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**HIGHLAND GREENS LODGE
CONDOMINIUM DECLARATION**

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CONDOMINIUM DECLARATION**

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HIGHLAND GREENS LODGE
CONDOMINIUM DECLARATION

KNOW ALL MEN BY THESE PRESENTS THAT:

WHEREAS, HIGHLAND GREENS LLC, a Colorado limited liability company (the "Declarant"), is the owner of that certain real property situated in the County of Summit, State of Colorado, being more particularly described on Exhibit A attached hereto and incorporated herein by this reference (the "Property"); and

WHEREAS, Declarant intends to construct or cause to be constructed a building or multiple buildings and other improvements upon the Property, which Declarant desires to submit to condominium ownership under this Declaration pursuant to the provisions of the Colorado Common Interest Ownership Act ("Common Interest Act"); and

WHEREAS, Declarant desires to subject the Property and the improvements to be located thereon to certain covenants, conditions, restrictions, easements, reservations, rights-of-way, and other charges set forth herein for the purpose of protecting the value and desirability of the Property and for the purpose of furthering a plan for the improvement, sale, and condominium ownership of the Property for residential use, to the end that a harmonious and attractive development of the Property may be accomplished and the health, comfort, safety, convenience, and general welfare of Declarant, its successors, and its assignees in the Property, or any parts thereof, may be promoted and safeguarded;

NOW THEREFORE, Declarant submits the Property, together with all improvements, appurtenances, and facilities thereto and now or hereafter located thereon, to condominium ownership under the Common Interest Act, as the same may be amended from time to time, and hereby imposes upon all of the Property the following terms, provisions, covenants, conditions, restrictions, easements, reservations, uses, limitations, and obligations that shall be deemed to run with the above-described Property and shall be a burden and a benefit to Declarant, its successors, its assignees, and any person acquiring or owning an interest in the Property and their grantees, successors, heirs, personal representatives, executors, administrators, devisees, or assignees.

ARTICLE I
DEFINITIONS

Section 1.1 Agencies. "Agencies" means the Federal National Mortgage Association (FNMA), the Government National Mortgage Association (GNMA), the Federal Home Loan Mortgage Corporation (FHLMC), the Department of Housing and Urban Development (HUD), the Department of Veterans Affairs (VA), the Colorado Housing and Finance Authority (CHFA), or any other governmental or quasi-governmental agency or any other public, quasi-public, or private entity that performs (or may perform in the future) functions similar to those currently performed by any of such entities.

Section 1.2 Allocated Interests. "Allocated Interests" means the number of votes, the percentage of ownership of the Common Elements, and the percentage of liability for Common Expenses allocated to each Condominium Unit as set forth in Section 2.1 below.

Section 1.3 Articles of Incorporation. "Articles of Incorporation" means the articles of incorporation of Highland Greens Condominium Association, Inc., filed with the Colorado Secretary of State, as the same may be amended from time to time.

Section 1.4 Assessments. "Assessments" have the charges levied by the Association against a Unit for the common expenses of the Association and for other purposes as more fully set forth in Article VII below.

Section 1.5 Association. "Association" means Highland Greens Condominium Association, Inc., a Colorado nonprofit corporation, its successors and assigns. The Association shall act by and through its Executive Board and officers unless the Articles of Incorporation or Bylaws of the Association or this Declaration specifically require otherwise.

Section 1.6 Building. "Building" means to any building (including buildings) located on the Real Estate and within which one or more Units or Common Elements are located.

Section 1.7 Bylaws. "Bylaws" means the bylaws of the Association as the same may be amended from time to time.

Section 1.8 Common Elements. "Common Elements" means the Real Estate and all improvements constructed thereon, except the Units, and shall include without limitation the following:

- (a) the Real Estate;
- (b) any Buildings located on the Real Estate (including, but not by way of limitation, the columns, girders, beams, supports, perimeter and supporting walls, flues, hallways, roofs, elevators, stairs, stairways, mechanical rooms, maintenance/storage rooms, and the mechanical and utility installations of the Building consisting of the equipment and materials making up any services such as power, light, gas, hot and cold water, heating, refrigeration, air conditioning, and incinerating that exist for common uses, including the pipes, vents, ducts, flues, chutes, conduits, wires, and other similar utility installations used in connection therewith), except for the Units;
- (c) the tanks, pumps, motors, fans, compressors, ducts, and in general, all apparatus, installations, and equipment of the Building existing for common use;
- (d) any sidewalks, walkways, paths, grass, shrubbery, trees, driveways, parking areas, and parking structures, signs, and supporting structures for signs, landscaping, and gardens, if any, located on the Real Estate; and
- (e) in general, all other parts of the Project existing for common use and all other parts of the Project necessary or convenient to its existence, maintenance, or safety or normally in common use.

Section 1.9 Common Expense. "Common Expense" means any expenditure made or liability incurred by, or on behalf of, the Association, together with any allocations to reserves.

Section 1.10 Condominium Map. "Condominium Map" means the condominium map of the Real Estate and improvements that are subject to this Declaration and which are designated as Condominium Map, Highland Greens Lodge recorded or to be recorded in the records of the office of the Clerk and Recorder of the County of Summit, Colorado. More than one Condominium Map or supplement thereto may be recorded, and if so, then the term "Condominium Map" shall collectively mean and refer to all of such condominium maps and supplements thereto.

Section 1.11 Condominium Unit. "Condominium Unit" means a Unit, together with all fixtures and improvements contained therein (unless such fixtures and improvements are deemed to be Common Elements as defined herein) and together with the Allocated Interests appurtenant to the Unit as set forth in Section 2.1.

Section 1.12 Declarant. Except as provided below, "Declarant" means Highland Greens LLC, a Colorado limited liability company, its successors, and its assignees, if such successors and assignees are designated by the then-Declarant to serve as a Declarant for any specified purposes or for all purposes under this Declaration in a written instrument duly executed by the then-Declarant and the designated successor or assignee and recorded in the County of Summit, Colorado.

Section 1.13 Declarant Control Period. "Declarant Control Period" has the meaning set forth in Section 5.2 below.

Section 1.14 Declaration. "Declaration" means this Highland Greens Condominium Declaration, as it may be amended or supplemented from time to time.

Section 1.15 Development Rights. "Development Rights" means those rights of Declarant to develop the Real Estate as set forth in Article XVII and all "development rights" defined in Section 103(14) of the Common Interest Act.

Section 1.16 Executive Board. "Executive Board" means the Association's board of directors.

Section 1.17 First Mortgage. "First Mortgage" means a Security Interest in a Condominium Unit that has priority over all other Security Interests in the Condominium Unit.

Section 1.18 First Mortgagee. "First Mortgagee" means any person named as a mortgagee or beneficiary under any First Mortgage, or any successor to the interest of any such person under such First Mortgage. "Eligible First Mortgagee" means those First Mortgagees or insurers or guarantors of First Mortgages who have made written request to the Association for notification of certain matters and actions in accordance with the provisions of Section 16.2.

Section 1.19 General Common Elements. "General Common Elements" means all of the Common Elements except the Limited Common Elements. The General Common Elements may not be conveyed or encumbered except as permitted under the Common Interest Act;

provided, however, that the granting of permits, licenses, and easements for public utilities or other purposes consistent with the intended use of the Common Elements or reasonably necessary or useful for the proper maintenance or operation of the Project will not be deemed to be a conveyance.

Section 1.20 Limited Common Elements. "Limited Common Elements" means those parts of the Common Elements that are either limited to and reserved for the exclusive use of the Owner or Owners of a particular Condominium Unit or are limited to and reserved for the common use of the Owners of more than one, but fewer than all, of the Condominium Units. Without limiting the foregoing, the Limited Common Elements shall include any balconies, decks, patios, vestibules, beams, girders and supports, the allies, and the utility, heating, air conditioning, and domestic hot water equipment associated with or providing service to a Condominium Unit, which Limited Common Elements shall be used in connection with the applicable Condominium Unit to the exclusion of the use thereof by the other Owners, except by invitation.

Section 1.21 Member. "Member" means each Owner of a Condominium Unit; membership in the Association shall be appurtenant to, and may not be separated from, ownership of a Condominium Unit.

Section 1.22 Owner. "Owner" means any record owner (including a Declarant and including a contract vendor), whether one or more persons or entities, of a fee simple title interest to any Condominium Unit; but excluding, however, any such record owner having such an interest merely as security for the performance of an obligation (unless such person has acquired fee simple title interest therein pursuant to foreclosure or any proceedings in lieu thereof).

Section 1.23 Parking Spaces. "Parking Spaces" has the definition set forth in Section 2.5 below.

Section 1.24 Project. "Project" means the totality of all the Real Estate, Building, Condominium Units, and Common Elements.

Section 1.25 Property. "Property" means the real property situated in the County of Summit, State of Colorado, being more particularly described on Exhibit A.

Section 1.26 Real Estate. "Real Estate" means the Property and all interests therein and any other real property that heretofore becomes subject to this Declaration pursuant to the Development Rights set forth in Article XVII.

Section 1.27 Security Interest. "Security Interest" means an interest in real estate or personal property created by contract or conveyance that secures payment or performance of an obligation. The term includes a lien created by a mortgage, deed of trust, trust deed, security deed, contract for deed, land sales contract, lease intended as security, assignment of lease or rents intended as security, pledge of an ownership interest in an association, and any other consensual lien or title retention contract intended as security for an obligation.

Section 1.28 Special Declarant Rights. "Special Declarant Rights" means those rights of Declarant set forth in Article XVII in addition to the Development Rights and all "special declarant rights" defined in Section 103(29) of the Common Interest Act.

Section 1.29 Unit. "Unit" means each portion of a Building that is designated for separate ownership and occupancy, the boundaries of which are set forth on the Condominium Map. Each Unit, as designated on the Condominium Map, is bounded by the unfinished interior surfaces of the perimeter walls including the attics (or the demising walls, if two or more Units adjoin each other), unfinished interior surfaces of floors (or the lowermost floor in respect of the Units containing more than one level), unfinished interior surfaces of ceilings (or the uppermost ceilings, in respect of the Units containing more than one level), and the unfinished interior surfaces of windows, window frames, doors, and door frames of the Building. The term "Unit" does not include any utility facility running through the Unit that serves more than one Unit or any other Common Element or part thereof located within the Unit. In the case of walls, floors, and ceilings that are designated as boundaries of a Unit, all lath, furring, wallboard, plasterboard, plaster, paneling, tiles, wallboard paint, and finished flooring and any other materials constituting any part of the finished surfaces thereof are a part of the Unit, and all other portions of the walls, floors, or ceilings are a part of the Common Elements.

ARTICLE II DIVISION OF PROJECT INTO CONDOMINIUM OWNERSHIP

Section 2.1 Division Into Condominium Units. The Project is hereby divided initially into 49 separate Condominium Units, each of which shall have an undivided interest in the Common Elements appurtenant thereto in accordance with the Allocated Interests. The Allocated Interests are allocated to each Unit as follows:

- (a) an equal percentage of ownership of the Common Elements;
- (b) an equal percentage of liability for Common Expenses; and
- (c) one vote in the Association.

Except as provided in Section 2.4 below, if Units are added to or withdrawn from the Condominiums pursuant to the provisions of this Declaration and the Act, the formulas set forth above shall be used to reallocate the Allocated Interests. Upon a taking by eminent domain of a Unit or a portion thereof, or upon partial condemnation or partial destruction of the Condominiums, the Allocated Interests shall be reallocated according to the formulas set forth above.

Section 2.2 Inseparability. Each Condominium Unit and all appurtenances, rights, and burdens connected therewith, shall be inseparable and may be transferred, conveyed, leased, devised, encumbered, or otherwise disposed of only as a Condominium Unit. Every conveyance, transfer, devise, lease, encumbrance, or other disposition of a Condominium Unit shall be deemed to be a conveyance, transfer, devise, lease, encumbrance, or other disposition, as the case may be, of the entire Condominium Unit, together with all appurtenant rights, interests, duties, and obligations created by law or by this Declaration.

Section 2.3 Non-Partitionability. The Common Elements shall be owned in common by all of the Owners and shall remain undivided. By the acceptance of a deed or other instrument of conveyance or assignment of the Condominium Unit, each Owner specifically waives his right to institute and/or maintain a partition action or any other action designed to cause a division of the Common Elements. Furthermore, each Owner agrees that this Section 2.3 may be pleaded as a bar to the maintenance of such an action. Any violation of this Section shall entitle the Association to collect, jointly and severally, from the parties violating the same, the actual attorney's fees, costs, expenses, and all damages that the Association incurs in connection therewith. Any purported conveyance, encumbrance, judicial sale, or other voluntary or involuntary transfer of an undivided interest in the Common Elements made without the Unit to which that interest is allocated is void.

Section 2.4 Right to Combine or Divide Units. If approved by the Association, two adjacent Condominium Units may be combined, and any such combined Condominium Unit, and only such combined Condominium Unit, may later be divided in accordance with the provisions of this Section 2.4. Except as provided above, there may be no other division or combination of Units or relocation of boundaries between adjoining Units. A combination or division of Units shall be done in accordance with the procedures set forth in the Common Interest Act. No more than 98 Units may be created in the Project. All costs incurred in connection with the combination or division shall be borne by the Owner or Owners of the affected Condominium Units, including all costs incurred by the Association in connection therewith. In connection with any such combination or division, the Owners of the Condominium Units being so combined or divided shall have the right, with the prior written approval of the Executive Board, to redesignate, as part of a Unit or as a Limited Common Element, any portion of the Common Elements or any walls, floors, or other separations between the affected Condominium Units that may be necessary or appropriate to accomplish such combination or division. The hallway located between two Condominium Units being combined which is a Limited Common Element appurtenant to such Condominium Units may be incorporated within such combined Condominium Units (provided, however, that the Allocated Interests associated with such Combined Units shall not be increased by the area of such hallway); provided, however, that the exercise of the rights granted herein shall be subject to the prior written consent of any First Mortgagee having an interest in any such combined or divided Condominium Units. Any previously-combined Condominium Units that are subsequently divided, shall be divided on the same boundaries that originally existed between such Units. If Condominium Units are combined, the undivided interest in the Common Elements appurtenant to the combined Condominium Unit shall be the sum of the undivided interests in the Condominium Units that were combined. Any previously-combined Condominium Units that are later divided shall be reinstated to the undivided interests in the Common Elements which they had prior to the combination. An amendment to the Declaration and Condominium Map implementing a combination or division under this Section shall be executed and filed in accordance with the Common Interest Act. Notwithstanding any other provision of this Section 2.4, Declarant shall have, as part of its Development Rights, the right to combine and divide Units as provided for in this Section, except that no consent will be required from the Association, the Executive Board, or any other person for Declarant to exercise such rights, and any amendment to this Declaration or the Map that is required to implement such combination or division may be executed solely by Declarant. This Development Right shall terminate on the first to occur of seven years after this Declaration is recorded or on the date of conveyance of the

last Condominium Unit by a Declarant to the first purchaser thereof (other than a Declarant). No such combination or division of a Condominium Unit may take place without the prior approval of the Town of Breckenridge, if required by applicable law.

Section 2.5 Parking Spaces. All parking spaces in the Project are General Common Elements for the use of the Owners on a first-come, first-served basis ("Parking Spaces"). Declarant, during the Declarant Control Period, and the Association thereafter, may, but shall not be obligated to, assign Parking Spaces to particular Units for the exclusive use of the Owners of such Units on the basis of one Parking Space per bedroom per Unit and one Parking Space for each studio Unit.

ARTICLE III CONDOMINIUM MAP

Section 3.1 Recording. The Condominium Map (including any supplements recorded pursuant to Development Rights) shall be recorded in the office of the Clerk and Recorder of the County of Summit, Colorado, prior to conveyance of the first Condominium Unit shown on such Condominium Map.

Section 3.2 Content. Each Condominium Map (including any supplements recorded pursuant to Development Rights) is incorporated herein by reference and shall depict and show all items required under the Common Interest Act, including but not limited to: the legal description of the Property and a survey thereof; the location of the Building in reference to the exterior boundaries of the Property; the floor and elevation plans; the location of the Units within a Building; the location of the Common Elements, both horizontally and vertically; and the Condominium Unit designations. Each Condominium Map shall contain the certificate of a registered professional engineer, licensed architect, or registered land surveyor certifying that the Condominium Map contains all of the items required under the Common Interest Act and an affirmation that the Condominium Map was prepared subsequent to substantial completion of the structural components of a Building containing or comprising the Units shown thereon. In interpreting the Condominium Map, the existing physical boundaries of each Unit as constructed, shall be conclusively presumed to be its boundaries.

Section 3.3 Amendments. Declarant hereby reserves unto itself the rights, from time to time, without obtaining the consent or approval of any Owner or First Mortgagee, to amend the Condominium Map in order to conform such Condominium Map to the actual location of any improvement(s) constructed, installed, or erected on the Real Estate and to establish and designate any General Common Elements as Limited Common Elements. The rights accorded to Declarant in this Section 3.3 shall expire on the earlier of conveyance by Declarant of all Condominium Units (after Declarant has added all Condominium Units to the Project that it has a right to add pursuant to its Development Rights) to Owners (other than a Declarant), or seven years after this Declaration is recorded; provided that Declarant may terminate its rights earlier in accordance with the Common Interest Act. The Condominium Map may also be amended, from time to time, in accordance with the provisions of this Declaration or the Common Interest Act relating to amendments to the Condominium Map or the Declaration.

ARTICLE IV
OWNER'S PROPERTY RIGHTS IN COMMON ELEMENTS

Section 4.1 Rights of Ingress and Egress. Declarant and every Owner, tenant and their respective family members, guests, invitees, and licensees shall have a perpetual right and easement of enjoyment in and to the General Common Elements and those Limited Common Elements appurtenant to such Owner's Condominium Unit, for the purpose of entering and exiting such Owner's Condominium Unit, the parking areas, any recreational facilities, and public ways, for both pedestrian and vehicular travel, which rights and easements shall be appurtenant to and pass with the transfer of title to the Owner's Condominium Unit; provided, however, that such rights and easements shall be subject to the following:

(a) the terms, provisions, covenants, conditions, restrictions, easements, reservations, uses, limitations, duties, and obligations contained in this Declaration and the Condominium Map;

(b) the right of the Association to suspend the voting rights and any and all rights of any Owner to the use of any recreational or other facilities for any period during which any Assessment against such Owner or against such Owner's Condominium Unit remains unpaid and, for any period of time (not to exceed 60 days for each infraction) that the Association may deem to be appropriate, for such Owner's infraction, or the infraction by such Owner's tenant, any member of such Owner's or tenant's family, or such Owner's or tenant's guests, licensees, or invitees, of this Declaration, the Articles, Bylaws, or any written rule or regulation of the Association;

(c) the right of the Association to adopt, from time to time, rules and regulations concerning the Condominium Units, Common Elements, and/or any property owned by the Association, and any facilities located thereon, as the Association may determine is necessary or prudent; and

(d) the right of the Association to grant permits, licenses, and easements over the Common Elements for utilities and other purposes reasonably necessary or useful for the proper maintenance or operation of the Project.

Section 4.2 Limited Common Elements. Subject to the terms and provisions of this Declaration, every Owner shall have the exclusive right to use and enjoy the Limited Common Elements appurtenant to his or her Condominium Unit. When a Limited Common Element is appurtenant to more than one Condominium Unit, the Owners of the Condominium Units to which it is appurtenant shall share the exclusive right to use and enjoy such Limited Common Element. Owners may not use the decks or balconies appurtenant to their Condominium Units as storage spaces.

Section 4.3 General Common Elements. No vehicles may be parked on the Project except in the Parking Spaces. Unless the Association specifically authorizes storage by an Owner, there shall be no storage or parking of snowmobiles, trailers, recreational vehicles, motorcycles, bicycles, motorbikes, or vehicles deemed by the Executive Board to be too large for the Parking Space upon any part of the parking area or other Common Elements. No vehicles

shall be parked and nothing shall be placed or stored on the paved area providing access to the parking area. The storage of gasoline and other flammable materials or noxious or hazardous wastes or materials of any kind within the Condominium Unit or in a Parking Space is strictly prohibited.

ARTICLE V
MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

Section 5.1 Membership. Every Owner of a Condominium Unit shall be a Member of the Association and shall remain a Member for the period of his ownership of a Condominium Unit. Each Unit shall be entitled to one vote to be exercised by the Owner or Owners thereof.

Section 5.2 Executive Board.

(a) The affairs of the Association shall be managed by the Executive Board which shall consist of the number of members that is set forth in the Articles or Bylaws from time to time. From the date of formation of the Association until the termination of the Declarant Control Period as provided below, Declarant shall have the right to appoint and remove all members of the Executive Board and all officers of the Association.

(b) The "Declarant Control Period" shall be the period commencing on the date that this Declaration is recorded in the real property records of Summit County, Colorado and terminating not later than the earlier of (i) 60 days after conveyance to Owners other than a Declarant of 75% of the Condominium Units that may be created in the Project (as the same may be expanded as provided herein); (ii) two years after the last conveyance of a Condominium Unit by a Declarant in the ordinary course of business; (iii) two years after Declarant's right to add Condominium Units to the Project was last exercised; or (iv) five years after the first conveyance of a Condominium Unit to an Owner other than a Declarant. Declarant may voluntarily surrender the right to appoint and remove officers and members of the Executive Board before termination of the Declarant Control Period, but in that event, Declarant may require, for the duration of the Declarant Control Period, that specified actions of the Association or Executive Board, as described in a recorded instrument executed by Declarant, be approved by Declarant before they become effective. Not later than 60 days after conveyance of 25% of the Condominium Units that may be created in the Project to Owners other than a Declarant, at least one member and not less than 25% of the members of the Executive Board will be elected by Owners of Condominium Units other than a Declarant. Not later than 60 days after the conveyance of 50% of the Condominium Units that may be created in the Project to Owners other than a Declarant, not less than 33.3% of the members of the Executive Board will be elected by Owners of Condominium Units other than a Declarant. Not later than the termination of the Declarant Control Period as provided above, the Owners of Condominium Units (including Declarant) shall elect the Executive Board of at least three members, at least a majority of whom must be Owners other than a Declarant or designated representatives of Owners other than a Declarant, and the Executive Board shall elect the officers, with such Board members and officers to take office upon election.

(c) Within 60 days after the Owners of Condominium Units other than Declarant elect a majority of the Executive Board, Declarant shall deliver to the Association all

property of the Owners and the Association held or controlled by Declarant, including without limitation those items specified in Section 303(9) of the Common Interest Act.

ARTICLE VI THE ASSOCIATION

Section 6.1 Management and Maintenance Duties. Subject to the rights and obligations of Owners as set forth in this Declaration, the Association shall:

(a) be responsible for the management, control, maintenance, repair, replacement, and improvement of the Common Elements, including, but not limited to, Parking Spaces, decks, terraces, fixtures, and other Limited Common Elements assigned or appurtenant to or providing exclusive service to individual Units, and any property owned by the Association;

(b) perform structural and exterior maintenance, repair, replacement, and modification to the Buildings and other site improvements and landscaping on the Property; and

(c) maintain all grass, trees, shrubbery, flowers, and other landscaping, if any, constituting a part of the Common Elements.

Section 6.2 Common Expenses. The expenses, costs, and fees of such management, operation, maintenance, repair, replacement, and improvement by the Association, as provided in this Section 6.2, shall be Common Expenses for which the Owners shall reimburse the Association by payment of the "Monthly Assessment" (hereafter defined) levied by the Association. The Association may levy as an "Individual Purpose Assessment" (hereafter defined) against the Owner of the Unit involved the costs and expenses associated with maintaining, repairing, and replacing all decks, fixtures, equipment, utilities, and other Limited Common Elements that are appurtenant to such Owner's Unit or that provide exclusive service to such Owner's Unit and any service lines from such equipment to the Unit, including without limitation all utility, heating, plumbing, air conditioning, and domestic hot water equipment and appurtenances. Except for the Owners' right to reject a budget as described in Section 7.3, the prior approval of the Owners shall not be required in order for the Association to pay any such expenses, costs, and fees.

Section 6.3 Easement of Access for Maintenance and Repair. Each Owner hereby grants to the Association and the other Owners, and to their agents, contractors, or employees, an easement of access through such Owner's Unit to the extent reasonably necessary for maintenance, repair, and replacement of the Common Elements. If Common Elements or any Unit is damaged or destroyed in connection with such access or such maintenance, repair, or replacement, the party causing or responsible for the damage or destruction is liable for the cost of prompt repair of such damage or destruction.

Section 6.4 Owner's Negligence or Failure to Maintain. Notwithstanding anything to the contrary contained in this Declaration, in the event that the need for maintenance, repair, or replacement of the Common Elements, or any portion thereof, is caused through or by the negligent or willful act or omission of an Owner, an Owner's tenant or by any member of an Owner's or tenant's family or by an Owner's or tenant's guests, contractors, agents, invitees, or

licensees or concessionaires, or as a result of any improvement constructed by or on behalf of an Owner in or upon the Common Elements, then the expenses, costs, and fees incurred by the Association for such maintenance, repair or replacement shall be the personal obligation of such Owner; and, if not repaid to the Association within ten days after the Association gives written notice to the Owner of the total amount of such expenses, costs, and fees, or any portions thereof, from time to time, then the failure to so repay shall automatically become a "Default Assessment" (hereafter defined) determined and levied against such Condominium Unit.

(b) Each Owner shall be responsible for maintenance, repair, and replacement of his own Unit as set forth in Section 12.2 below. If an Owner fails to perform any cleaning, maintenance, repair, or replacement that is his or her responsibility under this Declaration, and such failure has not been cured within 30 days after written notice has been given to such Owner by the Association, the Association may perform the cleaning, maintenance, repair, or replacement, and all charges incurred by the Association in connection therewith, together with an administrative fee in the amount of 25% of such cost shall be the personal obligation of the Owner and may be levied as a Default Assessment against such Owner and his or her Unit. The Association and its officers, contractors, and representatives shall have an easement for access to each Unit and the Common Elements for the purpose of exercising its rights under this Subsection 6.4(b).

Section 6.5 Management Agreements and Other Contracts. The Association may have professional management of its business affairs. Any agreement for professional management of the Association's business or any other contract providing for services of a Declarant shall have a maximum term of three years, and any such agreement shall provide for termination by either party thereto, with or without cause and without payment of a termination fee, upon not more than 90 days' prior written notice.

Section 6.6 Acquiring and Disposing of Real and Personal Property. The Association may acquire, lease, own, and hold for the use and benefit of all Owners, tangible and intangible personal property (including a van for use by the Members traveling between the Project and the Breckenridge Ski Resort ski lifts) and real property (including the purchase or lease of a Unit which may be used as a Manager's office and/or residence) for such uses and purposes as the Executive Board may in its discretion deem appropriate from time to time, and may dispose of the same by sale or otherwise. The beneficial interest in any such property shall be deemed to be owned by the Owners in accordance with the Allocated Interests appurtenant to their respective Units. Such beneficial interest of an Owner shall not be transferable except with the transfer of that Owner's Condominium Unit. Transfer of a Condominium Unit, including transfer pursuant to foreclosure, shall transfer to the transferee ownership of the transferor's beneficial interest in such personal and/or real property without any reference thereto. Each Owner may use such personal and/or real property in accordance with the purposes for which such property is intended and in accordance with such conditions, limitations, restrictions, and rules and regulations as may be placed on any such property by the Executive Board in its sole discretion from time to time, provided that such use of any Owner shall not hinder or encroach upon the lawful rights of other Owners.

Section 6.7 Promulgation of Rules and Regulations. The Executive Board may promulgate and enforce, including, without limitation, enforcement by levying and collecting

charges and fines for the violation thereof after affording an Owner a reasonable opportunity to be heard, reasonable rules and regulations governing the use of the Condominium Units, Common Elements, and any personal property owned by the Association or the Owners in common, which rules and regulations shall be consistent with the rights and duties established in this Declaration.

Section 6.8 Judicial Proceedings. The Association shall have no authority to initiate, maintain, or prosecute any legal or equitable proceeding except to enforce the provisions of this Declaration and to collect Assessments due and payable under Article VII hereof, unless the Owners approve such proceeding by a vote of at least 51% of all of the eligible votes in the Association cast in person, not by proxy, at a special meeting of the Association called for that purpose.

Section 6.9 New Additions to Common Elements. The Association shall have the right to construct new additions to the Common Elements. Ownership of any such additions to the Common Elements shall be apportioned among all Condominium Units in proportion to the Allocated Interest appurtenant thereto and shall be governed by this Declaration. The Common Expenses for any such additions to the Common Elements shall be apportioned among all Condominium Units as provided in Article VII hereof.

Section 6.10 Conveyance or Encumbrance of Common Elements. The Association may convey or grant a security interest in portions of the Common Elements only in accordance with the provisions of Section 312 of the Common Interest Act and Subsection 16.1(a)(3) of this Declaration.

Section 6.11 Contracts, Licenses, and Agreements. The Association, through its Executive Board, shall have the right to enter into, make, perform, or enforce contracts, leases, licenses, agreements, easements, and/or rights-of-way, for the use by Owners, other persons, their family members, guests, and invitees, of real property for pedestrian and vehicular access, ingress, and egress to and from the Project, or any portion thereof, for vehicular parking, for on-site residential management, or for recreational use, all of which shall be terminable by either party with or without cause upon 90 days' prior written notice. The Association may also enter into contracts, licenses, leases, or other agreements for the provision of cable or satellite television service to the Project, or any portion thereof, so long as the foregoing do not exceed five years in duration from the commencement of such satellite or cable television service. Any of such contracts, leases, licenses, agreements, rights-of-way, or easements shall be upon such terms and conditions as agreed to by the Executive Board that may include provisions by which the Association covenants and agrees that it shall pay part or all of the costs and expenses of maintaining such real property, and the improvements thereto and thereon, providing such cable or satellite television service, or other amounts that the Executive Board determines are necessary to secure such contracts, licenses, and agreements, and any such costs and expenses shall be treated by the Association as Common Expenses pursuant to Article VII hereof.

Section 6.12 Use of Certain Common Elements by Highland Greens Homeowners Association.

(a) The members (the "Homeowners") of the Highland Greens Homeowners Association (the "Homeowners Association") shall have the right to use the van owned and operated by the Association for transportation to and from Breckenridge Ski Resort (the "Van") on an equal basis with the Members. The Association shall charge a fee to the Homeowners Association for a proportionate share of the actual costs of operating the Van as described in Paragraph (b) below, and the Homeowners Association shall be obligated to pay its proportionate share regardless of whether any of its members actually uses the Van.

(b) The Association shall permit the Homeowners to use the Project's exercise facility, conference room, sauna, and the restrooms and shower facilities that are Common Elements, provided that the Homeowners Association enters into an agreement with the Association whereby the Homeowners pay for their proportionate share of the actual operating expenses of these facilities.

(c) As used in this Section 6.12, the phrase "proportionate share" shall mean the proportion computed based on the ratio of the number of units (the "Townhomes") subject to the "Declaration for Highland Greens, a Planned Community," as it may be amended or supplemented from time to time, to the total number of Townhomes and Condominium Units.

ARTICLE VII
ASSESSMENTS

Section 7.1 Personal Obligation for Assessments. All Owners covenant and agree, and shall be personally obligated, to pay to the Association all of the following assessments ("Assessments") which are defined and described in this Article: (a) Monthly Assessments imposed by the Association to meet the Common Expenses and reserve requirements of the Association; (b) "Special Assessments," pursuant to Section 7.7 of this Declaration; (c) Individual Purpose Assessments, pursuant to Section 7.8 of this Declaration; (d) other charges, costs, interest, fees, and assessments, including without limitation assessments ("Default Assessments") relating to defaults, acts, errors or omissions of an Owner, or his family, tenants, guests or invitees, as provided in this Declaration. All Owners of each Condominium Unit shall be jointly and severally liable to the Association for the payment of all Assessments, charges, costs, interest and fees attributable to their Unit. The payment of any and all Assessments is an independent covenant, with all Assessments payable in full, when due, without notice (except as otherwise expressly provided in this Declaration) or demand, and without setoff or deduction. The personal obligation for delinquent assessments will not pass to an Owner's successor in title or interest unless assumed by them. No Owner may waive or otherwise escape personal liability for the payment of the Assessments, charges and fees provided for herein by non-use of the Common Elements or the facilities contained therein or by abandonment or leasing of his Unit. In addition to the foregoing Assessments, charges and fees, each Owner shall have the obligation to pay real property ad valorem taxes and special assessments imposed by Colorado governmental subdivisions against his Condominium Unit, as well as all charges for separately metered utilities servicing his Condominium Unit. The charges for utilities which are not separately metered to an individual Condominium Unit by the applicable utility company may be

collected by the Association as part of the Monthly Assessments; however, the charges for such utilities shall be allocated among the Condominium Units based on actual usage, if such is measured.

Section 7.2 Allocation of Common Expenses. Except as otherwise expressly provided in this Declaration, all Assessments for Common Expenses (including Special Assessments but excluding Individual Purpose Assessments and Default Assessments as hereinafter provided) shall be allocated among the Condominium Units in accordance with the Allocated Interests set forth for each Condominium Unit in Section 2.1 by multiplying the total annual amount of Common Expenses by the Allocated Interest for each Condominium Unit.

Section 7.3 Monthly Assessments; Budgets.

(a) Until the Association makes an Assessment, Declarant shall pay all Common Expenses. The initial Assessments shall commence not later than 180 days after the first sale of a Condominium Unit to a purchaser other than Declarant. After any Assessment has been made by the Association, a monthly assessment ("Monthly Assessment") shall be payable monthly with the amount of the Monthly Assessment to be determined by the Executive Board from time to time (but no less frequently than annually) based on a budget adopted from time to time by the Association (but no less frequently than annually). The Executive Board shall prepare each proposed budget assuming the Association's books and records are maintained on an accrual basis, to provide for the payment of all estimated expenses, costs and fees for the duties described in Section 6.1 of this Declaration and for other costs, fees and expenses, related to or connected with the administration, maintenance, ownership, repair, operation, addition, alteration and improvement of the Project, the Common Elements, real or personal property owned by the Association and any other obligations which may be undertaken by the Association. The amount of said advance budget may include, but shall not be limited to: expenses of management; premiums for insurance; landscaping and care of the common grounds; common lighting and heating; maintenance, repair, replacement and renovation of the Common Elements; wages; charges for utilities; taxes, legal, and accounting fees; management fees; costs, expenses and liabilities incurred by the Executive Board on behalf of the Owners or otherwise arising under or by reason of this Declaration, the Articles, or the Bylaws; the creation of reasonable reserves, working capital and/or sinking funds; reimbursement for or payment of any operating deficit, loss, or unbudgeted expense incurred by the Association; and any and all other costs and expenses relating to the Common Elements, real or personal property owned by the Association, and/or any other obligations undertaken by the Association.

(b) Within 30 days after adoption of any proposed budget, the Executive Board shall mail, by ordinary first class mail, or otherwise deliver a summary of the budget to all Owners and shall set a date for a meeting of Owners to consider ratification of the budget not less than 14 nor more than 60 days after mailing or other delivery of the summary. Unless at that meeting a majority of all Owners reject the budget, the budget is ratified, whether or not a quorum is present. If the proposed budget is rejected, the periodic budget last ratified by the Owners must be continued until such time as the Owners ratify a subsequent budget proposed by the Executive Board.

Section 7.4 Reserves. The Association shall establish an adequate reserve fund for the maintenance, repair, and replacement of those Common Elements that must be periodically maintained, repaired, or replaced and for payment of insurance deductibles. Such reserves shall be included in the budget and funded through the Monthly Assessments.

Section 7.5 Date of Payment of Monthly Assessments. The Monthly Assessments shall be due and payable on the first day of each month, in advance, or on such other dates, and with such frequency (but no less frequently than annually), as may be set by the Executive Board from time to time. Any person purchasing a Unit between Monthly Assessment due dates shall pay a pro rata share of the last Assessment due.

Section 7.6 Rate of Assessment. Both Monthly Assessments and Special Assessments shall be fixed at such rates as will be sufficient to meet the advance budget of the Association, as provided in Sections 7.3 and 7.7 hereof.

Section 7.7 Special Assessments. In addition to the Monthly Assessments authorized above, the Executive Board may at any time, from time to time, determine, levy and assess a special assessment ("Special Assessment") for the purpose of defraying, in whole or in part, payments for any operating deficit, loss or unbudgeted expense, and/or unbudgeted costs, fees and expenses of any construction, reconstruction, repair, demolition, replacement, management, administration, or maintenance of the Common Elements including without limitation any fixtures and personal property related thereto. Special Assessments shall be based on a budget adopted in accordance with Section 7.3; provided that if necessary, the Association may adopt a new budget pursuant to Section 7.3 prior to levying a Special Assessment. Such Special Assessment(s) shall be due and payable as determined by the Executive Board, with at least 30 days' prior written notice provided to the Owners.

Section 7.8 Individual Purpose Assessments.

(a) In addition to the Monthly and Special Assessments as provided herein, the Executive Board may at any time, or from time to time, levy and collect Assessments against any one or more, but fewer than all, of the Condominium Units, for any matters applicable only to such Condominium Units. Such "Individual Purpose Assessments" (which include Default Assessments) may be levied against Condominium Units to pay or reimburse the Association for any costs, expenses, fees, reserves, and other charges, incurred or reasonably anticipated to be incurred by the Association, for management, control, administration, maintenance, repair, replacement, and improvement, or any other purpose, of or with respect to any matter pertaining to the Condominium Unit(s) against which such Individual Purpose Assessment is levied.

(b) The amounts determined, levied, and assessed pursuant to this Section 7.8 shall be due and payable as determined by the Executive Board provided that written notice setting forth the amount of such Individual Purpose Assessment for each Condominium Unit and the due date(s) for payment thereof shall be given to the Owners of the affected Condominium Units not less than 30 days prior to the due date.

Section 7.9 Lien for Assessments.

(a) Under the Common Interest Act and subject to its limitations, the Association has a statutory lien on a Condominium Unit for any Assessments levied against that Condominium Unit and for fines imposed against its Owner from the time each Assessment or fine becomes due, but not on the Project as a whole. In addition, fees, charges, late charges, attorneys' fees, fines, and interest charged pursuant to this Declaration or the Common Interest Act 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, including the due date set by any valid Association acceleration of installment obligations.

(b) The statutory lien for Assessments is prior to all other liens and encumbrances on a Condominium Unit except: (i) liens and encumbrances recorded before the recordation of this Declaration; (ii) a lien of a First Mortgage which was recorded before the date on which the Assessment sought to be enforced became delinquent; and (iii) liens for real estate taxes and other governmental assessments or charges against the Condominium Unit.

(c) Notwithstanding the foregoing, the statutory lien for Assessments is also prior to the lien of a First Mortgage to the extent of an amount equal to the Assessments based on a periodic budget adopted by the Association pursuant to Section 7.3 which would have become due, in the absence of any acceleration, during the six months immediately preceding institution by either the Association or any party holding a lien senior to any part of the Association lien of an action or a non-judicial foreclosure either to enforce or extinguish the statutory lien.

(d) The recording of this Declaration constitutes record notice and perfection of the statutory lien. No further recordation of any claim of lien or Assessment is required; however, a claim may be recorded at the Association's option, in which event costs and attorneys' fees incurred in connection with the preparation and filing of such claim shall be assessed against the Owner and his or her Condominium Unit as a Default Assessment.

Section 7.10 Effect of Non-Payment of Assessments. Any Assessments, charges, costs, or fees provided for in this Declaration, including without limitation, any Default Assessment arising under any provision of this Declaration, that are not fully paid within ten days after the due date thereof, will bear interest from the due date at the rate of 21% per annum, or at such other rate as may be set by the Association from time to time (subject to any limits imposed by law). Further, the Association may bring an action at law or in equity, or both, against any Owner personally obligated to pay such overdue Assessments, charges, costs or fees and may also proceed to foreclose its lien against such Owner's Unit in the manner of a mortgage upon such property. An action at law or in equity by the Association against an Owner to recover a money judgment for unpaid Assessments, charges, costs or fees, may be commenced and pursued by the Association without foreclosing or in any way waiving the Association's lien therefor. If any such Assessment, charge, cost, or fee is not fully paid when due, and the Association commences such an action (or shall counterclaim or cross claim for such relief in any action) against an Owner personally obligated to pay the same or proceeds to foreclose its lien against the particular Unit, then all unpaid Assessments, charges and fees, any and all late charges and accrued interest under this Section 7.10, the Association's costs, expenses, and

reasonable attorney's fees incurred in collection efforts or any such action and/or foreclosure proceedings, and any other costs that may be authorized by a court of competent jurisdiction shall be taxed by the court as a part of the costs of any such action or foreclosure proceeding and shall be recoverable by the Association from any Owner personally obligated to pay the same and from the proceeds of the foreclosure sale of such Owner's Unit. Foreclosure or attempted foreclosure by the Association of its lien shall not be deemed to estop or otherwise preclude the Association from thereafter again foreclosing or attempting to foreclose its lien for any subsequent Assessments, charges, costs, or fees that are not fully paid when due. The Association shall have the power and right to bid on or purchase any Unit at foreclosure or other legal sale, and to acquire and hold, lease, mortgage, vote the Association votes appurtenant to ownership thereof, convey, or otherwise deal with the same. In any action brought by the Association (or counterclaim or cross-claim brought by the Association) to collect Assessments or to foreclose a lien for unpaid Assessments, the Association shall be entitled to have a receiver of the Owner and the Owner's Unit to collect all sums alleged to be due from the Owner prior to or during the pendency of the action. The receiver shall have the right to collect any rents paid in connection with the use of such Owner's Unit. The court may order the receiver to pay any sums held by the receiver to the Association during the pendency of the action to the extent of the Assessments.

Section 7.11 Successor's Liability for Assessments. Notwithstanding any terms and provisions of this Declaration to the contrary, the sale or transfer of any Condominium Unit shall not affect the lien for Assessments, charges, costs, or fees levied hereunder, except that sale or transfer of a Condominium Unit pursuant to foreclosure of a First Mortgage or any proceeding in lieu thereof, shall extinguish the lien of Association Assessments, but not the personal obligation of the Owner for the payment of Assessments that became due after the recording of the First Mortgage and prior to any such sale or transfer or foreclosure, except to the extent the lien of the Association has priority over the First Mortgage under Section 7.9. Notwithstanding the foregoing, any such Assessments, charges, costs, or fees that are extinguished as provided herein may be reallocated and assessed to all Units. A First Mortgagee may be personally liable for any unpaid Assessments, charges, costs, or fees, or portion thereof, accruing against a Unit prior to the time a First Mortgagee takes title to such Unit, but only to the extent that the lien of the Association has priority over the First Mortgage under Section 7.9 above. No sale, transfer, foreclosure or any proceeding in lieu thereof, shall relieve any Owner from liability for any Assessments, charges, costs or fees, or any portion thereof, accrued during the period of such Owner's ownership of the Unit. No Owner shall have personal liability for Assessments assessed with respect to a Condominium Unit that become due prior to the time he acquired title to such Condominium Unit.

Section 7.12 Homestead Waiver. The Association's lien on a Condominium Unit for Assessments, charges, costs, and fees shall be superior to any homestead exemption as is now or may hereafter be provided by state or federal law. The acceptance of a deed to a Condominium Unit shall constitute a waiver of the homestead exemption against all such Assessments, charges, costs, and fees.

Section 7.13 Working Capital Fund. The Association or Declarant shall require the first Owner of each Unit (other than a Declarant) to make at the time of purchase a non-refundable contribution to the Association in an amount equal to three times the Monthly

Assessment against that Unit in effect or proposed at the closing thereof. Upon the termination of the Declarant Control Period, the Declarant will transfer control of such funds to the Association (if not transferred earlier), and a Declarant then owning Condominium Units in addition will pay the Association an amount equal to two times the Monthly Assessment against all Units then owned by it (unless such payment has previously been made with respect to any such Units). Amounts paid into the working capital fund shall not be considered as advance payments of regular Assessments. Funds in the working capital account shall be segregated with other such reserve funds for the use and benefit of the Association, including without limitation to meet unforeseen expenditures or to purchase additional equipment, property, or services. Such contribution to working capital funds shall not relieve an Owner from making regular payments of Assessments as the same become due. Upon the transfer of his Unit, an Owner (including a Declarant if he previously paid working capital funds for the sold Unit) shall be entitled to a credit from his transferee (but not from the Association) for the amount paid to the working capital fund. A Declarant shall not use any of the working capital funds to defray its expenses, reserve contributions, or construction costs or to make up any budget deficits.

Section 7.14 First Mortgagees May Pay Assessments and Cure Defaults. If any Assessment on a Condominium Unit has not been paid by the Owner thereof within 30 days after the same is due, or if a default by any Owner of any provision of this Declaration, the Articles, or the Bylaws has not been cured within 30 days after written notice thereof is given to such Owner, then any First Mortgagee may (but shall not be required to) pay such Assessment, together with any other amounts secured by the Association's lien created by this Article VII, and may (but shall not be required to) cure any such default.

Section 7.15 Statement Regarding Assessments. The Association shall furnish to an Owner or such Owner's designee or to a holder of a Security Interest or its designee upon written request, delivered personally or by certified mail, first class postage prepaid, return receipt requested, to the Association's registered agent, a statement setting forth the amount of any unpaid Assessments currently levied against such Owner's Condominium Unit. The statement shall be furnished within 14 business days after receipt of the request and is binding on the Association, the Executive Board and every Owner. If no statement is furnished to the Owner or holder of a Security Interest or their designee, 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 Condominium Unit for unpaid Assessments that were due as of the date of the request. The Executive Board may establish a reasonable fee to be paid in connection with the furnishing of a statement regarding assessments, which fee shall be paid at the time such statement is provided to the party requesting the statement.

Section 7.16 Liens. It is possible that liens other than mechanics' liens and Assessment liens may be obtained against the Common Elements, including without limitation, judgment liens and purchase money mortgage liens.

ARTICLE VIII INSURANCE

Section 8.1 Insurance on Common Elements. Commencing not later than the time of the first conveyance of a Condominium Unit to a person other than a Declarant, the Association

shall maintain the following types of insurance for the benefit of the Owners to the extent that such insurance is reasonably available, considering the availability, cost and risk coverage provided by such insurance, and the cost of said coverage shall be paid by the Association as a Common Expense. Notwithstanding any of the specific insurance requirements contained in this Article VIII, the Association may also consider, in determining the types and amounts of insurance it needs to obtain, the then-existing requirements of the Agencies with respect to their insurance, guaranty, or purchase of First Mortgages. Additional provisions governing the use of insurance proceeds are set forth in Article XIII of this Declaration.

(a) A policy of property and/or property insurance covering all insurable improvements located within the Project (including the Common Elements, and the Units and any fixtures, equipment, or other property within all of the Units that are encumbered by a First Mortgage on any Unit that is held, guaranteed, or insured by any of the Agencies, but excluding finished interior surfaces of the walls, floors, and ceilings in the Units, any other equipment, furniture, wall trimmings, improvements, and personal property furnished or installed by an Owner) except for land, foundation, excavation, and other matters normally excluded from coverage, in an amount not less than the full insurable replacement cost of the insured property less applicable deductibles at the time the insurance is purchased and at each renewal date. Further, said policy shall contain a "Replacement Cost Endorsement" providing that any claim will be settled on a full replacement cost basis without deduction for depreciation, and include an "Inflation Guard Endorsement," an "Agreed Amount Endorsement" (if obtainable), a "Construction Code Endorsement" (if obtainable) and, if the Building has central heating or air conditioning, a "Steam Boiler and Machinery Coverage Endorsement" with minimum coverage per accident for the Building to equal the lesser of \$2 million or the insurable value of the Project. Such endorsements may be covered by what is referred to as a "Special Condominium Endorsement." The Association will also purchase endorsements, and/or coverage on personal property owned by the Association, including fixtures and building service equipment, furnishings, common personal property, and supplies. Such insurance shall afford protection against at least the following:

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

(2) such other risks as shall customarily be covered with respect to projects similar in construction, location, and use, including all perils normally covered by the standard "special cause of loss" endorsement, where such is available.

(b) A comprehensive policy of public liability insurance covering the Project insuring the Association in an amount not less than \$1,000,000.00 covering bodily injury, including death to persons, personal injury, and property damage liability arising out of a single occurrence. Such coverage 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 Project, legal liability arising out of lawsuits related to employment contracts of the Association and protection against liability for non-owned and hired automobiles; such coverage may also include, if applicable, comprehensive automobile liability insurance, liability for property of others, host liquor liability, water damage liability, contractual liability, workmen's compensation insurance for employees of the Association, and

such other risks as may customarily be required by private institutional mortgage investors with respect to condominium projects similar in construction, location, and use. Such liability insurance shall insure the Executive Board, the Association, any management agent and their respective employees, agents, and all persons acting as agents. Declarant shall be included as an additional insured in its capacity as an Owner and, if applicable, member of the Executive Board. The Owners shall be included as additional insureds but only for claims and liabilities arising in connection with the ownership, existence, use, or management of the Common Elements. Such liability insurance shall cover claims of one or more insured parties against the other insured parties.

(c) A policy providing employee dishonesty coverage to protect against dishonest acts on the part of officers, directors, trustees, and employees of the Association and all others who handle or are responsible for handling funds of the Association, in an amount at least equal to the greater of (i) the estimated maximum of funds, including reserves, in the custody of the Association at any given time and (ii) three months' aggregate assessments on all Units plus reserves. Such coverage shall meet the following requirements:

- (1) all such coverage shall name the Association as an obligee;
- (2) such coverage shall contain waivers of any defense based upon the exclusion of persons who serve without compensation from any definition of "employee" or similar expression;
- (3) such fidelity coverage or bonds must include a provision that calls for 30 days' prior written notice to the Association (or insurance trustee, if applicable) before the fidelity coverage or bonds can be canceled or substantially modified for any reason. Such notice must also be provided to each servicer of an Agency-owned or Agency-securitized First Mortgage;
- (4) to allow a reduction in the cost of required fidelity coverage or bonds, the Association may implement any financial controls permitted by an Agency then insuring, guaranteeing, or purchasing First Mortgages, either by resolution of the Executive Board, amendment to the Bylaws, or as otherwise may be approved by the applicable Agency.

If the Association has delegated some or all of its responsibility for the handling of funds to a managing agent, the Association shall require the managing agent to purchase at its own expense, a policy of employee dishonesty coverage which fully complies with the provisions of this Paragraph (c), unless the Association names such managing agent as an insured employee under a policy of fidelity insurance or fidelity bonds in accordance with this Paragraph (c).

(d) A policy providing personal liability insurance to protect directors and officers of the Association from personal liability in relation to their duties and responsibilities in acting as directors and officers on behalf of the Association.

(c) Worker's compensation, employer's liability, and all other similar insurance with respect to employees of the Association in the amounts and in the forms now or hereafter required by law.

(f) If the Project improvements are located in an area identified by the Federal Emergency Management Agency as having special flood hazards, or designated as a Special Flood Hazard Area on a relevant Flood Insurance Rate Map, and flood insurance coverage is then available under the National Flood Insurance Administration Program ("NFIAP"), a "master" or "blanket" policy of flood insurance on the Building and any other property and contents of the Building covered by the required form of policy (herein "insurable property") in an amount deemed appropriate, but not less than the lesser of:

(1) the maximum coverage available under the NFIAP for the Building and other insurable property within any portion of the Project located within a designated flood hazard area; or

(2) 100% of the insurable value of the Building, including machinery and equipment that are part of the Building and other insurable property and contents of the Project located within a designated flood hazard area.

Any policy of flood insurance carried by the Association pursuant to this Subsection 8.1(f) shall be in a form which meets the criteria and maximum coverage set forth in the most current guidelines on the subject issued by the Federal Flood Insurance Administration. The maximum deductible amount for policies covering the Common Elements and the Building shall be the lesser of \$5,000 or one percent of the policy's face amount.

(g) In addition, the Association may obtain insurance against such other risks of a similar or dissimilar nature as it shall deem appropriate, to the extent that such coverage is reasonably available.

Section 8.2 General Provisions of Insurance Policies. All policies of insurance carried by the Association shall be carried in blanket policy form naming the Association as insured, or its designee as trustee and attorney-in-fact for all Owners and First Mortgagees, and each Owner shall be an insured person under such policies with respect to liability arising out of such Owner's interest in the Common Elements or membership in the Association. The policy or policies shall recognize any applicable Insurance Trust Agreement and shall contain a standard non-contributory First Mortgagee's clause in favor of each First Mortgagee and a provision that it cannot be canceled or materially altered by either the insured or the insurance company until 30 days' prior written notice thereof is given to the insured, to each First Mortgagee, and to each Agency which guarantees or insures a First Mortgage on any Unit. The Association shall furnish a certified copy or duplicate original of such policy or renewal thereof, with proof of premium payment and a certificate identifying the interest of the Owner in question, to any party in interest, including First Mortgagees under the Declaration, upon request. All policies shall contain waivers of any defense based on invalidity arising from any acts or neglect of the Association, an Owner or an Owner's tenant. The policies shall also contain a waiver by the insurer of any right to claim by way of subrogation against the Owners, each person or entity who is a Declarant, the Association, and their respective officers, directors and members and any of such parties' respective families, agents, employees, or tenants. The liability insurance policy provided for under Section 8.1(b) shall insure the Executive Board, the Association, any management agent, and their respective employees, agents, and all persons acting as agents. Each person or entity who is a Declarant shall be included as an additional insured in its capacity

as an Owner and, if applicable, a member of the Executive Board. The Owners shall be included as additional insureds but only for claims and liabilities arising in connection with the ownership, existence, use or management of the Common Elements. Such liability insurance shall cover claims of one or more insured parties against the other insured parties.

Section 8.3 Deductibles. No policy of insurance of which the Association or its designee is the beneficiary shall include a deductible clause in an amount that is greater than the lesser of \$10,000.00 of the face amount of the policy. Any loss falling within the deductible portion of such policy shall be a Common Expense shared by all of the Owners. Notwithstanding the foregoing, after affording an Owner a reasonable opportunity to be heard, the Association may determine that a loss, either in the form of a deductible to be paid by the Association or an uninsured loss, resulted from the act or negligence of an Owner or Owners, and assess such loss as a Default Assessment against such negligent Owner or Owners and their Condominium Unit, in such proportion as the Association in its reasonable discretion may determine, and subject to all provisions of this Declaration applicable to such Assessments.

Section 8.4 Insurance Trustee. The Executive Board shall have authority to authorize an insurance trustee to assist and consult with it and/or to act as its agent and attorney-in-fact for one or more of the following purposes: to purchase and maintain the insurance required under this Declaration; to negotiate and compromise settlement of losses under any insurance; and to collect the proceeds from any insurance, hold such proceeds in trust for the Owners and their First Mortgagees as their interest may appear, and dispose of such proceeds as provided in Article XIII of this Declaration and the Common Interest Act. The Association and any insurance trustee designated by the Executive Board shall have exclusive authority as agent and attorney-in-fact for the Owners to purchase and maintain all insurance required under this Article VIII, to negotiate, settle, and compromise any claims under such insurance, to receive all proceeds from such insurance and apply them as provided under this Declaration, to execute releases of liability in connection with the negotiation and settlement of claims, and to execute all documents and perform all acts that may be necessary or desirable to carry out the Association's and insurance trustee's rights and duties under this Declaration.

Section 8.5 Association Insurance as Primary Coverage. If at the time of any loss under any policy which is in the name of the Association, there is other insurance in the name of any Owner and such Owner's policy covers the same property or loss, or any portion thereof, which is covered by such Association policy, such Association policy shall be primary insurance not contributing with any of such other insurance. An Owner shall be liable to the Association for the amount of any diminution of insurance proceeds to the Association as a result of policies of insurance of such Owner and for reimbursement to the Association for the deductible under the Association's insurance policy; provided that if such amount(s) are not repaid to the Association within ten days after the Association shall have given notice to the Owner of the total of such amount(s), from time to time, then the failure to so repay shall automatically become a Default Assessment determined and levied against such Unit and Owner.

Section 8.6 Acceptable Insurance Companies. Any property insurance policy purchased by the Association must be written by a property insurance carrier which has a current rating by Best's Insurance Reports (or a comparable rating by any successor or generally accepted substitute for Best's) of B/VI or better, or a financial rating of Class V provided it has a

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

Section 8.7 Insurance to be Maintained by Owners. Insurance coverage on furnishings, including carpet, draperies, improvements and betterments, oven, range, refrigerator, wallpaper, and other items of personal property belonging to an Owner, and public liability coverage within each Condominium Unit and appurtenant Limited Common Elements, shall be the sole and direct responsibility of the Owner(s) thereof, and the Association, its Executive Board and/or the managing agent of the Association shall have no responsibility therefor; provided, however, that the Executive Board may elect to include any such coverage in any Association policy and any costs of such coverage not allocable to the Owners on a uniform basis shall be assessed as an Individual Purpose Assessment. Owners may carry other insurance for their benefit and at their expense, provided that all such policies shall contain waivers of subrogation, and provided further that no liability of the carriers issuing insurance obtained by the Association shall be affected or diminished by reason of any such additional insurance carried by any Owner.

Section 8.8 Annual Review of Insurance Policies. All insurance policies carried by the Association shall be reviewed at least annually by the Executive Board to ascertain that the coverage provided by such policies adequately covers those risks insured by the Association. Prior to obtaining any policy of fire insurance or renewal thereof, the Executive Board or the managing agent of the Association may obtain a written appraisal from a duly qualified real estate or insurance appraiser, or other person knowledgeable as to replacement costs, which appraiser shall reasonably estimate the full replacement value of the improvements for the purpose of determining the amount of insurance required pursuant to the provisions of this Article VIII. Any First Mortgagee shall be furnished with a copy of such appraisal upon request.

Section 8.9 Notice of Cancellation. If any insurance that the Association is required to maintain under this Article VIII is not reasonably available or is canceled or not renewed without a replacement policy having been obtained, the Association promptly shall cause notice of that fact to be hand delivered or sent prepaid by U.S. mail to all Owners.

Section 8.10 Prohibition of Increases in Insurable Risks and Certain Activities. Nothing shall be done or kept in any Condominium Unit or in or on the Common Elements, or any part thereof, which would result in the cancellation of any insurance on the Project, or any part thereof, or increase in the rate of any insurance on the Project, or any part thereof, over such rates that the Association, but for such activity, would pay, without the prior written approval of the Association. Each Owner shall indemnify and hold the Association and the other Owners harmless from and against all loss and damage resulting from any action or activity committed by such Owner, the members of the Owner's family, guests, invitees or attendants, which is in violation of this Section 8.10. At its own initiative or upon the written request of any Owner (and, if the Association determines that further action by it is proper), then, after affording an

Owner a reasonable opportunity to be heard, the Association shall enforce the resulting indemnified amount as a Default Assessment determined and levied against the Owner's Condominium Unit.

ARTICLE IX
CONVEYANCES AND TAXATION OF CONDOMINIUM UNITS

Section 9.1 Contracts Entered into Prior to Recording of Condominium Map and Declaration. A contract or other agreement for the sale of a Condominium Unit entered into prior to the filing for record of the Condominium Map and/or this Declaration in the office of the Clerk and Recorder of the County of Summit, Colorado, may, but need not, legally describe such Condominium Unit in the manner set forth in Section 9.2 hereof and may indicate that the Condominium Map and/or this Declaration are to be recorded. Upon recordation of the Condominium Map and this Declaration in the County of Summit, Colorado, such description shall be conclusively presumed to describe the corresponding Condominium Unit shown on the Condominium Map and such Condominium Unit shall be subject in all respects to this Declaration.

Section 9.2 Contracts Entered into Subsequent to Recording of Condominium Map and Declaration. Subsequent to the recording of the Condominium Map and this Declaration, every contract, deed, lease, mortgage, deed of trust, will, and every other instrument affecting title to a Condominium Unit may legally describe that Condominium Unit as follows:

Condominium Unit _____, THE HIGHLAND GREENS CONDOMINIUMS, according to the Condominium Map thereof, recorded on _____, 2002, at Reception Number _____, in the records of the office of the Clerk and Recorder of the County of Summit, Colorado, and as defined and described in Highland Greens Condominium Declaration recorded on _____, 2002, at Reception Number _____, in said records.

Section 9.3 Legal Effect of Description. Every contract, deed, lease, mortgage, deed of trust, will, and every other instrument affecting title to a Condominium Unit that legally describes said Condominium Unit substantially in the manner set forth in Section 9.2 hereof shall be good and sufficient for all purposes to sell, convey, transfer, encumber, or otherwise affect the Condominium Unit, including the undivided interest in the Common Elements appurtenant thereto and all other appurtenant properties and property rights, and incorporate all of the rights, limitations and burdens incident to ownership of a Condominium Unit as described in this Declaration and the Condominium Map. Each such description shall be construed to include a nonexclusive easement for ingress and egress to and from each Condominium Unit and the use of all the General Common Elements as well as all of the Limited Common Elements appurtenant to said Condominium Unit, all as more fully provided in this Declaration.

Section 9.4 Taxation. Each Condominium Unit shall be assessed separately for all taxes, assessments, and other charges of the State of Colorado, any political subdivision thereof, any special improvement district, and any other taxing or assessing authority, in accordance with

the Common Interest Act. For the purpose of such assessments, the valuation of the General Common Elements shall not be separately assessed, but shall be apportioned among the Condominium Units in proportion to the undivided interest in Common Elements appurtenant thereto and, to the extent feasible, the valuation of the Limited Common Elements shall be apportioned to the individual Unit or Units to which such Limited Common Elements are allocated. The Common Elements and other property owned by the Association, if any, shall be appraised and valued pursuant to the provisions of Section 38-33.3-105 of the Common Interest Act, as the same may be amended or modified. The Association shall furnish to the Tax Assessor of the County of Summit, Colorado, and to all other appropriate persons and authorities, all necessary information with respect to such apportionment. No forfeiture or sale of any Condominium Unit for delinquent taxes, assessments, or other governmental charges shall divest or in any way affect the title to any other Condominium Unit.

ARTICLE X MECHANIC'S LIENS

Section 10.1 Mechanic's Liens. No labor performed and/or materials furnished for use and incorporated in any Condominium Unit with the consent or at the request of the Owner thereof, his agent, contractor or subcontractor, shall be the basis for the filing of a lien against a Unit of any other Owner not expressly consenting to or requesting the same, or against any interest in the Common Elements except as to the undivided interest therein appurtenant to the Unit of the Owner for whom such labor shall have been performed or such materials furnished. Each Owner shall indemnify and hold harmless each of the other Owners and the Association from and against any liability or loss arising from the claim of any mechanic's lien against the Unit of any other Owner, the Common Elements, or any part thereof, for labor performed and/or for materials furnished in work on the first Owner's Condominium Unit.

Section 10.2 Enforcement by the Association. At its own initiative or upon the written request of any Owner, if the Association determines that further action by it is proper and the mechanic's lien(s) are not disputed claims with a reasonable basis for such dispute, the Association shall enforce the indemnity provided by Section 10.1 hereof by collecting from the Owner of the Condominium Unit on which the labor was performed and/or materials furnished, the amount necessary to discharge any such mechanic's lien, including all costs and reasonable attorney's fees incidental thereto, and obtain a discharge of such lien. In the event that the Owner of the Condominium Unit on which the labor was performed and/or materials furnished refuses or fails to so indemnify within seven days after the Association shall have given notice to such Owner of the total amount, or any portions thereof, from time to time, to be indemnified, then the failure to so indemnify shall be a default by such Owner under the provisions of this Section 10.2 and such amount to be indemnified shall automatically become a Default Assessment determined and levied against such Condominium Unit.

Section 10.3 Effect of Part Payment. In the event a lien attributable to labor performed and/or materials furnished on the Project, or any portion thereof, is recorded against two or more Condominium Units, the Owner(s) of any of the affected Condominium Units may pay to the lienholder the amount of the lien attributable to such Owner's Condominium Unit and the lienholder shall release such Condominium Unit from the lien. The amount required to be paid by any such Owner in order to obtain release of his Condominium Unit from any such lien shall

be equal to the quotient of (i) the amount of the lien, divided by (ii) the total number of Condominium Units affected by the lien. Partial payment and release of any such lien with respect to any Condominium Unit(s) shall not prevent the lienholder from enforcing his rights against any Condominium Unit for which payment has not been received.

ARTICLE XI EASEMENTS

Section 11.1 Recorded Easements. In addition to all easements and rights-of-way of record at or before the recording of this Declaration, the Real Estate, and all portions thereof, shall be subject to the easements as shown on any recorded plat of the Real Estate, or any portion thereof, and as shown on the recorded Condominium Map. Further, the Real Estate, or portions thereof, is now or may hereafter be subject to the easements, licenses, and other recorded documents, or any of them, set forth on Exhibit B attached hereto and incorporated herein by this reference.

Section 11.2 Encroachments. In the event that any portion of the Common Elements encroaches upon any Unit(s) or in the event that any portion of a Unit encroaches upon any other Unit(s) or upon any portion of the Common Elements, or in the event any encroachment shall occur in the future as a result of: (a) shifting, settling, or other movement of any part of the Building; (b) alteration, reconstruction, or repair to the Common Elements; or (c) repair or restoration of part of the Building and/or Unit(s) after damage by fire or other casualty, or condemnation or eminent domain proceedings, then, in any of said events, a valid easement is hereby created and does exist for the encroachment and for the maintenance of the same so long as the encroachment exists, as long as the physical boundaries of the Units after the construction, reconstruction, rebuilding, alteration, or repair, will be in substantial accord with the description of those boundaries that appears in this Declaration. If any one or more of the Units, the Building, or other improvements comprising part of the Project, are partially or totally destroyed and are subsequently rebuilt or reconstructed in substantially the same location, and as a result of such rebuilding or reconstruction any portion thereof shall encroach as provided in the preceding sentence, a valid easement for such encroachment is hereby created and does exist. Such encroachments and easements shall not be considered or determined to be encumbrances either on the Common Elements or on the Units for purposes of marketability of title or other purposes. In interpreting any and all provisions of this Declaration, subsequent deeds, mortgages, deeds of trust or other security instruments relating to Units, the actual location of a Unit shall be deemed conclusively to be the property intended to be conveyed, reserved, or encumbered, notwithstanding any minor deviations, either horizontally, vertically, or laterally, from the location of such Unit as indicated on the Condominium Map.

Section 11.3 Emergency Easement. A general easement is hereby granted to all police, sheriff, fire protection, ambulance, and all other similar emergency agencies or persons to enter upon the Common Elements in the proper performance of their duties.

Section 11.4 Utilities. There is hereby created a blanket easement for the benefit of the Owners upon, across and through the Common Elements for the installation, replacement, repair, and maintenance of utilities, including but not limited to water, sewer, gas, telephone, electricity, computer, cable, and master television antenna or cable or satellite television systems, if any. By

virtue of this blanket easement, it shall be expressly permissible to erect and maintain the facilities, equipment, and appurtenances on the Common Elements necessary to repair, and maintain water and sewer pipes, gas, electric, telephone, computer and television wires, cables, circuits, conduits, and meters. If any utility or quasi-utility company furnishing a service covered by the general easement created herein requests a specific easement by separate recordable document, Declarant reserves and is hereby given the right and authority to grant such easement upon, across, over, or under any part or all of the Common Elements without conflicting with the terms hereof; provided, however, that such right and authority of Declarant shall cease and terminate upon the earliest of seven years after recordation of this Declaration in the County of Summit, Colorado, conveyance by a Declarant of all Condominium Units (after Declarant has added all Condominium Units to the Project that it has a right to add pursuant to its Development Rights hereunder) to Owners other than a Declarant, or when Declarant elects to surrender such right, at which time said reserved right shall vest in the Association. The easement provided for in this Section 11.4 shall in no way affect, avoid, extinguish, or modify any other recorded easement(s) on the Common Elements.

Section 11.5 Maintenance Easement. An easement is hereby granted to the Association, their respective officers, directors, agents, employees, and assigns upon, across, over, in, and under the Common Elements, and a right to make such use of the Common Elements as may be necessary or appropriate to perform the duties and functions which the Association is obligated or permitted to perform pursuant to this Declaration, as the case may be, including the right of the Association to construct and maintain on the Common Elements maintenance and storage facilities for use by the Association.

Section 11.6 Drainage Easement. An easement is hereby granted to the Association, its officers, agents, employees, successors, and assigns to enter upon, across, over, in, and under any portion of the Real Estate for the purpose of changing, correcting, or otherwise modifying the grade or drainage improvements on the Real Estate to improve the drainage of water on the Real Estate.

Section 11.7 Easements of Access for Repair, Maintenance, and Emergencies. Some of the Common Elements are or may be located within a Unit(s) or may be conveniently accessible only through a Unit(s). The Owners of other Unit(s) and the Association shall have the irrevocable right, to be exercised by the Association as their agent, to have access to each Unit and to all Common Elements from time to time during such reasonable hours as may be necessary for the maintenance, repair, removal, or replacement of any of the Common Elements or any utility lines or pipes (whether or not Common Elements) located therein or accessible therefrom, or for making emergency repairs therein necessary to prevent damage to the Common Elements or to any Unit. Subject to the provisions of Sections 6.1, 6.2, and 11.8 hereof, damage to the interior of any part of a Unit resulting from the maintenance, repair, emergency repair, removal, or replacement of any of the Common Elements or as a result of emergency repairs within any Unit at the instance of the Association, shall be an expense of all the Owners apportioned in accordance with Section 7.2 or 7.8. Damage to the interior part of any Unit resulting from the installation, movement, repair, emergency repair, removal, or replacement of any utility lines or pipes not servicing more than one Condominium Unit shall be the expense of the Owner whose Unit such utility lines and pipes serve and such expense may be reimbursed through an Individual Purpose Assessment. Non-emergency repairs shall be made only during

regular business hours on business days after 24 hours' notice to the occupants of the Unit wherein such repairs are to be made, except where the occupants have no objections to earlier entry for repairs. In emergencies the occupants of the affected Unit shall be notified of impending entry as early as is reasonably possible.

Section 11.8 Remodeling Easement. Each Owner shall have an easement in, upon, under, and across the Common Elements for the construction and installation of any duct work, additional plumbing, or other additional services or utilities in the Common Elements in connection with the improvement or alteration of his Condominium Unit. Each Owner shall further have an easement and right to repair and maintain any utility lines and pipes serving only such Owner's Condominium Unit (and therefore not a Common Element) that are located within another Owner's Unit. Prior to repairing or maintaining any such utility lines or pipes the Owner in whose Unit the lines or pipes are located will be given at least ten days' prior notice of the repair or maintenance.

Section 11.9 Declarant's Rights Incident to Completion of the Project. Declarant, for itself and its successors and assigns, shall have and hereby retains or is granted a right and easement of ingress and egress over, in, upon, under, and across the Common Elements and the right to store materials thereon and to make such other use thereof as may be reasonably necessary or incidental to the completion of the Project, the sale of the Units, the exercise of Special Declarant Rights under Sections 12.3 and 17.2 and the exercise of Development Rights; provided, however, that no such rights shall be exercised in such a way as to unreasonably interfere with the occupancy, use, enjoyment, or access by any Owner, his family members, guests or invitees, to or of his Condominium Unit or the Common Elements. The rights under this Section 11.9 shall terminate upon conveyance by a Declarant of all Condominium Units (after Declarant has added all Condominium Units to the Project that it has a right to add pursuant to its Development Rights) to Owners other than a Declarant or seven years after the recording of this Declaration, whichever occurs first.

Section 11.10 Easements Deemed Created. All conveyances of Units hereafter made, whether by a Declarant or otherwise, shall be construed to grant and reserve the easements contained in this Declaration, even though no specific reference to such easements or to this Declaration appears in the instrument for such conveyance.

ARTICLE XII RESTRICTIVE COVENANTS

Section 12.1 Residential and Limited Non-Residential Use. Subject to Section 12.3 hereof, Condominium Units shall be used for residential purposes only, including uses which are customarily incident thereto, and shall not be used at any time for business, commercial or professional purposes; provided, however, that an Owner may use his Condominium Unit for a professional or home occupation, so long as the applicable zoning ordinances permit such use, there is no external evidence thereof, and no unreasonable inconvenience to other residents of Condominium Units is created thereby.

Section 12.2 Owner's Maintenance Responsibilities. Each Owner shall be responsible for keeping the deck or terrace that is a Limited Common Element for the use of his or her Unit

clean and free from debris and shall not use the deck or terrace as a storage area. Each Owner shall be responsible for the maintenance, repair, and replacement of his or her Condominium Unit and all fixtures, equipment, and utilities installed or located within the Unit. Each Owner shall maintain, repair, and replace all other equipment providing exclusive service to his or her Unit and any service lines from such equipment to the Unit, including without limitation all utility, heating, plumbing, air conditioning, and domestic hot water equipment and appurtenances to the extent such fixtures, equipment, and utilities are not Common Elements.

Section 12.3 Declarant's Use. Notwithstanding anything to the contrary contained in this Declaration, it shall be expressly permissible and proper for a Declarant, its employees, agents, and contractors, to perform such reasonable activities, and to maintain upon portions of the Project, such facilities as a Declarant deems reasonably necessary or incidental to the completion and sale of Condominium Units and the exercise of Development Rights, specifically including without limiting the generality of the foregoing, maintaining business offices, storage spaces, signs, model units, sales offices, parking areas, construction offices, and lighting facilities. Declarant reserves the right to relocate any sales office, model or management office to any other Condominium Unit then owned by a Declarant. The rights retained by Declarant in this Section 12.3 shall terminate upon conveyance by a Declarant of all Condominium Units to Owners other than a Declarant or seven years after the recording of this Declaration, whichever occurs first.

Section 12.4 Household Pets. No animals, livestock, poultry or insects, of any kind, shall be raised, bred, kept or boarded in or on the Project, except that domesticated dogs, cats, birds or fish may be kept in any Condominium Unit, subject to all governmental ordinances, laws and regulations and subject to rules and regulations that may be adopted by the Executive Board with regard to pets, and provided that no pets may be kept for commercial purposes or be permitted to become a nuisance, as determined by the Executive Board. The Association shall have and is hereby given, the right and authority to determine in its sole discretion that dogs, cats or other household pets permitted herein are being kept in such number or in such manner as to be unreasonable or to create a nuisance to other Owners, or that an Owner is otherwise in violation of this Section 12.4, and to take such action or actions as it deems reasonably necessary to correct the same, including prohibiting the pet(s) from being kept in a Unit. An Owner's license to keep household pets granted under this Section is revocable by the Executive Board for violation of the terms hereof and shall be coupled with the responsibility to pay for any damage caused by such Owner's pet(s), as well as any costs incurred by the Association as a result of such pet(s), and any such amounts shall be and constitute a Default Assessment subject to and enforceable by the Association in accordance with this Declaration. Each Owner is responsible for cleaning up his pet's waste from the Common Elements and adjacent public ways and to comply at all times with applicable ordinances, laws, and regulations governing pets. No animals shall be allowed to be tied or chained to any balconies, patios, porches or other parts of the Project, and any animals so tied or chained may be removed by the Association or its agents.

Section 12.5 Use of Common Elements. Subject to the rights of Declarant as provided in this Declaration, there shall be no obstruction of the Common Elements, nor shall anything be kept or stored on any part of the Common Elements without the prior written approval of the Association. Except for those improvements erected or installed by a Declarant in its completion of the Project, and except as provided in Section 2.4 and Article XI hereof, nothing shall be

altered on, constructed in, or removed from the Common Elements without the prior written approval of the Executive Board. Such approval may be conditioned upon the Owner who requests the approval to submit plans for the alteration to the Executive Board for approval, obtaining insurance as required by the Executive Board and posting adequate surety. In reviewing any plans, the Executive Board may engage the services of architects, attorneys, and engineers, and the reasonable cost of such services will be paid by the requesting party.

Section 12.6 Unlawful and Destructive Acts. Nothing shall be done or kept in any Condominium Unit or in or on the Common Elements, or any part thereof, which would be in violation of any statute, rule, ordinance, regulation, permit, or other imposed requirement of any governmental body having jurisdiction over the same. No damage to, or waste of, the Common Elements, or any part thereof, shall be committed by any Owner or Owner's tenant, or by any member of an Owner's or tenant's family, or by a guest, invitee, licensee, or concessionaire or contract purchaser of any Owner or Owner's tenant. Each Owner shall indemnify and hold the Association and the other Owners harmless from and against all loss and damage resulting from any action or activity committed by him, his tenant, or the members of his or his tenant's family, his or his tenant's guests, invitees, licensees, or contract purchasers, which is in violation of this Section 12.6. At its own initiative or upon the written request of any Owner (and if the Association determines that further action by it is proper), then, after affording an Owner a reasonable opportunity to be heard by the Executive Board, the amounts to be indemnified shall be and constitute a Default Assessment determined and levied against the Owner's Condominium Unit.

Section 12.7 Exterior Changes. Except for those improvements erected, constructed, or installed by a Declarant in its completion of the Project, no exterior additions to, alterations or decoration of the Building, including but not limited to any structural alterations to any Condominium Unit or Common Element, nor any changes in walls or other structures, nor installation of window mounted air conditioning units or awnings or any exterior improvement of any type or any interior improvements visible from the exterior shall be commenced, erected, placed, or maintained, without the prior written approval of the Executive Board and subject to the applicable laws, ordinances, regulations and restrictions, if any, limiting or precluding alteration of the exterior of the Building. Such approval may be conditioned upon the Owner who requests the approval to submit plans for the alteration to the Executive Board for approval, obtaining insurance as required by the Executive Board and posting adequate surety. In reviewing any plans, the Executive Board may engage the services of architects, attorneys, and engineers, and the reasonable cost of such services will be paid by the requesting party.

Section 12.8 Signs and Advertising. Except as hereinafter provided, no signs, including for sale or for rent signs, advertisements, billboards, unsightly objects, or nuisances of any kind shall be placed, erected, or permitted to remain in or on any Condominium Unit, nor shall any sign(s) be permitted in or on the Common Elements, without the prior written approval of the Association. Notwithstanding the foregoing, reasonable signs, advertising, or billboards used by a Declarant in connection with its sale of Condominium Units shall be permissible, provided that such use by a Declarant shall not interfere with the Owners' use and enjoyment of the Common Elements, their Condominium Units, or their ingress and egress from a public way to the Common Elements or their Condominium Units.

Section 12.9 Lease. The term "lease" as used herein shall include any agreement for the leasing or rental of a Condominium Unit and shall specifically include, without limitation, a month-to-month rental. The Owner of a Condominium Unit shall have the right to lease his Condominium Unit under the following conditions:

(a) All leases shall be in writing and a copy of the lease or lease form shall be delivered to the Executive Board or the Association's managing agent (with the economic terms of such lease deleted by the Owner, if so desired) prior to the effective date of the lease.

(b) All leases shall provide that the terms of the lease and lessee's occupancy of the Condominium Unit shall be subject in all respects to the provisions of this Declaration, the Articles, the Bylaws, and any rules and regulations of the Association, and that any failure by the lessee to comply with any of the aforesaid documents, in any respect, shall be a default under the lease. Any lease or lessee that violates the provisions of this Declaration or rules and regulations adopted by the Executive Board shall be deemed in default and the Association may bring an action to terminate such lease and the lessee's occupancy of the premises.

Section 12.10 Nuisances. No nuisance shall be allowed on the Project, nor any use or practice which is the source of annoyance to residents or which interferes with the peaceful enjoyment or possession and proper use of the Project by its residents. As used herein, the term "nuisance" shall not include any activities of a Declarant in regard to the completion of the Project or any uses of Condominium Units permitted in this Declaration. All parts of the Project shall be kept in a clean and sanitary condition, and no rubbish, refuse, or garbage shall be allowed to accumulate, nor any fire hazard to exist. Further, no immoral, improper, offensive, or unlawful use shall be permitted or made of the Project or any part thereof. All valid laws, ordinances, and regulations of all governmental bodies having jurisdiction over the Project, or any portion thereof, shall be observed.

Section 12.11 Garbage Collection. Each Owner shall dispose of the garbage collected within his Unit into containers of such dimensions and at such locations as the Association shall from time to time designate.

Section 12.12 Hazardous Activities. No activity shall be conducted on and no improvement shall be constructed on any property within the Project that is or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms shall be discharged within the Project and no open fires shall be lighted or permitted within the Project. No Unit or the Project may be used for storage of explosives, gasoline, combustible material or other volatile and/or incendiary materials or devices.

ARTICLE XIII DAMAGE, DESTRUCTION, TERMINATION, OBSCOLESCENCE OR CONDEMNATION

Section 13.1 Association as Attorney-in-Fact. This Declaration does hereby make mandatory the irrevocable appointment of an attorney-in-fact to deal with the Project in the event of its destruction, damage, obsolescence or condemnation, including the repair, replacement and improvement of the Building, any Condominium Units, Common Elements, or other portions of

the Project which have been destroyed, damaged, condemned, or become obsolete. Title to any Condominium Unit is declared and expressly made subject to the terms and conditions hereof, and acceptance by any grantee of a deed or other instrument of conveyance from a Declarant or from any Owner or grantor shall constitute appointment of the attorney-in-fact herein provided. All of the Owners irrevocably constitute and appoint the Association as their true and lawful attorney in their name, place, and stead, for the purpose of dealing with the Project upon its damage, destruction, obsolescence, or condemnation, as is hereinafter provided. As attorney-in-fact, the Association by its President and Secretary or Assistant Secretary, or its other duly authorized officers and agents, shall have full and complete authorization, right, and power to make, execute, and deliver any contract, deed, or other instruments with respect to the interest of an Owner which are necessary and appropriate to exercise the powers herein granted. If the Association is dissolved or becomes defunct, a meeting of the Owners shall be held within 30 days after either such event. At such meeting a new attorney-in-fact, to deal with the Project upon its destruction, damage, obsolescence, or condemnation, shall be appointed. Such appointment must be approved by the Owners representing an aggregate ownership interest of 67% or more of the Common Elements and at least 67% of the Eligible First Mortgagees (based upon one vote for each First Mortgage held).

Section 13.2 Termination of Project.

(a) The Project shall continue indefinitely unless and until it is terminated by the taking of all of the Condominium Units by eminent domain or by agreement of the Owners holding at least 67% of the votes in the Association and Eligible First Mortgagees holding 67% of the First Mortgages (based on one vote for each First Mortgage held or two votes for any First Mortgage on a combined unit held). The agreement of the Owners and Eligible First Mortgagees to terminate must be evidenced either by their execution of a Termination Agreement (or a ratification thereof) in the same manner as a deed, by the requisite number of Owners and Eligible First Mortgagees, or by the certificate of the Secretary of the Association as provided in Section 15.4, in lieu of the signature of each consenting Owner and Eligible First Mortgagee. The Termination Agreement must specify a date after which the Agreement will be void unless it is recorded before that date. The Termination Agreement may provide that all of the Common Elements, and Condominium Units must be sold following termination and the minimum terms of sale for any of the Real Estate to be sold following termination. If any of the Real Estate is to be sold following termination, title to that Real Estate, upon termination, vests in the Association as trustee for the holders of all of the interests in the Condominium Units. The Termination Agreement and all ratifications thereof must be recorded with the Clerk and Recorder of the County of Summit, and is effective only upon recordation. After the recording of the Termination Agreement, the Project will be sold and the Association, on behalf of the Owners, may contract for such sale, but the contract is not binding on the Owners unless approved by the same vote of Owners and Eligible First Mortgagees required for approval of the Termination Agreement. After approval of the sale, the Association has all power necessary and appropriate to conclude the sale free and clear of the provisions contained in this Declaration, the Condominium Map, the Articles, and the Bylaws. Until the sale has concluded and the proceeds have been distributed, the Association shall continue in existence with all the powers it had before termination. Proceeds of the sale must be distributed to the Owners and lienholders as their interest may appear, in accordance the provisions set forth below, taking into account the value of property owned or distributed that is not sold so as to preserve the

proportionate interests of each Owner with respect to all property cumulatively. Unless otherwise specified in the Termination Agreement, until title to the Project has been transferred pursuant to a sale, each Owner and its successors in interest have an exclusive right to occupancy of a portion of the real estate that formally constituted the Unit. During the period of that occupancy, each Owner and the Owner's successors in interest remain liable for all Assessments and other obligations imposed upon the Owners by the Common Interest Act or this Declaration. Following termination of the Project, the proceeds of any sale of real estate, together with any insurance proceeds (if the termination occurs in connection with a damage or destruction) and the assets of the Association are held by the Association as trustee for the Owners and the holders of liens on the Condominium Units as their interest may appear.

(b) The respective interest of the Owners is as follows:

(1) except as provided in subparagraph (2) below, the respective interests of the Owners are the fair market values of their Units, interest in the General Common Elements, and any Limited Common Elements before termination, as determined by one or more independent MAI appraisers selected by the Association. The decision of the independent appraisers shall be distributed to the Owners and becomes final unless disapproved within 30 days after distribution by Owners holding at least 25% of the total votes in the Association. The proportion of any Owner's interest to that of all Owners is determined by dividing the fair market value of that Owner's Condominium Unit by the total fair market value of all Condominium Units;

(2) if any Unit or any Limited Common Element is destroyed to the extent that an appraisal of the fair market value thereof prior to destruction cannot be made, the interests of all Owners are their respective undivided interests in the Common Elements for each Condominium Unit immediately before termination.

(c) The proceeds available for distribution to the holders of interests in the Condominium Units after a termination shall be allocated to each Condominium Unit in accordance with its proportionate interest as provided above and each Condominium Unit's share of such proceeds shall be deposited into a separate account identified by the Condominium Unit designation and the name of the Owner and First Mortgagee thereof. From each separate account, the Association, as attorney-in-fact, shall forthwith use and disburse the total amount of such account, without contribution from one account to another, toward payment of the liens encumbering the Condominium Unit represented by such separate account, in the following order: (i) for the payment of taxes and special assessment liens in favor of any governmental assessing entity; (ii) for the payment of any Assessments that take priority over the lien of a First Mortgage pursuant to Section 7.9 of this Declaration and the Common Interest Act; (iii) for the payment of the lien of any First Mortgage; (iv) for the payment of unpaid Assessments, charges, and fees and all costs, expenses, and fees incurred by the Association, including customary expenses of sale; (v) for payment of junior liens and encumbrances in the order of and to the extent of their priority; and (vi) the balance remaining, if any, shall be paid to the Owner(s) of the Condominium Unit.

(d) Title to any Units not to be sold following termination shall vest in the Owners upon termination as tenants-in-common in fractional interests that maintain, after taking

into account the fair market value of the property owned and the proceeds of property sold, their respective interests as provided in Subsection 13.2(b) above with respect to all property appraised under said subsection, and liens on the Units shall shift accordingly. While the tenancy-in-common exists, each Owner and his successors-in-interest shall have the exclusive right to occupancy of the portion of the Real Estate that formerly constituted such Owner's Unit prior to termination.

Section 13.3 Damage or Destruction. "Repair and reconstruction" of the improvements, as used in the succeeding subparagraphs, means restoring the improvement(s) to substantially the same condition in which they existed prior to their damage or destruction, with each Condominium Unit and the General and Limited Common Elements having substantially the same vertical and horizontal boundaries as before, and all improvements being reconstructed or repaired in substantial conformance with the Project's original architectural plan and scheme, to the extent then reasonably and economically feasible. The proceeds of any insurance collected shall be available to the Association for the purpose of repair, reconstruction, restoration, or replacement in accordance with the provisions hereinafter set forth.

(a) Any loss covered by the property insurance policy maintained by the Association must be adjusted with the Association, and the insurance proceeds will be paid to the Association or an insurance trustee designated for such purpose and not to the holder of any Security Interest (a "lienholder"). The insurance trustee or the Association shall hold such insurance proceeds in trust for the Owners and lienholders as their interest may appear. Subject to the provisions of subparagraph (b) below, the proceeds must be disbursed first to the repair or restoration of the damaged property, and the Association, Owners and lienholders shall not be entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the property has been completely repaired or restored or the Project is terminated in accordance with Section 13.2. The Association may adopt and establish written nondiscriminatory policies and procedures relating to the submittal of claims, responsibility for deductibles and such other matters of claims adjustment. The Association shall have full authority, right and power as attorney-in-fact to cause the repair and reconstruction of the improvements. Assessments shall not be abated during the period of insurance adjustment and repair and reconstruction. In addition, to the extent that the Association settles claims for damages to any real property, the Association shall have authority to assess negligent Owners or their tenants causing such loss or benefiting from such repair or restoration all deductibles paid by the Association and any amount by which the insurance proceeds are insufficient to pay the costs of repair and reconstruction. In the event that 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.

(b) Any portion of the Project for which insurance is required under this Declaration must be repaired or replaced promptly by the Association unless (i) the Project is terminated in accordance with Section 13.2, in which case the provisions of that Section apply; (ii) repair or replacement would be illegal under any state or local statute or ordinance governing health or safety; (iii) the Owners who hold 80% of the votes in the Association vote not to rebuild and every Owner of a Unit or assigned Limited Common Element that will not be rebuilt concurs; or (iv) prior to the conveyance of any Condominium Unit to a person other than

a Declarant, the holder of a deed of trust or mortgage on the damaged portion of the Project rightfully demands all or a substantial portion of the insurance proceeds.

(c) If the insurance proceeds are insufficient to repair and reconstruct the improvements, such damage or destruction shall be promptly repaired and reconstructed by the Association as attorney-in-fact, using the proceeds of insurance and the proceeds of a Special Assessment. Such Special Assessment shall be assessed against all Condominium Units in accordance with Section 7.7 hereof, but without the requirement of complying with the budget approval process set forth in Section 7.3 above. The Association shall have full authority, right, and power, as attorney-in-fact, to cause the repair, replacement, or restoration of the improvements, using all of the insurance proceeds for such purpose, notwithstanding the failure of an Owner to pay the aforesaid Special Assessment. Notwithstanding the foregoing, the Association shall have authority to assess negligent Owners causing any loss all deductibles paid by the Association and any amount by which the insurance proceeds are insufficient to pay the costs of repair and reconstruction.

(d) Except with respect to repair or replacement costs for which any Owner is responsible by reason of his negligent act or otherwise, the cost of repair or replacement of any portion of the Project in excess of insurance proceeds and reserves shall be a Common Expense. If the entire Project is not repaired or replaced, the insurance proceeds attributable to the damaged Common Elements must be used to restore the damaged area to a condition compatible with the remainder of the Project, and except to the extent that other persons will be distributees, the insurance proceeds attributable to Units, and Limited Common Elements that are not rebuilt must be distributed to the Owners of those Units, and the Owners of the Units to which those Limited Common Elements were allocated, or to lienholders, as their interests may appear, and the remainder of the proceeds must be distributed to all the Owners or lienholders, as their interests may appear, in proportion to the Units' undivided interests in all Common Elements.

Section 13.4 Obsolescence. Sixty-seven percent of the Owners may agree that the Common Elements are obsolete and either terminate the Project in accordance with Section 13.2 above or adopt a plan for the renewal and reconstruction thereof. If a plan for renewal or reconstruction is adopted, notice of such plan shall be recorded in the County of Summit, Colorado, and the expenses of renewal and reconstruction shall be payable by all of the Owners as a Common Expense, whether or not they have previously consented to the plan of renewal and reconstruction. The Assessment for the renewal and reconstruction of the Common Elements shall be a debt of each Owner and a lien on his Condominium Unit, and may be enforced and collected as provided in Sections 7.9 and 7.10 hereof.

Section 13.5 Condemnation. If at any time during the continuance of condominium ownership pursuant to this Declaration, all or any part of the Project shall be taken or condemned by any public authority, or sold or otherwise disposed of in lieu of or in avoidance thereof, the following provisions of this Section 13.5 shall apply.

(a) All compensation, damages, or other proceeds therefrom, the sum of which is hereafter called the "Condemnation Award," shall be payable to the Association, as

attorney-in-fact for the Owners, as provided in Section 13.1 above. The Association shall have the right to appear in any condemnation proceeding on behalf of the Owners.

(b) If the entire Project is taken, condemned, sold, or otherwise disposed of in lieu of or in avoidance thereof, the condominium ownership pursuant to this Declaration shall terminate. The Condemnation Award shall be apportioned among the Owners by the Executive Board the same as if there had been a termination of the Project under Section 13.2. Notwithstanding the foregoing, if a standard different from the value of the Project as a whole is employed as the measure of the Condemnation Award in the negotiation, judicial decree, or otherwise, then in determining such shares the same standard shall be employed to the extent it is relevant and applicable. The Association shall, as soon as practicable, determine the share of the Condemnation Award to which each Owner is entitled. Such shares shall be paid into separate accounts and disbursed, as soon as practicable, in the same manner as provided in Section 13.2 hereof.

(c) Subject to the provisions of Article XVI hereof, in the event that less than the entire Project is taken, condemned, sold, or otherwise disposed of in lieu of or in avoidance thereof, the condominium ownership hereunder shall not terminate. Each Owner shall be entitled to a share of the Condemnation Award, to be determined in the following manner: As soon as practicable, the Association shall reasonably, and in good faith, allocate the Condemnation Award between compensation, damages, or other proceeds and shall apportion the amounts so allocated among the Owners, as follows: (i) the total amount allocated to taking of or injury to the Common Elements shall be apportioned among the Owners in accordance with the undivided interest in the Common Elements appurtenant to each Condominium Unit; (ii) the total amount allocated to severance damages shall be apportioned to those Condominium Units which were not taken or condemned; (iii) the respective amounts allocated to the taking of or damage to a particular Condominium Unit, including but not limited to the Limited Common Elements appurtenant thereto, and to the improvements an Owner has made within his Condominium Unit, shall be apportioned to the particular Condominium Unit involved; and (iv) the total amount allocated to consequential damages and any other takings or injuries shall be apportioned as the Association determines to be equitable in the circumstances, or as determined by judicial decree. Notwithstanding anything to the contrary contained in this Declaration, the allocation of the Condemnation Award to each affected Condominium Unit shall be based on the comparative values of the affected Condominium Units as they existed immediately prior to the condemnation, using such evidence of the appraised values as is then available, including, but not limited to, recent MAI appraisals of the affected property or comparable property. If the allocation of the Condemnation Award is already established in negotiations, judicial decree or otherwise, then in allocating the Condemnation Award, the Association shall employ such allocation to the extent it is relevant and applicable. Apportioned proceeds shall be disbursed, as soon as practicable, in the same manner as provided in Section 13.2 hereof.

(d) In the event a partial taking results in the taking of a complete Condominium Unit, the Owner(s) thereof shall automatically cease to be a Member(s), shall cease to hold any right, title or interest in the remaining Common Elements, and shall execute any and all documents necessary to accomplish the same. Thereafter, the Association shall reallocate the ownership, voting rights and Assessment ratio in accordance with this Declaration according to the principles employed in this Declaration at its inception, and shall submit such

reallocation to the Owners and to the Eligible First Mortgagees of all remaining Condominium Units for amendment of this Declaration. The Condemnation Award as to each such completely taken Condominium Unit shall be paid into a separate account and disbursed, as soon as practicable, in the same manner as provided in Section 13.2 hereof.

(e) Any reconstruction and repair necessitated by condemnation shall be governed by the procedures specified in Section 13.3 hereof.

(f) If a Unit is acquired by eminent domain or part of a Unit is acquired by eminent domain leaving the Owner with a remnant which may not practically or lawfully be used for any purpose permitted by the Declaration, the award will include compensation to the Owner for that Unit and its Allocated Interests whether or not any Common Elements are acquired. The Owner(s) thereof shall automatically cease to be a Member(s), shall cease to hold any right, title or interest in the remaining Common Elements, and shall execute any and all documents necessary to accomplish the same. Upon acquisition, unless the decree otherwise provides, that Unit's Allocated Interests are automatically reallocated to the remaining Units in proportion to the respective Allocated Interests of those Units before the taking. Any remnant of a Unit remaining after a part of a Unit is taken pursuant to this Subsection 13.5(f) each of such is thereafter a Common Element.

(g) Except as provided in Subsection 13.5(f) above, if part of a Unit is acquired by eminent domain, the award must compensate the Owner for the reduction in value of the Unit and its Allocated Interest in the Common Elements whether or not any Common Elements are acquired. Upon acquisition, unless the decree otherwise provides, the Unit shall retain its one vote in the Association, but the remaining Allocated Interests shall be reduced by the same percentage that the square footage of the Unit was reduced by the taking, and the amount of the reduction shall be allocated among all Units (including the Unit affected by the taking) pro rata in proportion to their Allocated Interests after the reduction described above. The reallocation of Allocated Interests pursuant to this Section shall be confirmed by an Amendment to this Declaration prepared, executed, and recorded by the Association.

ARTICLE XIV BURDENS AND BENEFITS OF DECLARATION

Section 14.1 Covenants Running with Real Estate. The benefits, burdens, and all other provisions contained in this Declaration shall be covenants running with and binding upon the Real Estate.

Section 14.2 Binding Upon and Inure to the Successors. The benefits, burdens, and all other provisions contained in this Declaration shall be binding upon, and inure to the benefit of Declarant, the Association, all Owners, and their respective heirs, executors, administrators, personal representatives, successors and assigns. Any right or any interest reserved or contained in this Declaration to or for the benefit of Declarant may be transferred or assigned by Declarant, either separately or with one or more of such rights or interests, to any person, corporation, partnership, association, or other entity, in accordance with the provisions of the Common Interest Act.

ARTICLE XV
AMENDMENT OF DECLARATION

Section 15.1 Amendment.

(a) Except for Amendments that may be executed by a Declarant or by the Association under the provisions of this Declaration or the Common Interest Act, and subject to the applicable requirements of Article XV, with respect to approval by Eligible First Mortgagees, the provisions of this Declaration and/or the Condominium Map may be amended, in whole or in part, at any time and from time to time, by vote or agreement of Owners of Units holding at least 67% of the votes in the Association, and Declarant, provided that Declarant's right to consent under this Section shall expire on the first to occur of the conveyance by a Declarant of all Condominium Units to Owners (other than a Declarant) or seven years after the date this Declaration is recorded in the County of Summit, Colorado.

(b) Every Amendment to the Declaration and/or the Condominium Map must be recorded in the Office of the Clerk and Recorder of the County of Summit, and is effective only upon recording. Except to the extent expressly permitted by this Declaration and the Common Interest Act, no Amendment may create or increase any Special Declarant's Rights, increase the number of Units in the Project, or change the boundaries of any Unit or the Allocated Interests of a Unit, or the uses to which any Unit is restricted, in the absence of unanimous consent of the Owners. Amendments to the Declaration required by this Article XV to be recorded by the Association shall be prepared, executed, recorded, and certified on behalf of the Association by an officer of the Association designated for that purpose or, in the absence of designation, by the President of the Association.

(c) Notwithstanding anything to the contrary contained herein, Section 11.3 above may not be amended without the prior written consent of the Town of Breckenridge.

Section 15.2 Technical Amendment. To the extent allowed by the Common Interest Act, Declarant hereby reserves and is granted the right and power to record, without the approval or consent of any Owner, First Mortgagee, or any other person or entity, technical amendments to this Declaration, the Condominium Map, the Articles, and/or the Bylaws at any time prior to the conveyance by a Declarant of all Condominium Units to Owners (other than a Declarant) or seven years after the date this Declaration is recorded in the County of Summit, Colorado, whichever occurs first, for the purposes of correcting spelling, grammar, dates, typographical errors, or as may otherwise be necessary to clarify the meaning of any provisions of this Declaration.

Section 15.3 Special Amendment. To the extent allowed by the Common Interest Act, Declarant hereby reserves and is granted the right and power to record, without the approval or consent of any Owner, First Mortgagee, or any other person or entity, special amendments to this Declaration, the Articles, and/or the Bylaws at any time prior to the conveyance by a Declarant of all Condominium Units to Owners (other than a Declarant) or seven years after the date this Declaration is recorded in the County of Summit, Colorado, whichever occurs first, in order to comply with any requirements of any of the Agencies or to induce any of the Agencies to make, purchase, sell, insure, or guarantee one or more First Mortgages.

Section 15.4 Recording of Amendments. To be effective, all amendments to or revocation or termination of this Declaration or the Condominium Map must be recorded in the office of the Clerk and Recorder of the County of Summit, Colorado, and must contain evidence of the required approval thereof. The recordation of a certificate of the Secretary of the Association, certifying that Owners representing the requisite percentage of the Condominium Units, and Eligible First Mortgagees representing the requisite percentage of Eligible First Mortgagees, if required, have given notarized, written consent to the amendment, shall satisfy the requirement of evidence of the required approval. The Secretary must further certify that originals of such written consents by Owners and Eligible First Mortgagees, along with the recorded amendment, are in the corporate records of the Association and available for inspection.

ARTICLE XVI FIRST MORTGAGEES

Section 16.1 Member and First Mortgagee Approval. Subject to Sections 2.4, 15.1, 15.2, 15.3, and 17.2 hereof and the rights of Declarant provided for herein, but notwithstanding any other provisions of this Declaration to the contrary, the Association shall not:

(a) Unless it has obtained the prior written consent of Members holding at least 67% of the votes in the Association and 67% of the Eligible First Mortgagees (based on one vote for each First Mortgage held, or two votes for each First Mortgage held on a combined Unit):

(1) seek to abandon or terminate the Project, whether by act or omission, except:

(A) for abandonment or termination provided by law in the case of substantial destruction by fire or other casualty, or

(B) in the case of a taking by condemnation or eminent domain, in which event the provisions of Section 13.5 of this Declaration shall control; or

(C) for amendments to this Declaration, the Articles, or the Bylaws made as a result of destruction, damage, or condemnation of the Real Estate or improvements thereon.

(2) except as permitted by Sections 2.4, 13.2, 13.5, and 17.2, change the pro rata interest or obligations of any individual Condominium Unit for the purpose of:

(A) levying Assessments or charges or allocating distributions of property insurance proceeds or condemnation awards, or

(B) determining the pro rata share of ownership of each Condominium Unit in the Common Elements.

(3) by act or omission, seek to abandon, partition, subdivide, encumber, sell, or transfer the Common Elements (excluding the granting of permits, licenses and easements for public utilities or other purposes consistent with the intended use of the

Common Elements or reasonably necessary or useful for the proper maintenance or operation of the Project), except in accordance with Section 6.9 above and upon at least 67% of the votes in the Association, including 67% of the votes allocated to Units not owned by Declarant;

(4) partition or subdivide any Condominium Unit except in accordance with Section 2.4 with respect to Declarant; or

(5) use property insurance proceeds for losses to any part of the Project (whether to Condominium Units or Common Elements) for other than the repair, replacement, or reconstruction of such condominium property in accordance with the procedures set forth in Sections 13.2 and 13.3 hereof, except as may be provided by statute in the case of substantial loss to such Condominium Units and/or Common Elements.

(b) Unless it has obtained the prior written consent of at least 67% of the total allocated votes in the Association, and 51% of the Eligible First Mortgagees (based upon one vote for each First Mortgage owned or two votes for each First Mortgage owned on a combined Unit), add or amend any material provisions of this Declaration, the Articles, or the Bylaws that establish, provide for, govern, or regulate any of the following, provided that such additions or amendments shall not be considered material if they are for the purpose of correcting technical errors or for clarification only:

(1) voting rights;

(2) increases in Assessments that raise the previously-assessed amount by more than 25%, Assessment liens, or the priority of Assessment liens;

(3) reductions in reserves for maintenance, repair, and replacement of the Common Elements;

(4) responsibility for maintenance and repair of any portion of the Project;

(5) reallocation of interests in the Common Elements, or rights to use of the Common Elements, except as contemplated under Sections 2.4, 13.5, and 17.2 hereof;

(6) convertibility of Condominium Units into Common Elements or of Common Elements into Condominium Units;

(7) expansion or contraction of the Project or the addition, annexation, or withdrawal of property to or from the Project;

(8) insurance, including, but not limited to, fidelity bonds;

(9) imposition of any restrictions on leasing of Condominium Units;

(10) imposition of any restriction on the right of any Owner to use his Unit or the Common Elements or to sell or transfer his Condominium Unit;

(11) any decision by the Association to assume self-management of the Association, when professional management has previously been required by this Declaration or by any Eligible First Mortgagee or any insurer or guarantor of a First Mortgage;

(12) any restoration or repair of the Project, after a partial condemnation or damage due to an insurable hazard, other than substantially in accordance with this Declaration, the Articles, and the Bylaws;

(13) any action to terminate the legal status of the Project; or

(14) any provisions which are for the express benefit of First Mortgagees, or insurers or guarantors of First Mortgages.

Section 16.2 Notice of Action. Upon written request therefor to the Association, stating both its name and address and the Unit number on which it holds (or insures or guarantees) a First Mortgage, a First Mortgagee, insurer or guarantor of a First Mortgage which has submitted such written request (referred to herein as an "Eligible First Mortgagee") shall be entitled to timely written notice of:

(a) any condemnation loss or casualty loss which affects either a material portion of the Project or any Condominium Unit subject to a First Mortgage held, insured or guaranteed by such Eligible First Mortgagee, insurer or guarantor of a First Mortgage;

(b) any delinquency in the payment of Assessments or charges owed to the Association by the Owner of the Condominium Unit subject to a First Mortgage held, insured, or guaranteed by such Eligible First Mortgagee, insurer, or guarantor, or any default by such Owner in any obligation under the Declaration, the Articles, or the Bylaws if the Executive Board has actual knowledge of such default, when such delinquency and/or default remains uncured for a period of 60 days;

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

(d) any proposed action which would require the consent of a specified percentage of Eligible First Mortgagees as provided in this Article XVI.

Section 16.3 Notice of Objection. Unless an Eligible First Mortgagee or an insurer or guarantor of a First Mortgagee entitled to consent to certain amendments or actions as provided in this Article XVI provides the Secretary of the Association with written notice of its objection, if any, to the proposed amendment or action within 30 days after it is given notice of the proposal by certified or registered mail, return receipt requested, the Eligible First Mortgagee or other party will be deemed conclusively to have approved of the proposed amendment or action and the Secretary of the Association may so state in any document.

Section 16.4 Association Books and Records; Financial Statements; Audit. The Association shall maintain copies of this Declaration, the Condominium Map, the Articles, the Bylaws, and any rules and regulations relating to the Project together with all amendments to any such documents, as well as the Association's books, records, and financial statements available

for inspection by the Owners, by prospective purchasers of Condominium Units, and by holders, insurers, and guarantors of First Mortgages that are secured by Condominium Units. The Association shall make available to prospective purchasers of Condominium Units current copies of this Declaration and the Articles, the Bylaws, the rules and regulations, and the most recent annual financial statement prepared by the Association. The documents will be made available by advance arrangement during regular business hours. The Association shall not be required to prepare audited statements, unless requested in writing to do so by an Eligible First Mortgagee. If there is no audited statement available for the immediately preceding fiscal year, the Association will prepare and furnish one within 120 days after the end of the Association's fiscal year-end or after receipt of the request (if an audited financial statement was not available and the request is made more than 120 days after the Association's fiscal year-end for the prior fiscal year) to any Agency or Eligible First Mortgagee that has an interest or prospective interest in a Condominium Unit after it receives a request therefor from such Agency or Eligible First Mortgagee.

ARTICLE XVII DEVELOPMENT RIGHTS AND SPECIAL DECLARANT RIGHTS

Section 17.1 Development Rights. In addition to the rights reserved by Declarant in Section 3.3 above, Declarant reserves for itself and its successors in title (if specifically recited in a deed or grant from Declarant and accepted, in writing, by that successor), for seven years after the recording of this Declaration, the following Development Rights:

(a) the right enlarge or expand Units within the extended vertical boundaries of a Unit up to the height as allowed by the governmental authorities having jurisdiction over the Project; the right to reduce or diminish the size of Units, the right to reduce or diminish the Common Elements, the right to relocate boundaries between adjoining or otherwise contiguous Units, the right to enlarge the Common Elements, and the right to complete or make improvements, as expansion rights may be approved by the governmental authorities having jurisdiction over the Project;

(b) the right to create or construct additional Units, Common Elements, and Limited Common Elements and to convert Units into Common Elements;

(c) the right to withdraw all or any part of the Common Elements from the provisions of this Declaration;

(d) the right to withdraw Units in a building from the provisions of this Declaration if all Units in that building are owned by Declarant;

Section 17.2 Special Declarant Rights. In addition to the "special declarant rights" set forth in Section 103(29) of the Common Interest Act, Declarant reserves for itself and its successors in title (if specifically recited in a deed or grant from Declarant and accepted, in writing, by that successor), for seven years after the recording of this Declaration, the following Special Declarant Rights:

(a) the right to complete improvements indicated on plats or maps filed with this Declaration;

(b) the right to maintain sales offices, management offices, and models in Units or on the Common Elements;

(c) the right to maintain signs and advertising on the Project to advertise the Project or other communities developed or managed by, or affiliated with the Declarant;

(d) the right to enter into, establish, execute, amend, and otherwise deal with contracts and agreements for the use, lease, repair, maintenance, or regulations of parking and/or recreational facilities and/or Common Elements that may or may not be a part of the Project;

(e) the right to make the Project subject to a master association and master declaration or merge or consolidate the Project with another common interest community;

(f) the right to appoint or remove any officer of the Association or any member of the Executive Board during the Declarant Control Period;

(g) the right to exercise any additional reserved right created by any other provision of this Declaration;

(h) the right exercise any Development Rights reserved or allowed in the Common Interest Act;

(i) the right to repair any portion of the Project, the right to perform construction work, and the right to store materials in secure areas, in Units and in Common Elements, and the future right to control such work and repairs, and the right of access thereto, until completion without the consent or approval of any Unit Owner or First Mortgagee;

(j) the right to allocate areas that constitute a part of the Common Elements as Limited Common Elements for the exclusive use of the owners of Units to which those specified areas shall become appurtenant (i) by making such an allocation in a recorded instrument, or (ii) in the deed to the Unit to which such Limited Common Elements shall be appurtenant, or (iii) by recording an appropriate amendment or supplement to this Declaration, or (iv) by recording a supplement to the Map;

(k) the right to use, and to permit others to use, easements through the Common Elements as may be reasonably necessary;

(l) the right to amend the Declaration in connection with the exercise of any Development Right;

(m) the right to amend the maps or plat in connection with the exercise of any Development Right; and

(n) the right to establish, from time to time, by dedication or otherwise, public streets, utility and other easements for purposes including but not limited to public access, access, paths, walkways, skyways, drainage, recreation areas, parking areas, ducts, shafts, flues, conduit installation areas, and to create other reservations, exceptions and exclusions.

to, reasonable destructive testing. A majority of the Executive Board shall meet and confer with Declarant on at least one occasion to discuss the alleged Defect or General Claim. Either party may be represented at the meeting by attorneys and independent consultants. The Association shall make arrangements for Declarant, at Declarant's cost, to conduct its Inspection, provided that Declarant pays all costs to restore all property or improvements to their original condition and indemnifies the Association against any damage caused by the Inspection. Declarant must complete the Inspection within 30 days after the date the Association makes the property and/or Improvements available for inspection.

Section 18.4 Declarant Settlement Proposal. Within 30 days after completion of the Inspection, Declarant shall submit a written statement to the Association setting forth Declarant's proposed settlement of each claim of Defect and/or General Claim and the reasons therefor and stating whether Declarant proposes to do any necessary remedial work or pay the Association a cash sum in lieu thereof. A majority of the Executive Board shall meet and confer with Declarant on at least one occasion to discuss the proposed settlement, if any. Either party may be represented at the meeting by attorneys or independent consultants. If Declarant does not deliver such a written statement to the Association within 30 days following the completion of the Inspection, the Association shall have the right to institute a cause of action against Declarant in accordance with the procedures set forth herein.

Section 18.5 Litigation Against Declarant. The consent of a majority of the Owners entitled to vote must be obtained before the Association may institute a cause of action against Declarant for the Defect or the General Claim. Such consent may only be obtained by the Association after it delivers ballots to all Owners in accordance with the notice procedures set forth in the Bylaws with respect to special meetings. Such delivery shall also include written materials that provide:

- (a) A statement of the Defect or the General claim;
- (b) A copy of Declarant's written response thereto, including any settlement proposal;
- (c) A statement advising Owners of their duty to disclose to prospective purchasers and lenders the General Claim or Defect which the Association will assert against Declarant;
- (d) A statement that recovery from litigation may not result in receipt of funds to pay all costs of repairing the Defect or remedying the General Claim as estimated by experts retained by the Association;
- (e) An estimate of the cost to the Association in prosecuting the cause of action; and
- (f) A description of the agreement with the attorney whom the Executive Board proposes to retain to prosecute the cause of action.

All communications regarding Defects and/or General Claims by the Association to the Owners shall be deemed privileged communications.

Section 17.3 Declarant's Easements. Declarant and its assignees have such easements through the Common Elements as may be reasonably necessary for exercising reserved rights in or assigned under this Declaration. Declarant also has a reserved easement for access and utilities to any properties which Declarant may or had the right to add, even if not added to the Project. Such easements include the right to construct underground utility lines, pipes, wires, ducts, conduits, and other facilities across the real estate.

Section 17.4 Manner of Exercise of Rights. Declarant or its assignees may exercise any reserved rights on all or any portion of the Property in whatever order determined. Declarant or its assignees shall not be obligated to exercise any reserved rights or to expand the Project beyond the number of Units initially submitted.

Section 17.5 Duration of Rights Reserved. If any right reserved herein by Declarant for the benefit of Declarant is a "development right" or a "special declarant right" as such terms are defined in the Common Interest Act, then such right shall expire in accordance with the provisions reserving the right in question, or if no such expiration is identified, then such right shall expire seven years from the date this Declaration is recorded. Any such unexpired rights may be transferred by Declarant to any person by an instrument executed by Declarant and its transferee, describing the rights transferred and recorded in the Office of the Clerk and Recorder for the County of Summit, in compliance with Section 304 of the Common Interest Act.

ARTICLE XVIII LITIGATION PROCEDURES IN DISPUTE WITH DECLARANT

Section 18.1 Association's Enforcement Rights. In the event of an alleged defect in (i) the soils of any property that lie within the Community or any part or parcel thereof or any improvement thereon; (ii) the physical condition of any Common Element or any improvement thereon; or (iii) any improvement to the Real Estate (collectively, a "Defect"), or in the event of any other claim for any other alleged matter whatsoever, including without limitation, a breach of the Declaration, the Articles, or the Bylaws (collectively, a "General Claim"), brought by the Association against Declarant, the Executive Board shall have the right, after complying with the procedures set forth in this Article XVIII, and upon an affirmative vote of a majority of the Executive Board and of a majority of the Owners as hereinafter provided, to proceed with a cause of action against Declarant for any of the foregoing reasons.

Section 18.2 Written Notice. The Association shall give written notice to Declarant specifying the particular Defect that is the subject of the claim, including identification of the affected property or Improvements, and/or specifying the facts and circumstances supporting any General Claim. Within 30 days following receipt of the notice, Declarant may make a written request to inspect the same in order to evaluate the Defect or the General Claim. Such request shall have the effect of tolling all statutes of limitations with respect thereto until 30 days after Declarant delivers written notice to the Association canceling the tolling.

Section 18.3 Declarant Inspections. If Declarant notifies the Association that it wishes to inspect the property or Improvements that are the subject of the claim of Defect or General Claim, the Association shall allow Declarant to inspect all property and Improvements identified in the Association's notice ("Inspection"). The Inspection may include, but shall not be limited

Section 18.6 Liability of Directors or Officers for Failure to Maintain an Action Against Declarant. No officer or director of the Association shall be liable to any person for failure to institute or maintain or bring to conclusion such cause of action if the following criteria are satisfied:

- (a) The officer or director was acting within the scope of his or her duties;
- (b) The officer or director was acting in good faith; and
- (c) The act or omission was not willful, wanton, or grossly negligent.

Section 18.7 Alternative Dispute Resolution. Any claim of a Defect or a General Claim shall, upon the demand of the Association or Declarant, be submitted to mediation or binding arbitration, subject to the following requirements:

(a) If the parties cannot agree upon utilizing binding arbitration or mediation, but one of the parties wants to utilize an alternative dispute resolution method, binding arbitration shall be utilized;

(b) The arbitrator or mediator must be a person qualified, either with applicable industry experience or legal experience with respect to the specific claim of Defect or General Claim, to consider and resolve the dispute;

(c) If the parties cannot agree upon an arbitrator or mediator, either party may petition the District Court of Summit County, Colorado to appoint such arbitrator or mediator;

(d) The fees and costs of the arbitrator or mediator and its consultants shall be borne equally by the Association and Declarant;

(e) The arbitrator or mediator shall have authority to establish reasonable terms regarding inspections, destructive testing, and retention of independent consultants;

(f) The arbitrator or mediator shall hold at least one hearing in which the parties, their attorneys, and expert consultants may participate;

(g) The arbitrator or mediator shall issue a written report determining all claims, including any defenses raised by Declarant and a recommendation for settlement (in the case of mediation) or a binding arbitration award;

(h) All statutes of limitations on any claim subject to the mediation shall be tolled for the period of mediation or binding arbitration, but no longer than 120 days;

(i) Declarant shall have the right to allow subcontractors to participate in the arbitration or mediation proceedings to determine indemnification rights and obligations, provided that the Association is not made to bear the cost of resolution of such indemnity issues; and

(j) Any arbitration shall be determined under the American Arbitration Association, Commercial Arbitration Rules with Expedited Procedures in effect on the date hereof, as modified by this Article. There shall be no substantive motions or discovery, except the arbitrator shall authorize such discovery as may be necessary to insure a fair private hearing that shall be held within 120 days of the demand and concluded within three days. The arbitrator shall apply substantive law and may award injunctive relief or any other remedy available in Colorado including attorney fees and costs to the prevailing party, but shall not have the power to award punitive damages.

Section 18.8 Utilization of Funds Resulting from the Cause of Action. If the Association receives funds as a result of any settlement, arbitration, or final judgment of a Defect or General Claim, after payment of fees and costs incurred in connection with prosecution of such action, the Association shall:

- (a) Deposit the proceeds in a special, interest-bearing account; and
- (b) Utilize the proceeds only for the purpose of performing remedial or repair work on the conditions that were the subject of the claim of Defect or for the purpose of remedying the General Claim.

ARTICLE XIX MISCELLANEOUS

Section 19.1 Period of Condominium Ownership. The condominium ownership created by this Declaration and the Condominium Map shall continue until this Declaration is terminated in any manner provided in this Declaration or by law.

Section 19.2 Supplemental to Condominium Act and Common Interest Act. The provisions of this Declaration shall be in addition and supplemental to the Common Interest Act, as it may be amended from time to time, and to all other applicable provisions of law, including the applicable provisions of the Colorado Nonprofit Corporations Act, as it may be amended from time to time.

Section 19.3 Conveyance of Condominium Units. All Condominium Units, whether or not the instrument of conveyance or assignment shall refer to this Declaration, shall be subject to the covenants, conditions, restrictions, easements, reservations, rights-of-way, and all other terms and provisions contained in this Declaration, as it may be amended from time to time.

Section 19.4 Enforcement. Enforcement of the covenants, conditions, restrictions, easements, reservations, rights-of-way, liens, charges, and other provisions contained in this Declaration, as amended, may be by any proceeding at law or in equity ("Judicial Proceeding") against any person(s) or the Association violating or attempting to violate any such provision. The Association, Declarant, or any aggrieved Owner shall have the right to institute, maintain, and/or prosecute any Judicial Proceeding in any court of competent jurisdiction, or if all parties to a dispute agree, by binding arbitration. In any Judicial Proceeding, the prevailing party shall recover its costs and reasonable attorneys' fees incurred pursuant thereto, as well as any and all other sums awarded by the court or arbitrator. Notwithstanding the Association's right to use summary abatement or similar means to enforce the covenants, conditions, restrictions,

easements, reservations, rights-of-way, liens, charges, and other provisions contained in this Declaration, as amended, the Association must initiate appropriate Judicial Proceedings before any items of construction previously made by or on behalf of an Owner can be altered or demolished. The Association, upon an affirmative vote of the majority of the Executive Board, shall also have the right to levy and collect charges for the violation of any provision of this Declaration and any rules and regulations promulgated hereunder, which charges shall be a perpetual lien in favor of the Association against each Unit, as more fully provided in Article VII hereof. Failure of the Association, Declarant, or any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 19.5 Notices; Registration of Mailing Address. Each Owner and each First Mortgagee, insurer, or guarantor of a First Mortgage shall register his mailing address with the Association, and notices or demands intended to be served upon the Association, any such Owner, First Mortgagee, insurer, or guarantor shall be delivered by messenger or sent by first class mail, postage prepaid, addressed in the name of such person or entity, at such registered address. If any Owner fails to so notify the Association of a registered address, then any notice or demand may be delivered or sent, as aforesaid, to such Owner at the address of such Owner's Condominium Unit.

Section 19.6 Non-Waiver. Failure by a Declarant, the Association, any Owner, First Mortgagee, or any other person or entity to enforce any covenant, condition, restriction, easement, reservation, right-of-way, or other provision contained in this Declaration shall in no way or event be deemed to be a waiver of the right to do so thereafter.

Section 19.7 Severability. The provisions of this Declaration shall be deemed to be independent and severable, and the invalidity of any one or more of the provisions hereof, or any portion thereof, by judgment or court order or decree shall in no way affect the validity or enforceability of any of the other provisions, which other provisions shall remain in full force and effect.

Section 19.8 Number and Gender. Unless the context provides or requires to the contrary, the use of the singular herein shall include the plural, the use of the plural shall include the singular, and the use of any gender shall include all genders.

Section 19.9 Captions. The captions to the Articles and Sections and the Table of Contents at the beginning of this Declaration are inserted herein only as a matter of convenience and for reference, and are in no way to be construed to define, limit or otherwise describe the scope of this Declaration or the intent of any provision hereof.

Section 19.10 Conflicts in Documents. In case of any conflict between this Declaration and the Articles or Bylaws, this Declaration shall control. In case of any conflict between the Articles and Bylaws, the Articles control.

Section 19.11 Rule Against Perpetuities. Unless exempted from the application of the rule against perpetuities under the provisions of the Condominium Ownership Act, the Common Interest Act or other applicable law, any interest in property granted under this Declaration shall vest, if at all, within the period measured by the life of the survivor of the grandchildren of

George W. Bush, former President of the United States of America, who are living on the date of recording of this Declaration in the Office of the Clerk and Recorder of the County of Summit, Colorado, plus 21 years.

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IN WITNESS WHEREOF, the undersigned, being Declarant herein, has hereunto set its hand and seal this 23 day of August, 2004.

DECLARANT:

HIGHLAND GREENS LLC,
a Colorado limited liability company

By: [Signature]
Chris Klein, Manager

STATE OF COLORADO)
~~CITY AND~~) ss.
COUNTY OF DENVER)
Summit

The above and foregoing Highland Greens Lodge Condominium Declaration was acknowledged before me this 23 day of August, 2004, by Chris Klein, as Manager of Highland Greens LLC, a Colorado limited liability company.

WITNESS my hand and official seal.

My commission expires: _____

[Signature]
Notary Public

LINDA C. ROGERS
NOTARY PUBLIC
STATE OF COLORADO

My Commission Expires Oct. 6, 2005

**EXHIBIT A
TO
HIGHLAND GREENS LODGE CONDOMINIUM DECLARATION**

LEGAL DESCRIPTION OF PROPERTY

BLOCK 2B, HIGHLAND GREENS – FILING NO. 1, PHASE 2, ACCORDING TO THE PLAT THEREOF RECORDED JANUARY 17, 2003 AT RECEPTION NO. 708229, COUNTY OF SUMMIT, STATE OF COLORADO.

**EXHIBIT B
TO
HIGHLAND GREENS LODGE CONDOMINIUM DECLARATION**

EASEMENTS AND LICENSES

1. Right of the Proprietor of a Vein or Lode to extract and remove his ore therefrom, should the same be found to penetrate or intersect the premises hereby granted, as reserved in United States Patent recorded January 4, 1909, in Book 89 at Page 80.
2. Right of way for ditches or canals constructed by the authority of the United States, as reserved in United States Patent recorded January 4, 1909, in Book 89 at Page 80.
3. Easement and right of way for utility lines purposes, as granted by W.S. Anderson to Public Service Company of Colorado by instrument recorded January 30, 1984, at Reception No. 272082.
4. Master Plan Agreement between Delaware Associates, Ltd. and the Town of Breckenridge recorded March 26, 1984, at Reception No. 275012, as amended by Amendment to Master Plan Agreement recorded October 7, 1999, at Reception No. 607559.
5. Designation of Master Developer recorded March 5, 1985, at Reception No. 293224 and Designation of Successor Master Developer recorded February 14, 1997 at Reception No. 533542.
6. Easement and right of way for public road purposes, as granted by Lincoln Highlands III Limited, a Colorado limited partnership to Town of Breckenridge by instrument recorded July 22, 1998, at Reception No. 570481.
7. Settlement Agreement between Lincoln Highlands I Limited and Lincoln Highlands III Limited and the Town of Breckenridge recorded February 4, 1999, at Reception No. 587804.
8. Development Agreement between Town of Breckenridge, Lincoln Highlands I Limited, a Colorado limited liability company, and Lincoln Highlands III Limited, recorded July 15, 1999, at Reception No. 600487.
9. Development Agreement between Town of Breckenridge, Lincoln Highlands I Limited, a Colorado limited liability company, and Lincoln Highlands III Limited, recorded October 7, 1999, at Reception No. 607561.
10. Memorandum of Sewer Line Extension Agreement between Lincoln Highlands III Ltd. and the Breckenridge Sanitation District recorded November 14, 1999 at Reception No. 609623.

11. Easement and right of way to construct, reconstruct, modify, change, add to, operate, maintain, and remove telecommunications facilities, electrical facilities, gas facilities and appurtenances, as granted by Lincoln Highlands III, Limited to US West Communications, Inc. by instrument recorded March 31, 2000, at Reception No. 619793.

12. Easement and right of way for installation, maintenance, operation, use, repair and reconstruction of an underground sewer line, as granted by Lincoln Highlands III, Limited, to High Tor Condominium Association by instrument recorded April 7, 2000, at Reception No. 620176.

13. Terms, conditions and provisions of Agreement Regarding Architectural Review recorded September 29, 2000 at Reception No. 633977.

14. Any and all notes, dedications and easements as shown on the Plat for Highlands Green recorded January 9, 2001 under Reception No. 642210.

15. Terms, conditions and provisions of Subdivision Improvement Agreement recorded January 9, 2001 at Reception no. 642212.

16. Terms, conditions and provisions of Memorandum of Sewer Line Extension Agreement recorded September 20, 2000 at Reception No. 633140.

17. Restrictive covenants, which do not contain a forfeiture or reverter clause, but omitting any covenant or restriction based on race, color, religion, sex, handicap, familial status or national origin unless and only to the extent that said covenant (a) is exempt under Chapter 42, Section 3607 of the United States Code or (b) relates to handicap but does not discriminate against handicapped persons, as contained in instrument recorded September 26, 2001, under Reception No. 663477.

18. Easements, notes and dedications as shown on Plat for Highlands Green, Filing No. 1 recorded September 26, 2001 under Reception No. 663478 and any and all amendments thereto.

19. Terms, conditions and provisions of Breckenridge Sanitation Notice recorded March 6, 2002 at Reception No. 677918.

20. Terms, conditions and provisions of Update of Annual Report Water Surcharge Credits recorded January 8, 2003 at Reception No. 707431.

21. Notes, dedications and easements set forth on the Plat for Highland Greens Filing No. 1, Phase 2 recorded January 17, 2003 under Reception No. 708229.

CONSENT OF LENDER

U.S. Bank National Association, being the beneficiary of that certain Deed of Trust, Security Agreement, Financing Statement, and Assignment of Rents and Revenues from Highland Greens LLC, dated September 29, 2000 and recorded September 29, 2000 in at Reception Number 633978 in the records of the Clerk and Recorder for the County of Summit, State of Colorado (the "Deed of Trust"), hereby consents to the execution and recordation of the foregoing Highland Greens Lodge Condominium Declaration and the Highland Greens Lodge Condominium Map and agrees that the Deed of Trust shall be junior and subordinate to such Condominium Declaration and Condominium Map.

EXECUTED on the 23rd day of August 2004.

U.S. BANK NATIONAL ASSOCIATION

By:

Its:

[Handwritten Signature]
Assistant Vice President

STATE OF COLORADO)
CITY AND) ss.
COUNTY OF DENVER)

The foregoing Consent of Lender was acknowledged this 23 day of August 2004, by Matthew R. Camphers as AVP of U.S. Bank National Association.

CHRISTINE M. BORCHARDT
NOTARY PUBLIC
STATE OF COLORADO

WITNESS my hand and official seal.

MY COMMISSION EXPIRES 10/26/2006

My commission expires: _____

Christine M Borchardt
Notary Public



**FIRST AMENDMENT TO THE HIGHLAND GREENS LODGE
CONDOMINIUM DECLARATION**

11-
THIS FIRST AMENDMENT TO THE HIGHLAND GREENS LODGE
CONDOMINIUM DECLARATION (this "First Amendment") is made this day of August 27,
2004 by Highland Greens LLC, a Colorado limited liability company ("Declarant").

A. On August 26, 2004, Declarant caused that certain Highland Greens Lodge
Condominium Declaration (the "Declaration") to be recorded at Reception Number 765727 in
the Office of the County Clerk and Recorder of Summit County, Colorado ("County Records").

B. On August 26, 2004, Declarant caused that certain Condominium Map Highland
Greens Lodge (the "Condominium Map") to be recorded at Reception Number 765728 in the
County Records.

C. Pursuant to Section 209 of the Colorado Common Interest Ownership Act, the
Condominium Map is a part of the Declaration. The Condominium Map describes and depicts
"Storage Units." Storage Units are not specifically referenced in the Declaration.

D. Pursuant to Section 15.2 of the Declaration, Declarant has the full right and power
to make and execute any amendments to the Declaration, without obtaining the approval of any
Owners or First Mortgagees, that Declarant deems necessary in order to correct technical,
clerical, or typographical errors or to clarify the meaning of any provisions of the Declaration.

E. Section 1.29 of the Declaration requires clarification that a Unit may refer to
certain storage spaces ("Storage Units") as described and depicted on the Map. Other sections of
the Declaration require clarification regarding the manner in which Storage Units are to be
legally described and the effect of ownership of a Storage Unit.

F. Declarant desires to clarify the Declaration with respect to Storage Units by
recording this First Amendment. Terms beginning with a capital letter and not otherwise defined
herein shall have the same meanings assigned to them in the Declaration.

NOW THEREFORE, effective upon the recording of this First Amendment, the
Declaration is amended as follows:

1. Clarification of Meaning. Section 1.29 of the Declaration is hereby amended to
clarify that Units may either be Condominium Units as defined in Section 1.11 of the Declaration
or Storage Units as described and depicted on the Condominium Map. A Storage Unit is any
Unit that is not a Condominium Unit.

2. Inseparability. Section 2.2 of the Declaration is hereby amended to clarify that no
Storage Unit may be conveyed to anyone who is not also an Owner of a Condominium Unit. A
Storage Unit may not be conveyed separately from the Condominium Unit to which it is
appurtenant. All references to a Condominium Unit in the Declaration shall be deemed to
include its appurtenant Storage Unit, if any.

