

SECOND AMENDMENT TO  
THE CONDOMINIUM DECLARATION OF THE  
MAPLETON TERRACE CONDOMINIUMS  
AND  
SECOND AMENDMENT TO THE CONDOMINIUM MAP OF THE  
MAPLETON TERRACE CONDOMINIUMS

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PLEASE BE ADVISED THAT THE UNDERSIGNED, in accordance with Paragraph 12.2 of THE CONDOMINIUM DECLARATION OF THE MAPLETON TERRACE CONDOMINIUMS, constituting Owners of Units within the Mapleton Terrace Condominiums, Boulder, Colorado, to which one hundred percent of the General Membership Votes in the Mapleton Terrace Condominium Association are allocated, for the use and benefit of themselves, their heirs, personal representatives, successors and assigns, hereby declare and agree that THE CONDOMINIUM DECLARATION OF THE MAPLETON TERRACE CONDOMINIUMS, recorded under Reception No. 1716968 in the office of the County Clerk and Recorder of Boulder County, Colorado, and THE FIRST AMENDMENT TO THE CONDOMINIUM DECLARATION OF THE MAPLETON TERRACE CONDOMINIUMS recorded under Reception No. 1739274 in the office of the County Clerk and Recorder of Boulder County, Colorado, and THE CONDOMINIUM MAP OF THE MAPLETON TERRACE CONDOMINIUMS, recorded under Reception No. 1716967 in the office of the County Clerk and Recorder of Boulder County, Colorado and THE FIRST AMENDMENT TO THE CONDOMINIUM MAP OF THE MAPLETON TERRACE CONDOMINIUMS recorded under Reception No. 1739273 in the office of the County Clerk and Recorder of Boulder County, Colorado, shall be and that said Declaration, Amendments, and Map are hereby amended as follows:

**I. PROCEDURES FOR ADOPTION OF POLICIES, PROCEDURES, RULES, REGULATIONS, OR GUIDELINES**

1. Scope. The Board of Directors of the Association may, from time to time, adopt certain Policies as may be necessary to facilitate the efficient operation of the Association, including the clarification of ambiguous provisions in other documents, or as may be required by law. In order to encourage Owner participation in the development of such Policies and to insure that such Policies are necessary and properly organized, the Board shall follow the following procedures when adopting any Policy.
2. Drafting Procedure. The Board shall consider the following in drafting the Policy:
  - (a) Whether the governing documents or Colorado law grants the Board the authority to adopt such a Policy;
  - (b) The need for such Policy based upon the scope and importance of the issue and whether the governing documents adequately address the issue; and
  - (c) The immediate and long-term impact and implications of the Policy.
3. Notice and Comment. A copy of the proposed Policy shall be provided to all Owners and Owners shall be allowed a minimum of three days to provide comment and/or feedback on the proposed Policy. Additionally, the adoption of every Policy shall be listed on the agenda for the Board meeting prior to adoption by the Board and any Owner who wishes to comment on the proposed Policy shall be afforded such opportunity at the meeting in compliance with Colorado law.
4. Emergency. The Board may forego the notice and opportunity to comment in the event the Board determines in its sole discretion that providing notice and opportunity to comment is not practical given the emergency nature of such Policy.

5. Adoption Procedure. After the period for Owner comment expires, the Board may adopt any Policy. Upon adoption of a Policy, the Policy or notice of such Policy (including the effective date) shall be provided to all Owners by any reasonable method as determined by the sole discretion of the Board, including but not limited to posting on the Association's website.
6. Policy Book. The Board of Directors shall keep copies of any and all adopted Policies in a book designated as a Policy Book. The Board of Directors may further categorize Policies, Procedures, Rules and Regulations, Resolutions and Guidelines but shall not be required to do so.
7. Definitions. Unless otherwise defined in this Resolution, initially capitalized or terms defined in the Declaration shall have the same meaning herein.
8. Supplement to Law. The provisions of this Resolution shall be in addition to and in supplement of the terms and provisions of the Declaration and the law of the State of Colorado governing the Project.
9. Deviations. The Board may deviate from the procedures set forth in this Resolution if in its sole discretion such deviation is reasonable under the circumstances.
10. Amendment. This Procedure may be amended from time to time by the Board of Directors.

## II. ADOPTING PROCEDURES FOR THE CONDUCT OF MEETINGS

1. Owner Meetings. Meetings of the Owners of the Association shall be called pursuant to the Bylaws of the Association.
  - (a) **Notice.**
    - (1) In addition to any notice required in the Bylaws, If any Owner has requested that the Association provide notice via email and has provided the Association with an email address, the Association shall send notice of all Owner meetings to such Owner at the email address provided as soon as possible after notice is provided pursuant to the Bylaws but in no case less than 24 hours prior to any such meeting.
  - (b) **Conduct.**
    - (1) Unless otherwise required by Robert's Rules of Order, all Owner meetings shall be governed by the following rules of conduct and order:
      - (A) The President of the Association or designee shall chair all Owner meetings.
      - (B) All Owners and persons who attend a meeting of the Owners will sign in, present any proxies and receive ballots as appropriate. (See section below regarding voting).
      - (C) Anyone wishing to speak must first be recognized by the Chair.
      - (D) Only one person may speak at a time.
      - (E) Any person who is represented at the meeting by another person, as indicated by a written instrument, will be permitted to have such person speak for him/her.
      - (F) Those addressing the meeting shall be permitted to speak without interruption from anyone as long as these rules are followed.
      - (G) Comments are to be offered in a civilized manner and without profanity, personal attacks or shouting. Comments are to be relevant to the purpose of the meeting.
      - (H) All actions and/or decisions will require a first and second motion.
      - (I) Once a vote has been taken, there will be no further discussion regarding that topic.

(J) So as to allow for and encourage full discussion by Owners, no meeting may be audio, video or otherwise recorded. Minutes of actions taken shall be kept by the association.

(K) Anyone disrupting the meeting, as determined by the Chair, shall be asked to "come to order." Anyone who does not come to order will be requested to immediately leave the meeting.

(L) The Chair may establish such additional rules of order as may be necessary from time to time.

(c) **Voting.** All votes taken at Owner meetings shall be taken as follows:

(1) Contested elections of Board members, defined as elections in which there are more candidates than positions to be filled, shall be conducted by secret ballot. Each Owner entitled to vote pursuant to the Bylaws shall receive a ballot. The ballot shall contain no identifying information concerning the ballot holder. In the event an Owner holds a proxy for another Owner, upon presentation of such proxy to the Secretary of the Association or the Secretary's designee, the Owner shall receive a secret ballot to cast the vote of the Owner Who provided the proxy. The proxy shall be kept and retained by the Association.

(2) Uncontested elections of Board members, defined as elections in which the number of candidates is equal to or less than the positions to be filled, and all other votes taken at a meeting of the Owners shall be taken in such method as determined by the Board of Directors including acclamation, by hand, by voice or by ballot. Notwithstanding the above, uncontested elections of Board members or other votes on matters affecting the community shall be by secret ballot at the discretion of the Board or upon the request of 20% of the Owners who are present at the meeting or represented by proxy.

(3) Written ballots shall be counted by a neutral third party, excluding the Association's managing agent or legal counsel, or a committee of volunteers who are not Board members, and in the case of a contested election, are not candidates. The committee shall be selected or appointed at an open meeting, in a fair manner, by the Chair of the Board or another person presiding during that portion of the meeting.

(4) The individual(s) counting the ballots shall report the results of the vote to the Chair by indicating how many votes were cast for each individual or how many votes were cast in favor and against any issue.

(d) **Proxies.** Proxies may be given by any Owner as allowed by C.R.S. 7- 127-203.

(1) All proxies shall be reviewed by the Association's Secretary or designee as to the following:

- (A) Validity of the signature
- (B) Signatory's authority to sign for the unit Owner
- (C) Authority of the unit Owner to vote
- (D) Conflicting proxies
- (E) Expiration of the proxy

2. **Board Meetings.** Meetings of the Board of Directors of the Association shall be called pursuant to the Bylaws of the Association.

(a) **Conduct.**

(1) All Board meetings shall be governed by the following rules of conduct and order:

- (A) The President of the Association, or designee, shall chair all Board meetings.

- (B) All persons who attend a meeting of the Board shall be required to sign in, listing their name and unit address.
- (C) All Owners will be given an opportunity to speak as to any matter or ask questions of the Board during the meeting.
- (D) Anyone desiring to speak shall first be recognized by the Chair.
- (E) Only one person may speak at a time.
- (F) Any person who is represented by another person as indicated by a written instrument at the meeting shall be permitted to have such person speak for them.
- (G) Those addressing the Board shall be permitted to speak without interruption from anyone as long as these rules are followed.
- (H) Comments are to be offered in a civilized manner and without profanity, personal attacks or shouting. Comments are to be relevant to the purpose of the meeting or issue at hand.
- (I) No meeting of the Board may be audio, video or otherwise recorded except by the Board to aid in the preparation of minutes. Minutes of actions taken shall be kept by the Association.
- (J) Anyone disrupting the meeting, as determined by the Chair, shall be asked to "come to order." Anyone who does not come to order shall be requested to immediately leave the meeting.

(b) **Owner Input.** After a motion and second has been made on any matter to be discussed, at a time determined by the Board, but prior to a vote by the Directors, Owners, or their designated representatives, present at such time shall be afforded an opportunity to speak on the motion as follows:

- (1) The Chair will ask those Owners present to indicate by a show of hands who wishes to speak in favor or against the motion. The Chair will then determine a reasonable number of persons who will be permitted to speak in favor of and against the motion and for how long each person will be permitted to speak. The Chair shall also announce the procedure for who shall be permitted to speak if not everyone desiring to speak will be permitted to speak.
- (2) Following Owner input, the Chair will declare Owner input closed and there shall be no further Owner participation on the motion at hand unless a majority of the Board of Directors votes to open the discussion to further Owner participation.

- 3. **Definitions.** Unless otherwise defined in this Resolution, initially capitalized or terms defined in the Declaration shall have the same meaning herein.
- 4. **Supplement to Law.** The provisions of this Resolution shall be in addition to and in supplement of the terms and provisions of the Declaration and the law of the State of Colorado governing the Project.
- 5. **Deviations.** The Board may deviate from the procedures set forth in this Resolution if in its sole discretion such deviation is reasonable under the circumstances.
- 6. **Amendment.** This Policy may be amended at any time by the Board of Directors.

### **III. ADOPTING POLICIES AND PROCEDURES REGARDING BOARD MEMBER CONFLICTS OF INTEREST**

- 1. **General Duty.** The Board of Directors shall use its best efforts at all times to make decisions that are consistent with high principles, and to protect and enhance the value of properties of the members and Association. All Directors shall exercise their power and duties in good faith and in the best interest of, and with utmost loyalty to the Association. All Directors shall comply with all lawful provisions of the Declaration and the Association's Articles, Bylaws, and Rules and Regulations.

2. Definition.

(a) "Conflicting interest transaction" means a contract, transaction, or other financial relationship between the Association and a Director, or between the Association and a party related to a Director, or between the Association and an entity in which a Director of the Association is a director or officer or has a financial interest.

(b) "Director" means a member of the Association's Board of Directors.

(c) "Party related to a Director" means a spouse, a descendant, an ancestor, a sibling, the spouse or descendant of a sibling, an estate or trust in which the Director or a party related to a Director has a beneficial interest, or an entity in which a party related to a Director is a director or officer or has a financial interest.

3. Loans. No loans shall be made by the Association to its Directors or officers. Any Director or officer who assents to or participates in the making of any such loan shall be liable to the Association for the amount of the loan until it is repaid.

4. Disclosure of Conflict. Any conflicting interest transaction on the part of any Director or party related to a Director shall be verbally disclosed to the other Directors in open session at the first open meeting of the Board of Directors at which the interested Director is present prior to any discussion or vote on the matter. The interested Director shall not be present during the discussion or vote on the matter. The minutes of the meeting shall reflect the disclosure made, the abstention from voting, the composition of the quorum and record who voted for and against.

5. Enforceability of Conflicting Interest Transaction. No conflicting interest transaction shall be voidable by an Owner or on behalf of the Association if:

(a) The facts about the conflicting interest transaction are disclosed to the Board, and a majority of the disinterested Directors, even if less than a quorum, in good faith approves the conflicting interest transaction;

(b) The facts about the conflicting interest transaction are disclosed or the Owners entitled to vote on the matter, and the conflicting interest transaction is authorized in good faith by a vote of the Owners entitled to vote on the matter; or

(c) The conflicting interest transaction is fair to the Association.

6. Code of Ethics. In addition to the above, each Director and the Board as a whole shall adhere to the following Code of Ethics:

(a) No Director shall use his/her position for private gain, including for the purpose of enhancement of his/her financial status through the use of certain contractors or suppliers.

(b) No contributions will be made to any political parties or political candidates by the Association.

(c) No Director shall solicit or accept, directly or indirectly, any gifts, gratuity, favor, entertainment, loan or any other thing of monetary value from a person who is seeking to obtain contractual or other business or financial relations with the Association.

(d) No Director shall accept a gift or favor made with the intent of influencing a decision or action on any official matter.

(e) No Director shall receive any compensation from the Association for acting as a volunteer.

- (f) No Director shall willingly misrepresent facts to the members of the community for the sole purpose of advancing a personal cause or influencing the community to place pressure on the Board to advance a personal cause.
- (g) No Director shall interfere with a contractor engaged by the Association while a contract is in progress. All communications with Association contractors shall go through the Board President or be in accordance with policy.
- (h) No Director shall harass, threaten, or attempt through any means to control or instill fear in any member, Director or agent of the Association.
- (i) No promise of anything not approved by the Board as a whole can be made by any Director to any subcontractor, supplier, or contractor during negotiations.
- (j) Any Director convicted of a felony shall voluntarily resign from his/her position.
- (k) No Director shall knowingly misrepresent any facts to anyone involved in anything with the community which would benefit himself/herself in any way.
- (l) Language and decorum at Board meetings will be kept professional. Personal attacks against owners, residents, managers, service providers and Directors are prohibited and are not consistent with the best interest of the community.

7. Definitions. Unless otherwise defined in this Resolution, initially capitalized or terms defined in the Declaration shall have the same meaning herein.

8. Supplement to Law. The provisions of this Resolution shall be in addition to and in supplement of the terms and provisions of the Declaration and the law of the State of Colorado governing the community.

9. Deviations. The Board may deviate from the procedures set forth in this Resolution if in its sole discretion such deviation is reasonable under the circumstances.

10. Amendment. This policy may be amended from time to time by the Board of Directors

#### **IV. POLICIES AND PROCEDURES FOR COVENANT AND RULE ENFORCEMENT**

1. Reporting Violations. Complaints regarding alleged violations may be reported by an Owner or resident within the community, a group of Owners or residents, the Association's management company, if any, Board member(s) or committee member(s) by submission of a written complaint.

2. Complaints. (a) Complaints by Owners or residents shall be in writing and submitted to the Board of Directors. The complaining Owner or resident shall have observed the alleged violation and shall identify the complainant ("Complainant"), the alleged violator ("Violator"), if known, and set forth a statement describing the alleged violation, referencing the specific provisions which are alleged to have been violated, when the violation was observed and any other pertinent information. Non-written complaints or written complaints failing to include any information required by this provision may not be investigated or prosecuted at the discretion of the Association. (b) Complaints by a member of the Board of Directors, a committee member, or the manager, if any, may be made in writing or by any other means deemed appropriate by the Board if such violation was observed by the Director or Manager.

3. Investigation. Upon receipt of a complaint by the Association, if additional information is needed, the complaint may be returned to the Complainant or may be investigated further by a Board designated individual or committee. The Board shall have sole discretion in appointing an individual or committee to investigate the matter.

4. Demand for Abatement Letter. If a violation is found to exist, a written demand to cease and desist from the alleged violation shall be personally served upon the alleged Violator specifying:

- a. The alleged violation;
- b. The action required to abate the Violation; and
- c. A time period, not less than 10 days, during which the violation may be abated without further sanction, if the violation is a continuing one. If the violation is not a continuing one, a statement that any additional similar violation could result in the imposition of a sanction after notice and hearing.

5. Continued Violation After Demand for Abatement Letter. Any time during the following twelve months, if the violation continues past the time period allowed in the demand for abatement letter or if the same rule is subsequently violated, if the Board desires to impose a fine on the alleged Violator, the Board or its agent shall serve the Violator with written notice of a hearing to be held by the Board. The notice shall contain:

- a. The alleged violation;
- b. The time and place of the hearing, which time shall not be less than 10 days from the giving of the notice;
- c. An invitation to attend the hearing and produce any statement, evidence, and witness on his or her behalf; and
- d. The proposed sanction to be imposed.

6. Impartial Decision Maker. Pursuant to Colorado law, the alleged Violator has the right to be heard before an "Impartial Decision Maker". An Impartial Decision Maker is defined under Colorado law as "a person or group of persons who have the authority to make a decision regarding the enforcement of the association's covenants, conditions, and restrictions, including architectural requirements, and other rules and regulations of the association and do not have any direct personal or financial interest in the outcome. A decision maker shall not be deemed to have a direct personal or financial interest in the outcome if the decision maker will not, as a result of the outcome, receive any greater benefit or detriment than will the general membership of the association." Unless otherwise disqualified pursuant to the definition of Impartial Decision Maker, the Board may appoint to act as the Impartial Decision Maker the entire Board, specified members of the Board, any other individual or group of individuals.

7. Hearing. The hearing shall be held pursuant to the notice given, affording the alleged Violator a reasonable opportunity to be heard. Prior the effectiveness of any sanction hereunder, proof of notice and the invitation to be heard shall be placed in the minutes of the hearing. Such proof shall be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered by the Officer, Director, or agent who delivered the notice. The notice requirement shall be deemed satisfied if the alleged Violator appears at the hearing.

Failure by the Owner to attend the hearing after due notice shall be considered a default and shall be subject to the sanctions set forth above.

At the beginning of each hearing, the presiding officer, shall introduce the case by describing the alleged violation and the procedure to be followed during the hearing. Each party or designated representative, may, but is not required to, make an opening statement, present evidence and testimony, present witnesses, and make a closing statement. The presiding officer may also impose such other rules of conduct as may be appropriate under the given circumstances.

The Impartial Decision Maker shall base its decision solely on the matters set forth in the Complaint, results of the investigation and such other credible evidence as may be presented at the hearing. Unless otherwise determined by the Board, all hearings shall be open to attendance by all Owners. After all testimony and other evidence has been presented at a hearing, the Impartial Decision Maker shall, within a reasonable time, not to exceed 10 days, render its written findings and decision, and impose a fine, if applicable.

Failure to strictly follow the hearing procedures set forth above shall not constitute grounds for appeal of the Impartial Decision Maker's decision absent a showing of denial of due process.

8. Notification of Decision. The minutes of the hearing shall contain a written statement of the results of the hearing and the sanction, if any, imposed. The decision of the Impartial Decision Maker shall be in writing and provided to the Violator and Complainant within 10 days of the hearing.
9. Subsequent Violations. Second and subsequent covenant violations of the same rule or covenant may be turned over to the Association's attorney to take appropriate legal action. Any Owner committing five or more violations in a six month period (whether such violations are of the same covenant or different covenants) may be immediately turned over to the Association's attorney for appropriate legal action.
10. Other Enforcement Means. This fine schedule and enforcement process is adopted in addition to all other enforcement means which are available to the Association through its Declaration, Bylaws, Articles of Incorporation and Colorado law. The use of this process does not preclude the Association from using any other enforcement means.
11. Definitions. Unless otherwise defined in this Resolution, initially capitalized or terms defined in the Declaration shall have the same meaning herein.
12. Supplement to Law. The provisions of this Resolution shall be in addition to and in supplement of the terms and provisions of the Declaration and the law of the State of Colorado governing the Project.
13. Deviations. The Board may deviate from the procedures set forth in this Resolution if in its sole discretion such deviation is reasonable under the circumstances.
14. Amendment. This policy may be amended from time to time by the Board of Directors.

## **V. INVESTMENT OF RESERVE POLICY**

1. Scope. In order to properly maintain areas in the Community that are the responsibility of the Association, to comply with state statutes, to manage reserve funds, and to protect the market value of Owners' homes and livability in the Community, the Board of Directors determines that it is necessary to have policies and procedures for the investment of reserve funds.
2. Purpose of the Reserve Fund. The purpose of the Reserve Fund shall be to responsibly fund and finance the projected repair and replacement of those portions of the Community that the Association is responsible for and for such other funding as the Board of Directors may determine. The portions of the Community that the Association is responsible for typically have limited but reasonably predictable useful lives.
3. Investment of Reserves. The Board of Directors of the Association shall invest funds held in the Reserve Funds accounts to generate revenue that will accrue to the Reserve Funds accounts balance pursuant to the following goals, criteria and policies:
  - (a) Safety of Principal. Promote and ensure the preservation of the Reserve Fund's principal.
  - (b) Liquidity and Accessibility. Structure maturities to ensure availability of assets for projected or unexpected expenditures.
  - (c) Minimal Costs. Investments costs (redemption fees, commissions, and other transactional costs) should be minimized.
  - (d) Diversify. Mitigate the effects of interest rate volatility upon reserve assets.
  - (e) Return. Funds should be invested to seek the highest level of return.
4. Limitation on Investments. Unless otherwise approved by the Board, all investments will be FDIC (Federal Deposit Insurance Corporation) insured and/or guaranteed by the United States Government.



5. Investment Strategy. The investment strategy of the Association should emphasize a long-term outlook by diversifying the maturity dates of fixed-income instruments within the portfolio utilizing a ladder investment approach.
6. Independent Professional Investment Assistance. The Board of Directors of the Association may hire a qualified investment counselor to assist in formulating a specific investment strategy.
7. Review and Control. The Board shall review Reserve Fund investments periodically to ensure that the funds are receiving competitive yields and shall make prudent adjustments as needed.
8. Reserve Study. In order to determine funding of the Reserve Fund, the Board of Directors may determine, with the assistance and advice of professionals, the life expectancy of those portions of the Community to be maintained by the Association and the anticipated costs of maintaining, replacing and improving those identified areas (hereinafter referred to as a "Reserve Study").
9. Review of Reserve Study. The Board of Directors shall cause the Reserve Study, if any, and reserve funding to be reviewed and updated periodically, at least once every five years, to adjust and make changes in costs, inflation and interest yield on invested funds, plus modification, addition or deletion of components.
10. Standard of Care. The officers and members of the Board of Directors shall make investment decisions in good faith, with the care an ordinarily prudent person in a like position would exercise under similar circumstances, and in a manner the Director or officer reasonably believes to be in the best interests of the Association in accordance with the Colorado Revised Nonprofit Corporation Act.
11. Definitions. Unless otherwise defined in this Resolution, initially capitalized or terms defined in the Declaration shall have the same meaning herein.
12. Supplement to Law. The provisions of this Resolution shall be in addition to and in supplement of the terms and provisions of the Declaration and the law of the State of Colorado governing the community.
13. Deviations. The Board may deviate from the procedures set forth in this Resolution if in its sole discretion such deviation is reasonable under the circumstances.
14. Amendment. This policy may be amended from time to time by the Board of Directors.

## **VI. POLICY AND PROCEDURES FOR COLLECTION OF UNPAID ASSESSMENTS**

It is in the best interest of the Association to refer delinquent accounts promptly to an attorney for collection so as to minimize the Association's loss of assessment revenue. The Board of Directors has retained an attorney with experience in representing homeowner associations in collections and other matters. The Association hereby gives notice of its adoption of the following policies and procedures for the collection of assessments and other charges of the Association:

1. Due Dates. The monthly installments of the annual assessment as determined by the Association and as allowed for in the Declaration shall be due and payable on the first day of each month. Assessments or other charges not paid in full to the Association within 15 days of the due date shall be considered past due and delinquent. Assessments or other charges not paid in full to the Association within 15 days of the due date shall incur late fees as provided below. In the event notice of acceleration is given to delinquent Owner(s), the Owner(s) of the unit shall also be charged any costs incurred by the Association in giving notice of such acceleration.
2. Receipt Date. The Association shall post payments on the day that the payment is received by the Association.

3. Late Charges on Delinquent Installments. The Association shall impose on a monthly basis a \$25.00 late charge for each Owner who fails to timely pay his/her monthly installment of the annual assessment within 15 days of the due date. This late charge shall be a "common expense" for each delinquent Owner.

4. Personal Obligation for Late Charges. The late charge shall be the personal obligation of the Owner(s) of the unit for which such assessment or installment is unpaid. All late charges shall be due and payable immediately, without notice, in the manner provided by the Declaration (and as set forth herein) for payment of assessments.

5. Return Check Charges. In addition to any and all charges imposed under the Declaration, Articles of Incorporation and Bylaws, the Rules and Regulations of the Association or this Resolution, a reasonable fee, not to exceed \$20.00, shall be assessed against an Owner in the event any check or other instrument attributable to or payable for the benefit of such Owner is not honored by the bank or is returned by the bank for any reason whatsoever, including but not limited to insufficient funds. This returned check charge shall be a "common expense" for each Owner who tenders payment by check or other instrument which is not honored by the bank upon which it is drawn. Such return check charge shall be due and payable immediately, upon demand. Notwithstanding this provision, the Association shall be entitled to all additional remedies as may be provided by applicable law. Returned check charges shall be the obligation of the Owner(s) of the unit for which payment was tendered to the Association. Returned check charges shall become effective on any instrument tendered to the Association for payment of sums due under the Declaration, Articles, Bylaws, Rules and Regulations or this Resolution after the date adopted as shown above. If two or more of an Owner's checks are returned unpaid by the bank within any fiscal year, the Association may require that all of the Owner's future payments, for a period of one (1) year, be made by certified check or money order. This return check charge shall be in addition to any late fees or interest incurred by an Owner. Any returned check shall cause an account to be past due if full payment of the monthly installment of the annual assessment is not timely made within 15 days of the due date.

6. Attorney Fees on Delinquent Accounts. As an additional expense permitted under the Declaration and by Colorado law, the Association shall be entitled to recover its reasonable attorney fees and collection costs incurred in the collection of assessments or other charges due the Association from a delinquent Owner. The reasonable attorney fees incurred by the Association shall be due and payable immediately when incurred, upon demand.

7. Application of Payments. All sums collected on a delinquent account that has been turned over to the Association's attorney shall be remitted to the Association's attorney until the account is brought current. All payments received on account of any Owner or the Owner's property (hereinafter collectively "Owner"), shall be applied to payment of any and all legal fees and costs (including attorney fees), expenses of enforcement and collection, late charges, returned check charges, lien fees, and other costs owing or incurred with respect to such Owner pursuant to the Declaration, Articles, Bylaws, Rules and Regulations, or this Resolution, prior to application of the payment to any special or regular assessments due or to become due with respect to such Owner.

8. Collection Process.

(a) After an installment of an annual assessment or other charges due to the Association becomes more than 15 days delinquent, the manager shall contact the delinquent Owner via phone and/or e-mail to remind the Owner of the payment due.

(b) After an installment of an annual assessment or other charges due to the Association becomes more than 20 days delinquent, the manager shall send a written notice ("First Notice") of non-payment, amount past due, notice that late fees have accrued, and request for immediate payment.

(c) After an installment of an annual assessment or other charges due to the Association becomes more than 90 days delinquent, the manager shall turn the account over to the Association's attorney for collection. Upon receiving the delinquent account, the Association's attorneys shall file a lien and send a letter to the delinquent Owner demanding immediate payment for past due assessments or other charges due. Upon further review, the Association's attorney may file a lawsuit. If a judgment or decree is obtained, including without limitation a foreclosure action, such judgment or decree shall include reasonable attorney's fees together with the cost of the action and any applicable interest and late fees.

(d) In addition to the steps outlined above, the Association may elect to suspend the voting rights of any Owner whose account is past due at the time of such voting.

9. Acceleration and Deceleration of Assessments. The Board reserves the right to accelerate and call due the entire unpaid annual assessment on any delinquent account. Such acceleration shall result in the entire unpaid annual assessment being due to the Association immediately. The Board also reserves the right to decelerate any accelerated assessment.

10. Collection Procedures/Time Frames. The following time frames shall be followed for use in the collection of monthly installments of the annual assessment and other charges.

Due Date (date payment due)	First day of the month due
Past Due Date (date payment is late if not received on or before that date)	15 days after due date
Reminder contact (phone call and/or e-mail reminder)	15 days after due date
First Notice (notice that late charges have accrued, notice of intent to file lien)	20 days after due date
Delinquent account turned over to Association's attorney; Lien filed; Demand letter sent to Owner.	90 days after due date

The attorney is to consult with the Association as necessary to determine if payment has been arranged or what collection procedures are appropriate.

11. Certificate of Status of Assessment. The Association shall furnish to an Owner or such Owner's designee upon written request, first class postage prepaid, return receipt, to the Association's agent, a written statement setting forth the amount of unpaid assessments currently levied against such Owner's property for a \$50.00 fee. However, if the account has been turned over to the Association's attorney, such request may be handled through the attorney.

12. Bankruptcies and Foreclosures. Upon receipt of any notice of a bankruptcy filing by an Owner, or upon receipt of a notice of a foreclosure by any holder of an encumbrance against any unit within the Association, the manager shall notify the Association's attorney of the same and turn the account over to the Association's attorney, if appropriate.

13. Use of Certified Mail/Regular Mail. In the event the Association shall cause a collection or demand letter or notices to be sent to a delinquent Owner such letter or notice shall be sent by registered or certified mail.

14. Referral of Delinquent Accounts to Attorneys. Upon referral to the Association's attorney, the attorney shall take all appropriate action to collect the accounts referred. After an account has been referred to an attorney, the account shall remain with the attorney until the account is settled, has a zero balance or is written off. The attorney, in consultation with the Association, is authorized to take whatever action is necessary and determined to be in the best interests of the Association, including, but not limited to:

- a. Filing of a suit against the delinquent Owner for a money judgment;
- b. Instituting a judicial foreclosure action of the Association's lien;

- c. Filing necessary claims, documents, and motions in bankruptcy court in order to protect the Association's interests; and
- d. Filing a court action seeking appointment of a receiver.

All payment plans involving accounts referred to an attorney for collection shall be set up and monitored through the attorney.

Upon referral of any matter to the Association's attorney, the Association shall pay the attorney's usual and customary charges as well as any costs incurred by the attorney on the Association's behalf, promptly upon receipt of the monthly invoice from the attorney.

15. Appointment of a Receiver. The Association may seek the appointment of a receiver if an Owner becomes delinquent in the payment of assessments pursuant to the Declaration and Colorado law. A receiver is a disinterested person, appointed by the court, who manages the rental of the property, collects the rent and disburses the rents according to the court's order. The purpose of a receivership for the Association is to obtain payment of current assessments, reduce past due assessments and prevent the waste and deterioration of the property.

16. Judicial Foreclosure. The Association may choose to foreclose on its lien in lieu of or in addition to suing an Owner for a money judgment. The purpose of foreclosing is to obtain payment of all assessments owing in situations where either a money judgment lawsuit has been or is likely to be unsuccessful or other circumstances favor such action.

17. Waivers. The Association is hereby authorized to extend the time for the filing of lawsuits and liens, or to otherwise modify the procedures contained herein, as the Association shall determine appropriate under the circumstances.

18. Communication with Owners. All communication with a delinquent Owner shall be handled through the Association's attorney once a matter has been referred to the attorney. Neither the Manager nor any member of the Board of Directors shall discuss the collection of the account directly with an Owner after it has been turned over to the Association's attorney unless the attorney is present or has consented to the contact.

19. Defenses. Failure of the Association to comply with any provision in this Policy shall not be deemed a defense to payment of assessment fees or other charges, late charges, return check charges, attorney fees and/or costs as described and imposed by this Policy.

20. Definitions. Unless otherwise defined in this Resolution, initially capitalized or terms defined in the Declaration shall have the same meaning herein.

21. Supplement to Law. The provisions of this Resolution shall be in addition to and in supplement of the terms and provisions of the Declaration and the law of the State of Colorado governing the Project.

22. Deviations. The Board may deviate from the procedures set forth in this Resolution if in its sole discretion such deviation is reasonable under the circumstances.

23. Amendment. This Policy may be amended from time to time by the Board of Directors.

## **VII. POLICY AND PROCEDURE FOR INSPECTION AND COPYING OF ASSOCIATION RECORDS**

1. The Association shall permanently retain the following records as required by Colorado law:
  - Minutes of all Board and Owner meetings;
  - All actions taken by the Board or unit Owners by written ballot in lieu of a meeting;
  - All actions taken by a committee on the behalf of the Board instead of the Board acting on behalf of the Association; and

- All waivers of the notice requirements for unit owner meetings, Board member meetings, or committee meetings.

2. Inspection/Copying Association Records. An Owner or his/her authorized agent is entitled to inspect and copy any of the books and records of the Association, subject to the exclusions, conditions and requirements set forth below:

- (a) The inspection and/or copying of the records of the Association shall be at the Owner's expense, which may be collected by the Association in advance;
- (b) The inspection and/or copying of the records of the Association shall be conducted during regular business hours, Monday through Friday, at 4865 Riverbend Road, #201, Boulder, Colorado 80301, or during the next regularly scheduled Owner or Board meeting occurring within 30 days of the Owner's request;
- (c) The Owner shall give the Association's managing agent a written demand, stating the purpose for which the inspection and/or copying is sought. The Association shall make the requested records available within five business days of the Owner's request or at the next regularly scheduled Owner or Board meeting if the next regularly scheduled Owner or Board meeting is scheduled within 30 days of the Owners request, in the sole discretion of the Board. The Board shall advise the Owner of the time and place of such inspection in writing within five business days of the Owner's request; and
- (d) The Owner shall complete and sign the Agreement Regarding Inspection of Association Records prior to the inspection and copying of any Association record. A copy of the Agreement is attached to this Policy. Failure to properly complete or sign the Agreement shall be valid grounds for denying an Owner the right to inspect and/or copy any record of the Association.

3. Proper Purpose/Limitation. Association records, including membership lists, shall not be used by any Owner for:

- (a) Any purpose unrelated to an Owner's interest as an Owner;
- (b) The purpose of soliciting money or property unless such money or property will be used solely to solicit the votes of the Owners in an election to be held by the Association;
- (c) Any commercial purpose;
- (d) For the purpose of giving, selling, or distributing such Association records to any person; or
- (e) Any improper purpose as determined in the sole discretion of the Board.

4. Exclusions. The following records shall NOT be available for inspection and/or copying as they are deemed confidential:

- (a) Attorney-client privileged documents and records, unless the Board decides to disclose such communications at an open meeting;
- (b) Any documents that are confidential under constitutional, statutory or judicially imposed requirements; and
- (c) Any documents, or information contained in such documents, disclosure of which would constitute an unwarranted invasion of individual privacy, including but not limited to social security numbers, dates of birth, personal bank account information, and driver's license numbers.

5. Fees/Costs. Any Owner requesting copies of Association records shall be responsible for all actual costs incurred by the Association, which have been determined to be \$.05 per page, including the cost to search, retrieve, and copy the record(s) requested. The Association may require a deposit equal to the anticipated actual cost of the requested records. Failure to pay such deposit shall be valid grounds for denying an Owner copies of such records. If after payment of the deposit it is determined that the actual cost was more than the deposit, Owner shall pay such amount prior to delivery of the copies. If after payment of the deposit it is determined that the actual cost was less than the deposit, the difference shall be returned to the Owner with the copies. There shall be no cost to any Owner accessing records which are required to be disclosed by Colorado law at no cost to Owners.

6. Inspection. The Association reserves the right to have a third party present to observe during any inspection of record by an Owner or the Owner's representative.
7. Original. No Owner shall remove any original book or record of the Association from the place of inspection nor shall any Owner alter, destroy or mark in any manner, any original book or record of the Association.
8. Creation of Records. Nothing contained in this Policy shall be construed to require the Association to create records that do not exist or compile records in a particular format or order.
9. Definitions. Unless otherwise defined in this Resolution, initially capitalized or terms defined in the Declaration shall have the same meaning herein.
10. Supplement to Law. The provisions of this Resolution shall be in addition to and in supplement of the terms and provisions of the Declaration and the law of the State of Colorado governing the Project.
11. Deviations. The Board may deviate from the procedures set forth in this Resolution if in its sole discretion such deviation is reasonable under the circumstances.
12. Amendment. This policy may be amended from time to time by the Board of Directors.

#### **VIII. ALTERNATIVE DISPUTE RESOLUTION (ADR)**

1. General. It is the general policy of the Association to encourage the use of Alternative Dispute Resolution to resolve disputes involving the Association and an Owner. Alternative Dispute Resolution ("ADR") is defined as a procedure for settling a dispute by means other than litigation, such as mediation, non-binding arbitration, or binding arbitration.
2. Policy. Per the Declaration, except for matters requiring injunctive relief (such as covenant enforcement matters) and matter concerning the collection of assessments, all matters regarding the interpretation, application and enforcement of the Declaration shall be resolved by binding arbitration in accordance with Colorado Arbitration proceeding and consistent with the Rules of the American Arbitration Association.
3. Selection of Arbitrator. The parties to any dispute subject to arbitration hereunder shall agree upon a single arbitrator who shall be an experienced professional property manager of a condominium association. In the event the parties are unable to agree upon an arbitrator within 30 days after written notice of the demand for arbitration, the presiding judge of the County's District Court shall appoint an arbitrator qualified as set forth above upon application of a party. The arbitrator shall be required to follow substantive law in reaching a decision.
4. Costs. The costs of ADR shall be split equally among the parties involved in the ADA. In the event an Owner fails to pay the Owner's share of the cost of the ADR, such amount shall be considered an Assessment against such Owner's Unit, and may be collected by the Association as an Assessment pursuant to the Declaration and Colorado Law.
5. Definitions. Unless otherwise defined in this Resolution, initially capitalized or terms defined in the Declaration shall have shall have the same meaning herein.
6. Supplement to Law. The provisions of this Resolution shall be in addition to and in supplement of the terms and provisions of the Declaration and the law of the State of Colorado governing the Community.
7. Deviations. The Board may deviate from the procedures set forth in this Resolution if in its sole discretion such deviation is reasonable under the circumstances and permitted under the terms of the Declaration.
8. Amendment. This policy may be amended from time to time by the Board of Directors.

**IX. THE CONDOMINIUM MAP AND OWNERSHIP INTEREST IS AMENDED**

1. The Condominium Map of the Mapleton Terrace Condominium recorded July 24, 1997 under Reception No. 1716967 in the offices of the County Clerk and Recorder of Boulder County, Colorado, and First Amendment recorded on October 14, 2007 under Reception No. 1739273 in the offices of the County Clerk and Recorder of Boulder County, Colorado, shall be and that said Map and amendment is hereby amended in its entirety by Exhibit A, Third Amendment Condominium Map date May 13, 2009, attached hereto.

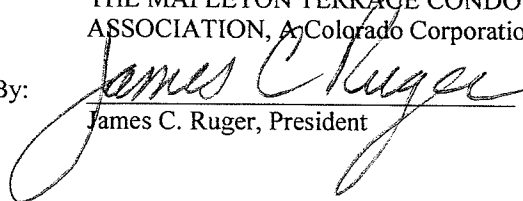
2. Exhibit B and amended Exhibit B, is amended in its entirety and attached hereto.

In all other respects the said CONDOMINIUM DECLARATION OF THE MAPLETON TERRACE CONDOMINIUMS, as amended, shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned have caused this Amendment to be executed this 17<sup>th</sup> day of December, 2009.

THE MAPLETON TERRACE CONDOMINIUM  
ASSOCIATION, A Colorado Corporation

By:

  
James C. Ruger, President

STATE OF COLORADO )

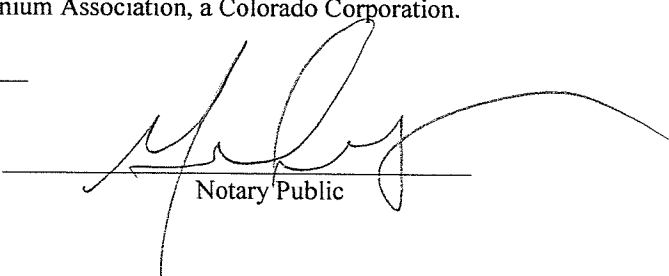
) ss.

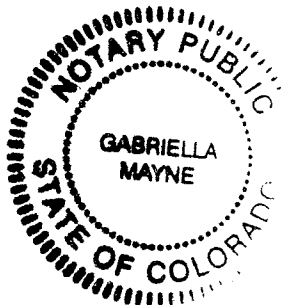
COUNTY OF BOULDER)

The foregoing instrument was acknowledged before me this 17th day of December, 2009 by James C. Ruger as President of the Mapleton Terrace Condominium Association, a Colorado Corporation.

My Commission expires: 6/4/13

WITNESS my hand and official seal.

  
Notary Public



CERTIFICATE

STATE OF COLORADO     )  
  ) ss.  
COUNTY OF BOULDER    )

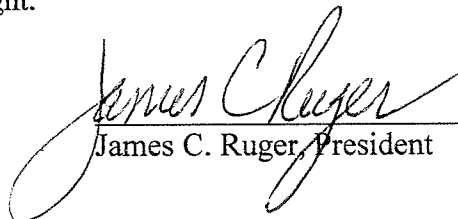
James C. Ruger, the affiant, being first duly sworn, states and alleges as follows:

1. I am the President of The Mapleton Terrace Condominium Association, a Colorado corporation, and as such am familiar with the ownership of the respective Units within the Mapleton Terrace Condominiums.

2. In accordance with Paragraph 12.2 of THE CONDOMINIUM DECLARATION OF THE MAPLETON TERRACE CONDOMINIUMS, the Owner of Units within the Mapleton Terrace Condominiums to which one hundred percent of the General Membership Votes in The Mapleton Terrace Condominium Association are allocated, have approved the SECOND AMENDMENT TO THE CONDOMINIUM DECLARATION OF THE MAPLETON TERRACE CONDOMINIUMS AND SECOND AMENDMENT TO THE CONDOMINIUM MAP OF THE MAPLETON TERRACE CONDOMINIUMS, a copy of which Amendment is attached hereto.

3. The originals of such written approvals by the Owners, along with the recorded Amendment are in the records of the Association and are available for inspection at the Association's offices during business hours.

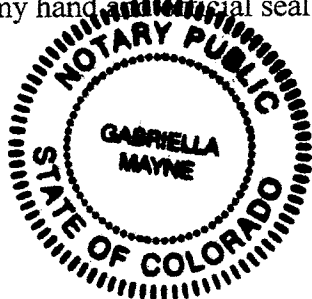
4. Further the affiant sayeth naught.

  
James C. Ruger, President

The foregoing instrument was subscribed and sworn to before me this 17<sup>th</sup> day of December, 2009 by James C. Ruger, President of The Mapleton Terrace Condominium Association.

My commission expires: 6/4/13

WITNESS my hand and official seal.



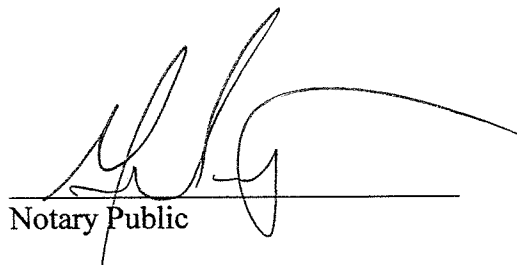
  
Notary Public



EXHIBIT B  
TO THE CONDOMINIUM DECLARATION  
OF  
THE MAPLETON TERRACE CONDOMINIUMS

TABLE OF INTEREST

Each Unit in the Condominium Community, is hereby vested with an undivided Percentage Ownership Interest in the Common Elements and is subject to a Common Expense Assessment Liability as set forth below.

<u>Residential Unit</u>	<u>Square Foot Finished</u>	<u>% of Commercial Square Feet</u>	<u>% of Residential Square Feet</u>	<u>% of Res./Comm. Square Feet</u>
RCU 1	613		12.0	4.9
RCU 2	624		12.2	4.9
RCU 3	631		12.3	5.0
RCU 4	453		8.9	3.6
RCU 5	452		8.8	3.6
RCU 6	450		8.8	3.6
RCU 7	521		10.2	4.1
RCU 8	459		9.0	3.6
RCU 9	459		9.0	3.6
RCU 10	<u>448</u>		<u>8.8</u>	<u>3.6</u>
	5110		100%	40.5%
<u>Commercial Unit</u>				
CCU A	803	10.7		6.4
CCU B	592	7.9		4.7
CCU C	926	12.3		7.3
CCU D	1556	20.7		12.3
CCU E	1483	19.7		11.7
CCU F	1562	20.7		12.4
CCU G	<u>594</u>	<u>8.0</u>		<u>4.7</u>
	7516	100%		100%

The Common Expense Assessment Liability and the Percentage Ownership Interest in the Common Elements of each Owner has been allocated by the Declarant in accordance with Paragraph 12.2 of the Declaration.



Boulder County Clerk, CO CONDO DEC

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**THE CONDOMINIUM DECLARATION**

**OF**

**THE MAPLETON TERRACE CONDOMINIUMS**

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**7/22/97**

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- A    LEGAL DESCRIPTION OF THE REAL PROPERTY SUBMITTED TO THE  
      CONDOMINIUM DECLARATION OF THE MAPLETON TERRACE  
      CONDOMINIUMS
- B    TABLE OF INTERESTS
- C    SCHEDULE OF MAINTENANCE RESPONSIBILITIES
- D    THE RECORDING DATA FOR RECORDED EASEMENTS AND LICENSES  
      WHICH THE CONDOMINIUM COMMUNITY IS OR MAY BECOME  
      SUBJECT TO
- E    CERTIFICATE OF COMPLETION

THE  
CONDOMINIUM DECLARATION  
OF  
THE MAPLETON TERRACE CONDOMINIUMS

---

PREAMBLE

THIS DECLARATION is made on the date hereinafter set forth, by WEST POINT PROPERTIES 19, LLLP, a Colorado Limited Liability Limited Partnership, hereinafter referred to as "Declarant".

WHEREAS, Declarant is the owner of certain real property located in Boulder, Colorado, as more particularly described on Exhibit A attached hereto and incorporated herein by reference (the "Property"); and

WHEREAS, the Declarant intends to create a Commercial and Residential (mixed use) Condominium Community on the Property together with other improvements thereon; and

WHEREAS, Declarant will convey the Property, subject to the protective covenants, restrictions, reservations and obligations as hereinafter set forth.

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

Declarant hereby declares that all of the Property shall be held or sold, and conveyed subject to the following covenants, conditions and obligations, all of which are declared and agreed to be for the protection of the value of the Property, and for the benefit of any persons having any right, title or interest in the Property and which shall be deemed to run with the land and shall be a burden and a benefit to any persons acquiring such interest, their grantees, heirs, legal representatives, successors and assigns.

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## ARTICLE ONE: DEFINITIONS

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

1.1 ACT means the Colorado Common Interest Ownership Act, C.R.S. §§ 38-33.3-101, et seq. as it may be amended from time to time.

1.2 ALLOCATED INTERESTS means the Percentage Ownership Interest in the Common Elements, the Common Expense Assessment Liability and the Votes in the Association which are allocated to each of the Units in the Condominium Community. The formulas used to establish the Allocated Interests are as follows:

(a) Interest in the Common Elements. The undivided Percentage Ownership Interest in the Common Elements appurtenant to a particular Condominium Unit has been allocated on the basis of the proportion which the approximate square footage finished area of each Unit bears to the total approximate square footage finished area of all Units within the Condominium Community, as more fully set forth on Exhibit B attached hereto.

(b) Common Expense Assessment Liability. All Common Expenses shall be assessed against Units on the basis of the proportion which the approximate square footage finished area of each Unit bears to the total approximate square footage finished area of all Units in the Condominium Community and is as set forth in Exhibit B attached hereto.

The finished square footage area of each Unit is allocated by the Declarant and is based upon dimensions which are approximate and the calculation of the Percentage Interest has been rounded.

(c) Voting Rights. Voting rights are as set forth in Paragraph 4.5 hereof.

1.3 ARTICLES means the Articles of Incorporation of the Association as they may be amended from time to time.

1.4 ASSESSMENTS means the (a) Common Expense Assessments, (b) Special Assessments, (c) Individual Assessments, and (d) Fines levied pursuant to this Declaration.

1.5 ASSESSMENT LIEN means the statutory lien on a Unit for any Assessment levied against that Unit together with all Costs of Enforcement as herein defined. All Costs of Enforcement are enforceable as Assessments.

If an Assessment is payable in installments, the full amount of the Assessment is a lien from the time the first installment becomes due.

1.6 ASSOCIATION means THE MAPLETON TERRACE CONDOMINIUM ASSOCIATION, a Colorado Corporation, not for profit, its successors and assigns, the Articles of Incorporation and Bylaws of which, along with this Declaration, shall govern the administration of the Condominium Community, the Members of which shall be all of the Owners of the Units within the Condominium Community.

1.7 BOARD OF DIRECTORS or BOARD means the Board of Directors of the Association duly elected pursuant to the Bylaws of the Association or appointed by the Declarant as therein provided. The Board of Directors is the governing body of the Association and shall act on behalf of the Association.

The term Board of Directors as used herein is synonymous with the term Executive Board as the latter term is used in the Act.

1.8 BUILDING means the building comprising part of the Condominium Community.

1.9 BYLAWS means the Bylaws which are adopted by the Board of Directors for the regulation and management of the Association, as they may be amended from time to time.

1.10 COMMERCIAL UNIT means those of the Units established herein, as delineated on the Map, which shall be used and occupied for commercial or residential purposes.

1.11 COMMON ELEMENTS means all of the Condominium Community as herein defined, except the portions thereof which constitute Condominium Units and also means any facilities, improvements and/or fixtures which may be within a Condominium Unit which are or may be necessary or convenient to the support, existence, use, maintenance, repair or safety of a Building or any other Condominium Unit therein and includes those Common Elements which are assigned to the exclusive use of one or more, but not all, of the Owners.

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

- (a) all of the real property, landscaping and easements as designated on the Map; and
- (b) all foundations, columns, beams and supports of the Building; and
- (c) the exterior walls of the Building, the bearing and utility walls within the Building, the main and bearing subflooring and the roof of the Building; and

- (d) all utility, service and maintenance rooms, fixtures, apparatus, installations and central facilities for power, light, gas, telephone, television, hot water, cold water, heating, incineration, or similar utility, service or maintenance purposes; including furnaces, apparatus, installations, facilities, all of which serve more than one Unit and are not located within a Unit, and
- (e) in general, all other parts of the Condominium Community necessary in common use or convenient to its existence, maintenance and safety.

Any conveyance, encumbrance, judicial sale or other transfer (voluntary or involuntary) of an individual interest in the Common Elements will be void unless the Unit to which the interest is allocated is also transferred.

1.12 COMMON EXPENSE ASSESSMENTS means those assessments defined in Paragraph 5.2 hereof.

1.13 COMMON EXPENSE ASSESSMENT LIABILITY means the liability for the Common Expenses allocated to each Unit which is determined in accordance with the Unit's Allocated Interests as set forth in Paragraph 1.2 hereof.

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

1.15 CONDOMINIUM COMMUNITY means such real property and the improvements located thereon as more fully described on Exhibit A attached hereto.

1.16 CONDOMINIUM UNIT or UNIT means the fee simple interest and title in and to an individual air space which is contained within the unfinished perimeter walls, floors and ceilings and/or roofs of each Unit, together with the appurtenant undivided interests in and to the Common Elements and Limited Common Elements, and all improvements and fixtures contained therein.

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

1.18 COUNTY means Boulder County, Colorado.

1.19 DECLARANT means WEST POINT PROPERTIES 19, LLLP, a Colorado Limited Liability Partnership, or its successors and assigns.

1.20 DECLARATION means this Declaration and Map and any supplements and amendments thereto recorded in the County Clerk and Recorder's Office.

1.21 DEVELOPMENT RIGHTS AND SPECIAL DECLARANT RIGHTS means the rights as defined by §§ 38-33.3-103(14) and 38-33.3-103(29) of the Act reserved by the Declarant under ARTICLE TEN hereof.

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

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

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

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

1.26 LIMITED COMMON ELEMENTS means those parts of the Common Elements which are limited to and reserved for the exclusive use of the Owner of a particular Unit as designated on the Map.

1.27 MANAGING AGENT means the person or entity whom the Board of Directors may engage to administer and manage the affairs of the Association.

1.28 MAP means the engineering survey (and any supplements and amendments thereto) of the Condominium Project depicting and locating thereon the location of the Building, the Units with their identification numbers, the Common Elements and Limited Common Elements, the floors and elevations, and all of the land and improvements thereon, which Map is incorporated herein and made a part of this Declaration by reference.

1.29 MEMBER means each Owner, as set forth in Paragraph 1.31 hereof.

1.30 NOTICE AND HEARING means a written notice and an opportunity for a hearing before the Board of Directors in the manner provided in the Bylaws.

1.31 OWNER means the owner of record of the fee simple title to any Unit which is subject to this Declaration.

1.32 PERSON means a natural person, a corporation, a partnership, an association, a trustee, a limited liability company, a joint venture, or any other entity recognized as being capable of owning real property under Colorado law.

1.33 PROJECT DOCUMENTS means this Declaration and the Map, the Articles of Incorporation and Bylaws of the Association, and the Rules and Regulations, if any.

1.34 PROPERTY means the property more particularly described on Exhibit A attached hereto and incorporated herein by reference.

1.35 RESERVED COMMON ELEMENTS means such portions of the Common Elements which the Declarant or Board of Directors may designate as such from time to time pursuant to Paragraph 2.18 hereof.

1.36 RESIDENTIAL UNIT means those Units established herein, as delineated on the Map, which shall be used and occupied solely for residential purposes.

1.37 RULES means the Rules and Regulations adopted by the Board of Directors for the regulation and management of the Condominium Community as amended from time to time.

1.38 SECURITY INTEREST means an interest in real estate or personal property created by contract which secures payment an obligation. The term includes a lien created by a mortgage, deed of trust, contract for deed, land sales contract or UCC-1.

1.39 SPECIAL ASSESSMENT means those Assessments defined in Paragraph 5.4 hereof.

1.40 TURNOVER DATE means the date the Period of Declarant Control terminates as more fully set forth in Paragraph 5.2 of the Bylaws.

1.41 UNITS THAT MAY BE CREATED means twenty-six Units, which shall be the maximum number of Units that may be subject to this Declaration.

## ARTICLE TWO: NATURE AND INCIDENTS OF THE CONDOMINIUM COMMUNITY

2.1 The Condominium Community. The name of the Condominium Community is THE MAPLETON TERRACE CONDOMINIUMS. It is a Condominium Community.

2.2 Initial Number of Units. The number of Units within the Condominium Community is seventeen.

2.3 Division into Units, Estates of an Owner. The Condominium Community is hereby divided into seventeen Units, consisting of a separate fee simple estate in a particular Condominium Unit, and an appurtenant undivided fee simple interest in the Common Elements.

The undivided interest in the Common Elements appurtenant to a particular Condominium Unit is determined in accordance with that Unit's Allocated Interest as set forth in Paragraph 1.2 hereof and is as set forth on Exhibit B attached hereto.

2.4 Title. A Unit may be held and owned by more than one person as joint tenants or as tenants in common, or in any real property tenancy relationship recognized under the laws of the State of Colorado.

2.5 Description of a Condominium Unit. A sufficient description of a Condominium Unit shall be as follows:

RESIDENTIAL/COMMERCIAL UNIT NO. \_\_\_, THE MAPLETON TERRACE CONDOMINIUMS, according to THE CONDOMINIUM MAP OF THE MAPLETON TERRACE CONDOMINIUMS, recorded on the \_\_\_ day of \_\_\_, 1997 as Reception No. \_\_\_, and as defined by THE CONDOMINIUM DECLARATION OF THE MAPLETON TERRACE CONDOMINIUMS, recorded on the \_\_\_ day of \_\_\_, 1997 as Reception No. \_\_\_, in the Office of the County Clerk and Recorder, Boulder County, Colorado.

Every description shall be good and sufficient for all purposes to sell, convey, transfer, encumber or otherwise affect not only the Condominium Unit, but also the Common Elements and the right to the use of the Limited Common Elements appurtenant thereto. Each such description shall be construed to include: a nonexclusive easement for ingress and egress throughout the Condominium Community and for the use of exclusive use of the Limited Common Elements; and all other easements, obligations, limitations, rights, covenants, conditions and restrictions created in this Declaration.

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

2.6 Combination of Commercial Units. Declarant or the Owner or Owners of one or more Commercial Units, shall have the right to: (a) physically combine the entire space within one Commercial Unit with the entire space within one or more adjoining Commercial Units; or (b) combine a part of or combination of parts of the space of one Commercial Unit with a part of or combination of parts of the space within one or more adjoining Commercial Units. Upon the combination of any Units, the Unit resulting from such combination shall be allocated the undivided interest of the predecessor Unit(s) in and to the Common Elements.

2.7 Resubdivision of a Unit. Declarant and the Owner or Owners shall have the right to (a) resubdivide the space within a Commercial Unit to its original configuration prior to any combination of Unit space permitted hereunder or (b) resubdivide the space, or a part of the space, within a Commercial Unit to create additional Commercial Units.

Upon the resubdivision of any Unit in accordance with the terms and conditions contained herein, the Units resulting from such resubdivision shall be allocated a proportionate interest in and to the Common Elements in accordance with the allocation formula set forth in Paragraph 1.3 hereof. Such allocation shall be reflected by an amendment to the Schedule of Interests. The right of the Declarant to resubdivide Commercial Units shall end upon the expiration of the Declarant's Rights as set forth in Paragraph 10.3 hereof.

2.8 Combination/Subdivision Procedure. In order to combine or resubdivide any Commercial Units as provided above, the Owners of such Units, other than Declarant, prior to the expiration of the Declarant's rights set forth in Paragraph 10.3 hereof, shall submit an application to the Board of Directors, which shall include: (a) evidence that the proposed combination or subdivision of a Unit or Units complies with all building codes, fire codes, zoning codes, and other applicable ordinances adopted and enforced by the City; (b) that the proposed combination does not violate the terms of any mortgage encumbering the unit; (c) the proposed reallocations to the Table of Interests; (d) the proposed form for amendments to the Declaration, including the Map, as may be necessary to show the Unit or Units which are created by the combination or resubdivision of a Unit or Units and their dimensions and identifying numbers; (e) the proposed change to the exterior of the Building, if any; (f) a deposit for attorney's fees and costs which the Association may incur in reviewing and effectuating the transaction, in an amount reasonably estimated by the Board of Directors; and (g) such other information as may be reasonably requested by the Board.

The right of the Declarant to approve the combination of two Units or to physically combine Units shall terminate upon the expiration of Declarant's Rights as set forth in Paragraph 10.3 hereof.

Nothing contained herein shall prevent Declarant from combining Units like any other Owner after the expiration of Declarant's rights as set forth in Paragraph 10.3 hereof.

2.9 Unit Boundaries. The interior unfinished surfaces of the perimeter walls, lowermost floors and uppermost ceilings shall mark the perimeter boundaries of a Unit as shown on the Map, and all lath, furring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint,

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finished flooring and any other materials constituting any part of the finished surfaces thereof are a part of the Units, and all other portions of the walls, floors, or ceilings are part of the Common Elements.

If any chute, flue, duct, wire, conduit, bearing wall, bearing column, or any fixtures lies partially within and partially outside the designated boundaries of a Unit, any portion thereof serving only that Unit is a Limited Common Element allocated solely to that Unit, and any portion thereof serving more than one Unit or any portion of the Common Elements is a part of the Common Elements.

Any shutters, awnings, window boxes, doorsteps, stoops, porches, balconies and all exterior doors and windows or other fixtures designed to serve a single Unit, but located outside the Unit's boundaries, are Limited Common Elements allocated exclusively to that Unit.

Subject to the above, all spaces, interior partitions, and other fixtures and improvements located within the boundaries of a Unit are a part of the Unit.

2.10 Physical Boundaries. The existing physical boundaries of any Unit or Common Elements shall be conclusively presumed to be the boundaries.

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

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

2.13 Limited Common Elements. The Limited Common Elements shall be identified on the Map. Any balcony, door, window, entry way, hallway or patio which are accessible from, associated with and which adjoins a Condominium Unit identified as Limited Common Elements on the Map shall without further reference thereto, be used in connection with such Condominium Unit to the exclusion of the use thereof by the other Owners except by invitation.

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

2.14 Compliance with Provisions of Declaration, Articles and Bylaws of the Association. Each Owner shall comply strictly with, and shall cause each of his or her Guests to comply strictly with, all of the provisions of this Declaration and the Articles and Bylaws of the Association, and the decisions, rules, regulations and resolutions of the Board of Directors adopted pursuant thereto, as the same may be lawfully amended from time to time.



Failure to comply with any of the same shall be grounds for an action to recover sums due and for damages or injunctive relief or both, along with costs of suit and reasonable attorneys' fees, maintainable by the Board of Directors in the name of the Association on behalf of the Owners, or, in a proper case, by any aggrieved Owner.

2.15 Liens Against the Condominium Units. Liens or encumbrances shall only arise or be created against a Condominium Unit in the same manner and under the same conditions as liens and encumbrances may arise or be created upon any other parcel or real property subject to individual ownership.

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

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

In the event a lien is effected against two or more Units, the Owners of each of the separate Units may remove their Condominium Unit from the lien by payment of the fractional or proportional amount attributable to each of the Units affected.

Individual payment shall be computed by reference to the percentages appearing in this Declaration. Subsequent to payment, discharge or other satisfaction, the Unit shall be released from the lien paid, satisfied or discharged. Partial payment, satisfaction or discharge shall not prevent the lienor from proceeding to enforce his or her rights against any Unit not so released or discharged.

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

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

2.16 Restrictions on Sale of a Condominium Unit. The right of an Owner to sell, transfer or otherwise convey his or her Unit shall not be subject to any right of first refusal or similar restriction and such Unit may be sold free of any such restrictions.

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

2.18 Reserved Common Elements. Reserved Common Elements are those parts of the Common Elements which the Declarant and the Board of Directors may designate from time to time for use by less than all of the Owners for specified periods of time. Such designation shall not be construed as a sale or disposition of such portions of the Common Elements.

2.19 Separate Taxation. Each Unit shall be deemed to be a parcel and shall be subject to separate assessment and taxation by each assessing unit and special district for all types of taxes authorized by law, including ad valorem levies and special assessments. Neither the Building nor the Common Elements shall be deemed to be a parcel. The lien for taxes assessed to any Unit shall be confined to that Unit. No forfeiture or sale of any Unit for delinquent taxes, assessments or other governmental charges shall divest or in any way affect the title to any other Unit.

### ARTICLE THREE: VARIOUS RIGHTS AND EASEMENTS

3.1 Owner's Rights in the Common Elements. Every Owner and such Owner's Guests shall have the right and easement of use and enjoyment in and to the Common Elements, to include the Limited Common Elements, which shall be appurtenant to and shall pass with the title of the Unit to such Owner, subject to the Development Rights and Special Declarant Rights of the Declarant reserved herein.

3.2 Owner's Rights in Limited Common Elements. Each Owner and his or her Guests shall have an exclusive right to use and enjoy the Limited Common Elements designated herein or on The Map as appurtenant to the Unit owned by such Owner.

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

3.4 Owner's Easement for Access, Support and Utilities. Each Owner shall have a nonexclusive easement for access between his or her Condominium Unit and the roads and streets adjacent to the Condominium Community. There shall be no restrictions upon any Owner's right of ingress and egress to or from such Owner's Unit. Each Owner shall have a non-exclusive easement in and over the Common Elements within the Condominium Community including the Common Elements within the Condominium Unit of another Owner, for horizontal and lateral support of the Condominium Unit which is part of his or her Unit, and for utility service to the Condominium Unit, including water, sewer, gas, electricity, telephone and cable television service.

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

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

3.6 Easements in Condominium Units for Repair, Maintenance and Emergencies. Some of the Common Elements are or may be located within a Condominium Unit. All Owners shall permit a right of entry to the Board of Directors or any other person authorized by the Board

of Directors, whether the Owner is present or not, for access through each Condominium Unit to all Common Elements, from time to time, as may be necessary for the routine maintenance, repair, or replacement for any of the Common Elements located thereon or accessible therefrom or for making emergency repairs necessary to prevent damage to the Common Elements or to another Condominium Unit.

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

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

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

Notwithstanding the foregoing, if any such damage is the result of the carelessness or negligence of any Owner, then such Owner shall be solely responsible for the costs of such repairing such damage. In the event the Owner fails within a reasonable time upon proper notice to pay the cost of the damages incurred, the Board of Directors may pay for said damages and charge the Owner responsible as an Individual Assessment in accordance with Paragraph 5.4(b) hereof.

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

3.8 Utility Easements. The Board of Directors has the right to grant permits, licenses and easements over the Common Elements for utilities, roads and other purposes reasonably necessary or useful for the proper maintenance or operation of the Condominium Community.

3.9 Recording Data Regarding Easements. The recording data for recorded easements and licenses appurtenant thereto, or included in the Condominium Community or to which any

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portion of the Condominium Community is or may become subject to are identified on Exhibit D attached hereto.

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

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## ARTICLE FOUR: THE ASSOCIATION

4.1 Name. The name of the Association is THE MAPLETON TERRACE CONDOMINIUM ASSOCIATION.

4.2 Purposes and Powers. The Association, through its Board of Directors, shall manage, operate, care for, insure, maintain, repair and reconstruct all of the Common Elements and keep the same in a safe, attractive and desirable condition for the use and enjoyment of all of the Owners and the Guests of the Condominium Community. Any purchaser of a Unit shall be deemed to have assented to, ratified and approved such designations and management. The Association shall have all the power necessary or desirable to effectuate such purposes.

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

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

4.4 Articles and Bylaws. The purposes and powers of the Association and the rights and obligations with respect to Members set forth in this Declaration may and shall be amplified by provisions of the Articles of Incorporation and Bylaws of the Association. In the event either the Articles or Bylaws conflict with the Declaration, the Declaration shall control. In the event the Articles conflict with the Bylaws, the Articles shall control.

4.5 Membership. The Association shall have three classes of membership as follows: General, Residential and Commercial. Every Owner of a Unit shall enjoy General Membership. Residential Memberships shall be limited to Owners of Residential Units. Commercial Memberships shall be limited to Owners of Commercial Units.

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

4.6 Voting Rights. The vote of the general membership shall be required for the determination of General Matters; and the number of votes represented by each General Membership shall be that Owner's undivided percentage ownership interest in the Common Elements allocated to each Unit in accordance with Paragraph 1.2 hereof and as set forth on the Table of Interests on Exhibit B attached hereto.

Residential Matters shall be determined by the vote of the Residential Membership, the number of votes represented by each Residential Membership shall be determined on the basis of the proportion which the approximate square footage finished area of each Residential Unit

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bears to the total approximate square footage finished area of all Residential Units in the Condominium Community and is as set forth on Exhibit B attached hereto.

Commercial Matters shall be determined by the vote of the Commercial Membership, the number of votes represented by each Commercial Membership shall be determined on the basis of the proportion which the approximate square footage finished area of each Commercial Unit bears to the total approximate square footage finished area of all Commercial Units in the Condominium Community and is as set forth on Exhibit B attached hereto.

A presumption shall exist in favor of generality of issues, and each matter shall be presumed a General Matter unless determined by the Board of Directors to be a Residential Matter or a Commercial Matter by an inference which is clear and objective. The categorization of an issue as a Residential Matter, Commercial Matter or General Matter shall be made by the Board of Directors.

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

4.7 Board of Directors. The Board of Directors shall consist of four persons. The Board of Directors shall consist of two classes of Directors, Residential Directors and Commercial Directors. The elected Residential Directors shall be elected solely by the Residential Owners and the elected Commercial Directors shall be elected solely by the Commercial Owners. The Board of Directors shall consist of two Residential Directors and two Commercial Directors.

The Residential Directors shall have the sole and exclusive authority on all Residential Matters. The Commercial Directors shall have the sole and exclusive authority on all Commercial Matters. All members of the Board of Directors shall vote on any General Matters.

The manner of the appointment and election of Directors is set forth in the Bylaws.

The Board shall elect the officers of the Association. The Owners elected to the Board shall take office upon election.

The Board of Directors and the officers of the Association shall have the duty to represent the interests of both the Commercial Unit Owners and the Residential Unit Owners in a fair and just manner on all matters that may affect both or either Commercial Unit Owners and Residential Unit Owners.

#### 4.8 Budget.

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

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

(b) If the Board of Directors deems it necessary or advisable to amend a Budget that has been ratified by the Owners pursuant to Paragraph 4.8(a) above, the Board may adopt a proposed amendment to the Budget, deliver a summary of the proposed amendment to all Owners and set a date for a meeting of the Owners to consider ratification of the proposed amendment. The date of such meeting shall not be less than fourteen days, nor more than sixty days, after the delivery of the summary of the proposed amendment.

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

4.9 Association Agreements. Any agreement for professional management of the Condominium Community or any contract providing for services of the Declarant, may not exceed one year. Any such agreement must provide for termination by either party without cause and without payment of a termination fee or penalty upon thirty days' written notice.

The Association shall not be bound either directly or indirectly to contracts or leases (including management contracts) entered into during the Period of Declarant Control unless the Association is provided with a right of termination of any such contract or lease without cause, which is exercisable without penalty at any time after such transfer from Declarant Control upon not more than thirty days' notice to the other party thereto.

4.10 Indemnification. Each Officer, Director and committee member of the Association shall be indemnified by the Association against all expenses and liabilities including attorney fees, reasonably incurred by or imposed upon him or her in any proceeding to which he or she may be a party, or in which he or she may become involved, by reason of him or her being or having been an Officer, Director or committee member of the Association, or any settlements thereof,



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whether or not he or she is an Officer, Director or committee member of the Association at the time such expenses are incurred, to the full extent permitted by Colorado law.

4.11 Certain Rights and Obligations of the Association.

(a) Attorney-in-Fact. This Declaration does hereby make mandatory the irrevocable appointment of an Attorney-in-Fact to deal with the Condominium Community upon its damage, destruction, condemnation and obsolescence.

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

The acceptance by any person of any interest in any Unit shall constitute an appointment of the Board of Directors as attorney-in-fact as provided above and hereinafter. The Board of Directors shall be granted all of the powers necessary to govern, manage, maintain, repair, administer and regulate the Condominium Community and to perform all of the duties required of it.

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

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

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

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

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

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## ARTICLE FIVE: ASSESSMENTS

5.1 Obligation. Each Owner, including Declarant, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, covenants and agrees and shall be personally obligated to pay to the Association (a) Common Expense Assessments, (b) Special Assessments, (c) Fines, (d) Individual Assessments, and (e) Costs of Enforcement, which shall be a continuing lien upon the Unit against which each such Assessment is levied.

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

The personal obligation for delinquent assessment shall not pass to such Owner's successors in title unless expressly assumed by them.

No Owner may waive or otherwise escape liability for the Common Expense Assessment provided for herein by the non-use of the Common Elements or the abandonment of his or her Unit.

The omission or failure of the Board of Directors to levy the Common Expense Assessment for any period shall not be deemed a waiver, modification or a release of the Owners from their obligation to pay.

5.2 Purpose of the Assessments. The Common Expense Assessment shall be used exclusively for the purpose of promoting the health, safety and welfare of the residents of the Condominium Community and the Members of the Association. Such purposes shall include but not be limited to the improvement, repair, maintenance, reconstruction and insuring of the Common Elements, and any other purpose reasonable, necessary or incidental to such purposes.

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

5.3 Date of Commencement of the Common Expense Assessment. The Common Expense Assessment shall commence as to all Units on the first day of the month following the effective date of the first budget of the Association.

Until the commencement of the collection of the Common Expense Assessments, the Declarant shall pay all of the expenses incurred and paid for by the Association.

5.4 Levy of Assessments.

(a) Common Expense Assessments. Common Expense Assessments shall be levied on all Units based upon a budget of the Association's cash requirements. The Common Expense Assessment Liability shall be allocated among the Units in accordance with that Unit's Common Expense Assessment Liability as set forth in Paragraph 1.2 hereof.

(b) Individual Assessments. The Board of Directors shall have the right to individually levy any Owner or Owners amounts as provided for by this Declaration, to include but not be limited to, charges levied under Paragraphs 3.6, 6.6 and 6.11 thereof.

No Individual Assessment shall be levied until the Owner or Owners to be charged have been given a Notice and Hearing as provided for in the Bylaws of the Association. Individual Assessments shall be collected as part of the Cost of Enforcement.

Individual Assessments may be levied at any time as required and are exempt from any voting requirements by the membership required for other assessments called for under the Declaration.

(c) Fines. The Board of Directors of the Association shall have the right to levy a Fine against an Owner or Owners for each violation of this Declaration, the Bylaws, the Articles and the Rules and Regulations of the Association. No such Fine shall be levied until the Owner or Owners to be charged have been given a Notice and Hearing as provided for in the Bylaws of the Association.

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

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

Any such Special Assessment shall be levied against each Unit in accordance with that Unit's Common Expense Assessment Liability determined in accordance with Paragraph 1.3 hereof. Notwithstanding the foregoing, Special Assessments levied during the Period of Declarant Control may not be used for the purpose of constructing capital improvements.

Written notice of any meeting called for the purpose of making a Special Assessment shall be sent to all Owners not less than fourteen days nor more than sixty days in advance of the meeting. At the first such meeting called, the presence of Owners or of proxies to whom at least sixty percent of the votes in the Association are allocated shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty days following the preceding meeting.

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

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

Special Assessments shall be due and payable as established by the Board but may be payable on an installment basis as determined by the Board.

Written notice of all Assessments shall be sent to each Owner subject thereto specifying the type of Assessment, the amount and the date such Assessment is due.

5.6 Remedies for Nonpayment of Assessments. If any Assessment (to include Costs of Enforcement) is not fully paid within fifteen days after the same becomes due and payable, then:

(a) interest shall accrue at the default rate set by the Board of Directors on any amount of the Assessment in default accruing from the due date until date of payment, and the Board may assess a Late Fee in a reasonable amount in the Board's discretion;

(b) the Board may accelerate and declare immediately due and payable all unpaid installments of the Assessment payable for the balance of the fiscal year during which such default occurred;

(c) the Board may bring an action at law against any Owner personally obligated to pay the Assessment and obtain a judgment for the amounts due; and

(d) the Board may proceed to foreclose its lien against the Unit pursuant to the power of sale granted to the Association by this Declaration in the manner and form provided by Colorado law for foreclosure of real estate mortgages.

An action at law or in equity by the Association against an Owner to recover a judgment for unpaid Assessments may be commenced and pursued by the Association without foreclosing or in any way waiving the Association's lien for the Assessments.

5.7 Assessment Lien. The Association is hereby granted an Assessment Lien against each Unit for any Assessment levied by the Board of Directors and for Costs of Enforcement when the Unit Owner fails to pay as required by the Declaration. All Costs of Enforcement incurred pursuant to this Declaration are enforceable as Assessments. If an Assessment is payable in installments, the full amount of the Assessment is a lien from the time the first installment thereof becomes due.

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

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

(b) the lien of any loan evidenced by a first deed of trust or mortgage, including a mortgage and any executory land sales contract wherein the Administrator of Veterans Affairs (Veterans Administration) is seller, whether such contract is owned by the Veterans Administration or its assigns, and whether such contract is recorded or not, except to the extent the Act grants priority for Assessments to the Association.

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

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

Sale or transfer of any Unit shall not affect the lien for said Assessments except that sale or transfer of any Unit pursuant to foreclosure of any first deed of trust or mortgage, or any proceeding in lieu thereof, including deed in lieu of foreclosure, shall only extinguish the Assessment Lien only to the extent provided by Colorado law. No such sale or deed in lieu of foreclosure shall relieve any Owner from continuing personal liability for any Assessment thereafter becoming due, nor from the lien thereof.

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

In any action by the Association to collect Assessments and Costs of Enforcement or to foreclose a lien for unpaid Assessments, the court may appoint a receiver for the Owner to collect all sums alleged to be due from the Owner prior to or during the pending of the action. The court may order the receiver to pay any sums held by the receiver to the Association during the pending of the action to the extent of the Association's Common Expense Assessments and Costs of Enforcement. The rights of the Association shall be expressly subordinate to the rights of any First Mortgagee of a Unit under any assignment of rents given in connection with a first deed of trust or mortgage.

The Assessment Lien hereby given shall also be a lien upon all of the rents and profits of the encumbered Unit; provided, however, the lien shall be subject and subordinate to the rights of any First Mortgagee of a Unit under any assignment of rents given in connection with a first deed of trust or mortgage. Without prejudice to any other right or remedy, the Association may exercise its lien rights to rents and profits by delivering a Notice of Exercise to the occupant or any payor of rents and profits, and thereafter shall be entitled to collect all such rents and profits to the extent of any delinquency.

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

5.8 Assignment of Assessments. The Board of Directors shall have the unrestricted right to assign its right to receive Common Expense Assessments and other future income, either as security for obligations of the Association or otherwise, on the condition that any such assignment is approved in writing by Owners to which at least eighty percent of the votes in the Association are allocated, including eighty percent of the votes allocated to Units not owned by the Declarant.

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

5.10 Working Capital Fund. At the closing of the initial sale of a Unit to an Owner other than the Declarant, a one time non-refundable contribution shall be made by such Owner to the Working Capital Fund of the Association in an amount equal to two months' Common Expense Assessment. Said contribution shall be collected and transferred to the Association at the time of closing of the sale by Declarant of each Unit and shall, until used by the Association, be maintained in a segregated account with other such working capital funds for the use and benefit of the Association to cover the costs of the initial period of the Association's operation, including, without limitation, to meet unforeseen expenditures or to purchase additional equipment, property or services.

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

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

5.11 Certificate of Assessment Status. The Association shall furnish to an Owner or such Owner's First Mortgagee upon written request by certified mail, first class postage prepaid, return receipt requested; to the Association's Registered Agent, a statement setting forth the amount of unpaid Assessments currently levied against such Owner's Unit.

The statement shall be furnished within fourteen business days after receipt of the request and is binding upon the Association, the Board of Directors, and every Owner. If no statement is furnished to the Owner or First Mortgagee, 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.

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

## ARTICLE SIX: RESTRICTIVE COVENANTS AND OBLIGATIONS

### 6.1 Use and Occupancy of the Condominium Units.

(a) Residential Units. Each Owner of a Residential Unit shall be entitled to the exclusive ownership and possession of his or her Residential Unit. Subject to the Development and Special Declarant Rights reserved by the Declarant in ARTICLE TEN hereof, no Residential Unit within the Condominium Community shall be used for any purpose other than single-family residential purposes as generally defined or for a home occupation so long as such occupation is (i) allowed by the local Zoning Codes, (ii) employs no outside employees, and (iii) requires no signage or parking.

(b) Commercial Units. Commercial Units may be used and occupied for any legal commercial or residential activities, except they may not be used for any amusement or entertainment facilities whether live or recorded, including without limitation, video arcades, sports clubs, bars, nightclubs, dance halls, strip joints, etc.

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

6.2 Use of the Common Elements. Each Owner and his or her Guests may use the appurtenant Common Elements in accordance with the purpose for which they are intended, without hindering or encroaching upon the lawful rights of the other Owners. There shall be no smoking or loitering permitted within the Common Elements. The Board of Directors may adopt Rules and Regulations governing the use of the Common Elements, but such Rules and Regulations shall be uniform and nondiscriminatory. Each Owner and such Owner's Guests occupying a Unit agree to be bound by any such adopted Rules and Regulations.

There shall be no obstruction of the Common Elements, nor shall anything be stored on any part of the Common Elements or Limited Common Elements without the prior written consent of the Board of Directors. Nothing shall be altered, constructed on, or removed from the Common Elements except upon the prior written consent of the Board of Directors.

6.3 No Unlawful Use. No unlawful, immoral, offensive or improper use shall be permitted or made within the Condominium Community or any part thereof. All valid laws, ordinances and regulations of all governmental bodies having jurisdiction shall be observed.

6.4 Restrictions on Signs. No signs or advertising of any nature shall be erected or maintained on any part of the Condominium Community without prior written consent of the Board of Directors. The Board shall permit the placing of at least one sign of reasonable size and dignified form to identify the Condominium Community and the Units therein.

Owners of Commercial Units may, with the prior written consent of the Board of Directors, place signs on or within or without their Units which relate to the marketing of



business activities currently being conducted by such Owner including, but not limited to, signs or advertisements used for the purpose of store identification, and sales of goods.

For sale and for lease signs are allowed with written approval of the Board of Directors.

6.5 Antennas and Exterior Equipment. No exterior equipment or fixtures, including, but not limited to, the following shall be permitted without the written consent of the Board of Directors: radio, television, or other types of antennas and satellite dishes; air conditioning units, swamp coolers, or other ventilating equipment; and, any type or kind of wiring, ducts, or pipes.

6.6 Pets Within the Condominium Community. No animals, livestock, reptiles or birds shall be kept in any part of the Condominium Community, except that one domesticated cat is allowed per Unit so long as it is declawed and neutered, and is kept subject to all governmental animal ordinances and laws and subject to Rules and Regulations promulgated by the Board of Directors in regard thereto, and are not kept to create a nuisance or inconvenience to any residents of the Condominium Community.

An Owner is responsible for any damage caused by his or her pets and shall be obligated to clean up after his or her pets in the Condominium Community. No cats shall be allowed to remain tied or chained to any balconies or patios within the Condominium Community, and any such cats so tied or chained may be removed by the Board or its agents.

The Board of Directors shall have the right and authority to determine in its sole discretion if cat is creating a nuisance. The Directors shall take such action or actions as it deems reasonably necessary to correct the violation to include after Notice and Hearing, directing permanent removal of the cat from the Condominium Community.

Cats shall not be allowed to run at large within the Condominium Community, but shall at all times be under the control of such cat's Owner and such cats shall not be allowed to litter the Common Elements. No cats shall be allowed to reside in the Common Elements.

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

6.7 Property to be Maintained. Each Unit, at all times, shall be kept in a clean and neat condition. No trash, litter, boxes, containers, bottles, cans, lumber or other building materials shall be permitted to remain exposed within any Unit so that the same are visible from any neighboring Unit or the street.

6.8 No Unsightliness. No activity shall be conducted on any part of the Condominium Community which is or might be unsafe, unsightly, unhealthy or hazardous to any person. Without limiting the generality of the foregoing, nothing shall be kept or stored on or in the Common Elements, including areas which are Limited Common Elements; and nothing shall be

placed on or in windows or doors of Condominium Apartments, which would or might create unsightly appearance.

Decks, patios and balconies shall not be used for storage. No activity shall be conducted on any part of the Condominium Community which is or might be unsafe or hazardous to any person. All rubbish, trash or garbage shall be regularly removed from the Condominium Community and shall not be allowed to accumulate thereon.

No Owner shall modify, alter, repair, decorate, redecorate, or improve the exterior of any Condominium Apartment or any of the Common Elements without the express written approval of the Board of Directors in accordance with Paragraph 9.5 hereof.

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

Nothing shall be done or kept in any Apartment or in the Common Elements which would be in violation of any statute, ordinance, regulations, or other validly imposed requirement of any governmental body. No noxious, destructive or offensive activity shall be carried on in any Apartment or in the Common Elements, nor shall anything be done therein which may be or may become an annoyance or nuisance to others. No sound or vibration shall be emitted on any part of the Condominium Community which is unreasonably loud or annoying.

6.10 No Noxious, Offensive, Hazardous or Annoying Activities. No noxious or offensive activity shall be carried out upon any part of the Condominium Community nor shall anything be done or placed on or in any part of the Condominium Community which is or may become a nuisance or cause embarrassment, disturbance or annoyance to others. No activity shall be conducted on any part of the Condominium Community which is or might be unsafe or hazardous to any person or property. No Owner shall permit any fire hazard to exist in the Condominium Community or permit any use of his or her Unit or the Common Elements which might increase the rate or cost for insurance for the Condominium Community.

No sounds or vibrations shall be emitted on any part of the Condominium Community which are unreasonably loud or annoying. No odor shall be emitted on any part of the Condominium Community which is noxious or offensive to others. No light shall be emitted from any part of the Condominium Community which is unreasonably bright or causes unreasonable glare. In no event shall the items set forth herein be deemed to be a complete list of noxious activities prohibited hereunder and the Board of Directors shall have the right to terminate any other noxious or otherwise offensive activity carried on by an Owner in violation of the provisions hereof.

6.11 Owner Caused Damages. If, due to the act or neglect of an Owner or such Owner's Guests, loss or damage shall be caused to any property within the Condominium Community, such Owner shall be liable and responsible for the payment of same. The amount of such loss or damage, together with costs of collection and reasonable attorneys' fees and costs, if necessary, may be collected by the Board of Directors from such Owner as an Individual Assessment against such Owner in accordance with Paragraph 5.4(b) hereof.

Determination with respect to whether or not a particular activity or occurrence shall constitute a violation of this Paragraph 6.11 shall be made by the Board of Directors and shall be final.

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

(a) any such lease or rental agreement must be in compliance with applicable city, state and federal laws;

(b) no Owner of a Residential Unit may lease or rent less than his or her entire Residential Condominium Unit;

(c) any lease or rental agreement shall be in writing and shall provide that the lease or rental agreement is subject to the terms of this Declaration, the Bylaws of the Association and the Articles of Incorporation, and the Rules and Regulations of the Association;

(d) such lease or rental agreement shall state that the failure of the lessee or renter to comply with the terms of the Declaration or Bylaws of the Association, Articles of Incorporation or the Rules and Regulations of the Association shall constitute a default and such default shall be enforceable by either the Board of Directors or the lessor, or by both of them;

(e) the Board of Directors are entitled to a copy of any lease promptly upon its request.

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

6.14 Window Coverings. Residential Units shall have window coverings which shall be blinds or verticals in colors of white or almond made of vinyl, aluminum, fabric or painted wood. A white or almond drapery or drapery liner that does not permit color to show through can also be installed. All other interior window coverings for Residential Units must have the prior written approval of the Board of Directors.

6.15 Exemptions for the Declarant. For so long as the Declarant owns a Unit within the Condominium Community, the Declarant shall be exempt from to the provisions of this ARTICLE SIX to the extent that it impedes the Declarant's development, construction, marketing, sales or leasing activities.

The Association, acting through its Board of Directors, shall have the standing and power to enforce all of the above Restrictive Covenants and Obligations.

## ARTICLE SEVEN: INSURANCE/CONDEMNATION

7.1 Property Insurance. To the extent reasonably available, the Association shall obtain, maintain and pay the premiums upon as a Common Expense, a "master" or "blanket" type policy of property insurance covering all of the Common Elements and Limited Common Elements including fixtures to the extent that they are part of the Common Elements, Building service equipment and supplies and other common personal property belonging to the Association. All references herein to a "master" or "blanket" type policy of property insurance, are intended to denote "single entity" condominium insurance coverage.

The policy shall be in an amount equal to 100% of the current replacement cost.

The loss payable shall be in favor of the Association as a trustee for each Owner and each such Owner's Mortgagee. The Association shall hold any proceeds of insurance in trust for the Owners and for their First Mortgagees as their interests may appear. Certificates of Insurance shall be issued to each Owner and Mortgagee upon request.

Such policy shall contain the standard mortgage clause or equivalent endorsement (without contribution) which is commonly accepted by private institutional mortgage investors.

Such policies shall also provide that the policy may not be cancelled or substantially modified without at least ten days' prior written notice to the Association and to each First Mortgage listed as a scheduled holder of a First Mortgage in the policies.

Policies are unacceptable where:

(a) under the terms of the insurance carrier's charter, bylaws or policy, contributions or assessments may be made against the borrowers or secondary lenders; and

(b) by the terms of the carrier's charter, bylaws or policy, loss payments are contingent upon action by the Board of Directors, policy holders or members; and

(c) the policy includes any limiting clauses (other than insurance conditions) which could prevent the borrowers or secondary lenders from collecting insurance proceeds.

The policies must provide the following:

(a) a waiver of the right of subrogation against the Owners individually;

(b) that the insurance is not prejudiced by any act or neglect of any individual Owners which is not in control of such owners collectively;

(c) that the policy is primary in the event the Owner has other insurance covering the same loss.

The insurance policy shall afford, as a minimum, protection against:

(a) loss or damage by fire and other perils normally covered by the standard extended coverage endorsement; or

(b) all other perils which are customarily covered with respect to condominiums similar in construction, location and use, including all perils normally covered by the standard all-risk endorsement where such is available.

The following endorsements are required if they are available and are commonly required by prudent institutional mortgage investors: Agreed Amount Endorsement, Inflation guard Endorsement, Construction Code Endorsement, Demolition Cost Endorsement, Contingent Liability From Operation of Building Laws Endorsement, Increased Cost of Construction Endorsement and Guaranteed Replacement Cost Endorsement.

7.2 Liability Insurance. The Association shall maintain comprehensive general liability insurance coverage covering all of the Common Elements, owned by the Association and public ways within the Condominium Community. Coverage shall be for at least \$1,000,000 for bodily injury including deaths of persons and property damage arising out of a single occurrence. Coverage under this policy shall include, without limitation, legal liability of the insureds for property damage, bodily injuries, and deaths of persons in connection with the operation, maintenance or use of the Common Elements, and the legal liability arising out of lawsuits relating to employment contracts of the Association. Such policies must provide that they may not be cancelled or substantially modified by any party without at least ten days' prior written notice to the Association and to each First Mortgagee which is listed as a scheduled holder of a first mortgage in the insurance policy.

Coverage is also required to include protection against other risks, namely, host liquor liability, employer's liability insurance, contractual and all-written contract insurance, and comprehensive automobile liability insurance.

7.3 Fidelity Insurance. The Association shall obtain and maintain, to the extent reasonably available, fidelity insurance coverage for any Owner or Association employee who either handles or is responsible for funds held or administered by the Association. The insurance shall name the Association as insured, and shall contain waivers of any defense based upon the exclusion of persons who serve without compensation from any definition of "employee" or similar expression.

The fidelity insurance policy should cover the maximum funds (including Reserve Funds) that will be in the custody of the Association or its management agent at any time while the policy is in force; provided however, in no event shall the aggregate amount of such insurance be less than a sum equal to three months' aggregate Assessments on all Units plus Reserve Funds.

The policy must include a provision that calls for ten days' written notice to the Association before the policy can be cancelled or substantially modified for any reason. The same notice must also be given to each servicer that services a Fannie Mae-owned or securitized mortgage in the Condominium Community.

A management agent that handles funds for the Association should be covered by its own fidelity insurance policy which must provide the same coverage required of the Association.

7.4 Owner Policies. An insurance policy issued to the Association does not preclude Owners from obtaining insurance for their own benefit.

7.5 Workers Compensation Insurance. The Board of Directors shall obtain and maintain Workers Compensation Insurance if required to meet the requirements of the laws of the State of Colorado.

7.6 Directors' and Officers' Liability Insurance. The Board of Directors shall obtain and maintain directors' and officers' liability insurance, if reasonably available, covering all of the directors and officers of the Association. This insurance will have limits determined by the Board of Directors.

7.7 Other Insurance. The Association may carry other insurance which the Board of Directors considers appropriate to protect the Association.

7.8 Premiums. Insurance premiums for insurance carried by the Association shall be paid for by the Association as a Common Expense.

7.9 Procedures. The Board of Directors may adopt written nondiscriminatory policies and procedures for claims adjustment and responsibility for deductibles. To the extent the Association settles claims for damages to real property, it shall have the authority to assess negligent Owners causing such loss or benefitting from such repair or restoration all deductibles paid by the Association. If more than one Unit is damaged by a loss, the Association, in its reasonable discretion, may assess each Owner a pro rata share of any deductible paid by the Association.

7.10 Damage to Property. Any portion of the Condominium Community for which insurance is required under § 38-33.3-313 of the Act or for which insurance carried by the Association is in effect that is damaged or destroyed, shall be repaired or reconstructed by the Association in accordance with ARTICLE EIGHT hereof.

7.11 Certificate of Insurance. An insurer that has issued an insurance policy for the insurance described in this Article shall issue certificates of insurance to the Association and, upon request, to any Owner or First Mortgagee.

The insurer issuing the policy may not cancel or refuse to renew it until thirty days after notice of the proposed cancellation or nonrenewal has been mailed to the Association, each Owner and First Mortgagee to whom a certificate of insurance has been issued, at their last known address.

7.12 Condemnation. If all or part of the Condominium Community 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 EIGHT: RESTORATION UPON DAMAGE OR DESTRUCTION

8.1 Duty to Restore. Any portion of the Condominium Community 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 Community is terminated;
- (b) repair or replacement would be illegal under a state statute or municipal ordinance governing health or safety;
- (c) Owners of Units to which at least sixty-seven percent of the votes in the Association are allocated, including every Owner of a Unit or appurtenant Limited Common Element that will not be rebuilt, vote not to rebuild.

In the event the Condominium Community is not repaired or reconstructed in accordance with the above, the Condominium Community shall be sold and the proceeds distributed pursuant to the procedures provided for in the Act for termination of condominium projects.

8.2 Plans/Cost. 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 Directors and Owners (other than the Declarant) owning at least sixty-seven percent of the undivided interests in the Common Elements. The cost of repair or reconstruction in excess of insurance proceeds and reserves is a Common Expense.

8.3 Reconstruction of Less Than the Entire Condominium Community. If the entire Condominium Community is not repaired or reconstructed, 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 Community, and:

- (a) the insurance proceeds attributable to a Unit and Limited Common Elements that are not reconstructed must be distributed to the Owner of the Unit and the Owner of the Unit to which the Limited Common Elements were appurtenant to, and to holders of Security Interests, as their interest may appear;
- (b) the remainder of the proceeds must be distributed to each Owner and holders of Security Interests, as their interests may appear, in proportion to such Owner's undivided interests in the Common Elements as set forth in Paragraph 1.3 hereof; and
- (c) if the Owners vote not to rebuild a Unit, all of the Allocated Interests of that Unit shall be reallocated as if the Unit did not exist, and the Association shall promptly prepare, execute and record an amendment to this Declaration reflecting the reallocations without the necessity of the consent thereto or joinder therein by the Owners or First Mortgagees.

## ARTICLE NINE: MAINTENANCE, REPAIR AND RECONSTRUCTION

9.1 By the Association. The Association shall be responsible for the maintenance, repair and reconstruction of all of the Common Elements and Limited Common Elements in accordance with this ARTICLE NINE.

9.2 By the Owner.

Each Owner shall keep his or her Unit and its equipment, appliances and appurtenances in good order, condition and repair and in a clean and neat condition, and shall do all redecorating and painting which may at any time be necessary to maintain the good appearance and condition of his or her Unit.

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

Each Unit and/or Limited Common Element is subject to an easement in favor of the Board of Directors (including its agents, employees and contractors) for providing the maintenance, repair and reconstruction in accordance with the above.

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

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

9.5 Additions, Alterations or Improvements by the Owners (Architectural Control). No Owner shall make any structural addition, or alteration or improvement in or to his or her Unit without the prior written consent of the Board of Directors. No Owner shall paint or alter the exterior of his or her Unit, including the doors, windows and light fixtures, nor shall any Owner paint or alter the exterior of the Building, nor shall any Owner alter the flooring or floor coverings within a Unit without the prior written consent of the Board of Directors.

The Board of Directors shall be obligated to answer any written request by an Owner for approval of a proposed structural addition, alteration or improvement within thirty days after such request, and failure to do so within the stipulated time shall constitute approval by the Board of Directors of such proposed structural addition, alteration or improvement.

## ARTICLE TEN: DEVELOPMENT RIGHTS AND SPECIAL DECLARANT RIGHTS

10.1 Reservation. The Declarant reserves the following Development and Special Declarant Rights ("Declarant Rights") which may be exercised, where applicable, anywhere within the Condominium Community:

- (a) To exercise any Declarant Rights reserved herein;
- (c) To maintain business/sales offices, management offices, storage areas, signs, advertising and model Units;
- (d) To maintain signs and advertising on the Common Elements to advertise the Condominium Community;
- (e) To appoint or remove any officer of the Association or a member of the Board of Directors during the Period of Declarant Control subject to the limitations set forth in Paragraph 10.3 hereof;
- (f) To amend the Declaration and/or the Map in connection with the exercise of any Declarant Rights;
- (g) To exercise any other Declarant Rights created by any other provisions of this Declaration.

10.2 Rights Transferable. Any Declarant Rights created or reserved under this Article for the benefit of Declarant may be transferred to any Person by an instrument describing the Declarant Rights transferred and recorded in the Office of the County Clerk and Recorder. Such instrument shall be executed by the transferor Declarant and the transferee.

10.3 Limitations. The Declarant Rights shall terminate at the option of the Declarant by its written notice to the Secretary of the Association, but in any event such Declarant Rights shall terminate without further act or deed three years after recording of this Declaration.

Not more than nine additional Units may be created under the Development Rights by the Declarant, and Declarant shall not be obligated to expand the Condominium Community beyond the number of Units initially submitted to this Declaration.

10.4 Interference with Declarant Rights. Neither the Association nor any Owner may take any action or adopt any rule that will interfere with or diminish any Declarant Rights without the prior written consent of the Declarant.

10.5 Use by Declarant. The exercise of any Declarant Right by Declarant shall not unreasonably interfere with the access, enjoyment or use of any Unit by any Owner nor the

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access, enjoyment or use of the Common Elements; nor shall any activity be conducted which might be unsafe, unhealthy, or hazardous to any person.

10.6 Models, Sales Offices and Management Offices. Subject to the limitation set forth in Paragraph 10.3 hereof, the Declarant, its duly authorized agents, representatives and employees may maintain any Unit owned by the Declarant or any portion of the Common Elements as a model Unit, sales, leasing and/or management office.

10.7 Declarant's Easements. The Declarant reserves the right to perform warranty work, repairs and construction work on Units and Common Elements, and to control and have the right of access to work and repair until completion. All work may be performed by the Declarant without the consent or approval of the Board of Directors. The Declarant has an easement through the Common Elements as may be reasonably necessary for the purpose of discharging the Declarant's obligations or exercising Declarant Rights, whether arising under the Act or reserved in this Article.

10.8 Signs and Marketing. The Declarant reserves the right for Declarant to post signs and displays in the Common Elements in order to promote sales of Units. Declarant also reserves the right for Declarant to conduct general sales activities in a manner which will not unreasonably disturb the rights of Owners.

## ARTICLE ELEVEN: FIRST MORTGAGEE PROVISIONS

The following provisions are for the benefit of holders, insurers, or guarantors of holders of first mortgages recorded against Units within the Condominium Community who qualify as an Eligible Mortgagee as defined by Paragraph 1.22 hereof. To the extent applicable, necessary, or proper, the provisions of this ARTICLE ELEVEN apply to both this Declaration and to the Articles and Bylaws of the Association.

### 11.1 Notices of Action. An Eligible Mortgagee shall be entitled to timely written notice of:

(a) any material condemnation loss or any casualty loss which affects a material portion of the Condominium Community or any Unit in which there is a first mortgage held, insured, or guaranteed by such Eligible Mortgagee;

(b) any default in the performance by an individual Borrower of any obligation of the Declaration not cured within sixty days;

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

(d) any proposed action which would require the consent of a specified percentage of Eligible Mortgagees.; and

(e) any material judgment rendered against the Association.

### 11.2 Amendment to Documents/Special Approvals.

(a) The consent of Owners owning at least sixty-seven percent of the undivided interests in the Common Elements and the consent of Eligible Mortgagees representing at least fifty-one percent of all of the Eligible Mortgagees within the Condominium Community (based on one vote for each first mortgage owned) shall be required to add to or amend any material provisions of this Declaration or the Articles or Bylaws of the Association. A change to any of the following would be considered material.

(i) voting rights;

(ii) increase the Common Expense Assessment by more than 25% over the previously levied Common Expense Assessment, assessment liens, or the priority of the assessment liens;

(iii) reduction in the reserves for maintenance, repair and replacement of the Common Elements;

(iv) responsibility for maintenance and repairs;

- (v) convertibility of Units into Common Elements or vice versa;
- (vi) hazard or fidelity insurance required;
- (vii) imposition of any restrictions on the leasing of Units;
- (viii) imposition of any restrictions on an Owner's right to sell or transfer his or her Unit;
- (ix) restoration or repair of the Condominium Community (after damage or partial condemnation) in a manner other than that specified in the Project Documents;
- (x) any provision that expressly benefits mortgage holders, insurers or guarantors.

(b) The Association may not take any of the following actions without the consent of Owners owning at least sixty-seven percent of the undivided interests in the Common Elements and the consent of Eligible Mortgagees representing at least fifty-one percent of all of the Eligible Mortgagees within the Condominium Community (based on one vote for each first mortgage owned).

- (i) Reconstruct or repair the Condominium Community after damage due to an insurable hazard or a partial condemnation in a manner other than specified in the Project Documents.
- (ii) Merge the Condominium Community with any other condominium community.
- (iii) Assign the future income of the Association, including its right to receive Common Expense Assessments.
- (iv) Not repair or reconstruct, in the event of substantial destruction, any part of the Common Elements.

(c) Any action to terminate the legal status of the Condominium Community after substantial destruction or condemnation occurs must be agreed to by Owners owning at least sixty-seven percent of the undivided interests in the Common Elements and the consent of Eligible Mortgagees representing at least fifty-one percent of all of the Eligible Mortgagees within the Condominium Community (based on one vote for each first mortgage owned).

(d) Any action to terminate the legal status of the Condominium Community for reasons other than substantial destruction or condemnation occurs must be agreed to by Owners owning at least sixty-seven percent of the undivided interests in the Common Elements and the

consent of Eligible Mortgagees representing at least sixty-seven percent of all of the Eligible Mortgagees within the Condominium Community (based on one vote for each first mortgage owned).

11.3 Special FHLMC Provisions. Except as provided by statute in the case of a condemnation or a substantial loss to the Units and/or the Common Elements, unless at least sixty-seven percent of the Eligible Mortgagees (based on one vote for each first mortgage owned) or Owners owning at least sixty-seven percent of the undivided interests in the Common Elements other than the Declarant have given their prior written approval, the Association may not:

- (a) by act or omission seek to abandon or terminate the Condominium Community;
- (b) change the pro rata interest or obligations of any Residential Unit in order to levy assessments, allocate distribution of hazard insurance proceeds or condemnation awards or determine the pro rata share of ownership of each Unit in the Common Elements;
- (c) partition or subdivide any Residential Unit;
- (d) seek to abandon, partition, subdivide, encumber, sell or transfer the Common Elements by act or omission.

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

- (e) use hazard insurance proceeds for losses to any condominium property (whether Units or Common Elements) for other than the repair, replacement or reconstruction of the condominium property).

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

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

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ARTICLE TWELVE: DURATION, AMENDMENT AND TERMINATION OF THE DECLARATION

12.1 Duration. The covenants, restrictions and obligations of this Declaration shall run with and bind the land in perpetuity until this Declaration is terminated in accordance with Paragraph 12.4 below.

12.2 Amendments by Owners. Except in cases of amendments that may be executed by the Board of Directors pursuant to Paragraph 8.3, and except as restricted by Paragraphs 11.2, 11.3 and 12.3 hereof, this Declaration, including the Map, may be amended by written agreement by Owners of Units to which at least sixty-seven percent of the votes in the Association are allocated.

Except as provided in Paragraph 8.3 hereof, an amendment may not: (a) create or increase Development and/or Special Declarant Rights; (b) increase the number of Units over the number set forth in Paragraph 1.40 hereof; (c) change the uses to which a Unit is restricted; or (d) change the Allocated Interests of a Unit except by unanimous consent of the Owners.

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

Any such amendment shall be effective upon the recording of the amendment together with a notarized Certificate of an officer of the Association certifying that the requisite number of Owners and Eligible Mortgagees, if required, have given their written consent to the amendment. The officer of the Association shall further certify that originals of such written consents by Owners and Eligible Mortgagees, as applicable, along with the recorded amendment, are in the records of the Association and available for inspection.

Each amendment to the Declaration must be recorded with the County Clerk and Recorder.

All signatures shall be irrevocable even upon death or conveyance of the Unit, except that if an amendment is not recorded within three years of the date of signature, then the executing Owner or their successor or assigns may revoke their signature by a written and notarized document delivered to the Secretary of the Association. Where a Unit is owned by more than one person, the execution of any amendment shall be valid if executed by any one Owner. Signatures need not be notarized.

Amendments can be executed in counterparts, provided that such recorded document shall also contain a certification of the Secretary of the Association that all counterparts, as executed, are part of the whole.



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

12.3 Consent of Declarant Required. Any proposed amendment of any provision of this Declaration shall not be effective unless Declarant has given its written consent to such amendment.

The foregoing requirement for consent of Declarant to any amendment shall terminate at the option of the Declarant, but in any event, shall terminate without further act or deed in accordance with the termination of the Declarant's Rights in accordance with Paragraph 10.3 hereof.

12.4 Termination. The Condominium Community may be terminated only in accordance with Paragraphs 11.2(c) and (d) hereof.

The proceeds of any sale of real estate together with the assets of the Association shall be held by the Board of Directors as trustee for Owners and holders of Security Interests upon the Units as their interests may appear as more fully set forth in § 38-33.3-218 of the Act.

## ARTICLE THIRTEEN: GENERAL PROVISIONS

13.1 Right of Action. The Association and any aggrieved Owner shall have an appropriate right of action against Owners for failure to comply with the Declaration, Bylaws of the Association, Articles of Incorporation and Rules and Regulations of the Association or with decisions of the Board of Directors of the Association which are made pursuant thereto. Owners shall have a similar right of action against the Association.

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

13.3 Severability. Any portion of this Declaration invalidated in any manner whatsoever shall not be deemed to affect in any manner the validity, enforceability or effect of the remainder of this Declaration, and in such event, all of the other provisions of this Declaration shall continue in full force and effect as if such invalid provision has never been included herein.

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

13.5 Registration by Owner of Mailing Address. Each Owner shall register his or her mailing address with the Association, and except for monthly statements and other routine notices, which shall be personally delivered or sent by regular mail, all other notices or demands intended to be served upon an Owner shall be delivered personally or sent by either registered or certified mail, postage prepaid, addressed in the name of the Owner at such registered mailing address.

All notices, demands or other notices intended to be served upon the Board of Directors of the Association or the Association shall be sent by certified mail, postage prepaid, to Matthew C. Dyroff, 2033 11th St., #6, Boulder, CO 80302, Registered Agent for the Association until the Registered Agent is changed by a notice duly filed with the Office of the Secretary of State of Colorado (Change of Registered Agent).

13.6 Conflict. The Documents are intended to comply with the requirements of the Act and the Colorado Nonprofit Corporation Act. If there is any conflict between the Documents and the provisions of the statutes, the provisions of the statutes shall control. In the event of any conflict between this Declaration and any other Document, this Declaration shall control.

13.7 Arbitration/Attorney's Fees. Except for matters requiring injunctive relief and matters concerning the collection of Assessments, all matters regarding the interpretation, application and enforcement of this Declaration shall be resolved by binding arbitration in accordance with the Colorado Arbitration proceeding consistent with the Rules of the American Arbitration Association. The parties to such dispute shall agree upon a single arbitrator who shall be an experienced professional property manager of a condominium association. In the event the

parties are unable to agree upon an arbitrator within 30 days after written notice, the presiding judge of the County's District Court shall appoint an arbitrator qualified as set forth above upon application of a party.

Judgment upon the determination of the arbitrator shall be entered and enforced by the County's District Court.

The arbitrator shall have authority, in the sound exercise of discretion, to award the prevailing party such party's costs and expenses, including reasonable attorney's fees.

13.8 Certificate of Completion. The Certificate of Completion required by § 38-33.3-201(2) of the Act is attached herein as Exhibit E.

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

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

IN WITNESS WHEREOF, the Declarant has caused this Declaration to be executed this 22nd day of July, 1997.

WEST POINT PROPERTIES 19, LLLP,  
a Colorado Limited Liability Partnership

By:

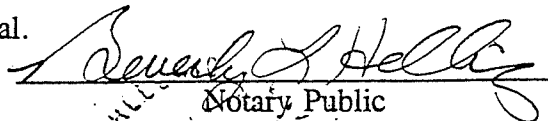
  
Matthew C. Dyroff Partner

STATE OF COLORADO    )  
  ) ss.  
COUNTY OF BOULDER    )

The foregoing instrument was acknowledged before me this 22nd day of July, 1997 by Matthew C. Dyroff as Partner of WEST POINT PROPERTIES 19, LLLP, a Colorado Limited Liability Partnership.

My commission expires: Feb 4, 1998.

WITNESS my hand and official seal.

  
Notary Public

