



**CONDOMINIUM DECLARATION
FOR
METRO SUITES CONDOMINIUMS
(A Common Interest Community)**

THIS DECLARATION is made and entered into this 15th day of September, 2005, by DAN ECKLES, PAMELA L. STRAWSER, KIRK D. STRAWSER and ALEXANDER R. READ (collectively, "the Declarant").

RECITALS

A. The Declarant is the owner of that certain real property located in the County of Larimer, State of Colorado legally described on Exhibit A attached hereto and incorporated herein by reference ("the Real Estate").

B. The Declarant desires to create condominium ownership of the Real Estate pursuant to the Condominium Ownership Act (C.R.S. § 38-33-101, et seq.) and the Colorado Common Interest Ownership Act (C.R.S. § 38-33.3-101, et seq.), as they may be amended from time to time ("the Acts"), in which portions of the Real Estate will be designated for separate ownership and the remainder of which will be for common ownership solely by the Owners of the separate ownership interests.

C. The Declarant has caused to be incorporated under the laws of the State of Colorado METRO SUITES CONDOMINIUM ASSOCIATION, a Colorado nonprofit corporation, for the purpose of exercising the functions herein set forth.

ARTICLE I. SUBMISSION OF REAL ESTATE

The Declarant hereby publishes and declares that the Real Estate shall be and is hereby submitted to condominium ownership and shall be held, sold, conveyed, transferred, leased, subleased, and occupied subject to the following easements, covenants, conditions, and restrictions which shall run with the Real Estate and shall be binding upon and inure to the benefit of all parties having any right, title, or interest in the Real Estate or any portion thereof, their heirs, personal representatives, successors, and assigns. Additionally, Declarant hereby submits the Real Estate to the provisions of the Acts. In the event either Act is repealed, the repealed Act on the effective date of this Declaration shall remain applicable.

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Return to
Land Title
Dan G.

ARTICLE II. DEFINITIONS

Section 1: "Allocated Interests" shall mean and refer to the Common Expense Liability and votes in the Association.

Section 2: "Approval" or "Consent" shall mean securing the prior written approval or consent as required herein before doing, making, or suffering that for which such approval or consent is required.

Section 3: "Association" or "Unit Owners' Association" shall mean and refer to a unit owners' association organized and existing under Section 38-33.3-301 of the Act.

Section 4: "Board of Directors" shall mean and refer to the Board of Directors of the Association.

Section 5: "Building" shall mean and refer to the building presently constructed on the Real Estate.

Section 6: "Bylaws" shall mean and refer to any instruments, however denominated, which are adopted by the Association for the regulation and management of the Association, including amendments to those instruments.

Section 7: "Common Elements" shall mean and refer to all portions of the Common Interest Community except the Units and except the Basement.

Section 8: "Common Expense Liability" shall mean and refer to the liability for Common Expenses allocated to each Unit pursuant to this Declaration.

Section 9: "Common Expenses" shall mean and refer to expenditures made or liabilities incurred by or on behalf of the Association, together with any allocations to reserves, including but not limited to the Master Association Assessments; water, sewer, gas, electric and other utilities to the extent they are not separately metered.

Section 10: "Common Interest Community" shall mean and refer to the Real Estate and all improvements constructed thereon, including, but not limited to, the Building.

Section 11: "Declarant" shall mean and refer to any Person or group of Persons acting in concert who, as a part of a common promotional plan, offers to dispose of to a Purchaser such Declarant's interest in a Unit not previously disposed of to a Purchaser.

Section 12: "Declaration" shall mean and refer to this Declaration, including any amendments hereto and also including, but not limited to, plats and maps of the Common

Interest Community recorded in the Clerk and Recorder's office of Larimer County, Colorado.

Section 13: "Dispose" or "Disposition" shall mean and refer to a voluntary transfer of any legal or equitable interest in a Unit, but the term does not include the transfer or release of a security interest.

Section 14: "Documents" shall mean and refer to this Declaration, the Plat, and the Articles of Incorporation, Bylaws, and Rules and Regulations of the Association, as supplemented or amended from time to time.

Section 15: "Identifying Number" shall mean and refer to a symbol or address that identifies only one (1) Unit in the Common Interest Community.

Section 16: "Insurer" shall mean and refer to any governmental agency or authority that insures or guarantees a Mortgage which has provided actual written notice of such interest to the Association. Recording of a mortgage, deed of trust, or other security interest in the office of the Clerk and Recorder of Larimer County, Colorado shall not be considered actual written notice to the Association of a security interest.

Section 17: "Limited Common Elements" shall mean and refer to a portion of the Common Elements allocated by this Declaration or by the operation of C.R.S. § 38-33.3-202(1)(b) or (1)(d) for the exclusive use of one or more Units but fewer than all of the Units.

Section 18: "Master Association" shall mean and refer to Metro Suites Condominium Association, a Colorado nonprofit corporation.

Section 19: "Master Association Assessments" shall mean and refer to all assessments made by the Master Association against the Real Estate.

Section 20: "Mortgagee" shall mean and refer to any Person who has a security interest in a Unit which has provided actual written notice of such interest to the Association. Recording of a mortgage, deed of trust, or other security interest in the office of the Clerk and Recorder of Larimer County, Colorado shall not be considered actual written notice to the Association of a security interest.

Section 21: "Notice" shall mean and refer to any notice required or desired to be given pursuant to the Documents. Unless otherwise provided in the Documents, all notices shall be in writing and may be personally delivered; mailed, certified mail, return receipt requested, sent by telephone facsimile with a hard copy sent by regular mail; sent by a nationally recognized, receipted overnight delivery service, including, by example and not limitation, United Parcel Service, Federal Express, or Airborne Express; or sent

by electronic mail. Any such notice shall be deemed given when personally delivered; if mailed, three (3) delivery days after deposit in the United States mail, postage prepaid; if sent by telephone facsimile or electronic mail, on the day sent if sent on a business day during normal business hours of the recipient or on the next business day if sent at any other time; or if sent by overnight delivery service, one (1) business day after deposit in the custody of the delivery service. The addresses and telephone numbers for the mailing, transmitting, or delivering of notices shall be as set forth in the books and records of the Association. Notices of a change of address shall be given in the same manner as all other notices as hereinabove provided. If a notice is to be given to more than one Owner, the notice shall be given to all Owners at the same time and in the same manner.

Section 22: "Person" shall mean and refer to a natural person, a corporation, a partnership, a limited liability company, an association, a trust, or any other entity or combination thereof.

Section 23: "Plat" or "Map" shall mean and refer to the Condominium Map of the Common Interest Community recorded in the office of the Clerk and Recorder of Larimer County, Colorado, and all recorded amendments thereto.

Section 24: "Purchaser" shall mean and refer to a Person, other than a Declarant, who, by means of a transfer, acquires a legal or equitable interest in a Unit, other than:

- (a) A leasehold interest in a Unit of less than forty (40) years, including renewal options, with the period of the leasehold interest, including renewal options, being measured from the date the initial term commences; or
- (b) A Security Interest.

Section 25: "Real Estate" shall mean and refer to the Real Estate described on Exhibit A attached hereto and incorporated herein by reference, including structures, fixtures, and other improvements and interests that, by custom, usage, or law, pass with a conveyance of land, though not described in the contract of sale or instrument of conveyance.

Section 26: "Rules and Regulations" shall mean and refer to any instruments, however denominated, which are adopted by the Association for the regulation and management of the Common Interest Community, including any amendment to those instruments.

Section 27: "Security Interest" shall mean and refer to an interest in real property created by contract or conveyance which secures payment or performance of an obligation. The term includes a lien created by a mortgage, deed of trust, trust deed, security deed, contract for deed, land sales contract, lease intended as security, assignment of lease or rents

intended as security, pledge of an ownership interest in an association, and any other consensual lien or title retention contract intended as security for an obligation. "First Security Interest" shall mean and refer to a Security Interest in a Unit prior to all other Security Interests except the Security Interest for real property taxes and assessments made by Larimer County, Colorado, or other governmental authority having jurisdiction over the Common Interest Community. The recording of any document or instrument in the office of the Clerk and Recorder of Larimer County, Colorado, shall not be considered notice to the Association of any Security Interest created by the recording of such document or instrument.

Section 28: "Unit" shall mean and refer to a physical portion of the Common Interest Community which is designated for separate ownership or occupancy and the boundaries of which are contained within the windows, doors, unfinished perimeter walls, floors, and ceiling of each Unit as described in or determined from the Plat.

Section 29: "Unit Owner" shall mean and refer to the Person who owns a Unit but does not include a Person having an interest in a Unit solely as security for an obligation. The Declarant is the Owner of any Unit created in the Declaration until that Unit is conveyed to another Person.

ARTICLE III. COMMON INTEREST COMMUNITY

Section 1: Name. The name of the Common Interest Community is METRO SUITES CONDOMINIUMS.

Section 2: Association. The name of the Association is METRO SUITES CONDOMINIUM ASSOCIATION.

Section 3: Condominium. The Common Interest Community is a condominium.

Section 4: County. The name of every county in which any part of the Common Interest Community is situated is Larimer County, Colorado.

Section 5: Legal Description. A legal description of the Real Estate included in the Common Interest Community is set forth on Exhibit A attached hereto and incorporated herein by reference.

Section 6: Maximum Number of Units. The maximum number of Units that the Declarant reserves the right to create within the Common Interest Community is 20. Initially, the Declarant has divided the Building into 15 Condominium Units.

Section 7: Boundaries of Units. The boundaries of each Unit are located as shown on the Plat and are more particularly described as follows: windows; doors; and the interior

side of unfinished perimeter walls, floors, and ceilings are designated as boundaries of a Unit.

Section 8: Identification of Units. The identification number of each Unit is shown on the Plat.

Section 9: Subdivision of Units. A Unit may be subdivided into two (2) or more Units.

Section 10: Allocated Interests. The undivided interest in the Common Elements, Common Expense Liability, and votes in the Association for each Unit are set forth on Exhibit B attached hereto and incorporated herein by reference.

Section 11: Recording Data. All easements and licenses to which the Common Interest Community is presently subject are described on the Plat. In addition, the Common Interest Community may be subject to other easements or licenses granted by the Declarant pursuant to the terms of this Declaration.

Section 12: General Common Elements. The General Common Elements are described on the Plat. No General Common Elements may be conveyed to any person or entity other than the Condominium Unit Owners. No General Common Elements may be allocated subsequently as Limited Common Elements.

Section 13: Division of Real Estate Into Condominium Units. The Real Estate, including the improvements thereon but excepting and excluding the Basement of the Building, is hereby divided into 15 fee simple estates (Condominium Units). Each such estate shall consist of a separately designated Unit as indicated on the Plat and the undivided interest in and to the Common Elements appurtenant to such Units as set forth on Exhibit B attached hereto. Each Unit, the appurtenant undivided interest in the Common Elements, as well as all other appurtenances, rights, and burdens shall together comprise one Condominium Unit.

Section 14: Description of Unit. A Unit may be legally described as follows:

Condominium Unit No. ____, METRO SUITES CONDOMINIUMS, according to the Declaration recorded _____, 2005, at Reception No. _____, and the Condominium Map recorded _____, 2005, at Reception No. _____ of the Larimer County, Colorado, records.

Such description shall be sufficient for all purposes to sell, convey, transfer, encumber, or otherwise affect not only the Unit but also the undivided interest in the General Common Elements appurtenant to said Unit and all other appurtenant property rights and shall

incorporate all of the rights and burdens incident to ownership of a Unit and all of the limitations thereon as described in this Declaration. Each such description shall be construed to include a nonexclusive easement for ingress and egress to and from a Unit and the use of all General Common Elements appurtenant to such Unit. Reference to the Map and Declaration in any instrument shall be deemed to include any supplements or amendments thereto.

ARTICLE IV. ASSOCIATION

Section 1: Authority. The business and affairs of the Common Interest Community shall be managed by the Association. The Association shall be governed by its Bylaws as amended from time to time.

Section 2: Powers. The Association shall have all of the powers, authority, and duties necessary to manage the business and affairs of the Common Interest Community. The Association may assign its future income, including its rights to receive the Common Expense Assessments, only by the affirmative vote of the Owners of Units to which two-thirds or more of the votes in the Association are allocated at a meeting called for that purpose.

ARTICLE V. ASSESSMENT FOR COMMON EXPENSES

Section 1: Personal Obligation of Owners for Common Expenses. The Declarant, for each Unit owned, hereby covenants, and each Owner of any Unit by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association Common Expense Assessments imposed by the Association. Such Assessments, including fees, charges, late charges, attorney's fees, fines, and interest, charged by the Association shall be the personal obligation of the Unit Owner at the time the Assessment or other charges became due. The personal obligation to pay any past-due sums due the Association shall not pass to a successor in title unless expressly assumed by such successor.

Section 2: Amount of Assessment. The amount of the Assessment for the estimated Common Expenses which shall be paid by the Owner of each Unit shall be determined by multiplying the total estimated Common Expenses by the percentage share of Common Expenses for each Unit as set forth on Exhibit B.

Section 3: Date of Commencement of Annual Assessments; Due Dates. The annual Assessments provided for herein shall commence as to all Units on the first day of the month following the conveyance of a Unit by the Declarant to a Purchaser. The first annual Assessment shall be adjusted according to the number of months remaining in the calendar year. Written notice of the annual Assessment shall be sent to every Owner subject thereto.

The Board of Directors may, at its discretion, permit annual assessments to be payable in equal monthly or quarterly installments.

ARTICLE VI. LIEN FOR NONPAYMENT OF COMMON EXPENSES

All Assessments, charges, and fees of the Association shall be a continuing lien upon the Unit against which each Assessment is made. A lien under this Section is prior to all other liens and encumbrances on a Unit, except: (1) liens and encumbrances recorded before the recordation of this Declaration; (2) to the extent provided in the Acts, a first-lien security interest on the Unit recorded before the date on which the Common Expense Assessment sought to be enforced became delinquent; and (3) liens for real estate taxes and other governmental assessments or charges against the Unit. This Section does not prohibit an action to recover sums for which this Section creates a lien or prohibit the Association from taking a deed in lieu of foreclosure. Sale or transfer of any Unit shall not affect the Association's lien.

Any Assessment, charge, or fee provided for in this Declaration or any monthly or other installment thereof which is not fully paid within ten (10) days after the date due shall bear interest at a rate determined by the Board of Directors. In addition, the Board of Directors may assess a late charge thereon. Any Owner who fails to pay any Assessment, charge, or fee of the Association shall also be obligated to pay to the Association, on demand, all costs and expenses incurred by the Association, including reasonable attorney's fees, in attempting to collect the delinquent amount. The total amount due to the Association, including unpaid Assessments, fees, charges, fines, interest, late payment penalties, costs, and attorney's fees, shall constitute a lien on the defaulting Owner's Unit. The Association may bring an action, at law or in equity, or both, against any Owner personally obligated to pay any amount due to the Association or any monthly or other installment thereof and may also proceed to foreclose its lien against such Owner's Unit. An action at law or in equity by the Association against a delinquent Owner to recover a money judgment for unpaid amounts due to the Association or monthly or other installments thereof may be commenced and pursued by the Association without foreclosing or in any way waiving the Association's lien.

ARTICLE VII. MORTGAGEE PROTECTION

Section 1: Introduction. This Article establishes certain standards and covenants which are for the benefit of the holders, insurers, and guarantors of certain Security Interests. This Article is supplemental to, and not in substitution for, any other provisions of the Declaration, but in the case of conflict, this Article shall control.

Section 2: Notice of Actions. The Association shall give prompt written notice to each Mortgagee (and each Unit Owner hereby consents to and authorizes such notice):

- (a) Any condemnation loss or any casualty loss which affects a material portion of the Common Interest Community or any Unit in which there is a First Security Interest held, insured, or guaranteed by such Mortgagee or Insurer, as applicable.
- (b) Any delinquency in the payment of Common Expense Assessments owed by a Unit Owner whose Unit is subject to a First Security Interest held, insured, or guaranteed by such Mortgagee or Insurer, as applicable, which remains uncured for a period of sixty (60) days.
- (c) Any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association.
- (d) Any proposed action which would require the consent of a percentage of Mortgagees as specified in Section 3 of this Article VII.
- (e) Any judgment rendered against the Association.

Section 3: Consent and Notice Required.

- (a) Document Changes. Notwithstanding any lower requirement permitted by this Declaration or the Act, no amendment of any provision of this Declaration pertaining to the matters hereinafter listed by the Association or Unit Owners shall be effective without notice to all Mortgagee, and the vote of sixty-seven percent (67%) or more of the total votes of all Unit Owners (or any greater Unit Owner vote required in this Declaration or the Act) and until approved by more than sixty-seven percent (67%) of the Mortgagees (or any greater Mortgagee approval required by this Declaration):
 - (1) Voting rights.
 - (2) Assessments, assessment liens, or priority of assessment liens.
 - (3) Reserves for maintenance, repair, and replacement of Common Elements.
 - (4) Responsibility for maintenance and repairs.
 - (5) Reallocation of interests in the Common Elements.
 - (6) Redefinitions of boundaries of Units, except that when boundaries of only adjoining Units are involved, then only

those Unit Owners and the Mortgagees holding Security Interests in such Unit or Units must approve such action.

- (7) Convertibility of Units into Common Elements or Common Elements into Units.
 - (8) Expansion or contraction of the Common Interest Community or the addition, annexation, or withdrawal of property to or from the Common Interest Community except as permitted under Article XIX hereinafter.
 - (9) Insurance or fidelity bonds.
 - (10) Imposition of any restrictions on a Unit Owner's right to sell or transfer his Unit.
 - (11) A decision by the Association to establish self-management when professional management had been required previously by any Mortgagee.
 - (12) Restoration or repair of the Common Elements after a hazard damage or partial condemnation in a manner other than that specified in the Declaration.
 - (13) Termination of the Common Interest Community after occurrence of substantial destruction or condemnation of the Common Elements.
 - (14) Any provision that expressly benefits mortgage holders, insurers, or guarantors.
- (b) Actions. Notwithstanding any lower requirement permitted by this Declaration or the Act, the Association may not take any of the following actions without notice to all Mortgagees as required by Section 2 above and approval of more than fifty percent (50%) (or the indicated percentage) of the Mortgagees:
- (1) Convey or encumber the Common Elements or any portion thereof without approval by eighty percent (80%) of the Mortgagees. (The granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Elements by the Common Interest Community

will not be deemed a transfer within the meaning of this clause.)

- (2) The termination of the Common Interest Community for reasons other than substantial destruction or condemnation of the Common Elements without approval by sixty-seven percent (67%) of the Mortgagees.
 - (3) The alteration of any partition or creation of any aperture between adjoining Units (when Unit boundaries are not otherwise being affected), in which case, only the Owners of Units affected and Mortgagees of those Units need approve the action.
 - (4) The granting of any easements, leases or concessions through or over the Common Elements (excluding, however, any utility, road, or other easements serving or necessary to serve the Common Interest Community and excluding any leases for no more than one [1] year).
 - (5) The establishment of self-management when professional management had been required previously by a Mortgagee.
 - (6) Restoration or repair of the Common Elements after a hazard damage or partial condemnation in a manner other than specified in the Declaration.
 - (7) The merger of the Common Interest Community with any other common interest community.
 - (8) The assignment of the future income of the Association, including its right to receive Common Expense Assessments.
 - (9) Any action taken not to repair or replace the Common Elements.
- (c) Each Mortgagee that has given actual written notice to the Association of its Security Interest shall have one (1) vote for each Unit against which such Mortgagee has a Security Interest on any matter submitted to Mortgagees for a vote pursuant to this Article VII. The failure of a Mortgagee to respond within thirty (30) days after notice is given by the Association requesting approval of an addition or amendment to the

Declaration shall conclusively constitute approval of the addition or amendment.

Section 4: Inspection of Books. The Association shall maintain current copies of the Declaration, Bylaws, Rules and Regulations, books and records, and financial statements. The Association shall permit any Mortgagee or Insurer to inspect the books and records of the Association during normal business hours.

Section 5: Financial Statements. The Association shall provide any Mortgagee that submits a written request a copy of an annual financial statement within ninety (90) days following the end of each fiscal year of the Association. Such financial statement shall be audited by an independent certified public accountant if any Mortgagee or Insurer requests it, in which case the Mortgagee or Insurer shall bear the cost of the audit.

Section 6: Enforcement. The provisions of this Article are solely for the benefit of Mortgagee and their successors and may be enforced only by one or more of them by any available means at law or in equity.

Section 7: Attendance at Meetings. Any representative of a Mortgagee or Insurer may attend and address any meeting which an Owner may attend.

Section 8: Appointment of Trustee. In the event of damage, destruction, or condemnation of all or a portion of the Common Elements, any Mortgagee may require that such proceeds be payable to a trustee. Such trustee may be required to be a corporate trustee licensed by the State of Colorado. Unless otherwise required, the members of the Board of Directors, acting by majority vote through the president, may act as trustee.

ARTICLE VIII. MASTER ASSOCIATION

Section 1: Membership. All Owners of Condominium Units shall be members of the Master Association and shall comply with all of the terms, covenants, conditions, and provisions of the Declaration of Protective Covenants for Drake Owners' Association, Inc. recorded February 8, 1974, at Reception Number 80075 and as amended in instrument recorded July 12, 1974, in book 1609 at Page 265 and as amended in instrument recorded July 31, 1974, in book 1611 at page 660 of the Larimer County, Colorado Records; provided, however, that the votes in the Master Association allocated to the Real Estate shall be cast by the Association on behalf of the Owners on all matters coming before the Membership of the Master Association for vote.

Section 2: Assessments. All assessments made by the Master Association against the Real Estate shall be paid by the Association as a Common Expense and shall be included with the Common Expense Assessments and allocated among the Units in the manner set forth in Article V hereinabove.

ARTICLE IX. RESTRICTION ON USE

Section 1: Improvements on Exterior of Units. No exterior additions to, exterior alterations of, or exterior decoration of the Building, a Unit or the Common Elements shall be made unless approved in writing by the Board of Directors.

Section 2: Violation of Laws or Covenants. Nothing shall be done or kept in any Unit or in or on the Common Elements, or any part thereof, which would be in violation of any statute, rule, ordinance, regulation, zoning resolution, permit, or other imposed requirement of any federal, state, or local governmental authority having jurisdiction over the Real Estate. The violation of any covenant, condition or restriction against the Real Estate or any rule or regulation adopted by the Master Association shall constitute a violation of this Declaration.

Section 3: Damage to Common Elements. No damage to the Common Elements, or any part thereof, shall be committed by an Owner or any agent, employee, guest, or invitee of an Owner, and each Owner shall indemnify, hold harmless and reimburse the Association and all other Owners from and against all loss, cost, expense and liability arising out of, as a result of, or in connection with any and all damage caused by such Owner, his agents, employees, guests, or invitees.

Section 4: Nuisance. No noxious or offensive activity shall be conducted within any Unit or on the Common Elements which unreasonably interferes with the then existing use of any other Unit. No activity shall be conducted within any Unit or upon the Common Elements which is or might be unsafe, unsightly, unhealthy, or hazardous to any person. Without limiting the generality of the foregoing, nothing shall be kept or stored within or upon the Common Elements, including areas which are designated as Limited Common Elements, and nothing shall be placed on or in the windows or doors of the Units which create an unsightly appearance from the exterior of such Units. No Unit shall be used for any purpose which generates any noise, heat, odor, dust or other form of nuisance which adversely affects any other Unit Owner's reasonable use and enjoyment of his or her Unit for the purposes allowed by this Declaration.

Section 5: Use Restriction. Units shall be used solely for business or professional office purposes.

Section 6: Signs. No signs shall be installed or permitted to remain on the exterior of any Unit or on the interior of a Unit if such sign is visible from the exterior of the Unit unless such sign is approved in writing in advance by the Board of Directors. No sign shall be installed on the Common Elements without the prior, written approval of the Board of Directors.

Section 7: Window Coverings. All window coverings, interior paint and interior carpet visible from the exterior of any Unit must have the prior, written approval of the Board of Directors. All other window coverings, interior paint and interior carpeting visible from the exterior of any Unit, must have the prior, written approval of the Board of Directors.

ARTICLE X. EASEMENTS

Section 1: Encroachments. A valid easement shall exist for the following encroachments and for the maintenance of the same: (a) in the event that any portion of the Common Elements encroaches upon any Unit or Units; or (b) in the event that any portion of a Unit encroaches upon any other Unit or Units or upon any portion of the Common Elements; or (c) in the event any encroachment shall occur in the future as a result of settling of the Building, alteration or repair to the Common Elements, or repair or restoration of the Building or a Unit after damage by fire or other casualty or condemnation or eminent domain proceedings. In the event that any one or more of the Units or the Building or other improvements comprising part of the Common Elements are partially or totally destroyed and are then rebuilt or reconstructed in substantially the same location, and as a result of such rebuilding, any portion thereof shall encroach as provided in the preceding sentence, a valid easement for such encroachment does exist. Such encroachments and easements shall not be considered or determined to be encumbrances, either on the Common Elements or on the Units, for purposes of marketability of title or other purposes. In interpreting any and all provisions of the Declaration, subsequent Unit deeds to, and/or mortgages of Units, the actual location of a Unit shall be deemed conclusively to be the property intended to be conveyed, reserved, or encumbered, notwithstanding any minor deviations, either horizontally, vertically, or laterally from the locations of such Units indicated on the Plat.

Section 2: Blanket Easement. There is hereby created a blanket easement upon, across, over, and under the Common Elements for ingress and egress to and from each Unit and for installing, replacing, repairing, and maintaining all Common Elements, including the Building, and all utilities such as water, sewer, gas, telephone, electricity, and television. By virtue of this easement, it shall be expressly permissible for the providing of electrical and/or telephone wires, circuits, and conduits on, above, across, and under the roof and exterior walls of the Units. No sewers, electrical lines, water lines, or other utilities may be installed or relocated on the Real Estate, except as initially programmed and approved by the Declarant or as subsequently approved by the Board of Directors. The Association, its officers, agents, employees, and assigns, shall have the right to make such use of the Common Elements as may be necessary or appropriate to perform the duties and functions which it is obligated or permitted to perform pursuant to this Declaration.

Section 3: Emergency Easement. An easement for ingress and egress is hereby granted to all police, sheriff, fire protection, ambulance, and other similar emergency agencies or persons to enter upon the Real Estate in the performance of their duties.

**ARTICLE XI. TERMINATION OF MECHANIC'S LIEN RIGHTS
AND INDEMNIFICATION**

No labor performed or materials furnished and incorporated in a Unit with the consent of or at the request of the Unit Owner, his or her agents, contractors, or subcontractors, shall be the basis for filing a lien against the Unit of any other Owner not expressly consenting to or requesting the same or against the Common Elements. Each Owner shall indemnify and hold harmless each of the other Owners and the Association from and against all liability arising from the claim of any lien against the Unit of any other Owner or against the Common Elements for construction performed or for labor, materials, services, or other products incorporated in the Owner's Unit at such Owner's request. Notwithstanding the foregoing, any Mortgagee of a Unit who shall become the Owner of such Unit pursuant to a lawful foreclosure sale or the taking of a deed in lieu of foreclosure shall not be under any obligation to indemnify and hold harmless any other Owner or the Association against liability for claims arising prior to the date such Mortgagee becomes an Owner.

**ARTICLE XII. RESERVATION FOR ACCESS, MAINTENANCE,
REPAIR, AND EMERGENCIES**

Section 1: Access to Units. The Association shall have the irrevocable right to be exercised by the Association's Board of Directors, officers, custodian, or managing agent to have access to each Unit from time to time during reasonable hours as may be necessary for the maintenance, repair, or replacement of any of the Common Elements therein or accessible therefrom or at any hour for making emergency repairs, maintenance, or inspection therein necessary to prevent damage to the Common Elements or to another Unit.

Section 2: Damage to Unit. 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 or as a result of emergency repairs within another Unit at the insistence of the Association shall be a Common Expense; provided, however, that if the damage is caused by negligent or tortuous acts of a Unit Owner, his or her agents, employees, invitees, or tenants, then such Unit Owner shall be responsible and liable for all of such repair and the cost thereof shall become said Owner's obligation, which must be timely paid. Said obligation shall be an Assessment against said Unit Owner and his or her Unit and shall be subject to the provisions for collection elsewhere herein provided. All damaged improvements shall be restored substantially to the extent reasonably practical to the same condition in which they existed prior to the damage. All maintenance, repairs, and replacement of the Common Elements, whether located inside or outside of the Units, shall be the Common Expense of all of the Owners (unless necessitated by the negligence, misuse, or tortuous act of a Unit Owner, in which case such expense shall be charged to such Owner). However, the Association shall not be obligated to seek redress for damages caused by a negligent Owner, and this covenant shall not abrogate the insurance provisions of this Declaration.

ARTICLE XIII. MAINTENANCE AND SERVICE RESPONSIBILITY

Section 1: Owner.

- (a) For maintenance purposes, an Owner shall be deemed to own the glass surface of windows; doors; the interior nonsupporting walls, floors, and ceilings of the Unit; the materials such as, but not limited to, plaster, gypsum drywall, paneling, wallpaper, paint, wall and floor tile and flooring, and other materials which make up the finished surfaces of the perimeter walls, ceiling, and floors within the Unit.
- (b) An Owner shall maintain and keep in repair the interior of his or her own Unit, including the plumbing, heating, air-conditioning, and electrical pipes, wires, conduits, systems, and fixtures ("Utilities") located within his or her Unit, to the extent current repair shall be necessary in order to avoid damaging other Units or the Common Elements. All fixtures, equipment, and Utilities installed within the Unit and serving such Unit, commencing at a point where the fixtures, equipment, and Utilities enter the Unit, shall be maintained and kept in repair by the Owner thereof. An Owner, however, shall not be deemed to own the utility pipes, wires, conduits, or systems running through his or her Unit which serve one or more other Units (except as a tenant in common with the other Owners), which Utilities are General Common Elements. Such Utilities shall not be disturbed or relocated by an Owner without the prior written consent and approval of the Board of Directors. An Owner shall do no act nor any work that will impair the structural soundness or integrity of the Building or impair the proper functioning of the Utilities, heating, air-conditioning, electrical, or plumbing systems or impair any easement.

Section 2: Association. The Association shall have the duty of maintaining and repairing all of the Common Elements. The cost of said maintenance and repair shall be a Common Expense of all of the Owners; provided, however, that the cost of maintenance and repair of any Limited Common Element shall be assessed only against those Units to which the Limited Common Element is appurtenant. The Association shall maintain window casements. The Association shall maintain all heating, ventilating and air conditioning systems and facilities.

ARTICLE XIV. COMPLIANCE WITH PROVISIONS OF DECLARATION, ARTICLES, AND BYLAWS

Each Owner shall comply strictly with the provisions of the Declaration, the Articles of Incorporation, and Bylaws of the Association and Master Association and the decisions,

resolutions, rules, and regulations of the Association and Master Association adopted pursuant thereto as the same may be lawfully made and amended and/or modified from time to time. Failure to comply with any of the same shall be grounds for an action to recover sums due; for damages or injunctive relief, or both; and for reimbursement of all attorney's fees incurred in connection therewith, which action shall be maintainable by the Board of Directors or managing agent in the name of the Association on behalf of the Owners or, in a proper case, by an aggrieved Owner.

ARTICLE XV. REVOCATION OR AMENDMENT OF DECLARATION

Except as otherwise provided in Article XVII hereinafter, this Declaration shall not be revoked unless all the Owners and all Mortgagees consent and agree to such revocation by instrument duly recorded. This Declaration shall not be amended unless the Owners representing sixty-seven percent (67%) or more of the votes in the Association consent and agree to such amendment by instrument duly recorded; provided, however, that the undivided interest in the Common Elements appurtenant to each Unit, as expressed in the Declaration, shall have a permanent character and shall not be altered without the consent of all of the Unit Owners as expressed in an amended declaration duly recorded.

ARTICLE XV. ADDITIONS, ALTERATIONS, AND IMPROVEMENTS TO GENERAL COMMON ELEMENTS

There shall be no capital additions, alterations, or improvements of or to the General Common Elements by the Association requiring an expenditure in excess of an amount equal to twenty percent (20%) of the Association's budget for any calendar or fiscal year in any one calendar year without prior approval of the Owners of sixty-seven percent (67%) of the votes in the Association, except in the event of an emergency. The limitations set forth above shall not apply to any expenditures made by the Association for maintenance and repair of the Common Elements or for repair in the event of damage, destruction, or condemnation as provided in Articles XVII and XVIII hereinafter.

ARTICLE XVI. INSURANCE

Section 1: To be Obtained by the Association. The Association shall obtain and maintain at all times, to the extent obtainable at reasonable cost, policies involving standard premium rates established by the Colorado Insurance Commissioner and written with companies licensed to do business in Colorado and having a Best's Insurance Report rating of A & XV or better covering the risks set forth below. The Association shall not obtain any policy where: (i) under the terms of the insurance company's charter, bylaws, or policy, contributions or assessments may be made against a Mortgagee or Mortgagee's designee; or (ii) by the terms of the carrier's charter, bylaws, or policy, loss payments are contingent upon action by the company's board of directors, policyholders, or members; or (iii) the policy includes any limiting clauses (other than insurance conditions) which could prevent

Mortgagees or Owners from collecting insurance proceeds. The types of coverage to be obtained and risks to be covered are as follows:

- (a) Fire Insurance. The Association shall maintain fire insurance with extended coverage and standard all-risk endorsements, which endorsements shall include endorsements for vandalism and malicious mischief. Such policy shall also include an agreed amount endorsement and, if available, an inflation guard endorsement. If requested by a first Mortgagee or an insurer or guarantor of a first mortgage, such policy shall also include construction code endorsements such as demolition cost endorsement, a contingent liability from operation of building laws endorsement, and an increased cost of construction endorsement. Said casualty insurance shall insure any property, the nature of which is a Common Element, including all of the Units, any fixtures, equipment, or other property within the Units which are to be financed by a first Mortgagee, regardless of whether or not such property is a part of the Common Elements, together with all service equipment contained therein, in an amount equal to the full replacement value without deduction for depreciation. All policies shall contain a standard noncontributory mortgage clause in favor of each Mortgagee of a Unit which shall provide that the loss, if any, thereunder shall be payable to the Association for the use and benefit of the Owners and Mortgagees as their interests may appear. The Association shall hold any proceeds of insurance in trust for the use and benefit of the Owners and Mortgagees as their interests may appear. All Unit Owners and all Mortgagees, if any, shall be beneficiaries of the policy in the same proportion as each Owner's appurtenant undivided interest in the Common Elements as set forth on Exhibit B attached hereto.
- (b) Liability Insurance. The Association shall maintain public liability and property damage insurance in such limits as the Board of Directors may from time to time determine but not in an amount less than One Million Dollars (\$1,000,000) per injury, per person, per occurrence, and umbrella liability limits of One Million Dollars (\$1,000,000) per occurrence covering all claims for bodily injury or property damage. Coverage shall include, without limitation, liability for personal injuries, operation of automobiles on behalf of the Association, and activities in connection with the ownership, operation, maintenance, and other use of the Common Elements. Said policy shall also contain a "severability of interest" endorsement. Coverage under such policy shall include, without limitation, legal liability of the insureds for property damage, bodily injuries, and death of persons in connection with the operation, maintenance, or use of the Common Elements and legal liability arising out of lawsuits related to employment contracts of the Association. If

required by a first Mortgagee or an insurer or guarantor of a first mortgage, such insurance shall also include protection against such other risks as are customarily covered with respect to condominiums similar in construction, location, and use.

- (c) Worker's Compensation Insurance. The Association shall maintain worker's compensation and employer's liability insurance and all other similar insurance with respect to employees of the Association in the amounts and in the forms now or hereafter required by law.
- (d) Officers' and Directors' Insurance. To the extent such insurance can be obtained at reasonable cost, the Association shall maintain blanket fidelity bonds for all officers, directors, and employees of the Association and all other persons handling or responsible for funds of or administered by the Association. If the managing agent has the responsibility for handling or administering funds of the Association, the managing agent shall be required to maintain fidelity bond coverage for its officers, employees, and agents handling or responsible for funds of or administered on behalf of the Association. Such fidelity bonds shall name the Association as an obligee and shall not be less than the estimated maximum amount of funds, including reserve funds, in the custody of the Association or the managing agent at any given time during the term of each bond. In no event shall the aggregate amount of such bonds be less than a sum equal to three (3) months' aggregate Common Expense Assessments on all Units plus reserve funds. Such bonds shall contain waivers by the issuers thereof of all defenses based upon the exclusion of persons serving without compensation from the definition of employees or similar terms or expressions. The premiums on all bonds required hereunder, except those maintained by the managing agent, shall be paid by the Association as a Common Expense.
- (e) Other Insurance. The Association may obtain insurance against such other risks of a similar or dissimilar nature as shall be deemed appropriate, including plate or other glass insurance and insurance covering any personal property of the Association located on the Common Elements.

Section 2: Requirements of Insurance. All policies of insurance, to the extent obtainable, shall contain waivers of subrogation and waivers of any defense based on invalidity arising from any acts of a Unit Owner and shall provide that such policies may not be cancelled or modified without at least ten (10) days' prior written notice to all of the insureds, including the Association and all Mortgagees. If requested, duplicate originals of all policies and renewals thereof, together with proof of payment of premiums, shall be

delivered to all Mortgagees at least ten (10) days prior to expiration of the then current policies. The insurance shall be carried in blanket form naming the Association as the insured, as attorney-in-fact for all of the Unit Owners, which policy or policies shall identify the interest of each Unit Owner (Owner's name and Unit number designation) and first Mortgagee. Further, the Association shall require the insurance company or companies providing the insurance coverage described herein to provide each Owner and Mortgagee a certificate of insurance in regard to such Owner's individual Unit.

Section 3: Attorney-in-Fact. Notwithstanding any of the foregoing provisions and requirements relating to property or liability insurance, there may be named as an insured, on behalf of the Association, an authorized representative who shall have the exclusive authority to negotiate losses under any policy providing such property or liability insurance and to perform such other functions as are necessary to accomplish such purpose. All of the Owners hereby irrevocably constitute the Association as their true and lawful attorney-in-fact in their name, place, and stead for the purpose of purchasing and maintaining such insurance, including the collection and appropriate disposition of the proceeds thereof, the negotiation of losses, the execution of all documents, and the performance of all other acts necessary to accomplish such purpose.

Section 4: To be Obtained by Unit Owners. Insurance coverage on furnishings or other property belonging to an Owner and public liability coverage shall be the sole and direct responsibility of the Unit Owner thereof, and the Board of Directors, Association, and/or the managing agent of the Association shall have no responsibility therefor.

Section 5: Notice to Mortgagees. In the event that there shall be any damage or destruction to, loss of, or taking of a Unit which exceeds One Thousand Dollars (\$1,000) or any damage or destruction to, loss of, or taking of the Common Elements which exceeds Ten Thousand Dollars (\$10,000), notice of such damage, loss, or taking shall be given by the Association to each first Mortgagee of said Unit within ten (10) days after the occurrence of such event.

ARTICLE XVII. DESTRUCTION, DAMAGE, OR OBSOLESCENCE

Section 1: Association as Attorney-in-Fact. This Declaration does hereby make mandatory the irrevocable appointment of an attorney-in-fact to deal with the Common Interest Community in the event of its destruction, damage, obsolescence, or condemnation, including the repair, replacement, and improvement of any Unit or Common Elements which has been so destroyed, damaged, condemned, or become obsolete. Title to any Unit is declared and expressly made subject to the terms and conditions hereof, and acceptance by any grantee of a deed or other instrument of conveyance from the Declarant or from any Owner or grantor shall constitute appointment of the attorney-in-fact herein provided. All of the Owners irrevocably constitute and appoint the Association as their true and lawful attorney-in-fact in their name, place, and stead, for the purpose of dealing with the Common

Interest Community upon its damage, destruction, obsolescence, or condemnation as is hereinafter provided. As attorney-in-fact, the Association, by its president and secretary or other duly authorized officers and agents, shall have full and complete authorization, right, and power to make, execute, and deliver any contract, deed, or other instrument with respect to the interest of a Unit Owner which is necessary and appropriate to exercise the powers herein granted. In the event that the Association is dissolved or becomes defunct, a meeting of the Unit Owners shall be held within thirty (30) days of either such event. At such meeting, a new attorney-in-fact shall be appointed to deal with the Common Interest Community upon its destruction, damage, obsolescence, or condemnation. Said appointment must be approved by the Owners representing more than sixty-seven percent (67%) of the votes in the Association. Repair and reconstruction of the improvements as used in the succeeding paragraphs means restoring the improvements to substantially the same condition in which they existed prior to the damage, with each Unit and the General and Limited Common Elements having substantially the same vertical and horizontal boundaries as before, and all improvements being reconstructed or repaired in conformance with the Common Interest Community's original architectural plan and scheme. The proceeds of any insurance collected shall be available to the Association for the purposes of repair, restoration, reconstruction, or replacement unless the Owners and first Mortgagees agree not to rebuild in accordance with the provisions hereinafter set forth.

Section 2: Insurance Proceeds Sufficient for Restoration. In the event of damage or destruction due to fire or other disaster, the insurance proceeds, if sufficient to reconstruct the improvements, shall be applied by the Association as attorney-in-fact to such reconstruction, and the improvements shall be promptly repaired and reconstructed. The Association shall have full authority, right, and power as attorney-in-fact to cause the repair and restoration of the improvements. Assessments for Common Expenses shall not be abated during the period of insurance adjustments and repair and reconstruction.

Section 3. Insurance Proceeds Insufficient for Restoration. If the insurance proceeds are insufficient to repair and reconstruct the improvements, such damage or destruction shall be promptly repaired and reconstructed by the Association as attorney-in-fact using the proceeds of insurance and the proceeds of a special assessment to be made against the Owners of Townhomes included within the Building, such special assessment shall be a Common Expense and made equally against the Townhomes included within the Building and shall be due and payable within thirty (30) days after written notice thereof. The Association shall have full authority, right, and power as attorney-in-fact to cause the repair, replacement, or restoration of the improvements using all of the insurance proceeds for such purpose, notwithstanding the failure of an Owner to pay the assessment. The assessment provided for herein shall be a debt of each Owner and a lien on his or her Lot. Assessments for Common Expenses shall not be abated during the period of insurance adjustment and repair and reconstruction. The delinquent Owner shall be required to pay to the Association the costs and expenses incurred in

filing the notice, interest at the rate of eighteen percent (18%) per annum on the amount of the assessment, and all reasonable attorney's fees.

Section 4: Insurance Proceeds Insufficient for Restoration (More Than 70 Percent).

If the insurance proceeds are insufficient to repair and reconstruct the improvements and if such damage is more than seventy percent (70%) of the total replacement cost of all of the Units not including land, such damage or destruction shall be promptly repaired and reconstructed by the Association as attorney-in-fact using the proceeds of insurance and the proceeds of a special assessment to be made against all of the Owners and their Units; provided, however, that all Owners may agree not to repair or reconstruct the improvements. In such event, the Association shall record a notice setting forth such fact or facts, and upon the recording of such notice by the Association, the entire Common Interest Community shall be sold by the Association as attorney-in-fact pursuant to the terms of this section, free and clear of the provisions contained in this Declaration, the Plat, Articles of Incorporation, and Bylaws. Assessments for Common Expenses shall not be abated during the period prior to sale. The insurance settlement proceeds shall be divided by the Association according to each Owner's interest in the Common Elements, and such divided proceeds shall be paid into separate accounts, each account representing one of the Units. Each account shall be in the name of the Association and shall be further identified by the Unit designation and name of the Owner. From each separate account, the Association as attorney-in-fact shall use and disburse the total account toward the partial or full payment of the lien of any first Mortgagee encumbering the Unit represented by such separate account. Thereafter, each account shall be supplemented by the apportioned amount of the proceeds obtained from the sale of the entire Common Interest Community. Such apportionment shall be based upon each Unit Owner's interest in the Common Elements. The total funds of each account shall be used and disbursed, without contribution, from one account to another by the Association as attorney-in-fact for the same purposes and in the same order as provided in Section 3 hereinabove. In the event that the damage is to be repaired or reconstruction is to be made, then the provisions of Section 3 hereinabove shall apply.

Section 5: Obsolescence (Renew/Reconstruct). The Owners representing sixty-seven percent (67%) or more of the votes in the Association may agree that the Common Elements are obsolete and adopt a plan for the renewal and reconstruction. If a plan for the renewal or reconstruction is adopted, notice of such plan shall be recorded and the expense of renewal and reconstruction shall be payable by all of the Owners as a Common Expense, whether or not they have previously consented to the plan of renewal and reconstruction. The Association as attorney-in-fact shall have the absolute right and power to sell the Unit of any Owner refusing or failing to pay such assessment within the time provided, and if not so paid, the Association shall cause to be recorded a notice that the Unit of the delinquent Owner shall be sold by the Association. The delinquent Owner shall be required to pay to the Association the costs and expenses for filing the notices, interest at the rate of eighteen percent (18%) per annum, and all reasonable attorney's fees. The proceeds derived from the

sale of such Unit shall be used and disbursed by the Association as attorney-in-fact for the same purposes and in the same order as is provided in Section 3 hereinabove.

Section 6: Obsolescence (Sell). The Owners representing sixty-seven percent (67%) or more of the votes in the Association may agree that the Units are obsolete and should be sold. In such instance, the Association shall record a notice setting forth such fact or facts, and upon the recording of such notice of the Association, the entire Common Interest Community shall be sold by the Association as attorney-in-fact, free and clear of the provisions contained in this Declaration, the Plat, the Articles of Incorporation, and the Bylaws. The sale proceeds shall be apportioned among the Owners on the basis of each Owner's interest in the Common Elements, and such apportioned proceeds shall be paid into separate accounts, each account representing one of the Units. Each account shall be in the name of the Association and shall be further identified by the Unit designation and name of the Owner. From each separate account, the Association as attorney-in-fact shall use and disburse the total account, without contribution from one account to another, for the same purposes and in the same order as provided in Section 3 hereinabove.

ARTICLE XVIII. CONDEMNATION

If at any time during the continuance of the condominium ownership pursuant to this Declaration, all or any part of the Common Interest Community shall be taken or condemned by any public authority or sold or otherwise disposed of in lieu of or in avoidance thereof, the following provisions shall apply:

Section 1: Proceeds. All compensation, damages, or other proceeds therefrom ("the Condemnation Award") shall be payable to the Association. The Association shall represent the Owners in the condemnation proceedings or in the negotiation, settlements, and agreements with the condemning authority for acquisition of the Common Elements or any part thereof by the condemning authority. All of the Owners hereby irrevocably constitute and appoint the Association as their true and lawful attorney-in-fact, in their name, place, and stead, for the purpose of dealing with the Common Interest Community upon such condemnation as hereinabove set forth. In the event of a taking or acquisition of part or all of the Common Elements by a condemning authority, the Condemnation Award shall be payable to the Association to be held in trust for the Owners and the first Mortgagees as their interests may appear.

Section 2: Complete Taking.

- (a) In the event the entire Common Interest Community is taken or condemned or is sold or otherwise disposed of in lieu of or avoidance thereof, the condominium ownership pursuant to this Declaration shall terminate. The Condemnation Award shall be apportioned among the Owners on the same basis as each Unit Owner's interest in the Common Elements; provided, however, that if a standard different from the value

of the Common Interest Community as a whole is employed as the measure of the Condemnation Award in the negotiation, judicial decree, or otherwise, then in determining such shares, the same standard shall be employed to the extent it is relevant and applicable.

- (b) On the basis of the principle set forth in the last preceding paragraph, the Association shall, as soon as practicable, determine the share of the Condemnation Award to which each Owner is entitled. Such shares shall be paid into separate accounts and disbursed as soon as practicable in the same manner provided in Article XVII, Section 3, hereinabove.

Section 3: Partial Taking. In the event less than the entire Common Interest Community is taken or condemned or is sold or otherwise disposed of in lieu of or in avoidance thereof, the condominium ownership hereunder shall not terminate. Each Owner shall be entitled to a share of the Condemnation Award as determined in this section. As soon as practicable, the Association shall reasonably and in good faith allocate the Condemnation Award between compensation, damages, or other proceeds and shall apportion the amounts so allocated among the Owners as follows: (a) the total amount allocated to taking of or injury to the Common Elements shall be apportioned among the Owners on the basis of each Owner's interest respectively in the Common Elements; (b) the total amount allocated to severance damages shall be apportioned to those Units which were not taken or condemned; (c) the respective amounts allocated to the taking of or injury to a particular Unit and to the improvements an Owner has made within his or her own Unit shall be apportioned to the particular Unit involved; and (d) the total amount allocated to consequential damages and any other takings or injuries shall be apportioned as the Association determines to be equitable in the circumstances. If the allocation of the Condemnation Award is already established in negotiations, judicial decree, or otherwise, then in allocating the Condemnation Award, the Association shall employ such allocation to the extent it is relevant and applicable. Distribution of apportioned proceeds shall be disbursed as soon as practicable in the same manner provided in Article XVII, Section 3, hereinabove.

Section 4: Reorganization. In the event a partial taking results in the taking of a complete Unit, the Owner thereof shall automatically cease to be a member of the Association; shall cease to hold any right, title, or interest in the remaining Common Elements; and shall execute any and all documents necessary to accomplish the same. Thereafter, the Association shall reallocate the ownership, voting rights, and assessment ratio in accordance with this Declaration at its inception and shall submit such reallocation to the Owners of remaining Units for amendment to this Declaration as provided in Article XIV hereinabove.

Section 5: Reconstruction and Repair. Any reconstruction and repair necessitated by condemnation shall be governed by the procedures specified in Article XVII hereinabove.

ARTICLE XIX. GENERAL PROVISIONS

Section 1: **Enforcement.** Enforcement of this Declaration shall be by appropriate proceedings at law or in equity against those persons or entities violating or attempting to violate any covenant, condition, or restriction herein contained. Such judicial proceeding shall be for the purpose of removing a violation, restraining a future violation, for recovery of damages for any violation, or for such other and further relief as may be available. Such judicial proceedings may be prosecuted by an Owner or by the Association. In the event it becomes necessary to commence an action to enforce this Declaration, the court shall award to the prevailing party in such litigation, in addition to such damages as the Court may deem just and proper, an amount equal to the costs and reasonable attorney's fees incurred by the prevailing party in connection with such litigation. The failure to enforce or to cause the abatement of any violation of this Declaration shall not preclude or prevent the enforcement thereof or of a further or continued violation, whether such violation shall be of the same or of a different provision of this Declaration.

Section 2: **Duration.** This Declaration shall run with the land, shall be binding upon all persons owning Units and any persons hereafter acquiring said Units, and shall be in effect in perpetuity unless amended or terminated as provided in the Act.

Section 3: **Management of the Common Areas.** The Association may obtain and pay for the services of a managing agent to manage its affairs, or any part thereof, to the extent it deems advisable, as well as such other personnel as the Association shall determine to be necessary or desirable for the proper management, operation, and maintenance of the Common Elements; provided, however, that any contract in regard to the hiring or employing of such a managing agent or other personnel shall not be for a term in excess of three (3) years and shall provide that the same shall terminate on sixty (60) days' written notice, with or without cause, and without payment of any termination fee.

Section 4: **Conflict.** In the event of any conflict between the terms and provisions of the Acts and the terms and provisions of this Declaration, the terms and provisions of the Acts shall control. In the event of any conflict between the terms and provisions of this Declaration and the terms and provisions of the Articles of Incorporation, Bylaws, or rules and regulations of the Association, the terms and provisions of this Declaration shall control.

STATE OF COLORADO)
) ss.
COUNTY OF LARIMER)

The foregoing instrument was acknowledged before me this 9th day of September, 2005, by KIRK D. STRAWSER.

Witness my hand and official seal.

My commission expires: 11-20-06



Angela Carney
Notary Public

* My Commission Expires Nov. 20, 2006

STATE OF COLORADO)
) ss.
COUNTY OF LARIMER)

The foregoing instrument was acknowledged before me this 14th day of September, 2005, by ALEXANDER B. READ.

Witness my hand and official seal.

My commission expires: July 2, 2006



Joan M. Chase
Notary Public

EXHIBIT A

A PORTION OF THE FOLLOWING: (SEE REQUIREMENTS)

PARCEL 1:

LOT 2, REPLAT OF DRAKE PARK, COUNTY OF LARIMER, STATE OF COLORADO.

PARCEL 2:

A PART OF TRACT "A", REPLAT OF DRAKE PARK, WHICH BEGINS AT THE SOUTHEAST CORNER OF LOT 2 OF THE REPLAT OF DRAKE PARK, AND RUN THENCE NORTH 14.00 FEET; THENCE EAST 60.92 FEET TO A POINT ON THE WEST LINE OF REDWING ROAD; THENCE ALONG SAID WEST LINE SOUTH 00 DEGREES 50 MINUTES 30 SECONDS WEST 70.91 FEET, AND AGAIN ALONG THE ARC OF A 270.00 FOOT RADIUS CURVE TO THE RIGHT A DISTANCE OF 56.10 FEET, THE LONG CHORD OF WHICH BEARS SOUTH 06 DEGREES 47 MINUTES 39 SECONDS WEST, 56.00 FEET; THENCE WEST 129.27 FEET; THENCE NORTH 40.51 FEET; THENCE WEST 9.00 FEET; THENCE NORTH 72.00 FEET TO A POINT ON THE SOUTH LINE OF SAID LOT 2, THENCE EAST 85.00 FEET TO THE POINT OF BEGINNING, COUNTY OF LARIMER, STATE OF COLORADO.

PARCEL 3:

A PART OF TRACT "A", REPLAT OF DRAKE PARK, WHICH BEGINS AT A POINT ON THE SOUTH LINE OF LOT 2 OF THE REPLAT OF DRAKE PARK WHICH BEARS WEST 85.00 FEET FROM THE SOUTHEAST CORNER OF SAID SECTION 2, AND RUN THENCE SOUTH 72.00 FEET; THENCE EAST 9.00 FEET; THENCE SOUTH 40.51 FEET; THENCE WEST 73.00 FEET; THENCE NORTH 112.51 FEET TO A POINT ON THE SOUTH LINE OF SAID LOT 2, THENCE EAST 64.00 FEET TO THE POINT OF BEGINNING, COUNTY OF LARIMER, STATE OF COLORADO.

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EXHIBIT B

Table of Interests

<u>Unit No.</u>	<u>Percentage Share of Common Elements and Common Expenses</u>	<u>Vote in the Affairs of Association</u>
100	12.75 %	12.75
104	7.84 %	7.84
108 & 112	11.94 %	11.94
116	5.83 %	5.83
120	5.98 %	5.98
124	5.94 %	5.94
128	5.83 %	5.83
200	8.44 %	8.44
204	6.06 %	6.06
208	5.95 %	5.95
212	5.77 %	5.77
216	6.01 %	6.01
220	5.97 %	5.97
224	5.69 %	5.69