acting as agents. 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. The insurance shall cover claims of one or more insured parties against other insured parties.

6.1.3. A policy providing comprehensive fidelity coverage or fidelity bonds to protect against dishonest acts on the part of officers, directors, trustees and employees of the Association and/or any independent contractor employed by the Association for the purpose of managing the Property and/or any Owner who controls or disburses funds of the Association, in an amount at least equal to the estimated maximum of funds, including maintenance reserves, in the custody of the Association at any given time; provided, however, that such fidelity coverage or fidelity bonds shall not be in an amount less than two (2) months aggregate assessments, plus such reserve funds as calculated from the current budget of the Association. The Association may carry fidelity insurance in amounts greater than required above and may require any independent contractor employed for the purposes of managing the Property to carry more fidelity insurance coverage 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 bonds which fully complies with the provisions of this subsection.

6.1.4. If any Common Elements are or should become located within an area identified by the Federal Emergency Management Agency as having special flood hazards, and flood insurance coverage on such parcels has been made available under the National Flood Insurance Program, then such a policy of flood insurance on such parcels in an amount at least equal to the lesser of:

(a) the maximum coverage available under the National Flood Insurance Program for all Condominium Buildings and other insurable property located within a designated flood hazard area; or

(b) one hundred percent (100%) of current replacement cost of all Buildings and other insurable property located within a designated flood hazard area.

6.1.5. In addition, the Association may obtain insurance against such other risks of a similar or dissimilar nature, as it shall deem appropriate, to the extent that such coverage is reasonably available, including, but not limited to, personal liability insurance to protect Directors and Officers of the Association from personal liability in relation to their duties and responsibilities in acting as directors and officers on behalf of the Association, and coverage on fixtures, equipment and other personal property inside Lots.

6.2 General Provisions of Insurance Policies. All policies of insurance carried by the Association 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 each Owner shall be an insured person under such policies with respect to liability arising out of any Owner's membership in the Association. The policy or policies shall contain a standard non-contributory Security Interest Holder's clause in favor of each Security Interest Holder and a provision that it cannot be canceled or materially altered by either the insured or the insurance company until at least thirty (30) days' prior written notice thereof is given to the insured and each Security Interest Holder, insurer or guarantor of a Security Interest. The Association shall furnish 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 Security Interest Holders, upon request. Any such Owner's policy shall also contain waivers of subrogation. All policies shall contain waivers of any defense based on invalidity arising from any acts or neglect of an Owner where such Owner is not under the control of the Association.

6.3 Deductibles. 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.

6.3.1. To the extent the Association settles claims for damages, it shall have the authority to assess negligent Owners causing such loss or benefitting from such repair or restoration all deductibles paid by the Association. In the event that more than one (1) Lot is damaged by a loss, the Association, in its reasonable discretion, may assess each Owner a pro rata share of any deductible paid by the Association.

6.3.2. Any loss to any Common Elements which the Association has the duty to maintain, repair and/or reconstruct, which falls within the deductible portion of such policy, shall be borne by the person who is responsible for the repair and maintenance of the property which is damaged or destroyed. In the event of a joint duty of repair and maintenance of the damaged or destroyed property, then the deductible may be apportioned among the persons sharing in such joint duty or may be partly or wholly borne by the Association, at the election of the Board. Notwithstanding the foregoing, after notice and hearing, the Association may determine that a loss, either in the form of a deductible to be paid by the Association or an uninsured loss, resulted from the act or negligence of an Owner, the Owner's tenants, family members, guests or invitees. Upon said determination by the Association, any such loss or portion thereof may be assessed

to the Owner in question and the Association may collect the amount from said Owner in the same manner as any assessment.

6.4 Payment of Insurance Proceeds. Any loss covered by an insurance policy described in Section 6.1 must be adjusted with the Association, but the insurance proceeds for that loss shall be payable to any insurance trustee designated for that purpose, or otherwise to the Association, and not to any Security Interest Holder. The insurance trustee or the Association shall hold any insurance proceeds in trust for the Association, Owners and Security Interest Holders as their interests may appear. The proceeds must be disbursed first for the repair or restoration of the damaged property; and the Association, Owners and Security Interest Holders are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the property has been completely repaired or restored or the Property is terminated.

6.5 Association Insurance as Primary Coverage. If at the time of any loss under any policy which is in the name of the Association, there is other insurance in the name of any Owner and such Owner's policy covers the same property or loss, or any portion thereof, which is covered by such Association policy, such Association policy shall be primary insurance not contributing with any of such other insurance. An Owner shall be liable to the Association for the amount of any diminution of insurance proceeds to the Association as a result of policies of insurance of an Owner, and the Association may collect the amount from said Owner in the same manner as any assessment. Any such Owner's policy shall also contain waivers of subrogation.

6.6 Acceptable Insurance Companies. Each hazard insurance policy purchased by the Association must be written by a hazard insurance carrier which is authorized by law to do business in the State of Colorado. The Association shall not obtain any policy where (a) under the terms of the insurance company's charter, bylaws, or policy, contributions or assessments may be made against the mortgagor or mortgagee's designee, or (b) under the terms of the carrier's charter, bylaws, or policy, loss payments are contingent upon action by the carrier's Board, policy holders or members, or (c) the policy includes any limiting clauses (other than insurance conditions) which could prevent mortgagees or any Owner from collecting insurance proceeds.

6.7 Insurance to be Maintained by Owners. An insurance policy issued to the Association does not obviate the need for Owners to obtain insurance for their own benefit. The Association is not obligated to provide insurance covering the Lots or anything in or on any Lot, including the Buildings, except as otherwise provided by this Declaration. Insurance coverage on the furnishings and other items of personal property belonging to an Owner, and insurance coverage on each Lot, shall be the responsibility of the Owner of such Lot.

6.8 Annual Review of Insurance Policies. All insurance policies carried by the Association shall be reviewed at least annually by the Board to ascertain that the coverage provided by such policies adequately covers those risks intended to be insured by the Association. In making the aforesaid determination, the Board or the managing agent of the

Association may obtain a written appraisal from a duly qualified real estate or insurance appraiser, or seek other advice or assistance. Any Security Interest Holder shall be furnished with a copy of such appraisal upon request.

ARTICLE 7.
CONVEYANCES, OWNERSHIP AND TAXATION OF LOTS

7.1 Taxation. Each Lot shall be assessed separately for all taxes, assessments and other charges of the State of Colorado, any political subdivision thereof, any special improvement district, and any other taxing or assessing authority, in accordance with the Act. For the purpose of such assessments, the valuation of the Common Elements shall be apportioned among the Lots in proportion to the Allocated Interests. The Association shall furnish to the Tax Assessor of the County of Mesa, Colorado, and to all other appropriate persons and authorities, all necessary information with respect to such apportionment. No forfeiture or sale of any Lot for delinquent taxes, assessments or other governmental charges shall divest or in any way affect the title to any other Lot.

9.2 Inseparability. Each Lot, as well as all other appurtenances, rights and burdens connected therewith, shall be inseparable and may be transferred, conveyed, leased, devised, encumbered or otherwise disposed of only as a Lot. Every conveyance, transfer, devise, lease, encumbrance or other disposition of a Lot shall be deemed to be a conveyance, transfer, devise, lease, encumbrance or other disposition, as the case may be, of the entire Lot, together with all appurtenant rights, interests, duties and obligations created by law or by this Declaration.

ARTICLE 8.
GENERAL PROVISIONS AND MISCELLANEOUS

8.1 Enforcement. The Association, or any Owner, shall have the right to enforce by any proceeding at law or in equity all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter, or a waiver of any other or subsequent breach of any covenant, condition or restriction herein contained.

8.2 Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall not affect any other provisions which shall remain in full force and effect.

8.3 Amendments. The covenants and restrictions of this Declaration shall run with and bind the land perpetually. This Declaration may be amended for any purpose whatsoever by vote or agreement of Owners of Lots to which at least sixty-seven percent (67%) of the votes in the Association are allocated. Any amendment must be recorded in the real property records of the Clerk.

