

ARTICLE X

PROPERTY TAXES

Real property taxes, levies and assessments shall be separately and individually billed by the County Assessor's office to the Owners of individual Units on account of their interest in their Unit and the Common Elements. Payment of such taxes for Units shall be the sole responsibility of the Owner of such Unit. The Association shall not be liable for the collection and payment of any real or personal property taxes of any type whatsoever levied against individual Owners on account of their Units or their interest in the Common Elements.

ARTICLE XI

PROHIBITION AGAINST PARTITION OR SEVERANCE
OF UNIT FROM INTEREST IN COMMON ELEMENTS

The Common Elements shall remain undivided and each Owner irrevocably waives the right to bring any action to partition the Common Elements. The rights in the Common Elements and title to the respective Units, together with any exclusive easements or rights appurtenant to each Unit, shall not be separated, severed or separately conveyed, assigned, encumbered or otherwise transferred except as may otherwise permitted by this Declaration and/or the Act. All Allocated Interests, including all rights in the Common Elements, shall be conclusively deemed to be conveyed, assigned, transferred or encumbered with the respective Unit even though the description in the instrument of conveyance or encumbrance may refer only to the Unit.

ARTICLE XII

PARTY WALLS

Section 1. General Rules of Law to Apply. Each wall or fence which is built as a part of the original construction of the Units by Declarant and which is placed on the dividing line between the Units shall be treated in the same manner as a Party Wall, and, to the extent not inconsistent with the provisions of this Article XII, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto. Minor discrepancies between the as-built location of any such wall or fence and the legal boundary of any Unit shall not affect the Unit Owner's maintenance duties with respect to such wall or fence, and such wall or fence shall, nevertheless, be treated as a Party Wall.

Section 2. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of such a common wall or fence between Units shall be shared equally by the Owners of the Units adjacent to such common wall or fence. However, each Owner shall be solely responsible for repainting the side of any common wall or fence facing his Unit.

Section 3. Destruction by Fire or Other Casualty. If such a common wall or fence to be maintained by individual Owners is destroyed or damaged by fire or other casualty, any Owner whose Unit is affected thereby may restore it, and the Owner of the other Unit which is affected thereby shall contribute equally to the cost of restoration thereof without prejudice, however, to the right of any such repairing Owner to call for a larger contribution from the other under any rule of law regarding liability for negligent or willful acts or omissions.

Section 4. Right to Contribution Runs With Land. The right of any Owner to contribution from any other Owner under this Article XII shall be appurtenant to the land and shall pass to such Owner's successors in title.

Section 5. Arbitration. If any dispute arises concerning a common wall or fence to be maintained by an Owner or the provisions of this Article XII, then such dispute shall be submitted to and determined by binding arbitration. Each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator. The decision shall be rendered by a majority of all the arbitrators, in accordance with the American Arbitration Association Commercial Rules of Arbitration.

ARTICLE XIII

ARCHITECTURAL CONTROL

Section 1. Architectural Approval. In order to maintain a uniform and well-maintained appearance throughout the Project, no exterior Improvements or other structures shall be commenced, erected, altered or maintained upon the Project without the prior written approval of the Architectural Committee.

Section 2. Architectural Committee. An Architectural Committee, consisting of not less than three (3) nor more than five (5) members shall be established for the Project. Declarant may appoint all of the original members of the Committee and retains the right to appoint or replace Committee members until relinquishment of control by Declarant. Thereafter, the Board members may (a) serve as the Architectural Committee, or (b) may appoint members to serve on the Architectural Committee. Committee members appointed by Declarant need not be Members of the Association. Committee members appointed by the Board shall be from the membership of the Association.

Section 3. Alteration or Subdivision of Units; Relocation of Boundaries Between Adjoining Units. Any contemplated alteration or subdivision of Units or relocation of boundaries between adjoining Units shall be submitted to the Board for approval and, if approved by the Board, shall otherwise comply with the requirements of Sections 38-33.3-211, 38-33.3-212 or 38-33.3-213, C.R.S., as applicable.

Section 4. Submission, Approval and Conformity of Plans. The Board shall adopt and promulgate Architectural Standards to be administered through its Architectural Committee as the Board, in its discretion, may deem appropriate. If the Architectural Standards so provide, no improvement, alteration, other structure or addition shall be commenced, erected, altered or maintained within the Project, nor shall any exterior addition, change, alteration, or change in original exterior color to any Unit be made until plans and specifications showing the nature, kind, shape, height, materials and location of the same are submitted to and approved in writing by the Architectural Committee. The Architectural Standards shall include the following restrictions and limitations:

(a) Time limitations for the completion of the Improvements for which approval is required pursuant to the Architectural Standards;

(b) Conformity of completed Improvements to plans and specifications approved by the Architectural Committee; provided, however, that as to purchasers and encumbrancers in good faith and for value, unless a notice of noncompletion or nonconformance identifying the violating Unit and its Owner and specifying the reason for the notice, executed by the Architectural Committee, is recorded in the Recorder's Office of the County and given to such Owner within thirty (30) days of the expiration of the time limitation described in subsection (a) above, or unless legal proceedings

have been instituted to enforce compliance or completion within that thirty-day period, the completed Improvements shall be deemed to be in compliance with plans and specifications approved by the Architectural Committee;

(c) Such other limitations and restrictions as the Board in its reasonable discretion shall adopt, including, without limitation, regulation of construction, reconstruction, exterior addition, change, alteration to or maintenance of any Building or other Improvement, with regard to the nature, kind, shape, height, materials, exterior color and surface and location of such structure.

The Architectural Committee may delegate its plan review responsibilities to one (1) or more members of the Committee. Upon such delegation, the approval or disapproval of plans and specifications by such persons shall be equivalent to approval or disapproval by the entire Committee. The Committee may establish reasonable procedural rules and may assess a reasonable fee (not to exceed the estimated cost of review) per submission in connection with review of plans and specifications. Unless such rules regarding submission of plans are complied with, such plans and specifications shall be deemed not submitted. In the event that the Architectural Committee fails to approve or disapprove plans or other requests submitted to it within thirty (30) days after such submission, then such approval will not be required so long as any structure or improvement erected or altered pursuant to such plans conforms to all the conditions and restrictions herein contained and is in harmony with similar structures erected within the Project.

Section 5. Appeal In the event plans and specifications submitted to the Architectural Committee are disapproved, the party making such submission may appeal in writing to the Board. The written request must be received by the Board not more than thirty (30) days following the final decision of the Architectural Committee. The Board shall submit such request to the Architectural Committee for comment and the Committee's written comments will be submitted to the Board. Within forty-five (45) days following receipt of the request for appeal, the Board shall render its written decision. Failure of the Board to render a decision within this forty-five (45) day period shall be deemed a decision in favor of the appellant. Should an appeal be filed during a period when the Board is acting as the Architectural Committee, any appeal shall be directed to the Board, but the Board shall appoint an Appeal Committee, consisting of two members of the Board and three other Members not on the Board, to render a decision on the appeal. Should the appealing party not accept the decision of the Appeal Committee, he may submit the matter to a form of alternative dispute resolution such as arbitration or mediation as provided in Article XVIII, Section 1 (a) of this Declaration.

Section 6. General Provisions. Operation of the Architectural Committee shall be subject to the following general provisions:

(a) Review and approval by the Committee of plans and specifications does not constitute approval of engineering design, and by approving such plans and specifications, neither the Committee, the members thereof, the Association, the Members, the Board nor Declarant assumes liability or responsibility therefor, or for any defect in any structure constructed from such plans and specifications. Approval of plans and specifications by the Committee does not relieve the Owner-

applicant of the responsibility to obtain necessary building permits and approvals from the Town or other governmental authority having jurisdiction.

(b) The address of the Architectural Committee shall be the principal office of the Association as designated by the Board pursuant to the Bylaws. Such address shall be the place for submission of plans and specifications and the place where the current Architectural Standards, if any, shall be kept.

(c) The establishment of the Architectural Committee and the procedures described herein for architectural approval shall not be construed as changing any rights or restrictions upon Owners to maintain, repair, alter or modify or otherwise have control over their Units as may otherwise be specified in the Governing Documents.

Section 7. Nonapplicability to Declarant The provisions of this Article shall not apply to any Unit owned by Declarant prior to its first conveyance to an Owner or to the construction by Declarant of residential Improvements upon any Lot

Section 8. Reconstruction of Units. The reconstruction of any Unit after destruction, which is accomplished in substantial compliance with the original building plans for such Unit, shall not require compliance with the provisions of this Article.

Section 9. No Liability. Neither Declarant, nor the Board or the Committee, nor any member thereof, nor their duly authorized representatives, shall be liable to the Association or to any Owner for any loss, damage or injury arising out of or in any way connected with the performance of the Committee's duties hereunder unless due to the willful misconduct or bad faith of the Committee. The Committee's review of plans submitted to it will be based solely on aesthetic considerations and the overall benefit or detriment which might result to the immediate vicinity and the Project generally. The Committee will not be responsible for reviewing, and its approval of any plan or design will not be deemed approval of, any such plan or design from the standpoint of structural safety or conformance with building or other codes.

Section 10. Governmental Approval. After relinquishment of control by the Declarant, no addition to Buildings, Lots or Units shall be approved or constructed if such addition would require an additional allocation of density for the Property, pursuant to the Town Development Code, and no modification described in this Article requiring approval pursuant to Town or other governmental regulations shall occur until such modification has also been approved by the Town or other governmental authority having jurisdiction.

ARTICLE XIV

RIGHTS OF INSTITUTIONAL HOLDERS OF MORTGAGES

The following provisions are for the benefit of Institutional Holders, Insurers and Guarantors of first Mortgages on Units within the Covered Property and shall apply notwithstanding any provision to the contrary set forth elsewhere in this Declaration or the Bylaws. These provisions apply only to "Eligible Holders" as defined below.

Section 1. Notices of Actions Any Institutional Holder, Insurer or Guarantor of a first Mortgage who provides written request to the Association, stating the name and address of such Holder, Insurer or Guarantor and the address or legal description of the particular Unit encumbered (thus becoming an "Eligible Holder"), will be entitled to timely written notice of:

- (a) Any default by the Owner of such Unit in the performance of such Owner's obligations under the Declaration or Bylaws which is not cured within sixty (60) days from the date of such default;
- (b) Any condemnation proceedings affecting the Project;
- (c) Any substantial damage to or destruction of any significant portion of the Common Elements;
- (d) Any proposed termination of the Association;
- (e) Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association; or
- (f) Any proposed action which would require the consent of Eligible Holders as further described in this Article.

Section 2. Rights of Institutional Holders Upon Foreclosure. Any Institutional Holder of a first Mortgage on a Unit which comes into possession of that Unit pursuant to judicial foreclosure or foreclosure by power of sale shall:

- (a) Acquire title in such Unit free of any claims for unpaid Assessments or charges against the Unit accruing prior to the Institutional Holder's acquisition of title;
- (b) Not be obligated to cure any breach of this Declaration which is noncurable or of a type which is not practical or feasible to cure and which took place prior to acquisition of title to the Unit by the Institutional Holder; and

(c) Be exempt from any right of first refusal contained in this Declaration, or any amendment hereto, and such right of first refusal shall not impair the rights of an Institutional Holder to (i) foreclose or acquire title to a Unit pursuant to the remedies provided in the Mortgage, (ii) accept an assignment in lieu of foreclosure in the event of default by the mortgagor, or (iii) sell or lease a Unit acquired by the Institutional Holder.

Section 3. Consent of Institutional Holders. The consent of Institutional Holders, Insurers or Guarantors shall be required in order to take the following actions with respect to the Association and rights and obligations of Members and Institutional Holders:

(a) Any restoration or repair of the Common Elements after a partial condemnation or damage due to an insurable hazard shall be substantially in accordance with this Declaration and the original plans and specifications unless the approval of the Eligible Holders of first encumbrances on Units to which at least fifty-one percent (51%) of the votes of the Owners of such Units, subject to encumbrances held by such Eligible Holders are allocated, is obtained;

(b) Any election to terminate the Association after substantial destruction or a substantial taking in condemnation shall require the approval of the Eligible Holders of first encumbrances on Units to which at least fifty-one percent (51%) of the votes of Owners of such Units, subject to first encumbrances held by such Eligible Holders, are allocated;

(c) Unless at least seventy-five percent (75%) of the Owners (other than Declarant) have given their prior written approval, the Association and the Owners shall not be entitled to: (i) change the pro rata interest or obligations of any Unit for the purposes of levying Assessments and charges or allocating distributions of hazard insurance proceeds or condemnation awards unless the change is due to the exercise of Declarant's Development Rights in additional phases as authorized in this Declaration; (ii) partition or subdivide all or any part of the Common Elements of the Project; (iii) by act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the Common Elements (the granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Elements shall not be deemed a transfer within the meaning of this provision) unless due to the exercise of Declarant's Development Rights in additional phases as authorized in this Declaration; (iv) use hazard insurance proceeds for losses to any portion of the Common Elements for other than the repair, replacement or reconstruction of such Improvements, except as provided by statute.

Section 4. Amendments to Documents. The following provisions contained in this Section do not apply to amendments to the Bylaws or this Declaration or termination of the Association made as a result of destruction, damage or condemnation pursuant to subsections (a) and (b) of Section 3 above.

(a) The consent of one hundred percent (100%) of the voting power of the Association and the approval of the Eligible Holders of first encumbrances on Units to which at least sixty-seven percent (67%) of the votes of Members owning Units subject to such encumbrances pertain, shall be required to terminate the Association.

(b) The consent of at least sixty-seven percent (67%) of the Members and the approval of Eligible Holders of first encumbrances on Units to which at least fifty-one percent (51%) of the votes of Members whose Units are subject to such an encumbrance pertain, shall be required in order to materially amend any provision of the Governing Documents, or to add any material provisions thereto, which establish, provide for, govern or regulate any of the following: (i) voting; (ii) Assessments, Assessment liens or subordination of such liens; (iii) reserves for maintenance, repair and replacement of the Common Elements; (iv) insurance or fidelity bonds; (v) rights to use the Common Elements; (vi) responsibility for maintenance and repair of the Project; (vii) expansion or contraction of the Project or the addition, annexation or withdrawal of property to or from the Association; (viii) boundaries of any Unit or the Common Elements; (ix) leasing of Units; (x) imposition of any right of first refusal or similar restrictions of the right of any Owner to sell, transfer or otherwise convey his Unit; (xi) establishment of self-management by the Association where professional management has previously been required or for a project consisting of fifty (50) or more Units; or (xii) any provisions included in the Governing Documents which are for the express benefit of Institutional Holders, Guarantors or Insurers of first encumbrances on Units.

Section 5. Additional Rights of Institutional Holders. Any Institutional Holder of a Mortgage on a Unit in the Project will, upon request, be entitled to: (a) inspect the Governing Documents, the books and records and the financial statements of the Association during normal business hours; (b) for projects consisting of fifty (50) or more Units, receive an annual audited financial statement of the Association within one hundred twenty (120) days following the end of any fiscal year of the Association; (c) if no audited statement is available for projects consisting of fewer than fifty (50) Units, an Institutional Holder may have an audited statement prepared at its own expense; (d) receive written notice of all meetings of Owners and be permitted to designate a representative to attend all such meetings; and (e) may, jointly or singly, pay taxes or other charges which are in default and which may become a charge against any Common Elements property and may pay any overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the Common Elements on the lapse of such a policy, and Institutional Holders making such payments shall be owed immediate reimbursement therefor from the Association.

Section 6. Information. Any Institutional Holder is authorized to furnish information to the Board concerning the status of any loan encumbering a Unit.

Section 7. Priority of Mortgage Lien. No breach of the covenants, conditions or restrictions contained in this Declaration, nor the enforcement of any lien provisions created herein, shall affect, impair, defeat or render invalid the lien of any first Mortgage made in good faith and for value, but all of the covenants, conditions and restrictions shall be binding upon and effective against any Owner whose title to a Unit is derived through foreclosure, trustee's sale or otherwise.

Section 8. Insurance. The Owners and the Association shall procure and maintain fire and liability insurance and such other insurance as may from time to time be required by Institutional Holders. All such insurance shall contain loss payable clauses naming the Institutional Holders which encumber a Unit by a first Mortgage, as their interests may appear.

Section 9. Priority on Distribution of Proceeds. No Owner or any other party shall have priority over the Institutional Holder of the Mortgage on his Unit in the case of a distribution of insurance proceeds or condemnation awards for losses to or a taking of the Unit or Common Elements.

Section 10. Special FNMA-FHLMC Provisions. So long as required by The Federal National Mortgage Association ("FNMA") and the Federal Home Loan Mortgage Corporation ("FHLMC"), the following provisions shall apply in addition to and not in lieu of the foregoing provisions contained in this Article.

(a) Unless at least sixty-seven percent (67%) of the Institutional Holders of first encumbrances or Owners of Units subject to such encumbrances give their consent, the Association shall not: (i) by act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the Common Elements; (ii) change the method of determining the obligations, Assessments, dues or other charges which may be levied against an Owner; (iii) by act or omission change, waive or abandon any scheme of regulations or enforcement thereof pertaining to the architectural design or the exterior appearance and maintenance of the Project and the Common Elements; (iv) fail to maintain fire or extended coverage insurance, as required by this Declaration; or (v) use hazard insurance proceeds for any Common Elements losses for other than the repair, replacement or reconstruction of such property.

(b) The Association agrees to give written notice to the FNMA or FHLMC or its designated representative of any loss to, or taking of, the Common Elements if such loss or taking exceeds Ten Thousand Dollars (\$10,000.00).

(c) If any loan secured by a Mortgage encumbering a Unit is owned by the FNMA or FHLMC, its successors or assigns or is tendered to the FNMA or FHLMC, its successors or assigns for purchase, the Association and the Owners shall obtain and maintain in full force and effect all insurance coverages which may at any time be required by the FNMA or FHLMC, its successors or assigns, and shall otherwise comply in all respects with all insurance requirements of the FNMA or FHLMC which may be in effect at any time.

Section 11. Consent. An Eligible Holder which receives a written request to consent to an amendment or to any other action to which the Eligible Holders' consent is required or permitted by this Declaration, and which does not respond negatively within thirty (30) days after having received proper notice of the proposed amendment and request, provided the notice was delivered by certified or registered mail with a return receipt requested, shall be deemed to have consented to the amendment or other action.

Section 12. No Lender Control of the Association. Notwithstanding anything to the contrary contained in this Declaration, no requirement for lender approval shall operate to:

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

(b) Prevent the Association or the Board from commencing, intervening in, or settling any solicitation or proceeding; or

(c) Prevent any insurance trustee or the Association from receiving and distributing any insurance proceeds pursuant to Section 38-33.3-313, C.R.S.

ARTICLE XV

EMINENT DOMAIN

Section 1. Remnant After Eminent Domain. If a Lot or Unit is acquired by eminent domain or part of a Lot or 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 must include compensation to the Owner for that Lot or Unit and its Allocated Interests whether or not any Common Element is acquired. Upon acquisition, unless the decree otherwise provides, that Lot's or Unit's Allocated Interests are automatically reallocated to the remaining Lots or Units in proportion to the respective Allocated Interests of those Lots or Units before the taking. Any remnant of a Lot or Unit remaining after part of a Lot or Unit is taken under this Section 1 is thereafter a part of the Common Elements.

Section 2. Award for Partial Taking of Lots or Units. Except as provided in Section 1 of this Article, if part of a Lot or Unit is acquired by eminent domain, the award must compensate the Owner for the reduction in value of the Lot or Unit and its interest in the Common Elements whether or not any Common Element is acquired. Upon acquisition, unless the decree otherwise provides:

(a) That appurtenant Allocated Interests are reduced in proportion to the reduction in size of the Lots or Unit;

(b) The portion of Allocated Interests divested from the partially acquired Lot or Unit is automatically reallocated to that Lot or Unit and to the remaining Lots or Units in proportion to the respective interests of those Lots or Units before the taking, with the partially acquired Lot or Unit participating in the reallocation on the basis of its reduced Allocated Interests.

Section 3. Award for Partial Taking of Common Elements. If part of the Common Elements is acquired by eminent domain, that portion of any award attributable to the Common Elements taken must be paid to the Association, and that portion of any award attributable to the Limited Common Elements must be equally divided between the Owners of the Units to which that Limited Common Element was allocated at the time of acquisition. For the purposes of acquisition of a part of the Common Elements, other than Limited Common Elements, service of process on the Association shall constitute sufficient notice to all Unit Owners, and service of process on each individual Unit Owner shall not be necessary.

Section 4. Recordation of Decree. The court decree shall be recorded in every county in which any portion of the Common Interest Community is located, i.e., in Summit County, Colorado.

Section 5. Amendment to Declaration After Taking. The reallocations of Allocated Interests pursuant to this Article shall be confirmed by an amendment to this Declaration prepared, executed, and recorded by the Association.

ARTICLE XVI

EASEMENTS

Section 1. Utility Easements. Easements over the Project for the installation and maintenance of electric, telephone, water, gas and sanitary sewer lines and facilities, and for drainage facilities as shown on the recorded Plat of the Project, and as may be hereafter required or needed to service the Project are hereby created by Declarant for the benefit of each Owner and the Association.

Section 2. Common Element Easements. Each Unit within the Project is hereby declared to have an easement over all of the Common Elements, for the benefit of the Units, the Owners thereof, and for their families, guests, invitees and tenants, for all of the purposes and uses described herein, including ingress, egress, and support, if necessary, over and through the Common Elements.

Section 3. Utilities. Wherever sewer connections, water connections, electricity, gas, telephone and cable television lines or drainage facilities are installed within the Project, the Owners of Units served by such connections, lines or facilities shall have an easement to the full extent necessary for the use and enjoyment of that portion of the connections which service his Unit, and to have utility companies enter upon the Common Elements or Lots or Units owned by others, in or upon which said connections, lines or facilities, or any portion thereof lie, to repair, replace and generally maintain said connections when it may be necessary.

Section 4 Construction and Sales Easements. Declarant hereby reserves easements over the Project and all Phases thereof, for construction, display, maintenance, sales and exhibit purposes in connection with the construction and sale or lease of Units within the Project, together with the right to grant and transfer such easements to its sales agents, representatives and prospective purchasers of Units; provided, however, that such easement rights cease if the Declarant ceases to be a Unit Owner. The construction and sales easements reserved hereby shall specifically include the right to maintain sales offices in model Units and/or temporary modular facilities at such location or locations throughout the Project as Declarant may deem appropriate, the right to place signs advertising Units for sale, and the right to maintain temporary utility poles, lines and other facilities throughout the Project. Declarant specifically reserves the right to maintain in the Project those facilities which are described in attached Exhibit "B" as to the number, size, location and relocation of such facilities, and to promptly remove any such described facilities from the Project if Declarant ceases to be a Unit Owner, in accordance with Section 38-33.3-215, C.R.S.

Section 5. Encroachment. To the extent that any Unit or Common Element encroaches on any other Unit or Common Element, whether as a result of construction of any of the Buildings, or if any such encroachment shall occur as a result of settling or shifting of any of the Buildings, an easement for the encroachment and for the maintenance of same so long as such Building stands shall exist. If any Building, Unit, adjoining Unit, or Common Element shall be partially or totally destroyed

as a result of fire or other casualty, and then rebuilt according to the specification of the original Master Plan, minor encroachments of the Common Elements upon any Lot or Unit or minor encroachments of any rebuilt Unit upon any Lot or other Unit or upon the Common Elements, due to such rebuilding, shall be permitted, and easements for such encroachments and the maintenance thereof shall exist so long as that Building, Common Element, or Lot or Unit, as the case may be, shall exist. This easement does not relieve a Unit Owner of liability in case of willful misconduct nor relieve the Declarant or any other person of liability for failure to adhere to the Plat.

Section 6. Emergency Access Easement. A nonexclusive easement for ingress and egress is hereby granted to all police, sheriff, fire protection, ambulance, and other similar emergency agencies or persons, now or hereafter servicing the Project, to enter upon any part of the Project in the performance of their duties.

Section 7. Establishment of Easements. The easements described in this Declaration shall be deemed established upon the recordation of this Declaration, and shall thereafter be considered covenants running with the land for the use and benefit of all of the Units and the Common Elements, superior to all other encumbrances affecting any portion of the Project. Individual conveyances of Lots or Units may, but shall not be required to, set forth such easements.

ARTICLE XVII

DEVELOPMENT RIGHTS AND SPECIAL DECLARANT RIGHTS

Section 1. Reservation of Development Rights. Declarant intends to develop the Covered Property in two construction Phases as set forth in Article II, Section 4 of this Declaration. However, Declarant may elect not to develop all or any part of any Phase, to develop the Project in Phases of any size whatsoever, or to develop more than one Phase at any given time and in any given order. Declarant reserves rights to develop the property described in attached Exhibit "A" and to add property to or withdraw property from the Project for a period of seven (7) years from the date of recordation of this Declaration. Said Development Rights shall include the right to create Units, Common Elements and Limited Common Elements on the Covered Property and any added property.

Section 2. Exercise of Development Rights. Property may be developed by Declarant and become subject to this Declaration and the jurisdiction of the Association without the approval, assent or vote of the Association or its Members, provided that Declarant prepares, executes and records an Amendment to this Declaration (as described below in Section 3) and records either (a) new plats and maps with respect to that real estate reflecting change as a result of such exercise necessary to conform to the requirements of subsections (1), (2) and (4) of Section 38-33.3-209, C.R.S., or (b) certifications of plats and maps previously recorded if those plats and maps otherwise conform to the requirements of subsections (1), (2) and (4) of Section 38-33.3-209, C.R.S. Any such exercise of Development Rights shall comply with the requirements of Section 38-33.3-210, C.R.S. Any certificate of a plat or map required by this Section must be made by a registered land surveyor. No such Amendment to this Declaration shall be executed and recorded more than seven (7) years subsequent to the date of recordation of this Declaration. The recordation of such an Amendment to this Declaration shall constitute and effectuate the addition of the real property to the Project. The Declarant is the Owner of any Lots or Units thereby created. Thereafter the added property shall be part of the Covered Property and all Owners of Lots or Units in the added property shall automatically be Members of the Association. No proposed exercise of Development Rights and addition of property to the Project will result in a substantial increase in Assessments against existing Owners unless that fact was disclosed to the existing Owners in the earlier Phase(s) of the Project at the time the existing Owners purchased their Lots or Units.

Section 3. Amendment to Declaration. The Development Rights and addition of property to the Project authorized under the foregoing sections shall be made by recording an Amendment to this Declaration, which Amendment shall include all matters required by Sections 38-33.3-205 and 38-33.3-206, C.R.S. The Amendment to the Declaration must assign an identifying number to each new Lot or Unit created and, except in the case of subdivision or conversion of Units as described in Article XIII, Section 6 of this Declaration, reallocate the Allocated Interests among all Units. The Amendment must describe any Common Elements and any Limited Common Element thereby created and, in the case of Limited Common Elements, designate the Unit to which each is allocated to the extent required by Section 38-33.3-208, C.R.S. Such Amendment may contain complementary

additions and modifications of the covenants, conditions and restrictions contained in this Declaration as necessary to reflect the different character, if any, of the added property and as are not inconsistent with the plan of this Declaration. In no event shall any such Amendment, or any merger or consolidation revoke, modify or add to the covenants established by this Declaration within the initial Covered Property.

Section 4. Reservation of Special Declarant Rights. Declarant further reserves special declarant rights for the benefit of Declarant to perform the following acts: To complete Improvements indicated on the recorded Plat; to exercise any development right; to maintain sales offices, management offices, signs advertising the Project, and models; to use easements through the Common Elements for the purpose of making improvements within the Project or within real estate which may be added to the Project; to make the Project subject to a Declaration; to merge or consolidate a common interest community of the same form of ownership; or to appoint or remove any officer of the Association or any Board member during any period of Declarant control.

Section 5. Declarant's Addition of Unspecified Real Estate. Declarant reserves the right to amend this Declaration at any time during a period of seven (7) years after the recording of this Declaration to add additional real estate not described in this Declaration to the Common Interest Community as allowed for in the Act.

Section 6. Additions to Project Upon Approval of Members. Upon approval in writing of the Association, pursuant to the majority vote or written assent of Members other than Declarant, any person who desires to add property other than the property described in Exhibit "A" to the plan of this Declaration and to subject such property to the jurisdiction of the Association, may record an Amended Declaration and plats and maps as described in Section 3 above. The approval requirements of this Section shall also apply to the property described in Exhibit "A" subsequent to the expiration of Declarant's unilateral power to add such property to the plan of this Declaration as described in Section 2 above.

Section 7. Right of Withdrawal. Declarant reserves the right to withdraw any property which may be added to the Project pursuant to this Declaration and to delete such property from the common plan described herein and from the jurisdiction of the Association. Such withdrawal shall be effected prior to the conveyance of any Unit within the property to be withdrawn. Any such withdrawal may be accomplished by Declarant's recordation of an Amendment re Withdrawal.

Section 8. Transfer of Special Declarant Rights. A special declarant right created or reserved under this Article may be transferred only by an instrument evidencing the transfer recorded in the County. The instrument is not effective unless executed by the transferee. Any such transfer is subject to the provisions of Section 38-33.3-304, C.R.S.

Section 9. Declarant's Responsibility for Expenses. In addition to the liability that the Declarant as a Unit Owner has as described in this Declaration, the Declarant alone is liable for all expenses in connection with real estate subject to Development Rights. No other Owner and no other portion of the Project is subject to a claim for payment of those expenses.

ARTICLE XVIII

LEGAL PROCEEDINGS

Section 1. Legal Proceedings; Arbitration; Actions Arising From Declaration. Failure to comply with any of the terms of this Declaration by an Owner, his family, guests, employees, invitees or tenants, shall be grounds for relief which may include, without limitation, an action to recover sums due for damages, injunctive relief, foreclosure of any lien, or any combination thereof. Failure to enforce any provision hereof shall not constitute a waiver of the right to enforce that provision, or any other provision hereof. The Board, any Owner (not at the time in default hereunder), or Declarant (so long as Declarant is an Owner) shall be entitled to bring an action for damages against any defaulting Owner, and in addition may enjoy any violation of this Declaration. Any judgment rendered in any action or proceeding pursuant to this Declaration shall include a sum for attorneys' fees in such amount as the Court may deem reasonable, in favor of the prevailing party, as well as the amount of any delinquent payment, interest thereon, costs of collection and court costs. Each remedy provided for in this Declaration shall be cumulative and not exclusive or exhaustive. Each Owner shall have a right of action against the Association for the failure by the Association to comply with this Declaration.

Notwithstanding anything above to the contrary, any action or claim for enforcement of this Declaration shall be subject to the following provisions:

(a) Unless the applicable time limitation for commencing the action would run within one hundred twenty (120) days, prior to the filing of a civil action by either the Association or an Owner or a Member of the Common Interest Community solely for declaratory relief or injunctive relief, or for declaratory relief or injunctive relief in conjunction with a claim for monetary damages, other than Association Assessments, not in excess of Five Thousand Dollars (\$5,000), related to the enforcement of the Governing Documents, the parties shall endeavor, as provided in this subdivision, to submit their dispute to a form of alternative dispute resolution such as mediation or arbitration. The form of alternative dispute resolution chosen may be binding or non-binding at the option of the parties. Any party to such a dispute may initiate this process by serving on another party to the dispute a Request for Resolution. The Request for Resolution shall include (1) a brief description of the dispute between the parties, (2) a request for alternative dispute resolution, and (3) a notice that the party receiving the Request for Resolution is required to respond thereto within thirty (30) days of receipt or it will be deemed rejected. Parties receiving a Request for Resolution shall have thirty (30) days following service of the Request for Resolution to accept or reject alternative dispute resolution and if not accepted within the thirty (30) day period by a party, shall be deemed rejected by that party. If alternative dispute resolution is accepted by the party upon whom the Request for Resolution is served, the alternative dispute resolution shall be completed within ninety (90) days following receipt of the acceptance by the party initiating the Request for Resolution, unless extended by written stipulation signed by both parties. The costs of the alternative dispute resolution shall be borne by the parties.

(b) At the time of filing a civil action by either the Association or an Owner or a Member of the Common Interest Community solely for declaratory relief or injunctive relief, or for declaratory relief or injunctive relief in conjunction with a claim for monetary damages, other than Association Assessments, not in excess of Five Thousand Dollars (\$5,000), related to the enforcement of the Governing Documents, the party filing the action shall file with the complaint a certificate stating that alternative dispute resolution has been completed in compliance with Section 1(a). The failure to file a certificate as required by Section 1(a) shall be grounds for a demurrer or a motion to strike unless the filing party certifies in writing that one of the other parties to the dispute refused alternative dispute resolution prior to the filing of the complaint, that preliminary or temporary injunctive relief is necessary, or that alternative dispute resolution is not required by Section 1(a), because the limitation period for bringing the action would have run within the one hundred twenty (120) day period next following the filing of the action, or the court finds that dismissal of the action for failure to comply with Section 1(a) would result in substantial prejudice to one of the parties.

(c) Once a civil action to enforce the Governing Documents has been filed by either the Association or an Owner or Member of the Common Interest Community, upon written stipulation of the parties the matter may be referred to alternative dispute resolution and stayed. The costs of the alternative dispute resolution shall be borne by the parties.

(d) The requirements of Section 1(a) and Section 1(b) shall not apply to the filing of a cross-complaint.

(e) In any action to enforce the Governing Documents, the prevailing party shall be awarded reasonable attorneys' fees and costs. Upon motion by any party for attorneys' fees and costs to be awarded to the prevailing party in these actions, the court, in determining the amount of the award, may consider a party's refusal to participate in alternative dispute resolution prior to the filing of the action.

(f) Unless consented to by both parties to alternative dispute resolution that is initiated by a Request for Resolution under the above Section 1 (a), evidence of anything said or of admissions made in the course of the alternative dispute resolution process shall not be admissible in evidence, and testimony or disclosure of such a statement or admission may not be compelled, in any civil action in which, pursuant to law, testimony can be compelled to be given.

(g) Unless consented to by both parties to alternative dispute resolution that is initiated by a Request for Resolution under the above Section 1 (a), documents prepared for the purpose or in the course of, or pursuant to, the alternative dispute resolution shall not be admissible in evidence, and disclosure of these documents may not be compelled, in any civil action in which, pursuant to law, testimony can be compelled to be given.

Section 2. Legal Proceedings over \$5,000; Arbitration; Construction Claims.

(a) Litigation Prerequisites. Before the Association commences any action for damages over Five Thousand Dollars [\$5,000.00] against any person ("Respondent")* based upon any claim (including a claim for defects in the design or construction of the Common Interest Community against Declarant):

(1) A special meeting of the Members shall be held (as described in Section 2 (b) below);

(2) No action shall be filed against a Respondent except pursuant to a one hundred percent (100%) vote of the Members authorizing the filing of such action and authorizing a Special Assessment to pay the expenses of any such action; any such legal expenses shall not be paid out of Regular Assessments but shall be paid only by the Special Assessment authorized by one hundred percent (100%) of the Members; and

(3) If Respondent is Declarant, Respondent shall be afforded at least a forty-five (45) day period after receipt of written notice, sent by the Association to Declarant pursuant to Section 2 (c) (3) below, in which to cure any alleged defect.

*For purposes of this Article XVIII, Section 2, the term "Respondent" shall include any person or entity, without limitation, including "Declarant." For purposes of this Article XVIII, Section 2, the term "Declarant" shall include Declarant or any director, officer, partner, employee, or agent thereof, or Declarant's broker, attorney, general contractor, contractor or subcontractor, architect or materialmen engaged by Declarant in the development of the Project, or their agents and employees.

(b) Meeting and Vote of Members. The Board shall hold a meeting open to each Member of the Association, which meeting shall be held no less than thirty (30) days before the Association commences any action for damages in an amount exceeding Five Thousand Dollars (\$5,000.00) against a Respondent. The Association may commence such an action for damages only upon a one hundred percent (100%) vote of the Members in favor of such action and authorizing a Special Assessment for legal expenses as set forth in Section 2 (a) (2) above. The Board shall provide to each Member at least thirty (30) days' written notice in advance of any such meeting called for the purpose of authorizing the filing of such an action ("Notice to Members"), which Notice to Members shall specify all of the following:

(1) That a meeting will take place to discuss problems that may lead to the filing of a civil action, and the time and place of this meeting.

(2) The options that are available to address the problems, including the filing of a civil action.

(3) A statement that no such legal action may be instituted except pursuant to a one hundred percent (100%) vote of the Members in favor of filing any such action and authorizing a Special Assessment for the legal expenses in connection with such action and that a vote will be conducted at the meeting.

(4) If the proposed action is against Declarant, the Notice to Members shall also include those items listed below in paragraph 2 (c) (1).

(c) Action Against Declarant. In connection with the above Section 2 (b), if Respondent is Declarant, all of the following requirements shall be met in addition to the requirements of the above Section 2 (b), except as otherwise provided in this Section 2 (c):

(1) Notice to Members/Additional Requirements. The Notice to Members described in Section 2 (b) above shall also include (i) the preliminary list of defects provided by the Association in the Notice to Declarant described in Section 2 (c) (3) below; (ii) a list of any other documents provided by the Association to the Declarant pursuant to Section 2 (c) (3) below; (iii) information about where and when Members of the Association may inspect those documents; (iv) the complete text of any written settlement offer received from the Declarant, and (v) any offer by the Declarant to submit the dispute to alternative dispute resolution.

(2) Expenses of Meeting; Privileged Communications. The Declarant shall pay all expenses attributable to sending the settlement offer (if any) and any offer for alternative dispute resolution to all Members of the Association. The Declarant shall also pay the expense of holding the meeting, not to exceed Three Dollars (\$3) per Association Member. The discussions at the meeting and the contents of the Notice to Members and the items required to be specified in the Notice to Members, are privileged communications and are not admissible in evidence in any civil action, unless the Association consents to their admission.

(3) Notice to Declarant. The Association shall give written notice to the Declarant against whom the claim is made ("Notice to Declarant"). This Notice to Declarant shall include all of the following:

- (A) A preliminary list of defects;
- (B) A summary of the results of any survey or questionnaire distributed to Owners to determine the nature and extent of defects, if such a survey has been conducted or a questionnaire has been distributed; and
- (C) Either a summary of the results of testing conducted to determine the nature and extent of defects or the actual test results, if this testing has been conducted.

(4) Period to Cure Defects. The Notice to Declarant, upon delivery to the Declarant, shall commence a period of time not less than forty-five (45) days and not more than ninety (90) days (unless the Association and Declarant agree to a longer period), during which period Declarant may cure any alleged defects, and during which period the Association and Declarant shall either, in accordance with the requirements of this section, attempt to settle the dispute or attempt to agree to submit it to alternative dispute resolution.

(5) Tolling of Statute of Limitations.

(A) Except as provided in the following subparagraph (B) and notwithstanding any other provision of law, the Notice to Declarant shall, upon mailing, toll all statutory and contractual limitations on actions against all parties who may be responsible for the damages claimed, whether named in the Notice to Declarant or not, including claims for indemnity applicable to the claim, for a period of one hundred fifty (150) days or a longer period agreed to in writing by the Association and the Declarant.

(B) At any time, the Declarant may give written notice to the Association to cancel the tolling of the statute of limitations provided in the foregoing subparagraph (A) -- ("Cancellation Notice"). Upon delivery of this Cancellation Notice to the Association, the Association shall be relieved of any further obligations to satisfy the requirements of this Article XVIII, Section 2 (c), and the tolling of all applicable statutes of limitations shall cease sixty (60) days after the Cancellation Notice is delivered to the Association.

(6) Initial Meeting between Board and Declarant

(A) Within twenty-five (25) days following the date the Association delivers the Notice to Declarant as required by paragraph (3) of this Section 2 (c), the Declarant may request in writing to meet and confer with the Board, and to inspect the Project and conduct testing, including testing that may cause physical damage to any property in the Project, in order to evaluate the claim. If the Declarant does not make a timely request to meet and confer with the Board, or to conduct inspection and testing, the Association shall be relieved of any further obligations to satisfy the requirements of this Article XVIII, Section 2 (c). Unless the Declarant and Association otherwise agree, the meeting shall take place

no later than ten (10) days following the date of the Declarant's written request, at a mutually agreeable time and place. The discussions at the meeting are privileged communications and are not admissible in evidence in any civil action, unless the Association and Declarant consent in writing to their admission. The meeting shall be for the purpose of discussing all of the following:

- (i) The nature and extent of the claimed defects.
- (ii) Proposed methods of repair, to the extent there is sufficient information.
- (iii) Proposals for submitting the dispute to alternative dispute resolution.
- (iv) Requests from the Declarant to inspect the Project and conduct testing.

(B) If the Declarant requests in writing to meet and confer with the Board of Directors of the Association pursuant to subparagraph (6) (A) above, the Declarant shall inform its insurer(s) of the claims made by the Association and shall deliver a copy of the Notice to Declarant to any insurer that has issued a policy to the Declarant which imposes upon the insurer a duty to defend the insured or indemnify the insured for losses resulting from the defects identified in the Notice to Declarant. The receipt of a copy of the Notice to Declarant shall impose upon that insurer any obligation which would be imposed under the terms of the policy if the insured had been served with a summons and complaint for damages. Declarant shall inform the Association when Declarant delivers a copy of the Notice to Declarant to each insurer pursuant to this paragraph.

(7) Inspection and Testing.

- (A) If the Association conducted inspection and testing prior to the date it sent the Notice to Declarant, the Association shall, at the earliest practicable date after the meeting held pursuant to subparagraph (6) (B) above, make available to Declarant for inspection and testing at least those areas inspected or tested by the Association. The inspection and testing by Declarant shall be completed within fifteen (15) days following the date the Association makes these areas available for inspection and testing, unless the Association and Declarant agree to a longer period. If Declarant does not timely complete the inspection and testing, the Association shall be relieved of any further obligations to satisfy the requirements of this Section 2 (c). The manner in which the inspection and testing shall be conducted, and the extent of any inspection and testing to be conducted beyond that which was conducted by the Association prior to sending the Notice to Declarant, shall be set by agreement of the Association and Declarant.
- (B) Declarant shall pay all costs of inspection and testing that is requested by the Declarant, shall restore the property to the condition which existed immediately prior to the testing, and shall indemnify the Association and Owner of the separate interest for any damages resulting from the testing.
- (C) Interior inspections of occupied Units and destructive testing of an interior of a Unit shall be conducted in accordance with the Governing Documents of the Association, unless otherwise agreed to by the Owner of the Unit. If the Governing Documents of the Association do not provide for inspection or testing of Units, this inspection or testing shall be conducted in a manner and at a time agreed to by the Owner of the Unit.
- (D) The results of the inspection and testing shall not be inadmissible in evidence in any civil action solely because the inspection and testing was conducted pursuant to this section.

(8) Settlement Meeting.

- (A) Within thirty (30) days following the completion of inspection and testing (or within thirty (30) days following a meeting held pursuant to subparagraph (6) (A) above if no inspection and testing is conducted pursuant to said subparagraph (6) (A)), the Declarant shall submit to the Association all of the following:
- (i) A request to meet with the Board to discuss a written settlement offer.
 - (ii) A written settlement offer, and a concise explanation of the specific reasons for the terms of the offer. This offer may include an offer to submit the dispute to alternative dispute resolution.
 - (iii) A statement that the Declarant has access to sufficient funds to satisfy the conditions of the settlement offer.
 - (iv) A summary of the results of testing conducted for the purpose of determining the nature and extent of defects, if this testing has been conducted, unless the Association provided the Declarant with actual test results pursuant to Section 2 (c) (3), in which case the Declarant shall provide the Association with actual test results.
- (B) No less than ten (10) days after the Declarant submits the items required by the above subparagraph (8) (A) of this Section (2) (c), Declarant and the Board shall meet and confer about the Declarant's settlement offer, including any offer to submit the dispute to alternative dispute resolution.
- (C) If the Declarant does not timely submit the items required by the above subparagraph (8) (A) of this Section 2 (c), the Association shall be relieved of any further obligations to satisfy the requirements of this Section 2 (c) only. If the Board rejects a settlement offer presented by Declarant at the meeting held pursuant to the above subparagraph (8) (A) of

this Section 2 (c), or if the Association is relieved of its obligations to satisfy the requirements of this Section 2 (c) under its terms before all those requirements are satisfied, the Board shall proceed as provided in Section 2 (b) above.

(9) Modification by Agreement; Delivery of Notice.

- (A) At any time after the Notice to Declarant is delivered to the Declarant, the Association and Declarant may agree in writing to modify or excuse any of the time periods or other obligations imposed by this Section 2 (c).
- (B) Except for the Notice to Members required pursuant to Section (2) (b), all notices, requests, statements, or other communications required pursuant to this Article XVIII, Section 2, shall be delivered by first-class registered or certified mail, return receipt requested.

ARTICLE XIX

GENERAL PROVISIONS

Section 1. Enforcement. If any person subject to the provisions of the Governing Documents of the Association or the provisions of the Act fails to comply with any provision of this Declaration or the Act, any person adversely affected by the failure to comply may require reimbursement for collection costs and reasonable attorney fees and costs incurred as a result of such failure to comply, without the necessity of commencing a legal proceeding. For each claim, including but not limited to counterclaims, cross-claims, and third-party claims, in any legal proceeding to enforce the provisions of this Declaration or the Act, the court shall award to the party prevailing on such claim the prevailing party's reasonable collection costs and attorney fees and costs incurred in asserting or defending the claim. Notwithstanding the above, with respect to assessment liens, the Association shall have the exclusive right of enforcement. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall not be deemed a waiver of the right to do so thereafter. All legal proceedings, arbitration, and actions arising from the restrictions contained in this Declaration, shall be handled in accordance with Article XVIII, Section 1 of this Declaration.

Section 2. Severability of Covenants. Invalidation of any one of these covenants or restrictions by judgment or court order shall not affect any other provisions which shall remain in full force and effect.

Section 3. Term. The covenants and restrictions of this Declaration shall run with and bind the Covered Property and the Project, and shall inure to the benefit of and be enforceable by the Association or the Owners, their legal representatives, heirs, successors and assigns until thirty (30) years after the date this Declaration is recorded, after which date they shall automatically be extended for successive periods of ten (10) years, unless an instrument signed by seventy-five percent (75%) of the then Owners and their respective Institutional Holders has been recorded (i) within the year preceding the end of the original thirty (30) year period, or (ii) within the year preceding the beginning of each successive period of ten (10) years, agreeing to terminate this Declaration.

Section 4. Construction. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development and operation of a Common Interest Community, and for the maintenance of the community recreational facilities, if any, and Common Elements. In case of any conflict between this Declaration and the Bylaws, this Declaration shall control. The article and section headings have been inserted for convenience only and shall not be considered or referred to in resolving questions of interpretation or construction.

Section 5. Notice to Owners/Right to Notice and Comment.

(a) Notice by the Board and other Owners of matters affecting the Project and/or the Association shall be given via first class mail or personal delivery to the Owners and the Association.

(b) Pursuant to C.R.S. Section 38-33.3-205(1)(o), before the Board amends the Bylaws or adopts or amends Rules and Regulations governing the Common Interest Community, or whenever the Governing Documents require that an action be taken after "Notice and Comment," and at any other time the Board determines, the Owners have the right to receive notice of the proposed action and the right to comment orally or in writing. Further, any Owner may give "Notice and Comment" to the Owners of any matter affecting the Common Interest Community, and Owners shall then have the right to comment, orally or in writing, on the matter. Notice shall be given to each Owner in writing, delivered personally or by mail to all Owners at such address as appears in the records of the Association, or notice shall be published in a newsletter or similar publication which is routinely circulated to all Owners. The notice shall be given not less than three days before the proposed action is to be taken. The Notice shall invite comment to the Board or an Owner, orally or in writing before the scheduled time of any meeting.

Section 6. Amendments. Subject to the rights of Institutional Holders described in Article XIV above and any Special Declarant Rights or other rights reserved herein, this Declaration may be amended only by the affirmative assent or vote of both (i) sixty-seven percent (67%) of the voting power of the Association, including the voting power of the Declarant, and (ii) sixty-seven percent (67%) of the voting power of Members other than Declarant; provided, however, that the percentage of voting power necessary to amend a specific clause or provision shall not be less than the percentage of affirmative votes prescribed for action to be taken under that clause.

Notwithstanding any other provision of this Declaration, in the event that any further modification of this Declaration is required in order to comply with requirements of governmental or quasi-governmental corporations or agencies such as the United States Department of Veterans Affairs (VA), Federal Housing Administration (FHA), Government National Mortgage Association (GNMA), Federal National Mortgage Association (FNMA), Federal Home Loan Mortgage Corporation (FHLMC) or the like, such modifications may be effected by an amendment executed and recorded by the Declarant alone. Such modifications shall be for the benefit of and not impose any increased burden upon the Owners.

This amendment provision shall not be amended to allow amendments by the assent or vote of less than the prescribed percentage of voting power required for amendments. An amendment or modification shall be effective when executed and acknowledged by the Secretary of the Association, who shall certify that the amendment or modification has been approved as provided herein, and recorded in the official records of the County. Except to the extent expressly permitted or required by other provisions of this Declaration or the Act, no amendment may create or increase special declarant rights, increase the number of Lots or Units, or change the boundaries of any Lot or Unit or the Allocated Interests of a Lot or Unit, or the uses to which any Lot or Unit is restricted, in the

absence of the unanimous consent of the Owners, and shall otherwise be in accordance with Section 38-33.3-217, C.R.S.

Section 7. Dissolution or Termination. Except in the case of a taking by Eminent Domain, or in the case of foreclosure against the entire Project of a security interest that has priority over this Declaration, so long as there is any Lot or Unit or Common Element for which the Association is obligated to provide management, maintenance, preservation or control, the Association and the Common Interest Community may be dissolved or terminated or may transfer all or substantially all of its assets only upon the approval of one hundred percent (100%) of the Members. Any such termination of the Common Interest Community shall be in accordance with Section 38-33.3-218, C.R.S.

Section 8. Nonliability of Officials. To the fullest extent permitted by law, neither the Board, the Architectural Committee, any other committees of the Association or any member of such Board or committee shall be liable to any Member of the Association for any damage, loss or prejudice suffered or claimed on account of any decision, approval or disapproval of plans or specifications (whether or not defective), course of action, act, omission, error, negligence or the like made in good faith within which such Board, committees or persons reasonably believed to be the scope of their duties

Section 9. Tort and Contract Liability.

(a) Neither the Association nor any Owner except the Declarant is liable for any cause of action based upon that Declarant's acts or omissions in connection with any part of the Project which that Declarant has the responsibility to maintain. Otherwise, any action alleging an act or omission by the Association must be brought against the Association and not against any Owner. If the act or omission occurred during any period of declarant control and the Association gives the Declarant reasonable notice of and an opportunity to defend against the action, the Declarant who then controlled the Association is liable to the Association or to any Owner for all tort losses not covered by insurance suffered by the Association or that Owner and all costs that the Association would not have incurred but for such act or omission. Whenever the Declarant is liable to the Association under this Section, the Declarant is also liable for all expenses of litigation, including reasonable attorney fees, incurred by the Association. Any statute of limitation affecting the Association's right of action under this Section is tolled until the period of declarant control terminates. An Owner is not precluded from maintaining an action contemplated by this Section by being an Owner or a Member or officer of the Association.

(b) The Declarant is liable to the Association for all funds of the Association collected during the period of declarant control which were not properly expended.

Section 10. Information to Owners and Disclosure to Prospective Purchasers.

(a) Information Provided by Association to Owners. Within ten (10) days after the mailing or delivery of a written request by any Owner, the Board shall provide the Owner with

a written statement containing the following information: (i) whether, to the knowledge of the Association, the Owner or the Owner's Unit is in violation of any of the provisions of this Declaration, the Articles, Bylaws, or Association Rules; (ii) the amount of Regular and Special Assessments, including installment payments, paid by the Owner during the fiscal year the request is received; (iii) the amount of any Assessments levied against the Owner's Unit that are unpaid as of the date of the statement, including any late charges, interest, or costs of collection that as of the date of the statement are or may be made a lien against the Owner's Unit as provided by this Declaration, the Articles, Bylaws, or Association Rules; and (iv) any change in the Association's current Regular and Special Assessments and fees approved by the Board but not yet due and payable as of the date of the disclosure. In addition, the Association shall, within ten (10) days after the mailing or delivery of a written request by any Owner, provide copies of any Association documents requested by the Owner. The Association may charge a fee for this service, which shall not exceed its reasonable cost to prepare and reproduce such items.

(b) Disclosure Information Provided by Owner to Prospective Purchaser. Each Owner of a Unit shall, as soon as practicable before transfer of title to the Unit or execution of a real property sales contract therefor, provide the following to the prospective purchaser:

- (i) A copy of the Governing Documents;
- (ii) A copy of the most recent documents distributed to the Members pursuant to the Bylaws;
- (iii) A true statement in writing from an authorized representative of the Association as described in subparagraph (a) of this Section.

(c) Transfer Costs. The Association shall not impose or collect any assessment, penalty, or fee in connection with the transfer of title or any other interest except the Association's actual costs to change its records and those fees authorized by subsection (a) above.

(d) Valid Title. Nothing in this Section affects the validity of title to real property transferred in violation of this Section.

Section 11. Violation of Declaration. The result of every act or omission, whereby any provision, condition, restriction, covenant, easement or reservation contained in this Declaration is violated is hereby declared to be and constitute a nuisance, and every remedy allowed by law or equity against a nuisance, either public or private, shall be applicable against every such result, and may be exercised by the Architectural Committee and the Association. Such remedy shall be deemed cumulative and not exclusive.

Section 12 Statutory References; Fixed Amounts. References in this Declaration or the Bylaws to specific statutes or provisions of Colorado law shall include those statutes or provisions as they may be modified or amended from time to time. References in this Declaration or the Bylaws to specific dollar amounts or percentage rates shall be modified from time to time as the dollar figures

or percentage rates in statutes upon which they are based are modified. Any modification of this Declaration or the Bylaws resulting from the application of this Section may be effected by a validly adopted resolution of the Board, without utilizing the formal amendment procedures contained herein or in the Bylaws.

Section 13. Attorneys' Fees. In the event any controversy, claim or dispute arising out of or relating to this Declaration or the interpretation or breach thereof, the prevailing party shall be entitled to recover from the other party reasonable expenses, attorneys' fees and costs.

Section 14. Common Plan Declaration. The covenants, conditions and restrictions set forth in this Declaration constitute a general program for the development, protection and maintenance of the Project to enhance its value, desirability and attractiveness for the benefit of all Owners. By acquiring any ownership interest in a Unit subject to this Declaration, each person or entity, for himself, his heirs, personal representatives, successors, transferees and assigns, agrees to be subject to all of the provisions, restrictions, covenants, conditions, rules and regulations now or hereafter imposed by this Declaration. Declarant, by this Declaration, sets forth a program for the improvement and development of the Project and hereby evidences its intent that all the restrictions, conditions, covenants, rules and regulations contained herein shall run with the land and be binding on all future Owners, grantees, purchasers, assignees, and transferees.

Section 15. Mergers or Consolidations.

(a) Any two or more common interest communities of the same form of ownership, by agreement of the owners as provided in subsection (b) of this Section 15, may be merged or consolidated into a single common interest community. In the event of a merger or consolidation, unless the agreement otherwise provides, the resultant common interest community is the legal successor, for all purposes, of all of the preexisting common interest communities, and the operations and activities of all associations of the preexisting common interest communities are merged or consolidated into a single association that holds all powers, rights, obligations, assets, and liabilities of all preexisting associations.

(b) An agreement of two or more common interest communities to merge or consolidate pursuant to subsection (a) above must be evidenced by an agreement prepared, executed, recorded, and certified by the president of the association of each of the preexisting common interest communities following approval by owners of units to which are allocated the percentage of votes in each common interest community required to terminate that common interest community. The agreement must be recorded in every county in which a portion of the common interest community is located and is not effective until recorded.

(c) Every merger or consolidation agreement must provide for the reallocation of the Allocated Interests in the new association among the units of the resultant common interest community either by stating the reallocations or the formulas upon which they are based.

Section 16. Declarant's Obligation to Deliver Documents to Association. Declarant shall deliver to the Board certain documents, in a timely manner, all as specified in Article VII, Sections 1 and 2 of the Bylaws.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has executed this declaration the 1 day of APRIL, 1997.

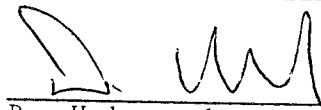
DECLARANT:

SETTLEMENT LLC, a Colorado limited liability company

By Its Manager:

CONCORDIA HOMES OF COLORADO LLC,
a Colorado limited liability company

By:



Dan Underwood

ACKNOWLEDGMENTS

STATE OF COLORADO)
)
COUNTY OF SUMMIT) ss.

On April 1, 1997, 1997, before me, Mary Claire Kendall, a Notary Public in and for said state, personally appeared Dan Underwood as agent for Concordia Homes of Colorado LLC, a Colorado LLC as Manager for the Settlement LLC, a Colorado Limited Liability Company, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity(ies), and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Mary Claire Kendall
Signature

(Seal)

MARY CLAIRE KENDALL
NOTARY PUBLIC
STATE OF COLORADO
My Commission Expires 12-14-99

SUBORDINATION AGREEMENT

INDEPENDENT LENDING CORPORATION, a Delaware corporation, dba CONSTRUCTION LENDING CORPORATION OF AMERICA, being the beneficiary under that certain Deed of Trust recorded June 28, 1996, under Reception No. 518106, in the Official Records of Summit County, Colorado, hereby declares that the liens and charges of said Deed of Trust are and shall be subordinate and inferior to the Declaration of Covenants, Conditions and Restrictions for White Wolf Townhomes to which this Subordination Agreement is attached.

INDEPENDENT LENDING CORPORATION,
A Delaware Corporation, dba
CONSTRUCTION LENDING CORPORATION
OF AMERICA

By: _____

Its: VICE PRESIDENT

By: _____

Its: _____

ACKNOWLEDGMENT

STATE OF California)

COUNTY OF Los Angeles)

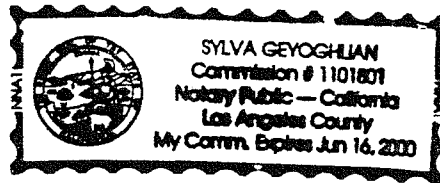
ss.

On 2/11, 1997, before me, Sylva Gevorghian, a Notary Public in and for said state, personally appeared Greg Shannon

_____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Sylva Gevorghian
Signature



(Seal)

EXHIBIT "A"

LEGAL DESCRIPTION OF THE COVERED PROPERTY

That certain real property located in the County of Summit, State of Colorado, more particularly described as follows:

UNITS 1 THROUGH 30 OF WHITE WOLF TOWNHOMES,
THE SETTLEMENT FILING 2, A PERIMETER PLAT OF THE SETTLEMENT
FILING 2, ACCORDING TO THE RECORDED PLAT THEREOF RECORDED
JUNE 4, 1996, UNDER RECEPTION NO. 516357, COUNTY OF SUMMIT,
STATE OF COLORADO, AND

COMMON ELEMENTS OF WHITE WOLF TOWNHOMES DESCRIBED AS
THE SETTLEMENT FILING 2, A PERIMETER PLAT OF THE SETTLEMENT
FILING 2, ACCORDING TO THE RECORDED PLAT THEREOF RECORDED
JUNE 4, 1996, UNDER RECEPTION NO. 516357, COUNTY OF SUMMIT,
STATE OF COLORADO, RESERVING AND EXCEPTING THEREFROM
UNITS 1 THROUGH 30 OF SAID PLAT

SUBJECT TO THE FOLLOWING RIGHTS OR EASEMENTS:

1. Right of proprietor of a vein or lode to extract and remove his ore therefrom should the same be found to penetrate or intersect the premises as reserved in United States Patent recorded July 5, 1950, in Book 139 at Page 82.
2. Right of proprietor of a vein or lode to extract and remove his ore therefrom should the same be found to penetrate or intersect the premises as reserved in United States Patent recorded July 5, 1950, in Book 139 at Page 84.
3. Terms, conditions and provisions of Architectural and Development Covenant recorded August 26, 1994 under Reception No. 474816.
4. Terms, conditions and provisions of Annexation Agreement recorded June 26, 1995 under Reception No. 493511.
5. Terms, conditions and provisions of Ordinance No. 15 annexing subject property to the Town of Breckenridge recorded July 21, 1995 under Reception No. 495015 and August 30, 1995 under Reception No. 498002.

6. Road easement through the southwesterly corner of Lot 3 as shown and reserved on the recorded plat.
7. Terms, conditions and provisions of Ordinance No. 15 annexing subject property to the Town of Breckenridge recorded July 21, 1995 under Reception No. 495015 and rerecorded January 11, 1996 under Reception No. 507327.
8. Terms, conditions and provisions of Order including subject property into the Breckenridge Sanitation District recorded May 23, 1996 under Reception No. 515595.
9. Terms, conditions and provisions of Ordinance providing for the vacation of a portion of Highwood Circle and all of Ten Mile Drive recorded June 4, 1996 under Reception No. 516358.
- 10 Any easements serving or burdening the subject property as shown on the plat recorded _____, under Reception No. _____.
11. The easements reserved or granted in the Declaration to which this Exhibit "A" is attached, which shall be deemed established upon the recordation of the Declaration.

EXHIBIT "B"

DESCRIPTION OF SALES OFFICES AND FACILITIES

1. Sales trailer located in the Common Area in the space between and in front of Units 27 and 28, and 29 and 30, near the Northwest corner of Skihill Road and Highwood Circle. This sales trailer may be relocated within the Project or removed from the Project at any time. This sales trailer will not become a part of the Common Area and shall be removed promptly by Declarant when Declarant ceases to become a Unit Owner (or earlier at option of Declarant).
2. It is Declarant's intention to utilize Unit 26 as the model unit and to utilize the garages for Units 25 and 26 for sales offices until Units 25 and 26 are sold. These units and garages (or any other units or garages used for models or sales offices) will not become a part of the Common Area.
3. Construction trailer located in the Common Area in front of Unit 18, near the Northwest corner of Highwood Circle and Settlers Lane. This construction trailer may be relocated within the Project or removed from the Project at any time. This construction trailer will not become a part of the Common Area and will be removed promptly by Declarant when Declarant ceases to become a Unit Owner (or earlier at option of Declarant).

WHITE WOLF TOWNHOMES
HOMEOWNERS ASSOCIATION - PRELIMINARY BUDGET

INCOME

	<u>ANNUAL BUDGET</u>
Association Dues	\$ 61,203.80
Interest Income	\$ 300.00
TOTAL INCOME	\$ 61,503.80

EXPENSES

Management Fees	\$ 21,800.00
Legal Services	\$ 750.00
Accounting	\$ 600.00
Postage/Printing	\$ 678.00
Insurance	\$ 7,791.00
Landscape Maintenance	\$ 1,324.80
Trash Disposal	\$ 7,560.00
Snow Removal	\$ 15,000.00
Irrigation Maintenance	\$ 600.00
Streets/Drives Maintenance	\$ 3,600.00
Contingencies	\$ 1,500.00
TOTAL EXPENSES	\$ 61,203.80

OWNERS DUES PER MONTH (30 UNITS) **\$ 170.00**

Recording Requested By:

When Recorded Return To:

AMENDMENT TO DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS FOR
WHITE WOLF TOWNHOMES

THIS AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR WHITE WOLF TOWNHOMES is made this 21 day of April, 1997, by SETTLEMENT LLC, a Colorado limited liability company ("Declarant").

SETTLEMENT LLC, a Colorado limited liability company, is the Declarant under the Declaration of Covenants, Conditions and Restrictions for White Wolf Townhomes, recorded April 3, 1997, as Instrument No. 536474, in the County of Summit, State of Colorado (the "Declaration"). Declarant desires to amend the Declaration as set forth below.

NOW, THEREFORE, the Declaration is hereby amended as follows:

Modification of Section 8 of Article IV. Section 8 of Article IV on page 15 of the Declaration is hereby deleted in its entirety and replaced with the following language:

"Section 8. Trash. No rubbish, trash, garbage or other waste material shall be kept or permitted upon any portion of the Project, except in sanitary containers located in appropriate areas screened and concealed from view, and no odor shall be permitted to arise therefrom so as to render the Project, or any portion thereof, unsanitary, unsightly, offensive or detrimental to any other property in the vicinity or to its occupants. Such containers shall be exposed to the view of neighboring Units only when set out for a reasonable period of time (not to exceed twenty-four (24) hours) before and after scheduled trash collection

hours. Trash collection service shall be obtained by the Association for the Project as a whole, and the Association shall also arrange to have trash containers (a) removed from the designated trash area of each Unit and placed at the street or other designated pickup point prior to each scheduled trash pickup, and (b) returned to the designated trash area of each Unit after trash pickup. The costs for such trash collection services shall be billed to the Association and charged to the Owners as a Common Expense.”

Except as specifically modified by this Amendment, the Declaration remains in full force and effect and binding upon Declarant and all Owners.

This Amendment will be effective as of the date of its recording in the Official Records of Summit County, Colorado.

EXECUTED this 24 day of April, 1997.

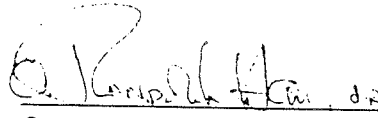
DECLARANT:

SETTLEMENT LLC, a Colorado limited liability company

By Its Manager:

CONCORDIA HOMES OF COLORADO LLC,
a Colorado limited liability company

By:



O. Randolph Hall, Manager

CERTIFICATION OF DECLARANT

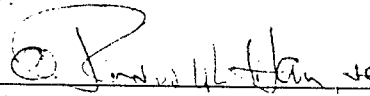
I, the undersigned, do hereby certify that:

1. I am the Manager of Concordia Homes of Colorado, LLC, a Colorado limited liability company, which is the Manager of Declarant, and have executed the Declaration and the Amendment to which this Certification is attached on behalf of Declarant;

2. This Amendment is undertaken prior to the election of a Secretary for White Wolf Townhomes Owners Association, a Colorado nonprofit corporation ("Association") as is otherwise required for Amendments under Article XIX, Section 6 of the Declaration;

3. Declarant holds 100% of the voting power of the Association, being the Owner of all Units in the Project, and no other affirmative assent or vote is required. By execution of the Amendment set forth above, Declarant affirmatively assents to the terms of the Amendment and the recordation of same in the Official Records of Summit County, Colorado.

IN WITNESS WHEREOF, I have hereunto subscribed my hand and affixed the seal of the Association this 21 day of April, 1997.



O. Randolph Hall

ARTICLES OF INCORPORATION
OF
WHITE WOLF TOWNHOMES OWNERS ASSOCIATION

I.
NAME

The name of this Corporation is WHITE WOLF TOWNHOMES OWNERS ASSOCIATION, a Colorado nonprofit corporation ("Association").

II.
DURATION

The duration of the Association shall be perpetual.

III.
PURPOSES AND POWERS

3.1. This Association is a nonprofit corporation, without shares of stock, organized in accordance with the Colorado Nonprofit Corporation Act, as amended, and the Colorado Common Interest Ownership Act of the Colorado Revised Statutes, as amended. The purpose of this Association is to engage in any lawful act or activity for which a corporation may be organized under such laws and shall do any and all permitted acts, and shall have and exercise any and all powers, rights, and privileges which are granted to a Common Interest Community Association under the laws of the State of Colorado and as set forth in these Articles, and the recorded Declaration of Covenants, Conditions and Restrictions for White Wolf Townhomes ("Declaration"), the Bylaws and Rules and Regulations of the Association, as they may be amended from time to time.

3.2. This Association is formed to manage and operate the Common Interest Community known as White Wolf Townhomes, located in the Town of Breckenridge, County of Summit, State of Colorado, described as Units 1 through 30 and the Common Elements of White Wolf Townhomes, and further described as the Settlement Filing 2, a perimeter plat of the Settlement Filing 2, according to the recorded plat thereof recorded June 4, 1996, under Reception No. 516357, County of Summit, State of Colorado (the "Project"), and the specific purpose of this Association is to promote the health, safety, welfare and common benefit of the residents of the Project, and to provide for the management, administration, maintenance, preservation and architectural control of the Project.

3.3 The foregoing statements of purpose shall be construed as a statement of both purposes and powers. The purposes and powers stated in each clause shall not be limited or restricted by reference to or interference from the terms or provisions of any other clause, but shall be broadly construed as independent purposes and powers.

IV.
INCORPORATOR

The name and address of the incorporator of this Association is as follows:

RANDY HALL
PO BOX 7399 - 331
BRECKENRIDGE CO 80424

V.
REGISTERED AGENT

The name and street address in the State of Colorado of this Association's initial agent for service of process is:

PAT HOPKINS OR
DAN UNDERWOOD
600 SETTLERS DR.
BRECKENRIDGE CO 80424

VI.
CORPORATE ADDRESS

The initial address of the business or corporate office of this Association is:

WHITE WOLF TOWNHOMES OWNERS ASSN
PO BOX 7399 - 331
BRECKENRIDGE CO 80424

VII.
PHYSICAL ADDRESS OF PROJECT

The physical location of the Project is:

Highwood Circle and Settlers Lane
Breckenridge, Colorado

VIII.
MANAGING AGENT

The name and address of the Association's managing agent, if any, is:

IX.
MEMBERSHIP RIGHTS AND QUALIFICATIONS

9.1 Any person who holds title to a Unit in the Project shall be a member of the Association ("Member"). There shall be one membership for each Unit owned within the Project. This membership shall be automatically transferred upon the conveyance of that Unit. Voting shall be one vote per unit, and the vote to which each membership is entitled is the vote assigned to its Unit in the Declaration of the Project. If a Unit is owned by more than one person, those persons shall agree among themselves how a vote for that Unit's membership is to be cast. Individual co-owners may not cast fractional votes. A vote by a co-owner for the entire Unit's membership interest shall be deemed to be pursuant to a valid proxy, unless another co-owner of the same Unit objects at the time the vote is cast, in which case such membership's vote shall not be counted.

9.2. The Members shall be of one class; such class being comprised of Unit Owners who own Units as defined in the Declaration. These Unit Owners shall elect all members of the Board of Directors ("Board"), following the period of Declarant control defined below.

9.3. Notwithstanding the foregoing, the Declarant under the recorded Declaration of the Project ("Declarant") shall have additional rights and qualifications as may be provided under the Colorado Common Interest Ownership Act and the Declaration, including the right to appoint members of the Board as follows: During the period of control, the Declarant, or persons designated by him or her, subject to certain limitations, may appoint and remove the officers and members of the Board. The period of Declarant control terminates no later than the earlier of: (a) sixty (60) days after conveyance of seventy-five percent (75%) of the Units that may be created to Unit Owners other than the Declarant; (b) two (2) years after Declarant has last conveyed a Unit in the ordinary course of business; or (c) two (2) years after any right to add new Units was last exercised. Declarant may voluntarily surrender the right to appoint and remove officers and Directors of the Board before termination of the period of Declarant control, but in that event, the Declarant may require, for the duration of the period of Declarant control, that specified actions of the Association or the Board, as described in a recorded instrument executed by the Declarant, be approved by the Declarant before they become effective.

9.4 Not later than sixty (60) days after conveyance of twenty-five percent (25%) of the Units that may be created to Unit Owners other than a Declarant, at least one (1) member, and not less than twenty-five percent (25%) of the members of the Board shall be elected by Unit Owners other than Declarant. Not later than sixty (60) days after conveyance of fifty percent (50%) of the Units that may be created to Unit Owners other than Declarant, not less than thirty-three and one-third percent (33 1/3 %) of the members of the Board must be elected by Unit Owners other than Declarant.

X.
BOARD OF DIRECTORS

10.1 The management of this Association shall be vested in the Board as now constituted or as hereafter elected or appointed. As set forth in the Bylaws, the Board shall have the power to elect a president, a vice president, a secretary, and a treasurer of the Association, and such other officers as the Board may from time to time by resolution establish, but it shall not be necessary that all persons elected for such offices be members of the Board.

10.2 The number and method of election of the Directors of the Board shall be determined by the provisions set forth in the Bylaws of this Association. The number of Directors constituting the initial Board of Directors shall be three (3), and the names and addresses of the persons who constitute the initial Board of Directors until their successors are elected and qualify are:

<u>Name</u>	<u>Address</u>
<u>DAT HOPKINS</u>	<u>PO BOX 7399 - 351</u> <u>BRECKENRIDGE CO 80424</u>
<u>DAN UNDERWOOD</u>	
<u>VICKY SHARP</u>	

10.3 If appointed by the Declarant, in the performance of their duties, the officers and members of the Board are required to exercise the care required of fiduciaries of the Unit Owners. If not appointed by Declarant, no member of the Board and no officer shall be liable for actions taken or omissions made in the performance of such member's duties except for wanton and willful acts or omissions. The Association shall provide for the indemnification of its directors and officers or former directors or officers and, in connection therewith, shall maintain directors' and officers' liability insurance.

XI.
AMENDMENTS

These Articles of Incorporation may be amended by the vote or written assent of at least sixty-six and two-thirds percent (66 2/3 %) of the Members of the Association.

XII.
DISSOLUTION

So long as there is any Lot or Unit or Common Element for which the Association is obligated to provide management, maintenance, preservation or control, the Association may be dissolved only upon the approval of one hundred percent (100%) of the Members, and the assets then held by the Association shall be distributed in accordance with the terms of the Declaration, the Colorado Nonprofit Corporation Act, as amended, and the Colorado Common Interest Ownership Act of the Colorado Revised Statutes, as amended.

IN WITNESS WHEREOF, the undersigned incorporator has signed these Articles in duplicate this ___ day of _____, 1997.

_____, Incorporator

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ___ day of _____, 1997, by _____.

WITNESS MY HAND AND OFFICIAL SEAL.

My commission expires: _____

Notary Public

[SEAL]

Address: _____

WHITE WOLF TOWNHOMES OWNERS ASSOCIATION

Proposed Changes to Declarations, Articles of incorporation and Bylaws

Bylaws

Article III, Section 2. Voting Rights. Each Member shall be entitled to one (1) vote for each Unit owned. When more than one (1) person holds an ownership interest in any Unit, all such persons shall be Members, and the vote for such Unit shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Unit. If only one of the multiple owners is present at a meeting of the Association, such Owner is entitled to cast the vote allocated to that Unit. If more than one of the multiple Owners are present, the vote allocated to that Unit may be cast only in accordance with the agreement of a majority in interest of the Owners. (There is majority agreement if any one of the multiple owners casts the vote allocated to that Unit without protest being made promptly to the person presiding over the meeting by any of the other Owners of the Unit.) Voting rights attributable to ownership of Units shall not vest until assessments against those Units have been levied by the Association.

Suggested language- Replace underlined:

If title to a unit is held by more than one individual, by a firm, corporation, partnership, association, or other legal entity, or any combination of such parties, a proxy must be executed and filed with the Secretary of the Association appointing and authorizing one person or alternate persons (who may be tenant of the Owner) to attend all annual and special meetings of the Members and to cast the votes allocated to that Unit at the meetings.

Article IV – Section 2 – Annual Meeting

Suggested Language – Replace existing Language

Regular meetings of the Members shall be held not less frequently than once each calendar year at a time and place as prescribed in these Bylaws. Each annual meeting shall be held during the same month of each year. The Annual meeting will be held on the 2nd Saturday of August each year at 1 PM Mountain Time.

Article V, Section 3. Election and Term. Not later than sixty (60) days after conveyance of twenty-five percent (25%) of the Units that may be created to Unit Owners other than Declarant, at least one member and not less than twenty-five percent (25%) of the members of the Board must be elected by Unit Owners other than Declarant. Not later than sixty (60) days after conveyance of fifty percent (50%) of the Units that may be created to Unit Owners other than Declarant, not less than thirty-three and one-third percent (33 1/3%) of the members of the Board must be elected by Unit Owners other than Declarant. Not later than the termination of any period of Declarant control, the Unit Owners shall elect at least two (2) members of the Board, who must be Unit Owners other than Declarant or designated representatives of Unit Owners other than Declarant, and the third member of the Board shall be appointed by Declarant so long as Declarant owns a Unit in the Project. When Declarant no longer owns a Unit in the Project, all members of the Board shall be elected from the membership of the Association, and Declarant shall no longer have the right to appoint Board members. The Board shall elect the officers, and the Board members and officers shall take office upon election or appointment as set forth above.

WHITE WOLF TOWNHOMES OWNERS ASSOCIATION

Suggested Additional Language;

The Declarant can at any time after seventy-five percent of the units are sold elect to remove themselves from the board. This is done in the form of a written statement of resignation from the board. The Board of directors will consist of no less than 3 members. Every Director appointed or elected shall serve a term of three years.

Article V, Section 4. Nomination - Nomination for the office of Director shall be made by a Nominating Committee consisting of a chairman, who shall be a member of the Board, and two (2) or more Members of the Association. All members of the Nominating Committee shall be appointed by the board prior to each annual meeting. The Nominating Committee shall make as many nominations for election to the Board as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. Notice to the members of the meeting shall include the names of all those who are nominees at the time the notice is sent. Nominations may also be made by the members from the floor at the annual meeting or such other meeting at which Directors are to be elected. Persons nominated may include Members or nonmembers so long as Declarant owns a Unit in the Project, after which time all persons nominated shall be Members. All candidates shall have reasonable opportunity to communicate their qualifications to Members and to solicit votes.

Suggested Language – Replace existing Language

At the time of any vacancy in the Board of Directors the remaining Directors will solicit nominations for the vacancy(s) within 30 days of such vacancy. The Board will request that the owner(s) place their name(s) in nomination along with a brief description of their qualifications. These names and qualifications will be distributed to all owners. Owners will then cast one vote for a nominee for each vacancy. The election will follow the procedures as set forth in Article V Section 5 below.

Article V, Section 5. Election Procedures. Election to the Board shall be by secret written ballot. Every Member is entitled to vote at any election of Directors in which more than two (2) Directors are to be elected, shall have the right to cumulate his votes and give one candidate a number of votes equal to the number of Directors to be elected, multiplied by the number of votes to which he is entitled, or to distribute his votes on the same principle among as many candidates as he desires. The nominees receiving the largest number of votes, up to the number of vacancies to be filled shall be elected as Directors.

Suggested Language;

In the election of Directors by Owners, each member shall have the right to vote the number of votes to which they are entitled for as many persons as there are Directors to be elected, and for whose election they are entitled to vote. Cumulative voting shall not be allowed.

WHITE WOLF TOWNHOMES OWNERS ASSOCIATION

Article V Section 7 Vacancies A Vacancy shall be deemed to exist in the case of the death, resignation or removal of any Director. Any vacancy created by the death or resignation of a Director may be filled by a vote of a majority of the remaining Directors, though less than a quorum, and each Director so elected shall serve for the unexpired term of his predecessor. Any vacancy created by the removal of a Director shall be filled by an election of Members of the Association according to the provisions of Section 4 & 5 of this Article.

Suggested replacement Language

Any vacancy created by the death or resignation of a Director will be filled using the same procedures as set forth in Article V Sections 4 & 5 of this Article

Article V, Section 8. Regular Meetings. Regular meetings of the Board shall be held monthly at such place and hour within the Project as may be fixed by resolution of the Board. Notice of time and place of each meeting, except for an emergency meeting, shall be given by posting the notice at a prominent place or places within the Common Elements. Such notice shall be given to Members and communicated to Directors, not less than four (4) days prior to the meeting date, provided, however, that notice of a meeting need not be given to any Director who has signed a waiver of notice or written consent to the holding of the meeting. If the Common Elements consist only of an easement or is otherwise unsuitable for posting of such notice, the Board shall communicate the notice of the time and place of such meeting by any means it deems appropriate, such as by mail or delivery of the notice to each Unit in the Project or by newsletter or similar means of communication

An emergency meeting of the Board may be called by the President, or by any two members of the Board other than the President, if there are circumstances that could not have been reasonably foreseen that require immediate attention and possible action by the Board and that of necessity make it impractical to provide prior notice as required in this Section. A record of the emergency meeting shall be filed with the minutes of the proceedings of the Board, and an explanation of any emergency action so taken shall be posted in a prominent place or places within the Common Elements within three (3) days after the emergency meeting. If the Common Elements consist only of an easement or is otherwise unsuitable for posting of such notice, the Board shall communicate the notice of any action so taken by any means it deems appropriate.

Suggested Language- Replace underlined;

The Board of Directors may participate in a meeting by means of a conference telephone or similar communications equipment by which all persons participating in the meeting can hear each other at the same time. Such participation shall constitute presence in person at the meeting.

Article VII, Section 3. Inspection of Corporate Records. Current copies of the Governing Documents, the membership register, including mailing addresses and telephone numbers, books of account, records, financial statements, and minutes of meetings of the Members, Board meetings and meetings of committees of the Board, shall be available for inspection and copying by any Member or his duly appointed representative at any reasonable time and for a purpose reasonably related to his interest as a Member, at the office of the Association, or such other place within the Project as the Board may prescribe. The Board may establish reasonable rules concerning the notice to be given to the custodian of records by the Member desiring to inspect them, the hours and days of the week when such an inspection may be made, and the payment of cost of reproducing copies of documents requested by a Member.

WHITE WOLF TOWNHOMES OWNERS ASSOCIATION

Proposed change

Underlined statement should be removed – does not apply.

Article VII, Section 8. Withdrawal of Reserves Withdrawal of funds from the Association's reserve account(s) shall require the signatures of either.

- (a) Two members of the Board; or
- (b) One member of the Board and an Officer of the Association who is not also a member of the Board.

The Board shall not expend funds designated as reserve funds for any purpose other than the repair, restoration, replacement, or maintenance of, or litigation involving the repair, restoration, replacement, or maintenance of; major components which the Association is obligated to repair, restore, replace, or maintain and for which the reserve fund was established. However, the Board may authorize the temporary transfer of money from a reserve fund to the Association's general operating and to meet short-term cash-flow requirements or other expenses, provided the Board has made a written finding, recorded in the Board's minutes, explaining the reasons the transfer is needed, and describing when and how the money will be repaid to the reserve fund. The transferred funds shall be restored to the reserve fund within one (1) year following the date of the initial transfer, except that the Board may, upon making a finding supported by documentation that a delay would be in the best interests of the Project, temporarily delay such restoration. The Board shall exercise prudent fiscal management in maintaining the integrity of the reserve account, and shall, if necessary, levy a Special Assessment to recover the full amount of the expended funds within the time limits required by this Section. The Board may, at its discretion, extend the date the payment on the Special Assessment is due. Any extension shall not prevent the Board from pursuing any legal remedy to enforce the collection of an unpaid Special Assessment.

For all purposes herein, "reserve accounts" shall mean moneys which the Board has identified for use to defray the costs of the future repair or replacement of; or additions to, those major components of the Common Elements which the Association is obligated to maintain.

Proposed change

Management Company is currently authorized by First Bank to make payments on the associations' behalf. We need to add language to define the boards' authority to assign certain authority to the Management Company.

Article V Section 1 (e)

Add the following language.

To employ the contracted Management Company to perform such duties and services as it shall authorize. The Board of Directors may delegate any of the powers and duties granted to it but notwithstanding such delegation shall not be relieved of its responsibility under these Bylaws.

Article VIII Amendment /Construction

WHITE WOLF TOWNHOMES OWNERS ASSOCIATION

Section 1 Amendment Procedure Prior to close of escrow on the sale of the first Unit

Remove this language and replace with the following

These Bylaws may be amended by the affirmative vote of at least two-thirds (2/3) of the votes in the Association. This vote can be accomplished at any regular or special meeting, provided that a quorum is present at any such meeting. Amendments may be proposed by the Board of Directors or by petition signed by the holders of at least a majority of the votes. A statement of any proposed amendment shall accompany the notice of any regular or special meeting at which such proposed amendment will be voted upon.

Article of Incorporation

9.1

Suggested adoption of designated voter language consistent with Bylaws

If title to a unit is held by more than one individual, by a firm, corporation, partnership, association, or other legal entity, or any combination of such parties, a proxy must be executed and filed with the Secretary of the Association appointing and authorizing one person or alternate persons (who may be tenant of the Owner) to attend all annual and special meetings of the Members and to cast the votes allocated to that Unit at the meetings.

Declaration

Article VI, Section 10. Working Capital. Each Owner, other than Declarant, shall be required to deposit, at close of escrow on its Unit, and maintain continuously with the Association an amount equal to six (6) times the amount of the monthly installments of the Annual Assessment, such reserve amount to be held without interest accruing to the Owner. This sum shall be used by the Association as a reserve for payment of each Owner's Assessments and for working capital of the Association. The advance payment shall not relieve an Owner from making the regular monthly installment payments of the annual Assessments, as they become due, nor shall the Association be required to deduct from such advance payment sums due for annual Assessments by an Owner prior to instituting any proceedings against the Owner for delinquent Assessments. In the event the Association shall, pursuant to the purposes of this Article, draw delinquent Assessments from the reserve created by such advance payment applicable to an Owner, the Owner expressly agrees, following ten (10) days prior written notice from the Association, to repay such amounts to the Association in order to properly maintain the reserve account, and such amount to be repaid shall have the same status as an Annual, Supplementary or Special assessment for purposes of this Article VI. Upon the sale of a Lot or Unit, an Owner shall be entitled to a credit for the remaining balance of such reserve account applicable to the Lot or Unit sold.

Suggested Language;

This language has already be amended to reflect a 2 month reserve deposit at the time of closing, but this amendment was not voted on by the owners.