

**AMENDED AND RESTATED
CONDOMINIUM DECLARATION
FOR
LIFTVIEW
(FORMERLY KNOWN AS SUNRIDGE AT AVON)**

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**AMENDED AND RESTATED CONDOMINIUM
DECLARATION FOR LIFTVIEW
(FORMERLY KNOWN AS SUNRIDGE AT AVON)**

This Amended and Restated Declaration is made effective upon recording.

RECITALS:

A. Declarant, The Heritage Company, a Colorado limited partnership, recorded that certain Declaration of Condominium for Sunridge at Avon on October 30, 1979 at Reception No. 190111 in Book 293 at Page 715, in the Office of the Clerk and Recorder for Eagle County, State of Colorado, as amended and supplemented by the Amendment of Declaration of Condominium for Sunridge at Avon recorded November 13, 1979 at Reception No. 190980 in Book 294 at Page 585 (collectively, the "Original Declaration") subjecting the real estate described therein to the terms and conditions set forth in the Original Declaration;

B. The Owners and the Association desire to amend and restate all provisions of the Original Declaration, as amended and supplemented, by virtue of this Amended and Restated Declaration for LiftView (formerly known as Sunridge at Avon) ("Declaration"), and intend, upon the recording of this Declaration, that all prior recorded declarations, amendments and supplements thereto be superseded and replaced by this Declaration; and

C. The Original Declaration provides for and allows for this Declaration in Article XV, Section 1, which provides as follows:

"...the Declaration neither may be amended or revoked, nor may any General Common Elements used or held for the benefit of all the Condominium Units on the Properties be abandoned, partitioned, subdivided, sold, encumbered or transferred except by a vote of Owners representing not less than seventy-five percent (75%) of all Owners' interests in the Condominium Units."

D. Pursuant to the Colorado Common Interest Ownership Act, C.R.S. §38-33.3-217, the required approval of Owners representing not less than 75% of all Owners' interests in the Condominium Units for amendment is now void.

E. Pursuant to the Colorado Common Interest Ownership Act, C.R.S. §38-33.3-217, the amendment requirement for this Declaration is now Owners representing not less than 67% of all Owners' interests in the Condominium Units.

F. Article XV, Section 2 of the Original Declaration also requires the prior approval of 3/4 of the holders of Deeds of Trust on the Condominium Units for material amendments.

G. All Owners are aware of the provisions of the Original Declaration allowing for amendment, by virtue of the record notice of the Original Declaration, by acts and disclosures, newsletters or notices of the Association and by other means;

H. The amendments within this Declaration have been prepared and determined by the Association and by the Owners that have approved this Declaration to be reasonable and not burdensome;

I. The purposes of the amendments in this Declaration are to remove unreasonable restrictions on the community, remove developer "boilerplate" language that is no longer applicable to the Community, remove provisions that do not allow the Board to efficiently operate the community or deal with community concerns, remove provisions that do not comply with current state law, add provisions that provide the proper tools for the Association to effectively solve problems, add provisions to provide the Association with sufficient power to create and successfully enforce Rules and Regulations, add provisions that reflect beneficial state law provisions, and to change the name of the Community from "Sunridge at Avon" to "LiftView."

J. The purpose of the Association, as provided in the Declaration, is to preserve the value and desirability of the Community and the Units and to further the interests of the residents of the Community and Members of the Association; and

K. Pursuant to C.R.S. §38-33.3-217, Owners representing at least 67% of the Owners' interests and 75% of the holders of Deeds of Trust have approved this Declaration.

NOW, THEREFORE, the Original Declaration is replaced and amended and restated as follows:

ARTICLE 1
DEFINED TERMS

Section 1.1 Defined Terms. Each capitalized term in this Declaration or in the Map shall have the meaning specified or as used in the Act, unless otherwise defined in this Declaration or the context requires otherwise:

- (a) "Act" shall mean the Colorado Common Interest Ownership Act, C.R.S.

§38-33.3-101 *et. seq.*, as it may be amended.

(b) “Allocated Interests” shall mean the undivided interest in the Common Elements, the Common Expense liability and the votes in the Association.

(c) “Assessment” shall include all Common Expense Assessments, insurance Assessments, utility Assessments, and any other expense levied to a Unit pursuant to this Declaration or the Act, including interest, late fees, attorney fees, fines, and costs.

(d) “Association” shall mean LiftView Homeowners Association, a Colorado nonprofit corporation, formerly known as Sunridge at Avon Homeowners Association, Inc., and its successors and assigns.

(e) “Board” or “Board of Directors” or “Executive Board” shall mean the body designated in the Governing Documents to act on behalf of the Association.

(f) “Common Elements” shall mean the Property within this Community other than the Units, which portion of the Property may be designated on the Map and in this Declaration. Common Elements shall include Limited Common Elements. The Common Elements shall be owned, as tenants in common, by the Owners of the separate Units, each Owner of a Unit having an undivided interest in the Common Elements.

(g) “Common Expenses” shall mean expenditures made or liabilities incurred by or on behalf of the Association, together with any allocations to reserves.

(h) “Community” shall mean the Community of LiftView (formerly known as Sunridge at Avon and the Sunridge at Avon Condominiums) which Community is a Condominium Community as defined in the Act and which Community is also a Common Interest Community as defined in the Act.

(i) “Declaration” shall mean and refer to this Amended and Restated Condominium Declaration for LiftView (formerly known as Sunridge at Avon), as amended, recorded in the office of the Clerk and Recorder of Eagle County, Colorado.

(j) “Development Rights” shall mean those rights set forth in this Declaration and those rights set forth in the Act.

(k) “Eligible Mortgage Holder” shall mean a holder of a first mortgage on a Unit that has submitted a written request for the Association to notify such holder of any proposed action requiring the consent of a specified percentage of Eligible Mortgage Holders, which request must contain its name, address, and the legal description and

address of the Unit upon which it holds a security interest.

(l) "Governing Documents" shall mean this Declaration, the Map, the Articles of Incorporation, the Bylaws, and any Rules and Regulations of the Association, as they may be amended from time to time.

(m) "Limited Common Elements" shall mean those portions of the Common Elements, if any, which are limited to and reserved for the exclusive use of one or more, but fewer than all of the Owners.

(n) "Map" shall mean the Condominium Map of Sunridge at Avon (and any supplements and amendments thereto) of the Community depicting and locating thereon the location of the buildings, the Units, the Common Elements, the floors and elevations, and all of the land and improvements thereon as the Map may be amended or supplemented from time to time, which Map is incorporated herein and made a part of this Declaration by reference.

(o) "Member" shall mean any Owner. The terms "Member" and "Owner" may be used interchangeably.

(p) "Owner" shall mean the owner of record title, whether one or more persons or entities to any Unit which is a part of the Property, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

(q) "Pet" shall mean and include cats, dogs, birds, reptiles or other household animals, as may be defined in or supplemented by the Rules and Regulations.

(r) "Property" shall mean the property described in the Original Declaration together with all easements, rights, and appurtenances thereto and the buildings and improvements erected or to be erected thereon.

(s) "Rules and Regulations" shall mean any written instruments, however identified, which are adopted by the Association for the regulation and management of the Community, and/or clarification of the Governing Documents, including any amendment to those instruments.

(t) "Unit" shall mean a physical portion of the Community, designated for separate ownership, shown as a Unit on the recorded Map for the Community, the boundaries of which are defined in the Map and in this Declaration.

ARTICLE 2
NAMES/DESCRIPTION OF PROPERTY

Section 2.1 Name and Type. The type of Common Interest Community is a condominium community. The name of the Community is hereby changed to "LiftView." The name of the Association is the "LiftView Homeowners Association."

Section 2.2 Property. The Community is located in Eagle County, State of Colorado. The Property subject to this Declaration is described in *Exhibit A* of this Declaration, the Original Declaration and in the Map and/or as is consistent with the common plan and scheme for the creation and operation of the Community. The Community may be subject to other easements or licenses granted pursuant to this Declaration, or granted by authority reserved in any recorded document or established in the Act.

Section 2.3 Utility, Map and Map Easements. Easements for utilities and other purposes over and across the Units and Common Elements may be as shown upon a recorded plat or the Map of the Community, and as may be established pursuant to the provisions of this Declaration, or granted by authority reserved in any recorded document.

Section 2.4 Easements for the Association and Owners. Each Unit shall be subject to an easement in favor of the Association, acting through the Board of Directors (including its agents, employees and contractors), and to each Owner to allow for their performance of obligations in this Declaration. On exercising this easement right, the party exercising the right shall be responsible for any resulting damages. Non-emergency repairs shall be made only during regular business hours on business days after at least 24 hours notice to the occupants of a Unit wherein repairs are to be made. The Association shall have an easement to enter a Unit to inspect for events which may be causing waste of water, heat or any other utility provided by the Association or paid as a part of Common Expenses. If the inspection reveals that the Owner has failed to maintain the Unit so as to prevent waste of common utility services provided for as a Common Expense, the Board shall follow the procedures provided for in this Section.

Section 2.5 Easement for Encroachments. If any part of the Common Elements encroaches or shall hereafter encroach upon a Unit, an easement for the existence of such encroachment and for the maintenance of the same shall and does exist. If any part of a Unit encroaches or shall hereafter encroach upon the Common Elements, or upon another Unit, the Owner of that Unit shall and does have an easement for the existence of such encroachment and for the maintenance of same, except for incidental encroachments that may occur as a result of

shifting of soils or settlement of a Unit. If any part of a Unit subsequently encroaches upon the Common Elements or upon another Unit, that encroachment shall be subject to all available remedies of the Association, or as allowed under this Declaration, unless the encroachment has been reviewed and approved (as provided in this Declaration). The easement shall extend for whatever period of time the encroachment exists. Such easements for encroachments shall not be considered to be encumbrances either on the Common Elements or on a Unit. The actual location of a Unit shall be deemed conclusively to be the property intended to be conveyed, reserved or encumbered notwithstanding any minor deviations, either horizontally, vertically or laterally from the location of such Unit indicated on the Map.

Section 2.6 Owners' Easements of Enjoyment. Every Owner shall have a right and easement of ingress and egress and enjoyment in, to, and over the Common Elements and Limited Common Elements appurtenant to his or her Unit, and such easement shall be appurtenant to and shall pass with the title to every Unit, subject to the following provisions:

- (a) the right of the Association to limit the number of guests of Owners;
- (b) the right of the Association to adopt Rules and Regulations governing the use of the Common Elements;
- (c) the right of the Association, upon approval of at least 67% of the total Association vote, to mortgage the Common Elements as security for that purpose, provided, that the rights of such mortgage shall be subordinate to the rights of the homeowners;
- (d) the right, power and authority of the Association to grant any easement, right-of-way, license, lease, dedication or similar interest through, over or in the Common Elements;
- (e) the right of the Association to transfer or convey ownership of the Common Element, or any portion thereof, subject to the prior approval of 67% of the total Association vote; provided that all Owners of Units to which any Limited Common Element is allocated shall approve of any transfer or conveyance of that Limited Common Element.
- (f) the right of the Association to suspend the voting rights and the right to use of any recreational facilities for a period not to exceed 60 days or during any period of violation of any other provision of the Governing Documents, whichever is greater; provided, however, that suspension of voting and use rights shall be automatic during any period that an Owner is in default in the payment of any Common Expense Assessment;

and

(g) the right of the Association to close portions of the Common Elements for maintenance, repair, replacement, and improvement; and

(h) the right of the Association to change use of, add or remove improvements to the Common Elements.

Section 2.7 Delegation of Use. Owners may delegate their right of enjoyment to the Common Elements and facilities to Owner's family, tenants, invitees, lessees, and guests, subject to Rules and Regulations. If the Owner delegates rights to use the Common Elements and facilities to tenants or contract purchasers who reside in the Unit, the Owner shall not be entitled to use the Common Elements and facilities. The Board of Directors shall have the express right to limit Owners' ability to delegate their right to use the recreational amenities of the Community through Rules and Regulations and/or reasonable fees charged for such use.

ARTICLE 3 THE ASSOCIATION

Section 3.1 Membership. Every person who is an Owner shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Unit. Ownership of a Unit shall be the sole qualification for membership. Each Unit shall be entitled to one vote. Fractional and cumulative voting are prohibited.

Section 3.2 General Purposes and Powers of the Association. The Association, through its Board of Directors, shall perform functions and manage the Community as provided in the Recitals section of this Declaration. All Owners and any purchaser of a Unit shall be deemed to have assented to, ratified and approved such designations and management. The Association shall have all power necessary or desirable to effectuate such purposes.

Section 3.3 Authority of the Association. The business affairs of the Community shall be managed by the Association. The Association shall be governed by the Act, to the extent it applies to communities created prior to July 1, 1992 or as otherwise provided in this Declaration, this Declaration, the Map, its Articles of Incorporation and Bylaws, and any Rules and Regulations adopted by the Board of Directors. All corporate or other powers of the Association, unless otherwise specified or expressly reserved to the Members in the Governing Documents, shall be exercised by or under the authority of the Board of Directors, and the business and

affairs of the Association shall be managed under the direction of the Board of Directors. The Board of Directors may, by written resolution, delegate authority to a manager or managing agent for the Association, provided no such delegation shall relieve the Board of final responsibility. The Association may exercise any right or privilege and shall perform all duties and obligations expressly granted or reasonably necessary or implied in the Governing Documents to effect such right or privilege or to satisfy such duty or obligation.

Section 3.4 Managing Agent. The Association may employ or contract for the services of a managing agent to whom the Board may delegate certain powers, functions, or duties of the Association, as provided in the Bylaws of the Association. The agreement shall be by written contract having a term of no more than three years and shall be subject to cancellation by the Association on 30 days notice, with or without cause, and without a cancellation fee. The Board shall not be liable for any omission or improper exercise by a managing agent of any duty, power, or function so delegated by written instrument executed by or on behalf of the Board.

Section 3.5 Allocated Interests. The ownership interest, Common Expense liability and votes in the Association allocated to each Unit are set as follows:

- (a) the percentage of ownership of the Common Elements as set forth on *Exhibit B*;
 - (b) the percentage of liability for Common Expenses as set forth on *Exhibit B*;
- and
- (c) the number of votes in the Association, equally (one vote per Unit).

Section 3.6 Indemnification. To the full extent permitted by law, each officer, director of the Association and other volunteer appointed by the Board of Directors shall be indemnified by the Association against all expenses and liabilities including attorney fees, reasonably incurred by or imposed upon them in any proceeding to which they may be a party, or in which they may become involved, by reason of being or having been an officer, director, committee member or other volunteer of the Association, or any settlements thereof, whether or not they are an officer, director, committee member or other volunteer appointed by the Board of Directors at the time such expenses are incurred, pursuant to the indemnification provisions set forth in the Bylaws and Colorado law.

Section 3.7 Security Disclaimer. The Association may, but shall not be required to, from time to time, provide measures or take actions which directly or indirectly improve security in the Community; however, each Owner, for himself or herself and his or her tenants, guests,

licensees and invitees, acknowledges and agrees that the Association is not a provider of security and shall have no duty to provide security in the Community. Furthermore, the Association does not guarantee that non-residents will not gain access to the Community and commit criminal acts in the Community, nor does the Association guarantee that criminal acts in the Community will not be committed by residents. It shall be the responsibility of each Owner to protect his or her person and property and all responsibility to provide such security shall lie solely with each Owner. The Association shall not be held liable for any loss or damage by reason of failure to provide security or the ineffectiveness of measures taken.

Section 3.8 Education and Training. As a Common Expense, the Association may, in accordance with the Act, provide education and training opportunities for Owners, residents and occupants, including providing funding and permitting facilities use for such purposes. The Association may provide education and training activities as a tool for fostering Owner, resident and occupant awareness of governance, operations and concerns of the Community and of the Association. Appropriate educational topics include dispute or conflict resolution, issues involving the Governing Documents, and education or topics benefitting or contributing to operation or governance of the Community and the rights and responsibilities of Owners and the Association. The Association may also fund and support education and training for officers and directors.

ARTICLE 4 UNITS, COMMON ELEMENTS AND LIMITED COMMON ELEMENTS

Section 4.1 Number of Units. The number of Units presently included in the Community is 165.

Section 4.2 Unit Boundaries.

(a) Boundaries. The following are designated as boundaries of each Unit, as defined below and as depicted on the Map:

(i) The unfinished interior surfaces of the perimeter walls. All lath, furring, wallboard, plasterboard, plaster, paneling, tiles, surface texture, wallpaper, paint, finished flooring and any other materials constituting the finished surfaces are part of the Unit and all other portions of the floors, walls and ceilings are part of the Common Elements. Where found on the walls and

ceilings, the interior surfaces of built-in fireplaces with their flues in the closed position shall be boundaries of the Unit.

(ii) Unfinished interior surfaces of floors, or the lowermost floors, if it is a Unit containing more than one level;

(iii) Unfinished interior surfaces of ceilings, or the uppermost ceilings, if it is a Unit containing more than one level;

(iv) The windows and window frames, doors and door frames of the Unit.

Each Unit includes the spaces and improvements lying within the boundaries described above, including windows, window frames, doors and door frames, and as depicted on the Map.

Section 4.3 Licensing of Use of Common Elements. The Association, acting through the Board, may license use of parts of the Common Elements to Owners on such terms and conditions as determined by the Board.

Section 4.4 Limited Common Elements.

(a) The following portions of the Common Elements are Limited Common Elements assigned to the Units as stated:

(i) If a chute, flue, pipe, duct, wire, conduit, bearing wall, bearing column or other fixture lies partially within and partially outside the designated boundaries of a Unit, the portion serving only the Unit is a Limited Common Element, allocated solely to the Unit, the use of which is limited to that Unit and any portion serving more than one Unit is a Limited Common Element to those Units and any portion serving only the Common Elements is a part of the Common Elements.

(ii) Any balconies, decks, sundecks, crawl spaces, exterior doors, windows or other fixtures designed to serve a single Unit, located outside the boundaries of the Unit, are Limited Common Elements allocated exclusively to the Unit and their use is limited to that Unit.

(iii) Any storage spaces which have been assigned by deed and are appurtenant to a Unit.

(b) Parking Space, Carport and Garage Space Assignments. The Association, acting through the Board, may assign two parking spaces per Unit, after the recording of this Declaration. Assignments shall be made in the manner determined by the Association to be in the best interests of the Community, as a whole, and all Members, and may be evidenced by a recorded document or map. In the event Owners desire garages or car ports; the Board of Directors has the right to reassign the 2 parking lots (currently identified as common elements) to limited common elements by allocating 2 parking spaces to each unit. The Board shall:

- Create a drawing of the parking lots identifying compliance with these Declarations and local ordinances
- Assign an identifying number(s) for each Unit
- Create and execute a procedure to reassign as limited common elements the 2 parking spaces identified for each unit.
- Amend and file updated map(s)
- Create a procedure for the submission, approval, and use of assigned spaces, carports and garages.

(c) Re-assignment. Once parking spaces, carports and/or garages have been assigned and allocated by the Association, Unit Owners may sell, swap or purchase the rights to use of an assigned parking space, carport or garage space as a Limited Common Element. If an Owner elects to purchase a garage space or carport, such Owner agrees to and shall pay for all costs and expenses related to the approval and construction of such garage or carport, if such garage or carport has not been built at the time of purchase. Owners who have purchased parking spaces, carports or garage spaces are entitled to transfer such parking spaces, carports or garage spaces assigned to their Units, but only to other Owners in the Community, and only as allowed for in Section 208(2) of the Act. Each Unit shall, at all times, retain two (2) parking spaces for vehicles (consisting of any combination of parking spaces, carports or garage spaces). Any amendment to the Declaration required by Section 208 (2) need only be approved by the Association and the Owners who are transferring or acquiring the right to use of that parking space, carport or garage space.

(d) Limited Common Elements for Parking. The Association may modify Limited Common Elements without a membership vote, but only with consent of the Owner to whose Unit the Limited Common Element is appurtenant. The Association may also, without a membership vote, assign or reassign Limited Common Elements not previously assigned with the consent of the affected Owner(s) and the Association, provided that any such assignment or reassignment shall be made in accordance with the Act.

Section 4.5 Mechanic's Liens. No labor performed and/or materials furnished for use and incorporated into any Unit with the consent or at the request of the Owner thereof, his agent, contractor, or subcontractor, shall be the basis for the filing of a lien against a Unit of any other Owner not expressly consenting to or requesting the same, or against any interest in the Common Elements. Each Owner shall indemnify and hold harmless each of the other Owners and the Association from and against any liability or loss arising from the claim of any mechanic's lien against the Unit of any other Owner, the Common Elements, or any part thereof, for labor performed and/or materials furnished in work on the first Owner's Unit. The Association may pay any sums necessary to eliminate any lien filed against Units not benefiting from the labor and/or materials furnished and the Common Elements on behalf of the other Owners and all sums paid shall be an Individual Assessment against the Owner or Owners for whom the labor and/or materials were furnished.

ARTICLE 5 MAINTENANCE RESPONSIBILITIES

Section 5.1 Association Maintenance. The Board of Directors of the Association shall determine the specifications, scope, extent, nature and parameters of the Association's maintenance responsibilities.

- (a) The Association shall maintain and keep in good repair as a Common Expense the following:
- (i) all Common Elements, including any Limited Common Elements, but excluding all improvements made to such Limited Common Elements by the Owners; provided, however, the cost of maintenance and repair of Limited Common Elements may be assessed against the Owner to whom the Limited Common Element is assigned under this Declaration;
 - (ii) periodic painting, staining and/or cleaning of exterior surfaces of the condominium building(s), exterior window frames, and entry doors and door frames, on a schedule to be determined by the Association;
 - (iii) all sewer lines, pipes and other utility lines that serve more than one Unit;
 - (iv) garage spaces, assigned parking spaces and carports;

(v) trash removal; and

(vi) snow clearing.

(b) Maintenance of Common Elements by Owner. Subject to the maintenance responsibilities herein provided, any maintenance or repair performed on or to the Common Elements by an Owner or occupant which is the responsibility of the Association hereunder (including, but not limited to landscaping of Common Elements) shall be performed at the sole expense of such Owner or occupant, and the Owner or occupant shall not be entitled to reimbursement from the Association even if the Association accepts the maintenance or repair.

(c) Association Discretion. The Association may, in its sole discretion, assume the obligation for maintenance or repair of additional property, either real or personal that lies within or outside the Community. The Association shall have the right to assume such obligation even if the obligation currently lies with Owners or other entities, provided however, the Association shall provide Owners with 15 days prior written notice of any such change. The Association, in its sole discretion, shall determine the time and manner in which any maintenance, whether required or assumed, shall be performed as well as the color or type of materials used.

(d) Damage to Unit by Association. The Association shall repair incidental damage to any Unit resulting from performance of work which is the responsibility of the Association. As finish levels can have varying degrees, such repairs will be complete only to the extent of being "paint-ready". Such repair and subsequent cleaning shall be performed based on a reasonableness standard. In performing its responsibilities hereunder, the Association shall have the authority to delegate to such persons, firms or corporations of its choice, such duties as are approved by the Board of Directors.

(e) Liability of Association.

(i) The Association shall not be liable for injury or damage to person or property caused by or resulting from any water, rain, snow or ice which may leak or flow from any portion of the Common Elements or from any device, pipe, drain, conduit, appliance or equipment which the Association is responsible to maintain hereunder, except:

(1) for injuries or damages arising after the Owner of a Unit has put the Association on written notice of a specific leak or flow from any portion of the Common Elements or device, pipe, drain, conduit,

appliance or equipment for which the Association has a maintenance responsibility; and

(2) only if the Association has failed to exercise due care to correct the leak or flow within a reasonable time thereafter.

(ii) The Association shall not be liable to the Owner of any Unit or such Owner's occupant, guest, or family, for loss or damage, by theft or otherwise, of any property which may be stored in or upon any of the Common Elements.

(iii) The Association shall not be liable to any Owner, or any Owner's occupant, guest or family for any damage or injury caused in whole or in part by the Association's failure to discharge its responsibilities under this Section where such damage or injury is caused by an act of God, is not foreseeable or is a natural result of the Association's failure to discharge its responsibilities.

(iv) No diminution or abatement of Assessments shall be claimed or allowed by reason of any alleged failure of the Association to take some action or perform some function required to be taken or performed by the Association under this Declaration, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or from any action taken by the Association to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority.

Section 5.2 Owner's Maintenance Responsibility. Except as otherwise provided in Section 5.1 above, each Owner shall have the obligation to maintain, repair and replace all portions of the Owner's Unit and the Limited Common Elements appurtenant thereto. Such maintenance shall include, but not be limited to the following:

(a) all glass surfaces, windows, window frames (except for periodic painting and/or staining of the exterior window frames), casings and locks (provided, however, no changes that affect the exterior appearance of the windows may be made unless prior written approval is obtained from the Board);

(b) all doors, doorways, door frames, hardware and locks and door chimes that are part of the entry system of the Unit (except for periodic painting and/or staining of exterior doors);

(c) any fireplace serving the Unit and all components of the fireplace,

including the chimney box, and flue, if any;

- (d) any skylight serving the Unit;
- (e) any patio, balcony, yard or deck, including any enclosure of the same;
- (f) any portion of the heating and air conditioning system, including the air conditioning compressor and the fan coil serving the Unit;
- (g) any pipes, lines, ducts, conduits or other apparatus which serve only the Unit whether located within or without the boundaries of the Unit (including all electricity, water, sewer, or air conditioning pipes, lines, ducts, conduits); all utility meters or other apparatus serving only the Unit whether located within or without the boundaries of the Unit; and communications, television, telephone and electrical lines, receptacles and boxes serving any Unit whether located within or without the boundaries of the Unit;
- (h) any Association approved additions or alterations made by the Owner to the Units or Limited Common Elements.

Each Owner shall maintain in a neat and clean condition the following: any garage space, carport, parking space or storage space appurtenant to his or her Unit.

The Association, upon written resolution of the Board, shall have the authority to require all Owners to do any act or perform any work involving portions of the Community which are the Owner's maintenance responsibility, which will, in the Association's sole discretion, conserve common utilities.

The Association shall have right, but not the obligation, to install water, electricity or other commonly provided utility conservation devices (including, but not limited to, toilets and shower heads) as a Common Expense of the Association. If the Association installs such equipment as a Common Expense and the utility provider has a rebate program, the Association shall be entitled to the rebate.

Section 5.3 Owner Responsibilities. Each Owner shall have the responsibility to:

- (a) perform his or her maintenance responsibility in such manner so as not to unreasonably disturb other persons in Units;
- (b) promptly report to the Association or its agent any defect or need for

repairs, for which the Association is responsible;

(c) pay for the cost of repairing, replacing or cleaning up any item which is the responsibility of the Owner but which responsibility such Owner fails or refuses to discharge (which the Association shall have the right, but not the obligation, to do), or to pay for the cost of repairing, replacing or cleaning up any item which, although the responsibility of the Association, is necessitated by reason of the willful or negligent act of the Owner, his or her family, tenants, guests, with the cost thereof to be added to and become part of the Owner's next chargeable Assessment; and

(d) An Owner shall not be liable for injury or damage to person or property caused by or resulting from the Owner's maintenance or lack of maintenance of the Unit or any Limited Common Element appurtenant thereto except if the Owner has failed to exercise due care in performing said maintenance. An Owner shall not be liable to any other Owner, or any Owner's occupant, guest or family or the Association for any damage or injury caused in whole or in part by the Owner's failure to discharge its responsibilities under this Section where such damage or injury is not a foreseeable, natural result of the Owner's failure to discharge its responsibilities.

Section 5.4 Window Replacement. Notwithstanding the responsibility of the Owners for windows, as part of a building renovation project, the Association may replace all Unit windows in the Community, subject to the approval of a majority of the Owners present and voting in person or by proxy at a duly called meeting, notice of which shall state the purpose of the meeting. Any expense associated with such window replacement shall be a Common Expense of the Association allocated among the Units based on the number of windows in each Unit replaced and the cost of such replacement.

Section 5.5 Mold. Each Owner shall be required to take necessary measures to retard and prevent mold from accumulating in the Unit, and the Common Elements, including but not limited to appropriate climate control, removal of visible moisture accumulation on windows, window sills, walls, floors, ceilings and other surfaces and cleaning of the same. No Owner shall block or cover any heating, ventilation or air conditioning ducts. Owners shall immediately notify the Board in writing of the following: (a) any evidence of water leaks, water infiltration or excessive moisture in a Unit; (b) any evidence of mold that cannot be removed by the Owner with a common household cleaner; (c) any failure or malfunction in heating, ventilation or air conditioning; (d) any inoperable doors, windows, heating, ventilation or air conditioning ducts. The receipt of notice by the Association shall not create any additional Association maintenance responsibility other than those set forth in this Declaration. Owners shall be responsible for any damage to his or her Unit and personal property, to any other Unit or the Common Elements, as

well as any injury to the Owner or occupants resulting from the Owner's failure to comply with this section. Owners shall be responsible for all costs and expenses incurred by the Board to remove mold and/or damage within his or her Unit, to any other Unit or to the Common Elements if the Owner fails to meet the requirements of this Section.

Section 5.6 Inspection, Repair and Replacement of Designated Owner Maintenance Components. The Association shall have the right, but not the obligation, to conduct a periodic inspection, on a schedule to be determined by the Board of Directors, of designated Owner maintenance components as may be set forth in the Rules and Regulations. If, in the Board of Directors' sole discretion, the component needs to be maintained, repaired or replaced, the Association may provide such maintenance, repair or replacement (even though such component may be the Owner's responsibility) and the cost of such periodic inspection, maintenance, repair or replacement may be assessed against the Owner of the Unit served by such component pursuant to the following Section of this Declaration.

Section 5.7 Failure to Maintain. If the Association determines that any Owner has failed or refused to discharge properly his or her obligation with regard to the maintenance, repair, or replacement of items of which he or she is responsible hereunder, then, except in the case of an emergency, the Association shall give the Owner written notice of the Owner's failure or refusal and of the Association's right to provide necessary maintenance, repair, or replacement at the Owner's cost and expense. The notice shall set forth with reasonable particularity the maintenance, repair, or replacement deemed necessary by the Association.

Unless the Association determines that an emergency exists, the Owner shall have 10 days within which to complete maintenance or repair, or if the maintenance or repair is not capable of completion within such time period, to commence replacement or repair within 10 days. If the Board determines that: (i) an emergency exists or (ii) that an Owner has not complied with the demand given by the Association as provided in this Section; then the Association may provide any such maintenance, repair, or replacement at the Owner's sole cost and expense, and such costs shall be added to and become a part of the Assessment to which such Owner is subject, shall become and be a lien against the Unit, and shall be collected as provided in this Declaration for the collection of Assessments.

If the Board determines that the need for maintenance or repair is a Common Expense and is caused through the willful or negligent act of any Owner, or occupant or their family, guests, lessees, or invitees, then the Association may assess the cost of any such maintenance, repair, or replacement against the Owner's or occupant's Unit, shall become a lien against the Unit, and shall be collected as provided in this Declaration for the collection of Assessments.

Section 5.8 Maintenance and Insurance Chart. As a Common Expense, the Association shall periodically cause to be prepared a chart summarizing the repair, replacement, maintenance and insurance obligations of Owners and the Association, as outlined in this Declaration. Such repair, replacement, maintenance and insurance chart shall be provided to all Owners.

ARTICLE 6 COVENANT FOR COMMON EXPENSE ASSESSMENTS

Section 6.1 Creation of Association Lien and Personal Obligation to Pay Common Expense Assessments. Each Owner, by acceptance of a deed for a Unit, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to pay to the Association annual Common Expense Assessments, insurance Assessments (assessed in proportion to risk), utility Assessments (assessed in proportion to usage), and such other Assessments as imposed by the Association. Such Assessments, including fees, charges, late fees, attorney fees, fines and interest charged by the Association and additional fees charged by the managing agent, including but not limited to, administration and witness fees, shall be the personal obligation of the Owner of such Unit at the time when the Assessment or other charges became or fell due. The annual Common Expense Assessments and such other Assessments as imposed by the Association, including fees, charges, late fees, attorney fees, fines and interest charged by the Association, shall be a charge on each Unit and shall be a continuing lien upon the Unit against which each such Assessment or charge is made. If any Assessment is payable in installments, the full amount of the Assessment is a lien from the time the first installment becomes due. The personal obligation to pay any past due sums due the Association shall not pass to a successor in title unless expressly assumed by them. No Owner may become exempt from liability for payment of the Common Expense Assessments by waiver of the use or enjoyment of the Common Elements or by abandonment of the Unit against which the Common Expense Assessments are made. All Assessments shall be payable in the amounts specified in the levy thereof, and no offsets or reduction thereof shall be permitted by any reason including, without limitation, any claim that the Association or the Board of Directors is not properly exercising its duties and powers under this Declaration. Except as provided in this Declaration, all Common Expense Assessments shall be assessed against all Units in accordance with the formula for liability for the Common Expenses as set forth in this Declaration.

Section 6.2 Basis of Assessments. The Common Expense Assessment may be made on an annual basis against all Units and shall be based upon the Association's advance budget of the cash requirements needed by it to provide for the administration and performance of its duties

during such Assessment year.

Section 6.3 Annual Assessment. The budget for annual Assessments shall be submitted to the Owners for ratification pursuant to Section 303(4) of the Act and as set forth in the Bylaws, as the Bylaws may be amended from time to time. The Board, on behalf of; the Association, shall set the annual Assessments as it deems necessary to run and maintain the Association. The budget may be vetoed by votes of Owners representing a majority of the Owners present (either by proxy or in person) at the Annual meeting but only if at least twenty-five percent (25%) of the Members are present in person or by proxy. The Board shall have the power in its sole discretion to increase the maximum annual assessment by five percent (5%) per fiscal year at any time. Any increase in the maximum annual assessment of more than five percent (5%) per fiscal year shall require the affirmative vote of two-thirds (2/3) of the Owners, voting in person or by proxy at a meeting duly called for such purpose. Common Expense Assessments shall be due and payable in monthly, quarterly, or annual installments, or in any other manner, as determined by the Board of Directors. The Board may allow a discount for early payment of Assessments, as determined in the sole discretion of the Board of Directors. The omission or failure of the Board of Directors to levy the Assessment for any period shall not be deemed a waiver, modification or a release of the Owners from their obligation to pay.

Section 6.4 Special Assessments. In addition to other authorized Assessments, the Association may levy Special Assessments from time to time to cover previously unbudgeted expenses or expenses in excess of those budgeted, including, without limitation, the costs of any construction, restoration, or unbudgeted repairs or replacements of capital improvements that are not covered by the general reserve fund. The proposed Special Assessment shall be submitted to the Owners for ratification pursuant to Section 303(4) of the Act and as set forth in the Bylaws, as the Bylaws may be amended from time to time. Any Special Assessment of \$500.00 or less per effected unit may be vetoed by votes of Owners, either in person or by proxy, representing a majority of the effected units at a meeting called for such purpose. Any Special Assessment greater than \$500.00 per effected unit must be approved by two-thirds (2/3) of the Owners, either in person or by proxy, representing the effected units at a meeting called for such purpose. Written notice shall be sent to all Owners of record not less than thirty (30) days nor more than sixty (60) days in advance of the meeting setting forth the purpose of the meeting. Special Assessments may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved. The Board shall have the right to require that Special Assessments be paid in advance of the provision of the subject services or materials. Except as otherwise provided in the following sentence, all Special Assessments shall be assessed against all Units in accordance with the percentage of liability for the Common Expenses as set forth in Section 3.5. Where the expenses covered by a Special Assessment are equal for each and every Unit regardless of the size of the Unit, the Board may assess that Special Assessments or portion

thereof equally against all Units, instead of in accordance with the percentage of liability for Common Expenses as set forth in Section 3.5.

Section 6.5 Supplemental Assessments. The Association shall have the right to add to any Owner's Assessment as provided in this Article the following:

- (a) those amounts expended by the Association for the benefit of any individual Unit or any occupant thereof, including but not limited to: Unit insurance; improvement, repair, replacement and maintenance specific to a Unit; improvement, repair, replacement and maintenance caused by the negligent or willful acts of any Owner, his or her guest, employee, licensee, lessee or invitee as set forth in this Declaration;
- (b) any extraordinary maintenance, repair, improvement and replacement costs of any area which the Association maintains required on fewer than all the Units;
- (c) any extraordinary insurance costs incurred as a result of the value of a particular Owner's Unit or the actions of an Owner (or his agents, guests, licensees, invitees or lessees);
- (d) All fines and costs assessed against an Owner pursuant to the Governing Documents; The Board shall have the right to set and assess fines against an owner for each violation of this Declaration, the Bylaws, the Rules or the Articles of Incorporation of the Association. Such fine may be assessed additionally for each day the violation continues after written notice thereof is given the Owner. Such fines shall be deemed to be assessments for purposes of Section 6 of this Article. and
- (e) Any other expenditures or charges which the Board, in its sole discretion, chooses to allocate to a Unit and are reasonably determined to be allocable to a particular Unit.

Section 6.6 Working Capital Fund. The first Owner of each Unit made a non-refundable contribution to the Association in an amount equal to two times the then current monthly installment of the annual Assessment. This contribution was collected and transferred to the Association at the time of closing of the sale and shall, until used, be maintained in a segregated account with other such working capital funds for the use and benefit of the Association, including, without limitation, to meet unforeseen expenditures or to purchase equipment, property or services. Such contribution to the working capital fund shall not relieve an Owner from making regular payments of Assessments as the same become due. Upon the

transfer of his or her Unit, an Owner shall be entitled to a credit from his or her transferee (but not from the Association) for the aforesaid contribution to the working capital fund.

Section 6.7 Application of Payments. All sums collected on a delinquent account shall be remitted to the Association's attorney until the account is brought current. All payments received on an account of any Owner or the Owner's Unit shall be applied to payment of any and all legal fees and costs (including attorney fees), expenses of enforcement and collection, late fees, returned check fees, lien fees and other costs owing or incurred with respect to such Owner pursuant to the Governing Documents, prior to application of the payment to any special or regular Assessments due or to become due with respect to such Owner.

Section 6.8 Effect of Non-Payment of Assessments.

(a) Assessments shall be due as determined by the Board. The Board may allow a discount for early payment of Assessments, as determined by the Board in their sole discretion. Any Assessment, charge or fee provided for in this Declaration, or any monthly or other installment thereof, which is not fully paid within 10 days after the due date thereof, as established by the Board of Directors, shall bear interest at the rate established by the Board of Directors, on a per annum basis from the due date, and the Association may assess a reasonable late fee thereon as determined by the Board of Directors.

(b) Failure to make payment within 60 days of the due date thereof, as determined by the Board of Directors, shall cause the total amount of such Owner's Common Expense Assessment for the remainder of that fiscal year to become immediately due and payable at the option of the Board. The Board may, in its discretion, decelerate the Member's annual Assessment.

(c) Further, the Association may bring an action at law or in equity, or both, against any Owner personally obligated to pay such overdue Assessments, charges or fees, or monthly or other installments thereof, and may also proceed to foreclose its lien against such Owner's Unit. An action at law or in equity by the Association against an Owner to recover a money judgment for unpaid Assessments, charges or fees, or monthly or other installments thereof, may be commenced and pursued by the Association without foreclosing, or in any way waiving, the Association's lien therefore.

(d) Foreclosure or attempted foreclosure by the Association of its lien shall not be deemed to estop or otherwise preclude the Association from thereafter again foreclosing or attempting to foreclose its lien for any subsequent Assessment, charges or

fees, or monthly or other installments thereof, which are not fully paid when due. The Association shall have the power and right to bid on or purchase any Unit at foreclosure or other legal sale, and to acquire and hold, lease, mortgage, vote the Association votes appurtenant to ownership thereof, convey or otherwise deal with the same. If a foreclosure action is filed to foreclose any Assessment lien, and an Owner abandons or leaves vacant his or her Unit, the Board may take possession and rent said Unit or apply for the appointment of a receiver for the Unit without prior notice to the Owner. The rights of the Association shall be expressly subordinate to the rights of any holder of a first lien security interest as set forth in its deed of trust or mortgage (including any of rents), to the extent permitted under the Act.

Section 6.9 Assignment of Rents. If a Unit is rented by its Owner, the rent is hereby pledged and assigned to the Association as security for the payment of all Assessments due by that Owner to the Association. If the Assessments owed by the Owner of a rented Unit are more than 90 days delinquent, the Board may collect, and the occupant or lessee shall pay to the Board, the rent for any Unit owned by the delinquent Owner, or that portion of the rent equal to the amount due to the Association; provided, however, the lessee need not make such payments to the Association in excess of or prior to the due date for monthly rental payments unpaid at the time of the Board's request. The Association shall send notice to the Owner by any reasonable means at least 10 days prior to initiating the collection of rent from the Owner's occupant or lessee. The occupant and/or lessee shall not have the right to question the Board's demand for payment. Payment by the occupant or lessee to the Association will satisfy and discharge the occupant or lessee's duty of payment to the Owner for rent, to the extent of the amount paid to the Association. No demand or acceptance of rent under this Section shall be deemed to be a consent or approval of the Unit rental or a waiver of the Owner's obligations as provided in the Declaration. The Board shall not exercise this power where a receiver has been appointed with respect to a Unit or Owner, nor in derogation of the exercise of any rights to rents by the holder of a first lien security interest of a Unit. If an occupant or lessee fails or refuses to pay rent to the Association as provided for in this Section, the Association shall have the right to bring an action for unlawful detainer for non-payment of rent under Colorado statutes, and the costs and attorney fees incurred by the Association in connection with that action shall be collectable from the occupant or lessee in that action, and from the Owner of the Unit in the same manner as any other Assessment under this Declaration.

Section 6.10 Lien Priority. The lien of the Association under this Section is prior to all other liens and encumbrances on a Unit except: (1) liens and encumbrances recorded before the recordation of the Declaration; (2) a first lien security interest on the Unit (except as allowed by the Act with regard to the limited lien priority allowed to the Association); and (3) liens for real estate taxes and other governmental assessments or charges against the Unit. This Section does not affect the priority of mechanics' or materialmen's liens. The lien of the Association

under this Article is not subject to the provision of any homestead exemption as allowed under state or federal law. Sale or transfer of any Unit shall not affect the lien for said Assessments or charges except that sale or transfer of any Unit pursuant to foreclosure of any first lien security interest, or any proceeding in lieu thereof, including deed in lieu of foreclosure, or cancellation or forfeiture shall only extinguish the lien of Assessment charges as provided by applicable state law. No such sale, transfer, foreclosure, or any proceeding in lieu thereof, including deed in lieu of foreclosure, nor cancellation or forfeiture shall relieve any Unit from continuing liability for any Assessment charges thereafter becoming due, nor from the lien thereof.

Section 6.11 Borrowing. The Association, acting through the Board, shall have the power to assign its right to future income, including the right to assign its right to receive Common Expense Assessments, but only upon the affirmative vote of a majority of all Owners voting in person or by proxy, at a duly constituted meeting called for that purpose.

ARTICLE 7
COVENANTS AND RESTRICTIONS ON USE, ALIENATION
AND OCCUPANCY

All Property within the Community shall be held, used and enjoyed subject to the following limitations and restrictions. The strict application of the following limitations and restrictions in any specific case may be modified or waived, in whole or in part, by the Board of Directors or by an appropriate committee (subject to review by the Board of Directors) if such strict application would be unreasonable or unduly harsh under the circumstances or is inconsistent with applicable law. Any such modification or waiver must be in writing.

Section 7.1 Use/Occupancy.

(a) All Units within the Community shall be used only for those uses and/or purposes as allowed by the local zoning, control and regulation, and permitted by this Declaration, subject to any Rules and Regulations adopted by the Association. Units shall not be used for any purpose other than a residential dwelling except as set forth in this Section. Home occupations shall be allowed so long as the home occupations are incidental and secondary to the use of the Unit and does not change the residential character thereof, comply with local zoning ordinances and regulations, and comply with this Declaration. External advertising of any kind is prohibited. In no instance shall a home occupation be visible externally, nor shall any home occupation employ any person other than the Owner.

(b) Uses which have one or more of the following characteristics are not permitted: (i) manufacturing or fabrication of any kind; (ii) storage of hazardous materials; (iii) increased traffic or parked vehicles beyond that reasonable and customary to a residential dwelling use; (iv) permanent or long term parking of heavy equipment, including semi trailers; (v) the use or rental of any structure on a Unit for any transient, hotel, motel, bed and breakfast, restaurant, bar or other commercial purposes.

(c) The maximum number of occupants in a Unit shall be limited to two people per bedroom in the Unit (as such bedrooms are depicted on the Map) unless they qualify as a Family as defined by the Town of Avon Development Code. Upon written application, the Board shall grant variances to this restriction to comply with provisions of the Fair Housing Amendments Act of 1988 or any amendments thereto.

(d) If the Owner of a Unit is a corporation, partnership, trust or other legal entity not being a natural person, the entity shall designate in writing the name(s) of the person(s) who will occupy the Unit. Any such change must be designated in writing within 10 days of the change.

Section 7.2 Leasing and Occupancy. Any Owner shall have the right to lease or allow occupancy of a Unit upon such terms and conditions as the Owner may deem advisable, subject to the restrictions of this Declaration, subject to restrictions of record and subject to the following:

(a) "Leasing" or "Renting" for the purposes of this Declaration is defined as regular, exclusive occupancy of a Unit by any person other than the Owner. For the purposes of this Declaration, occupancy by a roommate of an Owner who occupies the Unit as such Owner's primary residence shall not constitute leasing.

(b) All leases or rental agreements shall be in writing and shall provide that the leases or rental agreements are subject to all terms of the Governing Documents. Owners are required to provide tenants with copies of the current Declaration, Bylaws, Articles of Incorporation, and Rules and Regulations of the Association unless specified otherwise by the Board of Directors.

(c) Each Owner who leases his or her Unit shall provide the Association, upon request, a copy of the current lease and tenant information, including the names of all occupants, vehicle descriptions, including license plate numbers, and any other information reasonably requested by the Association or its agents.

(d) Each Owner is strongly encouraged to conduct full background checks,

including credit and criminal reports, for each lease applicant.

(e) All occupancies, leases and rental agreements of Units shall state that the failure of the tenant, lessee, renter or their guests to comply with the terms of the Governing Documents shall constitute a default of the occupancy, lease or rental agreement and of this Declaration and such default shall be enforceable by either the Association or the landlord, or by both of them.

(f) All occupancies of Units shall be subject to the right of the Association to remove and/or evict the occupant for failure to comply with the terms of the Declaration, the Bylaws of the Association, the Articles of Incorporation or the Rules and Regulations of the Association. If the Association requests that the Owner evict the Owner's tenant based on the terms of this Declaration, and the Owner fails to commence such action within 30 days of the date of the Association's request and notice, the Association may commence eviction proceedings. Upon failure by the Owner to comply with the Association's request to evict, the Owner delegates and assigns to the Association, acting through the Board, the power and authority to evict the lessee as attorney-in-fact on behalf of and for the benefit of the Owner. If the Association evicts the lessee, any costs, including, but not limited to, reasonable attorney fees actually incurred and court costs associated with the eviction shall be an Assessment and lien against the Unit.

(g) Leases shall be for or of the entire Unit.

(h) All Owners who reside at a place other than the Unit shall provide to the Association contact information such as a mailing address, email address, and phone number(s) where the Owner can be reached in the case of emergency or other Association business. It is the sole responsibility of the Owner to keep this information current.

(i) The Association shall have the authority to adopt Rules and Regulations regarding leasing, including the implementation of this restriction, and for implementation of other restrictions in the Declaration and as allowed by law.

Section 7.3 Use of Patios and Balconies. Nothing shall be hung from or placed outside the Unit, including patios and balconies, unless allowed in the Rules and Regulations.

Section 7.4 Restrictions on Animals and Pets. All pets must be registered with the Association. Pets may be kept in a Unit, *if* the Pet is not a nuisance to other residents. No resident shall maintain or keep any Pet which, in the sole discretion of the Board, is considered to

be a danger to the Owners, management staff or occupants in the Community or is otherwise considered to be a dangerous breed, as may be further defined in the Rules and Regulations. If a Pet is deemed a nuisance by the Association, the resident having control of the Pet shall be given a written notice to correct the problem and if not corrected, that resident will be required to remove the Pet from the Community pursuant to, and in accordance with, any dispute resolution procedures as may be set forth in this Declaration or the Rules and Regulations, if any. Pets may not be kept for any commercial purposes. Animals are not permitted in the recreational areas. When on other Common Elements, Pets must be closely controlled and are not allowed to wander away from their owner. Feces left by Pets upon the Common Elements or Limited Common Elements, must be removed promptly by the Owner of the Pet or the person responsible for the Pet. Pets shall not be allowed to defecate or urinate on any patio or balcony in the Community. Owners shall hold the Association harmless from any claim resulting from any action of their Pets or the Pets of their tenants, guests or other invitees. Notwithstanding anything to the contrary contained in this Section 7.4, the Association may prohibit all tenants and occupants of Units (but not Owners) from keeping pets in Units.

Section 7.5 Antennae. "Permitted Antennas" are defined as (a) an antenna which is less than one meter in diameter and is used to receive direct broadcast satellite service, including direct-to-home satellite services, or is used to receive or transmit fixed wireless signals via satellite; (b) an antenna which is less than one meter in diameter and is used to receive video programming services via multipoint distribution services, including multichannel multipoint distribution services, instruction television fixed services, and local multipoint distribution services or is used to receive or transmit fixed wireless signals other than via satellite; (c) an antenna which is designed to receive broadcast television broadcast signals; or (d) other antennas which are expressly permitted under applicable federal statutes or regulations. In the event a Permitted Antenna is no longer expressly permitted under applicable federal statutes or regulations, such antenna will no longer be a Permitted Antenna for purposes of this Section.

Permitted Antennas shall be installed in the least conspicuous location available on the Unit or Limited Common Elements which permits acceptable signals, without unreasonable delay or increase in the cost of installation, maintenance or use of the Permitted Antenna. The Association may adopt rules regarding location and installation of Permitted Antennas, subject to limitations of applicable federal law. Except as allowed by federal statutes and regulation, no exterior television or any other antennae, microwave dish, satellite dish, satellite antenna, satellite earth station or similar device of any type shall be erected, installed or maintained on a Unit or Limited Common Elements.

Section 7.6 Nuisances. No nuisance shall be permitted within the Community, nor any use, activity or practice which is the source of unreasonable annoyance or embarrassment to,

or which unreasonably offends or disturbs, any Owner or which may unreasonably interfere with the peaceful enjoyment or possession of the proper use of a Unit or Common Element, or any portion of the Community by residents.

Section 7.7 Compliance With Other Laws. No improper, offensive or unlawful use shall be permitted within the Community or any portion thereof. All valid laws, ordinances and regulations of all governmental bodies having jurisdiction over the Community or a portion thereof shall be observed.

Section 7.8 Parking, Garages, Storage, and Repairs.

(a) Parking upon the Common Elements, Limited Common Elements and any garages or carports shall be regulated by the Association.

(b) Parking spaces on the Common Elements shall consist of 2 unassigned parking spaces per unit, unless designated otherwise as set forth earlier in this Declaration. Parking designated as visitor or guest parking shall not be used by Owners or occupants. All unassigned parking spaces shall be used by the Owners for self-service parking purposes on a "first come, first served" basis; provided, however, that no Owner shall park more than two (2) vehicles (owned or leased by such Owner, a member of his or her family or occupant of his or her Unit) on the Common Element parking spaces without the prior written consent of the Board of Directors.

(c) The following may not be parked or stored within the Community, unless such parking or storage is within a garage, is authorized in writing by the Association or is allowed by the Act as an "emergency vehicle": oversized vehicles, trailers, camping trailers, boat trailers, hauling trailers, boats or other motorcraft and accessories thereto, self-contained motorized recreational vehicles, trucks over one ton, commercial vehicles, vehicles with commercial writing on their exteriors or other oversized types of vehicles or equipment as prohibited by rule or regulation. The foregoing may be parked as a temporary expedience for loading, delivery of goods or services, or emergency. Overnight parking is prohibited. This restriction shall not apply to trucks or other commercial vehicles temporarily located within the Community which are necessary for construction or for the maintenance of the Common Elements, Units, or any improvement located thereon.

(d) No abandoned, unlicensed or inoperable automobiles or vehicles of any kind shall be stored or parked within the Community unless parked or stored within a garage. An "abandoned or inoperable vehicle" shall be defined by Colorado statutes

governing inoperable or abandoned vehicles on public streets, or as defined by rule or regulation adopted by the Association. In the event that the Association shall determine that a vehicle is an abandoned, unlicensed or inoperable vehicle, then a written notice describing said vehicle shall be personally delivered to the Owner thereof or shall be conspicuously placed upon the vehicle. If the abandoned, unlicensed or inoperable vehicle is not removed within 72 hours after providing such notice, the Association shall have the right to remove the vehicle, and the owner thereof shall be solely responsible for all towing and storage charges.

(e) No activity such as, but not limited to, maintenance, repair, rebuilding, dismantling, repainting, or servicing of any kind of vehicle, trailer or boat, may be performed or conducted outside of the garages, except as permitted by the Association's Rules and Regulations or approval.

(f) Garages, carports, garage driveways and designated parking spaces (designated as either a part of a Unit, a Limited Common Element or as a part of Common Elements) are restricted to use for access or as a parking space for vehicles.

(g) The conversion or alteration of garages or carports into living areas, storage areas, workshop areas, or any other modification or alteration of the garages or carports, which would hinder, preclude or prevent the parking of the number of vehicles for which the garage or carport was originally designed is prohibited.

(h) Electrical appliances or use of electricity within garages is prohibited without the Association's written approval.

(i) Parking in fire lanes (as designated by the Association or as designated by local government or a local fire protection authority) shall not be permitted.

(j) No motor vehicle may impede the safe and efficient use of streets or driveways within the Community by residents, obstruct emergency access to/from the Community, or interfere with the reasonable needs of other residents to use streets or driveways within the Community.

(k) If any vehicle is parked on any portion of the Community in violation of this Section or in violation of the Association's Rules and Regulations, the Board may place a notice on the vehicle specifying the nature of the violation and stating that after 72 hours the vehicle may be towed or booted. The notice shall include the name and telephone number of a person to contact regarding the alleged violation. A notice also shall be conspicuously placed at the Community stating the name and telephone number of the person or entity which will do the towing and/or booting hereunder. If 72 hours

after such notice is placed on the vehicle the violation continues or thereafter occurs again within six months of such notice, the vehicle may be towed or booted in accordance with the notice, without further notice to the vehicle owner or user.

(l) If a vehicle is parked in a fire lane, is blocking another vehicle or access to another Owner's or occupant's Unit or dwelling, is obstructing the flow of traffic, is parked on any grassy area, is parked in a space which has been assigned as exclusively serving another Unit, or otherwise creates a hazardous condition, no notice shall be required and the vehicle may be towed or booted immediately.

(m) If a vehicle is towed or booted in accordance with this subparagraph, neither the Association nor any officer or agent of the Association shall be liable to any person for towing and storage costs or for any claim of damage as a result of the towing or booting activity. The Association's right to tow or boot is in addition to, and not in limitation of all other rights of the Association, including the right to assess fines. Notwithstanding anything to the contrary in this Section, the Board may elect to impose fines or use other available sanctions, rather than exercise its authority to tow or boot.

Section 7.9 Use of Common Elements/ Restricted Access. There shall be no obstruction of the Common Elements, nor shall anything be kept or stored on any part of the Common Elements without the prior written approval of the Association, except that the Association may construct and maintain any device deemed necessary to restrict vehicular access to the Community to be limited to only Owners and residents. Nothing shall be altered on, constructed in, or removed from the Common Elements without the prior written approval of the Association unless otherwise provided in this Declaration.

Section 7.10 No Annoying Lights, Sounds or Odors. No light shall be emitted from any portion of the Community which is unreasonably bright or causes unreasonable glare, and no sound or odor shall be emitted from any portion of the Community which would reasonably be found by others to be noxious or offensive. Without limiting the generality of the foregoing, no exterior spot lights, searchlights, speakers, horns, whistles, bells or other light or sound devices shall be located or used on any portion of the Community except with the prior written approval of the Association.

Section 7.11 Compliance with Insurance Requirements. Except as may be approved in writing by the Association, nothing shall be done or kept on the Community which may result in a material increase in the rates of insurance or would result in the cancellation of any insurance maintained by the Association.

Section 7.12 Restriction on Signs and Advertising Devices.

(a) Except as provided in this Section, no sign, poster, billboard, advertising device or display of any kind shall be erected or maintained anywhere on a Unit except such sign or signs as may be approved in writing by the Association.

(b) Signs intended to impact the outcome of an election must be displayed in accordance with the Association's Rules and Regulations.

(c) One professionally lettered "For Sale" or "For Rent" sign not to exceed three feet by two feet and one professionally lettered security or alarm system sign not exceeding six inches by six inches may be displayed inside a window of a Unit.

Section 7.13 No Restrictions on Mortgaging of a Unit. There are no restrictions on the right of the Owners to mortgage or otherwise encumber their Unit. There is no requirement for the use of a specific lending institution or particular type of lender.

Section 7.14 Map Restrictions. The restrictions, if any, included on the Map for the Property are incorporated herein by this reference.

Section 7.15 Rules and Regulations. In furtherance of the provisions of this Declaration, and the general plan, Rules and Regulations concerning and governing the Community or any portion thereof may be adopted, amended, or repealed from time-to-time by the Board of Directors. The Board of Directors may establish and enforce penalties for the infraction thereof.

Section 7.16 Compliance with Governing Documents. Each Owner shall comply strictly with the provisions of this Declaration, the Articles of Incorporation, Bylaws, and the Rules and Regulations of the Association, as amended.

Section 7.17 Use of the Words LiftView, LiftView Homeowners Association, Sunridge at Avon and Sunridge at Avon Homeowners Association. No resident or Owner shall use the words LiftView, LiftView Homeowners Association, Sunridge at Avon or Sunridge at Avon Homeowners Association or the logo of the Community or Association, if any, or any

derivative thereof, in connection with any goods, materials or services, the use of which is likely to cause confusion, mistake or deception as to the source or origin of such goods, materials or services, without the prior written consent of the Association.

ARTICLE 8 MODIFICATIONS TO UNITS

Section 8.1 Alterations of Units or Limited Common Element Balconies Without a Change in Allocated Interests or Boundaries of a Unit. Owners shall have the right, with written approval from the Board, and subject to the provisions of this Article, to make the following alterations to their Units or Limited Common Element balconies:

(a) Interiors. Owners have the right to make any improvements or alterations to the interior of his or her Unit as provided for in this Article.

(i) Decoration of Unit. The rights and restrictions in this Article shall not be construed to restrict a Member's right to decorate his or her Unit as he or she should so determine, without written Board approval; [provided, however, that to the extent such decoration is visible from the exterior of any Unit and detracts, in the reasonable judgment of the Board, from the aesthetic or architectural integrity of the Community, the Member may be required to undertake such reasonable measures as the Board may determine to eliminate such detraction].

(ii) Nonstructural and Structural Interior Alterations. The rights and restrictions in this Article shall not be construed to restrict a Member's right to move, remove, alter or change any interior, nonstructural wall or partition, or change the use and/or designation of any room within his or her Unit; provided, however, that such change shall not affect the structural integrity of the Community or mechanical or utility systems of the Community. No structural alterations to any Unit or any Common or Limited Common Elements shall be done by any Owner, without the prior written approval of the Association.

(iii) Adjoining Units. Owners have the right, after acquiring an adjoining Unit or an adjoining part of an adjoining Unit, to remove or alter any intervening partition or create apertures therein, even if the partition in whole or in part is a Common Element, all as provided for in this Article.

(iv) Flooring. No Owner, occupant, or any other person may replace carpeting with a tile, marble, vinyl, hardwood floor, or other hard surfaced flooring material, on the interior of a Unit which is located above another Unit without first obtaining written approval of the Board of Directors. Notwithstanding this restriction, linoleum in the kitchen and bathrooms may be replaced with the same type of material without prior written approval.

(v) Utility Connections. No alterations to a Unit which involve connecting to Common Element pipes, lines, conduits or other apparatus for access to common utilities shall be done without prior written approval of the Board, including, but not limited to installation of washers and dryers.

(b) Exteriors. Owners have the right to make improvements or alterations to the exterior Limited Common Element balcony, patio or deck area, as provided for in this Article with prior written approval from the Board, and subject to the provisions of this Article.

(c) Limitations. Rights of Owners under the prior provisions are limited by the following restrictions:

(i) General Restriction. The alterations and modifications can not impair the structural integrity, electrical systems, mechanical systems, utilities, lessen the support of any portion of the Community, enclose a Limited Common Element as improved interior space or as a part of a Unit or violate any of the provisions of this Article.

(ii) Exterior Changes. No balcony, porch, garden or yard enclosure, awning, screen, sign, banner or other device, and no exterior change, addition, structure, projection, decoration or other feature shall be erected, applied to, placed upon or attached to any Unit, or any part thereof or upon any Common or Limited Common Elements without, in each instance, written approval of the Association.

(iii) Painting and Decals. No painting, attaching of decals or other decoration shall be done on any exterior part or surface of any Unit, or on the interior surface of any window without written approval of the Association, except for holiday decorations, displays, flags and/or signs, which shall be expressly allowed, subject to the Board's discretion.

(d) Application and Approval Requirements. All changes allowed for under the above authority may only be made by the Owners of those Units, as applicant, after

application to and approval by the Board. The application and approval process shall include at least the following:

(i) Signatures. The signatures of all of the Owners of the Units that are proposed to have changes must be on the application;

(ii) Representations. The Owners must represent and warrant that the proposed modifications do not affect the structural integrity, electrical systems, mechanical systems, utilities, lessen the support of any portion of the Community or violate any of the provisions of this Article;

(iii) Contents of the Application. The application must contain at least the following:

(1) evidence sufficient to the Board that the applicant has complied with and/or will comply with all local rules and ordinances and that the proposed changes do not violate the terms of any document evidencing a security interest of a lender in any of the applicant's Units;

(2) all necessary and proper permits and approvals from the appropriate governmental authorities have been or will be obtained;

(3) proof that the contractor(s) of the Owner is/are licensed and adequately insured; and

(4) such other information as may be reasonably requested by the Association.

(iv) Agreement May Be Required. The Board may require the Owner's written agreement (in the form required by the Association) providing for the following:

(1) for the Owner to be responsible, now and/or in the future, for any structural deficiencies or problems, electrical deficiencies or problems, mechanical structural integrity, electrical systems, utility or mechanical deficiencies or problems or problems associated with a lessening of support of any portion of the Community, or for violations of any of the provisions of this Article, all as may reasonably be determined by the Association;

(2) for the Owner's agreement to be responsible for ongoing maintenance, repair, replacement and improvement of any or all of the proposed additions/modifications of the Owner. The Association may require Owners to be responsible for all or some of the maintenance, repair, replacement and improvement of the proposed modifications;

(3) for the Owner's payment of the fees and costs of the Association, together with a deposit against fees and costs which the Association will incur in reviewing and effectuating the application, in an amount reasonably estimated by the Board, in advance of any billing for costs and expenses of the Association;

(4) for reasonable advance notice by the Owner for the work to be performed, from the Owner or from the Owner's contractor; and

(5) satisfaction of all conditions as may be reasonably imposed by the Board.

Section 8.2 Alterations of Units or Limited Common Element Balconies With a Requested Change in Allocated Interests or the Boundaries of a Unit Subject to the provisions of this Article, and pursuant to the procedures described in section 38-33.3-217 of the Act, the following changes may be made, after application to the Association by the Owners of those Units and written approval by the Association:

(a) Boundary Change. Boundaries between adjoining Units may be changed as provided for in this Article.

(b) Conversion of Limited Common Element to Unit. Boundaries of a Unit, to include a former Limited Common Element balcony or deck on which an Owner has been approved to make alterations (as provided for in this Section of this Article), may be changed, as provided for in this Article and with approval of at least 67% of the votes in the Association.

(c) Limitations. No relocation of boundaries between adjoining Units shall be effected without the necessary amendments to the Declaration and Map, as provided for in this Article with those amendments, executed and recorded by the Association, pursuant to section 38-33.3-217 of the Act.

(d) Application and Approval Requirements. The Owners of the Units, as the applicant, must submit an application to the Association, which must be approved by the Association before the Owner proceeds, including all of the criteria set forth above

and the following additional items (if application process is used above) and must also enter into an agreement with the Association, including the items set forth above:

(i) Reallocations. The proposed reallocation of interests, if any, which may include a re-allocation of Common Expense liability, to account for an increase in size to the Unit or Units of the Owner, if sought by the applicant or required by the Association; and

(ii) Forms of Amendments. The proposed form for amendments to this Declaration, including the Map, as may be necessary to show the altered boundaries, and their dimensions and identification.

Section 8.3 Reply and Communication. The Association shall reply to all submittals of plans made in accordance with this Article in writing within 60 days after receipt. In the event the Association fails to take any action on submitted plans and specifications within 60 days after the Association has received the plans and specifications, approval shall be deemed denied. Yet, the Owner shall have a right of appeal to the Association. All communications and submittals shall be addressed to the Association at such address as is the registered address for the Association as maintained with the office of the Colorado Secretary of State.

Section 8.4 Maintenance Responsibilities. For all modifications made to a Unit by an Owner, whether made under the authority and with the approvals under this Article, or whether made previously or without approvals required under this Article, the Owner shall be responsible for maintenance, repair and replacement of all modifications unless the Association expressly assumes any of those responsibilities in writing.

Section 8.5 Fees and Costs. Owners shall be obligated to pay all fees and costs incurred by the Association in reviewing and effectuating an Owner's application, whether by deposit, or subsequent invoice from the Association.

ARTICLE 9

DEVELOPMENT RIGHTS OF THE ASSOCIATION

Section 9.1 Development Rights. The Association shall have and reserves, for itself, the following Development Rights:

(a) the right to create Units from or to convert Common Elements into Units, convey any Unit created from the Common Elements, subdivide the Common Elements,

separately or jointly, with any party as may be jointly granted Development Rights from all Owners with the Association; *provided, further*, that if not expressly assigned to the Association or any other person, the net proceeds from any conveyance of a Unit created by the Association, shall be held by the Association on behalf of Owners, pursuant to their Allocated Interests prior to the new Unit;

(b) the right to relocate boundaries between adjoining Units (as allowed in the Act); enlarge Units; enlarge the Common Elements; eliminate, reduce or diminish the size of Units owned by it or as applied for by an Owner; reduce or diminish the size of areas of the Common Elements; subdivide Units; or complete or make improvements, as the same may be indicated on Maps filed of record or filed with the Declaration;

(c) the right to construct additional Units, Common Elements and Limited Common Elements as part of the exercise of any Development Rights;

(d) the right to exercise any Development Rights reserved or allowed in the Act;

(e) the right to amend the Declaration in connection with the exercise of any development right;

(f) the right to amend the Maps in connection with the exercise of any development right; and

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

Section 9.2 Construction and Access Easement. In addition to the rights set forth above, Association shall have and also reserves the right to perform warranty work, repairs and construction work and to store materials in secure areas in Common Elements, and the future right to control such work and repairs, and the right of access thereto. All work may be performed without the consent or approval of any Owner or holder of a security interest. The Association and its assignees have such an access easement through the Common Elements and an access easement through the Community as may be reasonably necessary for exercising reserved rights in this Declaration.

Section 9.3 Utility Reservations. The Association hereby creates and reserves to itself, a blanket easement upon, across, over and under the Property, the Community and the Units for access, utilities, drainage and the installation, replacement, repair and maintenance of utilities, including but not limited to water, sewer, waste water treatment, effluent irrigation systems, gas, telephone, electricity and master television antenna or cable systems or subsequent utility as may be desired or provided. By virtue of this blanket easement, it shall be expressly permissible for the Association to erect and maintain the necessary facilities, equipment and

appurtenances on the Property and to affix, repair, and maintain landscaping, fencing, water, treated waste water, effluent irrigation and sewer pipes, gas, electric, telephone and television wires, circuits, conduits and meters, and such other improvements or facilities. If any utility or quasi-utility company furnishing a service covered by the general easement created herein requests a specific easement, a separate right and authority to grant such easement upon, across, over or under any part or all of the Property is reserved, provided the easement granted does not conflict with the terms hereof. The easement provided for in this Section shall in no way affect, avoid, extinguish or modify any other recorded easement on the Property. Any damage to any improvement caused by the Association in exercising its rights under this Section will be repaired promptly by the entity causing the damage. The foregoing, however, shall not be deemed to render the Association liable for any damage caused by any third party, including, without limitation, any utility company.

Section 9.4 Development of the Community — Supplemental Declarations. Before another Unit is created and conveyed by the Association to an Owner, and before any Unit owned by the Association is eliminated or withdrawn, a Supplemental Declaration must be authorized by the Board of Directors and recorded, which may supplement the covenants, conditions and restrictions contained in this Declaration. Upon recordation of a Supplemental Declaration, all of the Property shall be subject to or no longer bound by all of the covenants, conditions, restrictions, limitations, reservations, exceptions, equitable servitudes and other provisions set forth in this Declaration, as amended or supplemented by a Supplemental Declaration, as applicable.

Supplemental Declarations may include the following: (a) the Supplemental Declaration may be executed and acknowledged by the Association (acting through the Board of Directors) or by the Owner or Owners of a Unit covered by the Supplemental Declaration; (b) the Supplemental Declaration must contain the executed and acknowledged written consent of authorized officers of the Association; (c) the Supplemental Declaration may contain a legal description of the property subject thereto; (d) the Supplemental Declaration may contain a reference to this Declaration; and (e) Supplemental Declarations may impose, on the portion of the Property effected thereby, or any existing portion of the Community, covenants, conditions, restrictions, limitations, reservations, exceptions, equitable servitudes and other provisions in addition to those set forth in this Declaration, taking into account the unique and particular aspects of the property covered thereby.

Section 9.5 Restrictions on Subordinate Covenants and Maps. The prior written consent of the Association shall be required by any Owner or with regard to any Unit (a) before junior or subordinate covenants may be filed of record against all or any portion of a Unit, and (b) before any map, plat or re-subdivision may be filed of record against all or any portion of a

Unit.

In the event an Owner records covenants against all or any part of a Unit without the written consent required by the provisions of this Section, or in the event an Owner records any map, plat or re-subdivision against all or any part of any Unit without the written consent required by the provisions of this Section, the instruments recorded shall be voidable and shall be deemed void by the Association upon the Association recording a notice to that effect.

Section 9.6 Rights Transferable/Rights Transferred. Any rights created or reserved under this Article or the Act for the benefit of the Association may be transferred to any person by an instrument describing the rights transferred recorded in the real property records of the City and County of Denver, State of Colorado. Such instrument shall be executed by the Association and the transferee. The rights transferred may then be exercised in compliance with the requirements of C.R.S. § 38-33.3-210 and C.R.S. § 38-33.3-209(6) without the consent of the Association, any Owners or any holders of security interest on a Unit. Any rights created or reserved under this Article or the Act for the benefit of the Association may also be transferred to the Association by an instrument describing the rights transferred recorded in the real property records of the City and County of Denver, State of Colorado. Such instrument shall be executed by the transferor and the Association. The rights transferred may then be exercised by the Association in compliance with the requirements of C.R.S. §38-33.3-210 and C.R.S. §38-33.3-209(6) with the consent of the appropriate Owner(s) or any holders of a security interest on a Unit.

Section 9.7 No Further Authorizations Needed. The consent of Owners or holders of Security Interests shall not be required for exercise of any reserved rights set forth in this Declaration, and the Association (acting through its Board of Directors) or its assignees may proceed without limitation at their sole option. The Association or its assignees may exercise any reserved rights on all or any portion of the property in whatever order determined. The Association or its assignees shall not be obligated to exercise any reserved rights or to expand the Community beyond the number of Units initially submitted.

Section 9.8 Amendment of the Declaration or Map. If the Association or any assignee elects to exercise any reserved rights, such party shall comply with the Act.

Section 9.9 Interpretation. Recording of amendments to the Declaration and the Map pursuant to reserved rights in this Declaration shall automatically effectuate the terms and provisions of that amendment. Further, such amendment shall automatically: (a) vest in each existing Owner the reallocated Allocated Interests appurtenant to their Unit; and (b) vest in each

existing security interest a perfected security interest in the reallocated Allocated Interests appurtenant to the encumbered Unit. Further, upon the recording of an amendment to the Declaration, the definitions used in this Declaration shall automatically be extended to encompass and to refer to the Community as expanded and to any additional improvements, and the same shall be added to and become a part of the Community for all purposes. All conveyances of Units after such amendment is recorded shall be effective to transfer rights in all Common Elements, whether or not reference is made to any Amendment of the Declaration Map. Reference to the Declaration or Map in any instrument shall be deemed to include all Amendments to the Declaration or Map without specific reference thereto.

ARTICLE 10 INSURANCE/CONDEMNATION

Section 10.1 Insurance to be Carried by the Association. The Association shall obtain and maintain in full force and effect, to the extent reasonably available and at all times, the insurance coverage set forth in this Declaration and as set forth in the Act, which insurance coverage shall be provided by financially responsible and able companies duly authorized to do business in the State of Colorado.

Section 10.2 Association Hazard Insurance on the Units and Common Elements.

(a) The Association shall obtain hazard insurance covering loss, damage or destruction by fire or other casualty to the Units and to the Common Elements and other property of the Association, for the full replacement value without deduction for depreciation.

(b) The Association's insurance policy shall cover the following types of property contained within a Unit, if any, regardless of ownership:

(i) The Association shall obtain insurance providing all risk coverage or the nearest equivalent available for the full replacement cost, without deduction for depreciation, for all insurable improvements located on the Common Elements, and the other property of the Association in such amounts as it deems adequate to protect the Property. The Association shall provide insurance on the Units that shall exclude the finished surfaces of perimeter and partition walls, finished surfaces of floors and ceilings within a Unit (i.e., paint, wallpaper, paneling, other wall covering, tile, carpet and any floor covering). The insurance obtained by the Association on the Units is not required to include improvements and betterments installed by Owners, personal property of the Owners, or liability

for incidents occurring within the Units or through the Owners' personal actions. All policies shall contain a standard non-contributory mortgage clause in favor of each first mortgagee, and their successors and assigns, which shall provide that the loss, if any there under, shall be payable to the Association for the use and benefit of such first mortgagee, and their successors and assigns, as their interests may appear of record in the records of the office of the Clerk and Recorder of Eagle County. The Association may also obtain any additional endorsements which it deems advisable and in the best interests of the Community by the Board of Directors, including, but not limited to ordinance or law coverage, demolition cost coverage and increased cost of construction.

(ii) The insurance described in this Section shall be inflation coverage insurance, if such insurance is available, which shall at all times represent 100% of the replacement value of all facilities in the Common Elements except land, foundation, excavation and other items normally excluded from coverage and except for any deductible provisions as permitted under this Article. At least every three years, the Association may obtain an appraisal for insurance purposes which shall be maintained as a permanent record showing that the insurance in any year represents 100% of the replacement value of each Unit and the facilities in the Common Elements.

(c) All insurance purchased by the Association pursuant to this Section shall run to the benefit of the Association, the Board of Directors, officers, all agents and employees of the Association, the Owners, and their respective mortgagees, and all other persons entitled to occupy any Unit, as their interests may appear.

(d) The Association's insurance policy may contain a reasonable deductible, and the amount thereof shall not be subtracted from the face amount of the policy in determining whether the insurance equals at least the replacement cost of the insured property.

(e) The Board of Directors shall make available for review by Owners a copy of the Association's insurance policy to allow Owners to assess their personal insurance needs. Each Owner shall have the right to obtain additional coverage at his or her own expense.

Section 10.3 Owner Insurance Responsibilities. Unit Owners are specifically responsible for insurance coverage for betterments and upgrades added to a Unit (from the standard, original quality, non-upgraded construction) and also for personal property in a Unit including, by way of example, refrigerators, ice makers, built in microwave ovens, clothes washers, clothes dryers, and portable appliances. Owners are also responsible for general

liability insurance within a Unit. The liability of the carriers issuing insurance obtained by the Association shall not be affected or diminished by reason of any insurance carried by Unit Owners. The policies of insurance carried by the Association shall be primary, even if a Unit Owner has other insurance that covers the same loss or losses as covered by policies of the Association. The Association's insurance coverage, as specified in this Declaration, and under the Act, does not obviate the need for Unit Owners to obtain insurance for their own benefit.

Section 10.4 Association Liability Insurance. The Association shall obtain a policy of public liability and property damage liability insurance covering the Common Elements, in such limits as the Board may determine from time to time, but not in any amount less than a combined single limit of \$1,000,000.00. Coverage shall include, without limitation, liability for personal injuries, operation of automobiles on behalf of the Association, and activities in connection with the ownership, operation, maintenance and other uses of the Community. All liability insurance shall name the Association as the insured.

Section 10.5 Association Fidelity Insurance. The Association shall obtain fidelity coverage or fidelity bonds to protect against dishonest acts on the parts of its officers, directors, trustees and employees and on the part of all others who handle or are responsible for handling the funds of the Association, including persons who serve the Association with or without compensation. The fidelity coverage or bonds should be in an amount sufficient to cover the maximum funds that will be in the control of the Association, its officers, directors, trustees and employees.

Section 10.6 Association Worker's Compensation and Employer's Liability Insurance. The Association shall obtain worker's compensation and employer's liability insurance and all other similar insurance with respect to its employees in the amounts and forms as may now or hereafter be required by law.

Section 10.7 Association Directors' and Officers' Personal Liability Insurance. The Association shall obtain directors' and officers' personal liability insurance to protect the directors, officers, committee members and any person acting at the discretion of the Board from personal liability in relation to their duties and responsibilities in acting on behalf of the Association.

Section 10.8 Other Association Insurance. The Association may obtain insurance against such other risks, as it shall deem appropriate with respect to the Association responsibilities and duties.

Section 10.9 Miscellaneous Terms Governing Insurance Carried by the Association.
The Association shall maintain, to the extent reasonably available, insurance policies with the following terms or provisions:

(a) All policies of insurance shall provide that each Owner is an insured under the policy with respect to liability arising out of such Owner's membership in the Association.

(b) All policies of insurance shall contain waivers of subrogation against any Owner or member of his or her household.

(c) All policies of insurance shall contain waivers of any defense based on invalidity arising from any acts of an Owner and shall provide that such policies may not be canceled or modified without at least 30 days prior written notice to all of the Owners, holders of first lien security interests and the Association.

(d) All Association policies of hazard insurance shall contain ordinance or law coverage, demolition cost coverage, increased cost of construction coverage and inflation guard insurance;

(e) If requested, duplicate originals of all policies and renewals thereof, together with proof of payments of premiums, shall be delivered to all Eligible Mortgage Holders at least 10 days prior to the expiration of the then-current policies.

(f) All liability insurance shall include the Association, the Board, the manager or managing agent, if any, the officers of the Association, holders of first lien security interests, their successors and assigns and Owners as insured's.

(g) In no event shall any casualty insurance policy contain a co-insurance clause.

(h) All policies of insurance of the Association shall be primary, providing the primary insurance of the loss, if there is other insurance in the name of the Owner.

(i) All policies of insurance shall provide that the insurance there under shall not be invalidated, suspended, voidable or have any condition of recovery due to an act or omission by any Owner, only in respect to the interest of any particular Owner guilty of a breach of warranty, act, omission, negligence or non-compliance of any provision of such policy, including payment of the insurance premium applicable to the Owner's interest, or who permits or fails to prevent the happening of any event, whether

occurring before or after a loss, which under the provisions of such policy would otherwise invalidate or suspend the entire policy, but the insurance under any such policy, as to the interests of all other insured Owners not guilty of any such act or omission, shall not be invalidated or suspended and shall remain in full force and effect.

(j) Prior to obtaining any policy of casualty insurance or renewal thereof, pursuant to the provisions hereof, the Board may obtain an appraisal from a duly qualified real estate or insurance appraiser, which appraiser shall reasonably estimate the full replacement value of the Units and the Common Elements, without deduction for depreciation, review any increases in the cost of living, and/or consider other factors, for the purpose of determining the amount of the insurance to be effected pursuant to the provisions hereof. In no event shall any casualty insurance policy contain a co-insurance clause.

Section 10.10 Insurance Premium. Except as assessed in proportion to risk, insurance premiums for the above provided insurance shall be a Common Expense to be included as a part of the annual Assessments levied by the Association.

Section 10.11 Managing Agent Insurance. The manager or managing agent, if any, shall be adequately insured for the benefit of the Association and shall maintain and submit evidence of such coverage to the Association, including professional liability or errors and omissions insurance, workers' compensation, unemployment and fidelity coverage. The Association may indemnify its managing agent, except for that agent's intentional acts or omissions or negligence outside the scope of their duties and obligations to the Association, or outside of direction from or of the Association.

Section 10.12 Annual Association Insurance Review. The Board shall review the insurance carried by and on behalf of the Association at least annually.

Section 10.13 Adjustments by the Association. Any loss covered by an insurance policy described above shall be adjusted by the Association, and the insurance proceeds for that loss shall be payable to the Association and not to any holder of a first lien security interest. The Association shall hold any insurance proceeds in trust for the Association, Owners and holders of first lien security interests as their interests may appear. Proceeds must be distributed first for the repair or restoration of the damaged property. The Owners and holders of first lien security interest are not entitled to receive payment of any portion of the proceeds. The Association may determine how a surplus of proceeds, if any, shall be utilized.

Section 10.14 Responsibility for Payment of Deductible Amount. Whether the Board, in its discretion, chooses to submit a claim under the Association insurance policies or not, the payment of the deductible amount for claims which the Association is responsible for insuring shall be as follows:

(a) The Association shall pay or absorb the deductible amount for any work, repairs or, reconstruction for damage to Common Elements unless the damage is the liability of an Owner, his family, guests, or invitees, as set forth in this Declaration, in which case the Association shall seek reimbursement of the deductible amount as an Assessment in compliance with and under the terms of this Declaration. Any Owner who receives the proceeds of any Association insurance shall be responsible for the payment of the deductible in proportion to the percentage of insurance proceeds received. Such deductible shall be due within 10 days of notification and shall be considered a Common Expense Assessment allocated directly to the Unit and shall be collected as provided in this Declaration.

(b) Any loss falling within the deductible portion of the Association policies to property for which Owners have repair and maintenance responsibility shall be paid or absorbed by the Owners of the Units involved in the same proportion as each Owner's claim bears to the total amount of insurance proceeds paid for the occurrence.

Section 10.15 Duty to Repair. Any portion of the Community for which insurance is required under this Article which is damaged or destroyed must be repaired or replaced promptly by the Association or Owner.

Section 10.16 Condemnation and Hazard Insurance Allocations and Distributions. In the event of a distribution of condemnation proceeds or hazard insurance proceeds to the Owners, the distribution shall be as the parties with interests and rights are determined or allocated by record and pursuant to the Act.

Section 10.17 Insurance Assessments. If the proceeds of insurance are not sufficient to defray the costs of reconstruction and repair due to deductibles allocated to the Association or failure of the Association to maintain coverage to defray costs of repair and reconstruction which in the absence of insurance would be the maintenance responsibility of the Association, the deductible or additional cost shall be a Common Expense. This Assessment shall not be considered an Assessment as discussed in this Declaration and shall not require any vote or ratification of the Owners.

Section 10.18 Payment of Claims to Delinquent Owners. Notwithstanding anything to the contrary in this Declaration, in the event of an insured loss under the Association's master hazard insurance policy for which the Association receives from the insurer payment for a loss sustained by an Owner who is delinquent in the payment of Assessments owed to the Association under this Declaration, then the Association may retain and apply such proceeds recovered to the delinquency. Any surplus remaining after application of the proceeds to any delinquency shall be paid by the Association to the affected Owner.

ARTICLE 11
SPECIAL RIGHTS OF HOLDERS OF
FIRST LIEN SECURITY INTERESTS

Section 11.1 General Provisions. The provisions of this Article are for the benefit of holders, insurers, or guarantors of holders of first lien security interests recorded within the Community. To the extent applicable, necessary or proper, the provisions of this Article apply to both this Declaration and to the Articles and Bylaws of the Association. Eligible insurers and guarantors of a first lien security interest shall have the same rights as an Eligible Mortgage Holder.

Section 11.2 Special Rights. Eligible Mortgage Holders shall be entitled to: (a) timely written notice from the Association of any default by a mortgagor of a Unit in the performance of the mortgagor's obligations under this Declaration, the Articles of Incorporation, the Bylaws or the Rules and Regulations, which default is not cured within 60 days after the Association learns of such default; (b) examine the books and records of the Association during normal business hours; (c) receive a copy of financial statements of the Association, including any annual audited financial statement; (d) receive written notice of all meetings of the Members of the Association; (e) designate a representative to attend any such meetings; (f) written notice of any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association; (g) written notice of abandonment or termination of the Association of the plan contemplated under this Declaration; (h) 30 days written notice prior to the effective date of any proposed, material amendment to this Declaration, the Articles of Incorporation, or the Bylaws; (i) 30 days written notice prior to the effective date of termination of professional management of the Association or the Common Elements, when professional management had been required previously under the legal documents for the Community or by an Eligible Mortgage Holder; and (j) immediate written notice as soon as the Association receives notice or otherwise learns of any damage to the Common Elements or to the Unit on which the Eligible Mortgage Holder holds a security interest, if the cost of reconstruction exceeds \$20,000.00 and as soon as the Association receives notice or otherwise learns of any

condemnation or eminent domain proceedings or other proposed acquisition with respect to any portion of the Common Elements or any Units.

Section 11.3 Special Approvals. Unless at least 51% of the Eligible Mortgage Holders of first lien security interests (based on one vote for each mortgage owned) of Units in the Association and requisite Owners have given their written approval, neither the Association nor any Member shall (a) by act or omission seek to abandon, or sell the Common Elements or any improvements thereon which are owned, directly or indirectly, by the Association (except that the granting of access easements, utility easements, drainage easements and water facilities easements or easements for other public purposes consistent with the intended use of such Property by the Association shall not be deemed within the meaning of this provision); (b) change the method of determining the obligations, Assessments or other charges which may be levied against Members or the method of allocating distributions of hazard insurance policy proceeds or condemnation awards; (c) fail to maintain the casualty, fire and extended coverage insurance as elsewhere provided in this Declaration; (d) use hazard insurance proceeds for losses other than the repair, replacement or reconstruction of the improvements which were damaged or destroyed; (e) take action to terminate the legal status of the Community after substantial destruction or condemnation occurs; (f) amend any material provision of this Declaration; and (g) establish self management by the Association when professional management has previously been required by the legal documents for the Community. An amendment shall not be deemed material if it is for the purpose of correcting technical errors, or for clarification only. If an Eligible Mortgage Holder of a first lien security interest receives written request for approval of the proposed act, omission, change or amendment by certified or registered mail, with a return receipt requested, and does not deliver or post to the requesting party a negative response within 30 days, it shall be deemed to have approved such request.

Section 11.4 Right to Pay Taxes and Insurance Premiums. Any holder of a first lien security interest shall be entitled to pay any taxes or other charges which are in default and which may or have become a lien against a Unit or any of the Common Elements and may pay any overdue premiums on hazard insurance policies or secure new hazard insurance coverage for the Common Elements or Units.

ARTICLE 12 GENERAL PROVISIONS

Section 12.1 Compliance, Enforcement and Arbitration.

(a) Every Owner and occupant of a Unit shall comply with the Governing

Documents, and each Owner shall have the right to enforce the covenants and restrictions, as set forth in this Declaration.

(b) The Association may enforce all applicable provisions of this Declaration, and may impose sanctions for violation of the Governing Documents. Such sanctions may include, without limitation:

(i) imposing reasonable monetary fines, after notice and opportunity for a hearing, which fine shall constitute a lien upon the violator's Unit;

(ii) suspending the right to vote and the right to use Common Elements;

(iii) exercising self-help (including, but not limited to, performing such maintenance responsibilities which are the Owner's responsibility under this Declaration and assessing all costs incurred by the Association against the Unit and the Owner as an Assessment) or taking action to abate any violation of the Governing Documents;

(iv) requiring an Owner, at the Owner's expense, to remove any structure or improvement on such Owner's Unit in violation of the Governing Documents and to restore the Unit to its previous condition and, upon failure of the Owner to do so, the Board or its designee shall have the right to enter the property, remove the violation and restore the property to substantially the same condition as previously existed, at the Owner's expense, and any such action shall not be deemed a trespass, with all fees and costs in connection with such removal and restoration to be assessed to the Owner as an Assessment under the terms of this Declaration;

(v) without liability to any person, precluding any contractor, subcontractor, agent, employee, or other invitee of an Owner who fails to comply with the terms and provisions of this Declaration from continuing or performing any further activities in the Community;

(vi) levying specific Assessments to cover costs incurred by the Association to bring a Unit into compliance with the Governing Documents; and

(vii) bringing suit at law or in equity or an arbitration proceeding to enjoin any violation or to recover monetary damages or both.

(c) In addition to any other enforcement rights, if an Owner fails to properly

perform his or her maintenance responsibility, or otherwise fails to comply with the Governing Documents, the Association may record a notice of violation against the Owner and the Unit.

(d) All remedies set forth in the Governing Documents shall be cumulative of any remedies available at law or in equity. In any action to enforce the Governing Documents, the prevailing party shall be entitled to recover all costs, including, without limitation, attorney fees and court costs, reasonably incurred in such action.

(e) The decision of the Association to pursue enforcement action in any particular case shall be left to the Board's discretion, subject to the duty to exercise judgment and be reasonable, as provided for in this Declaration, and further restricted in that the Board shall not be arbitrary or capricious in taking enforcement action. A decision of the Association not to pursue enforcement action shall not be construed as a waiver of the Association's right to enforce such provisions at a later time under other circumstances or preclude the Association from enforcing any other covenant, restriction or rule. Without limiting the generality of the foregoing, the Board may determine that, under the circumstances of a particular case:

(i) the Association's legal position is not strong enough to justify taking any or further action;

(ii) the covenant, restriction or rule being enforced is, or is likely to be construed as, inconsistent with applicable law; or

(iii) that it is not in the Association's best interests, based upon hardship, expense, limited effect on other Members or other reasonable criteria, to pursue enforcement action.

(f) Agreement to Avoid Litigation. The Association, its officers, directors and committee members, all Owners or other persons subject to this Declaration, and any person not otherwise subject to this Declaration who agrees to submit to this Article (each a "Party" and collectively, the "Parties") agree to encourage the amicable resolution of disputes involving LiftView, without the emotional and financial costs of litigation. Accordingly, the Party covenant and agree that all claims, grievances or disputes described herein ("Claims") shall be resolved using the procedures set forth below in lieu of filing suit in any court. The Board may adopt rules and regulations regarding dispute resolution not inconsistent with this Article.

(g) Claims. Unless specifically exempted below, all claims, grievances or disputes arising out of or relating to the interpretation, application or enforcement of the Governing Documents, or the rights, obligations and duties of any Party under the Governing

Documents or relating to the design or construction of improvements on the Community shall be subject to the provisions of this Section. Notwithstanding the foregoing, unless all parties to any action otherwise agree, the following matters shall not be deemed claims that are subject to the provisions of this Section: (i) any suit by the Association to collect assessments, including any foreclosure proceedings, collection of judgment proceedings or other related proceedings, (ii) any suit by the Association to obtain a temporary restraining order, preliminary injunctive relief or other equivalent emergency relief, (iii) any suit by the Association to obtain permanent injunctive relief, (iv) any ancillary relief as the court may deem necessary in order to preserve the Association's ability to enforce the architectural standards and rules and regulations; (v) any suit between Owners, which does not include the Association as a party, if such suit asserts a Claim which would constitute a cause of action independent of the Governing Documents; and (iv) any suit in which any indispensable party is not within the definition of the term Party. With the consent of all parties to any suit, any of the foregoing may be submitted to the alternative dispute resolution procedures set forth below.

(h) Final and Binding Arbitration. All Claims shall be subject to and resolved by mandatory binding arbitration. The arbitrator shall be a single arbitrator to be appointed by the Parties. If the Parties are unable to agree upon an arbitrator within thirty (30) days of the Claim being submitted to arbitration, the presiding judge of Eagle County, Colorado shall appoint a qualified arbitrator upon application of a Party. If the Claimant fails to appear for the arbitration proceeding, the Claim shall be deemed abandoned, and Respondent shall be released and discharged from any and all liability to Claimant arising out of such Claim; provided, nothing herein shall release or discharge Respondent from any liability to persons other than Claimant. This subsection is an agreement to arbitrate and is specifically enforceable under the applicable arbitration laws of the State of Colorado. The arbitration award (the "Award") shall be final and binding, and judgment may be entered upon it in any court of competent jurisdiction to the fullest extent permitted under the laws of the State of Colorado. All deadlines falling on holidays or weekends shall be extended until the next business day. Reasonable costs, fees and expenses, including reasonable attorney and arbitration fees, shall be awarded by the arbitrator to the prevailing party.

(i) Enforcement of Resolution. After resolution of any Claim, if any Party fails to abide by the terms of any agreement or Award, then any other Party may file suit or initiate proceedings to enforce such agreement or Award without the need to again comply with the procedures set forth in this Section. In such event, the Party taking action to enforce the agreement or Award shall be entitled to recover from the non-complying Party (or if more than one non-complying Party, from all such Parties pro rata) all costs incurred in enforcing such agreement or Award including, without limitation, attorneys' fees and court costs.

(j) Claim for Damages. Damages alleged or awarded in connection with a Claim shall be limited to actual damages. No punitive, incidental, consequential or other damages shall be claimed or awarded.

Section 12.2 Attorney Fees. If an Owner fails to pay any Assessment or any other amount due to the Association as provided in this Declaration, the Association may require reimbursement for reasonable attorney fees and costs without the necessity of commencing a legal proceeding. If an Owner or an Owner's family member, guest, tenant, invitee or licensee fails to comply with any other provision of the Governing Documents, the Association may seek reimbursement for reasonable attorney fees and costs incurred as a result of such failure to comply, without the necessity of commencing a legal proceeding. In a legal proceeding in any way related to the Governing Documents or the Community, the court or arbitrator shall award to the party prevailing on each claim the prevailing party's reasonable attorney fees and costs incurred in asserting or defending the claim. Such reasonable attorney fees and costs, if awarded against an Owner, shall be charged as an Assessment and shall constitute a lien against the Unit.

Section 12.3 Severability. Each of the provisions of this Declaration shall be deemed independent and severable. If any provision of this Declaration or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of this Declaration which can be given effect without the invalid provisions or applications.

Section 12.4 Term of Declaration. The covenants and restrictions of this Declaration shall run with and bind the land in perpetuity.

Section 12.5 Amendment of Declaration by Owners. Except as otherwise provided in this Declaration, any provision, covenant, condition, restriction or equitable servitude contained in this Declaration may be amended, revised, removed or repealed, and new provisions, covenants, conditions, restrictions or equitable servitudes may be added, at any time and from time to time upon approval of 67% of the total Association votes and 51% of Eligible Mortgage Holders. Any such amendments shall be certified on behalf of the Association by an officer of the Association designated for that purpose or, in the absence of designation, by the president of the Association. Notice of any meeting at which a proposed amendment will be considered shall state the fact of consideration and the subject matter of the proposed amendment. The amendment or repeal shall be effective upon the recordation in the office of the Clerk and Recorder of Eagle County, State of Colorado of a certificate setting forth the amendment in full and certifying that the amendment has been approved as set forth above, and containing the

written consent and approval of the Association.

Section 12.6 Amendment of Declaration by the Association. The Association shall have the authority to amend, revise, remove, repeal or add any provision to this Declaration, without Owner or mortgagee approval, in order to conform with any applicable state, city or federal law, and/or to bring the Declaration into compliance with applicable rules and regulations of the Federal National Mortgage Association (“Fannie Mae”), the Department of Housing and Urban Development (“HUD”) and the Veterans Administration (“VA”) pursuant to federal law.

Section 12.7 Captions. All captions and titles used in this Declaration are intended solely for convenience of reference and shall not enlarge, limit or otherwise affect that which is set forth in any paragraph, section or article hereof.

Section 12.8 Interpretation. The provisions of this Declaration shall be construed to effectuate their purposes of creating a uniform plan for promoting and effectuating the fundamental concepts as set forth in this Declaration. The Board of Directors shall have the authority to interpret the meaning of any provision contained in this Declaration. This Declaration shall be construed and governed under the laws of the State of Colorado.

Section 12.9 Singular Includes the Plural. Unless the context otherwise requires, the singular shall include the plural, and the plural shall include the singular, and each gender referral shall be deemed to include the masculine, feminine and neuter.

Section 12.10 Conflict of Provisions. In case of conflict between this Declaration and the Articles of Incorporation or the Bylaws, this Declaration shall control. In the case of conflict between the Articles of Incorporation and Bylaws, the Articles of Incorporation shall control.

Section 12.11 Challenge to this Amendment. All challenges to the validity of this amendment must be made within one year after the date of recording of this document.

IN WITNESS WHEREOF, the undersigned, being the president and the secretary of LiftView Homeowners Association, hereby certify that pursuant to C.R.S. §38-33.3-217, the Association has obtained approval of this Amended and Restated Declaration from Owners representing not less than 67% of all Owners’ interests in the Condominium Units and 75% of the first mortgagees.

Notary Public

EXHIBIT A

DESCRIPTION OF PROPERTY

Lot 9, Block 13, BENCHMARK AT BEAVER CREEK SUBDIVISION, Amendment No. 8, Town of Avon, according to the Plat recorded May 24, 1979 in Book 258 at Page 902, County of Eagle, State of Colorado.

EXHIBIT B

**PERCENTAGE OF OWNERSHIP OF COMMON ELEMENTS
AND LIABILITY FOR COMMON EXPENSES**

With respect to Buildings A, B, C, D, and E, each of Units 101 through and including 112, and 201, 202, 203, 205, 207, 208, 209, 211, 212, 301, 302, 303, 305, 307, 308, 309, 311 and 312 has a 0.5845% percentage of ownership of the Common Elements and of liability for Common Expenses.

With respect to Buildings A, B, C, D, and E, each of Units 204, 206 and 210 has a 0.8213% percentage of ownership of the Common Elements and of liability for Common Expenses.

Exhibit C

DISTRICT COURT, EAGLE COUNTY, STATE
OF COLORADO

Court Address: 885 CHAMBERS AVENUE
P.O. BOX 597
EAGLE CO 81631-0597

Phone Number: (970) 328-6373

Petitioner:

**Sunridge at Avon Homeowners Association,
Inc.,**
a Colorado nonprofit corporation

Attorney: David A. Firmin, Esq., #29988
Name: HindmanSanchez P.C.
Address: 5610 Ward Road, Suite 300
Arvada, Colorado 80002
Phone Number: (303) 432-9999
Fax Number: (303) 432-0999
E-mail: dfirmin@hindmansanchez.com
Atty. Reg. #: 29988

DATE FILED: April 7, 2014
CASE NUMBER: 2014CV30036

▲ COURT USE ONLY ▲

Case Number: 14CV030036

Div.: 4

**ORDER APPROVING AMENDED AND RESTATED DECLARATION, PURSUANT
TO C.R.S. §38-33.3-217(7)**

THIS MATTER comes before the Court for hearing on April 7, 2014. After reviewing the pleadings filed in the matter and considering the statements of Counsel, the Court makes the following Findings of Fact and Conclusions of Law and Orders:

Findings of Fact and Conclusions of Law

1. Sunridge at Avon Homeowners Association, Inc. ("Association") seeks to amend the Declaration of Condominium for Sunridge at Avon recorded in the real property records of the Eagle County, Colorado on October 30, 1979 at Reception No. 190111 in Book 293 at Page 715 ("Declaration") by means of a proposed Amended and Restated Condominium Declaration for Sunridge at Avon (the "Proposed Amended and Restated Declaration").

2. The Association notified its Owners of the Proposed Amended and Restated Declaration on November 29, 2013 and December 27, 2013.

3. The Members of the Association discussed the Proposed Amended and Restated Declaration (as submitted to the Court in the Petition filed herein) at a special meeting of the Association held on January 13, 2014.

4. Based on the foregoing, the Association has complied with the notice and meeting requirements set forth in Section 38-33.3-217(7)(a)(I) and (II).

5. At least half of the Members required by the Declaration to approve the Proposed Amended and Restated Declaration have voted for the Proposed Amended and Restated Declaration, pursuant to C.R.S. §38-33.3-217(7)(a)(III). In fact, all necessary consents of Members/Owners to approve the Proposed Amended and Restated Declaration have been obtained.

6. Based on the Petition filed in this case, the Association has not obtained the required consent and approval of the lenders, and so, has filed its Petition and caused this matter to come before the Court, as allowed for by state statute.

7. Based on the Certificate of Mailing filed in this case, Notice of the Petition was mailed to all of the Owners within the Association, to lenders with a security interests in Unit within the community, to the declarant and to the others indicated in a Certificate of Mailing filed in this case.

8. The notice given is in compliance with the requirements of the applicable state statute.

9. A hearing regarding the petition was held, as referred to above, on April 7, 2014 before this Court.

10. The Association has satisfied all of the requirements of C.R.S. §38-33.3-217(7).

11. Neither 33% or more of the Owners nor 33% or more of the lenders with security interests in one or more Unit or the declarant have filed written objections with the Court prior to the hearing.

12. Neither the Federal Housing Administration nor the Veterans Administration is entitled to vote on the proposed amendment.

13. The Proposed Amended and Restated Declaration presented to the Court does not terminate the Declaration. The preponderance of the evidence and application of plain language of the Declaration indicates that the Proposed Amended and Restated Declaration is an amendment, and not a termination.

14. The Proposed Amended and Restated Declaration presented to the Court does not change the allocated interests of the Owners.

15. Based upon these Findings of Fact and Conclusions of Law and pursuant to the requirements of C.R.S. §38-33.3-217(7)(e) and (f), it is hereby:

ORDERED that the Proposed Amended and Restated Declaration is approved by this Court and shall be binding upon all Owners in the Sunridge at Avon community and shall have the same legal effect as if were adopted pursuant to the amendment requirements set forth in the Declaration upon the recording of the Amended and Restated Declaration, with this Order attached, with the Clerk and Recorders' office for the Eagle County.

IT IS FURTHER ORDERED that the Association record a copy of the approved Amended and Restated Declaration together with a copy of this Order with the Clerk and Recorder's office for Eagle County, Colorado.

DONE this 7th day of April, 2014.



BY THE COURT:

John William Barnett
DISTRICT COURT JUDGE