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**DECLARATION
FOR
AVILA PARK CONDOMINIUMS**

Name of Common Interest Community: Avila Park Condominiums

Type of Common Interest Community: Condominium

Name of Association: Avila Park Condominium Association, Inc., a Colorado non-profit corporation

Person(s) Executing the Declaration: Avila Park, LLC, a Colorado limited liability company

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**DECLARATION
FOR
AVILA PARK CONDOMINIUMS**

THIS DECLARATION FOR AVILA PARK CONDOMINIUMS (the "Declaration") dated December 22, 2000, shall be effective upon recordation and is made by Avila Park, LLC, a Colorado limited liability company ("Declarant"). Declarant is the owner of certain real property in the City and County of Denver, Colorado, more particularly described on Exhibit A attached hereto and incorporated herein by this reference (the "Property"). Declarant hereby makes the following grants, submissions, and declarations:

ARTICLE 1. IMPOSITION OF COVENANTS

Section 1.1. Purpose. The purpose of this Declaration is to create a condominium project known as Avila Park Condominiums (the "Condominium Project" or "Project") by submitting the Property to the condominium form of ownership and use pursuant to the Colorado Common Interest Ownership Act, Article 33.3, Title 38, Colorado Revised Statutes, as amended and supplemented from time to time (the "Act").

Section 1.2. Intention of Declarant. Declarant desires to protect the value and desirability of the Condominium Project, to further a plan for the improvement, sale, and ownership of the Project, to create a harmonious and attractive development, and to promote and safeguard the health, comfort, safety, convenience, and welfare of the Owners of Units in the Condominium Project.

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

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

ARTICLE 2. DEFINITIONS

Each capitalized term not otherwise defined in this Declaration or in the recorded Map shall have the meaning specified or used in the Act. In case of a conflict between a definition in the Declaration and the Act, the definition in this Declaration shall control. The following words, when used in this Declaration, shall have the meanings designated below unless the context expressly requires otherwise:

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

Section 2.2. “Allocated Interests” means the undivided interest in the Common Elements and the Common Expense Liability and the votes in the Association allocated to each of the Units in the Condominium Project. The formulas used to establish the Allocated Interests are described in Article 4. The Allocated Interests for each Unit are set forth on Exhibit B.

Section 2.3. “Assessments” means the annual, special and default Assessments levied pursuant to this Declaration.

Section 2.4. “Association” means Avila Park Condominium Association, Inc., a Colorado nonprofit corporation, and its successors and assigns.

Section 2.5. “Board of Managers” or “Executive Board” means the governing body of the Association, as provided in this Declaration and in the articles of incorporation and Bylaws of the Association and in the Act.

Section 2.6. “Bylaws” means any instruments, however denominated, which are adopted by the Association for the regulation and management of the Association, including the amendments thereto.

Section 2.7. “Common Elements” means all of the Condominium Project, other than the Units, but including, without limiting the generality of the foregoing, the following components:

(a) the Property; and

(b) the Improvements (including, but not by way of limitation, the foundations, columns, girders, beams, supports, perimeter and supporting walls, fireplaces, chimneys, flues, chimney chases, roofs, patios, decks, balconies, corridors, lobbies, vestibules, elevators, entrances and exits, exterior doors and windows, and the mechanical installations of the Improvements consisting of the equipment and materials making up any central services such as power, light, gas, hot and cold water, sewer, cable television, and heating and central air conditioning which exist for use by one or more of the Unit Owners, including the pipes, vents, ducts, flues, cable conduits, wires, telephone wire, and other similar utility

installations used in connection therewith and the areas designated on the Map as including those installations; trash rooms and storage rooms; elevators and stairs), except for the Units; and

(c) the yards, sidewalks, walkways, paths, grass, shrubbery, trees, planters, driveways, roadways, landscaping, gardens, parking areas, and related facilities upon the Property; and

(d) the pumps, tanks, motors, fans, storm drainage structures, compressors, ducts, and, in general, all apparatus, installations, and equipment of the Improvements existing for use of one or more of the Unit Owners; and

(e) in general, all other parts of the Condominium Project designated by Declarant as Common Elements and existing for the use of one or more of the Unit Owners.

The Common Elements shall be owned by the Unit Owners of the separate Units, each Unit Owner of a Unit having an undivided interest in the Common Elements as allocated in Exhibit B.

Section 2.8. “Common Expenses Liability” means the liability for Common Expenses allocated to each Unit pursuant to this Declaration.

Section 2.9. “Common Expenses” means expenditures made or liabilities incurred by or on behalf of the Association, together with any allocations to reserves, including, without limiting the generality of the foregoing, the following items:

(a) expenses of administration, insurance, operation and management, repair, or replacement of the Common Elements except to the extent such repairs and replacements are responsibilities of a Unit Owner as provided in this Declaration;

(b) expenses declared Common Expenses by the provisions of this Declaration or the Bylaws;

(c) all sums lawfully assessed against the Units by the Board of Managers;

(d) expenses agreed upon as Common Expenses by the members of the Association; and

(e) expenses provided to be paid pursuant to any Management Agreement.

Section 2.10. “Condominium Documents” means the basic documents creating and governing the Condominium Project, including, but not limited to, this Declaration, the Articles of Incorporation of the Association and Bylaws, the Map, and any procedures, Rules and Regulations, or policies relating to the Condominium Project adopted under such documents by the Association or the Board of Managers.

Section 2.11. “Condominium Map” or “Map” means that part of this Declaration that depicts all or any portion of the Condominium Project in three dimensions, is executed by the Declarant and is recorded in the Records. A Map and a Plat may be combined in one instrument. In a Map, a “Horizontal Boundary” means a plane of elevation relative to a described benchmark that defines either a lower or upper dimension of a Unit such that the real estate respectively below or above the defined plane is not part of the Unit. In a Map, a “Vertical Boundary” means the defined limit of a Unit that is not a Horizontal Boundary of that Unit.

Section 2.12. “Condominium Project” or “Project” means the term as defined in Section 1.1 hereof.

Section 2.13. “Condominium Unit” means the fee simple interest in and to a Unit, together with the undivided interest in the Common Elements appurtenant to the Unit, as allocated in Exhibit B.

Section 2.14. “Costs of Enforcement” means all monetary fees, fines, late charges, interest, expenses, costs, including receiver’s and appraiser’s fees, and reasonable attorneys’ fees and disbursements, including legal assistants’ fees, incurred by the Association in connection with the collection of Assessments or in connection with the enforcement of the terms, conditions and obligations of the Condominium Documents.

Section 2.15. “Declarant” means Avila Park, LLC, a Colorado limited liability company, its successors and assigns.

Section 2.16. “Declaration” means this Declaration, together with any supplement or amendment to this Declaration, and any other recorded instrument however denominated which exercises a Development Right, executed by Declarant and recorded in the Records. The term Declaration includes all Maps and Plats recorded with this Declaration and all amendments to the Declaration and supplements to the Maps and Plats without specific reference thereto.

Section 2.17. “Deed” means each initial Special Warranty Deed recorded after the date hereof by which Declarant conveys a Unit.

Section 2.18. “Development Rights” means the “Expansion Rights” and the “Development Rights” set forth in Article 16 of this Declaration.

Section 2.19. “Eligible First Mortgagee” means a First Mortgagee that has notified the Association in writing of its name and address and status as a First Mortgagee and has requested that it receive notices provided for in Article 20 entitled “Mortgage Protections.”

Section 2.20. “First Mortgagee” means a holder of a Security Interest in a Unit which has priority over all other Security Interests in the Unit.

Section 2.21. “Improvement(s)” means the building(s) (including all fixtures and improvements contained within it) located on the Property in which Units or Common Elements are located.

Section 2.22. “Limited Common Elements” means those parts of the Common Elements that are limited to and reserved for the use in connection with one or more, but fewer than all, of the Units. Without limiting the foregoing, the Limited Common Elements shall include any balcony, deck, patio, entryway, courtyard or porch appurtenant to and accessible only from a Unit, any shutters, awnings, window boxes, doorsteps, stoops, exterior doors and windows or other fixtures designated or designed to serve a single Unit, but located outside the Unit’s boundaries, storage spaces, and parking spaces designated as Limited Common Elements in this Declaration or on the Map, if any, and any individual fireplace chimneys and flues, individual air conditioning units and fixtures, and individual water and sewer service lines, hot water heaters, and any plumbing or other installation servicing a Unit. If any chute, flue, duct, wire, conduit, bearing wall, bearing column or other fixture lies partially within and partially outside the designated boundaries of a Unit, any portion thereof serving that Unit is a Limited Common Element allocated solely to that Unit, and any portion serving more than one Unit or any portion of the Common Elements is part of the Common Elements. Limited Common Elements also include any portion of the Common Elements allocated by this Declaration or on the Map as Limited Common Elements. All Limited Common Elements shall be used in connection with the appurtenant Unit(s) to the exclusion of the use thereof by the other Unit Owners, except by invitation. Subject to the Association’s overall responsibility for maintenance of the Limited Common Elements, each Unit Owner shall be responsible for routine maintenance and care of the walls, ceilings and floors of any balcony or of any other Limited Common Elements appurtenant to and accessible only from the Unit Owner’s Unit, and for keeping the same in a good, clean, sanitary, and attractive condition. No reference to Limited Common Elements need be made in any instrument of conveyance or encumbrance in order to convey or encumber the Limited Common Elements appurtenant to a Unit.

Section 2.23. “Majority of Owners” means a majority (or any greater percentage that may be specifically required for a particular action or authorization by the terms of this Declaration) of the total voting power of the members of the Association.

Section 2.24. “Management Agreement” means any contract or arrangement entered into for purposes of discharging the responsibilities of the Board of Managers relative to the operation, maintenance, and management of the Condominium Project.

Section 2.25. “Managing Agent” means a person, firm, corporation, or other entity employed or engaged as an independent contractor pursuant to a Management Agreement to perform management services for the Association.

Section 2.26. “Occupant” means any member of a Unit Owner’s family, or a Unit Owner’s guests, invitees, servants, tenants, employees, or licensees who occupy a Unit or are on the Common Elements for any period of time.

Section 2.27. “Period of Declarant Control” means the maximum period of time defined and limited by the Act and Section 8.6 of this Declaration during which the Declarant may, at its option, control the Association.

Section 2.28. “Person” means an individual, association, partnership, limited liability company, corporation, trust, governmental agency, political subdivision, or any combination thereof.

Section 2.29. “Plat” means that part of a Declaration that is a land survey plat as set forth in Section 38-51-102, Colorado Revised Statutes, as amended, depicts all or any portion of the Condominium Project in two dimensions, is executed by the Declarant and is recorded in the Records.

Section 2.30. “Property” means the real property described in the attached Exhibit A.

Section 2.31. “Real Estate” means any leasehold or other estate or interest in, over, or under land, including structures, fixtures, and other improvements and interests that, by custom, usage, or law, pass with the conveyance of land though not described in the contract of sale or instrument of conveyance. Real Estate includes parcels with or without Horizontal Boundaries and spaces that may be filled with air or water.

Section 2.32. “Records” means the Office of the Clerk and Recorder in the City and County of Denver, State of Colorado.

Section 2.33. “Rules and Regulations” means the rules and regulations promulgated by the Board of Managers for the management, preservation, safety, control, and orderly operation of the Condominium Project in order to effectuate the intent and to enforce the obligations set forth in the Condominium Documents, as amended and supplemented from time to time.

Section 2.34. “Security Interest” means an interest in Real Estate or personal property created by contract or conveyance which secures payment or performance of an obligation. The terms includes a lien created by a mortgage, deed of trust, trust deed, security deed, contract for deed, land sales contract, lease intended as security, assignment of lease or rents intended as security, pledge of an ownership interest in an Association, and any other consensual lien or title retention contract intended as security for an obligation. The holder of a Security Interest includes any insurer or guarantor of a Security Interest.

Section 2.35. “Special Declarant Rights” means those rights reserved by Declarant in Articles 15 and 16 of this Declaration.

Section 2.36. “Unit” means a physical portion of the Condominium Project which is designated for separate ownership or occupancy and the boundaries of which are described in or determined by this Declaration and depicted on the Map, consisting of enclosed rooms and bounded by the unfinished perimeter walls, floors and ceilings thereof. For the purpose of defining a Unit, the terms set forth below shall be defined as follows:

2.36.1 “Unfinished perimeter wall” means the studs, supports, and other wooden, metal, or similar structural materials which constitute the interior face of a wall of a Unit.

2.36.2 “Unfinished ceiling” means the beams, joists, and wooden or other structural materials, regardless of whether or not above a drop ceiling or similar installation, which constitute the ceiling of a Unit. In the case of a multi-story Unit, an unfinished ceiling means the ceiling of the highest story thereof.

2.36.3 “Unfinished floor” means the beams, floor joists, and floor deck material which constitute the floor of a Unit.

A Unit shall include any lath, furring, wallboard, plasterboard, plaster, drywall, wall paneling, wood, tile, paint, paper, carpeting, or any other wall, ceiling, or floor covering, any fireplace or stove hearth, facing brick, tile or firebox, fixtures and hardware, all apertures and improvements contained within the unfinished perimeter walls, ceilings, and floors, and any heating and refrigerating elements or related equipment, utility lines and outlets, electrical and plumbing fixtures, pipes, and all other related equipment required to provide heating, airconditioning, hot and cold water, electrical, or other utility services to the Unit and located within the unfinished walls, ceilings, and floors; provided, however, that a Unit shall not include any of the structural components of the Improvements or utility or service lines located within the Unit but serving more than one Unit. Each Unit shall be designated by a separate number, letter, address or other symbol or combination thereof that identifies only one Unit in the Condominium Project as more specifically set forth on Exhibit B.

Section 2.37. “Unit Owner” or “Owner” means the Declarant or any other person who owns record title to a Unit (including a contract seller, but excluding a contract purchaser) but excluding any person having a Security Interest in a Unit unless such person has acquired record title to the Unit pursuant to foreclosure or any proceedings in lieu of foreclosure.

ARTICLE 3. DIVISION OF PROJECT INTO CONDOMINIUM OWNERSHIP

Section 3.1. Division Into Condominium Units. The Property is hereby divided into 40 Condominium Units, including 12 one-bedroom one-bath Units, 10 two-bedroom one-bath Units, and ~~18~~ two-bedroom two-bath Units, each consisting of a fee simple interest in a Unit and an undivided fee simple interest in the Common Elements in accordance with the respective undivided interests in the Common Elements as set forth in Exhibit B. Such undivided interests in the Common Elements are hereby declared to be appurtenant to the respective Units. The total of the undivided interests in the Common Elements set forth in Exhibit B, rounded to the nearest 1%, shall be deemed to equal one hundred percent (100%) for purposes of this Declaration.

Section 3.2. Delineation of Unit Boundaries. The boundaries of each Unit are delineated and designated by an identifying number on the Map, and those numbers are set forth in Exhibit B.

Section 3.3. Inseparability of Condominium Unit. Except as provided in Section 3.5 below, and in the Article entitled “Reservation of Expansion and Development Rights,” (a) no part of a Condominium Unit or of the legal rights comprising ownership of a Condominium Unit may be partitioned or separated from any other part thereof during the period of condominium ownership prescribed in this Declaration; (b) each Condominium Unit shall always be conveyed, transferred, devised, bequeathed, encumbered, and otherwise affected only as a complete Condominium Unit; and (c) every conveyance, transfer, gift, devise, bequest, encumbrance, or other disposition of a Condominium Unit or any part thereof shall be presumed to be a disposition of the entire Condominium Unit, together with all appurtenant rights and interests created by law or by this Declaration, including the Unit Owner’s membership in the Association.

Section 3.4. Non-partitionability of Common Elements. The Common Elements shall be owned in common by all of the Unit Owners and shall remain physically undivided, and no Unit Owner shall bring any action for partition or division of the Common Elements. By acceptance of a deed or other instrument of conveyance or assignment to a Unit, each Unit Owner shall be deemed to have specifically waived such Unit Owner’s right to institute or maintain a partition action or any other cause of action designed to cause a division of the Common Elements, and this Section may be pleaded as a bar to the maintenance of such an action. Any Unit Owner who shall institute or maintain any such action shall be liable to the Association and hereby agrees to reimburse the Association for the Costs of Enforcement in defending any such action.

Section 3.5. Alterations and Subdivision of Units; Relocation of Boundaries Between Adjoining Units. Unit Owner(s) shall have the right to alter their Units, subdivide their Units and relocate boundaries between their Unit and an adjoining Unit and reallocate Limited Common Elements between or among Units, subject to the provisions and requirements of this Declaration and of the Act.

ARTICLE 4. ALLOCATED INTERESTS

Section 4.1. Allocation of Interests. The Allocated Interests assigned to each Unit are set forth on Exhibit B. These interests have been allocated in accordance with the formulas set out in Section 4.2 below. These formulas are to be used in reallocating interests if Units are added to the Condominium Project or if Units are converted to Common Elements or Limited Common Elements.

Section 4.2. Formulae for the Allocation of Interests. The interests allocated to each Unit have been calculated by the following formulas:

(a) Undivided Interest in the Common Elements. The percentage of the undivided interest in the Common Elements allocated to each Unit is based upon the relative floor area of each Unit as compared to the floor area of all Units in the Condominium Project and the type of Unit such that all one-bedroom one-bath Units hold equal percentages, all

two-bedroom one-bath Units hold equal percentages, and all two-bedroom two-bath Units hold equal percentages.

(b) Common Expenses Liability. The percentage of Common Expenses Liability allocated to each Unit is based on the relative floor area of each Unit as compared to the floor area of all Units in the Condominium Project and the type of Unit such that all one-bedroom one-bath Units pay equal shares, all two-bedroom one-bath Units pay equal shares, and all two-bedroom two-bath Units pay equal shares.

(c) Votes. Each Unit in the Condominium Project shall have one equal vote. Any specified percentage, portion or fraction of Unit Owners, unless otherwise stated in the Condominium Documents, means the specified percentage, portion, or fraction of all of the votes as allocated in Exhibit B.

Section 4.3. Rounding Convention. Any Allocated Interest, stated as a fraction or as a percentage, shall be rounded to the nearest one percent (1%). The total of all Allocated Interest shall be deemed to equal to one hundred percent (100%) for purposes of this Declaration.

Section 4.4. Effective Date of Reallocation. The effective date for reallocating Allocated Interests to Units as a result of the exercise of Development Rights set forth in Article 16 of this Declaration shall be the date on which the amendment required by Section 16.3 thereof is recorded in the Records.

ARTICLE 5. CONDOMINIUM MAP

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

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

(e) to the extent feasible, a legally sufficient description of all easements serving or burdening any portion of the Condominium Project; and

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

The Map shall also show the following:

(a) the location and dimensions of the Vertical Boundaries of each Unit and that Unit's identifying number;

(b) Horizontal Boundaries, if any, for each Unit with reference to all established data and that Unit's identifying number;

(c) any Units in which the Declarant has reserved the right to create additional Units or Common Elements, identified appropriately; and

(d) the approximate location and dimensions of all Limited Common Elements.

The Map shall contain a certificate of a registered and licensed land surveyor certifying that the Map was prepared subsequent to the substantial completion of the improvements and contains all information required by this Declaration and the Act. Each supplement shall set forth a like certificate when appropriate. In interpreting the Map, the existing physical boundaries of each separate Unit as constructed shall be conclusively presumed to be its boundaries.

ARTICLE 6. LEGAL DESCRIPTION AND TAXATION OF UNITS

Section 6.1. Contracts to Convey Entered into Prior to Recording of Condominium Declaration and Map. A contract or other agreement for the sale of a Unit entered into prior to the filing of this Declaration in the Records may legally describe such Unit in substantially the manner set forth in this Article 6 and may indicate that this Declaration and Map are to be recorded.

Section 6.2. Contracts to Convey and Conveyances Subsequent to Recording of Declaration and Map. Subsequent to the recording of the Declaration and Map, contracts to convey, instruments of conveyance of Units, and every other instrument affecting title to a Unit shall be in substantially the following form with such omissions, insertions, recitals of fact, or other provisions as may be required by the circumstances or appropriate to conform to the requirements of any governmental authority, practice or usage or requirement of law with respect thereto:

Unit # _____, according to the Declaration for Avila Park Condominiums, recorded _____, 2000, in Book ____ at Page ____ and the Condominium Map recorded _____, 2000, in Book ____ at Page ____ in the office of the Clerk and Recorder of City and County of Denver, Colorado.

Section 6.3. Conveyance Deemed to Describe an Undivided Interest in Common Elements. Every instrument of conveyance, Security Interest, or other instrument affecting the title to a Unit which legally describes the Unit substantially in the manner set forth above shall be construed to describe the Unit, together with the undivided interest in the Common Elements appurtenant to it, and together with all fixtures and improvements contained in it, and to incorporate all the rights incident to ownership of a Unit and all the limitations of ownership as described in the covenants, conditions, restrictions, easements, reservations, rights-of-way, and other provisions contained in this Declaration, including the easement of enjoyment to use the Common Elements.

Section 6.4. Separate Tax Assessments. Upon the filing for record of this Declaration and the Map in the Records, Declarant shall deliver a copy of this Declaration to the assessor of each county specified in the Records as provided by law. Each Unit shall be deemed a parcel subject to separate taxation and assessment by each assessing unit and special district for all types of taxes authorized by law, including ad valorem levies and special assessments. The lien for taxes assessed shall be confined to the Unit(s). No forfeiture or sale of any Unit for delinquent taxes, assessments, or other governmental charge shall divest or in any way affect the title to any other Unit.

ARTICLE 7. UNIT OWNERS' PROPERTY RIGHTS IN COMMON ELEMENTS

Section 7.1. Common Elements. Every Unit Owner shall have a perpetual right and easement of access over, across, and upon the Common Elements for the purpose of access to and from the Unit from public ways for both pedestrian and vehicular travel, which right and easement shall be appurtenant to and pass with the transfer of title to such Unit; provided, however, that such right and easement shall be subject to the following:

(a) the covenants, conditions, restrictions, easements, reservations, rights-of-way, and other provisions contained in this Declaration, and the Map;

(b) the right of the Association from time to time to assign on an equitable basis portions of the Common Elements such as parking spaces or storage spaces for the exclusive use of the Unit Owner of a particular Unit by an appropriate instrument in writing;

(c) the right of the Association to adopt, from time to time any and all rules and regulations concerning vehicular traffic and travel upon, in, under, and across the Condominium Project; and

(d) the right of the Association to adopt, from time to time, any and all rules and regulations concerning the Condominium Project as the Association may determine is necessary or prudent for the management, preservation, safety, control, and orderly operation of the Condominium Project for the benefit of all Unit Owners, and for facilitating the greatest and most convenient availability and use of the Units and Common Elements by Unit Owners and Occupants.

Section 7.2. Limited Common Elements. Subject to the provisions of this Declaration, every Unit Owner shall have the right to use and enjoy the Limited Common Elements appurtenant to his Unit.

ARTICLE 8. MEMBERSHIP AND VOTING RIGHTS IN ASSOCIATION

Section 8.1. Association Membership. The Association's articles of incorporation shall be filed no later than the date the first interest in a Unit in the Condominium Project is conveyed to a purchaser. Every Unit Owner shall be a member of the Association and shall remain a member for the period of the Unit Owner's ownership of a Unit. No Unit Owner, whether one or more Persons, shall have more than one membership per Unit owned, but all of the Persons owning a Unit shall be entitled to rights of membership and of use and enjoyment appurtenant to ownership of a Unit. Membership in the Association shall be appurtenant to, and may not be separated from, ownership of a Unit. If title to a Unit is held by more than one Person, such Persons shall appoint and authorize one Person or alternate Persons to represent the Unit Owners of the Unit. Such representative shall be a natural person who is a Unit Owner, or a designated board member or officer of a corporate Unit Owner, or a general partner of a partnership Unit Owner, or a comparable representative of any other entity, and such representative shall have the power to cast votes on behalf of the Unit Owners as a member of the Association, and serve on the Board of Managers if elected, subject to the provisions of and in accordance with the procedures more fully described in the Bylaws of the Association. Notwithstanding the foregoing, if only one of the multiple Unit Owners of a Unit is present at a meeting of the Association, such Unit Owner is entitled to cast the vote allocated to that Unit. If more than one of the multiple Unit Owners are present and there is no written designation of an authorized representative, the vote allocated to that Unit may be cast only in accordance with the agreement of a majority in interest of the Unit Owners, which majority agreement may be assumed for all purposes if any one of the multiple Unit Owners casts the vote allocated to that Unit without protest being made promptly to the person presiding over the meeting by any of the other Unit Owners of the Unit.

Section 8.2. Voting Rights and Meetings. Each Unit in the Condominium Project shall have one (1) vote; provided, however, no vote allocated to a Unit owned by the Association may be cast. A meeting of the Association shall be held at least once each year. Special meetings of the Association may be called by the President, by a majority of the Board of Managers, or by Unit Owners having twenty percent (20%), or any lower percentage specified in the Bylaws, of the votes in the Association. Not less than fourteen (14) and no more than fifty (50) days in advance of any meeting, the Secretary or other officer specified in the Bylaws shall cause notice to be hand delivered or sent prepaid by United States Mail to the mailing address of each Unit Owner. The notice of any meeting must state the time and place of the meeting and the items on the agenda including the general nature of any proposed amendment to this Declaration or the Bylaws, any budget changes, and any proposal to remove an officer or member of the Board of Managers. Unless the Bylaws provide for a lower percentage, a quorum is deemed present throughout any meeting of the Association if persons entitled to cast twenty percent (20%) of the votes which may be cast for

election of the Board of Managers are present, in person or by proxy at the beginning of the meeting.

Section 8.3. Meeting to Approve Annual Budget. At the annual meeting of the Association or at a special meeting of the Association called for such purpose, the Unit Owners shall be afforded the opportunity to ratify a budget of the projected revenues, expenditures (both ordinary and capital) and reserves for the Association's next fiscal year as proposed by the Board of Managers. A summary of the proposed budget approved by the Board of Managers shall be mailed to the Unit Owners within thirty (30) days after its adoption along with a notice of a meeting of the Association to be held not less than fourteen (14) nor more than fifty (50) days after mailing of the summary to the Unit Owners. Unless at the meeting a Majority of Owners, rather than a majority of those present and voting in person or by proxy, reject the proposed budget, the budget is ratified whether or not a quorum is present at the meeting. In the event the proposed budget is rejected, the budget last ratified by the Unit Owners continues until such time as the Unit Owners ratify a subsequent budget proposed by the Board of Managers as provided above.

Section 8.4. Unit Owners' and Association's Addresses for Notices. All Unit Owners of each Unit shall have one and the same registered mailing address to be used by the Association or other Unit Owners for notices, demands, and all other communications regarding Association matters. The Unit Owner or the representative of the Unit Owners of a Unit shall furnish such registered address to the secretary of the Association within ten days after transfer of title to the Unit to such Unit Owner or Unit Owners. Such registration shall be in written form and signed by all of the Unit Owners of the Unit or by such persons as are authorized to represent the interests of all Unit Owners of the Unit. If no address is registered or if all of the Unit Owners cannot agree, then the address of the Unit shall be deemed their registered address until another registered address is furnished as required under this Section 8.4. If the address of the Unit is the registered address of the Unit Owner(s), then any notice shall be deemed duly given if delivered to any person occupying the Unit or, if the Unit is unoccupied, if the notice is held and available for the Unit Owners at the principal office of the Association. All notices and demands intended to be served upon the Board of Managers shall be sent to the address as the Board of Managers may designate from time to time by notice to the Unit Owner(s).

Section 8.5. Transfer Information. All Persons who acquire Unit(s) other than from Declarant shall provide to the Association written notice of the Person's name, address, Unit owned, date of transfer, and name of the former Unit Owner within ten (10) days of the date of transfer. The Person shall also provide a true and correct copy of the recorded instrument conveying or transferring the Unit or such other evidence of the conveyance or transfer as is reasonably acceptable to the Association. In addition, the Association may request such other information as the Association determines is necessary or desirable in connection with obtaining and maintaining information regarding conveyances and transfers of Units. The Association or Managing Agent shall have the right to charge the Person a reasonable administrative fee for processing the transfer in the records of the Association.

Section 8.6. Declarant Control of the Association. There shall be a Period of Declarant Control of the Association, during which a Declarant, or persons designated by the Declarant, may

appoint and remove the officers and members of the Board of Managers. The Period of Declarant Control shall commence upon filing of the Articles of Incorporation of the Association and shall terminate no later than the earlier of:

- (a) sixty (60) days after conveyance of seventy-five percent (75%) of the Units that may be created to Unit Owners other than Declarant;
- (b) two (2) years after Declarant's last conveyance of a Unit in the ordinary course of business; or
- (c) two (2) years after any right to add new Units was last exercised.

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

Section 8.7. Required Election of Unit Owners. Not later than sixty (60) days after conveyance of twenty-five percent (25%) of the Units that may be created to Unit Owners other than Declarant, at least one (1) member and not less than twenty-five percent (25%) of the members of the Board of Managers shall be elected by Unit Owners other than the Declarant. Not later than sixty (60) days after conveyance of fifty percent (50%) of the Units that may be created to Unit Owners other than Declarant, not less than thirty-three and one-third percent (33-1/3%) of the members of the Board of Managers must be elected by Unit Owners other than the Declarant. Not later than the termination of any Period of Declarant Control, the Unit Owners shall elect a Board of Managers of at least three (3) members, at least a majority of whom shall be Unit Owners other than the Declarant or designated representatives of Unit Owners other than Declarant. The Board of Managers shall elect the officers. The members of the Board of Managers and officers shall take office upon election.

Section 8.8. Removal of Members of the Board of Managers. Notwithstanding any provision of this Declaration or the Bylaws to the contrary, following notice and an opportunity to be heard as required by this Declaration and the Act, the Unit Owners, by sixty-seven percent (67%) vote of all persons present and entitled to vote at a meeting of the Unit Owners at which a quorum is present, may remove a member of the Board of Managers with or without cause, other than a member appointed by the Declarant.

Section 8.9. Requirements for Turnover of Declarant Control. Within sixty (60) days after the Unit Owners other than the Declarant elect a majority of the members of the Board of Managers, the Declarant shall deliver to the Association all property of the Unit Owners and of the Association held by or controlled by the Declarant, including without limitation the following items:

- (a) the original or a certified copy of the recorded Declaration as amended, the Association's articles of incorporation, Bylaws, minute books, other books and records, and any Rules and Regulations which may have been promulgated;
- (b) an accounting for Association funds and financial statements, from the date the Association received funds and ending on the date the Period of Declarant Control ends. The financial statements shall be audited by an independent certified public accountant and shall be accompanied by the accountant's letter, expressing either the opinion that the financial statements present fairly the financial position of the Association in conformity with generally accepted accounting principles or a disclaimer of the accountant's ability to attest to the fairness of the presentation of the financial information in conformity with generally accepted accounting principles and the reasons therefor. The expense of the audit shall not be paid for or charged to the Association;
- (c) the Association funds or control thereof;
- (d) all of the Declarant's tangible personal property that has been represented by the Declarant to be the property of the Association or all of the Declarant's tangible personal property that is necessary for, and has been used exclusively in, the operation and enjoyment of the Common Elements, and inventories of these properties;
- (e) a copy, for the non-exclusive use of the Association, of any plans and specifications used in the construction or renovation of the Improvements, if any;
- (f) all insurance policies then in force, in which the Unit Owners, the Association or its members of the Board of Managers and officers are named as insured persons;
- (g) copies of any certificates of occupancy that may have been issued with respect to the Improvements;
- (h) any other permits issued by governmental bodies applicable to the Condominium Project and which are currently in force or which were issued within one (1) year prior to the date on which Unit Owners other than the Declarant took control of the Association;
- (i) written warranties of the contractor, subcontractors, suppliers, and manufacturers that are still effective;
- (j) a roster of Unit Owners and Eligible First Mortgagees and their addresses and telephone numbers, if known, as shown on the Declarant's records;
- (k) employment contracts in which the Association is a contracting party; and

(l) any service contract in which the Association is a contracting party or in which the Association or the Unit Owners have any obligation to pay a fee to the persons performing the services.

ARTICLE 9. ASSOCIATION POWERS AND DUTIES

Section 9.1. Association Management Duties. Subject to the rights and obligations of Declarant and other Unit Owners as set forth in this Declaration, the Association shall be responsible for the administration and operation of the Condominium Project and for the exclusive management, control, maintenance, repair, replacement, and improvement of the Common Elements and the Limited Common Elements, and shall keep the same in good, clean, attractive, and sanitary condition, order, and repair. The expenses, costs, and fees of such management, operation, maintenance, and repair by the Association shall be part of the Assessments, and prior approval of the Unit Owners shall not be required in order for the Association to pay any such expenses, costs, and fees. The Association shall establish and maintain, out of the installments of the annual Assessments, an adequate reserve account for maintenance, repair, or replacement of those Common Elements that must be replaced on a periodic basis. The Association shall adopt and amend budgets for revenues, expenditures, and reserves which will be the basis for collection of Assessments for Common Expenses from Unit Owners. The Association shall keep financial records sufficiently detailed to enable the Association to comply with the requirement that it provide statements of status of Assessments. All financial and other records of the Association shall be made reasonably available for examination by any Unit Owner and such Unit Owner's authorized agents.

Section 9.2. Association Powers. The Association shall have, subject to the limitations contained in this Declaration and the Act, the powers necessary for the administration of the affairs of the Association and the upkeep of the Condominium Project which shall include, but not be limited to, the power to:

- (a) adopt and amend Bylaws and Rules and Regulations;
- (b) adopt and amend budgets for revenues, expenditures and reserves;
- (c) collect Assessments for Common Expenses from Owners;
- (d) hire and discharge Managing Agents and delegate to such Managing Agents the power and duty to enforce the Rules and Regulations, subject to the requirements of the Act;
- (e) hire and discharge employees and agents, other than Managing Agents, and independent contractors;
- (f) institute, defend or intervene in litigation or administrative proceedings or seek injunctive relief for violation of the Declaration, Bylaws or Rules and Regulations in

the Association's name on behalf of the Association or two (2) or more Unit Owners on matters affecting the Condominium Project;

(g) receive notices, join in any litigation or administrative proceeding, and execute any and all documents in the Association's name, on behalf of the Association, or on behalf of the two or more Unit Owners, in connection with any change in zoning, annexation, subdivision approval, building permit, or other type of governmental approval required to accomplish or maintain the purposes of this Declaration;

(h) make contracts and incur liabilities;

(i) regulate the use, maintenance, repair, replacement and modification of the Common Elements;

(j) cause additional improvements to be made as part of the Common Elements;

(k) acquire, hold, encumber and convey in the Association's name any right, title or interest to real property or personal property, but Common Elements may be conveyed or subjected to a Security Interest only pursuant to the requirements of the Act;

(l) grant easements, including permanent easements, leases, licenses and concessions, through or over the Common Elements;

(m) impose and receive a payment, fee or charge for the use, rental or operation of the Common Elements, other than Limited Common Elements, and for services provided to Unit Owners;

(n) impose a reasonable charge for late payment of Assessments, recover Costs of Enforcement for collection of Assessments and other actions to enforce the powers of the Association, regardless of whether or not suit was initiated and, after notice and hearing, levy reasonable fines for violations of this Declaration, Bylaws and Rules and Regulations of the Association;

(o) impose a reasonable charge for the preparation and recordation of amendments to this Declaration or for preparation of statements of unpaid Assessments;

(p) provide for the indemnification of the Association's officers and Board of Managers and maintain Board of Managers' and officers' liability insurance;

(q) assign the Association's right to future income, including the right to receive Assessments;

(r) by resolution, establish committees of the Board of Managers and/or Unit Owners, permanent and standing, to perform any of the above functions under specifically

delegated administrative standards, as designated in the resolution establishing the committee;

- (s) exercise any other powers conferred by this Declaration or the Bylaws;
- (t) exercise any other power that may be exercised in Colorado by legal entities of the same type as the Association; and
- (u) exercise any other power necessary and proper for the governance and operation of the Association.

Section 9.3. Actions by Board of Managers. Except as specifically otherwise provided in this Declaration, the Bylaws or the Act, the Board of Managers may act in all instances on behalf of the Association.

Section 9.4. Board of Managers Meetings. All meetings of the Board of Managers, at which action is to be taken by vote, will be open to the Unit Owners, except that meetings of the Board of Managers may be held in executive session(s), without giving notice and without the requirement that they be open to Unit Owners, in the following situations:

- (a) matters pertaining to employees of the Association or involving the employment, promotion, discipline or dismissal of an officer, agent, or employee of the Association;
- (b) consultation with legal counsel concerning disputes that are the subject of pending or imminent court proceedings or matters that are privileged or confidential between attorney and client;
- (c) investigative proceedings concerning possible or actual criminal misconduct;
- (d) matters subject to specific constitutional, statutory, or judicially imposed requirements protecting particular proceedings or matters from public disclosure;
- (e) any matter the disclosure of which would constitute an unwarranted invasion of individual privacy.

Section 9.5. Right to Notice and Hearing. Whenever the Condominium Documents require that an action be taken after “notice and hearing”, the following procedure shall be observed: The party proposing to take the action (e.g., the Board of Managers, a committee, an officer, the Managing Agent, etc.) shall give notice of the proposed action to all Unit Owners whose interests the proposing party reasonably determines would be significantly affected by the proposed action. The notice shall be delivered personally or mailed not less than three (3) days before the proposed action is to be taken. The notice shall include a general statement of the proposed action and the date, time and place of the hearing. At the hearing, the affected person shall have the right,

personally or by a representative, to give testimony orally, in writing or both, subject to reasonable rules of procedure established by the party conducting the hearing to assure a prompt and orderly resolution of the issues. Such evidence shall be considered in making the decision but shall not bind the decision makers. The affected person shall be notified of the decision in the same manner in which notice of the hearing was given. Any Unit Owner having a right to notice and hearing shall have the right to appeal to the Board of Managers from a decision of a proposing party other than the Board of Managers by filing a written notice of appeal with the Board of Managers within ten (10) days after being notified of the decision. The Board of Managers shall conduct a hearing within forty-five (45) days, giving the same notice and observing the same procedures as were required for the original hearing.

Section 9.6. Payments to Working Capital Account. In order to provide the Association with adequate working capital funds, the Association may collect from purchasers at the time of the initial sale of each Unit by Declarant an amount equal to two (2) months' worth of annual Assessments based on the Association's budget in effect at the time of the sale. Such payments to this fund shall not be considered advance payments of annual Assessments. The Declarant is prohibited from using any portion of the working capital account to defray any of its expenses, construction or renovation costs, or Common Expenses.

ARTICLE 10. ASSESSMENTS

Section 10.1. Commencement of Annual Assessments. Until the Association makes an Assessment for Common Expenses, the Declarant shall pay all Common Expenses. After any Assessment has been made by the Association, Assessments shall be made no less frequently than annually and shall be based on a budget adopted no less frequently than annually by the Association.

Section 10.2. Annual Assessments. The Association shall levy annual Assessments to pay for the Common Expenses Liability allocated to each Unit pursuant to this Declaration. The total annual Assessments shall be based upon a budget of the Association's cash requirements for upkeep of the Condominium Project including maintenance, repair and replacement of the Common Elements as required by the Act and the Condominium Documents. Any surplus funds of the Association remaining after payment of or provision for Common Expenses and any prepayment of or provision for reserves shall be credited to the Unit Owners in proportion to their Common Expenses Liability or credited to them to reduce their future Assessments for Common Expenses.

Section 10.3. Apportionment of Annual Assessments. The total annual Assessments for any fiscal year of the Association shall be assessed to the Units in proportion to their Percentage of Common Expenses Liability set forth on Exhibit B, subject to: (a) Common Expenses which are separately metered or assessed to the Units by third parties; (b) Common Expenses associated with the maintenance, repair or replacement of Limited Common Elements (including, but not limited to, the parking spaces for the Project) which shall be assessed equally or on such other equitable basis as the Board of Managers shall determine, to the Units to which the specific Limited Common Elements are appurtenant; (c) Common Expenses or portions thereof benefitting fewer than all of

the Units which shall be assessed exclusively against the Units benefitted; (d) any increased cost of insurance based upon risk which shall be assessed to Units in proportion to the risk; (e) any Common Expense caused by the misconduct of any Unit Owner(s), which may be assessed exclusively or on such other equitable basis as the Board of Managers shall determine against such Unit Owner(s); and (f) any expenses which are charged equally to the Units. All such allocations of Common Expenses Liability to Units on a basis other than the Units' Percentage of Common Expenses Liability shall be made in the sole discretion of the Board of Managers.

Section 10.4. Special Assessments. In addition to the annual Assessments authorized above, the Board of Managers may at any time and from time to time determine, levy, and assess in any fiscal year a special Assessment applicable to that particular fiscal year (and for any such longer period as the Board of Managers may determine) for the purpose of defraying, in whole or in part, the operating deficit and/or unbudgeted costs, fees, and expenses of any construction, reconstruction, repair, demolishing, replacement, renovation or maintenance of the Condominium Project, specifically including any fixtures and personal property related to it. Any amounts determined, levied, and assessed pursuant to this Declaration shall be assessed to the Units pursuant to the provisions in Section 10.3 entitled "Apportionment of Annual Assessments" set forth above. Written notice of the amount of such special Assessment per Unit and the due date for payment thereof shall be given to each Owner not less than 15 days prior to the due date.

Section 10.5. Due Dates for Assessment Payments. Unless otherwise determined by the Board of Managers, the Assessments which are to be paid in installments shall be paid monthly in advance and shall be due and payable to the Association at its office or as the Board of Managers may otherwise direct in any Management Agreement, without notice (except for the initial notice of any special Assessment), on the first day of each month. If any such installment shall not be paid within 10 days after it shall have become due and payable, then the Board of Managers may assess a late charge, default interest charge (not to exceed the rate from time to time allowed by the Act), fee, or such other charge as the Board of Managers may fix by rule from time to time to cover the extra expenses involved in handling such delinquent Assessment installment. A Unit Owner's Assessment shall be prorated if the ownership of a Unit commences or terminates on a day other than the first day or last day, respectively, of a month or other applicable payment period. However, if the Common Expenses Liability is reallocated, any installment of an Assessment not yet due shall be recalculated in accordance with the reallocated Common Expenses Liability.

Section 10.6. Application of Payments; No Offsets. Any payments received by the Association from a delinquent Unit Owner shall be applied first to any interest accrued on the delinquent installment(s) as aforesaid, then to any Costs of Enforcement and then to the delinquent and any accelerated Assessments. The foregoing shall be applicable notwithstanding any restrictive endorsement, designation or instruction placed on or accompanying a payment. No offsets or reduction of amounts payable shall be permitted for any claim by a Unit Owner, including without limitation, any claims that the Association or Board is not properly exercising its duties and powers under the Condominium Documents.

Section 10.7. Default Assessments. All Costs of Enforcement assessed against a Unit Owner pursuant to the Condominium Documents, or any expense of the Association which is the obligation of a Unit Owner pursuant to the Condominium Documents shall become a default Assessment assessed against the Unit Owner's Unit. Notice of the amount and demand for payment of such default Assessment shall be sent to the Unit Owner prior to enforcing any remedies for non-payment hereunder.

Section 10.8. Covenant of Personal Obligation for Assessments. Declarant, by creating the Units pursuant to this Declaration, and all other Unit Owners, by acceptance of the deed or other instrument of transfer of his Unit (whether or not it shall be so expressed in such deed or other instrument of transfer), are deemed to personally covenant and agree, jointly and severally, with all other Unit Owners and with the Association, and hereby do so covenant and agree to pay to the Association the (a) annual Assessments, (b) special Assessments, and (c) default Assessments applicable to the Unit Owner's Unit. No Unit Owner may waive or otherwise escape personal liability for the payment of the Assessments provided for in this Declaration by not using the Common Elements or the facilities contained in the Common Elements or by abandoning or leasing his Unit.

Section 10.9. Lien for Assessments; Assignment of Rents. The annual, special, and default Assessments (including installments of the Assessments) arising under the provisions of the Condominium Documents shall be burdens running with, and a perpetual lien in favor of the Association upon the specific Unit to which such Assessments apply. To further evidence such lien upon a specific Unit, the Association shall prepare a written lien notice setting forth the description of the Unit, the amount of Assessments on the Unit unpaid as of the date of such lien notice, the rate of default interest as set by the Rules and Regulations, the name of the Unit Owner or Unit Owners of the Unit, and any and all other information that the Association may deem proper. The lien notice shall be signed by a member of the Board of Managers, an officer of the Association, or the Managing Agent and shall be recorded in the Records. Any such lien notice shall not constitute a condition precedent or delay the attachment of the lien, but such lien is a perpetual lien upon the Unit and attaches without notice at the beginning of the first day of any period for which any Assessment is levied. Upon any default in the payment of annual, special, or default Assessments, the Association shall also have the right to appoint a receiver to collect all rents, profits, or other income from the Unit payable to the Unit Owner and to apply all such rents, profits, and income to the payment of delinquent Assessments. Each Unit Owner, by ownership of a Unit, agrees to the assignment of such rents, profits and income to the Association effective immediately upon any default in the payment of annual, special, or default Assessments.

Section 10.10. Remedies for Nonpayment of Assessments. If any annual, special, or default Assessment (or any installment of the Assessment) is not fully paid within 30 days after the same becomes due and payable, then as often as the same may happen, (a) interest shall accrue at the default rate set by the Rules and Regulations on any amount of the Assessment in default, accruing from the due date until date of payment, (b) the Association may declare due and payable all unpaid installments of the annual Assessment or any special Assessment otherwise due during the fiscal year during which such default occurred, (c) the Association may thereafter bring an action at law

or in equity, or both, against any Unit Owner personally obligated to pay the same, (d) the Association may proceed to foreclose its lien against the particular Unit pursuant to the power of sale granted to the Association by this Declaration or in the manner and form provided by Colorado law for foreclosure of real estate mortgages and (e) the Association may suspend the Owner's right to vote in Association matters until the Assessment is paid. An action at law or in equity by the Association (or counterclaims or cross-claims for such relief in any action) against a Unit Owner to recover a money judgment for unpaid Assessments (or any installment thereof) may be commenced and pursued by the Association without foreclosing or in any way waiving the Association's lien for the Assessments. Foreclosure or attempted foreclosure by the Association of its lien shall not be deemed to stop or otherwise preclude the Association from again foreclosing or attempting to foreclose its lien for any subsequent Assessments (or installments thereof) which are not fully paid when due or for any subsequent default Assessments. The Association shall have the power and right to bid in or purchase any Unit at foreclosure or other legal sale and to acquire and hold, lease, mortgage, and to convey, or otherwise deal with the Unit acquired in such proceedings.

Section 10.11. Purchaser's Liability for Assessments. Notwithstanding the personal obligation of each Unit Owner to pay all Assessments on the Unit, and notwithstanding the Association's perpetual lien upon a Unit for such Assessments, all purchasers shall be jointly and severally liable with the prior Unit Owner(s) for any and all unpaid Assessments against such Unit, without prejudice to any such purchaser's right to recover from any prior Unit Owner any amounts paid thereon by such purchaser. A purchaser's obligation to pay Assessments shall commence upon the date the purchaser becomes the Unit Owner of a Unit. For Assessment purposes, the date a purchaser becomes the Unit Owner shall be determined as follows: (a) in the event of a conveyance or transfer by foreclosure, the date a purchaser becomes the Unit Owner shall be deemed to be upon the expiration of all applicable redemption periods; (b) in the event of a conveyance or transfer by deed in lieu of foreclosure a purchaser shall be deemed to become the Unit Owner of a Unit upon the execution and delivery of the deed or other instruments conveying or transferring title to the Unit, irrespective of the date the deed is recorded; and (c) in the event of conveyance or transfer by deed, a purchaser shall be deemed to become the Unit Owner upon the execution and delivery of the deed or other instruments conveying or transferring title of the Unit, irrespective of the date the deed is recorded. However, such purchaser shall be entitled to rely upon the existence and status of unpaid Assessments as shown upon any certificate issued by or on behalf of the Association to such named purchaser pursuant to the provisions of this Declaration.

Section 10.12. Waiver of Homestead Exemption; Subordination of Association's Lien for Assessments. By acceptance of the deed or other instrument of transfer of a Unit, each Unit Owner irrevocably waives the homestead exemption provided by Part 2, Article 41, Title 38, Colorado Revised Statutes, as amended. The Association's perpetual lien on a Unit for Assessments shall be superior to all other liens and encumbrances except the following:

- (a) real property ad valorem taxes and special assessment liens duly imposed by a Colorado governmental or political subdivision or special taxing district, or any other liens made superior by statute;

(b) liens recorded prior to this Declaration unless otherwise agreed by the parties thereto; and

(c) the lien of any First Mortgagee except to the extent the Act grants priority for Assessments to the Association.

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

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

Section 10.13. Statement of Status of Assessments. On or before 14 calendar days after receipt of written notice to the Managing Agent or, in the absence of a Managing Agent, to the Board of Managers and payment of a reasonable fee set from time to time by the Board of Managers, any Unit Owner, holder of a Security Interest, prospective purchaser of a Unit or their designees shall be furnished a statement of the Unit Owner's account setting forth:

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

Upon the issuance of such a certificate signed by a member of the Board of Managers, by an officer of the Association, or by a Managing Agent, the information contained therein shall be conclusive

upon the Association as to the person or persons to whom such certificate is addressed and who rely on the certificate in good faith.

Section 10.14. Liens. Except for Assessment liens as provided in this Declaration, mechanics' liens (except as prohibited by this Declaration), tax liens, judgment liens and other liens validly arising by operation of law and liens arising under Security Interests, there shall be no other liens obtainable against the Common Elements or against the interest of any Unit Owner in the Common Elements except a Security Interest in the Common Elements granted by the Association pursuant to the requirements of the Act.

ARTICLE 11. MAINTENANCE RESPONSIBILITY

Section 11.1. Unit Owner's Rights and Duties with Respect to Interiors. Except as may be provided in the purchase and sale agreement or other conveyancing documents executed by Declarant in connection with sales to initial purchasers of the Units, each Unit Owner of a Unit shall have the exclusive right and duty to paint, tile, wax, paper, or otherwise decorate or redecorate and to maintain and repair the interior surfaces of the walls, floors, ceilings, windows and doors forming the boundaries of such Unit Owner's Unit and all walls, floors, ceilings, and doors within such boundaries. Notwithstanding the foregoing, no Unit Owner shall be permitted to install any hardwood floor or other hard surface improvements in his Unit that might affect adjoining Units by increasing noise or vibrations, without the prior written approval of the Association, which approval may be denied, or conditioned, in the Association's sole discretion.

Section 11.2. Responsibility of the Unit Owner. The Unit Owner of any Unit shall, at the Unit Owner's expense, maintain and keep in repair all fixtures, equipment, and utilities installed and included in a Unit commencing at a point where the fixtures, equipment, and utilities enter the Unit. A Unit Owner shall not allow any action or work that will impair the structural soundness of the improvements, impair the proper functioning of the utilities, heating, ventilation, or plumbing systems or integrity of the Improvement(s), or impair any easement or hereditament. Subject to the Association's overall responsibility for maintenance of the Limited Common Elements, each Unit Owner shall be responsible for routine maintenance and care of the walls, floors, ceilings, windows and doors of any balcony or of any other Limited Common Elements appurtenant to the Unit Owner's Unit, and for keeping the same in a good, clean, sanitary, and attractive condition.

Section 11.3. Unit Owner's Negligence. In the event that the need for maintenance, repair, or replacement of all or any portion of the Common Elements is caused through or by the negligent or willful act or omission of a Unit Owner or Occupant, then the expenses incurred by the Association for such maintenance, repair, or replacement shall be a personal obligation of such Unit Owner; and, if the Unit Owner fails to repay the expenses incurred by the Association within seven (7) days after notice to the Unit Owner of the amount owed, then the failure to so repay shall be a default by the Unit Owner, and such expenses shall automatically become a default Assessment determined and levied against such Unit, enforceable by the Association in accordance with this Declaration.

Section 11.4. Responsibility of the Association. The Association, without the requirement of approval of the Unit Owners, shall maintain and keep in good repair, replace, and improve, as a Common Expense, all of the Condominium Project not required in this Declaration to be maintained and kept in good repair by a Unit Owner or by Declarant.

ARTICLE 12. MECHANICS' LIENS

Section 12.1. Mechanics' Liens. Subsequent to recording of this Declaration and the filing of the Map in the Records, no labor performed or materials furnished for use and incorporated in any Unit with the consent of or at the request of the Unit Owner or the Unit Owner's agent, contractor or subcontractor, shall be the basis for the filing of a lien against a Unit of any other Unit 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 Unit of the Unit Owner for whom such labor shall have been performed or such materials shall have been furnished. Each Unit Owner shall indemnify and hold harmless each of the other Unit Owners and the Association from and against any liability or loss arising from the claim of any mechanics' lien or for labor performed or for materials furnished in work on such Unit Owner's Unit, against the Unit of another Unit Owner or against the Common Elements, or any part thereof.

Section 12.2. Enforcement by the Association. At its own initiative or upon the written request of any Unit Owner (if the Association determines that further action by the Association is proper), the Association shall enforce the indemnity provided by the provisions of this Article 12 by collecting from the Unit Owner of the Unit on which the labor was performed or materials furnished the amount necessary to discharge by bond or otherwise any such mechanics' lien, to pay all costs and reasonable attorneys' fees incidental to the lien, and to obtain a release of such lien. If the Unit Owner of the Unit on which the labor was performed or materials furnished refuses or fails to indemnify within five (5) days after the Association shall have given notice to such Unit Owner of the total amount of the claim, then the failure to so indemnify shall be a default by such Unit Owner under the provisions of this Section 12.2, and such amount to be indemnified shall automatically become a default Assessment determined and levied against such Unit, and enforceable by the Association pursuant to this Declaration.

ARTICLE 13. USE RESTRICTIONS

Section 13.1. Use of Units. Except for uses reserved to Declarant in Article 15 entitled "Special Declarant Rights and Additional Reserved Rights," all Units shall be used for residential dwelling purposes only. Unit Owners of the Units may rent or lease such Units to others for these purposes and may use these Units for home occupations which do not cause unreasonable disturbance to other Unit Owners and which are permitted by applicable zoning codes. No business shall be operated from any Unit that would make such Unit or the Project qualify as a "place of public accommodation" as defined in the Americans With Disabilities Act (42. U.S.C. §§ 1201 et seq.).

Section 13.2. Use of Common Elements. There shall be no obstruction of the Common Elements, nor shall anything be kept or stored on any part of the Common Elements by any Unit Owner without the prior written approval of the Association. Nothing shall be altered on, constructed in, or removed from the Common Elements by any Unit Owner without the prior written approval of the Association.

Section 13.3. Prohibition of Increases in Insurable Risks and Certain Activities. Nothing shall be done or kept in any Unit or in or on the Common Elements, or any part thereof, which would result in the cancellation of the insurance on all or any part of the Condominium Project or in an increase in the rate of the insurance on all or any part of the Condominium Project over what the Association, but for such activity, would pay, without the prior written approval of the Association. Nothing shall be done or kept in any Unit or in or on the Common Elements which would be in violation of any statute, rule, ordinance, regulation, permit, or other imposed requirement of any governmental body having jurisdiction over the Condominium Project. No damage to or waste of the Common Elements shall be committed by any Unit Owner, or Occupant, and each Unit Owner shall indemnify and hold the Association and the other Unit Owners harmless against all loss resulting from any such damage or waste caused by him or an Occupant of his Unit. Failure to so indemnify shall be a default by such Unit Owner under this Section. At its own initiative or upon the written request of any Unit Owner (and if the Association determines that further action by the Association is proper), the Association shall enforce the foregoing indemnity as a default Assessment levied against such Unit.

Section 13.4. Structural Alterations and Exterior Appearance. No structural alterations to any Unit, including the construction of any additional skylight, window, door or other alteration visible from the exterior of the Unit, and no alterations that affect the Common Element systems, equipment, services, utilities, or alterations to any Common Element shall be made or caused to be made by any Unit Owner without the prior written approval of the Declarant during the Period of Declarant Control and thereafter the Association. No window coverings or other improvements, alterations or decorations visible from outside a Unit shall be added by a Unit Owner without the prior written approval of the Declarant during the Period of Declarant Control and thereafter the Association. No alteration or subdivision of Units or relocation of boundaries between adjoining Units shall be made by the Unit Owners without the prior written approval of the Declarant during the Period of Declarant Control and thereafter by the Association. The Association shall promulgate Rules and Regulations establishing procedures for the approvals required by this Section 13.4 and establishing work rules governing all alterations by Unit Owners. Such Rules and Regulations shall include, but shall not be limited to, requirements that the applicant submit (a) plans and specifications showing the nature, kind, shape, height, color, materials and location of the proposed alterations in sufficient detail for the Association and Declarant to review them; and (b) processing and/or review fees, which may include any professional fees the Association or Declarant might incur in retaining architects or engineers to review the plans and specifications. The Rules and Regulations shall specifically consider the impact of the alteration on the harmony of external design and location in relation to surrounding structures and topography. To the extent alterations by a Unit Owner do not require prior written approval of the Declarant or Association, the Unit Owner shall nonetheless comply and cause Unit Owner's agents to comply with all Rules and Regulations

(including the work rules) applicable to such alterations. All work performed in connection with Unit Owner alterations shall comply with all building, fire, electrical, or other codes or governmental requirements applicable to the work ("Applicable Regulations"). The Declarant during the Period of Declarant Control and thereafter the Association reserve the right to require a Unit Owner to submit a space plan of the work performed in connection with such alteration to determine whether such alteration requires written approval of the Declarant or Association or whether such alteration complies with the Rules and Regulations or Applicable Regulations. Within this section, the term "space plan" shall mean and refer to a fully dimensioned floor plan (including any so-called "pricing plans") showing demising walls, interior walls, utilities outlets, ventilation shafts, and plumbing systems, any space planning considerations to comply with Applicable Regulations, and any other items required by Declarant or the Association to serve as a basis to determine whether approval is required. If required, such approval will be governed by the procedures for approvals in the Rules and Regulations.

Section 13.5. Use Restrictions. No animal pens, sheds, fences or other outbuildings or structures of any kind shall be erected by any Unit Owner. No activity shall be allowed which interferes unduly with the peaceful possession and proper use of the Condominium Project by the Unit Owners, nor shall any fire hazard or unsightly accumulation of refuse be allowed. No lights shall be emitted which are unreasonably bright or cause unreasonable glare; no sound shall be emitted which is unreasonably loud or annoying; and no odor shall be emitted which is nauseous or offensive to others. No animals, birds, insects, or livestock of any kind shall be raised, bred, or kept on or in the Condominium Project, other than properly licensed and certified service animals for disabled persons. The Board of Managers may also by Rule and Regulation allow Unit Owners to keep a reasonable number of domesticated dogs, cats, or other household pets which do not unreasonably interfere with the use and enjoyment of the Condominium Project by others with such conditions as the Board in its sole discretion may impose, including without limitation, that such pet be registered, licensed and inoculated as may be required by the Board and local law from time to time, and that the Board may impose a special Assessment on a Unit Owner to defray the additional maintenance costs associated with such pet; provided, however, the foregoing shall not be construed to require the Board of Managers to allow Unit Owners to keep pets in the Condominium Project.

Section 13.6. Restrictions on Leasing. A Unit Owner shall be permitted to lease, rent, or otherwise make available for occupancy her Unit subject to the following covenants and restrictions:

(a) the lease, rent, or use agreement (the "Lease") shall be in writing for a term of no less than one hundred eighty (180) days;

(b) the Lease shall provide that lessee is subject to the terms of the Condominium Documents and further provide that any failure of lessee to comply with the Condominium Documents shall be a default thereunder, as well as under the Lease, enforceable by the Association against the lessee and the Unit Owner;

(c) the Lease shall specifically provide that the Association is authorized to enforce a default under the Condominium Documents through eviction of the lessee;

(d) the Unit Owner shall provide the Association with a copy of each Lease; and

(e) the Unit Owner may assign her voting rights in a Unit for the term of the Lease by written assignment with a copy provided to the Association. Until expiration or termination of the assignment, such Unit Owner shall not be entitled to voting rights as “Owner” of the Unit and shall not be relieved of all duties and obligations thereby.

Section 13.7. Limit on Timesharing. No Unit Owner shall offer or sell any interest in such Unit under a “timesharing” or “interval ownership” plan, or any similar plan.

Section 13.8. Restriction on Signs. No signs, billboards, posterboards, or advertising structure of any kind shall be displayed to the public view on or from any Unit or the Common Elements for any purpose whatsoever except in accordance with applicable zoning codes and if such signs have been approved in writing by the Declarant during the Period of Declarant Control, and thereafter the Association. Any signs which are permitted under the foregoing restrictions shall be erected or maintained on the Condominium Project only with the prior written approval of the Declarant during the Period of Declarant Control, and thereafter the Association, which approval shall be given only if such signs are of attractive design and as small a size as reasonably possible and shall be placed or located as directed or approved by the Association.

Section 13.9. Restrictions on Use of Parking and Storage Areas. No parking shall be permitted at any location on the Property unless specifically designated for parking by the Association. No storage is permitted outside of Units except in specifically designated storage areas. No Owner may use any parking or storage space assigned to another. No Owner may use any parking space for storage or use any parking or storage space in any manner that obstructs or interferes with any other Owner’s parking or storage rights or that constitutes a safety hazard. Without limiting the generality of the powers of the Association with respect to parking or storage, the Association is specifically authorized, but not obligated, to remove any vehicle parked in any area not designated for parking, or any vehicle parked in any space that is assigned to another person or reserved for a specific use, or any vehicle parked in an obstructing or hazardous manner, or any abandoned and inoperable vehicle, or to remove any improperly stored or hazardous materials, at the expense of the Owner or Occupant that owns such vehicle or materials, or, if the owner of the vehicle cannot be identified, at the expense of the Owner or Occupant from whose space the vehicle or materials are removed. No activity related to the servicing of vehicles, including without limitation, repair, rebuilding, dismantling, or repainting, shall be performed on the Property. Expenses incurred by the Association in connection with such removal (and storage, if necessary) shall be a personal obligation of such Owner and, if the Owner fails to pay such amount within seven (7) days after notice to the Owner of the amount owed, then the failure to pay shall be a default by the Owner and such expenses shall automatically become a default Assessment determined and levied against such Unit enforceable by the Association as provided in this Declaration.

ARTICLE 14. EASEMENTS

Section 14.1. Easement of Enjoyment. Every Unit Owner shall have a non-exclusive easement for the use and enjoyment of the Common Elements, which shall be appurtenant to and shall pass with the title to every Unit, subject to the easements set forth in this Article 14 and the easements and restrictions set forth in Article 7 entitled "Unit Owners' Property Rights in Common Elements."

Section 14.2. Delegation of Use. Any Unit Owner may delegate, in accordance with the Condominium Documents, the Unit Owner's right of enjoyment in the Common Elements to an Occupant of the Unit Owner's Unit.

Section 14.3. Recorded Easements. The Property shall be subject to any easements as shown on any recorded plat affecting the Property, as shown on the recorded Map, and as reserved or granted under this Declaration. The recording data for recorded easements and licenses appurtenant to or included in the Property or to which any part of the Property may become subject is set forth on the attached Exhibit C.

Section 14.4. Easements for Encroachments. The Condominium Project, and all portions of it, are subject to easements hereby created for encroachments between Units and the Common Elements as follows:

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

Encroachments referred to in this Section 14.4 include, but are not limited to, encroachments caused by error or variance from the original plans in the construction of the Improvements or any Unit constructed on the Property, by error in the Map, by settling, rising, or shifting of the earth, or by changes in position caused by repair or reconstruction of any part of the Condominium Project. Such encroachments shall not be considered to be encumbrances upon any part of the Condominium Project; provided, however, that encroachments created by the intentional act of a Unit Owner shall not be deemed to create an easement on the Property and shall be considered an encroachment upon the Condominium Project. Such encroachment shall be removed at Unit Owner's expense immediately upon notice from the Association. In the event such encroachment is not timely removed, the Association may effect removal of the encroachment and the expense thereof shall be a default Assessment to the Unit Owner.

Section 14.5. Easement for Support. A general non-exclusive easement is hereby granted in favor of each Unit Owner in, over and under all the Common Elements, including Common Elements within the Unit of a Unit Owner, for horizontal and lateral support.

Section 14.6. Utility Easements. There is hereby created a general non-exclusive easement upon, across, over, in, and under all of the Property for ingress and egress and for installation, replacement, repair, and maintenance of all utilities, including but not limited to water, sewer, gas, telephone, electricity, and a cable communication system. By virtue of this easement, it shall be expressly permissible and proper for the companies providing such utilities to erect and maintain the necessary equipment on the Property and to affix and maintain electrical, communications, and telephone wires, circuits, and conduits under the Property. Any utility company using this general easement shall use its best efforts to install and maintain the utilities provided without disturbing the uses of other utilities, the Unit Owners, the Association, and Declarant; shall complete its installation and maintenance activities as promptly as reasonably possible; and shall restore the surface to its original condition as soon as possible after completion of its work. Should any utility company furnishing a service covered by this general easement request a specific easement by separate recordable document, Declarant during the Period of Declarant Control and thereafter the Association, shall have the right and authority to grant such easement upon, across, over, or under any part or all of the Property without conflicting with the terms hereof. The easements provided for in this Section 14.6 shall in no way affect, avoid, extinguish, or modify any other recorded easement on the Property.

Section 14.7. Emergency Access Easement. A general non-exclusive easement is hereby granted to all police, sheriff, fire protection, ambulance, and all other similar emergency agencies or persons to enter upon all streets and upon the Property in the proper performance of their duties.

Section 14.8. Maintenance Easement. A non-exclusive easement is hereby granted to the Association and any Managing Agent and their respective officers, agents, employees and assigns upon, across, over, in, and under the Common Elements and a right to make such use of the Common Elements as may be necessary or appropriate to perform the duties and functions which they are obligated or permitted to perform pursuant to this Declaration.

Section 14.9. Easements of Access for Repair, Maintenance, and Emergencies. Some of the Common Elements are or may be located within the Units or may be conveniently accessible only through the Units. The Unit Owners and the Association shall have the irrevocable right, to be exercised by the Association as the Unit Owners' agent, to have access to each Unit and to all Common Elements from time to time during such reasonable hours as may be necessary for the maintenance, repair, removal, or replacement of any of the Common Elements therein or accessible therefrom or for making emergency repairs therein necessary to prevent damage to the Common Elements or to any Unit. Unless caused by the negligent or willful act or omission of a Unit Owner or Occupant, damage to the interior of any part of a Unit resulting from the maintenance, repair, emergency repair, removal, or replacement of any of the Common Elements or as a result of emergency repair within another Unit at the instance of the Association or of the Unit Owners shall be a Common Expense. In order to effectuate this right, the Association shall retain a pass key to

each Unit and a Unit Owner shall not change the exterior locks on its Unit without providing the Association with a replacement key to accommodate the new locks.

Section 14.10. Easements Deemed Created. All conveyances of Units hereafter made, whether by Declarant or otherwise, shall be construed to grant and reserve the easements contained in this Article 14, even though no specific reference to such easements or to this Article 14 appears in the instrument for such conveyance.

ARTICLE 15. SPECIAL DECLARANT RIGHTS AND ADDITIONAL RESERVED RIGHTS

Section 15.1. Special Declarant Rights. Declarant hereby reserves the right, from time to time, to perform the acts and exercise the rights hereinafter specified (the "Special Declarant Rights"). Declarant's Special Declarant Rights include the following:

(a) Completion of Improvements. The right to complete improvements indicated on Plats and Maps filed with this Declaration.

(b) Exercise of Development Rights. The right to exercise any Development Right reserved in Article 16 of this Declaration.

(c) Sales Management and Marketing. The right to locate, relocate and maintain sales offices, management offices, signs advertising the Condominium Project and models within any Unit or Units and in the Common Elements. Declarant shall have the right to show Units and the Common Elements to prospective purchasers and to arrange for the use of any parking, storage or recreational facilities within the Common Elements by prospective purchasers.

(d) Construction Easements. The right to use easements through the Common Elements for the purpose of making improvements within the Condominium Project or within Real Estate which may be added to the Condominium Project.

(e) Master Association. The right to make the Condominium Project subject to a Master Association.

(f) Merger. The right to merge or consolidate a project with another project of the same form of ownership.

(g) Control of Association and Board of Managers. The right to appoint or remove any officer of the Association or any member of the Board of Managers.

(h) Amendment of Declaration. The right to amend this Declaration in connection with the exercise of any Development Rights.

(i) Amendment of Map. The right to amend the Map in connection with the exercise of any Development Rights.

(j) Signs. The right to maintain signs on the Common Elements advertising the Condominium Project.

(k) Post-Sales. The right to use the Common Elements to maintain customer relations and provide post-sale services to Unit Owners.

(l) Parking/Storage. The right to use and to allow others to use all parking and storage areas in connection with its marketing efforts.

(m) Leasing of Communications Facilities Sites. The right to negotiate, execute and deliver, own, transfer, convey, and assign leases encumbering the Improvement rooftop and other areas of the Common Elements with owners or operators of communications facilities, which right shall also include the right to convert such areas of Common Elements into Commercial Units or, in Declarant's discretion, the right to assign such lease(s) on such Common Elements to the Association.

Section 15.2. Additional Reserved Rights. In addition to the Special Declarant Rights set forth in Section 15.1 above, Declarant also reserves the following additional rights (the "Additional Reserved Rights"):

(a) Dedications. The right to establish, from time to time, by dedication or otherwise, utility and other easements for purposes including but not limited to streets, paths, walkways, drainage, recreation areas, parking areas, driveways, ducts, shafts, flues, conduit installation areas, and to create other reservations, exceptions and exclusions for the benefit of and to serve the Unit Owners within the Condominium Project.

(b) Use Agreements. The right to enter into, establish, execute, amend, and otherwise deal with contracts and agreements for the use, lease, repair, maintenance or regulation of the Common Elements, parking and/or recreational facilities, which may or may not be a part of the Condominium Project for the benefit of the Unit Owners and/or the Association.

(c) Easement Rights. The rights to an easement through the Common Elements as may be reasonably necessary for the purpose of discharging Declarant's obligations arising under this Declaration or the Act.

(d) Other Rights. The right to exercise any Additional Reserved Right created by any other provision of this Declaration.

Section 15.3. Limitations on Special Declarant Rights and Additional Reserved Rights. Unless sooner terminated by an amendment to this Declaration executed by the Declarant, any

Special Declarant Right or Additional Reserved Rights may be exercised by the Declarant so long as the Declarant (a) is obligated under any warranty or obligation; (b) holds a Development Right; (c) owns any Unit; (d) holds a Security Interest in any Unit(s); or (e) for thirty (30) years after the date of recording this Declaration. Earlier termination of certain rights may occur pursuant to requirements of the Act.

Section 15.4. Interference with Special Declarant Rights. Neither the Association nor any Unit Owners may take any action or adopt any rule and/or regulation that will interfere with or diminish any Special Declarant Rights or Additional Reserved Rights without the prior written consent of the Declarant.

Section 15.5. Rights Transferable. Any Special Declarant Rights or Additional Reserved Right created or reserved under this Article 15 for the benefit of Declarant may be transferred to any person by an instrument describing the rights transferred and recorded in the Records. Such instrument shall be executed by the transferor Declarant and the transferee.

ARTICLE 16. RESERVATION OF EXPANSION AND DEVELOPMENT RIGHTS

Section 16.1. Expansion Rights. Declarant expressly reserves the right to subject all or any part of the Real Estate described in Exhibit D attached hereto and hereby incorporated by reference (the "Expansion Property") to the provisions of this Declaration upon the substantial completion of Improvements on the Expansion Property. The consent of the existing Unit Owners, First Mortgagees or other holders of Security Interests shall not be required for any such expansion, and Declarant may proceed with such expansion without limitation at its sole option. In addition, Declarant also expressly reserves the right to add unspecified Real Estate to the Condominium Project as allowed by the Act. Additional development rights not previously reserved may be reserved within all or any portion of the Expansion Property as allowed by the Act.

Section 16.2. Development and Withdrawal Rights. Declarant expressly reserves the right to create Units, Common Elements and Limited Common Elements (the "Additional Improvements") to combine Units, to subdivide Units, to convert Units into Common Elements, to convert Common Elements into Units, and to allocate Real Estate as Limited Common Elements on all or any portion of the Real Estate reserved for future development in this Declaration. Declarant may exercise any or all of the Development Rights so reserved at any time with respect to all or any of the Real Estate marked subject to Development Rights in the Declaration. No assurances are made with respect to the boundaries of any parcels that may be developed or the order in which the parcels may be developed. Exercise of a Development Right with respect to any one parcel does not require exercise of a Development Right on any other parcel of Real Estate subject to Development Rights. No assurances are made, however, that any further development will occur. If all or any part of the Expansion Property is submitted to this Declaration, this right to reserve property for future development shall apply to such property as well. Declarant expressly reserves the right to withdraw all or any portion of the Property that is designated as subject to withdrawal in this Declaration from the Condominium Project by recording a document evidencing such withdrawal in the Records;

provided, however, that no portion of the Property may be withdrawn after a Unit in that portion of the Property has been conveyed to a purchaser. The Real Estate withdrawn from the Condominium Project shall be subject to whatever easements, if any, are reasonably necessary for access to or operation of the Condominium Project. Declarant shall prepare and record in the Records whatever documents are necessary to evidence such easements and shall amend Exhibit C to this Declaration to include reference to the recorded easement. The Declarant alone is liable for all expenses in connection with Real Estate subject to Development Rights.

Section 16.3. Amendment of Declaration. If Declarant elects to submit the Expansion Property, or any part thereof, or Additional Improvements, to this Declaration, or to subdivide or to convert Units or Common Elements, then at such time as construction of the Improvements on the Expansion Property or the Additional Improvements are substantially complete, Declarant shall record an amendment to this Declaration reallocating the Allocated Interests so that the Allocated Interests appurtenant to each Unit will be apportioned according to the total number of Units submitted to this Declaration. The Allocated Interests appurtenant to each Unit in the Condominium Project, shall be based on formula set forth in Section 4.2(a). The Amendment to this Declaration shall contain at a minimum the legal description of the Expansion Property, or a part thereof, or a description of the real estate on which the Additional Improvements being submitted to this Declaration are located and a schedule of the Allocated Interests appurtenant to the Units in the Condominium Project.

Section 16.4. Supplement to the Map. Declarant shall, contemporaneously with the amendment of this Declaration, file a supplement to the Map showing the location of the Additional Improvements constructed on the Expansion Property or the construction, combination, subdivision, conversion or allocation of Units or Common Elements allowed by this Article. The supplement to the Map shall substantially conform to the requirements contained in this Declaration.

Section 16.5. Interpretation. Recording of amendments to this Declaration and supplement to the Map in the Records shall automatically:

- (a) vest in each existing Unit Owner the reallocated Allocated Interests appurtenant to her Unit; and
- (b) vest in each existing holder of a Security Interest a perfected Security Interest in the reallocated Allocated Interests appurtenant to the encumbered Unit.

Upon the recording of an amendment to this Declaration, the definitions used in this Declaration shall automatically be extended to encompass and to refer to the Property, as expanded. The Expansion Property, or any part thereof, or the Additional Improvements, shall be added to and become a part of the Project for all purposes. All conveyances of Units after such expansion shall be effective to transfer rights in all Common Elements as expanded, whether or not reference is made to any amendment to this Declaration or supplement to the Map. Reference to this Declaration and Map in any instrument shall be deemed to include all amendments to this Declaration and supplements to the Map without specific reference thereto.

Section 16.6. Maximum Number of Units. The maximum number of Units in the Condominium Project shall not exceed 45 Units, or, if allowed by the Act, the maximum number of Units allowed by any governmental entity having jurisdiction over the Property, pursuant to any development plan for the Property and the Expansion Property. Declarant shall not be obligated to expand the Condominium Project beyond the number of Units initially submitted to this Declaration.

Section 16.7. Construction Easement. Declarant expressly reserves the right to perform warranty work, and repairs and construction work and to store materials in secure areas, in Units and in Common Elements, and the future right to control such work and repairs, and the right of access thereto, until its completion. All work may be performed by Declarant without the consent or approval of any Unit Owner or holder of a Security Interest. Declarant has such an easement through the Common Elements as may be reasonably necessary for the purpose of discharging Declarant's obligations and exercising Declarant's reserved rights in this Declaration. Such easement includes the right to construct underground utility lines, pipes, wires, ducts, conduits, and other facilities across the Property not designated as reserved for future development in this Declaration or on the Map for the purpose of furnishing utility and other services to buildings and improvements to be constructed on any of the Property reserved for future development. Declarant's reserved construction easement includes the right to grant easements to public utility companies and to convey improvements within those easements anywhere in the Common Elements not occupied by an Improvement containing Units. If Declarant grants any such easements, Exhibit C to this Declaration will be amended to include reference to the recorded easement.

Section 16.8. Reciprocal Easements. If all or part of the Expansion Property is not submitted to this Declaration, or if property is withdrawn from the Condominium Project ("Withdrawn Property"):

- (a) the owner(s) of the Expansion Property and/or Withdrawn Property shall have whatever easements are necessary or desirable, if any, for access, utility service, repair, maintenance and emergencies over and across the Condominium Project; and
- (b) the Unit Owner(s) in the Condominium Project shall have whatever easements are necessary or desirable, if any, for access, utility service, repair, maintenance and emergencies over and across the Expansion Property and Withdrawn Property.

Declarant shall prepare and record in the Records whatever documents are necessary to evidence such easements and shall amend Exhibit C to this Declaration to include reference to the recorded easement(s). Such recorded easement(s) shall specify that the owner(s) of the Expansion Property and the Withdrawn Property and the Unit Owners in the Condominium Project shall be obligated to pay a proportionate share of the cost of the operation and maintenance of any easements utilized by either one of them on the other's property upon such reasonable basis as the Declarant shall establish in the easement(s). Preparation and recordation by Declarant of an easement pursuant to this Section 16.8 shall conclusively determine the existence, location and extent of the reciprocal easements that are necessary or desirable as contemplated by this Section 16.8.

Section 16.9. Termination of Expansion and Development Rights. The Expansion Rights and Development Rights reserved to Declarant, for itself, its successors and assigns, shall expire thirty (30) years after the date of recording this Declaration in the Records, unless the Expansion Rights and the Development Rights are reinstated or extended by the Association, subject to whatever terms, conditions, and limitations the Board of Managers may impose on the subsequent exercise of the Expansion Rights and Development Rights by Declarant. Upon the expiration or other termination of the Expansion Rights and the Development Rights, any Unit then subject to Development Rights shall become Common Elements.

Section 16.10. Interference With Expansion or Development Rights. Neither the Association nor any Unit Owner may take any action or adopt any rule or regulation that will interfere with or diminish any Expansion Rights or Development Rights reserved by this Article 16 without the prior written consent of the Declarant.

Section 16.11. Transfer of Expansion and Development Rights. Any Expansion Rights or Development Rights created or reserved under this Article 16 for the benefit of Declarant may be transferred to any person by an instrument describing the rights transferred and recorded in the Records. Such instrument shall be executed by the transferor Declarant and the transferee.

ARTICLE 17. INSURANCE

Section 17.1. Coverage. Commencing not later than the first conveyance of a Unit to a purchaser and to the extent reasonably available, the Association shall obtain and maintain insurance coverage as set forth in this Article. If such insurance is not reasonably available, and the Board of Managers determines that any insurance described herein will not be maintained, the Board of Managers shall promptly cause notice of that fact to be hand delivered or sent prepaid by United States mail to all Unit Owners and Eligible First Mortgagees at their respective last known addresses.

(a) Property Insurance. The Association shall maintain property insurance on the Condominium Project for broad form covered causes of loss in amount of insurance not less than the full insurable replacement cost of the insured property less applicable deductibles at the time insurance is purchased and at each renewal date, exclusive of land, excavations, foundations, and other items normally excluded from property insurance policies.

(b) Liability Insurance. The Association shall maintain commercial general liability insurance against claims and liabilities arising in connection with the ownership, existence, use, or management of the Condominium Project, insuring the Board of Managers, the Association, the Managing Agent, and their respective employees, agents and all persons acting as agents. The Declarant shall be included as an additional insured in such Declarant's capacity as a Unit Owner and member of the Board of Managers. Unit Owners shall be included as additional insureds but only for claims and liabilities arising in connection with the ownership, existence, use, or management of the Common Elements.

The insurance shall cover claims of one (1) or more insured parties against the other insured parties.

(c) Fidelity Insurance. The Association shall maintain fidelity insurance on all persons who control or disburse funds of the Association, including persons who serve the Association without compensation. Coverage shall not be less in the aggregate than two (2) months' current Assessments plus reserves, as calculated from the current budget of the Association. Any person with control over the Association Funds employed as an independent contractor by the Association, including the Managing Agent, must obtain and maintain fidelity insurance in like amount at its own expense for the benefit of the Association unless the Association names such person as an insured employee in the policy of fidelity insurance specified above.

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

(e) Unit Owners' Policies. Each Unit Owner may obtain additional insurance at his own cost for his own benefit so long as all such policies shall contain waivers of subrogation and provide further that the liability of the carriers issuing insurance to the Association hereunder shall not be effected or diminished by reason of any such insurance carried by any Unit Owner. Each Unit Owner waives and releases all claims against the Association to the extent such claim is covered by applicable insurance policies, regardless of whether damage loss or injury arose from the negligence or breach of any agreement by the Association. Each Unit Owner acknowledges that insurance obtained by the Association does not obviate the need for a Unit Owner to obtain separate insurance for his or her benefit.

Section 17.2. Required Provisions. All insurance policies carried pursuant to the requirements of this Article 17 must provide that:

(a) each Unit Owner and each Eligible First Mortgagee is an insured person under the policy with respect to liability arising out of such Unit Owner's interest in the Common Elements or membership in the Association;

(b) the insurer waives its rights to subrogation under the policy against any Unit Owner or member of his household;

(c) no act or omission by any Unit Owner, unless acting within the scope of such Unit Owner's authority on behalf of the Association, will void the policy or be a condition to recovery under the policy;

(d) if, at the time of a loss under the policy, there is other insurance in the name of a Unit Owner covering the risks covered by the policy, the Association's policy provides primary insurance;

(e) any loss covered by the policies must be adjusted with the Association;

(f) the insurance proceeds for any loss shall be payable to an insurance trustee designated for that purpose, or otherwise to the Association and not to any holder of a Security Interest;

(g) the insurer shall issue certificates or memoranda of insurance to the Association and, upon request, to any Unit Owner or holder of a Security Interest; and

(h) the insurer issuing the policy may not cancel or refuse to renew it until thirty (30) days after notice of the proposed cancellation or non-renewal has been mailed to the Association and any Unit Owner(s) and holder(s) of Security Interests to whom a certificate or memorandum of insurance has been issued at their respective last known addresses.

Section 17.3. Adjustment of Claims. The Association may adopt and establish written nondiscriminatory policies and procedures relating to the submittal of claims, responsibility for deductibles, and any other matters of claims adjustment. To the extent the Association settles a property insurance claim, it shall have the authority to assess negligent Unit Owners causing such loss or benefitting from such repair or restoration all deductibles paid by the Association. In the event more than one (1) Unit is damaged by a loss, the Association in its reasonable discretion may assess each Unit Owner a pro rata share of any deductible paid by the Association.

Section 17.4. Copies of Policies. A copy of each insurance policy obtained by the Association shall be made available for inspection by any Unit Owner at reasonable times.

ARTICLE 18. RESTORATION UPON DAMAGE OR DESTRUCTION

Section 18.1. Duty to Restore. Any portion of the Condominium Project for which insurance is required under the Act or for which insurance carried by the Association is in effect, that is damaged or destroyed must be repaired or replaced promptly by the Association unless:

(a) the Condominium Project is terminated;

(b) repair or replacement would be illegal under a state statute or municipal ordinance governing health or safety;

(c) sixty seven percent (67%) of the Unit Owners, including every Owner of a Unit or assigned Limited Common Element that will not be rebuilt, vote not to rebuild; or

(d) prior to the conveyance of any Unit to a purchaser, the holder of a Security Interest on the damaged portion of the Condominium Project rightfully demands all or a substantial part of the insurance proceeds.

In the event the Condominium Project is not repaired or replaced as allowed by Subparagraphs (a), (b) and (c) above, then the Real Estate in the Condominium Project shall be sold and the proceeds distributed pursuant to the procedures provided for in the Act for termination of condominium projects.

Section 18.2. Cost. The cost of repair or replacement in excess of insurance proceeds and reserves is a Common Expense.

Section 18.3. Plans. The Property must be repaired and restored in accordance with either the original plans and specifications or other plans and specifications which have been approved by the Board of Managers and a Majority of Owners.

Section 18.4. Replacement of Less Than Entire Property. If the entire Condominium Project is not repaired or replaced, the insurance proceeds attributable to the damaged Common Elements shall be used to restore the damaged area to a condition compatible with the remainder of the Condominium Project and, except to the extent that other persons will be distributees:

(a) the insurance proceeds attributable to a Unit and Limited Common Elements that are not rebuilt must be distributed to the Unit Owner of the Unit and the Unit Owner of the Unit to which the Limited Common Elements were allocated, or to holders of Security Interests, as their interests may appear;

(b) the remainder of the proceeds must be distributed to each Unit Owner or holders of Security Interests, as their interests may appear, in proportion to the Allocated Interests in the Common Elements of all the Units; and

(c) if the Unit Owners vote not to rebuild a Unit, the Allocated Interests of the Unit are reallocated upon the vote as if the Unit had been condemned, and the Association promptly shall prepare, execute and record an amendment to this Declaration reflecting the reallocations.

Section 18.5. Insurance Proceeds. The insurance trustee, or if there is no insurance trustee, then the Board of Managers, acting by the President, shall hold any insurance proceeds in trust for the Association, Unit Owners and holders of Security Interests as their interest may appear. Subject to the provisions of the Sections above, the proceeds shall be disbursed first for the repair or restoration of the damaged Property, and the Association, Unit Owners and holders of Security Interests are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the Property has been completely repaired or restored, or the Condominium Project is terminated, in which event the surplus proceeds will be distributed as provided in this Declaration and the Act.

Section 18.6. Certificates by the Board of Managers. The insurance trustee, if any, may rely on the following certifications in writing made by the Board of Managers:

(a) whether or not damaged or destroyed Property is to be repaired or restored;
and

(b) the amount or amounts to be paid for repairs or restoration and the names and addresses of the parties to whom such amounts are to be paid.

Section 18.7. Certificates by Attorneys or Title insurance Companies. If payments are to be made to Unit Owners or holders of Security Interests, the Board of Managers, and the insurance trustee, if any, shall obtain and may rely on a title insurance company or attorney's certificate of title or a title insurance policy based on a search of the Records from the date of recording of this Declaration stating the names of the Unit Owners and the holders of Security Interests.

ARTICLE 19. CONDEMNATION

If all or part of the Condominium Project is taken by any power having the authority of eminent domain, all compensation and damages for and on account of the taking shall be payable in accordance with the provisions on eminent domain in the Act.

ARTICLE 20. MORTGAGEE PROTECTIONS

Section 20.1. Introduction. This Article 20 establishes certain standards and covenants which are for the benefit of First Mortgagees. This Article 20 is supplemental to, and not in substitution for, any other provisions of this Declaration, but in the case of any conflict, this Article shall control.

Section 20.2. Percentage of First Mortgagees. Unless specifically provided otherwise, wherever in this Declaration the approval or consent of a specified percentage of Eligible First Mortgagees is required, it shall mean the approval or consent of sixty-seven percent (67%) of Eligible First Mortgagees. Each Eligible First Mortgagee shall be entitled to one (1) vote for each Security Interest held by such Eligible First Mortgagee.

Section 20.3. Notice of Actions. If requested in writing to do so, the Association shall give prompt written notice of the following to each Eligible First Mortgagee making such request:

(a) any condemnation loss or any casualty loss which affects a material portion of the Common Elements or any Unit in which an interest is held by the Eligible First Mortgagee;

(b) any delinquency in the payment of Assessments which remains uncured for sixty (60) days by a Unit Owner whose Unit is encumbered by a Security Interest held by such Eligible First Mortgagee;

(c) any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association;

(d) any proposed action which would require the consent of Eligible First Mortgagees as set forth in this Article;

(e) any judgment rendered against the Association; and

(f) a copy of any financial statement of the Association.

Section 20.4. Consent Required. The Association may not take any of the following actions, except as such rights have been specifically reserved by Declarant under the provisions of this Declaration, without the consent of sixty-seven percent (67%) of the Eligible First Mortgagees:

(a) sale, conveyance or encumbrance of the Common Elements (provided, however, that the granting of easements for public utilities, for construction and maintenance of roads within the Condominium Project, or for other purposes provided for in this Declaration will not be deemed a transfer within the meaning of this clause);

(b) restoration or repair of the Condominium Project (after hazard damage or partial condemnation) in a manner other than that specified in this Declaration;

(c) termination of this Declaration for reasons other than substantial destruction or condemnation, subject to the approval percentages required for such termination;

(d) merger of the Condominium Project with any other common interest community; or

(e) any action not to repair or to replace the Common Elements except as permitted in this Declaration.

Section 20.5. Notice of Objection. Unless an Eligible First Mortgagee provides the Secretary of the Association with written notice of its objection, if any, to any proposed amendment or action requiring the approval of Eligible First Mortgagees within thirty (30) days following the receipt of notice of such proposed amendment or action, the Eligible First Mortgagee will be deemed conclusively to have consented to or approved the proposed amendment or action.

Section 20.6. First Mortgagees' Rights.

(a) Advances. First Mortgagees, jointly or singly, may pay taxes or other charges which are in default and which may or have become a charge against any of the Common Elements or improvements thereon, and may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for the Common Elements. First Mortgagees making such payments shall be owed immediate reimbursement from the Association.

(b) Cure Rights. First Mortgagees shall be entitled to cure any delinquency of the Unit Owner encumbered by a First Mortgage in the payment of Assessments. In that event, the First Mortgagee shall be entitled to obtain a release from the lien imposed or perfected by reason of such delinquency.

Section 20.7. Limitations on First Mortgagee's Rights. No requirement for approval or consent by a First Mortgagee provided in this Article 20 shall operate to:

(a) deny or delegate control over the general administrative affairs of the Association by the Unit Owners or the Board of Directors;

(b) prevent the Association or Board of Directors from commencing, intervening and/or settling any legal proceeding; or

(c) prevent any insurance trustee or the Association from receiving and distributing any insurance proceeds in accordance with the requirements of Article 18 entitled "Restoration Upon Damage or Destruction".

Section 20.8. Special Declarant Rights. No provision or requirement of this Article 20 entitled "Mortgage Protections" shall apply to any Special Declarant Rights reserved to Declarant in this Declaration.

ARTICLE 21. DURATION OF COVENANTS; AMENDMENT AND TERMINATION

Section 21.1. Term. This Declaration and any amendments or supplements to it shall remain in effect from the date of recordation for a period of fifty (50) years. Thereafter, this Declaration shall be automatically extended for five (5) successive periods of ten (10) years each, unless otherwise terminated or modified as provided in this Article.

Section 21.2. Amendment of Declaration. This Declaration may be amended as follows:

(a) Reserved Amendment Rights. To the extent that this Declaration and the Act expressly permit or require amendments that may be executed by the Declarant or by the Association, this Declaration may be amended by amendments executed solely by the Declarant or solely by the Association.

(b) General Amendments. Except as allowed or restricted by this Section 21.2, this Declaration may be amended by a vote or agreement of Unit Owners to which more than fifty percent (50%) of the votes in the Association are allocated.

(c) Permitted Use Amendments. This Declaration may be amended to change the uses to which any Unit is restricted only by a vote or agreement of Unit Owners to which at least sixty-seven percent (67%) of the votes in the Association are allocated.

(d) Special Declarant Rights Amendments. This Declaration may be amended to increase Special Declarant Rights, increase the number of Units or change the boundaries of any Unit or the Allocated Interests of a Unit only by a vote or agreement of Unit Owners to which at least sixty-seven percent (67%) of the votes of the Association, including sixty-seven percent (67%) of the votes allocated to Units not owned by Declarant, are allocated.

Section 21.3. Amendment by Declarant. To the extent permitted by the Act, Declarant may execute any amendment to the Declaration required or necessary to comply with secondary mortgage market and Colorado state regulatory requirements.

Section 21.4. Execution of Amendments; Expenses. Any amendment shall be prepared, executed and recorded either by the Declarant or by an officer of the Association designated for that purpose or, in the absence of a designation, by the President of the Association. All expenses associated with preparing and recording an amendment to this Declaration shall be the sole responsibility of (a) any Unit Owners desiring an amendment as provided for in this Declaration or the Act; (b) the Declarant, to the extent the right to amend this Declaration is reserved to the Declarant and exercised by the Declarant; and (c) in all other cases by the Association as a Common Expense.

Section 21.5. When Modifications Permitted. Notwithstanding the provisions of Section 21.2 above, no amendment or termination of this Declaration shall be effective in any event during the Period of Declarant Control, unless the written approval of Declarant is first obtained.

Section 21.6. Recording of Amendments. Any amendment to this Declaration made in accordance with this Article 21 shall be immediately effective upon the recording of the executed amendment in the Records together with a duly authenticated certificate of the Declarant or the Secretary of the Association stating that the required vote of Unit Owners, if any, and required consents of First Mortgagees (and/or Eligible First Mortgagees, as applicable) were obtained and are on file in the office of the Association. The amendment must be indexed in the grantee's index in the name of the Condominium Project and the Association and in the grantor's index in the name of each person or entity executing the Amendment.

Section 21.7. Termination of the Condominium Project. The Condominium Project may only be terminated as provided in the Act.

ARTICLE 22. MISCELLANEOUS

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

Section 22.2. Notices. All notices, demands, or other communications required or permitted to be given hereunder shall be in writing, and any and all such items shall be deemed to have been duly delivered upon personal delivery; upon actual receipt, in the case of notices forwarded by certified mail, return receipt requested, postage prepaid; as of 12:00 Noon on the immediately following business day after deposit with Federal Express or a similar overnight courier service; or as of the third business hour (a business hour being one of the hours from 8:00 a.m. to 5:00 p.m. on business days) after transmitting by telecopier.

Section 22.3. Nonwaiver. Failure by Declarant, the Association, or any Unit Owner or Eligible First Mortgagee to enforce any covenant, condition, restriction, easement, reservation, right-of-way, or other provision contained in the Condominium Documents shall in no way or event be deemed to be a waiver of the right to do so thereafter.

Section 22.4. Severability. The provisions of this Declaration shall be deemed to be independent and severable, and the invalidity of any one or more of the provisions of it by judgment or court order or decree shall in no way affect the validity or enforceability of any of the other provisions, which provisions shall remain in full force and effect. Any provision which would violate the rule against perpetuities and the rule prohibiting unlawful restraints on alienation shall be construed in a manner as to make this Declaration valid and enforceable.

Section 22.5. Number and Gender. Unless the context provides or requires to the contrary, the use of the singular herein shall include the plural, the use of the plural shall include the singular, and the use of any gender shall include all genders.

Section 22.6. Captions. The captions to the Articles and Sections and the Table of Contents at the beginning of this Declaration are inserted only as a matter of convenience and for reference, and are in no way to be construed to define, limit, or otherwise describe the scope of this Declaration or the intent of any provision of this Declaration.

Section 22.7. Conflicts in Legal Documents. In case of conflicts between the provisions in this Declaration and the articles of incorporation of the Association or the Bylaws, this Declaration shall control. In case of conflicts in the provisions in the articles of incorporation of the Association and the Bylaws, the articles of incorporation of the Association shall control.

**EXHIBIT A
TO
DECLARATION**

The land referred to in the Declaration is covering the land in the State of Colorado, described as follows:

Lots 5, 6, 7, 8, 9 and 10,
Block 9,
Rohlfing's Subdivision,
City and County of Denver,
State of Colorado.

**EXHIBIT B
TO
DECLARATION**

TABLE OF ALLOCATED INTERESTS

Unit No.	Unit Square Footage Total Sq. Ftg. 36,284	Percentage Ownership
Unit 101	770	0.02323967
Unit 102	883	0.026650168
Unit 103	686	0.020704434
Unit 104	674	0.020342257
Unit 105	860	0.025955996
Unit 201	924	0.027887605
Unit 202	981	0.029607944
Unit 203	667	0.020130987
Unit 204	701	0.021157154
Unit 205	667	0.020130987
Unit 206	981	0.029607944
Unit 207	931	0.028098874
Unit 301	924	0.027887605
Unit 302	981	0.029607944
Unit 303	667	0.020130987
Unit 304	701	0.021157154
Unit 305	667	0.020130987
Unit 306	981	0.029607944
Unit 307	931	0.028098874
Unit 401	924	0.027887605
Unit 402	981	0.029607944
Unit 403	667	0.020130987
Unit 404	701	0.021157154
Unit 405	667	0.020130987
Unit 406	981	0.029607944
Unit 407	931	0.028098874
Unit 501	924	0.027887605
Unit 502	981	0.029607944
Unit 503	667	0.020130987
Unit 504	701	0.021157154
Unit 505	667	0.020130987
Unit 506	981	0.029607944
Unit 507	931	0.028098874
Unit 601	924	0.027887605
Unit 602	981	0.029607944
Unit 603	667	0.020130987
Unit 604	701	0.021157154
Unit 605	667	0.020130987
Unit 606	981	0.029607944
Unit 607	931	0.028098874

1

* Studios were adjusted down 0.1% to adjust for rounding, penthouse unit adjusted down 0.4% for rounding.

**EXHIBIT C
TO
DECLARATION**

EASEMENTS AND LICENSES OF RECORD

Terms, conditions, provisions, agreements and obligations specified under the Ordinance No. 60, Series of 1968 recorded March 14, 1968, in Book 9854 at Page 231 and as amended by Ordinance No. 357, Series of 1968 recorded December 4, 1968, in Book 9963 at Page 506; Ordinance No. 436, Series of 1968 recorded January 6, 1969, in Book 9975 at Page 351; Ordinance No. 442, Series of 1973 recorded July 30, 1973, in Book 738 at Page 127, providing for the preservation of certain panoramic views.

Terms, conditions, provisions, agreements, and obligations specified under the Mile Hi Cablevision Agreement recorded July 18, 1983 in Book 311 at Page 199.

Terms, conditions, provisions, agreements, and obligations specified under the MDU Broadband Services Agreement recorded June 14, 2000 at Reception No. 2000083170.

**EXHIBIT D
TO
DECLARATION**

LEGAL DESCRIPTION OF EXPANSION PROPERTY

NONE

AVILA PARK CONDOMINIUMS

DISCLOSURE STATEMENT

SEPTEMBER , 2000

DISCLAIMER BY THE STATE OF COLORADO:

THE STATE OF COLORADO HAS NOT PREPARED OR ISSUED THIS DOCUMENT NOR HAS IT PASSED ON THE MERITS OF THE CONDOMINIUM PROJECT DESCRIBED HEREIN.

DISCLAIMER BY THE DEVELOPER:

THIS DOCUMENT IS A SUMMARY OF INFORMATION CONTAINED IN VARIOUS DOCUMENTS RELATED TO AVILA PARK CONDOMINIUMS AND OTHER SOURCES. THE INFORMATION IS INTENDED TO PROVIDE AN OVERVIEW OF CRITICAL ISSUES, BUT DO NOT RELY SOLELY ON THE COMPLETENESS OF THE INFORMATION CONTAINED HEREIN. THE CONDOMINIUM DECLARATION, THE ARTICLES OF INCORPORATION AND BYLAWS OF THE ASSOCIATION, AVILA PARK PURCHASE AND SALE CONTRACT, AND THE DEED SHOULD BE REVIEWED BY THE PURCHASER.

Pursuant to Colorado Real Estate Commission Rule S-23 and C.R.S. § 12-61-406(3), the following information is presented to potential purchasers of condominium units in Avila Park Condominiums.

1. The Developer/Seller: The Developer/Seller is Avila Park, LLC, a Colorado limited liability company, located at 1942 S. Xenia Court, Denver, Colorado, 80231 (the "Developer").
2. The Condominiums: The condominiums are AVILA PARK CONDOMINIUMS, located at 1365 Columbine Street, Denver, CO 80218 (the "Condominiums").
3. Type of Ownership: Forty fee simple residential condominium estates, numbered 101 through 607, are offered for sale consisting of individual air space units in the Building and the concurrent ownership by each of the owners of the Units, as tenants in common, of all of the Common Elements. The condominium estates available are 17 one bedroom one bath, 13 two-bedroom one bath, and 10 two bedroom two bath units. In addition, a total of forty-five parking spaces are available, consisting of twenty-eight underground spaces numbered 18 through 45, and seventeen surface spaces, numbered 1 through 17. Parking units are Limited Common Elements, appurtenant to the Units purchased. One or more parking units will be designated for sale with your condominium unit and will be identified in your Purchase and Sale Contract. Any change in the parking space designated for you, including your possible election to purchase an underground parking space, must be done in agreement with the Developer and indicated in your Purchase and Sale Contract. Purchase of underground and other parking spaces are on a first-come, first-serve basis, and the Developer makes no guarantee as to the availability of particular parking spaces. The Developer and any space owner may own more than one parking space. Parking spaces may only be owned by or leased to the Developer, unit owners (or their mortgagees), or the Association. In addition to your space and the parking space, you will have exclusive use of a storage locker, which will be designated as a common element.

Purchaser will get title to the property at Closing according to the terms and conditions of the Avila Park Purchase and Sale Contract, with addenda, signed by the Purchaser (the "Contract"). The Developer will deliver to Purchaser at closing a Special Warranty Deed granting Purchaser a fee simple title to the Unit and any limited common element appurtenant thereto, subject to those items listed on the Title Commitment as "Schedule of Exceptions," and an undivided interest in the Common Elements.

4. Amenities: An "amenity," for purposes of this disclosure, includes such things as swimming pools, tennis courts, and hiking and bicycle paths. An indoor swimming pool is a general common element and will be provided for use by you and your guests. A sauna, jacuzzi, and workout room are also available and are common elements. In addition, a recreation room with billiards table and shuffleboard table is a common element available for any owners' use. The laundry room(s) are common elements available for use by all unit owners and tenants subject to rules adopted by the Association from time to time. The equipment in the laundry rooms is currently leased by the Association. Maintenance of the swimming pool, sauna, jacuzzi, workout room, recreation room, and laundry room(s) are common expenses of the Association, and paid out of the annual assessment made against each unit owner. The Association may, either directly or through the equipment leasing company, charge a fee for use of the laundry facilities, and any resulting revenue may be applied against common expenses incurred by the Association. There are no other amenities included within the Avila Park Condominiums. As an owner of a condominium unit, you and the other condominium unit purchasers will own an undivided proportionate interest in all general common elements, including those amenities described in this section.

There are 45 on-site parking spaces, consisting of 28 underground and 17 surface spaces, all of which are Limited Common Elements, appurtenant to the Units purchased.

No other amenities are planned or proposed by the Developer.

5. Judgments and Administrative Orders: There are no judgments or administrative orders issued against the Developer, Avila Park Condominium Association or any managing agent which are material to the conversion of the Condominium.
6. Special Assessments: No taxes or special assessments on the Condominium Units are owed, with the exception of 2000 real property taxes due and payable in 2001. Real property taxes for the year of closing, based upon the most recent levy and the most recent assessment, shall be prorated to the date of Closing.
7. Licensed Brokers: All sales of the Condominium Units will be made by brokers and salesmen licensed by the State of Colorado unless specifically exempted pursuant to C.R.S. § 12-61-101(4). The Contract contains the name of the real estate brokerage firm and identifies the name of the sales agent acting for the Developer.
8. Deposits and Payments: All funds paid by Purchaser prior to delivery of the deed will be held in escrow by North American Title Company. The funds shall be paid by the Purchaser directly to North American Title Company concurrent with the signing of the Contract. No funds shall be paid to or held by the Developer or its agents prior to the delivery of the deed.

The use of the funds shall be specified in the Contract and the certain Agreement for Earnest Money Escrow and Closing Services between Seller and North American Title Company shall be responsible for assuring that the funds are used only for their restricted purposes. The Contract identifies the amount and permissible use of the funds to be paid by the Purchaser and held in escrow by the designated escrow agent.

All Funds shall be held in non-interest-bearing accounts. Purchaser shall receive no interest if the Purchaser proceeds with the purchase or if Purchaser terminates the Contract and is entitled to a return of the earnest money. If a Purchaser defaults on the Contract, the deposit will be forfeited as provided in the Contract.

9. Delivery of Deed: Immediately following the date of closing, the Purchaser's deed will be delivered by North American Title Company to the Clerk and Recorder's office of the City and County of Denver for recording. Requirements for the delivery of the deed are included in the Contract.
10. Title Policy: The Developer shall cause the Purchaser to receive a current commitment for owner's title insurance policy in an amount equal to the purchase price within ninety (90) days of the effective date of the Contract, or a lesser term specified in the Contract.

At the Closing, Purchaser will get legal title to the property Purchaser is purchasing. The condition of the title Purchaser gets will be affected by the items listed in the "Schedule of Exceptions" of the title commitment Purchaser will receive. Purchaser will decide the condition of the title that is acceptable to Purchaser. Among other things, the title Purchaser receives will be free and clear of mortgages or deeds of trust, except for the one Purchaser may create when Purchaser purchases the property, and free and clear of ad valorem taxes. The Developer will deliver to Purchaser at closing a Special Warranty Deed giving purchaser legal title to the property, subject to those items listed on the Title Commitment as "Schedule of Exceptions."

The Developer will arrange to have Purchaser's deed delivered to the County Clerk for recording immediately after the Closing, and Purchaser will receive a title insurance policy at no expense to Purchaser within sixty (60) days after Closing.

11. Utilities and Access: Legal access to the Condominiums is by Columbine Street. Columbine Street is maintained by the City and County of Denver and is open year-round. Additional access is provided by the alley behind the building. Legal access within the property to and from each unit and parking unit, including drives and walkways, is over the common elements, as described in the Declaration and also as shown on the Condominium Map. These common elements, including the driveways and parking areas within the Condominiums, are maintained by the Association.

Gas, electrical, water and sewer service are complete and available within the Condominium. Water, sewer and gas usage are not separately metered and the cost for these services is an overall expense of the Association. Electricity is metered separately for each Unit and billed to that Unit Owner by the Colorado Public Service Co. Each Unit is separately wired for cable television and provided through a master agreement with the Association. Telephone service is available for each Unit and the Owner of such Unit shall be billed by the telephone company directly. There are on-site laundry facilities, which are Common Elements in which each purchaser owns an undivided common interest. The laundry facilities are leased to Automatic Laundry Company, which provides coin operated washing machines and clothes dryers. The Developer and the Avila Park Condominium Association reserve the right to amend, modify or cancel the existing lease and enter into new leases with Automatic Laundry Company or any other equipment provider.

12. Zoning: The City and County of Denver Planning and Zoning Department has jurisdiction over the use of the property. The property is zoned "R-3," which includes high density apartments and other residential uses. You should contact the Department for information regarding restrictions on the use of the property.

13. Avila Park Condominium Association

- a. The Association: Avila Park Condominiums are intended to be a Common Interest Community. Avila Park Condominium Association, Inc. (the "Association"), a Colorado non-profit corporation, has been created and membership in the Association is mandatory for the owners of condominiums in Avila Park Condominiums.

The responsibilities and authority of the Association are defined in the Condominium documents, including the Declaration for Avila Park Condominiums (the "Declaration"), Articles of Incorporation, Bylaws of the Association, and Rules and Regulations of the Association. Copies of each document are given to each Purchaser at the time of the execution of the Contract.

- b. Purpose and Services: The purpose of the Association is to provide an entity for the purpose of furthering the interest of all of the owners of condominium units in the Condominium, with the objectives of promoting the health, safety and welfare of its residents, and to provide for the maintenance, repair, reconstruction and architectural control of the Condominium.
- c. Board of Managers: The Association will be managed by a Board of Managers. Initially, the Board will be composed of three managers, all appointed by the Developer. Not later than sixty days after conveyance of ten Units (25%) to Owners other than the Developer, one member and not less than twenty-five percent of the Board of Managers of the Association shall be elected by the Owners other than the Developer.

Not later than sixty days after conveyance of twenty Units (50%) to Owners other than the Developer, not less than thirty three and one-third percent of the members of the Board of Managers must be elected by Owners rather than the Developer. Not later than the termination of the Period of Developer Control (sixty days after sale of thirty Units (75%) to Owners other than the Developer), the Owners shall elect a Board of Managers of at least three members, a majority of whom must be Owners other than the Developer.

The election of Owners to the Board of Managers shall be by an election consistent with one vote for each Unit as provided in the Declaration. Voting in the election shall be based on Units owned. For more detailed information on the election of the Board of Managers, voting, and criteria for passing control of the Association from the Developer to the Unit Owners, refer to the Declaration and Association Bylaws.

The Board of Managers is responsible for and controls and disburses the funds of the Association.

- d. Assessments/Budget: The Common Expense Assessment for each Owner varies with each Unit and is calculated based upon the relative square footage finished area of each individual Unit relative to the total square footage finished area of all individual Units combined as more specifically set forth in the Declaration.

As long as the Developer retains ownership of any Unit, it will pay its full Common Expense Assessment.

The Association does not currently have any outstanding obligations or liabilities that will be passed on to Purchaser.

The Association shall furnish to a Unit Owner or such Unit Owner's designee or to a holder of a security interest or its designee upon written request, and \$10.00, delivered personally or by certified mail, first class postage prepaid, return receipt requested, to the Association's registered agent, a written statement setting forth the amount of unpaid assessments currently levied against such Owner's Unit. The statement shall be furnished within fourteen calendar days after receipt of the request and is binding on the Association, the Board of Managers, and every Unit Owner. If no statement is furnished to the Unit Owner or holder of a security interest or their designees, delivered personally or by certified mail, first class postage prepaid, return receipt requested, to the inquiring party, then the Association shall have no right to assert a priority lien upon the Unit for unpaid assessments which were due as of the date of the request.

The Association's Common Expense Assessment includes the following:

- Administrative expenses of the Association, including management, legal, accounting, postage, printing, and other direct costs of administering the affairs of the Association.
- Hazard, liability, and fidelity insurance for the Association and its members covering the common elements.
- Cleaning and maintenance of Common Elements, including building exterior, roofs, parking areas and grounds,
- Electricity charges for the lighting and heating of the Common Elements.

- Snow removal and landscape maintenance of the Common Elements.
- Trash pickup.
- Changes for water, sewer, gas for heat and hot water, and cable service, including services to the individual Units.
- Direct and contract labor costs and benefits.
- Reserve fund.

The following expenses are NOT INCLUDED in the Common Expense Assessment and are to be paid by the individual Unit Owners:

- Insurance on personal property and contents located within the Condominium Unit.
- Liability coverage covering acts occurring within an Owner's Unit protecting a Unit Owner.
- Maintenance, repair or replacement of any appliance, equipment, or fixture located within the Condominium Unit. This includes any furnace, water heater, kitchen appliances such as microwave, ranges, refrigerator, garbage disposals, plumbing, light fixtures, plumbing fixtures and others.
- Charges for electricity and telephone services to the individual Units.
- Real estate taxes and any special assessments that are applicable to the individual Units.
- Any cleaning, maintenance, repairs, painting, or other services that occur within the individual Units.

Changes in the Common Expense Assessment may be imposed only within the context of the Association's budgetary process, which process requires that within thirty days after adoption of any proposed budget for the Association, the Board of Managers shall deliver a summary of the budget to all Unit Owners and shall set a meeting of the Unit Owners to consider ratification of the budget. Unless at that meeting, sixty-seven percent (67%) of the Unit Owners reject the budget, the budget is ratified, whether or not a quorum is present.

The Board has the authority to determine the type and quality of services provided, and administer the financial affairs of the Association.

The Association Budget for the fiscal year ending December 31, 2000 is set forth on Exhibit A attached hereto.

The Common Expense Assessment will be adjusted in December of each year from the Budget which will be adopted by the Board of Managers. The 2000 Common Expense Assessment is set forth on Exhibit B attached hereto.

The Colorado Common Interest Ownership Act as amended establishes that any nonpayment of Owner's Common Expense Assessments becomes a priority lien on the Unit that need not be recorded in order to be perfected, is not extinguished by the transfer of ownership from a seller to a buyer, and is foreclosed in the same manner as a mortgage.

- e. Reserve Fund: The Association shall prescribe an adequate reserve fund for the periodic maintenance, repair or replacement and/or reconstruction of the Common Elements, which the Association has an ongoing duty to replace, repair and maintain on a periodic basis, and which fund shall be accumulated and continuously maintained out of the Common Expense Assessment. Such reserve fund shall be accounted for on an annual basis and shall be part of the annual budgetary process provided Unit Owners by the Board of Managers.

There has been a Secondary Reserve Fund established by the Developer in the amount of \$13,040 (two months assessments for 40 Units). This Secondary Reserve Fund will be funded by the Developer upon sale of the 40th unit (100% sold and closed). Any sums paid earlier shall be paid to North American Title Company to be placed in an interest-bearing escrow account, and is to be turned over to the Association at the time of "transition" from Declarant control to control by the Owners, or after the 40th sale.

There are no outstanding obligations in favor of any reserve fund, nor are there any obligations against any reserve fund.

During the Period of Declarant Control, the Declarant does not have a right to borrow or authorize borrowing from any reserve fund.

- f. Accounting: Periodic accounting of the Association's funds are available at each Board of Managers' meeting and also will be formally presented at the Annual Meeting of the Association.
- g. Real Estate Taxes: The real property taxes are estimated at 1% of the purchase price per year, and will be the responsibility of the Purchaser.
- h. Association Insurance: Insurance coverage provided for the benefit of the Purchaser includes all insurance as delineated in the Declaration for Avila Park Condominiums. The Association will furnish hazard insurance for the Common Elements and liability insurance for the acts occurring on the Common Elements. The Association shall not furnish insurance for an Owner's personal property located within the Condominium Unit.
- i. Working Capital Fund: At the closing of the initial sale of a Unit to an Owner, a non-refundable contribution shall be made by Purchaser to the Working Capital Fund of the Association in an amount equal to two twelfths' installment of the annual Common Expense Assessment for each Unit. Such contribution shall be held in and by the Association in a segregated account as a reserve for working capital, and may be used for unforeseen expenditures or to purchase any additional equipment or services as the Board deems necessary or appropriate.

Such contribution shall not be considered as advance payment of assessments or relieve an Owner from making the regular payments of the assessments as the same come due.

Upon the transfer of his or her Unit, an Owner shall be entitled to a credit from his or her transferee (but not from the Association) for the amount of the contribution to the Working Capital Fund.

The Developer is prohibited from using the Working Capital Fund to defray any of its expenses, reserve contributions, or construction costs or to make up any budget deficits while it is in control of the Association.

- j. Date of Commencement: The Common Expense Assessment shall commence as to all units no later than sixty days after the first Unit is conveyed to an Owner other than the Declarant, and may begin on the first day of the month in which conveyance to the first Unit Owner occurs.
- k. Developer's Interest: The Developer has no financial interest in the Association; provided, however, that the Developer may derive some income and profit from serving as managing agent of the Association.

The Board of Managers of the Association is responsible for engaging firms and entering into contracts for management and other services. The Board shall have no obligation to select the Developer or its affiliates for such contracts; however, the Board is not prohibited from selecting the Developer and/or affiliates of the Developer.

The Developer has no right to borrow or authorize borrowing from the Association.

- 14. Managing Agent: The managing agent will be Robinson Investment Corporation, Inc., 1942 S. Xenia Court, Denver, Colorado 80231. The managing agent will manage the Condominium during the conversion process and will provide all of the necessary management services to include, among other things, determination of the budget, collection of assessments, and the management, repair, and upkeep of the Common Elements.

The Purchasers may change the managing agent after they have control of the Board of Managers in that the Board of Managers of the Association hires and fires the managing agent. The Purchasers may transfer the control of the managing agent again after the Purchasers have control of the Board of Managers.

The Developer may change the Managing Agent so long as it controls the Board of Managers, and the Developer may transfer control of the Managing Agent so long as it controls the Board of Managers.

Since the Developer is also the managing agent, the Developer has a financial interest in the managing agent and may derive income or profit from the managing agent's activities. Developer represents, however, that the fees charged by the managing agent will be comparable to those fees charged in the Denver metropolitan area for third party managing agents of similar properties.

- 15. Metropolitan/Special Districts: The Condominiums are not located in any metropolitan district, developer district, or other special taxing district.
- 16. Time Share: The Condominiums are not sold as "Time Share" units.
- 17. Limited Warranty: The Developer shall warrant the following items against defects for three (3) months after the purchase of the Unit: electric range/oven, dishwasher, and refrigerator.
- 18. Pets: No animals, livestock, birds, poultry, reptiles or insects of any kind, shall be raised, bred, kept or boarded in or on any portion of the Condominium Community, except as may be provided in the Declaration and/or Rules & Regulations of the Association and consented to by the Board.
- 19. Restrictive Covenants and Obligations: ARTICLE THIRTEEN of the DECLARATION FOR AVILA PARK CONDOMINIUMS contains certain restrictive covenants and obligations pertaining to condominium living at Avila Park Condominiums. This Article should be read and understood.

20. Heating and Cooling Systems: Central hot water, heat and air conditioning systems operated by the Association provide heat and air conditioning to the Units. Individual heating and air conditioning systems are not provided for each Unit. There has not been an inspection of the heating and cooling systems by a qualified party and there has been no evaluation or representation of its useful life and replacement costs.
21. Utility Charges: All of the utility charges for the Common Elements and for central heating of cooling systems are separately billed to the Association. The cost for these services is an overall expense of the Association and each Owner pays a portion of the cost as part of the monthly Common Expense Assessment.
- Water, sewer, cable, and gas usage by a Unit are not separately metered. The charges for these services are an overall expense of the Association and each Owner pays a portion of such charges as part of that Unit's monthly Common Expense Assessment.
- The electricity is separately metered and each Owner pays the cost for these services directly.
22. Mechanic's Liens: Mechanic's lien law may authorize enforcement of the mechanic's lien by selling the entire undivided ownership of an Owner in a Unit.