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AMENDED AND RESTATED  
CONDOMINIUM DECLARATION  
FOR  
SILVER QUEEN WEST AT WILDERNEST  
CONDOMINIUM ASSOCIATION

Indexing Note: Please index in the grantee's index under Silver Queen West at Wilderdest  
Condominium Association and in the grantor's index under Silver Queen West at Wilderdest.

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AMENDED AND RESTATED CONDOMINIUM DECLARATION FOR  
SILVER QUEEN WEST AT WILDERNEST CONDOMINIUM ASSOCIATION

THIS AMENDED AND RESTATED CONDOMINIUM DECLARATION FOR SILVER QUEEN WEST AT WILDERNEST CONDOMINIUM ASSOCIATION (the "Declaration") is made as of \_\_\_\_\_, 20\_\_\_\_.

RECITALS

A. Silver Queen West at Wilderndest Condominium Association was formed by the Declarant, ALP-WEST II, as a condominium community in accordance with the provisions of the Condominium Ownership Act, C.R.S. § 38-33-101, *et seq.* (the "Act") by the recording of the Condominium Declaration for Silver Queen West at Wilderndest in Book 244 at Page 895 in the records of the Clerk and Recorder for Summit County, Colorado. The Declarant then recorded a Replacement Declaration on December 12, 1973 at Book 248 at Page 419; a Second Replacement of the Condominium Declaration for Silver Queen West at Wilderndest on February 25, 1974 at Reception No. 139941; and the First Supplement to Second Replacement of the Condominium Declarations for Silver Queen West at Wilderndest on December 26, 1974, all in the records of the Clerk and Recorder of Summit County, Colorado. Finally, on March 22, 2018, the First Amendment of the Condominium Declaration for Silver Queen West at Wilderndest was recorded at Reception No. 1165631 in the records of the Clerk and Recorder of Summit County, Colorado. These documents, and all supplements and amendments thereto, are referred to collectively as the "Original Declaration."

B. Owners of Units within Silver Queen West at Wilderndest Condominium Association wish to amend and restate the Original Declaration, as amended, for the following purposes:

1. To modernize the Association's governing documents;
2. To remove provisions inconsistent with Colorado's Common Interest Ownership Act, C.R.S. §§ 38-33.3-101 – 402, as the same may be amended from time to time ("CCIOA");
3. To eliminate obsolete references to the "Declarant" ALP-WEST II, a limited partnership, and rights associated with the Declarant; and,
4. To clarify maintenance and insurance obligations.

C. Section 19 of the Original Declaration was amended in 2018 to provide that the Owners may amend the Original Declaration where the Owners representing an aggregate unit ownership interest of sixty-seven percent (67%), or more, of the common elements and all of the holders of the recorded first mortgages and first deeds of trust consent and agree to such amendment.

D. Prior to the 2018 amendment, the Original Declaration provided that:

This Declaration shall not be amended unless the owners representing an aggregate unit ownership interest of at least seventy-five percent (75%), or more, of the common elements and all of the holders of the recorded first mortgages and first deeds of trust consent and agree to such amendment by instrument(s) duly recorded; provided, however, that the undivided interest in the common elements appurtenant to each unit, as expressed in this Declaration, shall have a permanent character and shall not be altered without the consent of all of the unit owners and all of the first mortgagees as expressed in an amended Declaration duly recorded.

E. Pursuant to the holding in DA Mountain Rentals, Ltd. v. Lodge at Lionshead Phase II, 2016 COA 141 and C.R.S. § 38-33.3-217(4), owners representing an aggregate unit ownership interest of at least seventy-five percent (75%) or more of the Common Elements must vote in favor of amendments to the Declaration that create or increase special declarant rights, increase the number of units, or change the boundaries of any unit or the allocated interests of any unit, and further, that the undivided interest in the Common Elements appurtenant to each unit as expressed in the Original Declaration shall not be altered without the consent of all unit owners and all first mortgagees.

F. Owners constituting at least sixty-seven percent (67%) of the aggregate unit ownership interests in the Common Elements consent and agree to amend and restate the Original Declaration in its entirety, subject to the terms and conditions of the Declaration, and the Association has obtained the consent and agreement of all First Mortgagees of record, or in the alternative, the Association has obtained the approval of this Declaration pursuant to C.R.S. § 38-33.3-217(7).

G. This Declaration does not change the votes in the Association, allocation of common expense liability and common element ownership interests, number of Units, or Unit boundaries as set forth in the Original Declaration, nor does it create or increase special declarant rights as such term is defined by C.R.S. § 38-33.3-103(29).

## ARTICLE I. DECLARATION AND SUBMISSION

Section 1.1 Declaration. The Property described in Exhibit A shall be held, sold and conveyed subject to the following covenants, restrictions and easements which shall run with the land and be binding on all parties and the heirs, successors and assigns of parties having any right, title or interest in all or any part of the Property. This Declaration shall supersede in their entirety the Original Declaration and all amendments or supplements thereto, and it is the intent of this Declaration to bind in perpetuity all real property subject to the Original Declaration. It is the intent that this Declaration shall be the only condominium declaration governing the Property unless and until it is amended pursuant to the provisions herein; provided that any easements or other real property interests created by the Original Declaration survive until otherwise terminated by affirmative act or process of law.

The separate condominium Units created by the Original Declaration and governed by this Declaration and the Map shall continue until this Declaration is revoked or the condominium regime terminated in the manner and as is provided in this Declaration.

## ARTICLE II. DEFINITIONS

Words used in this Declaration in the singular also include the plural, and when used in the feminine also include the masculine. Each capitalized term not otherwise defined in this Declaration or in the Map has the same meanings specified or used in CCIOA. When used in this Declaration, the following words have the following meanings:

Section 2.1    “Agency” means any agency or corporation such as Housing and Urban Development (HUD), Department of Veteran’s Affairs (“VA”), Federal National Mortgage Association (“Fannie Mae”) or Federal Home Loan Mortgage Corporation (“Freddie Mac”), or any similar entity or agency that purchases, underwrites, insures or guarantees residential mortgages.

Section 2.2    “Allocated Interests” are the undivided interests in the Common Elements, the Common Expense liability, and the votes in the Association allocated to each Unit, all of which are set forth in Exhibit B. The formulas for the Allocated Interests are:

2.2.1 Percentage Share of Common Expenses: Subject to the Board’s right and obligation to assess expenses as provided in Sections 11.3, 11.5 and 11.6, the allocated interests in a Unit’s share of the Common Expenses is determined by the percentage equivalent to a fraction, the numerator of which shall be the area of a Unit as specified in Exhibit B, and the denominator of which shall be the area of all Units in the Community. The percentage share of Common Expenses are set forth in Exhibit B. The area of each of the Units and the total area of the Units as set forth in Exhibit B shall be conclusive for purposes of determining the allocated interests; any variations are due to rounding from the Original Declaration. Notwithstanding the foregoing, assessments and other expenses attributable to any Unit owned by the Association and used as management or administrative offices or as a residence of a resident Manager for the Community (if any) shall be Common Expenses of the Association and allocated to the remaining Owners in accordance with their percentage share of Common Expenses calculated as if such Unit’s area were not included in the denominator for calculation of percentage share of Common Expenses.

2.2.2 Percentage Share of Ownership of Common Elements: Each Owner’s percentage share of ownership of Common Elements is set forth in Exhibit B.

2.2.3 Voting: The Owners of each Unit are entitled to the number of votes set forth in the Association’s Articles of Incorporation, and as specified in Exhibit B. Cumulative voting for Directors is not permitted.

Section 2.3    “Articles” or “Articles of Incorporation” means the Articles of



Incorporation of Silver Queen West at Wildercrest Condominium Association, a Colorado nonprofit corporation and any amendments, all as filed with the Colorado Secretary of State.

Section 2.4 “Annual Assessment” means the Assessment levied pursuant to an annual budget.

Section 2.5 “Assessments” mean the Annual, Special and Default Assessments levied pursuant to Article 11 below. Assessments are also referred to as a common expense liability as defined under the Act.

Section 2.6 “Association” means Silver Queen West at Wildercrest Condominium Association, a Colorado nonprofit corporation, and its successors and assigns.

Section 2.7 “Association Documents” include this Declaration, the Articles of Incorporation, the Bylaws, the Map, and Rules, as may be amended from time to time.

Section 2.8 “Board” or “Board of Directors” means the Association’s Board of Directors, duly elected and acting pursuant to the Articles of Incorporation and Bylaws. Board of Directors has the same meaning as “Executive Board” as that term is used in CCIOA. “Building” means the building improvements located upon the real property described in Exhibit A, and includes all fixtures and improvements contained in such building(s), except such fixtures and improvements located within individual Units. “Bylaws” are the Bylaws adopted by the Association, as amended from time to time.

Section 2.11 “CCIOA” means the Colorado Common Interest Ownership Act, C.R.S. §§ 38-33.3-101, *et seq.*, as it may be amended.

Section 2.12 “Clerk and Recorder” means the office of the Clerk and Recorder in Summit County, Colorado.

Section 2.13 “Common Element” means all portions of the Community except the Units. The Common Elements are owned by the Owners in undivided interests according to the Allocated Interests set forth in Section 2.2 above and comprise General Common Elements and Limited Common Elements.

2.13.1 “General Common Elements” means all tangible physical properties of this Community and real property for which the Association has an obligation to maintain, except Limited Common Elements and the Units, and without limiting the foregoing, specifically includes all parts of the structures and Buildings, or any facilities, improvements and fixtures that may be within a Unit that are or may be necessary or convenient to the support, existence, use, occupation, operation, maintenance, repair or safety of the structures or any part thereof or any other Unit. The General Common Elements include, without limitation, the following:

a. all of the land, and landscaping, grass, shrubbery, trees, plants, gardens and related improvements, including any landscaped areas within dedicated rights-of-way required by the County to be maintained by Owners of the Community;

- b. all foundations, columns, girders, beams and supports of the Buildings and any other structures making up the Community;
- c. the exterior walls of the Buildings; the main or bearing walls of the Buildings; the Building roofs; and all portions of the walls, floors or ceilings in a Building that are not part of the Unit as described in Section 2.33 below;
- d. the unassigned yards, sidewalks, walkways, parking areas, roads, driveways, paths, and related facilities on the Property;
- e. such improvements, Buildings, and areas as are provided for community, recreation, and common use of all Owners;
- e. except as otherwise specifically provided herein, all utility service and maintenance rooms, fixtures, apparatus, equipment, installations and facilities for power, light, gas, telephone, television, hot water, cold water, heating, or similar utility service or maintenance purposes, including valves, transformers, furnaces, pumps, tanks, motors, fans, storm drainage structures, compressors, ducts and in general, all apparatus, installations, and facilities, which serve more than one Unit; and
- f. in general, all other parts of the Community necessary in common use or convenient to its existence, maintenance and safety.

2.13.2 “Limited Common Elements” means those parts of the Common Elements that are either limited to or reserved in this Declaration, the Map, or by action of the Association, for the exclusive use of an Owner or are limited to and reserved for the common use of more than one but fewer than all Owners. Without limiting the foregoing, any portion of a valve, transformer, chute, flue, duct, pipe, drain, wire, conduit, bearing wall, bearing column, or other fixture which lies completely or partially within and/or completely or partially outside the designated boundaries of a Unit which serves that Unit is a Limited Common Element allocated solely to that Unit, and any portion thereof serving more than one Unit or any portion of the General Common Elements is a Limited Common Element allocated to the Units served. Any shutters, awnings, window boxes, doorsteps, stoops, porches, balconies, decks, patios, terraces, fireplace flues accessible from the interior of a Unit, and all exterior doors and windows or other fixtures designed to serve a single Unit, but located outside the Unit’s boundaries, are Limited Common Elements allocated exclusively to that Unit. Without limiting the foregoing, the Limited Common Elements include covered parking spaces, Garages, and storage spaces that may be designated as Limited Common Elements on the Map, or which are assigned or appurtenant to a particular Unit, and utility, heating, air conditioning and domestic hot water equipment located outside of a Unit but serving a Unit to the exclusion of other Units. The horizontal boundaries of porches, balconies, decks, patios and terraces shall be the same as the interior horizontal boundaries of the Units to which such Limited Common Elements are appurtenant, unless the Map specifically defines other horizontal boundaries.

Section 2.14 “Common Expenses” means expenditures made or liabilities incurred by

or on behalf of the Association, together with allocations to reserves, including but not limited to: (a) all expenses expressly declared to be common expenses by this Declaration or the Bylaws; (b) all other expenses of administering, operating, servicing, conserving, managing, maintaining, repairing, or replacing the Common Elements; (c) insurance premiums for the insurance carried under Article 9; (d) expenses incurred for the benefit of more than one Owner; and, (e) all expenses lawfully determined to be Common Expenses by the Board as allowed by this Declaration.

Section 2.15 “Community” means the common interest community created by the Original Declaration and as shown on the Map comprising the Property, the Units, and the Common Elements.

Section 2.16 “County” means Summit County, Colorado.

Section 2.17 “Declaration” means this Declaration and the Map, and amendments and supplements thereto.

Section 2.18 “Director” means a member of the Association’s Board of Directors.

Section 2.19 “Executive Board” or “Board” means the governing body of the Association, also referred to as the Board of Directors.

Section 2.20 “First Mortgage” means a security interest for a promissory note, the priority of which is not subject to any monetary lien or encumbrance except liens for taxes or other liens that are given priority by statute.

Section 2.21 “First Mortgagee” means any person named as a mortgagee in any First Mortgage, or any successor to the interest of any such person under such mortgage as shown in the County records.

Section 2.22 “Good Standing” means that an Owner is no more than thirty (30) days late in the payment of any Assessments, and who is in compliance with the terms of the Association Documents, and who has none of his, her or its membership privileges suspended.

Section 2.23 “Garage” means the Limited Common Element enclosed garage or parking stall as depicted on the Map. Garages may be allocated to Owners by deed or other instrument of conveyance, but title to any Garage remains vested in the Owners as tenants in common. Only Owners and Permitted Users may hold rights to use a Garage. In the event the County assesses garages individually and not as a portion of the Common Elements, the Owner with the rights to such Garage is solely responsible for all such taxes and assessments.

Section 2.24 “Improvement” means a modification or addition to real property, whether permanent or not, and regardless of whether the Improvement adds value to the real property.

Section 2.25 “Manager” and “Managing Agent” means a person or entity engaged by the Association to perform certain duties, powers, or functions of the Association, as the Board

may authorize from time to time.

Section 2.26 “Map” means the Condominium map of the Community recorded with the Clerk and Recorder, depicting a plan and elevation of all or a part of the Property subject to this Declaration and any supplements and amendments thereto. The Map is incorporated by reference.

Section 2.27 “Member” means all Owners of a Unit collectively or, following termination of the Community, all former Owners entitled to distributions of proceeds under CCIOA, their heirs, personal representatives, successors, and assigns. The Owners of each Unit shall hold membership in the Association. As used in this Declaration, Member and Owner are interchangeable.

Section 2.28 “Mortgagee” means any person named as a mortgagee or beneficiary in any mortgage or security instrument that secures a promissory note against any Unit, or any successor to the interest of any such person under such instrument.

Section 2.29 “Nonprofit Act” means the Colorado Revised Nonprofit Corporation Act, C.R.S. § 7-121-101, *et seq.*, as it may be amended.

Section 2.30 “Owner” means the owner of record, whether one or more persons or entities, of fee simple title to any Unit, and “Owner” also includes the purchaser under a contract for deed covering a Unit with a current right of possession and interest in the Unit. An Owner may be one or more individuals, estate(s), trust(s), or entity(ies).

Section 2.31 “Permitted User” means members of the Owner’s family, or the Owner’s tenant, employee, invitee, or licensee or the employee, invitee or licensees of the tenant.

Section 2.32 “Property” means the real property subject to this Declaration as described in Exhibit A.

Section 2.33 “Rules” means rules, regulations, procedures, policies, and guidelines, however denominated, adopted, amended, or repealed by the Board from time to time for the regulation and management of the Community, including the Common Elements and the Units.

Section 2.34 “Unit” means a physical portion of the Property that is designated for separate ownership, together with the appurtenant interest in the Common Elements. The Unit boundaries are depicted on the Map, and to the extent not depicted on the Map are defined in Section 3.7.

### ARTICLE III. NAME; DIVISION INTO UNITS

Section 3.1 Name. The name of the Community is Silver Queen West at Wilderndest. The Community is a Condominium pursuant to the Colorado Condominium Ownership Act (the “Act”) and is subject to certain statutory provisions of the Colorado Common Interest Ownership Act (“CCIOA”) and the Colorado Revised Nonprofit Corporation Act (“Nonprofit Act”).

References herein to CCIOA mean those provisions of CCIOA that, by its provisions, apply to condominium communities that were formed before July 1, 1992, but not otherwise. The Community has not elected to be treated as a community formed on or after July 1, 1992 pursuant to C.R.S. § 38-33.3-118.

Section 3.2 Association. The name of the Association is Silver Queen West at Wilderndest Condominium Association.

Section 3.3 Number of Units. The number of Units in the Community is one hundred and six (106). In addition, one separately-titled Unit is owned by the Association, and excluded from this total and the calculation of Allocated Interests.

Section 3.4 Identification of Units. The identification number of each Unit is described on the Map.

Section 3.5 Description of Units.

3.5.1 Each Unit, the appurtenant interest in the Common Elements and the appurtenant use of Limited Common Elements, shall comprise one Unit, and shall be inseparable and may be transferred, leased, devised, or encumbered only as one Unit. Any attempted transfer of the appurtenant interest in the Common Elements or Limited Common Elements shall be void unless the Unit to which that interest is allocated is also transferred, except as permitted pursuant to Section 208 of CCIOA or as authorized by the Board.

Any contract of sale, deed, lease, Mortgage, will, or other instrument affecting a Unit may describe it by its Unit number and Building symbol, at Silver Queen West at Wilderndest , Summit County, Colorado, according to the Condominium Map of Silver Queen West at Wilderndest, describing the date and reception number of recording of the Map and Declaration, as they may be amended from time to time, together with the exclusive right to use specifically designated parking spaces and storage spaces, if any.

Section 3.6 Separate Parcels and Taxation. Each Unit shall be deemed to be a parcel and shall be subject to separate assessment and taxation for all types of taxes authorized by law, including ad valorem levies and special assessments. No part of the Community other than Units shall be deemed a parcel; provided that, if the County assesses Garages as parcels rather than as portions of the Common Elements, the Owner of the Unit with the associated Garage shall be solely responsible for payment of all taxes and assessments against the Garage. The Garage shall always remain a Limited Common Element notwithstanding the County's assessment. The lien for taxes assessed to any Unit shall be confined to such Unit. No forfeiture or sale of any Unit for delinquent taxes, assessments or other governmental charges shall divest or in any other way affect the title to any other Unit or the Common Elements.

Section 3.7 Boundaries. Unit boundaries ensure Owners are aware of what portions of the Unit and Limited Common Elements they are required to maintain, and provide clarity with respect to the scope of Association and Owner insurance obligations. Some components may be

maintained by a Unit Owner but insured by the Association.

3.7.1 The following are designated as boundaries of each Unit, as defined below and as depicted on the Map:

3.7.1.1 The unfinished interior surfaces of the perimeter walls (including, but not limited to, plaster, gypsum, drywall, paneling, wallpaper, paint, and wall tiles which are within the Unit), or the adjoining walls, if two or more Units adjoin each other;

3.7.1.2 The unfinished interior surfaces of the lowermost floors, and including, but not limited to, flooring underlayment materials, flooring materials, carpeting, and tile which are within the Unit;

3.7.1.3 The unfinished interior surfaces of the uppermost ceilings, and including, but not limited to, plaster, gypsum, drywall, paneling, wallpaper, paint, and tile; and,

3.7.1.4 The doors and windows of the Unit.

3.7.2 Inclusions. Each Unit includes all drywall, lath, furring, wallboard, paint, wallpaper, finished flooring surfaces, windows and window frames, doors and door frames, and the spaces and Improvements lying within the boundaries described above, and as depicted on the Map. "Finished flooring surfaces" include sound-deadening subflooring and similar materials, but does not include subfloor firewall, gypcrete, or concrete surfaces and improvements and structures located within such floor surfaces, which are Limited Common Elements. Each Unit also includes the spaces and Improvements containing utility meters, water heating facilities, all electrical switches, wiring, pipes, ducts, conduits, smoke detector or security systems and communications, and television, telephone, cable, internet, and electrical receptacles and boxes serving that Unit exclusively from the point where such items enter the Unit boundaries. Any portion of such item lying outside the Unit boundaries and exclusively serving the Unit is a Limited Common Element.

3.7.3 Exclusions. Except when specifically included by other provisions of this Declaration or by the Map, the following are excluded from each Unit: the spaces and Improvements lying outside the boundaries described above, support walls and structural components of the Buildings, the exterior finishing surfaces of the Building in which the Units are located, exterior street or common lighting, and any chutes, pipes, flues, ducts, wires, conduits, skylights, and other facilities running through or within any interior wall or partition for the purpose of furnishing utility and other service to other Units and the Common Elements. Further, subfloor firewall, gypcrete, or concrete surfaces and improvements and structures located within such surfaces are Limited Common Elements.

Section 3.8 Non-Partitionability of Common Elements. The Common Elements,

including Garages and storage spaces, are owned in common by all of the Owners of the Units and shall remain undivided. Each Owner specifically waives his right to institute and/or maintain a partition action or any other action designed to cause a division of the Common Elements, and each Owner specifically agrees not to institute any action therefore. Garages cannot be converted to a Unit or a portion of a Unit and shall not be used for residential purposes. A violation of this provision shall entitle the Association to personally collect, jointly and severally, from the parties violating the same, the actual attorney's fees, costs, and other damages the Association incurs in connection therewith. In addition to the foregoing any decree of partition or proceeding to obtain such a decree shall be void.

Section 3.9 Automobile Parking Facilities. Garages are part of the Common Elements; provided, however, that some Garages may have been allocated by separate instrument to an individual Owner, in which case the Garage shall be a Limited Common Element that may be reallocated in accordance with Section 208 of CCIOA or by other instrument of assignment approved by the Association. Any and all other parking areas and facilities located in this Community shall be under the Association's control. Garages may not be conveyed or allocated to anyone who is not an Owner, and may only be rented in connection with rental of the appurtenant Unit; provided that, this covenant shall not compel termination of leases that are in existence at the time this Declaration is recorded and also, that any Owner may lease a Garage allocated to that Owner to the Association on such terms as the Owner and Association may agree to. Further, the Association has the power and authority to grant leases over the Common Elements, including Garages not otherwise allocated to Owners, on the terms and conditions as the Executive Board deems appropriate in the exercise of its reasonable business judgment.

#### ARTICLE IV. RESTRICTIONS ON USE OF UNITS

Section 4.1 Use and Occupancy Regulation; General. All Units shall be held, conveyed, used, improved, occupied, owned, resided upon, and secured subject to the following provisions, conditions, limitations, restrictions, agreements, and covenants, as well as those contained elsewhere in this Declaration. These restrictions are general in nature and the Board of Directors has the power to adopt, amend, repeal, and enforce more specific and restrictive Rules as the Board deems to be reasonable and necessary to carry out the intent of this Declaration.

Section 4.2 Use of Common Elements. Owners' rights to use the Common Elements are subject to the Association's power to close or limit access to the Common Elements for maintenance, repair, replacement, renovation, or otherwise as may be decided by the Board from time to time in the exercise of its good faith reasonable business judgment.

4.2.1 Limited Common Elements. Subject hereto, each Owner, his family members, guests, and invitees shall have the exclusive right to use the Limited Common Elements exclusively appurtenant to the Owner's Unit and, with respect to Limited Common Elements appurtenant to more than one Unit, the joint right to such use with the Owners of other Units to which the same are also appurtenant.

4.2.2 General Common Elements. Each Owner, family members, guests, and invitees shall have the right to use the General Common Elements in accordance with the purpose for which any such elements are intended without hindering or encroaching upon the reasonable and lawful rights of the other Owners. There shall be no unreasonable obstruction of the Common Elements, and the Association may specify items that may, or may not, be kept or stored on or in any part of the Common Elements by Rule. Nothing shall be altered on, constructed in, or removed from the Common Elements without the Association's written consent.

4.2.3 Rights of Ingress and Egress. Each Owner, family members, guests, and licensees shall have a right and easement of ingress and egress over, across, and upon the Property and upon the General Common Elements for the purpose of getting to and from the Property, the Unit, any other General Common Elements, and the public ways for both pedestrian and vehicular travel, which right and easement shall be appurtenant to and pass with the transfer of title to the owner's unit; provided, however, that such right and easement shall be subject to the terms of this Declaration and the right of the Association to adopt, from time to time, Rules concerning the Common Elements and the facilities thereon as the Association may determine to be necessary or prudent.

Section 4.3 Right to Adopt Rules Regulating Units and Common Elements. Each Owner and Permitted User may use the Limited Common Elements allocated to his or her Unit and the Common Elements in accordance with the purpose for which they are intended, without hindering or encroaching upon the lawful rights of the other Owners. The Board may adopt Rules regulating the use of the Units and the Common Elements, but may not create new use restrictions by Rule. Each Owner and Permitted User, by the Owner's acceptance of a deed or other instrument of conveyance or assignment to his or her Unit, agrees to be bound by any such Rules. No Owner or Permitted User shall cause, or further, an obstruction of the Common Elements, nor shall anything be stored on any part of the Common Elements, without prior written consent of the Board, which consent may be granted or withheld in the Board's sole and absolute discretion. Nothing shall be added to, altered, constructed on, or removed from the Common Elements except upon the prior written consent of the Board which consent may be granted or withheld in the Board's sole and absolute discretion.

Section 4.4 Residential Use of Units. Each Unit shall be used and occupied only as a residence, operating on a nonprofit, noncommercial basis and for home operated business, so long as such business:

- (a) Is allowed by zoning resolutions;
- (b) Is not apparent or detectable by sight, sound, smell, or vibration from the Unit's exterior;
- (c) Does not increase traffic or parking requirements within the Community; and,
- (d) Does not increase the Association's insurance obligations or premiums.

Notwithstanding the foregoing, any Manager hired by the Association may conduct management and administrative activities for the Association from within one or more Units. Leasing of



Units, subject to the provisions of Section 4.5 below, is a residential use so long as the tenants reside in the Unit.

Section 4.5 Rental Restrictions. “Lease” means any agreement or arrangement for occupancy of the unit by persons other than the Owner or an immediate family member, spouse, child, or parent of the Owner, or affiliate of an Owner, without the concurrent occupancy by the Owner or an immediate family member, spouse, child, or parent of the Owner, or affiliate of an Owner. “Affiliate of an Owner” means a person who controls, or is controlled by, or is under common control with an Owner, or is the beneficiary of a trust that is the Owner. Subject to the remaining provisions of this Section 4.5, an Owner may lease his Unit in its entirety upon such terms and conditions as the Owner deems advisable; provided, however, without otherwise obtaining written consent from the Board, that:

- (a) No Lease shall be for less than the entire Unit, provided that roommates who are entitled to make use of all common areas of the Unit are not prohibited;
- (b) All Leases shall be in writing and shall provide that the Lease is subject to the terms of the Association Documents and a copy of the Rules are provided to the lessee with the Lease;
- (c) No Unit may be sublet for a period shorter than the term of the original Lease;
- (c) A Unit may be leased only for the uses permitted herein; and,
- (d) A lessee’s failure to comply with the terms of this Declaration or any other Association Documents shall be a default under the Lease enforceable by the Association as a third-party beneficiary, whether or not the Lease contains such a provision.

Section 4.6 Unlawful Activity. No offensive or unlawful use may be made of the Property. Owners and Permitted Users shall comply with and conform to all applicable laws and regulations of the United States, the State of Colorado, and all other governmental ordinances, rules, and regulations. No Unit shall be used for any purpose not in compliance with any local, state, or federal law, statute, or other ordinance, regulation, or rule. No portion of the Property may be used for the manufacture, storage, or disposal of hazardous materials other than in reasonable quantities typically used for purposes of residential cleaning, maintenance, and repair.

Section 4.7 Nuisances. Except as expressly permitted by this Declaration, no noxious, offensive, dangerous, or unsafe activity shall be conducted in or on any Unit or the Common Elements, nor shall anything be done, either willfully or negligently, which may be or become an unreasonable annoyance or nuisance to the other Owners or Permitted Users. No Owner or Permitted User shall make or permit any disturbing noises nor do or permit any nuisance or anything to be done by others that will unreasonably interfere with the rights, comforts, or convenience of other Owners or Permitted Users. No lights shall be emitted from any Unit that are unreasonably bright or cause unreasonable glare. Determination of whether an activity violates this covenant shall be at the discretion of the Board or a committee appointed by the Board, and shall be subject to Rules adopted by the Board.

Section 4.8 Insurance Rates. Except as may be approved in writing by the Board, nothing shall be done or kept that 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 4.9 Animals. Dogs, cats, or other customary household pets may be kept by Owners in a Unit in compliance with the Rules without the Association's written approval. Permitted Users, including tenants, are not permitted to keep animals in their Units unless the Unit is also occupied by the Owner. The Board has the authority to adopt Rules that regulate the conduct of the residents and their household pets or other household animals. These Rules may include, but are not limited to, the following: (a) the number and type of animals which may be kept in a Unit; (b) whether and to what extent the animals shall be permitted on or to utilize the Common Elements; (c) the responsibility for supervision of household animals; (d) the responsibility for litter, waste, mess, or damage created by their household animals; (e) the responsibility to address any offensive or prolonged noises created by household animals; (f) the requirement to keep dogs and other specified animals on a leash while on the Property and outside of their Units; (g) the responsibility of Owners to pay for any damage caused by their household animals; (h) the right of the Association to levy a fine and/or require removal of household animals from the Community for failure to comply with the Rules; and, (i) the responsibility of Owners to pay any costs of the Association incurred in connection with the enforcement of the Rules and the Association's right to classify any fines levied as a result of a violation of the Rules outlined in this Section as a Default Assessment and to pursue collection and enforcement of such Default Assessment as provided in this Declaration. No Rule shall be enforced in a manner that compels an Owner to dispose of a household pet or other animal that was maintained prior to the effective date of such Rule.

#### Section 4.10 Parking and Vehicles.

4.10.1 Parking spaces are restricted to use as access and as parking spaces for vehicles. Parking spaces and Garages that are allocated pursuant to this Declaration, the Map, or other recorded document, or the Unit's deed to any particular Unit are Limited Common Elements of that Unit. The Board has the authority to assign, license, or otherwise regulate parking spaces that are not so allocated by the adoption of Rules or further, to allocate parking spaces as may be necessary to clarify ambiguities or comply with applicable law. The Association may require removal of commercial type and oversized vehicles and trucks if it determines that the same interferes with reasonable automobile parking for Owners or Permitted Users. Snow removal, garden, or maintenance equipment shall not be kept on the Property without the Association's written approval, except when in actual use.

4.10.2 The Board has the authority by Rule to govern or restrict parking of any vehicle, trailer, or other item on the Property, including specification of prohibited vehicles or equipment, maximum parking duration, permitted maintenance activities, and other matters within the scope of its regulation of parking on the Property. The Board has the right to tow, remove, or store a vehicle or equipment in violation of the Rules at the owner's expense. Any expense incurred by the Association shall be levied against the Owner of the Unit associated with the vehicle or equipment as a Default Assessment.

Section 4.11 Signs. The Association may regulate signs to the extent permitted by Colorado law.

Section 4.12 Trash. No trash, ashes, or other refuse or debris may be thrown or dumped on the Property. No burning is permitted. All trash, garbage, compost, recycling, or other refuse shall be kept in containers provided for such purpose in the area designated for such purpose. The Association shall provide for regular trash removal as a Common Expense. The Board may require any Owner to arrange and pay for trash removal of excessive amounts of trash, garbage, or other refuse. Items that do not fit completely within the Association's dumpsters, with the lids in closed position, may not be placed in the dumpsters and Owners must make arrangements for disposal of such oversized items at the Owner's expense. Electronic items or hazardous materials may not be disposed of in the Association's dumpsters. The Owner of any Unit shall keep the Property and their Unit free of unreasonable accumulations of trash, refuse, or debris of any kind, whether the Unit is vacant or occupied.

Section 4.13 Sanitation. To protect neighbors from vermin and inhospitable environments, each Unit at all times shall be kept in a clean, sanitary, sightly, and attractive condition and in a state of good repair.

Section 4.14 Antennae. 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 or Rules, no exterior television or any other antennae, microwave dish, satellite dish, or similar device of any type shall be erected, installed, or maintained on the Common Elements without the Association's prior written approval.

Section 4.15 Neighbor-to-Neighbor Disputes. The Association is not obligated to take enforcement action when a dispute under the Declaration or Rules is solely a dispute between neighbors involving an alleged nuisance or offensive behavior, not involving the Common Elements, and not involving a violation of the Association's architectural or maintenance standards. In any dispute between neighbors, residents must first work in good faith with each other to resolve their differences before the complaining Owner reports an alleged violation of the governing documents to the Association. An Owner's complaint to the Association about a neighbor must: (a) be in writing; (b) give as much detail as possible concerning the dispute; (c) provide specific information about what informal efforts to resolve the matter were undertaken by the complaining resident; and, (d) provide the name, address, phone number(s), and email address of the complaining party.

Section 4.16 Damage Caused by Owner or Permitted User. If, due to the act, neglect, or carelessness of an Owner or Permitted User, any loss or damage shall occur or be caused to any person or property other than the Owner's Unit, such Owner or Permitted User shall be liable and responsible for the payment of the same. The amount of such loss or damages and any costs incurred by the Association in connection with the enforcement of the Association's rights shall be subject to all of the Association's rights with respect to the collection and enforcement of Assessments as provided in this Declaration.

Section 4.17 No Partition, Subdivision, or Combination. No portion of the Community shall be subject to an action for partition or division, except in the instance of co-owners seeking judicial partition of their interests in a Unit and not of the Unit itself. No Units or Common

Elements shall be subdivided, resubdivided, or combined without the express written consent of the Board, which consent may be granted, withheld, or conditioned in the Board's sole and absolute discretion.

Section 4.18 Structural Alterations. No structural alteration to any Unit or any Common Element shall be done by any Owner without the prior written approval of the Association. No fences, walls, or other barriers shall be permitted on or in the Property except with the Association's written consent.

Section 4.19 Construction and Remodeling. Each Owner shall have the exclusive right to paint, tile, wallpaper, or otherwise decorate or redecorate his Unit, and each Unit Owner shall have the duty to maintain and repair the interior surfaces of the walls, floors, ceilings, and doors forming the boundaries of the Owners' Unit and all walls, floors, ceilings, and doors within such boundaries. All construction or remodeling shall be prosecuted diligently to completion. The Association may adopt Rules governing construction and remodeling, which Rules may require prior Association approval for particular work within a Unit, specify types of materials that may be used, and otherwise create structures for efficient and peaceful construction and remodeling.

Section 4.20 Water and Mold. Each Owner shall take necessary measures to retard and prevent mold from accumulating in their Unit including, but not limited to, appropriate climate control and removal of visible moisture accumulation on windows, window sills, walls, floors, ceilings and other surfaces. Owners shall immediately notify the Association 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 does not create any additional Association maintenance responsibility other than as set forth in this Declaration. Owners are responsible for any damage to their Units 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.

Section 4.21 Landscaping. All landscaping and gardening activities shall be accomplished or undertaken only by or with the Association's written approval.

Section 4.22 Temporary Structures. No structures of a temporary character, trailer, basement, tent, shack, garage, barn, or other outbuilding shall be used or permitted to be kept or stored on any portion of the premises at any time either temporarily or permanently.

## ARTICLE V.

### MEMBERSHIP AND VOTING RIGHTS: ASSOCIATION OPERATIONS

Section 5.1 The Association. Every Owner of a Unit is a Member of the Association. Membership is appurtenant to and may not be separated from Unit Ownership.

Section 5.2 Transfer of Membership. An Owner shall not transfer, pledge, or alienate his membership in the Association in any way, except upon the sale or encumbrance of his Unit

and then only to the purchaser or Mortgagee of his Unit. The Association shall not create a right of first refusal on any Unit and Owners may transfer ownership of their Units free from any such right.

Section 5.3 Membership; Voting Rights. The Association has one (1) class of membership consisting of all Owners. Except as otherwise provided for in this Declaration, each Owner in Good Standing shall be entitled to vote in Association matters as specified in Exhibit B. Each Owner is subject to all the rights and duties assigned to Owners under the Association Documents.

Section 5.4 Board of Directors. The Association shall be governed by a Board of Directors, elected by the Members of the Association as provided in the Bylaws. All Directors of the Board shall be Owners of the Association, or in the event that an Owner is an entity other than a natural person, such Director shall be an authorized representative of such entity Owner.

Section 5.5 Manager. The Association may employ or contract for the services of a Manager to whom the Board may delegate certain powers, functions, or duties of the Association.

## ARTICLE VI. DUTIES AND POWERS OF THE ASSOCIATION AND EXECUTIVE BOARD

Section 6.1 Powers of the Board of Directors. Except for such rights as are expressly reserved to the Owners or in the Bylaws and the Act or CCIOA, the Board has the power to, and may act in all instances on behalf of the Association.

Section 6.2 Duties and Powers of the Association. The Association may exercise any right or privilege expressly granted to the Association in the Association Documents, by the Act, CCIOA and by the Nonprofit Act, whether expressed herein or not. Without in any way limiting the general scope of the foregoing, the Association shall have the following specific duties and powers:

6.2.1 Duty to Manage and Care for Common Elements. The Association shall regulate the use of, manage, operate, care for, maintain, keep in good repair, and replace the Common Elements in a manner that is similar to comparable condominium buildings in the immediate area. Notwithstanding the Association's duty to maintain and repair parts of the Community as set forth in this Declaration, the Association shall not be liable for injury or damage, other than the cost of maintenance and repair, caused by any latent condition of property to be maintained and repaired by the Association, nor for injury or damage caused by the elements, Unit Owners, or other persons.

6.2.2 Duty to Pay Taxes and Assessments. The Association shall pay all taxes and assessments, if any, levied upon the Common Elements and all other taxes and assessments payable by the Association. The Association shall have the right to contest any such taxes or assessments provided that the Association shall contest the same by appropriate legal proceedings which shall have the effect of preventing the collection of the tax or assessment and the sale or foreclosure of any lien for such tax or assessment,

and provided that the Association shall keep and hold sufficient funds to pay and discharge the taxes and assessments, together with any interest and penalties which may accrue with respect thereto, if the contest of such taxes is unsuccessful.

6.2.3 Duty to Maintain Insurance. The Association shall obtain and keep in full force and effect at all times insurance coverage in accordance with Article 10 of this Declaration.

6.2.4 Duty as to Budgets. The Association shall prepare, and submit to the Owners, annual budgets for revenues, expenditures and reserves for the Association as elsewhere provided in this Declaration and as required by CCIOA.

6.2.5 Duty to Levy and Collect Assessments. The Association shall levy and collect Assessments as elsewhere provided in this Declaration.

6.2.6 Duty to Keep Records. The Association shall keep current copies of this Declaration, the Articles of Incorporation, the Bylaws, the Rules, and the books, records and financial statements of the Association available during normal business hours for inspection, and for copying at a reasonable cost, by Owners and First Mortgagees.

6.2.7 Duty to Maintain Register of Addresses and Notify of Address Change. The Association shall maintain a record of addresses which contains the mailing address (which may include the facsimile number, if any, and, if the recipient desires to receive notices from the Association by e-mail, the e-mail address) of each Owner and each First Mortgagee that has requested notice. The initial address for each Owner shall be the address for such Owner set forth in the deed or other instrument of record conveying the Unit to such Owner, or, if no such address is set forth, the address of the Unit of such Owner. The initial address for a First Mortgagee shall be the address provided by the First Mortgagee to the Association. Any Owner may change its mailing address by giving notice to the Association of a new address in accordance with Section 19.1, and the Association shall update the Association's records in accordance with any such notice. The Association shall provide the mailing address for each Owner to any Member who requests such information and certifies to the Association in writing that they intend to use such information for purposes authorized by this Declaration or under the Rules. The Association shall have no liability to any person (including any Owner and any First Mortgagee) for providing the mailing address as listed in the Association's records, regardless of whether such address is correct or whether any director, officer, employee or agent of the Association has knowledge, actual or imputed, that the address in the Association's records is not correct. The Association shall not provide Owners' electronic mailing addresses to Members who request such information unless it does so in compliance with CCIOA. No information with respect to any First Mortgagee's or any Owner's address shall be imputed to the Association or any director, officer, employee or agent of the Association, and the Association shall be entitled to rely solely on the initial address determined in accordance with this Section 6.2.7 or the most recent address, if any, furnished to the Association by any First Mortgagee, or any Owner by notice given in accordance with Section 19.1.

6.2.8 Power to Adopt Bylaws and Rules. The Association may adopt, amend, repeal and enforce Bylaws and such Rules as may be deemed necessary or desirable with respect to the interpretation and implementation of this Declaration, the operation of the Association, the use and enjoyment of Units or the Common Elements, the use of any other property within the Community, and otherwise for the benefit of the Community and the Owners. Any such Rules shall be reasonable and uniformly applied. Written notice of the adoption, amendment or repeal of any Rules shall be posted at the Association office, and copies of the currently effective Rules shall be made available to each Member upon request and payment of the copying cost. Each Member shall comply with such Rules and shall see that Permitted Users of such Member comply with the Rules. The Rules shall have the same force and effect as if they were set forth in and were part of this Declaration. In the event of conflict between the Rules and the provisions of this Declaration, the provisions of this Declaration shall control.

6.2.9 Power to Enforce Declaration and Rules. The Association has the power to enforce the provisions of the Documents, and shall take such action as the Executive Board deems necessary or desirable to cause compliance by each Member and Permitted Users. Without limiting the generality of the foregoing, the Association has the power to impose charges for late payment of Assessments, recover reasonable attorney fees and other legal costs for collection of Assessments and other actions to enforce the power of the Association, regardless of whether or not suit was initiated, and after notice and opportunity to be heard, levy reasonable fines and impose other sanctions (including withholding a Member's right to vote and suspending access to Common Elements) for violations of the Association Documents.

6.2.10 Power to Make Contracts and Incur Liabilities. The Association has the power to enter into, make, perform or enforce contracts, leases, licenses, agreements, easements, rights-of-way, and/or concessions through or over the Common Elements, or any portion thereof, with Owners, their family members, tenants, guests, invitees and other persons or entities, for any purpose deemed to be in the best interest of the Association, including contracts, licenses, agreements, easements, rights-of-way and/or concessions for the provision of cable, internet, satellite or other television or wired or wireless broadcast or communication service to the Community, or any portion thereof. Any of such contracts, leases, licenses, agreements, easements, rights-of-way, and/or concessions shall be upon such terms as agreed to by the Board;

6.2.11 Power to Incur Liabilities. The Association has the power to incur liabilities in the name of the Association, except that the Common Elements may only be subjected to a security interest in compliance with the provisions of Section 6.2.19 below.

6.2.12 Power to Employ Managers, Other Employees, Agents and Independent Contractors. The Association has the power to retain and pay for the services of a manager, other employees, agents and independent contractors to undertake any of the management or functions for which the Association has responsibility under this Declaration to the extent deemed advisable from time to time by the Executive Board, and may delegate any of its duties, powers or functions to the manager, other employees,

agents or independent contractors. Any contract or agreement with a manager shall be terminable by the Association for cause on no more than thirty (30) days prior written notice, and shall be terminable by the Association without cause and without payment of a termination fee on no more than ninety (90) days prior written notice. Notwithstanding any delegation to a manager, employee, agent or independent contractor of any duties, powers or functions of the Association, the Association and its Executive Board shall remain ultimately responsible for the performance and exercise of such duties, powers and functions. In connection with the power to hire a manager, the Association may own, and utilize one or more Units as management or administrative offices or as the residence of a resident manager for the Community. Any amounts paid by the Association pursuant to such lease or mortgage agreement shall be a Common Expense. Any such Unit or other residential quarters leased or purchased for a building manager or engineer and not designated as Common Element on the Map shall not constitute a part of the Common Elements.

6.2.13 Power to Engage Employees, Agents and Consultants. The Association has the power to hire and discharge employees and agents and to retain and pay for such legal and accounting services as may be necessary or desirable in connection with the performance of any duties or the exercise of any powers of the Association under this Declaration.

6.2.14 Power to Commence and Maintain Legal Actions. The Association has the power to commence and maintain, defend or intervene in litigation, arbitration and administrative proceedings in its own name on behalf of itself or two or more Owners regarding such issues and against such parties as may be deemed appropriate by the Executive Board and as may be permitted under the Act. In determining whether to commence or maintain legal actions, the Executive Board shall exercise its reasonable judgment, considering, without limitation, the likelihood of success, the impact, if any which such action may have upon the market values of the Units, the cost of pursuing the action including attorneys' fees and experts' fees, the resources of the Association and whether a special assessment or depletion of reserves will be required in connection therewith or as a result thereof.

6.2.15 Power to Modify and Improve Common Elements. The Association has the power to modify the Common Elements and cause additional improvements to be made as a part of the Common Elements.

6.2.16 Power to Acquire and Maintain Property and Construct Improvements; Power to Convey Common Elements. The Association may acquire property or interests in property for the common benefit of Owners, including improvements and personal property. The Association may construct, modify or demolish improvements to the Community. Common Elements may be conveyed in fee only if (a) Members to whom at least sixty-seven percent (67%) of the votes in the Association are allocated agree to that action, and (b) if all Owners of Units to which any Limited Common Element is appurtenant agree in order to convey that Limited Common Element.



6.2.17 Power to Impose Fees and Charges. The Association has the power to impose and receive any payments, fees or charges for the use, rental or operation of the Common Elements, and the Association has the power to impose reasonable charges for the preparation and recordation of amendments to the Declaration or statements of unpaid Assessments. In addition, the Association has the power to impose and receive a nonrefundable move-in/move-out fee each time an Owner of a Unit or tenant moves into the Association.

6.2.18 Power to Provide Special Services for Members. The Association has the power to provide services to a Member or group of Members. Any service or services to a Member or group of Members shall be provided pursuant to an agreement in writing, that shall provide for payment to the Association by such Member or group of Members of the costs and expense that the Association incurs in providing such services, including a fair share of the overhead expenses of the Association, and shall contain provisions assuring that the obligation to pay for such services shall be binding upon any heirs, personal representatives, successors and assigns of the Member or group of Members, and that the payment for such services shall be secured by a lien on the Units of the Member or group of Members and may be collected in the same manner as an Assessment, or, if the written agreement so provides, in installments as part of the Assessments.

6.2.19 Power to Borrow Money and Mortgage Property. The Association has the power to borrow money and assign its future income, including its right to receive Assessments upon resolution of the Executive Board. Further, the Association has the power to encumber, in the name of the Association, any right, title or interest in real or personal property, except that Common Elements may be conveyed in fee or subjected to a security interest only if (a) Members to whom at least sixty-seven percent (67%) of the votes in the Association are allocated agree to that action, and (b) if all Owners of Units to which any Limited Common Element is appurtenant agree in order to convey that Limited Common Element or subject it to a security interest.

6.2.20 Power to Indemnify. The Association has the power to provide for the indemnification of its officers, agents, committees, and Executive Board and maintain directors' and officers' liability insurance.

6.2.21 General Corporate Powers. The Association has all of the ordinary powers and rights of a Colorado nonprofit corporation formed under the Act, CCIOA and the Nonprofit Act, and to do and perform any and all acts that may be necessary or desirable for the governance and operation of the Association, subject only to such limitations upon such powers as may be set forth in this Declaration or in the Articles of Incorporation, the Bylaws, the Act, CCIOA or the Nonprofit Act.

6.1.22 Books and Records. All books and records of the Association shall be subject to an independent audit by a licensed certified public accountant to be designated by the Association when required by CCIOA or as determined by the Board.

Section 6.3 Limitation on Liability. Except as otherwise provided by law, the

Association, the Executive Board and any Member, director, officer, agent or employee of the Association shall not be liable to any person for any action or for any failure to act under the provisions of the Association Documents if the action or failure to act was in good faith and without malice.

## ARTICLE VII. MECHANIC'S LIENS

Section 7.1 No Liability. Any Owner who causes any material to, or work or labor performed on or in, the Unit, is solely responsible for all costs and expenses associated with such material, work, or labor. Neither the Association, nor any other Owner, is responsible for any costs and expenses incurred due to an Owner or Permitted User having work done or causing work to be done on the Unit.

Section 7.2 Indemnification. If, because of any act or omission of any Owner or Permitted User, any mechanic's or other lien or order for the payment of money is filed against the Common Elements or against any other Owner's Unit or an Owner or the Association, regardless of the validity of the claim the Owner or Permitted User whose act or omission forms the basis for such lien or order shall cause the same to be cancelled and discharged of record or bonded by a surety company reasonably acceptable to the Association, or to such other Owner or Owners, within twenty-one (21) days after the date the lien or order is filed., The Unit Owner shall indemnify, defend, and save all other Owners and the Association harmless from and against any and all costs, claims, losses, or damages including, without limitation, all costs and attorneys' fees incurred due to such lien or order.

Section 7.3 Association Action. Only labor performed or materials furnished for the Common Elements and duly authorized by the Association in accordance with this Declaration or the Bylaws is a valid basis for the filing of a lien against the Common Elements. Any such lien shall be limited to the Common Elements and no lien may be effected against an individual Unit or Units due to labor performed or materials furnished for the Common Elements at the Association's insistence.

## ARTICLE VIII. EASEMENTS

Section 8.1 Recorded Easements and Licenses. In addition to all easements, licenses, and rights-of-way of record at or before or as a result of the recording of the Original Declaration, the Property is subject to all easements set forth herein, those shown on any Map or plat, those of record, those provided in CCIOA, and as otherwise set forth in this Article 8.

Section 8.2 Utility Easements. A blanket easement exists upon, across, over, in, and under the Property for the benefit of the Common Elements and the Units and the structures and improvements situated on the Property for ingress and egress, installation, replacing, repairing, and maintaining all utilities, including, but not limited to, water, sewer, gas, electricity, telephone, and satellite or cable television systems, except that, unless otherwise required by law, any such easements not in existence as of the date of recording this Declaration may not be

utilized by the utility providers until after receiving written approval from the Board. Said blanket easement includes future utility services not presently available to the Units that may reasonably be required or desirable in the future. By virtue of this easement, after receiving approval of the Board, it shall be expressly permissible for the companies providing utilities to erect and maintain the necessary equipment on any of the Common Elements and to affix and maintain utility wires, circuits, conduits, equipment, and pipes on, above, across, and under the roofs and exterior walls of the improvements. Upon exercise of the rights contained in this Section, the utility providers, at their sole cost and expense, shall repair (or replace if necessary) the Property and all improvements thereon to their condition as they existed prior to the utility providers performing any work.

Section 8.3 Reservation of Easements, Exceptions and Exclusions. The Board may grant utility and other easements, leases, or licenses and other concessions over the Common Elements. Each Owner is granted a perpetual non-exclusive right of ingress to and egress from the Owner's Unit over and across the General Common and Limited Common Elements, which right is appurtenant to the Owner's Unit, and which right is subject to reasonable restriction on the use of Common Elements set forth in writing by the Association, such as for closure for repairs and maintenance.

Section 8.4 Emergency Access. A general easement exists for all police, sheriff, fire protection, ambulance, and other similar emergency agencies or persons to enter upon the Property in the proper performance of their duties.

Section 8.5 Maintenance and Repair Access. Some of the Common Elements are or may be located within a Unit, or are accessible only through a Unit. The Association is hereby granted an easement and right of entry through the Board, or any other person authorized by the Board, whether the Owner is present or not, for access through each Unit to all Common Elements, from time to time, as may be necessary for inspection, routine maintenance, repair, or replacement of any of the Common Elements located thereon or accessible therefrom or for making emergency repairs necessary to prevent damage to the Common Elements or to another Unit. In addition, the Board shall have an easement for access to each Unit, from time to time, as may be necessary to inspect the Unit for compliance with this Declaration and for compliance with safety requirements (including, without limitation, water, waste water supply or discharge, water shutoff valves, temperature controls, smoke detectors, carbon monoxide detectors, fire suppression, dryer vents, individual heating units, pest or vermin infestation), and other matters required to carry out the intent of the Declaration. For routine maintenance and non-emergency repairs, entry shall be made only on a regular business day during regular business hours, after providing at least one day's notice in writing to the Owner. In case of emergency, entry may be made at any time provided that a reasonable effort according to the circumstances is made to give notice of entry. The Board or its agent has the authority, at the sole expense of the Unit Owner, to use such reasonable force as is necessary to gain entry into the Unit for any access granted under this Section 8.5 if no other means of entry are available in view of the circumstances. Owners may provide the Association with a key or other access provisions to avoid costs associated with such force.

Section 8.6 Support Easement. Each Unit is subject to a blanket easement for support

and a blanket easement for the maintenance, repair, or replacement of structures or improvements presently situated or to be built in the future on the Property.

Section 8.7 Easement for Encroachments. If any part of the Common Elements encroaches on a Unit, an easement for such encroachment and for the maintenance, repair, or replacement of the same shall and does exist. If any part of a Unit encroaches on the Common Elements, or upon another Unit, the Owner of that Unit shall and does have an easement for such encroachment and for the maintenance, repair, or replacement of the same. Such encroachments shall not be considered to be encumbrances either on the Common Elements or a Unit. Encroachments referred to herein include, but are not limited to, encroachments caused by error in the original construction of the building, by error in the Map, by settling, rising, or shifting of the earth, or by changes in position caused by repair or reconstruction of the Community or any part thereof in accordance with the provisions of this Declaration.

## ARTICLE IX. MAINTENANCE

Section 9.1 Maintenance by Owners. Each Owner shall maintain, repair and replace, as necessary: (a) the interior of his Unit, including non-supporting walls and the surface materials such as plasters, drywall, paneling, wallpaper, paint, tile, and carpeting, flooring and sound-deadening or similar subflooring, of the perimeter walls, ceilings, and floors within the Unit; (b) fixtures and equipment installed within the Unit and any appurtenant Garage, including maintenance or repairs thereto to the extent necessary in order to avoid damaging other Owners or Common Elements; (c) utility and other service lines serving the Unit commencing at the point where such lines enter the Unit, except that the Association shall maintain, repair, and replace Unit isolation valves, zone valves, and transformers located within a Unit as Limited Common Elements; (d) repair or replacement of windows, screens, doors, and locks of the Unit, including windows, screens, and doors that are part of the Common Elements enclosing a Unit (except that such repairs and replacement other than glass repairs shall only be permitted with the Board's prior approval, and the Association is entitled to undertake window and door replacement as Limited Common Elements) and; (e) the Limited Common Elements appurtenant to such Owner's Unit, except that the Association shall be responsible for maintaining, repairing, or replacing firewalls, gypcrete, and similar structural subflooring, parking spaces, Garages, decks, patios, porches, and terraces designated as Limited Common Elements, and Limited Common Elements that serve more than one Unit. Owners are responsible for the maintenance, repair, replacement, and insurance of all betterments and improvements added to the Unit by themselves or their predecessors. Each Owner shall be responsible for keeping Limited Common Elements appurtenant to such Owner's Unit in a good, clean, sanitary, and attractive condition, and for ensuring that snow is properly removed (including from balconies) to prevent damage to other property. An Owner shall do no act or any work that will impair the structural soundness or integrity of the Common Elements, including without limitation Limited Common Element firewalls, gypcrete, and similar structural subflooring, or impair any easement, without the Association's prior written approval. Limited Common Elements shall not be used for storage except as permitted by the Rules.

Subject to availability of any insurance proceeds and only if determined by the Board after notice and the opportunity for a hearing, in the event of damage or destruction of a Limited Common Element from any cause other than the negligence or tortious acts of an Owner or Permitted User, the Owner of the Unit to which the Limited Common Element is appurtenant shall bear the expense to repair or rebuild the Limited Common Element to its previous condition. The Owner shall bear the cost of such damage to the extent of such Owner's or Permitted User's negligence.

Section 9.2 Owner's Failure to Maintain or Repair. In the event that a Unit (including the allocated Limited Common Elements) is not properly maintained and repaired, and if the maintenance responsibility for the unmaintained portion of the Unit lies with the Owner of the Unit, or in the event that the Common Elements or a Unit is damaged or destroyed due to the failure of an Owner to properly maintain or repair the Unit, and the Owner does not take reasonable measures to diligently pursue the repair and reconstruction of those portions of the damaged or destroyed Common Element or Unit for which the Owner is responsible to substantially the same condition in which they existed prior to the damage or destruction, then the Association, shall have the right to enter upon the Unit to perform such work as is reasonably required to restore the Common Elements and the Unit to a condition of good order and repair. All costs incurred by the Association in connection with the restoration shall be reimbursed to the Association by the Owner of the Unit, within seven (7) days after the Association gives notice to the Owner. All unreimbursed costs shall be a Default Assessment against the Unit until reimbursement is made.

Section 9.3 Maintenance by Association. The Association shall be responsible for the maintenance and repair of the Common Elements, whether located inside or outside of Units (except as set forth in Section 9.1 above and unless necessitated by damage caused by the negligence, misuse, or tortious act of an Owner or Permitted User as set forth in Section 9.4 below), which shall be the Common Expense of all Owners. Unless otherwise determined by the Board after notice and the opportunity for a hearing for all impacted Owners, maintenance, repair, and replacement of Limited Common Elements that serve more than one Unit shall be the Common Expense of all Owners. All damage to the interior or any part of a Unit resulting from the maintenance, repair, emergency repair, or replacement of any of the Common Elements, at the instance of or as the result of the acts or omissions of the Association, shall be paid for as a Common Expense of the Association. No Owner shall be entitled to diminution or abatement for inconveniences or discomfort arising from the making of repairs or improvements or from action taken to comply with any law, ordinance or order of any governmental authority. The Association may assess any Common Expense associated with the maintenance, repair, or replacement of a Unit component or a Limited Common Element against the Units to which that component or Limited Common Element is assigned pro rata in accordance with the percentages specified in Exhibit B. Such Assessment shall be made in the same manner as an Assessment for a Common Expense and non-payment thereof shall constitute a lien on an Owner's Unit.

Section 9.4 Association Maintenance as Common Expense. Subject to availability of any insurance proceeds and notwithstanding the Association's right to assess certain expenses only to specified Owners, the cost of maintenance and repair by the Association is a Common Expense. Damage to the interior or any part of a Unit resulting from the maintenance, repair, or replacement of any of the Common Elements or as a result of emergency repairs within another

Unit at the instance of the Association shall also be Common Expense of all of the Owners. However, if such damage is caused by negligent or tortious acts of an Owner, or Permitted User, then such Owner shall be responsible and liable for all of such damage and the cost thereof, to the extent that Owner or Permitted User's negligence caused such damage, which must be timely paid. In the event the Owner fails to pay the cost of the damages incurred within the time permitted by the Executive Board, the Association may pay for said damages and charge the Owner responsible as a Default Assessment.

Section 9.5 No Other Alterations to Common Elements. Except as required herein, no Owner shall make any addition or other alteration to any portion of the Common Elements (either General and Limited Common Elements), no matter how minor, without the express written consent of the Board, which consent may be withheld in the Board's sole and absolute discretion.

## ARTICLE X. INSURANCE

Section 10.1 General Insurance Provisions. The Association shall acquire and pay for, out of the assessments levied under Article 11 below, the following insurance policies carried with reputable insurance companies authorized to do business in Colorado:

10.1.1 Property Insurance Coverage. Insurance for fire, water damage, and weather events, with extended coverage, vandalism, malicious mischief, all-risk, replacement cost, agreed amount (if the policy includes co-insurance), special condominium, building ordinance, and inflation guard endorsements attached, in amounts determined by the Board. The Association's property insurance policy shall provide coverage on a replacement cost basis (as such term is generally used in standard property policies or the equivalent) to allow for rebuilding the building structures; the exterior components of the Units; partition and party walls and interior partition walls, and components located in walls (including framing, plumbing, electrical, and mechanical components); and all portions of the Common Elements. The Association is not required to obtain property insurance for finishes to surfaces of walls, floors, or ceilings within the Unit (including, but not limited to texture, paint, wallpaper, paneling, other wall coverings and window coverings, tile, carpet or floor coverings). Further, the Association is not required to obtain property insurance for cabinetry, fixtures, appliances, equipment within or serving exclusively the Unit (for example, air conditioners, including condensers and lines running from/to such equipment), or any betterments, improvements, or additions to Units made by Owners or their predecessors, unless required by an Agency. Maximum deductible amounts for such policy shall be determined by the Board. In the event the Community has central heating or cooling or contains a steam boiler, coverage for loss or damage resulting from steam boiler and machinery equipment accidents in an amount equal to the lower of one million dollars (\$1,000,000) or the insurable value of the buildings housing the boiler or machinery shall also be obtained. Each Owner shall be responsible for obtaining additional or supplemental insurance covering any finishes, fixtures (unless required to be insured by the Association by an Agency) additions, alterations or Improvements to his Unit which increase the replacement value of his Unit.

In the event that a satisfactory arrangement is not made for additional insurance by the Owner, the Owner shall be responsible for any deficiency in any resulting insurance loss recovery and the Association shall not be obligated to apply any insurance proceeds to restore the affected Unit to a condition better than the condition existing prior to the making of such additions, alterations or Improvements. Any additional premiums attributable to the original specifications of a Unit for which the insurance is increased as herein provided may be the subject of a lien for nonpayment as provided in Section 11.7 hereof in the event the Association pays such premium for an Owner. The Board shall regularly obtain an appraisal estimating the full replacement value of the entire condominium improvements, without deduction for depreciation, for the purpose of determining the amount of the insurance to be effected pursuant to the provisions of this insurance paragraph.

10.1.2 Commercial General Liability. Commercial general liability insurance for the Community in such amounts as the Board deems desirable, provided that such coverage shall be for at least one million dollars (\$1,000,000) for bodily injury, including death and property damage arising out of a single occurrence insuring the Association, the Board, the Manager, if any, and their respective agents and employees, and the Owners from liability in connection with the operation, maintenance and use of Common Elements and must include a “severability of interest” clause or specific endorsement. Such coverage shall also include legal liability arising out of contracts of the Association and such other risks as are customarily covered with respect to condominiums similar to the Community in the Summit County, Colorado area including automobile liability insurance if appropriate. The Board shall not enter into employment contracts or independent contractor contracts of any kind unless the contracting party provides evidence (such as a Certificate of Insurance) to the Board that such party has current and satisfactory insurance, including workers compensation insurance, commercial general liability and automobile insurance on all of which the Association is named as an additional insured.

10.1.3 Requirements of Hazard Insurance and Comprehensive Liability Insurance. The insurance policies required by Sections 10.1.1 and 10.1.2 above may be carried in blanket policy form naming the Association as the insured, for the use and benefit of and as attorney-in-fact for the Owners. Each Owner shall be an insured person under the policy with respect to liability arising out of such Owner’s interest in the Common Elements or membership in the Association. Each Mortgagee and its successors or assigns shall be a beneficiary of the policy in the percentages of Common Expenses for the Unit which the Mortgage encumbers. The insurance company shall waive its rights of subrogation under the insurance policy against any Owner or member of the Owner’s household. No act or omission by any Owner, unless acting within the scope of such Owner’s authority on behalf of the Association, shall void the insurance policy or be a condition to recovery under the insurance policy. If, at the time of a loss under an insurance policy described above there is other insurance in the name of the Owner covering the same risk covered by the policy, the Association’s policy shall provide primary insurance.

10.1.4 Mandatory Owner’s Insurance. Owners are informed that the Association may choose to carry “bare walls” coverage on the Units and that the Association’s insurance

may not be sufficient to cover all losses an Owner may suffer in a casualty. Each Owner of a Unit shall obtain and maintain insurance coverage on the furnishings, finishes, fixtures and other items of personal property belonging to an Owner and any additions and alterations to a Unit which increase the Unit's replacement value above that of the original specifications for the Unit, casualty and public liability insurance coverage for each Unit and the Limited Common Elements appurtenant, and workman's compensation insurance covering work within each Unit or on the Limited Common Elements appurtenant thereto as available. Owners are encouraged to consult with their insurance agent and obtain sufficient coverage against potential special assessments where such coverage is available. In the event an Owner fails to obtain and maintain such insurance, and an uninsured loss occurs which would have otherwise been covered under the insurance required by this paragraph, such Owner shall be liable to the Association or other Unit Owner for the loss suffered, and the Association shall be entitled to recover such amounts from the Owner in the same manner as any other debts owed to the Association. Unit Owners may carry other insurance for their benefit and at their expense, provided that all such policies shall contain waivers of subrogation, and provided further that the liability of the carriers issuing insurance obtained by the Board shall not be affected or diminished by reason of any such additional insurance carried by any Unit Owner.

Section 10.2 Certificates of Insurance: Cancellation. The Association will comply with the annual disclosure requirements specific to insurance policies as mandated by CCIOA. All policies required to be carried under this Article 10 shall provide a standard non-contributory mortgagee clause in favor of each First Mortgagee of a Unit and shall provide that such policy cannot be canceled by the insurance company without at least thirty (30) days prior written notice to each Owner and each First Mortgagee whose address is shown in the records maintained pursuant to the Association Documents. If the insurance described in this Article 10 is not reasonably available, or if any policy of such insurance is canceled or not renewed without a replacement policy therefor having been obtained, the Association promptly shall cause notice of that fact to be hand delivered or sent prepaid by United States mail to all Owners and to all First Mortgagees.

Section 10.3 Insurance Proceeds. Any loss covered by the Association's insurance policies described in Section 10.1 must be adjusted with the Association, but the insurance proceeds for that loss shall be payable to any trustee designated for that purpose, or otherwise to the Association, and not to any holder of a security interest. The insurance trustee or the Association shall hold any insurance proceeds in trust for the Owners and Mortgagees as their interests may appear. Subject to the provisions of Section 10.4 below, the proceeds must be disbursed first for the repair or restoration of the damaged property, and the Association, Owners and Mortgagees are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the damaged property has been completely repaired or restored or the regime created by this Declaration is terminated.

Section 10.4 Repair and Replacement. Any portion of the Community, including the Common Elements and Units, for which insurance is required under this Article that is damaged or destroyed must be repaired or replaced by the Association unless:



10.4.1 The common interest community created by this Declaration is terminated in which case the approval must first be obtained of Owners to whom eighty-five percent (85%) of the votes in the Association are allocated and all First Mortgagees; or

10.4.2 Repair or replacement would be illegal under any state or local statute or ordinance governing health or safety; or

10.4.3 There is a vote not to repair or replace by (a) Owners to whom at least eighty-five percent (85%) of vote in the Association are allocated and (b) every Owner of a Unit or assigned Limited Common Element that will not be repaired or replaced.

In the event a Unit is not repaired or replaced in accordance with this Section 10.4, the Allocated Interest may be reallocated between the remaining and reconstructed Units in accordance with the formula set forth in 2.2. The cost of repair or replacement of Common Elements in excess of insurance proceeds and reserves is a Common Expense. If all the Common Elements are not repaired or replaced, the insurance proceeds attributable to the damaged Common Elements must be used to restore the damaged area to a condition compatible with the remainder of the Community, and except to the extent that other persons will be distributees, the insurance proceeds must be distributed to all the Owners or Mortgagees, as their interests may appear in proportion to each Owner's allocated interests in ownership of the Common Elements.

Section 10.5 Fidelity Insurance. Fidelity insurance or fidelity bonds must be maintained by the Association to protect against dishonest acts on the part of its officers, directors, trustees and employees and on the part of all others, including any manager hired by the Association, who handle or are responsible for handling the funds belonging to or administered by the Association in an amount not less than one and one half (1 ½) times the estimated annual operating expenses of the Association, and all amounts held in reserves. . In addition, if responsibility for handling funds is delegated to a Manager, such insurance or bonds must be obtained by or for the Manager and its officers, employees and agents, as applicable. Such fidelity insurance or bonds shall contain waivers of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees," or similar terms or expressions.

Section 10.6 Workers' Compensation Insurance. The Board shall obtain workers' compensation in the amounts and forms as may now or hereafter be required by law.

Section 10.7 Directors and Officers Liability Insurance. The Association shall also maintain insurance to the extent reasonably available and in such amounts as the Board may deem appropriate on behalf of the Board and the Association's officers against any liability asserted against a member of the Board or incurred by him in his capacity of or arising out of his status as a member of the Board.

Section 10.8 Other Insurance. The Association shall maintain flood insurance if any part of the Community is located within a Special Flood Hazard Area on a Flood Insurance Rate

Map, equal to the lesser of one hundred percent (100%) of the insurable value of the Community or the maximum coverage available under the appropriate National Flood Insurance Program. The Executive Board may obtain insurance against such other risks of a similar or dissimilar nature as it shall deem appropriate with respect to the Association's responsibilities and duties.

Section 10.9 Common Expenses. Premiums for insurance that the Association acquires and other expenses connected with acquiring such insurance are Common Expenses, provided, however, that if some of the insurance is attributable to some but not all of the Units, the Association reserves the right to charge the Owners for which the insurance coverage is attributable, an amount equal to the premium attributable to such additional insurance coverage.

Section 10.10 Policies Regarding Claims and Deductibles. The Association may adopt and establish written nondiscriminatory policies and procedures relating to the submittal of claims, responsibility for deductibles, and any other matters of claims adjustment. To the extent the Association settles claims for damages to the Property, it shall have the authority to assess Unit Owners causing such loss or benefiting from such repair or restoration all deductibles paid by the Association. Any loss less than the specified deductible of such policy shall be borne by the person or entity who is responsible for the repair and maintenance of the property which is damaged or destroyed. In the event of a joint duty of repair and maintenance between the Association and a Unit Owner of the damaged or destroyed property, then the deductible shall be borne by the Association and Owner pro rata based on the amounts attributable to each. In the event that more than one Unit is damaged by a loss, the Association in its reasonable discretion may assess each Unit Owner a pro rata share of any deductible required by such policy. Notwithstanding the foregoing, after notice and hearing, the Board may determine that a loss, either in the form of a deductible to be paid by the Association or an uninsured loss resulted from the act or negligence of an Owner. Upon such determination, any such loss or portion thereof may be assessed to the Owner in question and the Association may collect the amount from said Owner in the same manner as a Default Assessment.

Section 10.11 Maintenance and Insurance Chart. The obligations of Owners and the Association to provide specified maintenance, repair, and replacement of portions of the Units and Common Elements differ from their obligations with respect to insurance of the Units and Common Elements. The Association may adopt and establish written documentation clarifying and specifying the respective obligations of Owners and the Association for maintenance and insurance; provided that, in the event of any conflict between such documentation and this Declaration, this Declaration shall control.

## ARTICLE XI. ASSESSMENTS

Section 11.1 Obligation. Each Owner is obligated to pay to the Association: (i) the Annual Assessments; (ii) Special Assessments; and (iii) Default Assessments. Each Assessment against a Unit is the personal obligation, jointly and severally, of the Owner(s) at the time the Assessment became due and, unless a purchaser complies with the provisions of Section 11.9 below, shall pass to successors in title, jointly and severally. No Owner may exempt himself from liability for the Assessment by abandonment of his Unit or by waiver of the use or

enjoyment of all or any part of the Common Elements. Suit to recover a money judgment for unpaid Assessments, any penalties and interest thereon, the cost and expenses of such proceedings, and all reasonable attorneys' fees in connection therewith shall be maintainable without foreclosing or waiving the Assessment lien provided in this Declaration. All Assessments shall be payable in accordance with the levy thereof, and no offsets or deductions thereof shall be permitted for any reason including, without limitation, any claim that the Association or the Board is not properly exercising its duties and powers under the Association Documents or by waiver of the use and enjoyment of any of the Common Elements or by abandonment of the Owner's Unit.

Section 11.2 Budget. The Board shall, in advance, prepare and adopt a proposed Common Expense budget annually based on estimated Common Expenses. Estimated Common Expenses shall include, but shall not be limited to: routine maintenance and operation of the Common Elements; expenses of management; taxes and special assessments until separately assessed; premiums for insurance; landscaping and care of grounds; common lighting and heating; repairs and renovations; trash collections; wages; common water and sewer charges; legal and accounting fees; management fees; expenses and liabilities incurred by the Managing Agent or Board on behalf of the Unit Owners under or by reason of the Association Documents; for any deficit remaining from a previous period; for the creation of a reasonable contingency, reserve, working capital, and sinking funds; as well as other costs and expenses relating to the common elements. Within ninety (90) days after adoption of any proposed budget for the Community, the Board of Directors shall mail, by ordinary first-class mail, or otherwise deliver, including posting the proposed budget on the Association's website, a summary of the Association budget to all the Owners and shall set a date for a meeting of the Owners to consider the budget. The meeting must occur within a reasonable time after mailing or other delivery of the summary, or as allowed for in the Bylaws. The Board shall cause notice to the Owners to be given as allowed for in the Bylaws. The proposed budget does not require approval by Owners and is deemed approved by the Owners in the absence of a veto at the meeting by the Owners of Lots to which at least a majority of all the votes in the Association are allocated, whether or not a quorum is present. In the event that the proposed budget is vetoed, the periodic budget last proposed by the Board and not vetoed by the Owners must be continued until a subsequent budget proposed by the Board is not vetoed by the Owners. The Board may revise the budget and adjust the Annual Assessment from time to time during the year, subject to the notice requirements set forth above.

Section 11.3 Annual Assessments. Annual Assessments made for Common Expenses shall be based upon the adopted budget. Except as expressly otherwise provided herein, the Board shall levy and assess the Annual Assessments to each Owner in accordance with the Allocated Interests in effect on the date of the Annual Assessment as shown on Exhibit B, provided, however, that the Board reserves the right to allocate all expenses relating to fewer than all of the Units, including Limited Common Element and Garage expenses, to the Owners of those affected Units only. Utility expenses benefiting only one Unit shall be assessed to that Unit to the extent possible. Utility expenses that are not uniform benefiting more than one Unit shall be assessed to the Units benefited in accordance with their relative Allocated Interests in allocation of Common Expenses. Cable and internet expenses, and other similar utility expenses that are available on a uniform per-Unit basis, shall be assessed to the Units on the same basis

and not in accordance with their relative Allocated Interests. Annual Assessments shall be payable in advance monthly or on such other basis as may be determined by the Board, and shall be due on the first day of each period in regular installments on a prorated basis. The omission or failure of the Association to fix the Annual Assessments for any assessment shall not be deemed a waiver, modification or release of the Owners from their obligation to pay the same.

Section 11.4 Date of Commencement of Annual Assessments. The Annual Assessments shall commence as to each Unit on the first day of the month following the effective date of adoption of the budget. Any Owner purchasing a Unit between installment due dates shall pay a pro rata share of the installment due.

Section 11.5 Special Assessments. In addition to the Annual Assessments, the Executive Board may levy Special Assessments payable over such a period as the Executive Board may determine, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of improvements within the Common Elements or for any other expense incurred or to be incurred as provided in this Declaration. Any Special Assessment shall be submitted to the Owners in the same manner as provided for the budget in Section 11.2, provided that Owners are not entitled to veto any Special Assessment imposed under the provisions of Section 12.4. Any amounts assessed pursuant to this Section shall be assessed to Owners according to their Allocated Interests for Common Expenses, subject to the right of the Association to assess the Special Assessment only against the Owners of affected Units. Notice in writing of the amount of such Special Assessments and the time for payment of the Special Assessments shall be given promptly to the Owners, and no payment shall be due less than thirty (30) days after such notice has been given.

Section 11.6 Default Assessments. All fines or charges assessed against an Owner pursuant to the Association Documents, or any expense of the Association which is the obligation of an Owner or which is incurred by the Association on behalf of the Owner pursuant to the Association Documents, shall be a Default Assessment and shall become a lien against such Owner's Unit which may be foreclosed or otherwise collected as provided in this Declaration. Notice of the amount and due date of such Default Assessment shall be sent to the Owner subject to such Assessment at least seven (7) days prior to the due date.

Section 11.7 Working Capital Account. The Association shall require each new Owner of a Unit to make a non-refundable payment to the Association in an amount equal to one-fourth (1/4) of the Annual Assessment for the Unit, which sum shall be held by the Association to meet capital repairs or replacements, extraordinary Common Expenses, acquire additional services or equipment, or as a maintenance reserve. A working capital account contribution shall be collected and transferred to the Association at the time of closing of the sale, or re-sale, of each Unit, and shall be maintained for the use and benefit of the Association. Such payment shall not relieve an Owner from making regular payments of Assessments. Upon a Unit's transfer, the selling Owner shall not be entitled to a credit from the transferee or the Association for any contributions made to the working capital account.

Section 11.7 Effect of Nonpayment: Assessment Lien. Any Assessment installment, whether pertaining to any Annual, Special, or Default Assessment, which is not paid when due

shall be delinquent. If an Assessment installment becomes delinquent, the Association, in its sole discretion, may take any or all of the following actions:

11.7.1 If the delinquency continues for a period of thirty (30) days, assess a late charge for each delinquency in such amount as the Association deems appropriate and assess an interest charge from the due date until paid at the yearly rate established by the Board, not to exceed eighteen percent (18%) per year;

11.7.2 Suspend the voting rights of the Owner and/or the right to use Common Element amenities during any period of delinquency;

11.7.3 Accelerate all remaining Assessment installments so that unpaid assessments for the remainder of the fiscal year shall be due and payable at once;

11.7.4 Bring an action at law against any Owner personally obligated to pay the delinquent Assessments;

11.7.5 Proceed with foreclosure as set forth in more detail below; and

11.7.6 Suspend any of the Owner's membership privileges.

Assessments chargeable to any Unit are a lien on such Unit. Such lien will be subject to the provisions of Colorado Revised Statutes, Section 38-33.3-316. Such lien will be superior to all other liens, except (a) the liens of all taxes, bonds, assessments and other levies which by law should be superior and (b) the lien or charge of any first mortgage made in good faith and for value. Notwithstanding the foregoing, the Association's lien for delinquent Assessments will be prior to a first mortgage to the extent of an amount equal to the Assessments which would have come due, in the absence of acceleration, during the six months immediately preceding institution by either the Association or any First Mortgagee of an action or a non-judicial foreclosure either to enforce or extinguish the lien. The Association may institute foreclosure proceedings against the defaulting Owner's Unit in the manner for foreclosing a mortgage on real property under the laws of the State of Colorado. In the event of any such foreclosure, the Owner shall be liable for the amount of unpaid Assessments, any penalties and interest thereon, the cost and expenses of such proceedings, the cost and expenses for filing the notice of the claim and lien, and all reasonable attorney's fees incurred in connection with the enforcement of the lien. The Owner shall be required to pay the Association the monthly assessment installments for the Unit during the period of any foreclosure. The Association shall have the power to bid on a Unit at foreclosure sale and to acquire and hold, lease, mortgage and convey the same. The Association's lien shall be superior to any homestead exemption now or hereafter provided by the laws of the State of Colorado or any homestead exemption now or hereafter provided by the laws of the United States. The acceptance of a deed to a Unit subject to this Declaration shall constitute a waiver of the homestead and any other exemption as against said assessment lien.

Section 11.8 Payment by Mortgagee. Any Mortgagee holding a lien on a Unit may pay any unpaid amount payable with respect to such Unit, together with any and all costs and

expenses incurred with respect to the lien and upon such payment that Mortgagee shall have a lien on the Unit for the amounts paid with the same priority as the lien of the Mortgage.

Section 11.9 Statement of Status of Assessment Payment. Upon payment of a reasonable fee and upon fourteen (14) days' written request to the Association's registered agent by personal delivery or certified mail, first-class postage prepaid, return receipt, any Owner, designee of Owner, Agency, Mortgagee, prospective Mortgagee or prospective purchaser of a Unit shall be furnished with a written statement setting forth the amount of the unpaid Assessments, if any, with respect to such Unit. Unless such statement shall be issued by personal delivery or by certified mail, first class postage prepaid, return receipt requested to the inquiring party (in which event the date of posting shall be deemed the date of delivery) within fourteen (14) days after receipt of the request, the Association shall have no right to assert a lien upon the Unit for unpaid Assessments which were due as of the date of the request.

Section 11.10 Maintenance Accounts: Accounting. If the Association delegates powers of the Board or its officers relating to collection, deposit, transfer or disbursement of Association funds to other persons or to a manager, then such other persons or manager must: (a) maintain all funds and accounts of the Association separate from the funds and accounts of other associations managed by the other person or manager, (b) maintain all reserve accounts of the Association separate from the operational accounts of the Association, and (c) provide to the Association no less than once per quarter an accounting for the previous quarter. In addition, the Association shall obtain an annual accounting and financial statement of Association funds (on either a review or audit basis, at the Association's discretion) and annual tax returns prepared by a certified public accountant.

Section 11.11 Encumbrances: Priority. A Unit Owner may create a junior mortgage (junior to the lien, deed of, trust, or other encumbrance of the First Mortgagee), liens, or encumbrances on his Unit; provided, however, that any such junior mortgages, liens, or encumbrances shall always be subordinate to the prior and paramount lien of the Association for Common Expenses and all of the terms, conditions, covenants, restrictions, uses, limitations, and obligations under the Association Documents, and provided further that such junior encumbrances shall release, for purposes of restoration of any improvements upon the encumbered Unit, all of his right, title, and interest in and to the proceeds under all insurance policies upon said premises by the Association. Such release shall be furnished forthwith by a junior mortgagee upon written request of the Association, and if such request is not granted, such release may be executed by the Association as attorney-in-fact for such junior mortgagee.

## ARTICLE XII. DAMAGE OR DESTRUCTION

Section 12.1 The Role of the Board. Except as provided in Section 10.4, in the event of damage to or destruction of all or part of any Common Elements, or other property covered by insurance written in the name of the Association under Article 10, the Board shall arrange for and supervise the repair and restoration of the damaged property (the property insured by the Association pursuant to Article 10 is sometimes referred to as the "Association-Insured Property").

Section 12.2 Estimate of Damages or Destruction. As soon as practicable after an event causing damage to or destruction of any part of the Association-Insured Property, the Board shall, unless such damage or destruction shall be minor, obtain an estimate or estimates that it deems reliable and complete of the costs of repair and reconstruction. For purposes of this Section, “minor” means less than \$1,000.00 unless the Association determines any particular damage or destruction of a less than such amount not to be minor. “Repair and reconstruction” as used in this Article shall mean restoring the damaged or destroyed improvements to substantially the same condition in which they existed prior to the damage or destruction unless the approval is obtained from Owners to whom at least seventy-five percent (75%) of the ownership interests in the Common Elements are allocated, including every Owner of a Unit or assigned Limited Common Element that will not be repaired or reconstructed. Such costs may also include professional fees and premiums for such bonds as the Board or the insurance trustee, if any, determines to be necessary.

Section 12.3 Repair and Reconstruction. As soon as practical after the damage occurs and any required estimates have been obtained, the Association shall diligently pursue to completion the repair and reconstruction of the damaged or destroyed Association-Insured Property. As attorney-in-fact for the Owners, the Association may take any and all necessary or appropriate action to effect repair and reconstruction of any damage to the Association-Insured Property, and no consent or other action by any Owner shall be necessary. Assessments of the Association shall not be abated during the period of insurance adjustments and repair and reconstruction.

Section 12.4 Funds for Repair and Reconstruction. The proceeds received by the Association from any property insurance carried by the Association shall be used for the purpose of repair, replacement and reconstruction of the Association-Insured Property for the benefit of Owners and Mortgagees. If the proceeds of the Association’s insurance are sufficient to pay the estimated or actual cost of such repair or reconstruction, or if upon completion of such work the insurance proceeds for the payment of such work are insufficient, the Association may, pursuant to Section 11.5, levy, assess and collect in advance from the Owners a Special Assessment sufficient to provide funds to pay such estimated or actual costs of repair and reconstruction. Further levies may be made in a like manner if the amounts collected prove insufficient to complete the repair, replacement or reconstruction.

Section 12.5 Disbursement of Funds for Repair and Reconstruction. The insurance proceeds held by and the amounts received from the Special Assessments provided for above, constitute a fund for the payment of the costs of repair and reconstruction after casualty. It shall be deemed that the first money disbursed in payment for the costs of repair and reconstruction shall be made from insurance proceeds, and the balance from the Special Assessments. If there is a balance remaining after payment of all costs of such repair and reconstruction, such balance shall be distributed to the Owners in proportion to the contribution each Owner made pursuant to the Special Assessments the Association made for such repair and reconstruction.

### ARTICLE XIII. CONDEMNATION

Section 13.1 Rights of Owners. Whenever all or any part of the Common Elements is taken by power of condemnation or eminent domain or whenever all or any part of the Common Elements is conveyed by the Board acting as attorney-in-fact for all Owners under instructions from any authority having the power of condemnation or eminent domain in lieu of a taking under threat of condemnation, each Owner shall be entitled to notice of the taking or conveying. The Association shall act as attorney-in-fact for all Owners in the proceedings incident to the condemnation proceeding, unless otherwise prohibited by law.

Section 13.2 Partial Condemnation; Distribution of Award; Reconstruction. The award made for such taking shall be payable to the Association for the benefit of the Owners and Mortgagees and, unless otherwise required under the CCIOA, the award shall be disbursed as follows:

If the taking involves a portion of the Common Elements on which improvements have been constructed, then, unless within sixty (60) days after such taking Owners to whom at least sixty-seven percent (67%) of the ownership interests in the Common Elements are allocated and sixty-seven percent (67%) of all First Mortgagees shall otherwise agree, the Association shall restore or replace such improvements so taken on the remaining land included in the Common Elements to the extent lands are available for such restoration or replacement in accordance with plans approved by the Executives Board. If such improvements are to be repaired or restored, the provisions in Article 12 above regarding the disbursement of funds in respect to casualty damage or destruction which is to be repaired shall apply. If the taking does not involve any improvements on the Common Elements, or if there is a decision made not to repair or restore, or if there are net funds remaining after any such restoration or replacement is completed, then such award or net funds shall be retained by the Association to offset future expenses of the Association.

Section 13.3 Complete Condemnation. If all of the Property is taken, condemned, sold or otherwise disposed of in lieu of or in avoidance of condemnation, then the regime created by this Declaration shall terminate, provided that approval must first be obtained of sixty-seven percent (67%) of First Mortgagees, and the portion of the condemnation award attributable to the Common Elements shall be distributed as provided in the Colorado Revised Nonprofit Corporation Act upon liquidation of the Association.

### ARTICLE XIV. ASSOCIATION AS ATTORNEY-IN-FACT

Each Owner hereby irrevocably appoints the Association as the Owner's true and lawful attorney-in-fact for the purposes of (a) granting easements pursuant to Article 8, (b) purchasing and maintaining insurance pursuant to Article 10, including the collection and appropriate disposition of the proceeds thereof, the negotiation and settlement of losses and execution of releases of liability, the execution of all documents, and the performance of all other acts necessary to purchase and maintain insurance as well as dealing with any improvements covered



by insurance written in the name of the Association pursuant to Article 10 upon their damage or destruction as provided in Article 12, (c) negotiating and dealing with any authority having the power of condemnation or eminent domain relating to a complete or partial taking as provided in Article 13, above, or (d) acting in any other capacity on behalf of the Owners when approval by the Owners is required and has been obtained. Acceptance by a grantee of a deed or other instrument of conveyance or any other instrument conveying any portion of the Property shall constitute appointment of the Association as the grantee's attorney-in-fact for the purposes provided for herein, and the Association shall have full authorization, right and power to make, execute and deliver any contract, assignment, deed, waiver or other instrument with respect to the interest of any Owner which may be necessary to exercise the powers granted to the Association as attorney-in-fact.

## ARTICLE XV. ALTERATIONS, ADDITIONS OR IMPROVEMENTS TO COMMON ELEMENTS

Section 15.1 Alterations, Additions or Improvements to Common Elements. No alteration, addition or improvement to the Common Elements of any kind (including, without limitation, change in color or texture of exterior surfaces, modifications of doors or windows), or which in any manner affect the Common Elements (by way of example and not by way of limitation, addition of air conditioning units, hot tubs, spas, fireplaces, skylights, changes to patios or decks, and moving or removing structural walls), shall be made unless first approved in writing by the Board. All alterations, additions or improvements shall comply with any Rules adopted by the Board governing architectural or design considerations, signs, window coverings, lighting or other alterations, additions or improvements. The Board shall respond to any written request for approval of a proposed addition, alteration or improvement within forty-five (45) days after the complete submission of the plans, specifications and other materials and information which the Board may require in conjunction therewith. If the Board fails to approve or disapprove any request within forty-five (45) days after the complete submission of the plans, specifications, materials and other information with respect thereto, the request shall be deemed to have been denied by the Board. In the event the Board approves any such alteration, addition or improvement, it shall exercise reasonable business judgment to the end that any modifications to the Common Elements conform to and harmonize with existing surroundings and structures. The Board has the absolute right to deny any requested changes.

Section 15.2 Governmental Approval. If any application to any governmental authority for a permit to make any such alteration, addition or improvement requires execution by the Association, and provided approval has been given by the Board, then the application shall be executed on behalf of the Association by an authorized officer, without however incurring any liability on the part of the Board, the Association or any of them to any contractor, subcontractor or materialman on account of such alteration, addition or improvement, or to any person having claim for injury to person or damage to property arising therefrom.

Section 15.3 Architectural Review Committee. The Board shall have the right, without the obligation, to establish an Architectural Review Committee (the "Committee") which shall be responsible for such matters as may be assigned by the Board, which may include, by way of

example, and not by way of limitation, the following: establishment and administration of architectural or design guidelines, sign guidelines and criteria, window covering guidelines and lighting guidelines; review and recommendations for approval, disapproval or approval with conditions of alterations or additions to Common Elements (whether General or Limited); and such other matters as the Board may request.

Section 15.4 Association Right to Remove Unauthorized Alterations, Additions or Improvements. The Association, after reasonable notice to the Owner of the offending Unit, may remove any alterations, additions or improvements constructed, reconstructed, refinished, altered, or maintained in violation of this Declaration, and the Owner shall immediately reimburse the Association for all expenses incurred in connection with such removal.

## ARTICLE XVI. MORTGAGEE'S RIGHTS

The following provisions are for the benefit of holders, insurers or guarantors of First Mortgages. To the extent permitted under Colorado law and as applicable, necessary or proper, the provisions of this Article apply to this Declaration and also to the Articles, Bylaws and rules and regulations of the Association.

Section 16.1 Title Taken by First Mortgagee. Any First Mortgagee of record against a Unit who obtains title to the Unit pursuant to remedies exercised in enforcing the Mortgage, including foreclosure of the Mortgage or acceptance of a deed in lieu of foreclosure, will be liable for all Assessments due and payable as of the date title to the Unit (a) is acquired or (b) could have been acquired under the statutes of Colorado governing foreclosure, whichever is earlier.

Section 16.2 Distribution of Insurance or Condemnation Proceeds. In the event of a distribution of insurance proceeds or condemnation awards allocable among the Units for losses to, or taking of, all or part of the Common Elements, neither the Owner nor any other person shall take priority in receiving the distribution over the right of any First Mortgagee against the Unit.

Section 16.3 Right to Pay Taxes and Charges. First Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against any Common Elements, and may pay overdue premiums on insurance policies, or secure new hazard insurance coverage on the lapse of a policy for such Common Elements, and First Mortgagees making such payments shall be owed immediate reimbursement therefor from the Association.

Section 16.4 Audited Financial Statement. Upon written request from any Agency or Mortgagee which has an interest or prospective interest in any Unit or the Community, and upon payment in advance by such Agency or Mortgagee of the estimated cost as determined by the Board, the Association shall prepare and furnish within ninety (90) days an audited financial statement of the Association for the immediately preceding fiscal year at the expense of such Agency or Mortgagee.

Section 16.5 Notice of Action. Any First Mortgagee and any Agency which holds, insures or guarantees a First Mortgage, upon written request to the Association (which shall include the Agency's name and address and Unit number), will be entitled to timely written notice of:

16.5.1 Any condemnation or casualty loss that affects either a material portion of the Community or the Unit secured by the Mortgage;

16.5.2 Any sixty (60) day delinquency in the payment of Assessments or charges owed by the Owner of any Unit on which the Mortgagee holds the Mortgage;

16.5.3 A lapse, cancellation, or material modification of any insurance policy maintained by the Association; and

16.5.4 Any proposed action that requires the consent of a specified percentage of eligible Mortgagees.

Section 16.6 Action by Mortgagee. If this Declaration requires First Mortgagees to approve or consent to action of the Association, the Association shall send a dated, written notice and a copy of any proposed action by certified mail to each First Mortgagee at its address of record or as provided to the Association. An First Mortgagee that does not deliver to the Association a negative response within sixty (60) days after the date of the notice shall be deemed to have approved the proposed action. No approval or consent is required of mortgagees who are not also First Mortgagees.

Section 16.7 Junior Mortgages. The owner of a Unit may create junior mortgages on the following conditions: (a) that any such junior mortgages shall always be subordinate to all of the terms, conditions, covenants, restrictions, uses, limitations, obligations, liens for Common Expenses, and other obligations created by this Declaration and the Bylaws; and (b) that the mortgagee under any junior mortgage shall release, for the purpose of restoration of any improvements upon the mortgaged premises, all of his right, title and interest in and to the proceeds under all insurance policies upon said premises which insurance policies were effected and placed upon the mortgaged premises by the Association. Such release shall be furnished forthwith by a junior mortgagee upon written request of one or more of the members of the Board. If not given, such release may be executed by the Association, as attorney-in-fact for such junior mortgagee.

## ARTICLE XVII. DURATION OF COVENANTS AND AMENDMENT

Section 17.1 Term. The covenants and restrictions of this Declaration shall run with and bind the land in perpetuity, subject to the termination provisions of the CCIOA.

Section 17.2 Amendment. This Declaration, or any provision of it, may be amended at any time by the affirmative vote or agreement of Owners to whom at least sixty-seven percent

(67%) of ownership interests in the Common Elements are allocated, and First Mortgagees representing at least 67% all of the holders of the recorded first mortgages and first deeds of trust; further, Owners representing an aggregate unit ownership interest of at least seventy-five percent (75%) or more of the Common Elements First Mortgagees representing at least 67% all of the holders of the recorded first mortgages and first deeds of trust must vote in favor of amendments to the Declaration that create or increase special declarant rights, increase the number of Units, or change the boundaries of any Unit or the Allocated Interests of any Unit, and further, that the undivided interest in the Common Elements appurtenant to each Unit as expressed in the Original Declaration and specified in Exhibit B shall not be altered without the consent of all Unit Owners and all first mortgagees.

Section 17.3 Amendment for Certain Actions. Notwithstanding anything else contained in this Declaration, and except in case of condemnation or substantial loss to the Units and/or Common Elements, unless at least sixty-seven percent (67%) of First Mortgagees and Owners to whom at least sixty-seven percent (67%) of ownership interests in the Common Elements are allocated have given their prior written approval, the Association may not, except as otherwise provided herein:

17.3.1 By act or omission seek to abandon or terminate the condominium regime hereby;

17.3.2 Partition or subdivide any Unit, except as set forth in this Declaration;

17.3.3 Seek to abandon, partition, subdivide, encumber, sell or transfer the Common Elements, except as set forth in this Declaration, by act or omission other than the grant of easements for public utilities or other public purposes consistent with the intended use of the Common Elements;

17.3.4 Use hazard insurance proceeds for losses to any part of the Property (whether Units or Common Elements) for other than the repair, replacement or reconstruction of the Community.

Section 17.4 Execution of Amendment. Any amendment must be executed by the President of the Association and recorded, and approval of such amendment may be shown by attaching a certificate of the Secretary of Association to the recorded instrument certifying the approval of the amendment by a sufficient number of Owners and First Mortgagees, if applicable.

## ARTICLE XVIII. LIMIT ON TIMESHARING

No Unit shall be used (a) for the operation of a timesharing, fraction-sharing or similar program whereby the right to exclusive use of the Unit rotates among participants in the program on a fixed or floating time schedule over a period of years; or (b) for the operation of a reservation or time-use system among co-Owners of a Unit managed by a party other than the co-Owners themselves or a system whereby co-Owners are required as a condition of purchase of a fractional interest in the Unit to subject the fractional interest to a pre-determined reservation

or time-use system among co-Owners, regardless of whether or not the co-Owner may later opt out of such system and regardless of whether the reservation or time-use system is recorded or unrecorded, fixed or floating.

## ARTICLE XIX. GENERAL PROVISIONS

Section 19.1 Notice. Any notice to an Owner of matters affecting the Community by the Association or by another Owner shall be sufficiently given and effective if in writing and, if delivered personally by courier or private service delivery on the date of delivery, or if delivered by mail, on the fifth business day after deposit in the U.S. mail at the address provided to the Association by the Owner, and if none, to the address of record for real property tax assessment notices with respect to that Owner's Unit. Any notice to the Association by an Owner shall be sufficiently given and effective if in writing and if delivered by mail to the address of record with the Colorado Secretary of State.

Section 19.2 Enforcement. The Association on behalf of itself and any aggrieved Owner shall be granted a right of action against any and all Owners for failure to comply with the provisions of the Association Documents, or with decisions of the Board made pursuant to authority granted to the Association in the Association Documents. In any action covered by this Section, the Association or any Owner shall have the right but not the obligation to enforce the Association Documents by any proceeding at law or in equity, or as set forth in the Association Documents, or by mediation or other alternative dispute resolution. The prevailing party in any arbitration or judicial relief shall be entitled to reimbursement from the non-prevailing party or parties, for all costs and expenses, including attorney's fees in connection with such arbitration or judicial relief. Failure by the Association or by any Owner to enforce compliance with any provision of the Association Documents shall not be deemed a waiver of the right to enforce any provision thereafter. Without limiting the generality of the foregoing, the Board may determine that, under the circumstances of a particular case: (a) the Association's position is not strong enough to justify taking any or further action; (b) the covenant, restriction, or rule being enforced is, or is likely to be construed as, inconsistent with applicable law; (c) although a technical violation may exist or may have occurred, it is not of such a material nature to justify expending the Association's resources; or, (d) that it is not in the Association's best interests, based on hardship, expense, or other reasonable criteria, to pursue enforcement.

Section 19.3 Severability. Invalidity of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 19.4 Conflicts Between Documents. In case of conflict between this Declaration and the Articles and the Bylaws of the Association, this Declaration shall control. In case of conflict between the Articles and the Bylaws, the Articles shall control.

Section 19.5 Supplement to Law. The provisions of this Declaration shall be in addition and supplemental to applicable Colorado law.

In Witness Whereof the undersigned Secretary of the Association has set his hand on the day and year first set forth above certifying that Owners representing the requisite percentage of Units and First Mortgagees have given their affirmative vote or agreement to the adoption of this Amended and Restated Condominium Declaration for Silver Queen West at Wildernest Condominium Association.

ASSOCIATION:  
Silver Queen West at Wildernest  
Condominium Association

By: Jaane Hipple  
Secretary  
President

STATE OF COLORADO                    )  
  ) ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged, subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 2022, by \_\_\_\_\_ as ~~Secretary~~ of Silver Queen West at Wildernest Condominium Association. President

Witness my hand and official seal.  
My commission expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

EXHIBIT A  
TO  
AMENDED AND RESTATED CONDOMINIUM DECLARATION FOR  
SILVER QUEEN WEST AT WILDERNEST CONDOMINIUM ASSOCIATION

PROPERTY SUBJECT TO DECLARATION

LEGAL DESCRIPTION:

A parcel of land being a portion of Lot 4, WILDERNEST FILING NO. 2, a Subdivision Plat filed for record in the office of the Clerk and Recorder, Summit County, Colorado, being more particularly described as follows:

Beginning at the Southwest corner of said Lot 4, also being a point on the Easterly right-of-way line of Ryan Gulch road a 60-foot wide road in said Wilderndest Filing No. 2; thence N 16°52'30" W along said Easterly right-of-way line a distance of 231.80 feet; thence N 29°22'00" E a distance of 349.28 feet; thence N. 85°40'04" E a distance of 200.00 feet to the Easterly boundary line of said Lot 4; thence S 04°19'56" along said Easterly boundary line a distance of 420.00 feet; thence S 29°40'47" W along the Southeasterly boundary line of said Lot 4 a distance of 120.00 feet; thence S 86°12'35" W Along the Southerly boundary line of said Lot 4 a distance of 276.34 feet to the point of beginning.

**EXHIBIT B**  
**TO**  
**AMENDED AND RESTATED CONDOMINIUM DECLARATION FOR**  
**SILVER QUEEN WEST AT WILDERNEST CONDOMINIUM ASSOCIATION**  
**(Allocated Interests)**

<b>Unit Number</b>	<b>Address</b>	<b>Votes in the Association</b>	<b>Square Footage</b>	<b>Common Element Ownership Interest and Common Expense Liability including D-302</b>
A-101	7011	7	636	0.8518%
A-102	7012	8	770	1.0313%
A-103	7013	8	770	1.0313%
A-104	7014	8	770	1.0313%
A-105	7015	8	770	1.0313%
A-106	7016	8	770	1.0313%
A-107	7017	7	637	0.8531%
A-201	7021	7	636	0.8518%
A-202	7022	8	770	1.0313%
A-203	7023	8	770	1.0313%
A-204	7024	8	770	1.0313%
A-205	7025	8	770	1.0313%
A-206	7026	8	770	1.0313%
A-207	7027	7	637	0.8531%
A-301	7031	8	846	1.1330%
A-302	7032	9	953	1.2764%
A-303	7033	9	953	1.2764%
A-304	7034	9	953	1.2764%
A-305	7035	9	953	1.2764%
A-306	7036	9	953	1.2764%
A-307	7037	8	846	1.1330%
B-101	7111	7	636	0.8518%
B-102	7112	8	770	1.0313%
B-103	7113	8	770	1.0313%
B-104	7114	8	770	1.0313%
B-105	7115	8	770	1.0313%
B-106	7116	8	770	1.0313%
B-107	7117	7	637	0.8531%
B-201	7121	7	636	0.8518%
B-202	7122	8	770	1.0313%
B-203	7123	8	770	1.0313%
B-204	7124	8	770	1.0313%



<b>Unit Number</b>	<b>Address</b>	<b>Votes in the Association</b>	<b>Square Footage</b>	<b>Common Element Ownership Interest and Common Expense Liability including D-302</b>
B-205	7125	8	770	1.0313%
B-206	7126	8	770	1.0313%
B-207	7127	7	637	0.8531%
B-301	7131	8	846	1.1330%
B-302	7132	9	953	1.2764%
B-303	7133	9	953	1.2764%
B-304	7134	9	953	1.2764%
B-305	7135	9	953	1.2764%
B-306	7136	9	953	1.2764%
B-307	7137	8	846	1.1330%
C-01	7200	6	438	0.5866%
C-02	7201	5	339	0.4540%
C-03	7202	5	339	0.4540%
C-04	7203	5	339	0.4540%
C-05	7204	5	339	0.4540%
C-06	7205	5	339	0.4540%
C-07	7206	5	339	0.4540%
C-08	7207	5	339	0.4540%
C-09	7208	5	339	0.4540%
C-010	7209	5	339	0.4540%
C-011	7210	6	438	0.5866%
C-101	7211	7	636	0.8518%
C-102	7212	8	770	1.0313%
C-103	7213	8	770	1.0313%
C-104	7214	8	770	1.0313%
C-105	7215	8	770	1.0313%
C-106	7216	8	770	1.0313%
C-107	7217	7	637	0.8531%
C-201	7221	7	636	0.8518%
C-202	7222	8	770	1.0313%
C-203	7223	8	770	1.0313%
C-204	7224	8	770	1.0313%
C-205	7225	8	770	1.0313%
C-206	7226	8	770	1.0313%
C-207	7227	7	637	0.8531%
C-301	7231	8	846	1.1330%
C-302	7232	9	953	1.2764%
C-303	7233	9	953	1.2764%

Unit Number	Address	Votes in the Association	Square Footage	Common Element Ownership Interest and Common Expense Liability including D-302
C-304	7234	9	953	1.2764%
C-305	7235	9	953	1.2764%
C-306	7236	9	953	1.2764%
C-307	7237	8	846	1.1330%
D-01	7300	6	438	0.5866%
D-02	7301	5	339	0.4540%
D-03	7302	5	339	0.4540%
D-04	7303	5	339	0.4540%
D-05	7304	5	339	0.4540%
D-06	7305	5	339	0.4540%
D-07	7306	5	339	0.4540%
D-08	7307	5	339	0.4540%
D-09	7308	5	339	0.4540%
D-010	7309	5	339	0.4540%
D-011	7310	6	438	0.5866%
D-101	7311	7	636	0.8518%
D-102	7312	8	770	1.0313%
D-103	7313	8	770	1.0313%
D-104	7314	8	770	1.0313%
D-105	7315	8	770	1.0313%
D-106	7316	8	770	1.0313%
D-107	7317	7	637	0.8531%
D-201	7321	7	636	0.8518%
D-202	7322	8	770	1.0313%
D-203	7323	8	770	1.0313%
D-204	7324	8	770	1.0313%
D-205	7325	8	770	1.0313%
D-206	7326	8	770	1.0313%
D-207	7327	7	637	0.8531%
D-301	7331	8	846	1.1330%
D-302*	7332	9	953	1.2764%
D-303	7333	9	953	1.2764%
D-304	7334	9	953	1.2764%
D-305	7335	9	953	1.2764%
D-306	7336	9	953	1.2764%
D-307	7337	8	846	1.1330%
SUM			74666	100.0000%

\*Unit D-302, 7332 Ryan Gulch Road, is the Unit owned by the Association for use of the Manager. Assessments and other expenses attributable to any Unit owned by the Association and used as management or administrative offices or as a residence of a resident Manager for the Community are Common Expenses of the Association and allocated to the remaining Owners in accordance with their percentage share of Common Expenses calculated as if such Unit's area were not included in the denominator for calculation of percentage share of Common Expenses. No votes may be cast for any Unit owned by the Association.

Common Expenses pertaining to Garages will be assessed pro rata among all Garages accordance with the percentages specified in Exhibit B, but in the discretion of the Board of Directors, any Common Expense that benefits fewer than all Garages may be assessed exclusively against the Units associated with the Garages benefited.