

COUNTY OF LARIMER STATE OF COLORADO

CONDOMINIUM DECLARATIONS  
FOR  
CHESTNUT VILLAGE CONDOMINIUMS

KNOW ALL MEN BY THESE PRESENTS:

THAT WHEREAS, METCALF, LTD., a Colorado Limited Partnership hereinafter referred to as the "Declarant", is the owner of the following described property, located in the County of Larimer, State of Colorado to-wit:

See Attached Exhibit "A".

said property being hereinafter referred to as "the Property";

AND WHEREAS, Owner desires to establish, by this Declaration, a plan for the individual ownership of that part of the property consisting of the area or space contained in each of the condominium units in any building located on said property, and the co-ownership, as tenants in common, of all of the remainder of the property and improvements thereon, which are hereinafter defined and referred to as the "common elements". Such plan is hereby declared to be for the benefit of the property and the owners thereof, their heirs, devisees, personal representatives, grantees, successors, and assigns, and is for the purpose of designating the property as condominium property under the provisions of the Condominium Ownership Act of the State of Colorado, Article 33 of Title 38 of 1973 Colorado Revised Statutes, as amended.

NOW THEREFORE, Declarant does hereby publish and declare that the following terms, covenants, conditions, easements, reservations, restrictions, uses, limitations and obligations shall be deemed to run with the land, shall be a burden and a benefit to Declarant, and the Declarant's grantees, successors, and assigns, and any person acquiring or owning an interest in the real property and improvements, their heirs, devisees, personal representatives, grantees, successors, and assigns.

1. Definitions:

All applicable portions of definitions as contained in 1973 Colorado Revised Statutes, Section 38-33-103, shall apply to this Declaration and the property except as particularly modified or changed by individual definitions hereinafter contained.

A. "Unit" means an individual air space unit contained within the perimeter walls, floors, ceilings, windows and doors of a unit, or other boundary lines shown on the Condominium Map, in any building situated on real property that is subject to the provisions of this Declaration, and as shown and described on the Condominium Map recorded in the real property records of Larimer County, together with (i) all fixtures and improvements therein; (ii) the inner decorated or finished surfaces of such unit's perimeter walls, floors and ceilings; and (iii) the interior non-supporting walls within the unit. The term does not include, however, the undecorated or unfinished surfaces of the perimeter walls, floors or ceilings of a unit, any utilities running through the unit that serve more than one unit, or any other common element or part thereof located within the unit.

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B. "Condominium Unit" means the fee simple interest and title in and to the unit and the appurtenant undivided interest in and to the general and limited common elements.

C. "Building" means any building containing units as shown on the Map.

D. "Map" or "Condominium Map" or "Supplemental Map" means and includes the engineering survey of the land depicting and locating thereon all the improvements, the floor and elevation plans and any other drawings or diagrammatic plans depicting a part of or all of the land and improvements thereon.

E. "Owner" means a person, firm, corporation, partnership, association or other legal entity or any combination thereof, who owns one or more condominium units.

F. "General Common Elements" means that portion of the lands first hereinabove described as is shown and described on the Map; the structural components of the buildings thereon; and all other parts of such land and improvements thereon necessary or convenient to its existence, maintenance and safety which are normally and reasonably in common use; all of which shall be owned as tenants in common by the owners of the separate units in undivided interests; and including the air space above such land, except those air spaces identified on the Map as units.

G. "Mortgagee" shall mean and include any person, corporation, partnership, trust company, association, or other legal entity which holds or receives a mortgage or deed of trust as security for the payment of a debt or obligation.

H. "Limited Common Elements" are those portions of the general common elements which are either reserved for the exclusive use of an individual owner of a condominium unit or for use by fewer than all of the individual owners of condominium units. The limited common elements so reserved shall be identified or designated on the Map as limited common elements. Any court, terrace, patio, balcony, deck, fenced area or storage locker which is accessible from, associated with and which adjoins a unit shall, without further reference thereto, be so identified in connection with such unit to the exclusion of the use thereof by the other owners of the general common elements, except by invitation. All of the owners of the condominium units in the condominium project shall have a non-exclusive right in common with all of the other owners to the use of sidewalks, pathways, driveways, parking areas and streets located within the entire condominium project.

I. "Entire Premises" means and includes the land, the buildings, all improvements and structures thereon and all rights, easements and appurtenances belonging thereto.

J. "Common Expenses" means and includes expenses for the maintenance of the common elements, including trash removal, water, sewage, insurance, and snow removal; expenses declared common expenses by the provisions of this Declaration or by the By-Laws of the Association; and all sums lawfully assessed against the common elements by the Board of Directors of the Association; and expenses agreed upon as Common Expenses by the Association.

K. "Association of Unit Owners" or "Association" means Chestnut Village Condominium Association, a Colorado Corporation, not for profit, the Articles and By-Laws of which shall govern the administration of this and other condominium property, the members of which shall be all of the owners of the condominium units in the entire premises and all of the owners in other property which Declarant may commit to condominium purposes all as is hereinafter provided.

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L. "Declaration: means this Declaration and any amendments or supplements thereto, if any.

2. Division of Property Into Condominium Units: The property, including the improvements constructed or to be constructed thereon, is hereby divided in separate fee simple estates, each estate consisting of the following:

- A. The unit, each such unit to be identified and located on the Condominium Map.
- B. An appurtenant undivided interest in the general common elements as shown on the Map in the same proportion that the square footage of each unit bears to the total square footage of all units subject to this Declaration.
- C. The limited common elements allocable to each such unit as shown on the Map.

3. Condominium Map: The Map shall be filed for record prior to the conveyance of any condominium unit shown thereon. The map may be filed for record in whole or in parts or sections, from time to time, as the stages of construction of the units and other improvements are substantially completed or as already constructed buildings are added to the condominium map. The Map shall depict and show at least the legal description of the property, together with a survey thereof; the outside perimeter boundary of any building within which units shall be located in reference to the exterior boundaries of the property; the location of any unit within any building, both horizontally and vertically; the floor and elevation plans; the thickness of the common walls between or separating the units; the location of any structural components or supporting elements of any building located within a unit; and, the unit designations and building designations. There shall be filed for record as part of the Map the certificate of a registered professional land surveyor, registered professional engineer or licensed architect certifying that the map substantially depicts the location and the horizontal and vertical measurements of any building and the units, the unit designations, the dimensions of the units, the elevation of the unfinished floors and ceilings as constructed, and the building designations. In interpreting the Map, the existing physical boundaries of each separate unit as constructed shall be conclusively presumed to be its boundaries. Declarant reserves the right to conform such Map to the actual location of any of the constructed improvements.

4. Description of Condominium Unit: Every contract for the sale of a condominium unit written prior to the filing of the Map may legally describe a condominium unit by its identifying unit designation followed by the words Chestnut Villate Condominiums, Fort Collins, Colorado, a Condominium, with further reference to the Map thereof to be filed for record and the recorded Declarations. Subsequent to the filing of the Map on which such unit is designated, every contract, deed, lease, mortgage, trust deed or other instrument may legally describe such condominium unit by its identifying unit designation as shown on the Map or Maps followed by the words Chestnut Village Condominiums, Fort Collins, Colorado, a Condominium, with further reference to the Map filed for record and the recorded Declarations. Where the condominium unit to be conveyed is shown on a "Supplement" Map, it shall be so stated. Every such description shall be deemed good and sufficient for all purposes to sell, convey, transfer, encumber or otherwise affect the condominium unit, the general common elements, limited common elements appurtenant thereto, and all other appurtenant properties and property rights, and incorporate all of the rights and burdens incident to ownership of a condominium unit and all of the limitations thereon as described in this Declaration and the condominium map. Each such description shall be construed to include a non-exclusive easement for ingress and egress to and from an owner's unit.

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5. Inseparability of Condominium Unit: Each unit, the limited common elements appurtenant thereto and the undivided interest in the general common elements appurtenant thereto shall be inseparable, and may be conveyed, leased, rented, or encumbered only as a common unit. No owner shall bring any action for partition or division of a condominium unit.

6. Non-Partitionability of General Common Elements: The general common elements shall remain undivided and no owner shall bring any action for partition or division thereof. No change in the interest of an owner in the general common elements or a limited common element shall be permissible without the written consent of one hundred percent (100%) of all owners and one hundred percent (100%) of all first mortgagees, subject to the Provisions of Paragraph 21 hereof.

7. Limited Common Elements: Each owner shall be responsible for keeping his limited common elements in a clean and sightly condition. Removal of snow, ice or debris shall be done by the individual unit owners.

8. Ownership - Title: A condominium unit may be held and owned by more than one person as joint tenants, or as tenants in common, or in any real property tenancy relationship recognized under the laws of the State of Colorado.

9. Separate Assessment and Taxation - Notice to Assessor: Declarant shall give written notice to the Assessor of the County of Larimer, State of Colorado, of the creation of condominium ownership of this property as is provided by law, so that each unit and the undivided interest in the general common elements appurtenant thereto shall be deemed a separate parcel and subject to separate assessment and taxation.

10. Use of General and Limited Common Elements: Each owner may use the general common elements in common with the other condominium unit owners, and the limited common elements in accordance with the purpose for which they are intended. The Association may adopt rules and regulations governing the use of general and limited common elements, provided such rules and regulations shall be uniform and non-discriminatory and not in conflict with this Declaration. Each owner, by the acceptance of his deed or other instrument of conveyance or assignment, agrees to be bound by any such adopted rules and regulations.

11. Use and Occupancy: Each unit shall be used for residential purposes only, as more fully hereinafter defined and restricted in Paragraph 35.

12. Easements for Encroachments, Utilities, and Maintenance:

A. The owners of the respective condominium units agree that if any portion of the common elements encroaches upon a unit or units, a valid easement for the encroachment and for the maintenance of same, so long as it stands, shall and does exist. The owners of the respective units agree that if any portion of a unit encroaches upon the common elements a valid easement for the encroachment and for the maintenance of same, so long as it stands, shall and does exist. In the event a structure is partially or totally destroyed and then rebuilt, the owners of condominium units therein agree that encroachment of parts of the common areas due to construction shall be permitted and that a valid easement for said encroachment and maintenance thereof shall exist.

B. There is hereby created a blanket easement upon, across, over and under the above-described premises for ingress, egress, installation, replacing, repairing and maintaining all utilities, including, but not limited to, water, sewer, gas, telephone, electricity, and antenna systems. By virtue of this easement, it shall be expressly permissible for the providing

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electrical and/or telephone company to erect and maintain the necessary poles and other necessary equipment on said property and to affix and maintain electrical and/or telephone wires, circuits and conduits upon, across, over and under the roofs and exterior walls of said condominiums. Notwithstanding anything to the contrary contained in this Paragraph, no sewers, electrical lines, water lines or other utilities may be installed or relocated on said premises except as approved by the Association's Board of Directors. This easement shall in no way affect any other recorded easements on said premises.

C. An easement is also reserved upon, across, over and under each condominium unit to permit the Association or its designees to effect any necessary maintenance or repairs to a building.

**13. Mechanic's Lien Rights and Indemnification:**

Subsequent to the completion of the improvements described on the Map, no labor performed or materials furnished and incorporated in a unit with the consent of or at the request of the owner thereof, or his agent, or his contractor or subcontractor, shall be the basis for filing a lien against the condominium unit of any other owner not expressly consenting to or requesting the same. Each owner shall indemnify and hold harmless each of the owners from and against all liability arising from the claim of any lien against the condominium unit of any other owner for construction performed, or for labor, materials, service or products incorporated in the owner's unit at such owner's express or implied request. The provisions herein contained are subject to the rights of the Association as set forth in Paragraph 15.

**14. Administration:** The administration of this condominium property shall be governed by this Declaration, the Articles of Incorporation, and the By-Laws of Chestnut Village Condominium Association, a Colorado Corporation, not for profit, hereinafter referred to as the "Association". An owner of a condominium unit shall become a member of the Association upon conveyance to him of his condominium unit and shall remain a member for the period of his ownership.

**15. Association:**

A. Declarant has caused to be incorporated as a non-profit corporation the Chestnut Village Condominium Association, and hereby designates such Association as manager of the condominium area and the common elements. Any purchaser of a condominium unit shall be deemed to have consented to such designation and to have ratified and approved the same. The Association shall have all duties, rights and powers provided in this Declaration, including the following:

(1) To adopt rules and regulations governing the use and operation of the common elements.

(2) To levy and collect monthly or periodic assessments from the owners of condominiums in the condominium project, to collect delinquent assessments by suit or otherwise, and to collect such other assessments as are herein authorized.

(3) To provide for maintenance, management, insurance and such other expenses as may be contemplated by this Declaration from the funds collected.

(4) To enter into and upon the condominium units at all reasonable times as necessary to perform the functions and duties assigned to the Association and to enjoin or seek damages from owners for violation of the Declaration, the Articles of Incorporation of the Association, the By-Laws or the rules and regulations adopted by the Association.

(5) To hire employees; to contract for services to be performed; to purchase supplies and equipment; to enter into contracts; and generally to have the powers of a property manager in connection with all matters set forth in this Declaration. The Association shall not enter into any contract or management agreement for the furnishing of services, materials or supplies for a term exceeding three (3) years. Any contract or management agreement entered into by the Association or the Declarant shall be terminable by the Association without cause and without penalty upon no more than thirty (30) days notice.

(6) To protect and defend all properties in the condominium area from loss and damage by suit or otherwise.

(7) To deposit funds in the hands of the Association which are not necessary for immediate disbursement in savings accounts of national or state banks and savings and loan associations earning standard rates of interest and insured by a federal agency.

(8) To file legal protests, formal or informal, with authorities having appropriate jurisdiction, against the granting by such authorities of zoning ordinances or variances as to any property adjoining or within a reasonable proximity of the condominium area which might affect or depreciate the value of the owners' interest in the condominium project.

(9) To enjoin or seek damages from or assess and collect fines against the owners for violations of the Declaration or any rules and regulations.

(10) To do any other thing necessary or desirable in order to perform the functions and duties assigned to the Association.

(11) The Association, in addition, shall have all of the powers conferred by law, but notwithstanding, the Association, without the prior written consent of seventy-five percent (75%) of the owners and one hundred percent (100%) of the first mortgagees, shall not be entitled to:

(a) By act or omission, seek to abandon or terminate the condominium project.

(b) Change the method of allocation for distribution of hazard insurance proceeds or condemnation awards or determining pro-rata share of ownership in common elements.

(c) By act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the common elements.

(d) Use hazard insurance proceeds from losses to any Condominium property for other than repair, replacement, or reconstruction, except as provided by Statute or in this Declaration.

**B. Board of Directors and Officers:** The Association shall be governed by a Board of Directors as provided in the Articles of Incorporation of the Association and its By-Laws and the functions and duties assigned to the Association shall be carried out by or under the direction of officers of the Association duly appointed as provided in such Articles and By-Laws.

**C. Membership:** Membership in the Association shall consist of the following:

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(1) Any person acquiring an interest in the fee simple ownership in a condominium unit shall automatically become a member of the Association. Such ownership interest shall be the sole qualification for membership. Upon the sale or transfer of such fee simple interest by an owner, that person's membership shall terminate and shall automatically be transferred to the purchaser or transferee.

(2) Declarant or its successors and assigns shall also be a member of the Association. Such membership (as the Declarant but not as to any unit owned) shall terminate when the right of Declarant to vote, as provided in Paragraph 15 (E) below, shall no longer be in effect.

**D. Voting:** Members shall be entitled to one (1) vote for each condominium unit owned in the condominium project. In no event shall multiple ownership of a condominium unit allow more than one (1) vote per condominium unit. Where there is more than one (1) owner of a condominium, all co-owners shall be members of the Association and may attend any meeting of the Association, but only the member designated by the co-owners owning a majority interest in the condominium shall vote for such unit. Divided votes shall not be allowed and the vote for each condominium shall be exercised, if at all, as a unit. In any case where a majority of the co-owners fail or are unable to designate the voting member for a condominium unit, the Board can designate the voting member for that unit or refuse to allow the owners of that unit to cast a vote. Non-voting co-owners shall be jointly and separately responsible for all of the obligations imposed upon the co-owned condominium unit and shall be entitled to all other benefits of ownership. All agreements and determinations made by the Association in accordance with the voting procedures established herein, or in the By-Laws of the Association, shall be deemed to be binding on all unit owners, their successors and assigns.

**E. Declarant's Right to Elect Directors.** Notwithstanding any other provision of this Declaration, the exclusive right to vote for the election of the members of the Board of Directors shall be vested solely in Declarant until the earlier of (i) one hundred twenty (120) days after completion of conveyance to other parties of seventy-five percent (75%) of all condominium units; (ii) five (5) years from the date of the first conveyance of a unit to another party; or (iii) the time when Declarant files, with the Clerk and Recorder of Larimer County, Colorado, a written election to terminate this right.

**F. Indemnification:** Each Director and Officer of the Association and all employees of the Association shall be indemnified by the Association against all expenses and liabilities, including attorney's fees, reasonably incurred or imposed upon them in connection with any proceedings to which they may be a party or in which they may have become involved by reason of being or having acted as such upon behalf of the Association, provided that this indemnification shall not apply if any such person is adjudged guilty of willful misfeasance or malfeasance in the performance of his duties, and, provided further, that in the event of a settlement, indemnification herein shall apply only when the Board of Directors of the Association approves such settlement and reimbursement as being in the best interests of the Association. The foregoing rights of indemnification shall be in addition to and not exclusive of all other rights to which such person may be entitled.

**G. Limitation Upon Liability of Association:** Notwithstanding the duty of the Association to maintain and repair any part of the property constituting the condominium area, the Association shall not be liable for injury or damage caused by any latent condition of the property or by the conduct of other owners or persons or by casualties for which insurance is not provided by the Association.

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16. Reservation for Access - Maintenance, Repair and Emergencies: The Association shall have the irrevocable right 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, or for making emergency repairs therein necessary to prevent damage to the general or limited common elements or to the interior or any part of a condominium unit. Damage to the interior or any part of a condominium unit resulting from the maintenance, repair, emergency repairs, or replacement of any of the common elements or as a result of emergency repair within another unit, at the instance of the Association, shall be a common expense. No diminution or abatement of common expense assessments shall be claimed or allowed 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 a governmental authority. Restoration of the damaged improvements shall be substantially the same as the condition in which they existed prior to the damage. Notwithstanding the foregoing, if any such damage is the result of the carelessness or negligence of any owner, then such owner shall be solely responsible for the costs and expense of repairing such damage.

17. Owners' Maintenance Responsibility of Unit: For purposes of maintenance, repair, alteration and remodeling, an owner shall be deemed to own the interior non-supporting walls, the material (such as, but not limited to, plaster, gypsum, dry wall, paneling, wallpaper, paint, wall and floor tile, and floorings, but not including the sub-flooring) making up the finished surfaces of the perimeter walls, ceilings and floors within the unit and the unit doors and windows. The owner shall not be deemed to own lines, pipes, wires, conduits or systems (which for brevity are hereafter referred to as utilities) running through his unit which serve one or more other units except as a tenant in common with the other owners. Such utilities shall not be disturbed or relocated by any owner without the written consent and approval of the Association. Any right to repair, alter and remodel shall carry the obligation to replace any finishing or other materials removed with similar or other types or kinds of materials. An owner shall maintain and keep in repair the interior of his unit, including the fixtures thereof. All fixtures and equipment installed within the unit commencing at a point where the utilities enter the unit shall be maintained and kept in repair by the owner thereof. An owner shall do no act nor work that will impair the structural soundness or integrity of the building or impair any easement or hereditament. The Association shall not be liable for any failure of water supply, or other service to be obtained and paid for by the Association hereunder, or for injury or damage to person or property caused by the elements, or by another owner or person in the project, or resulting from electricity, water, rain, dust or sand which may leak or flow from outside or from any parts of the buildings or from any of its pipes, drains, conduits, appliances or equipment or from any other place, unless caused by gross negligence of the Association or its agents.

18. Compliance with Provisions of Declaration, By-Laws of Association: Each owner shall comply strictly with the provisions of this Declaration, the Articles of Incorporation and By-Laws of the Association, and the decisions and resolutions of the Association adopted pursuant thereto as the same may be lawfully amended from time to time. Failure to comply with any of the same shall be grounds for an action to recover sums due and for damages or injunctive relief, or both, maintainable by the Association on behalf of the owners, or, in a proper case, by an aggrieved owner.

19. Revocation or Amendment to Declaration:

A. Except as is otherwise provided herein, this Declaration shall not be revoked unless all of the owners and all



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of the first mortgagees of the condominium units in the project consent and agree to such revocation by instrument(s) duly recorded. This Declaration shall not be amended unless: (i) the prior written consent and permission of the Association be first obtained; (ii) the prior written consent of owners representing an aggregate ownership interest of seventy-five percent (75%) or more in the general common elements be first obtained; and (iii) the prior written consent of all of the holders of any recorded first mortgages or trust deeds be first obtained; EXCEPT, that no amendment to this Declaration affecting the unit owners' individual interest in the general common elements shall be made without one hundred percent (100%) prior written consent of the unit owners; subject to the provisions of Paragraph 21 hereof. Such consents, and each of them, shall be evidenced by recorded instruments.

B. Notwithstanding anything herein contained to the contrary, Declarant shall have the right to amend the provisions hereof at any time and from time to time prior to the Declarant having sold seventy-five (75%) of the condominium units, with the prior written consent of all first mortgagees, including the right and power to record a special amendment to this Declaration which amends this Declaration:

(1) To comply with any requirements of the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Department of Housing and Urban Development, the Federal Housing Administration, the Veterans' Administration, or an other governmental or private entity which performs (or may in the future perform) functions similar to those currently performed by such entities; and/or

(2) To induce any such agencies or entities to make, purchase, sell, insure or guarantee first mortgages covering private properties in the condominium area.

In furtherance of the foregoing, a power coupled with an interest is hereby reserved and granted to the Declarant to make or consent to a special amendment on behalf of each owner. Each deed, mortgage or other evidence of obligation or other instrument affecting private properties in the condominium area and the acceptance thereof shall be deemed to be a grant and acknowledgment of and a consent to the reservation of the power of the Declarant to make, execute and record such special amendments. No special amendment made by Declarant shall affect or impair the lien of any first mortgage upon any private property made by an owner.

20. Assessment for Common Expenses: All owners shall be obligated to pay the estimated assessments imposed by the Association to meet the common expenses attributed to the property included in this Declaration. Assessment of the unit owners shall be as determined by the Board of Directors of the Association from time to time, and each unit owner shall be responsible for that proportion of the total assessment equal to such owner's percentage interest in and to the general common elements, except where proration in accordance with such percentages would result in unfairness. The owners shall at all times maintain with the Association or its designated agent a sum on deposit equal to the estimated maintenance fee for the next following two (2) months. On new units sold, the two (2) months estimated maintenance fee shall be paid at the time of closing. Assessments for the estimated common expenses, including insurance, water, trash removal, snow removal, maintenance and sewage, shall be due monthly, in advance, on the first day of each month. The Association shall prepare and deliver by mail to each owner a monthly statement for the estimated actual expenses.

.. The Association shall be obligated to establish a reserve fund for the maintenance, repair and replacement of those common elements that must be replaced periodically and such reserve fund shall be funded through monthly payments of the common expenses and not be extraordinary special assessments.

C. Contributions for monthly assessments shall be prorated if the ownership of a condominium unit commences on a day other than the first day of a month.

D. The assessments made for the common expenses shall be based upon the cash requirements deemed to be the aggregate sum the Association shall from time to time determine is to be paid by all of the owners, including Declarant, to provide for payment of all estimated expenses growing out of or connected with the maintenance and operation of the general common elements, which sum may include among other things, expenses of management, taxes and special assessments until separately assessed, fire insurance with extended coverage and vandalism and malicious mischief insurance with endorsements attached issued in the amount of the maximum replacement value of all of the condominium units, including all fixtures, interior walls, floors and ceilings, doors, windows and elements or materials comprising a part of the unit; casualty and public liability and other insurance premiums; landscaping and care of grounds; common lighting; repairs and renovations; trash and garbage collections; wages, water charges, legal and accounting fees; management fees; expenses and liabilities incurred by the Association under or by reason of this Declaration; the payment of any deficit remaining from a previous period; the creation of reasonable contingency or other sinking reserve or surplus fund, as well as other costs and expenses relating to the general common elements.

21. Annexation: Additional condominium units and common elements may be annexed hereto with the consent of two-thirds (2/3) of the members of the Association, or may be annexed by Declarant without the consent of the members prior to July 1, 1988, provided that any future improvements upon the property so annexed shall be of comparable style, quality, size, and cost as the improvements then constructed and then to be constructed upon the property subject to this Declaration, and further provided that that the Federal Housing Administration and Veteran's Administration determine that the annexation is in accord with the general plan heretofore approved by them. Each such annexation shall be effected, if at all, by recording an annexation of additional land in the office of the Clerk and Recorder of the County of Larimer, State of Colorado, which document shall provide for annexation to this Declaration of the property described in such annexation and may include such other provisions as are deemed appropriate by the Declarant or the Association. All provisions of this Declaration shall apply to annexed property immediately upon recording an annexation of additional land with respect thereto. Notwithstanding anything to the contrary herein contained, the maximum number of condominium units which may be committed to the Association shall not exceed one-hundred twenty-one (121), which includes the thirty-one (31) condominium units covered by this Declaration and an additional ninety (90) which may be located on property annexed. In the event additional condominium units are committed to the Association as aforesaid, the prorata interest of the existing unit owners in the general common elements and for assessments purposes will decrease such that all existing and new unit owners shall be entitled to an undivided interest in the general common elements in the same proportion as the square footage of each unit bears to the total square footage of all the units and shall be responsible for payment of that portion of the total assessments which the square footage of all the units owned by each owner bears the total square footage of all units owned after such additional condominium units are committed to the Association and the new members shall be subject to assessment in like respect and with the same rights and privileges as the prior members of the Association. In accordance with the provisions

hereinabove set forth, the maximum possible percentage of undivided interest in the general common elements for any unit will be 3.88 percent (3.88%), and the minimum possible percentage of undivided interest in the general common elements for any condominium unit will be 2.39 percent (2.39%).

22. Insurance:

A. The Board of Directors of the Association shall obtain and maintain at all times, to the extent obtainable, 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 types of coverages to be obtained and risks to be covered are as follows, to-wit:

(1) Fire insurance with extended coverage and standard all risk endorsements, which endorsements shall include endorsements for vandalism and malicious mischief. Said casualty insurance shall insure the entire condominium project and any property, the nature of which is a common element (including all of the units and fixtures therein initially installed by the Declarant but not including furniture, furnishings or other personal property supplied by or installed by unit owners) 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 non-contributory mortgage clause in favor of each first mortgagee of a condominium unit, which shall provide that the loss, if any, thereunder, shall be payable to the Chestnut Village Condominium Association, for the use and benefit of mortgagees as their interests may appear.

(2) Public liability and property damage insurance in such limits as the Board of Directors of the Association may from time to time determine, but not in an amount less than Five Hundred Thousand and no/100 Dollars (\$500,000.00) per injury, per person, per occurrence and umbrella liability limits of One Million and no/100 Dollars (\$1,000,000.00) per occurrence, covering 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 project. Said policy shall also contain a "severability of interest" endorsement.

(3) Workmen'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.

(4) The Association shall purchase and be the owner of fidelity coverage in an amount no less than one hundred fifty percent (150%) of the estimated annual operating expenses and reserves of the Association against dishonesty of employees, destruction or disappearance of money and securities and forgery. Said policy shall also contain endorsements thereto covering any persons who serve the Association without compensation.

(5) The Association may obtain insurance against such other risks, of a similar or dissimilar nature, as it shall deem appropriate with respect to the project, including plate or other glass insurance and any personal property of the Association located thereon.

B. 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 condominium 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

mortgagees. If requested, duplicate originals of all policies and renewals thereof, together with proof of payments of premiums, shall be delivered to all mortgagees at least ten (10) days prior to the expiration of the then current policies. The insurance shall be carried in blanket form naming the Chestnut Village Condominium Association as the insured, as attorney-in-fact for all of the condominium unit owners, which policy or policies shall identify the interests of each condominium unit owner (owner's name and unit 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.

C. 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 of Directors shall not be affected or diminished by reason of any such additional insurance carried by any unit owner.

D. Insurance coverage on furnishings, including carpet, draperies, oven, range, refrigerator, wallpaper, disposal and other items of personal or other property belonging to an owner and public liability coverage within each unit shall be the sole and direct responsibility of the unit owner thereof, and the board of Directors, the Association and/or the Managing Agent shall have no responsibility therefor.

E. In the event that there shall be any damage or destruction to, or loss to or taking of a unit which exceeds One Thousand and no/100 Dollars (\$1,000.00) or any damage or destruction to, or loss to or taking of the common elements which exceeds Ten Thousand and no/100 Dollars (\$10,000.00), then notice of such damage or loss or taking shall be given by the Association to each first mortgagee of said condominium unit within ten (10) days after the occurrence of such event.

23. Lien for Non-Payment of Assessments: A. It shall be the duty of the owner of each condominium unit to pay his proportionate share of the common expenses, expenses of administration, maintenance and repair of the common elements, water, sewage, trash removal, taxes, insurance and fixed charges allocated or assessed to such unit and its corresponding condominium interest, and of any other expense, damage or penalty set forth in these Declarations. Payment thereof shall be in such amounts and such times as may be determined by the Association. If any condominium unit owner shall fail or refuse to make any such payment of the common expenses when due, the amount thereof together with interest thereon at the rate of eighteen percent (18%) per annum from the due date thereof, shall constitute a lien on the condominium interest of such owner as set forth in the deed of conveyance to him, together with his interest in common elements, and upon the recording of the notice thereof by the Association with the Clerk and Recorder of Larimer County, Colorado, the lien shall, concomitant with said recording, attach and constitute a lien upon which owner's interest in the condominium property.

B. The lien of the assessments provided for herein shall be subordinate to the lien of any loan evidenced by recorded first mortgage or recorded first Deed of Trust, and to any executory land sales contract wherein the Administrator of Veterans' Affairs (Veterans' Administration) is seller, whether such contract is owned by the Veterans' Administration or its assigns, and whether such contract is recorded or not. Sale or transfer of any unit shall not affect the assessment lien. However, the sale or transfer of any unit pursuant to a mortgage or Deed of Trust foreclosure, or any proceeding in lieu thereof, or the cancellation or foreclosure of any executory land sales contract wherein the Administrator of Veterans' Affairs (Veterans' Administration) is seller, whether such contract is owned by the Veterans' Administration or its assigns, and whether recorded or not, shall extinguish the lien of such assessments as to payments

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which become due prior to such sale or transfer. Any first mortgagee or holder of a first Deed of Trust upon a condominium unit who obtains title to a condominium unit by foreclosure of the mortgage or Deed of Trust, or by any proceeding in lieu thereof, or by acceptance of a Deed in Lieu of Foreclosure, will not be liable for such units dues or charges which accrued prior to the acquisition of title to such unit by the mortgagee. No sale or transfer shall relieve such lot from liability for any assessments thereafter becoming due or from the lien thereof. The lien of the Association assessments shall be superior to any homestead exemption as is now or may hereafter be provided by Colorado Law. The acceptance of a Deed to any lot subject to this Declaration shall constitute a waiver of the Homestead Exemption as against said assessment lien.

C. To evidence such lien for unpaid assessments, the Association shall prepare a written notice setting forth the amount, the name of the owner of the condominium unit and a description of the condominium unit. Such notice shall be signed on behalf of the Association by an Officer of the Association and shall be recorded in the office of the Clerk and Recorder of the County of Larimer. The lien shall attach and be effective from the due date of the assessment until all sums, with interest and other charges thereon, shall have been paid in full. Such lien may be enforced by foreclosure by the Association of the defaulting owner's condominium unit in like manner as mortgages on real property. The lien provided herein shall be in favor of the Association and for the benefit of all of the condominium owners who are members of the Association. In any such foreclosure, the owner shall be required to pay the costs and expenses of such proceedings and attorney's fees for filing the notice or claim of lien and all reasonable attorney's fees in connection with such foreclosure. The owner shall also be required to pay to the Association the monthly assessment for the condominium unit during the period of foreclosure and the Association shall be entitled to a Receiver to collect the same. The Association, on behalf of the unit owners, shall have the power to bid in the condominium unit at foreclosure sale and to acquire, hold, lease, mortgage and convey same. The Association shall send to each first mortgagee a copy of the notice of lien provided for herein. Any encumbrancer holding a lien on a condominium unit may, but shall not be required to, pay any unpaid common expense payable with respect thereto and upon such payment, such encumbrancer shall have a lien on such unit for the amounts paid, of the same rank as the lien of his encumbrance. Upon request of a mortgagee, the Association shall report in writing to the mortgagee of a condominium unit any unpaid assessment remaining unpaid for thirty (30) days after the same is due, or other default in any covenant, condition, obligation or term of this Declaration, not cured within thirty (30) days; provided, however, that a mortgagee shall have furnished to the Association notice of such encumbrance.

24. Owners' Obligation for Payment of Assessments: The amount of the expenses assessed by the Association against each condominium unit shall be the personal and individual debt of the owner thereof at the time the assessment is made. Suit to recover a money judgment for unpaid common expenses shall be maintainable without foreclosing or waiving the lien securing same. No owner may exempt himself from liability for his contribution toward the common expenses by a waiver of the use or enjoyment of any of the common elements, or by abandonment of his unit.

25. Liability for Common Expenses Upon Transfer of Condominium Unit is Joint: Upon payment of a reasonable fee not to exceed Twenty and no/100 Dollars (\$20.00) and upon the written request of any owner, any mortgagee, or any prospective mortgagee of a condominium unit, the Association shall issue a written statement setting forth the amount of the unpaid expenses assessed to such unit, if any, the amount of the current monthly assessment and the date such assessment becomes due, credit for advanced payments or for prepaid items, including but not limited to insurance premiums, which statement shall be conclusive upon the Association in favor of all persons who rely thereon in good faith.

Unless such request for a statement of indebtedness shall be complied with within ten (10) days, all unpaid common expenses which become due prior to the date of making such request shall be subordinate to the lien of the person requesting such statement. The grantee of a unit shall be jointly and severally liable with the grantor for all unpaid assessments against the latter for his proportionate share of expenses up to the time of the grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee thereof; provided, however, that upon payment of a reasonable fee not to exceed Twenty and no/100 Dollars (\$20.00), and upon written request, any such prospective grantee all be entitled to a statement from the Association setting forth the amount of the unpaid assessments, if any, with respect to the subject unit, the amount of the current monthly assessment and the date that such assessment becomes due, credit for advance payments or for prepaid items, including but not limited to insurance premiums, which shall be conclusive upon the Association, and unless such request for a statement of indebtedness shall be complied with within ten (10) days of such request, then such grantee shall not be liable for, nor shall the condominium unit conveyed be subject to the lien for any unpaid assessments against the subject unit.

26. Mortgaging a Condominium Unit - Priority: Any owner shall have the right from time to time to mortgage or encumber his interest by deed of trust, mortgage, or other security interest. A first mortgage shall be one which has first and paramount priority under applicable law. The owner of a condominium unit may create junior mortgages on the following conditions: (i) That any such junior mortgages shall always be subordinate to all terms, conditions, expenses, and other obligations created by this Declaration and by the By-Laws; (ii) 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 the mortgaged premises by the Association. Such release shall be furnished forthwith by a junior mortgagee upon written request of the Association, and if not granted, may be executed by the Association as attorney-in-fact for such junior mortgagee.

27. Destruction, Damage or Obsolescence - Association as Attorney-in-Fact: This Declaration does hereby make mandatory the irrevocable appointment of an attorney-in-fact to deal with the project in the event of its destruction, damage, obsolescence or condemnation, including the repair, replacement and improvement of any condominium units, buildings, common elements or other portions of the project which have been so destroyed, damaged, condemned or become obsolete. Title to any condominium units 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 Chestnut Village Condominium Association as their true and lawful attorney in their name, place and stead for the purpose of dealing with the project upon its damage, destruction, obsolescence or condemnation as is hereinafter provided. As attorney-in-fact, the Association, by its President and Secretary or Assistant Secretary, or its other duly authorized officers and agents, shall have full and complete authorization, right and power to make, execute and deliver any contract, deed, or other instrument with respect to the interest of a condominium 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 condominium unit owners shall be held within thirty (30) days of either of such events. At such meeting a new attorney-in-fact, to deal with the project upon its destruction, damage, obsolescence or condemnation shall be appointed. Said appointment must be approved by the owners representing an aggregate ownership interest of seventy-five percent (75%) or more of the common elements and at least seventy-five percent (75%) of the first mortgagees of the condominium units. Repair and reconstruction of the improvements as used in the succeeding Subparagraphs means restoring the

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improvement(s) 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 project's original architectural plan and scheme. The proceeds of any insurance collected shall be available to the Association for the purpose of repair, restoration, reconstruction or replacement unless all of the owners and all first mortgagees agree not to rebuild in accordance with the provisions hereinafter set forth.

A. In the event of damage or destruction due to fire or other disaster, the insurance proceeds, if sufficient to reconstruct the improvement(s), shall be applied by the Association, as attorney-in-fact, to such reconstruction, and the improvement(s) 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 improvement(s). Assessments for common expenses shall not be abated during the period of insurance adjustments and repair and reconstruction.

B. If the insurance proceeds are insufficient to repair and reconstruct the improvement(s), and if such damage is not more than seventy per cent (70%) of the total replacement costs of all of the condominium units in this project, 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 condominium units. Such special assessment shall be a common expense and made pro rata according to each owner's percentage of responsibility 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 improvement(s) 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 debt of each owner and a lien on his condominium unit and may be enforced and collected as is provided in Paragraph 22. In addition thereto, the Association, as attorney-in-fact, shall have the absolute right and power to sell the condominium unit of any owner refusing or failing to pay such deficiency assessment within the time provided, and if not so paid, the Association shall cause to be recorded a notice that the condominium unit of the delinquent owner shall be sold by the Association, as attorney-in-fact, pursuant to the provisions of this Paragraph. Assessments for the 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 for filing the notice, interest at a rate of eighteen percent (18%) per annum on the amount of the assessment and all reasonable attorney's fees. The proceeds derived from the sale of such condominium unit shall be used and disbursed by the Association as attorney-in-fact, in the following order:

- (1) For payment of the balance of the lien of any first mortgagee;
- (2) For payment of taxes and special assessment liens in favor of an assessing entity and the customary expenses of sale;
- (3) For payment of unpaid common expenses and all costs, expenses and fees incurred by the Association;
- (4) For payment of junior liens and encumbrances in the order of and to the extent of their priority; and
- (5) The balance remaining, if any, shall be paid to the condominium unit owner.

C. If the insurance proceeds are insufficient to repair and reconstruct the improvement(s), and if such damage is more than seventy percent (70%) of the total replacement costs of all of the condominium units in this project, 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 condominium units, provided, however, that the owners representing an aggregate ownership interest of seventy-five percent (75%) or more of the common elements and all of the first mortgagees of record may agree not to repair or reconstruct the improvements; and in such event, the Association shall forthwith record a notice setting forth such fact or facts, and upon the recording of such notice by the Association's President and Secretary or Assistant Secretary, the entire project shall be sold by the Association pursuant to the provisions of this Paragraph, as attorney-in-fact for all of the owners, free and clear of the provisions contained in this Declaration, the Map, Articles of Incorporation and By-Laws. Assessments for common elements shall not be abated during the period prior to sale. The insurance settlement proceeds shall be collected by the Association, and such 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 such account representing one of the condominium units. Each such account shall be in the name of the Association, and shall be further identified by the condominium unit designation and the name of the owner. From each separate account the Association, as attorney-in-fact, shall forthwith use and disburse the total amount of each of such account, without contribution from one account to the another, toward the partial or full payment of the lien of any first mortgagee encumbering the condominium unit represented by such separate account. Thereafter, each such account shall be supplemented by the apportioned amount of the proceeds obtained from the sale of the entire property. Such apportionment shall be based upon each condominium 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 is provided in Subparagraph B(1) through (5) of this Paragraph. In the event that the damage is to be repaired or reconstruction is to be made, then the provisions of Paragraph 27(B) shall apply.

D. The owners representing an aggregate ownership interest of seventy-five percent (75%) or more, of the general common elements, may agree that the condominium units are obsolete and that the same should be sold. Such plan (agreement) must have the approval of the Association and the unanimous approval of every first mortgagee of record at the time of the adoption of such plan. In such instance, the Association shall forthwith record a notice setting forth such fact or facts, and upon the recording of such notice by the Association, the entire premises shall be sold by the Association, as attorney-in-fact, for all of the owners, free and clear of the provisions contained in this Declaration, the Map and the By-Laws. The sale proceeds shall be apportioned between the owners in accordance with each owner's interest in the general common elements, and such apportioned proceeds shall be paid into separate account, each such account representing one condominium unit. Each account shall be in the name of the Association, and shall be further identified by number of the unit and the name of the owner. From each separate account, the Association, as attorney-in-fact, shall use and disburse the total amount (of each) of such accounts, without contribution from one account to another, for the same purposes and in the same order as provided in Subparagraph (B) of this Paragraph.

E. The provisions of Subparagraphs (A) through (D) of this Paragraph 27 shall be applicable to all condominium units committed to and covered by the Association.



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F. The Homeowners' Association shall give to the holder of any first mortgage, or its assigns, written notice of any loss of common elements exceeding Ten Thousand and no/100 Dollars (\$10,000.00), or loss in an individual condominium unit in excess of One Thousand and no/100 Dollars (\$1,000.00). Such notice shall be given with ten (10) days of loss.

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

A. Proceeds: All compensation, damages or other proceeds therefore, the sum of which is hereafter called the "Condemnation Award", shall be payable to the Association.

B. Complete Taking:

(1) In the event that the entire project is taken or condemned, or sold or otherwise disposed of in lieu of or in avoidance thereof, the condominium ownership pursuant hereto shall terminate. The condemnation award shall be apportioned among the owners on the same basis of each condominium unit owner's interest in the common elements, provided however, that if a standard different from the value of the property 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.

(2) 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 Paragraph 27 (B)(1) through (5).

C. Partial Taking: In the event that less than the entire condominium project is taken or condemned, sold or otherwise disposed of in lieu of or in avoidance thereof, the condominium ownership hereunder shall not terminate. Each owner shall be entitled to a share of the condemnation award to be determined in the following manner: as soon as practicable the Association shall reasonably and in good faith, allocate the condemnation award between compensation, damages or other proceeds and shall apportion the amounts so allocated among the owners as follows: (i) the total amount allocated to taking of or injury to the common elements, shall be apportioned among the owners on the basis of each owner's interest respectively in common elements; (ii) the total amount allocated to severance damages shall be apportioned to those condominium units which were not taken or condemned; (iii) the respective amounts allocated to the taking of or injury to a particular unit and to the improvements an owner has made within his own unit shall be apportioned to the particular unit involved; and (iv) the total amount allocated to consequential damages and any other takings or injuries shall be apportioned as the Association determines to be equitable in the circumstances. 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 Paragraph 27(B)(1) through (5).

D. The Association shall timely notify each first mortgagee of any condominium unit of the commencement of the condemnation proceedings or eminent domain proceedings and shall

notify said mortgagees in the event of the taking of all or any part of the common elements, if the value of the common elements taken exceeds Ten Thousand and no/100 Dollars (\$10,000.00).

29. Reorganization: In the event a partial taking results in the taking of a complete unit, the owner thereof automatically shall 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 and the first mortgagees of remaining units for amendment of this Declaration as provided in Paragraph 19.

30. Reconstruction and Repair: Any reconstruction and repair necessitated by condemnation shall be governed by the procedures specified in Paragraph 27.

31. Registration of Mailing Address: Each owner shall register his mailing address and the name and address of his first mortgagee, if any, with the Association and notices or demands intended to be served upon an owner shall be sent by mail, postage prepaid, addressed in the name of the owner and first mortgagee at such registered address. Copies of such notices shall be sent to first mortgagees in a like manner, except when such notices pertain to matters specifically relating to mortgagee(s), in which case such notice shall be sent certified, return receipt requested or registered.

32. Period of Condominium Ownership: The separate condominium estates created by this Declaration and the Map shall continue until this Declaration is revoked in the manner and as provided in Paragraph 19 of this Declaration or until terminated in the manner and as is provided in this Declaration.

33. Assessment Reserves and Working Capital Account: Each owner other than the Declarant, shall be required to deposit at the time of initial purchase and thereafter to maintain with the Association a sum equal to two (2) times the amount of the estimated monthly common expense assessments, which sum shall be used by the Board of Directors as a reserve for paying such owner's common expense assessment, for capital repairs and/or replacement, purchase of equipment and for extraordinary common expenses. Such advance payment shall not relieve an owner from making the regular monthly common expense assessment as the same comes due. Upon the sale of his condominium unit, an owner shall be entitled to a credit from his grantee for any unused portion thereof. Failure to so maintain said fund shall constitute a default on behalf of an owner and the Association shall be entitled to proceed under the remedies granted to it in Paragraph 18. Any interest accruing on such deposit shall not be required to be distributed by the Association.

34. Property for Common Use: The Association may acquire and hold for the benefit of the condominium owners, real, tangible and intangible personal property and may dispose of the same by sale or otherwise, and the beneficial interest in any such property shall be owned by the condominium owners in the same proportion as their respective interests in the general common elements and shall not be transferable except with a transfer of a condominium unit. A transfer of a condominium unit shall transfer to the transferee ownership of the transferor's beneficial interest in such real or personal property without any reference thereto or execution of a bill of sale. Each owner may use such real and personal property in accordance with the purpose for which it is intended, without hindering or encroaching upon the lawful rights of the other owners. Sale of a condominium unit under foreclosure shall thereby entitle the purchaser thereof to the beneficial interest in the real and personal property associated with the foreclosed condominium unit.

35. Restrictive Covenants and Obligations:

A. The property is hereby restricted to residential units for residential use and uses related to the convenience and enjoyment of such use. No buildings other than buildings shown on the Map shall be erected or constructed on the property except by vote of the majority in interest of the condominium unit owners. No structures of a temporary character, trailers, basements, tents, shacks, garages, barns or outbuildings shall be used or permitted to be kept or stored on any portion of the premises at any time either temporarily or permanently.

B. Notwithstanding any other provisions expressly or impliedly to the contrary contained herein, it shall be expressly permissible for the Declarant, Declarant's agent, employees and contractors to maintain during the period of improvement and sale of the condominium units, upon such portion of the property as Declarant deems necessary, such facilities as in the sole opinion of the Declarant may be reasonably required, convenient or incidental to the construction and sale or rental of condominium units and interest, including, but without limitation, a business office, storage areas, construction yards, signs, model units, sales office, parking areas and lighting.

C. No animals, livestock or poultry of any kind shall be raised, bred or kept on the property, except that one (1) dog or cat or other household pet weighing no more than twenty-five (25) pounds may be kept; provided, however, that the responsibility to pay for any damage caused by an owner's pet shall be in the owner. Every owner of a pet shall maintain strict control over his pet and shall prohibit the pet from making loud, disturbing noises. The owner of a dog shall prohibit barking by his dog. The Association may adopt rules and regulations to supplement this covenant. The Association shall have the right to promptly remove any pet not kept in compliance with these conditions.

D. No advertising signs, except a "For Rent" or "For Sale" sign which may be placed in a unit advertising for sale or rental the unit in which said sign is placed, billboards, unsightly objects or nuisances shall be erected, placed or permitted to remain on the premises, nor shall the premises be used in any way or for any purpose which may endanger the health or unreasonably disturb the owner of any condominium unit or any resident thereof. Further, no business activities of any kind whatsoever shall be conducted in any building or in any portion of the property; provided, further, that the foregoing covenants shall not apply to the business activities, signs and billboards, if any, of the Declarant, its agents, contractors and assigns during the sale and rental period and of the Association, its successors and assigns, in furtherance of its powers and purposes as hereinafter set forth.

E. No nuisances shall be allowed on the property, nor any use or practice which is the source of annoyance to residents or which interferes with the peaceful enjoyment or possession and proper use of the property by its residents. No one shall play or loiter in the common hallways and stairways. All parts of the property shall be kept in a clean and sanitary condition, and no rubbish, refuse or garbage shall be allowed to accumulate nor any fire hazard to exist. No unit owner shall permit any user of his unit to make use of the common elements which will increase the rate of insurance upon the condominium property. The Association may adopt by-laws and rules and regulations relative to abatement and enjoinder of nuisances.

F. No immoral, improper, offensive or unlawful use shall be permitted or made of the condominium property or any part thereof. All valid laws, ordinances and regulations of all governmental bodies having jurisdiction shall be observed.

G. Rules and regulations may be adopted by the Board of Directors concerning and governing the use of the general and limited common elements; provided, however, that such rules and regulations shall be available to unit owners prior to the time that they become effective and that such rules and regulations shall be uniform and non-discriminatory. Such rules and regulations shall provide that all books and records showing expenses and disbursements of the Homeowners' Association shall be open to the holders of any first mortgage upon request.

H. Except for those improvements erected or installed by Declarant, no exterior additions, alterations to or decorating of any buildings, nor changes in fences, hedges, walls and other structures shall be commenced, erected or maintained in or on the project until the plans and specifications showing the nature, kind, shape, heights, materials, location and approximate costs of same shall have been submitted to and approved in writing as to conformity and harmony of external design and location with existing structures in the condominium project by the Association or by a representative designated by it.

36. Insurance: No owner and no owner's guest shall do anything or cause anything to be kept in or on the condominium area which might result in an increase in the premiums of insurance obtained for the condominium area or which might cause cancellation of such insurance without the prior written consent of the Association first having been obtained.

37. Parking Areas: Parking areas shall not be used for other than parking motor vehicles except as expressly permitted by the Association. The Association in its rules and regulations may prohibit or restrict the parking of commercial and recreational vehicles within the condominium area. No vehicle of any kind shall be stored or parked in any portion of the condominium area except in a designated parking area. The Association shall have the power in its rules and regulations to restrict use of specific parking areas for use in connection with particular condominium units and to place other reasonable limitations and controls on such parking areas within the general common elements. The Association shall have the right to remove any vehicle parked in violation of these restrictions or any restriction adopted by rule or regulation of the Association and to charge the cost of such removal against the owner of the vehicle. If any such owner shall be a member of the Association, the cost may be added to any assessment due from such owner.

38. Antennae: No radio station or shortwave operators of any kind shall operate from any unit or any other portion of the property unless approved by the Association. No exterior radio antenna, CB antenna, television antenna or other antenna of any type shall be erected or maintained anywhere on the condominium area except inside of buildings or as expressly approved in writing by the Association.

39. General:

A. If any of the provisions of this Declaration or any paragraph, sentence, clause, phrase or word, or the application thereof in any circumstance be invalidated, such invalidity shall not affect the validity of the remainder of this Declaration, and the application of any such provision, paragraph, sentence, clause, phrase or word in any other circumstances shall not be affected thereby.

B. The provisions of this Declaration shall be in addition and supplemental to the Condominium Ownership Act of the State of Colorado and to all other provisions of law.

C. Whenever used herein, unless the context shall otherwise provide, the singular number shall include the plural, the plural the singular, and the use of any gender shall include all genders.

D. In the event there shall be any conflict between the provisions of this Declaration and any By-Laws or rules or regulations of the Association, the provisions of this Declaration shall be deemed controlling.

40. Master Association. The Declarant is the owner of the certain real property (hereinafter referred to as the "Development Area") situated in Larimer County, State of Colorado, and more particularly described as follows:

Cunningham Corner P.U.D.; see legal description attached hereto as Exhibit "B"

The Declarant may construct a community recreational facility comprised of tennis courts, swimming pool and clubhouse upon a portion of the Development Area described as follows:

Parcel F & H, Cunningham Corner P.U.D.: see legal description attached hereto as Exhibits "C" and "D", respectively

and may convey the aforesaid property to the Cunningham Corner Master Association, Inc. The Declarant intends to construct condominiums, townhouses and commercial buildings upon the remainder of the development area in accordance with the Master Plan of Cunningham Corner P.U.D. The owner of a condominium unit subject to this Declaration shall automatically be a member of the Cunningham Corner Master Association, Inc. The sale or transfer of a condominium unit subject to this Declaration shall automatically transfer all membership and right in the Cunningham Corner Master Association to the new owner/purchaser. The owners of a condominium unit subject to this Declaration shall have one vote per unit as a member of the Master Association. All owners of condominium units or townhomes, in the Development Area shall be entitled to one vote per unit in the Master Association. The owners of commercial buildings in the Development Area shall be entitled to one vote in the Master Association for each one thousand (1000) square feet of interior floor space owned. The anticipated membership in the Master Association is four hundred forty-three (443) members. Each member of the Master Association shall agree by acceptance of the Deed to any condominium unit, townhome or commercial building, to pay a share of the expenses of the Master Association as assessed by the Master Association for upkeep, insurance, reserve fund for replacements, maintenance, and operation of the recreational facility and any green area or land owned by the Master Association. Failure to pay such assessment shall result in a lien against the condominium unit of any owner subject to this Declaration in the same manner and to the same affect as unpaid assessments pursuant to Paragraph 23 hereof. The owners of units subject to this Declaration shall be assessed in proportion to the anticipated number of members in the Master Association until all units and buildings are constructed in the Development Area. Commencing on the first day the first month after the first unit is conveyed to a unit owner until all such units and buildings are constructed the Declarant shall pay the balance of the total sum of expenses of the Master Association not covered by assessment against the members of the Master Association. If this balance is not paid, it shall









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FIRST AMENDMENT TO CONDOMINIUM DECLARATIONS  
FOR CHESTNUT VILLAGE CONDOMINIUMS

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, Metcalf, Ltd., a Colorado Limited Partnership, hereinafter referred to as the "Declarant", has previously executed and recorded Condominium Declarations for Chestnut Village Condominiums in Book 2268 at Page 0824 of the records of the Clerk and Recorder of Larimer County, Colorado; and

WHEREAS, the Condominium Declarations for Chestnut Village Condominiums provide that the Declarant shall have the right to amend the provisions thereof at any time and from time to time prior to the Declarant having sold seventy-five percent (75%) of the condominium units, with the prior written consent of all first mortgagees; and

WHEREAS, the Declarant has not sold seventy-five percent (75%) of the condominium units and is entitled to amend the provisions of the Condominium Declarations for Chestnut Village Condominiums.

NOW, THEREFORE, Declarant does hereby amend the Condominium Declarations for Chestnut Village Condominiums as follows:

Paragraph 40 of the Condominium Declarations for Chestnut Village Condominiums, as set forth in the Condominium Declarations recorded in Book 2268 at Page 0824 of the official records of the Clerk and Recorder of Larimer County, Colorado, is hereby amended to read as follows:

40. Master Association. The Declarant is the owner of the certain real property (hereinafter referred to as the "Development Area") situated in Larimer County, State of Colorado, and more particularly described as follows:

Cunningham Corner P.U.D.; see legal description attached hereto as Exhibit "B"

The Declarant may construct a community recreational facility comprised of tennis courts, swimming pool and clubhouse upon a portion of the Development Area described as follows:

Parcel F & H, Cunningham Corner P.U.D.; see legal description attached hereto as Exhibits "C" and "D", respectively

and may convey the aforesaid property to the Cunningham Corner Master Association, Inc. The Declarant intends to construct condominiums, townhouses, and commercial buildings upon the remainder of the development area in accordance with the Master Plan of Cunningham Corner P.U.D. The owner of a condominium unit subject to this Declaration shall automatically be a member of the Cunningham Corner Master Association, Inc. The sale or transfer of a condominium unit subject to this Declaration shall automatically transfer all membership and right in the Cunningham Corner Master Association to the new owner/purchaser. The owners of a condominium unit subject to this Declaration shall have one vote per unit as a member of the Master Association. All owners of townhomes in the Development Area shall automatically be members of the Cunningham Corner Master Association, Inc., and shall be entitled to one vote per unit in the Master Association. The anticipated membership in the Master Association is three hundred fifty-six (356) members. Each member of the Master Association shall agree by acceptance of the Deed to any condominium unit or townhome, to pay a share of the expenses of the Master Association as assessed by the Master

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Association for upkeep, insurance, reserve fund for replacement, maintenance, and operation of the recreational facility and any green area or land owned by the Master Association. Failure to pay such assessment shall result in a lien against the condominium unit of any owner subject to this Declaration in the same manner and to the same affect as unpaid assessments pursuant to Paragraph 23 hereof. The owners of units subject to this Declaration shall be assessed in proportion to the anticipated number of members in the Master Association until all units and buildings are constructed in the Development Area. Commencing on the first day of the first month after the first unit is conveyed to a unit owner until all such units and buildings are constructed the Declarant shall pay the balance of the total sum of expenses of the Master Association not covered by assessment against the members of the Master Association. If this balance is not paid, it shall become a lien against those parcels of land in the Development Area which are owned by the Declarant. The collection of such debt and enforcement of such lien may be by foreclosure or such remedies afforded the Master Association under local law.

Dated this 1st day of August, 1985.

METCALF, LTD., a Colorado Limited Partnership  
by: Sibbald/Lustig Co., a Colorado Corporation, as General Partner

by: Thomas R. Sibbald  
Thomas R. Sibbald, President

by: Ronald L. Lustig  
Ronald L. Lustig, Secretary/Treasurer

STATE OF COLORADO)  
County of Larimer) ss.

The foregoing First Amendment to Condominium Declarations for Chestnut Village Condominiums were acknowledged before me this 1st day of August, 1985, by Thomas R. Sibbald, as President, and Ronald L. Lustig, as Secretary/Treasurer, of Sibbald/Lustig Co., a Colorado Corporation, as General Partner of Metcalf, Ltd., a Colorado Limited Partnership.

Witness my hand and official seal.



[Signature]  
Notary Public  
My Commission Expires: 6-6-87

Notary Address: 1405 S. College Ave., Ft. Collins, CO 80524

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APPROVAL OF FIRST AMENDMENT TO CCNDOMINIUM  
DECLARATIONS FOR CHESTNUT VILLAGE CONDOMINIUMS

The undersigned hereby approve, ratify, affirm and  
agree to be bound by the First Amendment to Condominium  
Declarations for Chestnut Village Condominiums.

SILVER STATE SAVINGS AND LOAN  
ASSOCIATION

by: [Signature]  
Title: \_\_\_\_\_

STATE OF COLORADO)  
County of Denver ) ss.

Acknowledged before me this 24<sup>th</sup> day of October, 1985  
by Matthew J. Bryant as Vice President  
of SILVER STATE SAVINGS AND LOAN ASSOCIATION.

Witness my hand and official seal.



Jodi D. Gerle  
Notary Public  
My Commission Expires: 6-15-86

Notary Address: 1500 Grant St, Denver, CO 80203

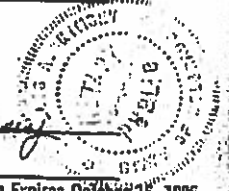
FIRST INTERSTATE BANK OF FORT  
COLLINS N.A.

by: [Signature]  
Title: Vice President

STATE OF COLORADO)  
County of Larimer ) ss.

Acknowledged before me this 22nd day of October, 1985,  
by Larry D. Ford as Branch President  
of FIRST INTERSTATE BANK OF FORT COLLINS N.A.

Witness my hand and official seal.



Phillip A. Kennedy  
Notary Public  
My Commission Expires: \_\_\_\_\_  
My Commission Expires October 16, 1986  
205 W. Oak Street, Fort Collins, CO 80521

Notary Address: \_\_\_\_\_