

68 PAGE DOCUMENT

DECLARATION OF COVENANTS,
 CONDITIONS AND RESTRICTIONS OF
 SUNDANCE VILLAGE CONDOMINIUMS

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Exhibit A – Community

Exhibit B – Allocated Interests

Exhibit C – Certain Title Exceptions

**DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS OF
SUNDANCE VILLAGE CONDOMINIUMS**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF SUNDANCE VILLAGE CONDOMINIUMS is made and entered into by SUNDANCE VILLAGE, LLC, a Colorado limited liability company ("Declarant," as hereinafter more fully defined).

WITNESSETH:

WHEREAS, the Declarant is the owner of the real property situated in the County of Mesa, State of Colorado, which is described on Exhibit A, attached hereto and incorporated herein by this reference, as supplemented and amended from time to time (the "Community," as hereinafter more fully defined); and

WHEREAS, the property described on the attached Exhibit A is subject to that certain Declaration of Covenants, Conditions, Restrictions and Easements for Hacienda Subdivision recorded in the office of the Clerk and Recorder of Mesa County, Colorado, as amended and supplemented (hereinafter, the "Master Declaration," as hereinafter more fully defined); and

WHEREAS, in addition to the Master Declaration, the Declarant desires to subject and place upon the Community certain covenants, conditions, restrictions, easements, reservations, rights-of-way, obligations, liabilities, charges and other provisions set forth herein for the purpose of furthering a plan for the improvement, sale and condominium ownership of the Community; and

WHEREAS, the Declarant anticipates constructing condominium buildings, condominium units, and other improvements in the Community in phases ("Phases," as hereinafter more fully defined); and

WHEREAS, the Declarant shall retain ownership of Tracts 10, 11 and 12 until the recording of one or more condominium maps with respect to any such property that shows Residential Units constructed thereon; and

WHEREAS, a common interest community may be created pursuant to CCIOA (as hereinafter defined) only by recording a declaration executed in the same manner as a deed. The declaration must be recorded in every county in which any portion of the common interest community is located and must be indexed in the grantee's index in the name of the common interest community and in the name of the association, and in the grantor's index in the name of each person executing the declaration. No common interest community is created until the plat or map for the common interest community is recorded.

NOW, THEREFORE, in addition to the provisions of the Master Declaration, Declarant hereby declares that one or more condominium maps of the Community have been or will be recorded and that all of the Community shall be held, sold, and conveyed subject to the following

covenants, conditions, restrictions, easements, rights-of-way, obligations, liabilities, charges and other provisions set forth herein.

ARTICLE 1. DEFINITIONS

Section 1.1. *Agencies.*

"Agencies" means the Government National Mortgage Association ("GNMA"), the Federal National Mortgage Association ("FNMA"), the Federal Home Loan Mortgage Corporation ("FHLMC"), the Department of Housing and Urban Development, including the Federal Housing Administration ("HUD"), 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 any of those currently performed by any of such entities.

Section 1.2. *Allocated Interests.*

"Allocated Interests" means the Assessment liability in the Association allocated to each Unit, as follows:

1.2.1. The Allocated Interest of each Residential Unit shall be a fraction, the numerator of which is one (1) and the denominator of which is the total number of Residential Units within the Community from time to time.

1.2.2. The Allocated Interest of each Garage Unit shall be a fraction, the numerator of which is one (1) and the denominator of which is the total number of Garage Units within the Community from time to time.

The Allocated Interest of each Unit is provided on Exhibit B, attached hereto and incorporated herein by this reference, as supplemented and amended from time to time. However, the Allocated Interest for each Unit is subject to change as provided in this Declaration, including without limitation a decrease in the Allocated Interests of each Unit upon any of the events that are provided for in Section 1.33 (Special Declarant Rights), Section 16.4 (Annexation) or 16.5 (Declarant's Use) of the Declaration.

Section 1.3. *Assessment.*

"Assessment" means annual Assessments and special Assessments, which are provided for in this Declaration. For purposes of Sections 4.1, 4.4.4, 4.8 through 4.16, inclusive, and 15.6 of this Declaration, "Assessment" means annual Assessments, Garage Unit Assessments, special Assessments, Special Garage Unit Assessments and late charges, fines, fees, interest, costs, expenses, reasonable attorneys' fees, and any other amounts which are provided for in this Declaration.

Section 1.4. *Association.*

"Association" means the Sundance Village Condominium Association, Inc., its successors and assigns. The Association is a community association as provided in CCIOA. The Association constitutes a Project Association as defined in the Master Declaration.

Section 1.5. Board of Directors or Board.

"Board of Directors" or "Board" means the body, regardless of name, designated in this Declaration, the Articles of Incorporation and the Bylaws of the Association to act on behalf of the Association.

Section 1.6. CCIOA.

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

Section 1.7. Common Elements.

"Common Elements" means the totality of:

1.7.1. The real property which is part of the Community; and

1.7.2. The Condominium Buildings (including, but not by way of limitation, the foundations, columns, girders, beams, supports, perimeter and supporting walls, flues, hallways, roofs, stairs, stairways, and the mechanical installations of the Condominium Buildings consisting of the equipment and materials making up any services such as power, light, gas, hot and cold water, heating, air conditioning, and exterior security lighting, which exist for common uses (including the pipes, vents, ducts, flues, chutes, conduits, wires, and other similar utility installations used in connection therewith), except for the Individual Air Spaces and the Special Units; and

1.7.3. Any amenities and amenity areas, if any, sidewalks, walkways, paths, fences, grass, shrubbery, trees, driveways, roads, streets, alleys, access ways, parking areas, landscaping, irrigation systems, and gardens, if any, now or hereafter located in the Community; and

1.7.4. All apparatus, installations and equipment of the Condominium Buildings existing for common use of one, some or all of the Owners; and

1.7.5. In general, all other parts of the Community including, without limitation, the Common Elements depicted on the Condominium Map and any items designated by Declarant as Common Elements under other provisions of this Declaration, including General Common Elements and Limited Common Elements, and all other parts of the Community necessary or convenient to its existence, maintenance or safety, or normally in common use.

Section 1.8. Community.

"Community" means the real property and Improvements described on the attached Exhibit A, as supplemented and amended from time to time. The Community is a condominium under CCIOA. The name of the Community is "Sundance Village Condominiums".

Section 1.9. *Condominium Building.*

"Condominium Building" means any building (including all fixtures and Improvements therein contained) located in the Community and within which one or more Individual Air Spaces are located.

Section 1.10. *Condominium Map.*

"Condominium Map" means the condominium map(s) of the Community and Improvements thereon that are subject to this Declaration and which is designated as the Sundance Village Condominium Map, recorded or to be recorded in the office of the Clerk and Recorder of Mesa County, Colorado. More than one Condominium Map or supplement thereto may be recorded and, if so, then the term "Condominium Map" collectively means all of such condominium maps and supplements thereto. The Condominium Map shall depict all or a portion of the Community in three dimensions, and shall be executed by a Person who is authorized by CCIOA to execute a declaration relating to this Community. Further, the Condominium Map shall include a certificate executed by a licensed or registered engineer, land surveyor, or architect stating that all Improvements shown on the Condominium Map have been substantially completed, all structural components of all buildings that contain or comprise any Units in the Community are substantially completed, and stating that the Condominium Map contains all the information required by Section 38-33.3-209 of CCIOA.

Section 1.11. *Declarant.*

"Declarant" means Sundance Village, LLC, a Colorado limited liability company or any other Person(s) acting in concert to whom the Declarant, by recorded document, expressly assigns one or more of the Declarant's rights under this Declaration (which shall be the extent of the Declarant's rights to which such assignee succeeds).

Section 1.12. *Declaration.*

"Declaration" means this Declaration of Covenants, Conditions and Restrictions of Sundance Village Condominiums and any other recorded instruments, however denominated, that create this Community, including any supplements and amendments to those instruments and also including, but not limited to, the Condominium Map(s). This Declaration is a Project Declaration as defined in the Master Declaration.

Section 1.13. *Development Rights.*

"Development Rights" means the following rights or combination of rights hereby reserved by the Declarant, as provided in this Declaration, to:

- 1.13.1. add real estate to this Community;
- 1.13.2. create or construct Condominium Buildings, Units and/or Common Elements (including, without limitation, as more fully provided in Section 16.5 of this Declaration); and

1.13.3. subdivide any Unit or convert Units into Common Elements.

The Declarant's rights to exercise Development Rights shall terminate automatically as provided in Section 1.33 of this Declaration (Special Declarant Rights).

Section 1.14. *First Security Interest.*

"First Security Interest" means a Security Interest (as hereinafter defined) 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 governmental assessments).

Section 1.15. *Garage Unit.*

"Garage Unit" means an Individual Air Space, together with all fixtures and Improvements therein contained, and together with the undivided interest in the Common Elements appurtenant to the Individual Air Space as provided in Section 11.2 hereof (Undivided Interest). The Garage Units that are initially subject to the Declaration are listed on the attached Exhibit B, as supplemented and amended from time to time. A Residential Unit is not a Garage Unit under this Declaration.

Section 1.16. *Garage Unit Assessments.*

"Garage Unit Assessments" means the additional liability of each Owner who owns one or more Garage Units for all amounts established, levied and collected, from time to time, by the Board of Directors for the purposes that are provided for Garage Unit Assessments and Special Garage Unit Assessments in Article 4 hereof. The Garage Unit Assessments and Special Garage Unit Assessments shall be charged against each Owner who owns one or more Garage Units, as more fully provided in this Declaration. There shall be one (1) Garage Unit Assessment and one (1) Special Garage Unit Assessment for each Garage Unit.

Section 1.17. *General Common Elements.*

"General Common Elements" means all of the Common Elements except the Limited Common Elements.

Section 1.18. *Governing Documents.*

"Governing Documents" means this Declaration, the Articles of Incorporation, Bylaws, and any rules and regulations, policies and procedures, or design guidelines of the Association.

Section 1.19. *Improvements.*

"Improvements" means all structures now or hereafter located in the Community, exterior improvements to any such structures, and any other exterior improvements made to a Unit or the Common Elements, and any appurtenances thereto or components thereof, of every type or kind, including all landscaping features.

Section 1.20. *Individual Air Space.*

"Individual Air Space" means the air space contained within the enclosed rooms occupying part of a floor or floors in a Condominium Building, and bounded by the unfinished interior surfaces of the perimeter walls (or the adjoining walls, if two or more Individual Air Spaces adjoin each other), unfinished interior surfaces of floors (or the lowermost floors, if it is an Individual Air Space containing more than one level), unfinished interior surfaces of ceilings (or the uppermost ceilings, if it is an Individual Air Space containing more than one level), and the unfinished interior surfaces of windows and window frames, doors and door frames of a Condominium Building, and which is separately identified on the Condominium Map; provided that, if the adjoining wall, ceiling or floor between any two or more Individual Air Spaces is completely or partially removed so as to provide free access between such Individual Air Spaces, the area of each Individual Air Space shall be determined as if such wall, ceiling or floor were in existence, and each such Individual Air Space shall continue to be a separate Unit for purposes of this Declaration.

Section 1.21. *Initially Unoccupied Residential Units.*

"Initially Unoccupied Residential Units" means only those Residential Units which have not been conveyed by the Declarant to the first Owner thereof other than the Declarant.

Section 1.22. *Limited Common Elements.*

"Limited Common Elements" means those parts of the Common Elements which are either limited to and reserved for the exclusive use of the Owner(s) of a particular Unit or are limited to and reserved for the common use of the Owners of more than one, but fewer than all, of the Units. Without limiting the foregoing, the Limited Common Elements shall include the following, if the same now or hereafter exist: the utility, heating, air conditioning and domestic hot water equipment, audio, visual or telecommunication lines, cables and appurtenances, if any, associated with or providing service to any Unit; window wells, if any, attached to a Unit; porches, balconies, patios and decks, if any, as well as any fence(s) surrounding the same, if any, attached or appurtenant to any Unit; stairways and landings that are not inside of a Unit; and any other areas or Improvements, if any, designated as Limited Common Elements on the Condominium Map. The Limited Common Elements shall be used in connection with the applicable Individual Air Space(s) to the exclusion of the use thereof by the other Owners, except by invitation and except as otherwise provided in this Declaration. No reference to any Limited Common Elements need be made in any instrument of conveyance, encumbrance or other instrument. The Limited Common Elements allocated to Units as provided in this Section may not be reallocated without the consent of the Owners whose Units are affected and any Security Interest Holders of such Units. Further, any reallocation of Limited Common Elements between or among Units must be done in compliance with CCIOA.

Section 1.23. *Master Association.*

"Master Association" means the Hacienda Subdivision Association, Inc., a Colorado non-profit corporation, its successors and assigns.

Section 1.24. Master Declaration.

"Master Declaration" means the Declaration of Covenants, Conditions, Restrictions and Easements for Hacienda Subdivision recorded in the office of the Clerk and Recorder of Mesa County, Colorado, as amended and supplemented.

Section 1.25. Member.

"Member" means all Owners of a Residential Unit collectively or, following termination of the Community, all former Owners entitled to distributions of proceeds under CCIOA, or their heirs, personal representatives, successors or assigns. Membership is not conferred based on ownership of a Garage Unit or a Special Unit.

Section 1.26. Owner.

"Owner" means each fee simple title holder of a Unit, including without limitation, the Declarant or other Person who owns a Unit, but does not include a Person having an interest in a Unit solely as security for an obligation. There may be more than one (1) Owner of a Unit.

Section 1.27. Person.

"Person" means a natural person, a corporation, a limited liability company, a partnership, a joint venture, an association, a trust, or any other entity recognized under the laws of the State of Colorado or any combination thereof.

Section 1.28. Phases.

"Phases" means the phases pursuant to which the Declarant intends to construct Condominium Buildings, Units, and other Improvements in the Community as further provided in this Declaration, including without limitation, Section 16.5 hereof (Declarant's Use). The Phases shall be as follows:

Phase 1	Building 9	Residential Units 1-8, Garage Units 1-50
Phase 2	Tract 10	Special Unit 1 (Residential Units 9-18)
Phase 3	Tract 11	Special Unit 2 (Residential Units 19-24)
Phase 4	Tract 12	Special Unit 3 (Residential Units 25-32)

Declarant may construct or complete the Phases at any time and from time to time, and no assurances are made as to the order or timing of construction or completion of such Phases. The rights provided for in this Section shall terminate automatically upon termination of the Special Declarant Rights, as provided in Section 1.33 hereof (Special Declarant Rights).

Section 1.29. Residential Unit.

"Residential Unit" means an Individual Air Space, together with all fixtures and Improvements therein contained, and together with the undivided interest in the Common Elements appurtenant to the Individual Air Space as provided in Section 11.2 hereof (Undivided Interest).

The Residential Units that are initially subject to the Declaration are listed on the attached Exhibit B, as supplemented or amended from time to time. The number of Residential Units may be increased as provided in Section 16.5 of this Declaration (Declarant's Use). A Garage Unit is not a Residential Unit under this Declaration. As further provided in subsection 12.5.2 hereof, ownership of a Residential Unit will be inseparable from ownership of one (1) Garage Unit.

Section 1.30. Security Interest.

"Security Interest" means an interest in real estate or personal property in the Community, or any portion thereof, 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. For purposes of Section 4.11 of this Declaration (Certificate of Status of Assessments) and, with respect to notice of cancellation or substantial modification of certain insurance policies, to Section 6.2 of this Declaration (General Provisions of Insurance Policies), "Security Interest" shall also mean and refer to any executory land sales contract wherein the administrator of Veterans Affairs, an officer of the United States of America, is the seller, whether such contract is recorded or not, and whether such contract is owned by the said administrator or has been assigned by the administrator and is owned by the administrator's assignee, or a remote assignee, and the land records in the office of the Clerk and Recorder of Mesa County, Colorado, show the administrator as having the record title to the Unit.

Section 1.31. Security Interest Holder.

"Security Interest Holder" means any Person named as a mortgagee or beneficiary, or in a similar capacity, under any Security Interest (including, for purposes of Section 4.11 of this Declaration (Certificate of Status of Assessments) and, with respect to notice of cancellation or substantial modification of certain insurance policies, to Section 6.2 of this Declaration (General Provisions of Insurance Policies), the administrator of Veterans Affairs, an officer of the United States of America, and his assigns under any executory land sales contract wherein the said administrator is identified as the seller, whether such contract is recorded or not, and whether such contract is owned by the said administrator or has been assigned by the administrator and is owned by the administrator's assignee, or a remote assignee, and the land records in the office of the Clerk and Recorder of Mesa County, Colorado, show the said administrator as having the record title to the Unit), or any successor to the interest of any such Person under such Security Interest.

Section 1.32. 75% Control Period.

"75% Control Period" means a length of time that terminates on the first to occur of the following events: sixty (60) days after conveyance of seventy-five percent (75%) of the Units that May Be Created to Owners other than a Declarant; two (2) years after the last conveyance of a Unit by the Declarant in the ordinary course of business; or two (2) years after any right to add new Units to the Declaration was last exercised.

Section 1.33. *Special Declarant Rights.*

"Special Declarant Rights" means the following rights, which rights are hereby reserved for the benefit of the Declarant, and which rights may be further described in this Declaration: to build and complete Improvements in the Community; to exercise any Development Rights; to maintain sales offices, construction offices, management offices, model homes and signs advertising the Community and sale of Units; to use easements through the Common Elements for the purpose of making Improvements within the Community or within real estate which may be added to the Community; to merge or consolidate a common interest community of the same form of ownership; or to appoint or remove any officer of the Association or any member of the Board of Directors during any 75% Control Period. All of the Special Declarant Rights may be exercised by the Declarant with respect to any portion of the property now or hereafter within the Community. Declarant may exercise any or all of these Special Declarant Rights at any time and from time to time in all or any portion of the Community, and no assurances are made as to the boundaries or order of exercise of any such Special Declarant Rights. Such rights shall terminate automatically either ten (10) years after the date of recording of this Declaration or at such time as Declarant no longer owns any portion of the property described on the attached Exhibit A, whichever occurs later.

Section 1.34. *Special Unit.*

"Special Unit" means each of those tracts which are subjected to this Declaration which are listed on the attached Exhibit B, as supplemented or amended from time to time. The undivided interest in the Common Elements appurtenant to each such Special Unit shall be as provided in Section 11.2 hereof (Undivided Interest). However, each of the Special Units listed on the attached Exhibit B, shall be converted to eight (8) "Residential Units" under this Declaration at such time as a Condominium Map is recorded in Mesa County, Colorado, with respect to such Special Unit, and at such time such Special Unit shall cease to exist. A Special Unit is not a "Unit" under this Declaration, and thus Special Units have no voting rights or Assessment liability.

Section 1.35. *Unit.*

"Unit" means a Residential Unit or Garage Unit. A Special Unit is not a "Unit" under this Declaration.

Section 1.36. *Units that May Be Created.*

"Units that May Be Created" means Eighty-Two (82) Units (including both Garage Units and Residential Units, but excluding Special Units), which shall be the maximum number of Units that may be subject to this Declaration. However, the aforesaid number of Units that May Be Created is not a representation or a guarantee as to the actual number of Units that will ultimately be included in or constructed as part of the Community.

ARTICLE 2. MEMBERSHIP AND VOTING RIGHTS

Section 2.1. *Membership.*

The Association shall have one (1) class of membership. Membership in the Association shall be appurtenant to, and may not be separated from, ownership of a Residential Unit. Each Residential Unit shall have one (1) membership and there is only one (1) Member per Residential Unit, even if multiple Owners own the Residential Unit.

Section 2.2. *Voting Rights.*

Each Member shall be entitled to one (1) vote for each Residential Unit owned, except that no votes allocated to a Residential Unit owned by the Association may be cast. Garage Units shall not have any voting rights in the Association except as provided in Sections 3.8 (Budget and Audit or Review), Section 4.6 (Special Assessments and Special Garage Unit Assessments), and subsection 16.6.1 of Section 16.6 (Duration, Revocation, and Amendment) hereof. Special Units shall have no voting rights in the Association. The maximum number of votes that may be cast in connection with any matter shall be equal to the total number of Residential Units then existing within the Association.

ARTICLE 3. ASSOCIATION

Section 3.1. *Association.*

The Association has been or will be formed as a Colorado non-profit corporation under the Colorado Revised Nonprofit Corporation Act. The Association shall have the duties, powers and rights created by law, as well as those set forth in this Declaration and in its Articles of Incorporation and Bylaws.

Section 3.2. *Board of Directors.*

The affairs of the Association shall be managed by a Board of Directors. The number, term and qualifications of the Board of Directors shall be fixed in the Association's Articles of Incorporation and Bylaws. Subject to Section 3.5 hereof (Election of Part of the Board During the 75% Control Period), the Board of Directors shall be elected by the Members. The Board of Directors may, by resolution, delegate portions of its authority to an executive committee or to other committees, to officers of the Association or to agents or employees of the Association, but such delegation of authority shall not relieve the Board of Directors of the ultimate responsibility for management of the affairs of the Association.

Section 3.3. *Bylaws.*

The Association may adopt Bylaws for the regulation and management of the Association, provided that the provisions of the Bylaws should not be inconsistent with the provisions of this Declaration. The Bylaws may include, without limitation, provisions regarding the voting rights of the Members, the appointment or election of the Board, and the appointment or election of officers of the Association.

Section 3.4. Authority of Board of Directors.

Action by or on behalf of the Association may be taken by the Board of Directors or any duly authorized executive committee, officer, agent or employee, without a vote of the Members, except as otherwise specifically provided in this Declaration, the Articles of Incorporation or Bylaws of the Association, or by law.

Section 3.5. Election of Part of the Board During the 75% Control Period.

Within sixty (60) days after conveyance of twenty-five percent (25%) of the Units that May Be Created to Owners other than a Declarant, at least one (1) director and not less than twenty-five percent (25%) of the directors must be elected by Members other than the Declarant, provided that the Declarant reserves the right to appoint a majority of the Board. Within sixty (60) days after conveyance of fifty percent (50%) of the Units that May Be Created to Owners other than a Declarant, not less than thirty-three and one-third percent (33 1/3%) of the directors must be elected by Members other than the Declarant, provided that the Declarant reserves the right to appoint a majority of the Board.

Section 3.6. Authority of Declarant During 75% Control Period.

Except as otherwise provided in this Article, during the 75% Control Period, the Declarant or Persons appointed by the Declarant may appoint and remove all officers and members of the Board of Directors which have been appointed by the Declarant. The Declarant may voluntarily surrender the right to appoint and remove officers and members of the Board of Directors before termination of the 75% Control Period; but, in that event, the Declarant may require, for the duration of the 75% Control Period, that specified actions of the Association or Board of Directors, as described in a recorded instrument executed by the Declarant, be approved by the Declarant before they become effective.

Section 3.7. Termination of 75% Control Period.

After termination of the 75% Control Period, the Members shall elect the Board of Directors, at least a majority of whom must be Owners other than the Declarant or designated representatives of Owners other than the Declarant. The Board of Directors shall elect the officers.

Section 3.8. Budget and Audit or Review.

3.8.1. Within ninety (90) days after adoption of any proposed budget for the Community, the Board of Directors shall mail, by ordinary first-class mail, or otherwise deliver, a summary of the Association budget to all the Members and shall set a date for a meeting of the Members to consider the budget. Such meeting shall occur within a reasonable time after mailing or other delivery of the summary. The Board of Directors shall give notice to the Owners of the meeting as provided in the Bylaws of the Association. The budget proposed by the Board of Directors does not require approval from the Owners and it will be deemed approved by the Owners in the absence of a veto at the noticed meeting by eighty percent (80%) of the votes in the Association, whether or not a quorum is present. In the event that the proposed budget

is vetoed, the periodic budget last approved by the Board of Directors and not vetoed by the Owners must be continued until such time as a subsequent budget proposed by the Board of Directors is not vetoed by the Owners.

3.8.2. The Association budget that is provided for in subsection 3.8.1, above, may segregate all line items for amounts attributable to Garage Units, or one or more separate budgets may be prepared in the discretion of the Board of Directors from time to time. Any such budget and/or budget item(s) prepared with respect to the Garage Units shall be submitted in accordance with the requirements set forth above, but need be sent only to the Owners of Garage Units. Only the Owners of Garage Units shall, pursuant to subsection 3.8.1 hereof, have the right to vote to veto the budget and/or budget items for amounts attribute to Garage Units. Each Garage Unit shall be entitled to one (1) vote to be exercised by the Owner(s) thereof.

3.8.3. At the discretion of the Board of Directors or as required pursuant to subsections 3.8.3.1 or 3.8.3.2 below, the Association's books and records shall be subject to an audit, using generally accepted auditing standards, or a review, using statements on standards for accounting and review services, by an independent and qualified Person selected by the Board of Directors. Such Person need not be a certified public accountant except in the case of an audit. A Person selected to conduct a review shall have at least a basic understanding of the principles of accounting as a result of prior business experience, education above the high school level, or bona fide home study. The audit or review report shall cover the Association's financial statements, which shall be prepared using generally accepted accounting principles or the cash or tax basis of accounting.

3.8.3.1. An audit shall be required only when both of the following conditions are met:

- (i) The Association has annual revenues or expenditures of at least two hundred fifty thousand dollars (\$250,000); and
- (ii) An audit is requested by the Owners of at least one-third (1/3) of the Units represented by the Association.

3.8.3.2. A review shall be required only when requested by the Owners of at least one-third (1/3) of the Units represented by the Association.

3.8.3.3. Copies of an audit or review under this subsection 3.8.3 shall be made available upon request to any Owner beginning no later than thirty (30) days after its completion.

3.8.4. In the event CCIOA is amended to remove, modify, or otherwise revise the requirements under Section 3.8 of this Declaration, Section 3.8 shall be deemed amended to require that which is required pursuant to CCIOA, as amended.

Section 3.9. Association Books and Records.

3.9.1. The Association's books and records shall be subject to an audit or a review as further provided in this Declaration. Except as otherwise provided in subsections 3.9.2 and 3.9.3 below, the Association shall make reasonably available for inspection and copying by Owners, Security Interest Holders, and insurers or guarantors of any such Security Interest, current copies of all of the Governing Documents and financial documents as listed in the most recent available version of the contract to buy and sell real estate promulgated by the Colorado Real Estate Commission. The Person(s) accessing and/or copying such documents shall pay all costs associated therewith. "Reasonably available" shall mean available during normal business hours, upon prior notice of at least five (5) business days, or at the next regularly scheduled meeting if such meeting occurs within thirty (30) days after the request.

3.9.2. Notwithstanding subsection 3.9.1 above, a membership list or any part thereof may not be obtained or used by any Person for any purpose unrelated to an Owner's interest as an Owner without the consent of the Board of Directors. Without limiting the generality of the foregoing, without the written consent of the Board of Directors, a membership list or any part thereof may not be:

3.9.2.1. Used to solicit money or property unless such money or property will be used solely to solicit the votes of the Owners in an election to be held by the Association;

3.9.2.2. Used for any commercial purpose; or

3.9.2.3. Sold to or purchased by any Person.

3.9.3. Notwithstanding subsection 3.9.1 above, the Board of Directors may, at any time(s), prior or subsequent to a request for inspection and/or copying, determine that items are confidential and should not be made available

3.9.4. In the event CCIOA is amended to remove, modify, or otherwise revise the requirements under subsection 3.9.1 of this Declaration, subsection 3.9.1 shall be deemed amended to require that which is required pursuant to CCIOA, as amended.

Section 3.10. Information Regarding Security Interests on Units.

Each Owner shall, within twenty (20) days of encumbering such Owner's Unit with a Security Interest, and at other times upon request of the Board of Directors, provide the Association with the name and address of such Security Interest Holder, a copy of the instrument(s) creating the Security Interest(s), and the loan number(s) (or other identifying number of such Security Interest(s)). Within twenty (20) days after any change in the name or address of the Security Interest Holder on an Owner's Unit, and at other times upon request of the Association, such Owner shall provide the aforesaid information to the Association with respect to each Security Interest held by such Security Interest Holder.

Section 3.11. Rules and Regulations and Policies and Procedures.

Rules and regulations and policies and procedures concerning and governing the Residential Units, Garage Units, Common Elements, and/or this Community may be adopted, enacted, modified, amended, repealed, and re-enacted from time to time by the Board of Directors. Such rules and regulations and policies and procedures (as may be adopted, enacted, modified, amended, repealed and re-enacted by the Board of Directors from time to time) are incorporated into this Declaration, and the Board of Directors may establish and enforce penalties for the infraction thereof, including, without limitation, the levying and collecting of fines for the violation of any of such rules and regulations or policies and procedures. The rules and regulations and policies and procedures may state procedural requirements, interpretations and applications of this Declaration and law, including without limitation, blanket requirements, blanket interpretations, and blanket applications. The Board has the authority to adopt or vary one or more rules and regulations or policies and procedures that are different for different types of Units (e.g. Residential Units and Garage Units); however, all such rules and regulations and policies and procedures shall be uniform as to all Units of the same type (e.g. Residential Units and Garage Units). Any rules and regulations or policies and procedures that are adopted shall be in accordance with, and shall not be inconsistent with or contrary to, this Declaration.

Section 3.12. Cooperation with Master Association, and/or Delegation to, Other Community Association(s) and/or Districts.

3.12.1. The Association shall have the right and authority at any time, from time to time, to enter into agreements and otherwise cooperate with, and/or delegate to, the Master Association, any other community association(s) and/or any district(s), for any purposes, including without limitation: to share the costs and/or responsibility for any maintenance, repair, replacement, or other matters; to perform maintenance, repair or replacement for any Person(s) in consideration of payment or reimbursement therefor; to utilize the same contractors, subcontractors, managers, or others who may perform services for the Master Association, any other community association(s) and/or any district(s); to otherwise cooperate with, and/or delegate to, any other community association(s) and/or any district(s), in order to increase consistency or coordination, reduce costs, or as may otherwise be deemed appropriate or beneficial by the Board of Directors in its discretion from time to time. The costs and expenses for all such matters, if any, shall be shared or apportioned between the Association, the Master Association, any other community association(s), and/or any district(s), as the Board of Directors may determine in its discretion from time to time.

3.12.2. Without limiting the generality of the foregoing, the governing board of a metropolitan district may furnish covenant enforcement and/or design review services, as well as any other matters, within such metropolitan district area.

Section 3.13. Management Agreements and Other Contracts.

Any agreement for professional management of the Association's business or other contract providing for the services of the Declarant shall have a term not exceeding three (3) years, although any such agreement or contracts may be renewed (including automatic renewals) for terms of up to

three (3) years each. Any such agreements or contracts shall provide for termination by either party thereto, with or without cause and without payment of a termination fee, upon not more than ninety (90) days' prior written notice; provided however, that any such management agreement(s) entered into by the Association with a manager or managing agent prior to termination of the 75% Control Period shall be subject to review and approval by HUD or VA if, at the time such agreement is entered into, HUD has insurance or VA has a guarantee(s) on one or more First Security Interests, and HUD or VA require their approval of such contract.

Section 3.14. Merger.

The Declarant hereby reserves the right to merge the Association with one or more other common interest communities without the approval of any Owner or any other Person. This right shall terminate automatically as provided in Section 1.33 of this Declaration (Special Declarant Rights).

Section 3.15. Compliance with Maintenance Manuals.

Notwithstanding anything to the contrary, the Board of Directors, acting on behalf of the Association, shall comply with all maintenance manuals, if any, given by the Declarant to the Board of Directors or the Association, or otherwise obtained by the Board of Directors or the Association, regarding maintenance, repair and/or replacement of any portion of the Community or any Improvements therein. Further, the Board of Directors shall cooperate, at no cost or expense to the Board of Directors, with all inspections that may be undertaken by or at the request of the Declarant, on or with respect to the Community and Improvements therein.

Section 3.16. Notice of Meetings and Other Matters of the Association.

Notice of any meetings, news letters and other correspondence or documents concerning the Association shall be sent to the Declarant at the same time that such notices, news letters, and other correspondence or documents are sent to the Members. However, the foregoing shall expire fifteen (15) years after initial recording of this Declaration in Mesa County, Colorado.

ARTICLE 4. ASSESSMENTS

Section 4.1. Personal Obligation for Assessments and Garage Unit Assessments.

4.1.1. Each Owner of a Residential Unit, including Declarant, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, covenants and agrees and shall be personally obligated to pay to the Association: annual Assessments, special Assessments, and other amounts, all as provided in this Declaration; with such amounts to be established and collected as hereinafter provided. The obligation for such payments by each Owner to the Association is an independent covenant with all amounts due, from time to time, payable in full when due without notice or demand (except as otherwise expressly provided in this Declaration), and without set-off or deduction. All Owners of each Residential Unit shall be jointly and severally liable to the Association for the payment of all Assessments, fees, charges and other amounts attributable to their Residential Unit during their ownership of such Residential Unit. Each amount shall be the personal

obligation of the Person who was the Owner of such Residential Unit at the time when the amount became due. The personal obligation for delinquent amounts shall not pass to such Owner's successors in title unless expressly assumed by them.

4.1.2. Each Owner of a Garage Unit, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, covenants and agrees and shall be personally obligated to pay Garage Unit Assessments and Special Garage Unit Assessments to the Association. The obligation for such payments by each such Owner to the Association is an independent covenant with all amounts due, from time to time, payable in full when due without notice or demand (except as otherwise expressly provided in this Declaration), and without setoff or deduction. The Owners of a Garage Unit shall be jointly and severally liable to the Association for the payment of all Garage Unit Assessments and Special Garage Unit Assessments, as well as all other amounts attributable to their Garage Unit. Each Garage Unit Assessment and Special Garage Unit Assessment, together with interest, late charges, costs, and reasonable attorney's fees, shall also be the personal obligation of each Person who was the Owner of a Garage Unit at the time when the amount became due. The personal obligation for delinquent amounts shall not pass to such Owner's successors in title unless expressly assumed by them.

Section 4.2. Purpose of Assessments, Garage Unit Assessments and Special Garage Unit Assessments.

4.2.1. The Assessments levied by the Association shall be used for maintenance, repair and replacement of the Common Elements, as provided in this Declaration, to promote the recreation, health, safety and welfare of the residents of the Units, and for all of those purposes and activities which may be required of the Association or which the Association may be empowered to pursue pursuant to any of the Governing Documents, or by law. Notwithstanding the foregoing, however, Assessments levied during the 75% Control Period may not be used for the purpose of constructing capital improvements.

4.2.2. The Garage Unit Assessments and Special Garage Unit Assessments levied by the Association shall be used for maintenance, repair and replacement of the Garage Units and the Condominium Buildings within which some of the Garage Units are located, as provided in this Declaration, and for all of those purposes and activities which may be required of the Association or which the Association may be empowered to pursue pursuant to this Declaration, the Articles of Incorporation or Bylaws of the Association, any other document(s), or by law. Notwithstanding the foregoing, however, Garage Unit Assessments levied during the 75% Control Period may not be used for the purpose of constructing capital improvements.

Section 4.3. Initial Annual Assessment and Garage Unit Assessment.

4.3.1. Until the effective date of an Association budget that is proposed by the Board of Directors and not vetoed by the Owners, as provided above, the monthly installment of the annual Assessment against each Residential Unit shall not exceed One Hundred Fifty-Five and No/100 Dollars (\$155.00) per Residential Unit per month, exclusive of any amounts due to the Master Association, any other community

association(s), any district(s) and/or any other Person or entity. However, the rate of Assessments against the Initially Unoccupied Residential Units shall be less than those paid by the other Residential Units, as provided in the subsection 4.4.1 below.

4.3.2. Until the effective date of an Association budget that is proposed by the Board of Directors and not vetoed by the Owners, as provided above, the monthly installment of the Garage Unit Assessment against each Garage Unit shall not exceed Twenty-Five and No/100 Dollars (\$25.00) per Garage Unit per month, exclusive of any amounts due to the Master Association, any other community association(s), any district(s) and/or any other Person or entity.

Section 4.4. Rate of Assessments.

4.4.1. Annual and special Assessments shall be sufficient to meet the expected needs of the Association, except as provided below, and shall be apportioned among the Residential Units in accordance with their Allocated Interests. Notwithstanding the foregoing, however, the amount of the annual Assessments and special Assessments against the Initially Unoccupied Residential Units shall be set at a lower rate than that charged against other Residential Units, because the Initially Unoccupied Residential Units receive and benefit from fewer services funded by the annual and special Assessments than the other Residential Units. Colorado Revised Statutes § 38-33.3-315(3)(b) states that "Any common expense or portion thereof benefiting fewer than all of the units shall be assessed exclusively against the units benefited." Based on this provision, the Initially Unoccupied Residential Units shall pay annual and special Assessments at the rate of 80% of any annual Assessment or special Assessment charged to Residential Units other than Initially Unoccupied Residential Units. The annual Assessments shall include an adequate reserve fund for the maintenance, repair and replacement of those items that must be maintained, repaired or replaced by the Association on a periodic basis.

4.4.2. Garage Unit Assessments shall be sufficient to meet the expected needs of the Association and shall be apportioned equally among the Garage Units. The Garage Unit Assessment shall include an adequate reserve fund for the maintenance, repair and replacement of those items that must be maintained, repaired or replaced by the Association on a periodic basis.

4.4.3. As recited above, Colorado Revised Statutes §38-33.3-315(3)(b) states that "Any common expense or portion thereof benefiting fewer than all of the units shall be assessed exclusively against the units benefited." Hence, the Special Units will not be obligated to pay annual Assessments or special Assessments under this Article 4 because the Special Units receive and benefit from none of the services funded by such Assessments.

4.4.4. The Declarant may in its discretion, but shall not be required to, cover certain costs of the Association by payment of any amount(s), which shall constitute loans from the Declarant to the Association which may be repaid, in whole or in part, by the Association crediting such amounts against Assessments then or thereafter due from the Declarant; provided, however, that any such advances which have not been credited against

Assessments due from the Declarant immediately prior to termination of the 75% Control Period shall forthwith be repaid by the Association to the Declarant, without interest, to the extent that the Association has funds in excess of its working capital funds, reserve funds and operating expenses to date for the calendar year in which the 75% Control Period terminates; and provided further, however, that any of such advances which are not repaid to the Declarant shall continue to constitute advances against Assessments then or thereafter due from the Declarant until conveyance by the Declarant of all Units in the Community. If the Declarant elects in its discretion to pay or advance any amount as provided in this Section, Declarant shall not, under any circumstances, be obligated to continue payment or funding of any amount(s) in the future.

Section 4.5. *Date of Commencement of Annual Assessments and Garage Unit Assessments.*

4.5.1. The annual Assessments shall commence at such time as the Board of Directors may determine in its discretion. After any annual Assessment has been made by the Association, annual Assessments shall not exceed the amount set forth in Section 4.3 of this Declaration (Initial Annual Assessment and Garage Unit Assessment) until a budget is proposed by the Board of Directors and not vetoed by the Owners as provided in this Declaration. A budget shall be so proposed by the Board of Directors no less frequently than annually. The annual Assessments shall be due and payable in monthly installments, in advance, or on such other dates, and with such frequency (which may be other than monthly, but not less frequently than annually), as the Board of Directors may determine in its discretion from time to time; provided that the first annual Assessment shall be adjusted to reflect the time remaining in the first Association fiscal year. Any Owner purchasing a Residential Unit between installment due dates shall pay a pro rata share of the last payment due.

4.5.2. Garage Unit Assessments shall commence on that date when the Association's annual Assessments commence, as provided in Article 4 of this Declaration. The Garage Unit Assessments shall be due and payable in monthly installments, in advance, or on such other dates, and with such frequency (which may be other than monthly, but not less frequently than annually), as the Board of Directors determines in its discretion from time to time. Any Person purchasing a Garage Unit between Garage Unit Assessment due dates shall pay a pro rata share of the last payment due.

Section 4.6. *Special Assessments and Special Garage Unit Assessments.*

4.6.1. In addition to the annual Assessments authorized in this Article, the Board of Directors may levy, in any fiscal year, with the approval (except as otherwise provided in this Declaration) of sixty-seven percent (67%) of a quorum of Association votes, as provided in subsection 4.7.1 hereof, at a meeting duly called for this purpose, a special Assessment applicable to that year only, for the purpose of defraying in whole or in part the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Elements or any portion of real property for which the Association has repair and/or reconstruction obligations, including fixtures and personal property related thereto, or for repair or replacement of any damaged or destroyed Improvements, or for the

funding of any deficit incurred, or anticipated to be incurred, by the Association. Any such special Assessment shall be set against each Residential Unit in accordance with the Allocated Interests therefore, except that the special Assessments against Initially Unoccupied Residential Units shall be set in accordance with Section 4.4.1. hereof. A meeting of the Members called for the purpose of considering the establishment of a special Assessment shall be held in conformance with subsection 4.7.1 below. Notwithstanding the foregoing, special Assessments levied during the 75% Control Period may not be used for the purpose of constructing capital improvements.

4.6.2. In addition to the annual Garage Unit Assessments authorized in this Article, the Board of Directors may levy, in any fiscal year, with the approval of sixty-seven percent (67%) of a quorum of Association votes cast by the Owners who own Garage Units voting in person or by proxy at a meeting duly called for this purpose, a Special Garage Unit Assessment applicable to that year only, for the purpose of defraying in whole or in part the cost of any construction, repair or replacement of the Garage Units or any portion of the Garage Units for which the Association has repair and/or replacement obligations, including fixtures and personal property related thereto, and including, without limitation, the garage buildings, doors, trusses, or for repair or replacement of any damaged or destroyed Garage Unit, or for any matters relating to Garage Units, the Condominium Buildings within which one or more Garage Units are located, or for the funding of any deficit incurred by the Association specifically related to the Garage Units. Each Garage Unit shall be entitled to one (1) vote to be exercised by the Owner(s) thereof. Any such Special Garage Unit Assessment shall be set equally against each Garage Unit. A meeting of the Owners who own Garage Units called for the purpose of considering the establishment of a Special Garage Unit Assessment shall be held in conformance with subsection 4.7.2 of this Declaration. Notwithstanding the foregoing, Special Garage Unit Assessments levied during the 75% Control Period may not be used for the purpose of constructing capital improvements.

Section 4.7. *Notice and Quorum for Any Special Assessments or Special Garage Unit Assessments.*

4.7.1. Written notice of any meeting called for the purpose of taking any action authorized under subsection 4.6.1 of this Declaration shall be sent to all Members not less than thirty (30) days nor more than fifty (50) days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast sixty percent (60%) of all of the Association votes shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

4.7.2. Written notice of any meeting called for the purpose of taking any action authorized under subsection 4.6.2 of this Declaration shall be sent to all Owners owning Garage Units not less than thirty (30) days nor more than fifty (50) days in advance of the meeting. At the first such meeting called, the presence of Owners or of proxies entitled to cast sixty percent (60%) of all the Association votes allocated to Owners owning Garage

Units shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

Section 4.8. Assessments for Services to Less than All of the Units.

The Association may, at any time from time to time, provide services that benefit less than all of the Units, and the Owners of such Units shall pay the Association for such services as, when and in such manner as may be determined by the Board of Directors in its discretion from time to time, which amounts shall be Assessments and shall include overhead expenses of the Association, but shall be in addition to the annual Assessments and special Assessments. Such services shall be provided, if at all, pursuant to an agreement in writing between the Association and the Owners of the Units for which such service(s) are to be provided, with such agreement to include a statement and terms for payment of the costs, fees and expenses that are to be paid by such Owners for such service(s). Services which may be provided by the Association pursuant to this Section include, without limitation: (a) the construction, care, operation, management, maintenance, upkeep, repair, replacement and renovation of Improvements or property that is not provided for in this Declaration to be maintained by the Association; (b) the provision of any services or functions to or for such Unit(s); (c) the enforcement of the provisions of any document or agreement for, on behalf of, and in the name of the applicable Owners; (d) the payment of taxes or other amounts for Owners with funds provided by such Owners; and (e) the procurement of insurance for Owners.

Section 4.9. Lien for Assessments.

4.9.1. The Association has a statutory lien on a Unit for any Assessment levied against that Unit and/or its Owner(s). 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 Association acceleration of installment obligations.

4.9.2. 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 Board of Directors or managing agent of the Association may prepare, and record in the county in which the applicable Unit is located, 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 costs and expenses thereof shall be added to the Assessment for the Unit against which it is filed and collected as part and parcel thereof. The Association's lien may be foreclosed in like manner as a mortgage on real estate.

Section 4.10. Priority of Association Lien.

4.10.1. A lien under this Article is prior to all other liens and encumbrances on a Unit except:

4.10.1.1. Liens and encumbrances recorded before the recordation of the Declaration;

4.10.1.2. A First Security Interest on the Unit which was recorded or perfected before the date on which the Assessment sought to be enforced became delinquent; and

4.10.1.3. Liens for real estate taxes and other governmental assessments or governmental charges against the Unit.

4.10.2. A lien under this Section is also prior to the First Security Interests described in the preceding subsection 4.10.1.2 to the extent, if any, provided in CCIOA. However, any Security Interest Holder of a First Security Interest who obtains title to a Unit pursuant to the remedies in the First Security Interest or through foreclosure will not be liable for more than six (6) months of the Unit's unpaid regularly budgeted Assessments or charges accrued before the acquisition of the title to the Unit by the Security Interest Holder. If the Association's lien priority includes costs of collecting unpaid Assessments, the Security Interest Holder will be liable for any fees or costs related to the collection of such unpaid Assessments.

4.10.3. This Section does not affect the priority of mechanics' or materialmen's liens or the priority of liens for other amounts made by the Association.

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

Section 4.11. *Certificate of Status of Assessments.*

The Association shall furnish to an Owner or such Owner's designee or to a Security Interest Holder or its designee, upon written request delivered personally or by certified mail, first class postage prepaid, return receipt, to the Association's registered agent, a written statement setting forth the amount of unpaid Assessments, if any, currently levied against such Owner's Unit. The statement shall be furnished within such times as required by law, and is binding on the Association, the Board of Directors, and every Owner. The Association or its agent shall have the right to charge a reasonable fee for the issuance of such certificates.

Section 4.12. *Application of Payments to the Association; Effect of Non-Payment of Assessments; and Remedies of the Association.*

4.12.1. Application of payments received by the Association for payment of amounts due to the Association, shall be applied first to the payment of attorneys fees, fines, late charges and any other amounts (other than annual Assessments or special Assessments) due to the Association (in the order listed), if any; second to the payment of accrued interest at the rate specified in subsection 4.12.2 below, if any; and third to the payment of Assessments and other amounts due to the Association.

4.12.2. Any Assessment not paid within ten (10) days after the due date thereof shall bear interest from the due date at the rate of twenty-one percent (21%) per annum, or at such lesser rate as may be set at any time by the Board of Directors, and the Board of Directors may assess thereon a monthly late charge in such amount as may be set by the Board of Directors in its discretion from time to time. The Association may bring an action at law or in equity against the Owner personally obligated to pay the same, or foreclose the lien against such Owner's Unit. If a judgment or decree is obtained, including without limitation in a foreclosure action, such judgment or decree shall include interest and a reasonable attorney's fees, together with the costs of the action, interest, and may include late charges, as provided above. No Owner may be exempt from liability for payment of the Assessments by waiver of the use or enjoyment of any of the Common Elements or by abandonment of the Unit against which the Assessments are made or because of its dissatisfaction with the Association or its performance. This Article does not prohibit actions or suits to recover sums for which this Declaration creates a lien or to prohibit the Association from taking a deed in lieu of foreclosure.

Section 4.13. *Surplus Funds.*

Any surplus funds of the Association remaining after payment of or provision for Association expenses and any prepayment of or provision for reserves shall be retained by the Association and need not be paid to the Owners or credited to them.

Section 4.14. *Working Capital Fund.*

The Association shall require the first Owner (other than Declarant) of any Residential Unit who purchases that Residential Unit from Declarant to make a non-refundable contribution to the Association in an amount equal to two (2) times the then current monthly installment of the annual Assessment (regardless of whether or not annual Assessments have commenced as provided in Section 4.5 of this Declaration (Date of Commencement of Annual Assessments and Garage Unit Assessments)). Said contribution shall be collected and transferred to the Association at the time of closing of the sale by Declarant of each Residential Unit and shall be maintained for the use and benefit of the Association, including, without limitation, to meet expenditures or to purchase equipment, property 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. Upon the sale of his Residential Unit, an Owner shall be entitled to reimbursement at closing (in the form of a credit on the closing settlement statement) from the purchaser of such Residential Unit (but not from the Association) for the portion of the aforesaid contribution to working capital fund which has not been used by the Association at the time of conveyance of the Residential Unit by such Owner.

Section 4.15. *Other Charges.*

The Association may levy and assess charges, costs and fees for matters such as, but not limited to, the following, in such amount(s) as the Board of Directors may determine in its discretion at any time from time to time, including reimbursement of charges that are made to the Association by its managing agent or other Person(s): copying of Association or other documents; return checks; telefaxes; long distance telephone calls; charges or fees upon transfer of ownership

of a Unit; notices and demand letters; and other charges incurred by the Association for or on behalf of any Owner(s). All such charges, costs and fees shall be in addition to the Assessments levied by the Association, but shall be subject to all of the Association's rights with respect to the collection and enforcement of Assessments.

Section 4.16. Charges for Misconduct.

If any Association expense is caused by the misconduct of any Owner, his family members, tenants, guests or invitees, as determined by the Board of Directors, the Association may assess that Association expense exclusively against such Owner and such Owner's Unit.

ARTICLE 5. ARCHITECTURAL REVIEW

Section 5.1. Changes in General Common Elements and Structural Changes.

Other than as to the Declarant, the Association (following the termination of the 75% Control Period) or any Owner (but only as provided in Section 10.8 of this Declaration (Antenna and Satellite Dishes): no Improvements shall be constructed, erected, placed, altered, planted, applied or installed on any General Common Elements; nor shall any structural alteration be made to any Unit or Common Elements. Nothing contained in this Declaration shall be construed so as to require approval for non-structural changes to the interior of any Individual Air Space.

Section 5.2. Review by Board for Changes in Limited Common Elements.

Other than as to the Declarant, the Association (following the termination of the 75% Control Period) or any Owner (but only as provided in Section 10.8 of this Declaration (Antenna and Satellite Dishes)), no Improvements shall be constructed, erected, placed, altered, planted, applied or installed on any Limited Common Elements unless complete plans and specifications therefor shall have been first submitted to and approved in writing by the Board of Directors. Such plans and specification shall include, without limitation, such information and materials as may be required by the Board in its discretion from time to time. The Board of Directors shall exercise its reasonable judgment to the end that all Improvements conform to and harmonize with the existing surroundings, residences, landscaping and structures, and do not affect the structural integrity of any Unit or other Improvements. In its review of such plans, specifications and other materials and information, the Board may require that the applicant(s) reimburse the Board for the actual expenses incurred by the Board in the review and approval process. Such amounts, if any, shall be subject to the rights and remedies in Article 4 of this Declaration that are applicable to Assessments. Notwithstanding the foregoing and notwithstanding anything to the contrary contained in this Declaration, however, until automatic termination of the Special Declarant Rights as provided in Section 1.33 of this Declaration, the Declarant reserves the right to control the architectural approval process and decisions which might otherwise be made by the Board of Directors regarding the matters that are provided for in this Article or elsewhere in this Declaration concerning architectural approval; hence, during the period from cessation of the Declarant's appointment of a majority of the Board of Directors until automatic termination of the Special Declarant Rights as provided in Section 1.33 of this Declaration, decisions on requests for architectural approval shall be made by the Declarant rather than by the Board of Directors (such that the "Declarant" shall be substituted for the "Board" or "Board of Directors," as applicable).

Section 5.3. *Additional Approvals of Improvements Required.*

In addition to the required approvals by the Board of Directors, as provided in this Article, the construction, erection, addition, deletion, change or installation of any Improvements on any Limited Common Elements, shall also require the applicant to obtain the approval of all governmental entities with jurisdiction thereover, and issuance of all required permits, licenses and approvals by all such entities, and may require approval by the Master Association or other Person if so provided in the Master Declaration. Without limiting the generality of the preceding sentence, issuance of building permits by the City of Grand Junction, Colorado, if required, shall be a precondition to commencement of any construction of, alteration of, addition to or change in any Improvement on a Limited Common Element.

Section 5.4. *Procedures.*

The Board of Directors shall decide all requests for approval within forty-five (45) days after the complete submission of all plans, specifications, and other materials and information which the Board may require in conjunction therewith. If the Board fails to approve or disapprove any request within forty-five (45) days after the complete submission of all plans, specifications, materials and other information with respect thereto, then the application shall be deemed to have been disapproved.

Section 5.5. *Vote and Appeal.*

Except as provided in Section 5.13 (Variance) Section 5.16 (Declarant's Exemption), a majority vote of the Board is required to decide a request for approval pursuant to this Article, unless the Board of Directors has appointed a representative to act for it, in which case the decision of such representative shall control. In the event a representative acting on behalf of the Board decides a request for architectural approval which is adverse to the applicant, then the applicant shall have the right to an appeal of such decision to the full Board upon a request therefor submitted to the Board within ten (10) days after such decision by the Board's representative.

Section 5.6. *Prosecution of Work After Approval.*

After approval of any proposed Improvement by the Board, the proposed Improvement shall be accomplished as promptly and diligently as possible and in complete conformity with the approval. Failure to complete the proposed Improvement within one (1) year after the date of approval of the application therefor (which length of time may be extended by the Board in its discretion, in writing), or to complete the Improvement in accordance with the description and materials furnished to the Board and the conditions imposed with such approval, shall constitute a violation of this Article.

Section 5.7. *Notice of Completion.*

Upon completion of the Improvement, the applicant for approval of the same shall give a written notice of completion to the Board of Directors. Until the date of receipt of such notice of completion, the Board of Directors shall not be deemed to have notice of completion of any Improvement on which approval has been sought and granted as provided in this Article.

Section 5.8. *Inspection of Work.*

The Board of Directors or its duly authorized representative shall have the right to inspect any Improvement prior to, during or after completion of the same, in order to determine whether or not the proposed Improvement is being completed or has been completed in compliance with the approval granted pursuant to this Article. However, unless the Board expressly states, in a written document, that an Improvement is being completed or has been completed in conformance with the approval therefor, no such conformance shall be implied from inspection of the Improvement either during the work or after completion thereof. The right of inspection shall terminate sixty (60) days after the Board shall have received a notice of completion from the applicant.

Section 5.9. *Notice of Noncompliance.*

If, as a result of inspections or otherwise, the Board of Directors finds that any Improvement has been done without obtaining the approval of the Board, or was not done in substantial compliance with the approval that was granted pursuant to Section 5.6 (Prosecution of Work After Approval) the Board shall notify the applicant in writing of the noncompliance; which notice of noncompliance shall be given, in any event, within sixty (60) days after the Board receives a notice of completion from the applicant. The notice of noncompliance shall specify the particulars of the noncompliance.

Section 5.10. *Correction of Noncompliance.*

If the Board of Directors determines that a noncompliance exists, the applicant who sought the Board's approval of the same shall remedy or remove (and return the subject property or structure to its original condition) the same within a period of not more than forty-five (45) days from the date of receipt of the notice of noncompliance. If the applicant does not comply with the Board of Directors' ruling within such period, the Board may, at its option, record a notice of noncompliance against the property on which the noncompliance exists, may remove the non-complying Improvement or may otherwise remedy the noncompliance, and the applicant shall reimburse the Board, upon demand, for all costs and expenses incurred with respect thereto.

Section 5.11. *Records.*

The Board of Directors shall, for such period of time as may be determined by the Board in its discretion from time to time, maintain written records of all applications submitted to it and all actions taken by it thereon and, subject to Section 3.9 of this Declaration (Association Books and Records), such records shall be available to Members for inspection at reasonable hours of the business day.

Section 5.12. *Liability.*

Neither the Board of Directors, nor any members thereof, nor any representative of the Board appointed to act on its behalf, shall be liable in damages to any Person submitting requests for approval or to any Person by reason of any action, failure to act, approval, disapproval, or failure to approve or disapprove, in regard to any matter within its jurisdiction hereunder. In reviewing any matter, the Board of Directors shall not be responsible for the safety, whether structural or

otherwise, of the improvements submitted for review, nor the conformance with applicable building codes or other governmental laws or regulations, and any approval of an improvement by the Board of Directors shall not be deemed an approval of any such matters. No Member or other Person shall be a third party beneficiary of any obligation imposed upon, rights accorded to, action taken by, or approval granted by the Board of Directors.

Section 5.13. *Variance.*

The Board of Directors may grant reasonable variances or adjustments from any conditions or restrictions imposed by this Article or Article 10 of this Declaration (Restrictions), in order to overcome practical difficulties or prevent unnecessary hardships arising by reason of the application of any such conditions and restrictions. Such variances or adjustments shall be granted only in case the granting thereof shall not be materially detrimental or injurious to any other property or improvements in the Community and shall not militate against the general intent and purpose hereof.

Section 5.14. *Waivers, No Precedent.*

The approval or consent of the Board of Directors, or any representative thereof, to any application for architectural approval shall not be deemed to constitute a waiver of any right to withhold or deny approval or consent by the Board or any representative thereof as to any other application or other matters whatsoever as to which approval or consent may subsequently or additionally be required. Nor shall any such approval or consent be deemed to constitute a precedent as to any other matter.

Section 5.15. *Architectural Standards/Guidelines.*

The Board of Directors may, at any time, provided that they do not void any applicable express, written structural warranty, promulgate, modify, amend, repeal, re-enact and enforce, architectural standards, guidelines, rules and regulations or other standards for the Community, to interpret and implement the provisions of this Article. Without limiting the generality of the foregoing, such provisions may contain guidelines to clarify the types of designs and materials that may be considered in design approval, may state requirements for submissions in order to obtain review by the Board, may state procedural requirements, or may specify acceptable improvement(s) that may be installed without the prior approval of the Board. The guidelines may contain blanket approvals, interpretations, or restrictions on improvements. By way of example, and not by way of limitation, the guidelines may state that a certain type of screen door will be acceptable and will not require approval. All improvements proposed to be constructed, and any guidelines that are adopted, shall be done and used in accordance with the provisions of this Article, the Declaration and any applicable express, written structural warranty, and shall not be inconsistent therewith.

Section 5.16. *Declarant's Exemption.*

Notwithstanding anything to the contrary, until automatic termination of the Special Declarant Rights as provided in Section 1.33 of this Declaration (Special Declarant Rights), the Declarant shall be exempt from the provisions of this Article.

ARTICLE 6. INSURANCE

Section 6.1. *Insurance.*

The Association shall maintain insurance in connection with the Common Elements. The Association shall maintain insurance as required by applicable law or applicable regulation, including without limitation CCIOA, which insurance shall include, without limitation, property insurance and commercial general liability insurance. In addition, the Association may maintain insurance against such other risks as the Board of Directors may elect from time to time, including, but not limited to, fidelity coverage and 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 or officers on behalf of the Association, workers compensation insurance, and on such other property and/or against such other risks as the Board of Directors may elect in its discretion from time to time.

Section 6.2. *General Provisions of Insurance Policies.*

All policies of insurance carried by the Association shall comply with this Section. 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 on the Unit insured by such insurance policy. 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. All policies of insurance carried by the Association shall also contain waivers of subrogation by the insurer against any Owner or member of such Owner's household. Further, all policies of insurance carried by the Association 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.

Section 6.3. *Deductibles.*

The Association may adopt and establish written non-discriminatory rules and regulations or policies and procedures relating to the responsibility for deductibles. Any loss, or any portion thereof, which falls within the deductible portion of a policy that is carried by the Association may, at the election of the Board of Directors, be borne by the Person who is responsible for the repair and maintenance of the property which is damaged or destroyed, be apportioned among the Persons sharing in a joint duty of repair and maintenance, be partly or wholly borne by the Association, and/or be shared by any such Person(s) (and, perhaps, the Association). 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, omission or negligence of one or more Owners. Upon said determination by the Association, any such loss or portion thereof may be assessed to the Owner(s) in question in such amount(s) as the Board of

Directors deems appropriate, and the Association may collect such amount(s) from said Owner(s) in the same manner as any Assessment.

Section 6.4. *Payment of Insurance Proceeds.*

Any loss covered by an insurance policy described in Section 6.1 of this Declaration (Insurance) 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. Subject to Section 7.1 of this Declaration (Damage or Destruction), the proceeds must be disbursed first for the repair, restoration or replacement 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, restored or replaced and any budget or reserve deficit has been funded, or unless the Community is terminated.

Section 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.

Section 6.6. *Acceptable Insurance Companies.*

Each insurance policy purchased by the Association must be written by an 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 of directors, 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.

Section 6.7. *Insurance to be Maintained by Owners.*

Any insurance policy issued to the Association does not eliminate the need for Owners to obtain insurance for their own benefit. Insurance coverage on each Owner's furnishings and personal property belonging to an Owner (unless and to the extent the same are insured by the Association in its discretion), and public liability insurance coverage on each Individual Air Space and interior surface finishes, shall be the responsibility of the Owner of such Individual Air Space.

ARTICLE 7. DAMAGE OR DESTRUCTION

Section 7.1. *Damage or Destruction.*

7.1.1. Any portion of the Community which is covered by a policy of insurance which is required to be carried by the Association under this Declaration and which is damaged or destroyed must be repaired or replaced promptly by the Association unless:

7.1.1.1. The Community is terminated; or

7.1.1.2. Repair or replacement would be illegal under any state or local statute or ordinance governing health or safety; or

7.1.1.3. Members casting sixty-seven percent (67%) of the Association votes, in person or by proxy, including every Member whose Unit will not be rebuilt, vote not to rebuild; or

7.1.1.4. Prior to the conveyance of any Unit to a Person other than the Declarant, the holder of a deed of trust or mortgage on the damaged portion of the Community rightfully demands all or a substantial part of the insurance proceeds.

7.1.2. The cost of repair or replacement that is covered by insurance carried by the Association, but which is in excess of insurance proceeds and reserves, is an Association expense. If the entire Community is not repaired or replaced, the insurance proceeds attributable to the damaged Common Elements must be used to restore the damaged area to a condition compatible with the remainder of the Community, and except to the extent that other Persons will be distributees, the insurance proceeds attributable to Units that are not rebuilt must be distributed to the Owners of those Units or to lienholders, as their interests may appear, and the remainder of the proceeds must be distributed to all the Owners or lienholders, as their interests may appear, in proportion to the Allocated Interests of all the Units. If the Members vote not to rebuild any Unit, that Unit's Allocated Interests are automatically reallocated upon the vote as if the Unit had been condemned, and the Association promptly shall prepare, execute and record an amendment to the Declaration reflecting such reallocations.

Section 7.2. *Use or Distribution of Insurance Proceeds.*

In the event of damage or destruction to all or a portion of the Common Elements, due to fire or other adversity or disaster, the insurance proceeds, if sufficient to repair or replace the damaged areas, shall be applied by the Association to such repair and/or replacement. If the insurance proceeds with respect to such damage or destruction are insufficient to repair and/or replace the damaged or destroyed area(s), the Association shall levy a special Assessment in the aggregate amount of such insufficiency pursuant to 4.6 of this Declaration (Special Assessments and Special Garage Unit Assessments), but without approval of the Members, and shall proceed to make such repairs or replacements. No distributions of insurance proceeds shall be made unless

made jointly payable to the Owners and any Security Interest Holders of their respective Units. The Assessment provided for herein shall be a debt of each Owner and a lien on such Owner's Unit and the Improvements thereon, and may be enforced and collected in the same manner as any Assessment provided for in this Declaration.

Section 7.3. *Damage or Destruction of Units.*

If due to casualty, or for any other reason, an Individual Air Space shall be destroyed or damaged, then the Owner thereof shall, within a reasonable time thereafter, not to exceed one hundred twenty (120) days after repair or replacement of the Common Elements, including without limitation the walls and roof of the Unit, commence and diligently pursue repair and replacement of the Individual Air Space, using any available personal insurance proceeds and personal funds of such Owner, unless the Common Elements are not repaired and/or replaced as hereinabove provided.

ARTICLE 8. MAINTENANCE

Section 8.1. *Management and Maintenance Duties.*

Subject to the rights of, and obligations, requirements and limitations on Owners, as set forth in this Declaration:

8.1.1. The Association shall be responsible for the management, control, maintenance, repair, replacement and improvement of the Common Elements except as provided below, and any property owned by the Association, including facilities, furnishings and equipment related thereto, and the Association shall keep the same in good, clean, attractive and sanitary condition, order and repair. Without limiting the generality of the foregoing, the Association shall: periodically paint the exterior doors and garage doors of Residential Units and Garage Units; maintain, repair and/or replace the roofs and exteriors of the Condominium Buildings; maintain, repair and replace landscaping and private streets in the Community; provide for regular (but not extraordinary or non-regular) trash removal; and provide for snow removal (as and when deemed appropriate by the Board of Directors in its discretion from time to time) from the private street sidewalks, parking areas and driveways in the Community. The Association shall not be responsible for the maintenance, repair and/or replacement of window glass or other glass surfaces, doors and garage doors, except painting of exterior doors and garage doors, driveways, window screens, light bulbs, electrical fixtures, electrical facilities (such as electric eyes), decks or balconies, except railings, and yards that are designated or referenced on the Condominium Map as Limited Common Elements.

8.1.2. Further, the Association shall be responsible for maintenance, repair and replacement of all electrical laterals from the transformer to the Individual Air Space.

8.1.3. Notwithstanding anything to the contrary contained in this Declaration, none of the responsibilities of the Association for management, control,

maintenance, repair, replacement and improvement of the Common Elements or Improvements thereon shall give rise to any interest of the Association in any Unit or the quality of any Improvements therein or thereon, nor any right by the Association to pursue any claims against the Declarant, any director, officer, partner, member or employee thereof, or any other Person, for negligence, breach of express or implied warranties, or any other matters, with respect to any such Improvements or the construction thereof.

8.1.4. Except as otherwise provided in this Declaration, the Owner of each Unit shall be solely responsible for maintaining, repairing and replacing his Individual Air Space and the Improvements therein or appurtenant thereto. Further, each Owner shall be responsible for exclusive maintenance, repair and replacement of: all fixtures, equipment and utilities installed or located within such Owner's Individual Air Space; all windows and other glass surfaces; doors and garage doors; except painting of exterior doors and garage doors; driveways; window screens; all light bulbs, electrical fixtures and electrical facilities; and all other equipment providing exclusive service to or for a Unit and any service lines from such equipment to the Unit (including, without limitation, all utility, heating, plumbing, air conditioning and domestic hot water equipment and appurtenances but not including landscaping irrigation systems), regardless of whether such fixtures, equipment and utilities are owned by said Owner or are Common Elements. Each Owner shall also keep the Limited Common Elements, or portions thereof, designated for use solely in connection with his Unit, in a clean, sanitary and attractive condition and order.

Section 8.2. *Modified or New Improvements.*

Any Improvement which has been changed, altered or modified by or for an Owner or occupant of a Unit shall be maintained, repaired and replaced by such Owner to the extent of the change, alteration or modification. If the Improvement is newly constructed, erected, placed, planted, applied or installed by an Owner or occupant of a Unit, then the entirety of such Improvement shall be maintained, repaired and replaced by the Owner of such Unit. However, the Board of Directors may at any time, by resolution, elect to have the Association provide such maintenance, repair or replacement; provided that any such resolution shall be subject to being repealed, revoked, modified, changed or altered, at any time, from time to time, by the Board.

Section 8.3. *Association's Right to Maintain, Repair and Replace.*

In the event any Owner shall fail to perform his maintenance, repair and replacement obligations in a manner satisfactory to the Board of Directors, the Association may, if said failure continues for a thirty (30) day period after written notice to said Owners by the Board of Directors, enter upon said Unit subsequent to the expiration of said thirty (30) day time period to perform any or all of such maintenance, repair or replacement. Notwithstanding the foregoing, no notice shall be required in emergency situations. The cost of such maintenance, repair and replacement shall be the personal obligation of the Owner of the Unit on which such work is performed so that such amounts shall be paid by such Owner, and enforceable by the Association, as Assessments.

Section 8.4. *Non-Interference with Grade and Drainage.*

Each Owner agrees, for himself and his successors and assigns, that he will not in any way interfere with or obstruct the established drainage pattern over any real property from adjoining or other real property. For purposes of this Section, "established drainage" is defined as the drainage which exists at the time final grading by the Declarant is completed.

Section 8.5. *Acts or Omissions.*

Notwithstanding anything to the contrary contained in this Declaration, in the event that the need for maintenance, repair or replacement of the Common Elements, any other property, a Unit, or any Improvements located thereon, is caused by the 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 maintenance, repair, and replacement, 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, and replacement, shall be paid by such Owner, and enforceable by the Association, as Assessments. A determination of the act or omission of any Owner, or any member of an Owner's family or a tenant, guest or invitee of any Owner, and the amount of the Owner's liability therefor, shall be determined by the Board of Directors at a hearing after notice to the Owner.

ARTICLE 9. EASEMENTS

Section 9.1. *Other Easements.*

In addition to any other easements that may be granted or reserved in elsewhere in this Declaration or by law, the following Sections in this Article describe easements to which the Community is or may be subject.

Section 9.2. *Easement for Maintenance, Repair, Replacement and/or Reconstruction and for Enforcement.*

The Declarant hereby reserves and grants, and each Unit shall be subject to, an easement: in favor of the Association and the Owners, including the agents, employees and contractors thereof, for performing maintenance, repair, replacement and/or reconstruction, or other services as provided in this Declaration, including without limitation, maintenance, repair, replacement and/or reconstruction pursuant to Article 8 of this Declaration (Maintenance); and in favor of the Association, its agents and employees, for and incidental to enforcement of any term or provision of any of the Governing Documents. If damage is inflicted, or a strong likelihood exists that it will be inflicted, on the Common Elements, any other property, or any Unit, 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, the rights and easements granted in this Section may be exercised only during reasonable hours after reasonable notice to the Owner(s) or occupant(s) of any affected Unit; except that no such notice shall be required in connection with any exterior, non-intrusive entry; and except that in emergency situations entry upon a Unit may be made at any time provided that the Owner(s) or occupant(s) of each affected Unit shall be notified of entry as early as

is reasonably possible. The interior of any residence shall not be subject to the easements provided for in this Section.

Section 9.3. Utilities.

Declarant hereby reserves 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, 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. In the event any utility or quasi-utility company furnishing a service covered by the general easement created herein requests a specific easement by separate recordable document, Declarant reserves and is hereby given the right and authority to grant such easement upon, across, over or under any part or all of the Common Elements without conflicting with the terms hereof; provided, however, that such right and authority shall automatically terminate at such time as the Special Declarant Rights terminate as provided in Section 1.33 of this Declaration (Special Declarant Rights), at which time said reserved right shall vest in the Association. The easement provided for in this Section shall in no way affect, avoid, extinguish or modify any other recorded easement(s) on the Common Elements.

Section 9.4. Easement for Encroachments.

To the extent that any Unit or Common Element, encroaches on any other Unit or Common Element, a valid easement for the encroachment exists.

Section 9.5. Drainage Easement.

An easement is hereby reserved by the Declarant and granted to the Association, their respective directors, officers, agents, employees, successors and assigns, to enter upon, across, over, in and under the Common Elements for the purpose of changing, correcting or otherwise modifying the grade or drainage channels of the Community so as to maintain or improve the drainage of water in or from the Community.

Section 9.6. Emergency Easement.

A general easement is hereby granted to all police, sheriff, fire protection, ambulance, and all other similar emergency agencies or persons to enter upon the Common Elements in the proper performance of their duties.

ARTICLE 10. RESTRICTIONS

Section 10.1. General Plan; Restrictions Imposed.

It is the intention of the Declarant to establish and impose a general plan for the improvement, development, use and occupancy of the Community. The Community is subject to the recorded easements, licenses and other matters listed on Exhibit C attached hereto and

incorporated herein by this reference. In addition, the Declarant declares that all of the Community shall be held and shall henceforth be sold, conveyed, used, improved, occupied, owned, resided upon and hypothecated, subject to the following provisions, conditions, limitations, restrictions, agreements and covenants, as well as those contained elsewhere in this Declaration. Further, no immoral, improper, offensive or unlawful use shall be permitted in the Community or any portion thereof. All valid laws, ordinances and regulations of all governmental bodies having jurisdiction over the Community, or any portion thereof, shall be observed.

Section 10.2. Exterior Changes.

Except for those Improvements erected, constructed or installed by Declarant, no exterior additions to, alterations or decoration of any Condominium Building or Units shall be commenced, erected, placed or maintained, except as provided in this Declaration.

Section 10.3. Interior Changes.

Nothing in this Declaration shall be construed to require any Owner to obtain approvals to make non-structural changes to the interior of such Owner's Individual Air Space. If two or more Individual Air Spaces are owned by the same Owner, such Owner may remove all or part of the non-structural interior walls, ceilings or floors separating such Individual Air Spaces so as to allow free access between such Individual Air Spaces. Notwithstanding the removal of all or part of any such interior wall, ceiling or floor which would otherwise separate and delineate the boundaries of one or more Individual Air Spaces, each Individual Air Space shall continue to be a separate Unit for all purposes of this Declaration. For example, the number of Units in the Community shall not be affected by the removal of such a wall, ceiling or floor, nor shall the Allocated Interests be affected.

Section 10.4. Residential Use; Professional or Home Occupation.

Subject to Section 16.5 of this Declaration (Declarant's Use), Residential Units shall be used for residential use only, including rental and other uses which are customarily incident thereto, and shall not be used at any time for business, commercial or professional purposes. Notwithstanding the foregoing, however, Owners may conduct business activities within their Residential Unit provided that all of the following conditions are satisfied:

10.4.1. The business conducted is clearly secondary to the residential use of the Residential Unit and is conducted entirely within the Residential Unit;

10.4.2. The existence or operation of the business is not detectable from outside of the Residential Unit by sight, sound, smell or otherwise, or by the existence of one or more signs indicating that a business is being conducted;

10.4.3. The business does not result in an undue volume of pedestrian or vehicular traffic or parking within the Community, which determination may be made by the Board of Directors in its sole discretion from time to time;

10.4.4. The business conforms to all zoning requirements and is lawful in nature; and

10.4.5. The business conforms to all rules and regulations and policies and procedures that may be imposed by the Board of Directors from time to time.

Section 10.5. Household Pets.

No animals, livestock, birds, poultry, reptiles or insects of any kind shall be raised, bred, kept or boarded in the Community; provided, however, that the Owners of each Unit may keep dogs, cats, and/or other domestic animals which are bona fide household pets, so long as such pets are not kept for any commercial purpose and are not kept in such number or in such manner as to be unreasonable or create a nuisance to any resident of the Units. The Board of Directors shall have, and is hereby given, in its sole discretion, the right and authority to: set a size or poundage limit on pets; regulate the type(s) of pets that are permitted to be kept; determine that any dog(s), cat(s) or other household pet(s) are being kept for a commercial purpose or are being kept in such number or in such manner as to be unreasonable or create a nuisance; determine that an Owner or tenant is in violation of the leash laws of the applicable jurisdiction and other applicable governmental laws, ordinances, or other provisions related to household pets; or determine that an Owner is otherwise in violation of this Section. If the Board decides any of the foregoing, then the Board may take such action or actions as it deems appropriate. An Owner's right to keep household pets shall be coupled with the responsibility to pay for any damage caused by such pets, as well as any costs incurred by the Association as a result of such pets, and any such costs and damages shall be subject to all of the Association's rights with respect to the collection and enforcement of Assessments.

Section 10.6. Temporary Structures; Unsightly Conditions.

Except as hereinafter provided, no structure of a temporary character, including but not limited to, a house-trailer, tent, shack, storage structure or out building shall be placed or erected in the Community; provided however, that during the actual construction, alteration, repair or remodeling of a structure or other Improvements, necessary temporary structures for storage of materials may be erected and maintained by the Declarant or Person doing such work. The work of constructing, altering or remodeling any structure or other Improvements shall be prosecuted diligently from the commencement thereof until the completion thereof. Further, no unsightly conditions, structures, facilities, equipment or objects shall be located in the Community so as to be visible from a parking area, street, or any other Unit.

Section 10.7. Signs.

No advertising or signs of any character shall be erected, placed, permitted, or maintained on any Unit without the written approval of the Board of Directors, except for the following: (a) a name plate of the occupant and a street number; (b) subsequent to automatic termination of the Special Declarant Rights as provided in Section 1.33 of this Declaration (Special Declarant Rights), "For Sale," "Open House," or "For Rent" sign(s) of not more than a total of five (5) square feet in the aggregate, in a window(s) of the Unit; (c) two (2) security system signs no larger than one hundred (100) square inches each in a window(s) of the Unit; and (d) such other signs as are approved in writing by the Board of Directors or are otherwise expressly permitted by law.

Notwithstanding the foregoing, reasonable signs, advertising, or billboards used by the Declarant in connection with the sale, rental or use of one or more Units, or otherwise in connection with development of or construction in the Community, shall be permissible, provided that such use shall not interfere with an Owners' use and enjoyment of their Unit or with their ingress or egress from a public way to their Unit.

Section 10.8. *Antenna and Satellite Dishes.*

No exterior radio antenna, television antenna, or other antenna, satellite dish, or audio or visual reception device of any type shall be placed, erected or maintained on any Unit, any Limited Common Elements or the Common Elements unless such antenna, satellite dish, or other audio or visual device has been professionally installed and the installation of such device has been approved by the Board of Directors; provided, however that any such devices may be erected or installed by the Declarant during its sales or construction in the Community; and provided further, however, that the requirements of this Section shall not apply to those "antenna" (including certain satellite dishes) which are specifically covered by the Telecommunications Act of 1996 and/or regulations promulgated thereunder, as amended from time to time. As to "antenna" (including certain satellite dishes) which are specifically covered by the Telecommunications Act of 1996 and/or regulations promulgated thereunder, as amended, the Association shall be empowered to adopt rules and regulations governing the types of "antenna" (including certain satellite dishes) that are permissible hereunder and, to the extent permitted by the Telecommunications Act of 1996 and/or regulations promulgated thereunder, as amended, establishing reasonable, non-discriminatory restrictions relating to appearance, safety, location and maintenance.

Section 10.9. *Vehicular Parking, Storage and Repairs.*

10.9.1. No house trailer, camping trailer, boat trailer, hauling trailer, boat, or accessories thereto, truck (larger than 1 ton), self-contained motorized recreational vehicle, or other type of recreational vehicle or equipment, nor any commercial vehicle, may be parked or stored in the Community unless such parking or storage is fully contained within the garage area of a Garage Unit, except that any such vehicle may be otherwise parked as a temporary expedient for loading, delivery, or emergency. This restriction, however, shall not restrict trucks or other commercial vehicles that are necessary for construction or for the maintenance of the Units, Common Elements, other property, or any Improvements.

10.9.2. Except as hereinabove provided, no abandoned or inoperable automobiles or vehicles of any kind shall be stored or parked in the Community. An "abandoned or inoperable vehicle" shall be defined as any automobile, truck, motorcycle, or other similar vehicle, which has not been driven under its own propulsion for a period of one (1) week or longer, or which does not have an operable propulsion system installed therein, or which does not have a current license plate thereon; provided, however, that otherwise permitted vehicles parked by Owners while on vacation (for a maximum of two (2) weeks) or during a period of illness shall not be deemed to be abandoned.

10.9.3. In the event the Board of Directors determines that a vehicle is parked or stored in violation of subsections 10.9.1 or 10.9.2 of this Section, then a written notice describing said vehicle shall be personally delivered to the owner thereof (if such owner can be reasonably ascertained) or shall be conspicuously placed upon the vehicle (if the owner thereof cannot be reasonably ascertained), and if the vehicle is not removed within a reasonable time thereafter, as determined by the Board of Directors in its discretion from time to time, the Board shall have the right to remove the vehicle at the sole expense of the owner thereof.

10.9.4. No activity such as, but not limited to, maintenance, repair, rebuilding, dismantling, repainting or servicing of any kind of vehicles, trailers or boats, may be performed or conducted in the Community.

10.9.5. This Section 10.9 shall be construed and applied in accordance with all applicable laws, including without limitation CCIOA.

Section 10.10. Nuisances.

No nuisance shall be permitted in the Community, nor any use, activity or practice which is a source of annoyance or embarrassment to, or which offends or disturbs, any resident of the Community or which interferes with the peaceful enjoyment or possession and proper use of any Unit, or any portion thereof, by its residents. As used herein, the term "nuisance" shall not include any activities of Declarant which are necessary to the development and construction of, and sales activities on, the Units. No noxious or offensive activity shall be carried on nor shall anything be done or placed in the Community which is or may become a nuisance or cause embarrassment, disturbance or annoyance to others, and no unsightly conditions, structures, facilities, equipment or objects shall be so located in the Community as to be visible from a street or from any other portion of the Community.

Section 10.11. No Hazardous Activities; No Hazardous Materials or Chemicals.

No activities shall be conducted on any Unit or in the Community which are, or might be, unsafe or hazardous to any Person or property. Without limiting the generality of the foregoing, no firearms shall be discharged and no open fires shall be lighted or permitted except in a contained barbecue unit while attended and in use for cooking purposes or within an interior fireplace. Further, no hazardous materials or chemicals shall at any time be located, kept or stored in, on or at any Unit except such as may be contained in household products normally kept at homes for use of the residents thereof and in such limited quantities so as to not constitute a hazard or danger to person or property.

Section 10.12. No Annoying Light, Sounds or Odors.

No light shall be emitted which is unreasonably bright or causes unreasonable glare; no sound shall be emitted which is unreasonably loud or annoying; and no odor shall be permitted which is noxious or offensive to others.

Common Elements, if any, for all other purposes. Such rights and easements shall be appurtenant to and pass with the transfer of title to every Unit.

Section 11.2. *Undivided Interest.*

Ownership of the Common Elements shall be apportioned among all Units and Special Units in accordance with the undivided interest in the Common Elements that is allocated to each Unit and Special Unit, as follows:

11.2.1. The undivided interest in the Common Elements that is allocated to each Residential Unit and each Special Unit shall be a fraction, the numerator of which is one (1) and the denominator of which is the total number, from time to time, of Residential Units and Special Units plus one-third of the total number of Garage Units. (For example: assume there are 8 Residential Units, 3 Special Units and 9 Garage Units, then the denominator will be $8 + 3 + (1/3 \times 9) = 14$).

11.2.2. The undivided interest in the Common Elements that is allocated to each Garage Unit shall be a fraction, the numerator of which is the fraction one-third and the denominator of which is the total number, from time to time, of Residential Units and Special Units plus one-third of the total number of Garage Units. (For example: assume there are 8 Residential Units, 3 Special Units and 9 Garage Units, then the denominator will be $8 + 3 + (1/3 \times 9) = 14$).

The undivided interest in the Common Elements that is allocated to each Unit and each Special Unit is provided on the attached Exhibit B, as supplemented and amended from time to time. However, the undivided interest in the Common Elements that is allocated to each Unit and each Special Unit is subject to change as provided in this Declaration, including without limitation a decrease in the undivided interest in the Common Elements that is allocated to each Unit and each Special Unit upon any of the events that are provided for in Section 1.33 (Special Declarant Rights), Section 16.4 (Annexation) or Section 16.5 (Declarant's Use) of this Declaration.

Section 11.3. *Extent of Owners' Easements.*

Subject to the other provisions of this Article, the rights and easements of enjoyment created hereby are subject to the following: the Common Elements may not be used in any manner which violates the statutes, rules or regulations of any governmental authority with jurisdiction over the Common Elements; and no Owner may place any structure on the Common Elements. In addition, such rights and easements are subject to the following rights of the Association:

11.3.1. The right of the Association to borrow money for the purpose of improving the Common Elements and to mortgage said property as security for any such loan; provided, however, that the Association may not subject any portion of the Common Elements to a Security Interest except in accordance with CCIOA; and

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

Section 10.13. Restrictions on Trash and Materials.

No refuse, garbage, trash, lumber, grass, shrubs or tree clippings, plant waste, metal, bulk materials, scrap or debris of any kind shall be kept, stored, or allowed to accumulate unless placed in a suitable container suitably located solely for the purpose of garbage pickup. All equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition. No garbage or trashcans or receptacles shall be maintained in an exposed or unsightly manner.

Section 10.14. Conveyance of Garages Units.

Garage Units may be conveyed to the Owner(s) or resident(s) of a Residential Unit, the Association, or any owner or resident of the Master Association, the Glens at Canyon View, the Homestead in Grand Junction, or any residence located in the property described as: THE SOUTHEAST ONE-QUARTER OF SECTION 4, T.1S., R.1W. OF THE UTE MERIDIAN, CITY OF GRAND JUNCTION, COUNTY OF MESA, STATE OF COLORADO.

Section 10.15. Leases.

The term "lease," as used herein, shall include any agreement for the leasing or rental of a Unit, or any portion thereof, and shall specifically include, without limitation, month-to-month rentals and subleases. Any Owner shall have the right to lease his Unit, or any portion thereof, under the following conditions:

10.15.1. All leases shall be in writing; and

10.15.2. All leases shall provide that the terms of the lease and lessee's occupancy of the leased premises shall be subject in all respects to the Governing Documents; and that any failure by the lessee to comply with any of the Governing Documents, in any respect, shall be a default under the lease.

Section 10.16. Compliance with Master Declaration.

All Owners and any other Persons who reside upon or use any portion of the Community shall comply with all terms and provisions of the Master Declaration, Articles of Incorporation, Bylaws and rules and regulations of the Master Association, as the same may be promulgated, enacted, adopted, amended, interpreted, repealed, reenacted, and enforced, from time to time.

ARTICLE 11. PROPERTY RIGHTS IN THE COMMON ELEMENTS

Section 11.1. Owners' Easements.

Subject to this Article, every Owner shall have a non-exclusive right and easement of enjoyment in and to the General Common Elements and those Limited Common Elements appurtenant to such Owner's Unit, plus a right and easement of ingress and egress over, across and upon the General Common Elements and those Limited Common Elements appurtenant to such Owner's Unit, for the purpose of getting to and from his Unit and public ways, for both pedestrian and vehicular travel, and to use the Common Elements and all other real estate that must become

11.3.3. The right of the Association to enact, re-enact, issue, promulgate, amend, repeal and publish standards, guidelines, rules and regulations or policies and procedures, with which each Member shall strictly comply, including, but not limited to, the right to regulate and/or restrict vehicular parking and Improvements; and

11.3.4. The right of the Association to suspend the voting rights of a Member for any period during which any Assessment against such Owner's Unit or any other amounts due from such Member to the Association remains unpaid and, for a period not to exceed sixty (60) days, for any infraction of the Governing Documents; and

11.3.5. 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. Notwithstanding the foregoing, the granting of permits, licenses and easements for utilities, roads or for other purposes shall not be deemed a transfer within the meaning of this subsection; and

11.3.6. The right of the Association, through its Board of Directors, 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 of Directors may deem to be useful, beneficial or otherwise appropriate; and

11.3.7. 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.

Section 11.4. *Use of Common Elements by Declarant.*

An easement is hereby granted to the Declarant on, across, over, under and through the Common Elements as may be reasonably necessary for the purpose of discharging any of Declarant's obligations or exercising any Special Declarant Rights or other rights of the Declarant, and no Owner shall engage in any activity which will temporarily or permanently interfere with the Declarant's easements through the Common Elements.

Section 11.5. *Reallocation of General Common Elements As Limited Common Elements.*

Prior to automatic expiration of the Special Declarant Rights, as provided in Section 1.33 of this Declaration, the Declarant may reallocate any General Common Elements as Limited Common Elements, and may designate the Unit(s) to which such Limited Common Elements are appurtenant.

Section 11.6. *Limited Common Elements.*

Subject to the terms and provisions of this Declaration, every Owner shall have the right to use and enjoy the Limited Common Elements appurtenant to such Owner's Unit, and such right shall be exclusive except as to those other Owners, if any, with a right to use such Limited Common Elements.

Section 11.7. *New Additions to Common Elements.*

The Declarant and the Association shall have the right to construct new additions to the Common Elements. Ownership of any such additions to the Common Elements shall be apportioned among all Units in proportion to the respective undivided interest in the Common Elements appurtenant thereto, subject to the right of Declarant to designate any General Common Elements as Limited Common Elements. The Assessment liability for any such additions to the Common Elements shall be apportioned among all Units as provided in Article 4 of this Declaration (Assessments). The construction of new additions to the Common Elements shall not affect an Owner by way of modification of such Owner's voting power in the Association.

Section 11.8. *Use of Common Elements.*

Subject to the rights of Declarant as provided in this Declaration, there shall be no obstruction of the Common Elements, nor shall anything be kept or stored on any part of the Common Elements except as permitted if such Common Elements are Limited Common Elements. Other than those Improvements erected or installed by Declarant in its completion of the Community, nothing shall be altered on, constructed in or removed from the Common Elements except as provided in this Declaration with respect to Limited Common Elements.

Section 11.9. *Designation of Common Elements.*

Declarant in recording this Declaration has designated certain areas of land as Common Elements intended for the common use and enjoyment of Owners for recreation and other related activities. The Common Elements are not dedicated hereby for use by the general public.

Section 11.10. *Payment of Taxes or Insurance by Security Interest Holders.*

Security Interest Holders shall have the right, jointly or singly, to pay taxes or other charges or assessments which are in default and which may or have become a lien against the Common Elements and may pay overdue premiums on hazard insurance policies or secure new hazard insurance coverage on the lapse of a policy for the Common Elements, and any Security Interest Holders making any such payments shall be owed immediate reimbursement therefor from the Association.

Section 11.11. *Duty to Accept Property and Facilities Transferred by Declarant.*

The Association shall accept title to all property, including personal property, equipment, and easements, if any, transferred to the Association by the Declarant, together with responsibility to perform all duties and functions of the Association which are set forth in this Declaration or otherwise assumed by the Association.

Section 11.12. Declarant's Right to Maintain Any Offices in the Community.

The Declarant shall have the right to construct, build, occupy and maintain sales, construction, management, or other offices at any time and from time to time in all or any portion of the Community for such purposes as Declarant determines in its sole discretion. The rights provided for in this Section shall terminate automatically upon termination of the Special Declarant Rights, as provided in Section 1.33 hereof.

ARTICLE 12. CONVEYANCE, OWNERSHIP AND TAXATION OF UNITS

Section 12.1. Contracts Entered into Prior to Recording of Condominium Map and Declaration.

A contract or other agreement for the sale of a Unit entered into prior to the filing for record of the Condominium Map and/or this Declaration in the office of the Clerk and Recorder of Mesa County, Colorado, may legally describe such Unit in the manner set forth in Section 12.2 of this Declaration (Contracts Entered into Subsequent to Recording of Condominium Map and Declaration) and may indicate that the Condominium Map and/or this Declaration are to be recorded. Upon recordation of the Condominium Map and this Declaration in Mesa County, Colorado, such description shall be conclusively presumed to describe the corresponding Unit shown on the Condominium Map and such Unit shall be subject in all respects to this Declaration.

Section 12.2. Contracts Entered into Subsequent to Recording of Condominium Map and Declaration.

Subsequent to the recording of the Condominium Map and this Declaration, every contract, deed, lease, mortgage, deed of trust, will and every other instrument affecting title to a Unit may legally describe that Unit as follows:

Unit ____, Condominium Building ____, Sundance Village, according to the Condominium Map thereof, recorded on _____, ____ at Reception No. _____, in the records of the office of the Clerk and Recorder of Mesa County, Colorado, and as defined and described in the Declaration of Covenants, Conditions and Restrictions of Sundance Village Condominiums, recorded on _____, ____ at Reception No. _____ in said records.

Section 12.3. Legal Effect of Description.

Every contract, deed, lease, mortgage, deed of trust, will and every other instrument affecting title to a Unit which legally describes said Unit substantially in the manner set forth in Section 12.2 of this Declaration (Contracts Entered into Subsequent to Recording of Condominium Map and Declaration) shall be good and sufficient for all purposes to sell, convey, transfer, encumber or otherwise affect the Unit, including the undivided interest in the Common Elements appurtenant thereto, and all other appurtenant properties and property rights, and to incorporate all of the rights, limitations and burdens incident to ownership of a Unit as described in this Declaration and the Condominium Map. Each such description shall be construed to include a non-

exclusive easement for ingress and egress to and from each Unit and the use of all the General Common Elements, as well as all of the Limited Common Elements appurtenant to said Unit, all as more fully provided in this Declaration.

Section 12.4. Taxation.

12.4.1. Each Unit 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 CCIOA. For the purpose of such assessments, the valuation of the Common Elements shall be apportioned among the Units in proportion to the undivided interest in the Common Elements appurtenant to the Unit in question as provided in Section 11.2 hereof (Undivided Interest). The Association shall furnish to the Tax Assessor of Mesa County, Colorado, and to all other appropriate persons and authorities, all necessary information with respect to such apportionment. 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.

12.4.2. All taxes, assessments and other charges that may become liens prior to any First Security Interests, relate only to the individual Units and not to the Community as a whole.

Section 12.5. Inseparability.

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

12.5.2. One (1) Garage Unit, as may be selected from time to time by the Owner of a Residential Unit, shall be inseparable from such Residential Unit, and may be transferred, conveyed, devised or otherwise disposed of only in connection with the transfer, conveyance, devise or other disposition of the Residential Unit. Any additional Garage Units owned by the Owner of a Residential Unit may be transferred, conveyed, devised or otherwise sold by the Owner of such Garage Unit separate from any conveyance, transfer, devise or other disposition, of such Owner's Residential Unit.

Section 12.6. Non-Partitionability.

The Common Elements shall be owned in common by all of the Owners and shall remain undivided and not subject to partition, such that any purported conveyance, encumbrance, judicial sale or other voluntary or involuntary transfer of an undivided interest in the Common Elements made without the Unit to which that interest is allocated is void. By the acceptance of a deed or other instrument of conveyance or assignment, each Owner specifically waives such Owner's right

to institute and/or maintain a partition action or any other action designed to cause a division of the Common Elements. Furthermore, each Owner agrees that this Section may be pleaded as a bar to the maintenance of such an action. Any violation of this Section shall entitle the Association to collect, jointly and severally, from the parties violating the same, the actual attorneys' fees, costs, expenses and all damages that the Association incurs in connection therewith.

ARTICLE 13. MECHANIC'S LIENS

Section 13.1. *Mechanic's Liens.*

No labor performed and/or materials furnished for use and incorporated in any Unit with the consent or at the request of the Owner thereof, such Owner's agent, contractor or subcontractor, shall be the basis for the filing of a lien against a Unit of any other Owner not expressly consenting to or requesting the same, or against any interest in the Common Elements except as to the undivided interest therein appurtenant to the Individual Air Space of the Owner for whom such labor shall have been performed or such materials furnished. Each Owner shall indemnify and hold harmless each of the other Owners and the Association from and against any liability or loss arising from the claim of any mechanic's lien against the Unit of any other Owner, the Common Elements, or any part thereof, for labor performed and/or materials furnished in work on the first Owner's Unit.

Section 13.2. *Enforcement by the Association.*

At its own initiative or upon the written request of any Owner or any Security Interest Holder, if the Association determines that further action by it is proper and the mechanic's lien(s) are not disputed claims with a reasonable basis for such dispute, the Association, after notice and hearing, shall enforce the indemnity provided by Section 13.1 of this Declaration (Mechanic's Liens) by collecting from the Owner of the Unit on which the labor was performed and/or materials furnished, the amount necessary to discharge any such mechanic's lien, including all costs and reasonable attorney's fees incidental thereto, and obtain a discharge of such lien. In the event that the Owner of the Unit on which the labor was performed and/or materials furnished refuses or fails to so indemnify within seven (7) days after the Association shall have given notice to such Owner of the total amount, or any portions thereof, from time to time, to be indemnified, then the failure to so indemnify shall be a default by such Owner under the provisions of this Section and such amount to be indemnified shall be and constitute an additional Assessment for collection by the Association subject to all of the provisions of Article 4 of this Declaration (Assessments).

ARTICLE 14. SECURITY INTERESTS

Section 14.1. *Limitation on Actions of the Association.*

14.1.1. Notwithstanding any provisions of this Declaration to the contrary, the Association shall not except as provided by statute, in case of condemnation or substantial loss to the Units and/or Common Elements, unless it has obtained the prior written approval of the Owners (other than the Declarant) casting at least sixty-seven percent (67%) of the Association votes or of those Security Interest Holders holding at

least sixty-seven percent (67%) of the First Security Interests (based upon one vote for each First Security Interest owned):

14.1.1.1. by act or omission seek to abandon or terminate the Community;

14.1.1.2. change the pro rata interest or obligations of any Unit in order to levy Assessments or charges, allocate distributions of hazard insurance proceeds or condemnation awards, or determine the pro rata share of ownership of each Unit in the Common Elements (however, this requirement will be deemed waived to the extent necessary to allow phasing or add-ons in accordance with this Declaration);

14.1.1.3. partition or subdivide any Unit;

14.1.1.4. seek to abandon, partition, subdivide, encumber, sell, or transfer the Common Elements by act or omission. The granting of easements for public utilities or other public purposes consistent with the intended use of the Common Elements by the Community is not a transfer within the meaning of this clause. (However, this requirement will be deemed waived to the extent necessary to allow phasing or add-ons, in accordance with this Declaration);

14.1.1.5. use hazard insurance proceeds for losses to any condominium property in the Community (whether Units or Common Elements) for other than the repair or replacement of such condominium property.

Section 14.2. *Approval by Security Interest Holders of First Security Interests.*

14.2.1. Notwithstanding anything to the contrary contained in this Declaration, any amendments to this Declaration, the Articles of Incorporation or Bylaws of the Association of a material nature to Security Interest Holders shall be agreed to by Owners who represent at least sixty-seven percent (67%) of the Association votes and by Security Interest Holders of First Security Interests who represent at least fifty-one percent (51%) of the Units that are subject to such First Security Interests (and who have submitted a written request that the Association notify them of any proposed action requiring the consent of a specified percentage of Security Interest Holders of First Security Interests).

14.2.2. Any action to terminate the legal status of the Community after substantial destruction or condemnation occurs or for other reasons shall be agreed to by Owners who represent at least sixty-seven percent (67%) of the Association votes and by Security Interest Holders of First Security Interests who have submitted a written request that the Association notify them of any proposed action requiring the consent of a specified percentage of Security Interest Holders of First Security Interests and who represent at least fifty-one percent (51%) of the Units that are subject to such First Security Interests.

14.2.3. The implied approval of any Security Interest Holder of a First Security Interest shall be assumed if such Security Interest Holder fails to submit a

response to any written proposal for an amendment within sixty (60) days after such Security Interest Holder receives proper notice of the proposal delivered by certified or registered mail, return receipt requested.

Section 14.3. *Notice of Action.*

Upon written request to the Association identifying the name and address of the Security Interest Holder of a First Security Interest or insurer or guarantor of the First Security Interest, and the residence address of the Unit which is subject to such First Security Interest, each Security Interest Holder of a First Security Interest, or insurer or guarantor of a First Security Interest, shall be entitled to timely written notice of:

14.3.1. any condemnation loss or casualty loss that affects either a material portion of the Community or any Unit subject to a First Security Interest held, insured or guaranteed by such Security Interest Holder, insurer or guarantor of a First Security Interest;

14.3.2. any default in the performance of any obligation under the Governing Documents by the Owner of a Unit subject to a First Security Interest held, insured or guaranteed by such Security Interest Holder, insurer or guarantor and not cured within sixty (60) days, including but not limited to a delinquency in the payment of Assessments;

14.3.3. a lapse, cancellation, or material modification of any insurance policy maintained by the Association; and

14.3.4. any proposed action that requires the consent of a specified percentage of Security Interest Holders of First Security Interests as provided in this Article.

Section 14.4. *No Priority Over Rights of Security Interest Holders of First Security Interests.*

No provision of the Governing Documents gives an Owner or any other party priority over any rights of the Security Interest Holder of a First Security Interest on such Owner's Units pursuant to its First Security Interest in the case of payment to the Owner of insurance proceeds or condemnation awards for losses to or taking of Units and/or Common Elements.

ARTICLE 15. DISPUTE RESOLUTION

Section 15.1. *Intent of Article; Applicability of Article; and Applicability of Statutes of Limitation.*

15.1.1. Each Party (as defined below) agrees to encourage the amicable resolution of disputes, without the emotional and financial costs of litigation. Accordingly, each Party covenants and agrees to submit all Claims (as defined below) each alleges to have to the procedures set forth in this Article and not to a court of law.

15.1.2. By acceptance of a deed to a Unit, each Owner agrees to abide by the terms of this Article.

15.1.3. No Claim (as defined below) may be initiated after the date when institution of legal or equitable proceedings based on such Claim would be barred by the applicable statute of limitation or statute of repose.

Section 15.2. Definitions Applicable to this Article.

For purposes of this Article only, the following terms have the meanings set forth in this Section:

15.2.1. "AAA" means the American Arbitration Association.

15.2.2. "Claimant" means any Party having a Claim.

15.2.3. "Claim" means, except as excluded or exempted by the terms of this Article, any claim, grievance or dispute between one Party and another, regardless of how the same may have arisen or on what it might be based, including without limitation those arising out of or related to (i) the interpretation, application or enforcement of any of the Governing Documents or the rights, obligations and duties of any Party under any of the Governing Documents; (ii) the design or construction of Improvements; (iii) any statements, representations, promises, warranties, or other communications made by or on behalf of any Party.

15.2.4. "Inspecting Party" means a Party causing an inspection of the Subject Property to be made.

15.2.5. "Party" means each of the following: Declarant, its officers, directors, partners, members, employees and agents; the Association, its officers, directors and members; any builder or contractor, and their respective officers, directors, members, partners, employees and agents, who construct residences or other Improvements in the Community; all Persons subject to this Declaration; and any Person not otherwise subject to this Declaration who agrees to submit to this Article. Notwithstanding the foregoing, "Party" shall not include any of the parties identified in this Section, including but not limited to Declarant and/or any Owner, in the event such parties have jointly entered into a separate written agreement providing for dispute resolution applicable to the Claim; in such circumstance, the dispute resolution mechanism set forth in such separate written agreement between such parties shall apply with respect to such Claim unless the parties mutually agree to submit such Claim to the provisions of this Article.

15.2.6. "Respondent" means any Party against whom a Claimant asserts a Claim.

15.2.7. "Subject Property" means the property being inspected pursuant to the inspection right provided in Section 15.7 of this Declaration (Right to Inspect).

15.2.8. "Termination of Mediation" means a period of time expiring forty-five (45) days after a mediator has been agreed upon by the parties (however, a mediator shall be

selected no later than forty-five (45) days after the Claimant has given notice to the Respondent of the Claim and if the parties are unable to agree on a mediator, one shall be chosen by the AAA) and the matter has been submitted to mediation (or within such other time as determined by the mediator or agreed to by the Claimant and Respondent) and upon the expiration of which the Claimant and Respondent have not settled the Claim.

Section 15.3. *Approval Required for Association Actions*

Except as provided in Section 15.6 of this Declaration (Exclusions from "Claim"), the approval of eighty percent (80%) of a quorum (as provided in Section 15.4 of this Declaration (Notice and Quorum for Association Actions)) of the Association votes cast by Members voting in person or by proxy at a meeting duly called for this purpose, or voting pursuant to written ballot, must be obtained before the Association shall have the power to institute action on any Claim pursuant to this Article, or to make any counterclaim or cross-claim in any lawsuit or other action brought against the Association. Such approval must be obtained in accordance with the requirements of Section 15.4 of this Declaration (Notice and Quorum for Association Actions).

Section 15.4. *Notice and Quorum for Association Actions*

Written notice of any meeting of Members which includes a vote pursuant to Section 15.3 of this Declaration (Approval Required for Association Actions) shall be sent to all Members not less than thirty (30) days nor more than fifty (50) days in advance of the meeting. Such written notice, or if the vote is to be by written ballot then such written ballot, shall include the following information:

15.4.1. A statement regarding the nature of the Claim. Such statement shall include, without limitation, the name(s) of the proposed Respondent(s), the basis and reason for the Claim, and any other information necessary to adequately explain the nature of the proposed Claim; and

15.4.2. A good-faith estimate of the costs and fees, including court costs, the fees of consultants, expert witnesses and attorneys, reasonably anticipated to be incurred by or for the Association in prosecuting the Claim, with such estimate prepared by the primary attorney the Board proposes to have prosecute the Claim on its behalf; and

15.4.3. A statement advising Members that the costs and fees of prosecuting any Claim may substantially increase the amount of Assessments payable by the Owners to the Association; and

15.4.4. A good-faith estimate of the manner in which any monies recovered from the Claim will be distributed or paid to consultants, expert witnesses, the Association, its attorney(s) and any others, prepared by the primary attorney the Board proposes to have prosecute the Claim on its behalf; and

15.4.5. A good faith estimate of the projected time frame for resolution of the Claim; and

15.4.6. All terms and provisions of the agreement between the Association and the attorney(s) the Board proposes to have prosecute the Claim.

The presence of Members or of proxies, or if by ballot then receipt by the Association of written ballots, entitled to cast eighty percent (80%) of all of the Association votes, shall constitute a quorum at any meeting at which the Members vote on approval of any Claim the Association wishes to bring.

Section 15.5. Required Form of Proxy or Ballot.

Each written proxy, and each ballot, which purports to vote on, or authorize a vote on, approval of the Association bringing a Claim shall contain the following statement:

With full knowledge and understanding that my annual Assessments may be significantly increased by the costs and fees associated with the proposed claim, I/we APPROVE the authority of the Association to bring such claim.

Section 15.6. Exclusions from "Claim".

Unless specifically exempted by this Article, all Claims between any of the Parties shall be subject to the provisions of this Article. Notwithstanding the foregoing, unless all Parties thereto otherwise agree, "Claim" does not include the following, whether such are brought by lawsuit, counterclaim or cross-claim and the same shall not be subject to the provisions of this Article:

15.6.1. An action by the Association to enforce any provision of Article 4 of this Declaration (Assessments).

15.6.2. An action by the Association to obtain a temporary restraining order or injunction (or equivalent emergency equitable relief) and such other ancillary relief as the court may deem necessary in order to enforce any of the provisions of Article 10 of this Declaration (Restrictions) or of Article 5 of this Declaration (Architectural Review).

15.6.3. Any suit between or among Owners, which does not include Declarant or the Association as a party, if such suit asserts a Claim which would constitute a cause of action independent of the Governing Documents.

15.6.4. Any suit in which any indispensable party is not a Party, as defined in this Article.

Section 15.7. Right to Inspect.

Prior to any Party commencing any proceeding against another Party, including but not limited to an alleged defect of any Improvement, the Respondent shall have the right to be heard by the Claimant and, if any Claimant is the Association, by the Members, and to access, inspect, correct the condition of, or redesign any portion of any Improvement as to which a defect is alleged or otherwise correct the alleged dispute; provided, however, any correction to, or redesign of, an Improvement shall be made upon terms and conditions reasonably acceptable to all affected Parties.

In the exercise of the inspection rights contained herein, the Inspecting Party shall do all of the following:

15.7.1. be careful to avoid unreasonable intrusion upon, 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 to the Subject Property;

15.7.2. minimize any disruption or inconvenience to any Person who occupies the Subject Property;

15.7.3. remove daily all debris caused by the inspection and located on the Subject Property; and

15.7.4. in a reasonable and timely manner, at the sole cost and expense of the Inspecting Party, promptly remove all equipment and materials from the Subject Property and repair and replace all damage, and restore the Subject Property to the condition of the Subject Property as of the date of the inspection unless the Subject Property is to be immediately repaired.

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

Section 15.8. Mandatory Procedures.

15.8.1. *Good Faith Negotiations.* The Parties shall make every reasonable effort to meet in person and confer for the purposes 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.

15.8.2. *Notice.* Prior to proceeding with any claim against a Respondent, each Claimant shall give a notice to each Respondent, which notice shall state plainly and concisely:

15.8.2.1. the nature of the Claim, including all Persons involved and Respondent's role in the Claim;

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

15.8.2.3. the specific relief and/or proposed remedy sought.

15.8.3. *Mediation.*

15.8.3.1. If the Parties do not resolve the Claim through negotiations within sixty (60) days after submission of the Claim to the Respondent(s), Claimant shall have an additional thirty (30) days to submit the Claim to mediation under the auspices of the AAA in accordance with the applicable AAA rules, as selected by the arbitrator.

15.8.3.2. If Claimant does not submit the Claim to mediation within such time, or does not appear for the mediation, Claimant shall be deemed to have waived the Claim, and Respondent shall be released and discharged from any and all liability to Claimant on account of such Claim; provided, nothing herein shall release or discharge Respondent from any liability to any Person other than the Claimant.

15.8.3.3. Any settlement of the Claim through mediation shall be documented in writing by the mediator and signed by the Parties. If a Termination of Mediation occurs, the mediator shall issue a notice of Termination of Mediation. The Termination of Mediation notice shall set forth that the Parties are at an impasse and the date that mediation was terminated.

15.8.3.4. Each Party shall bear its own costs of the mediation, including attorneys' fees, and each Party shall share equally all charges rendered by the mediator.

15.8.3.5. If the Parties agree to a resolution of any Claim through negotiation or mediation in accordance with subsection 15.8.3 and any Party thereafter fails to abide by the terms of such agreement, then any other Party may file suit or initiate arbitration proceedings to enforce such agreement without the need to again comply with the procedures set forth in Section 15.8 of this Declaration (Mandatory Procedures). In such event, the Party taking action to enforce the agreement shall be entitled to recover from the non-complying Party (or if more than one non-complying Party, from all such Parties pro rata) all costs incurred in enforcing such agreement, including without limitation, attorneys' fees and court costs.

15.8.4. *Binding Arbitration.*

15.8.4.1. Upon Termination of Mediation, if Claimant desires to pursue the Claim, Claimant shall, within thirty (30) days thereafter, be entitled to initiate final, binding arbitration of the Claim under the auspices of the AAA in accordance with the applicable AAA rules, as selected by the arbitrator. Any judgment upon the award rendered by the arbitrator may be entered in and enforced by any court having jurisdiction over such Claim. Unless otherwise mutually agreed to by the parties to the Claim, there shall be one arbitrator who, to the extent feasible, shall have expertise in the area(s) of dispute, which may include legal expertise if legal issues are involved.

15.8.4.2. Each Party shall bear its own costs and expenses and an equal share of the arbitrator's and administrative fees of arbitration. Notwithstanding the foregoing, if a Party unsuccessfully contests the validity or scope of arbitration in a court of law, the arbitrator or the court shall award reasonable attorneys' fees and expenses incurred in defending such contests, including those incurred in trial or on appeal, to the non-contesting Party. All decisions respecting the arbitrability of any Claim shall be decided by the arbitrator.

15.8.4.3. The award of the arbitrator shall be accompanied by detailed written findings of fact and conclusions of law. Except as may be required by law or for confirmation of an award, neither a party nor an arbitrator may disclose the existence, content, or results of any arbitration without the prior written consent of all Parties to the Claim.

Section 15.9. *Liability for Failure of Association to Maintain an Action.*

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

ARTICLE 16. GENERAL PROVISIONS

Section 16.1. *Enforcement; Fines.*

16.1.1. Subject to Article 15 hereof (Dispute Resolution), enforcement of the covenants, conditions, restrictions, easements, reservations, rights-of-way, liens, charges and other provisions contained in any of the Governing Documents may be by any proceeding at law or in equity against any Person(s) violating or attempting to violate any such provision. Except as otherwise provided in this Declaration, the Association and any aggrieved Owner shall have the right to institute, maintain and prosecute any such proceedings subject to Article 15 of this Declaration (Dispute Resolution). For each claim, including, but not limited to, counterclaims, cross claims and third-party claims, in any proceeding to enforce the provisions of CCIOA or of any of the Governing Documents, the prevailing party shall be awarded its reasonable collection costs and attorney fees and costs incurred in asserting or defending the matter. Failure by the Association or any Owner to enforce any covenant, restriction or other provision herein contained, or any other provision of any of the aforesaid documents, shall in no event be deemed a waiver of the right to do so thereafter.

16.1.2. Subject to the following sentence, the Association shall have the right to levy and collect fines (as provided in Article 4 of this Declaration (Assessments)) for the violation of any of the Governing Documents. Prior to collection of any fines, the Association, the Board of Directors, or an authorized management company of the Association, shall mail a notice of violation to the Person(s) alleged to be in violation of any such provision and such notified Person(s)

has a right to a hearing upon submission to the Board of Directors of a written request for hearing, which is properly signed by such Person(s) and dated, within ten (10) days after the notice of violation has been mailed or such other time as the Board of Directors may decide in its discretion from time to time; failure of a notified Person to request a hearing in writing within the required time period shall constitute a waiver of such right to a hearing.

Section 16.2. Severability.

All provisions of this Declaration, the Articles of Incorporation and Bylaws of the Association are severable. Invalidation of any of the provisions of any such documents, including without limitation any provision(s) of Article 15 of this Declaration (Dispute Resolution) by judgment, court order or otherwise, shall in no way affect or limit any other provisions which shall remain in full force and effect.

Section 16.3. Conflict of Provisions.

In case of any conflict between the Master Declaration and this Declaration, the Master Declaration shall control. In case of any conflict between this Declaration and the Articles of Incorporation or Bylaws of the Association, this Declaration shall control. In case of any conflict between the Articles of Incorporation and the Bylaws of the Association, the Articles of Incorporation shall control.

Section 16.4. Annexation.

16.4.1. The Declarant may amend this Declaration at any time from time to time, until automatic termination of the Special Declarant Rights as provided in Section 1.33 hereof, without the consent of any Owner, any Security Interest Holder, or any other Person, in order to add additional real estate to the Community from such locations as the Declarant may elect in its sole discretion, so long as the total additional real estate so annexed to the Community pursuant to this Section does not exceed ten percent (10%) of the total area described in the attached Exhibit A (or such larger percentage or number as may be permitted by CCIOA at the time such action is taken).

16.4.2. Except as otherwise specifically stated in the document pursuant to which property is annexed, all provisions of this Declaration, including, but not limited to, those provisions regarding obligations to pay Assessments to the Association and any right to cast votes as Members, shall apply to Units in the annexed property immediately upon the effective date of the annexing document (which shall constitute the date of recording thereof unless otherwise stated in such document). Each annexation to this Declaration, if any, shall be deemed to constitute an amendment to this Declaration.

Section 16.5. Declarant's Use.

16.5.1. Notwithstanding anything to the contrary contained in this Declaration: Declarant hereby reserves a right and easement to perform development,

construction, reconstruction, repair and warranty work on the property described on the attached Exhibit A; it shall be expressly permissible and proper for Declarant and its employees, agents and contractors, to perform such activities, and to maintain upon portions of the Community such facilities, as Declarant deems necessary or incidental to the construction and sale of Units, and development and construction of Improvements, specifically including, without limiting the generality of the foregoing, maintaining management offices, signs, model units, construction offices, trailers and sales offices, in such numbers, of such sizes, and at such locations as Declarant may determine from time to time in its reasonable discretion. Nothing contained in the Declaration shall limit the right of the Declarant or require Declarant to obtain approvals: (a) to excavate, cut, fill or grade any property (with the consent of the Owner thereof) or to construct, alter, demolish or replace any Improvements; (b) to use any structure on any property as a construction or management office, model, or sales or leasing office, in connection with the development, construction or sale of any property; and/or (c) to require Declarant to seek or obtain the approval of the Board of Directors or of the Association for any activity or Improvement by Declarant on any property owned by Declarant. Any real estate used as a sales office, management office, construction office or a model shall be a Unit or Common Elements, as designated on the Condominium Map or as provided in other recorded document(s).

16.5.2. The Declarant anticipates constructing additional Condominium Buildings, Units, and other Improvements in the Community. Hence, notwithstanding anything to the contrary, the Declaration and/or the Condominium Map may be amended and/or supplemented, in whole or in part, at any time from time to time, by the Declarant without the consent or approval of any other Owner, any Security Interest Holder, or any other Person, in order to complete the Phases or to otherwise provide for additional Condominium Building(s), Unit(s), Common Elements and/or Limited Common Elements on any of the property described on the attached Exhibit A.

16.5.2.1. Each such amendment and/or supplement shall be effective upon recording the following in the office of the Clerk and Recorder of Mesa County, Colorado: one or more amendments or supplements to the Condominium Map depicting such additions and changes; and one or more special amendments or supplements to this Declaration, including without limitation, any amendment, supplement and/or replacement of the attached Exhibit B to this Declaration, subject to any further revisions to said Exhibit B by amendments or supplements to the Condominium Map and/or Declaration as provided in this Declaration.

16.5.2.2. Upon the recording of a Condominium Map in Mesa County, Colorado, with respect to a Phase, the Condominium Building(s) and other Improvements, other than the Individual Air Spaces, in such Phase shall become "Common Elements" under this Declaration, and the condominium units in such Phase shall become "Residential Units" under this Declaration. At such time, the applicable Special Unit shall be converted to eight (8) Residential Units and the applicable Special Unit shall cease to exist. Subject to subsection 16.5.3 below, Declarant may construct or complete the Phases at any time and from time to time,