

DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
OF
RIVERBEND CONDOMINIUMS

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THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF RIVERBEND CONDOMINIUMS is made and entered into by WHOWOOD PARTNERSHIP, LLP, a Colorado Limited Liability Partnership ("Declarant").

WITNESSETH:

WHEREAS, the Declarant is the owner of the real property situated in the City of Fort Collins, County of Larimer, State of Colorado, which is described on Exhibit "A" attached hereto and incorporated herein by this reference; and

WHEREAS, the Declarant desires to subject and place upon that certain property described on Exhibit "A" attached hereto and incorporated herein by this reference ("Community"), certain covenants, conditions, restrictions, easements, reservations, rights-of-way, obligations, liabilities and other charges set forth herein for the purpose of protecting the value and desirability of the Community and for the purpose of furthering a plan for the improvement, sale and condominium ownership of the Community, to the end that a harmonious and attractive development of the Community may be accomplished and the health, comfort, safety, convenience and general welfare of the Declarant, its successors and assigns in the Community, or any portion thereof, may be promoted and safeguarded; and

WHEREAS, a common interest community may be created pursuant to the Act (as hereinafter defined) only by recording a declaration executed in the same manner as a deed. The declaration must be recorded in every county in which any portion of the common interest community is located and must be indexed in the grantee's index in the name of the common interest community and in the name of the association, and in the grantor's index in the name of each person executing the declaration. No common interest community is created until the plat or map for the common interest community is recorded.

NOW, THEREFORE, Declarant hereby declares that all of the real property described in the attached Exhibit "A" shall be held, sold, and conveyed subject to the following covenants, conditions, restrictions, easements, rights-of-way, obligations, liabilities, charges and other provisions set forth herein, which are for the purpose of protecting the value and desirability of, and which shall run with, the above-described property and be binding on all parties having any right, title, or interest in the above-described property or any part thereof, their heirs,

personal representatives, successors, and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE 1
DEFINITIONS

1.1 "Act" means the Colorado Common Interest Ownership Act, Sections 38-33.3-101, et seq., C.R.S., as amended.

1.2 "Agencies" collectively means the Government National Mortgage Association (GNMA), the Federal Home Loan Mortgage Corporation (FHLMC), the Federal National Mortgage Association (FNMA), the Department of Housing and Urban Development (HUD), the Veterans Administration (VA) or any other governmental or quasi-governmental agency or any other public, quasi-public or private entity which performs (or may in the future perform) functions similar to those currently performed by any of such entities.

1.3 "Allocated Interests" means the Common Expense Liability and votes in the Association allocated to each Unit. The Allocated Interest of each Unit at any time shall be equal to a fraction, the numerator of which is one (1) and the denominator of which is the total number of Units within the Community. The Allocated Interest of each Unit which is included in the property described on the attached Exhibit "A" and which will become a "Unit" under this Declaration upon recording of a Condominium Map for such Unit, is set forth on Exhibit "B" attached hereto and incorporated herein by this reference.

1.4 "Architectural Review Committee" or "Committee" means the committee appointed by the Declarant or by the Association to review and approve or disapprove plans for Improvements, as more fully provided in this Declaration.

1.5 "Association" means Riverbend Condominium Association, a unit owners' association organized under Section 38-33.3-301 of the Act.

1.6 "Common Elements" means the totality of:

A. The real property which is part of the Community;

B. The Condominium Buildings (including, but not by way of limitation, the foundations, columns, girders, beams, supports, perimeter and supporting walls, flues, roofs and the mechanical installations of the Condominium Buildings consisting of the equipment and materials making up any services such as power, light, gas, hot and cold water, heating, air conditioning, and exterior security lighting, which exist for common uses, including the pipes, vents, ducts, flues, chutes, conduits, wires, and other similar utility installations used in connection therewith), except for the Individual Air Space Units;

C. Any sidewalks, walkways, paths, fences, grass, shrubbery, trees, private streets, common driveways, parking areas, other paved areas, trash receptacles and enclosures, landscaping (both upon the Property and on adjacent City right of way), irrigation systems, stormwater detention facilities, and gardens, if any, located in the Community;

D. All apparatus, installations and equipment of the Condominium Buildings existing for common use of some or all of the Owners; and

E. All right, title and interest of Grantee under that certain Easement Agreement dated September 17, 2003, by and among The City of Fort Collins, Colorado, a Municipal Corporation, as Grantor, and HOORAZ, LLC, a Colorado Limited Liability Company, as Grantee, and any and all Improvements located thereon or therein.

F. In general, all other parts of the Community including, without limitation, the Common Elements depicted on the Condominium Map and any items designated by Declarant as Common Elements under other provisions of this Declaration, including General Common Elements and Limited Common Elements, and all other parts of the Community necessary or convenient to its existence, maintenance or safety, or normally in common use.

1.7 "Common Expense Liability" means the liability for Common Expenses allocated to each Unit based on its Allocated Interest.

1.8 "Common Expenses" means expenditures made or liabilities incurred by or on behalf of the Association, together with any allocations to reserves.

1.9 "Community" means the property described on the attached Exhibit "A," as supplemented and amended from time to time, with respect to which a Person, by virtue of such Person's ownership of a Unit, is obligated to pay for real estate taxes, insurance premiums, maintenance, or improvement of other real estate described in this Declaration. The Community is a condominium under the Act.

1.10 "Condominium Building" means any building (including all fixtures and Improvements therein contained) located in the Community and within which one (1) or more Individual Air Space Units are located.

1.11 "Condominium Map" means the condominium map(s) and any supplement(s) thereto of the Community and Improvements thereon that are subject to this Declaration, and which are designated as the Condominium Map for Riverbend Condominiums recorded or to be recorded in the records of the office of the Clerk and Recorder of the County of Larimer, Colorado. More than one (1) Condominium

Map or supplement thereto may be recorded, and, if so, then the term "Condominium Map" collectively means all of such condominium maps and supplements thereto. The Condominium Map shall depict all or a portion of the Community in three (3) dimensions, and shall be executed by a Person who is authorized by the Act to execute a declaration relating to this Community. Further, the Condominium Map shall include a certificate executed by a registered land surveyor stating that all Improvements shown on the Condominium Map have been substantially completed and stating that the Condominium Map contains all the information required by Section 38-33.3-209 of the Act.

1.12 "Declarant" means Whowood Partnership, LLP, a Colorado Limited Liability Partnership, and any other Person or group of Persons acting in concert to whom the Declarant, by recorded document, expressly assigns one (1) or more of the Declarant's rights under this Declaration (which shall be the extent of the Declarant's rights to which such assignee succeeds), and who:

A. As part of the common promotional plan, offers to dispose of to a purchaser such Declarant's interest in a Unit not previously disposed of to a purchaser; or

B. Reserves or succeeds to any Special Declarant Right.

1.13 "Declaration" means this Declaration of Covenants, Conditions and Restrictions of Riverbend Condominiums and any other recorded instruments, however denominated, that create this Community, including any amendments to those instruments and also including, but not limited to, the Condominium Map and any other maps and plats.

1.14 "Development Rights" means any right or combination of rights reserved by a Declarant in this Declaration to create Units, Common Elements or Limited Common Elements within this Community.

1.15 "Executive Board" means the body, regardless of name, designated in this Declaration and the Bylaws of the Association to act on behalf of the Association.

1.16 "First Security Interest" means a Security Interest (as hereinafter defined) that has priority of record over all other recorded liens except those liens made superior by statute (such as general ad valorem tax liens and special assessments).

1.17 "General Common Elements" means all of the Common Elements except the Limited Common Elements.

1.18 "Improvements" means all improvements, structures, and any appurtenances thereto or components thereof of every type or kind, and all landscaping features, including, but not limited to, streets, buildings, outbuildings, patios, patio covers, painting

or other finish materials on any visible structure, walkways, sidewalks, irrigation systems, garages, driveways, fences, screening walls and fences, retaining walls, stairs, stairwells, landings, decks, landscaping, hedges, windbreaks, plantings, trash enclosures, trees, shrubs, flowers, vegetables, sod, gravel, bark, light fixtures, poles, signs, tanks, and air conditioning, cooling, heating and water softening equipment.

1.19 "Individual Air Space Unit" means the air space contained within the enclosed rooms occupying part of a floor or floors in a Condominium Building, and bounded by the unfinished interior surfaces of the perimeter walls (or the adjoining walls, if two [2] or more Individual Air Space Units adjoin each other), unfinished interior surfaces of floors (or the lowermost floors, if it is an Individual Air Space Unit containing more than one [1] level), unfinished interior surfaces of ceilings (or the uppermost ceilings, if it is an Individual Air Space Unit containing more than one [1] level), and the unfinished interior surfaces of windows and window frames, doors and door frames of a Condominium Building, and which is separately identified on the Condominium Map.

1.20 "Limited Common Elements" means those parts of the Common Elements which are either limited to and reserved for the exclusive use of the Owner(s) of a particular Unit or are limited to and reserved for the common use of the Owners of more than one (1), but fewer than all, of the Units. Without limiting the foregoing, the Limited Common Elements shall include: The utility, heating, air conditioning and domestic hot water equipment associated with or providing service to a Unit; stairwells, landings, entry ways and porches and patios, garages and private driveways attached to Units, as designated on the Condominium Map; and other areas or Improvements designated as Limited Common Elements on the Condominium Map or in this Declaration. The Limited Common Elements shall be used in connection with the applicable Individual Air Space Unit(s) to the exclusion of the use thereof by the other Owners, except by invitation. No reference to any Limited Common Elements need be made in any instrument of conveyance, encumbrance or other instrument. The Limited Common Elements allocated to Units as provided in this Section may not be changed or reallocated.

1.21 "Member" means each Owner; membership in the Association shall be appurtenant to, and may not be separated from, ownership of a Unit.

1.22 "Owner" means the Declarant or other 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 by the Declaration until that Unit is conveyed to another Person who may or may not be a Declarant under this Article.

1.23 "Period of Declarant Control" means a length of time expiring seven (7) years after initial recording of this Declaration in Larimer County, Colorado; provided, that the Period of Declarant Control shall terminate no later than either sixty (60) days after conveyance of seventy-five percent (75%) of the Units that May Be Created to Owners other than a Declarant, or two (2) years after the last conveyance of a Unit by the Declarant in the ordinary course of business, or five (5) years after the first Unit has been conveyed.

1.24 "Person" means a natural person, a corporation, a limited liability company, a partnership, an association, a trust, or any other entity or any combination thereof.

1.25 "Security Interest" means an interest in the Community, or any portion thereof, created by contract or conveyance which secures payment or performance of any 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 the Association, and any other consensual lien or title retention contract intended as security for an obligation. For purposes of Article 4, Section 4.10 hereof and, with respect to notice of cancellation or substantial modification of certain insurance policies, to Article 6, Section 6.2 hereof, "Security Interest" shall also mean and refer to any executory land sales contract wherein the administrator of Veterans Affairs, an officer of the United States of America, is the seller, whether such contract is recorded or not, and whether such contract is owned by the said administrator or has been assigned by the administrator and is owned by the administrator's assignee, or a remote assignee, and the land records in the office of the Clerk and Recorder of Larimer County, Colorado, show the administrator as having the record title to the Unit.

1.26 "Security Interest Holder" means any Person named as a mortgagee or beneficiary, or in a similar capacity, under any Security Interest (including, for purposes of Article 4, Section 4.10 hereof and, with respect to notice of cancellation or substantial modification of certain insurance policies, to Article 6, Section 6.2 hereof, the administrator of Veterans Affairs, an officer of the United States of America, and his assigns under any executory land sales contract wherein the said administrator is identified as the seller, whether such contract is recorded or not, and whether such contract is owned by the said administrator or has been assigned by the administrator and is owned by the administrator's assignee, or a remote assignee, and the land records in the office of the Clerk and Recorder of Larimer County, Colorado, show the said administrator as having the record title to the Unit), or any successor to the interest of any such Person under such Security Interest.

1.27 "Special Declarant Rights" means rights reserved for the benefit of a Declarant to perform the following acts: To complete Improvements indicated on plats and maps filed with the Declaration; to exercise any Development Rights; to maintain sales offices, construction offices, management offices, signs advertising the Community, and models; to use easements through the Common Elements for the purpose of making Improvements within the Community or within real estate which may be added to the Community; to make the Community subject to a master association; to merge or consolidate a Community of the same form of ownership; or to appoint or remove any officer of the Association or any Executive Board member during any Period of Declarant Control. All of the Special Declarant Rights may be exercised by the Declarant with respect to any portion of the property now or hereafter within the Community. Declarant may exercise any or all of these Special Declarant Rights at any time and from time to time. Such rights shall terminate automatically on the earlier of the following events: (a) Conveyance of the last Unit by Declarant to an Owner other than Declarant; or (b) seven (7) years from the date of recordation of this Declaration; except that such rights shall not terminate automatically with respect to the appointment of officers and directors, which may only be exercised in accordance with Article 3 hereof.

1.28 "Unit" means an Individual Air Space Unit, together with all fixtures and Improvements therein contained and together with the undivided interest in the Common Elements appurtenant to the Individual Air Space Unit (which shall be the Allocated Interest of such Unit) as shown on the attached Exhibit "B." However, each of the Units listed on the attached Exhibit "B" shall become a "Unit" under this Declaration only at such time as a Condominium Map is recorded in Larimer County, Colorado, with respect to such Unit.

1.29 "Units that May Be Created" means eight (8) Units, which shall be the maximum number of Units that may be subject to this Declaration, including those Units which may be included as provided for in Article 14, Section 14.9 hereof.

ARTICLE 2 MEMBERSHIP AND VOTING RIGHTS

2.1 Membership. The membership of the Association at all times shall consist exclusively of all Owners or, following termination of the Community, of all former Owners entitled to distributions of proceeds under the Act or their heirs, personal representatives, successors or assigns. Membership shall be appurtenant to and may not be separated from ownership of any Unit.

2.2 One Class of Membership. The Association shall have one (1) class of voting membership. Each Owner shall be entitled to one (1) vote for each Unit owned in accordance with the Allocated Interest attributable to such Unit, except that no votes

allocated to a Unit owned by the Association may be cast. The total number of votes which may be cast in connection with any matter shall be equal to the total number of Units then existing within the Association. For the Period of Declarant Control, the Declarant or Persons appointed by the Declarant may appoint and remove all officers and members of the Executive Board which have been appointed by such Declarant. A Declarant may voluntarily surrender the right to appoint and remove officers and members of the Executive Board before termination of the Period of Declarant Control; but, in that event, the Declarant may require, for the duration of the Period of Declarant Control, that specified actions of the Association or Executive Board, as described in a recorded instrument executed by the Declarant, be approved by the Declarant before they become effective.

ARTICLE 3
EXECUTIVE BOARD MEMBERS AND OFFICERS

3.1 Authority of Executive Board. Except as provided in this Declaration or the Association Bylaws, the Executive Board may act in all instances on behalf of the Association.

3.2 Election of Part of Executive Board During Period of Declarant Control. No later than sixty (60) days after conveyance of twenty-five percent (25%) of the Units that May Be Created to Owners other than a Declarant, at least one (1) member and not less than twenty-five percent (25%) of the members of the Executive Board must be elected by Owners other than the Declarant. Not later than sixty (60) days after conveyance of fifty percent (50%) of the Units that May Be Created to Owners other than a Declarant, not less than thirty-three and one-third percent (33 1/3%) of the members of the Executive Board must be elected by Owners other than a Declarant.

3.3 Authority of Declarant During Period of Declarant Control. Except as otherwise provided in this Article, during the Period of Declarant Control, the Declarant or Persons appointed by the Declarant may appoint all officers and directors and may remove all officers and directors of the Executive Board appointed by it.

3.4 Termination of Period of Declarant Control. Not later than termination of the Period of Declarant Control, the Owners shall elect an Executive Board of at least three (3) members, at least a majority of whom must be Owners other than the Declarant or designated representatives of Owners other than the Declarant. The Executive Board shall elect the officers. The Executive Board members and officers shall take office upon election.

3.5 Delivery of Property by Declarant. After the Owners other than the Declarant elect a majority of the members of the Executive Board, the Declarant shall deliver to the Association all property of the Owners and of the Association held by or controlled by the Declarant, if and to the extent required by the

Act.

3.6 Budget. Within thirty (30) days after adoption of any proposed budget for the Community, the Executive Board shall mail, by ordinary first-class mail, or otherwise deliver, a summary of the budget to all the Owners and shall set a date for a meeting of the Owners to consider ratification of the budget not less than fourteen (14) nor more than sixty (60) days after mailing or other delivery of the summary. Unless at that meeting the budget is rejected by the vote or agreement of Owners of Units to which at least sixty-seven percent (67%) of the votes in the Association are allocated, then the budget is ratified, whether or not a quorum is present. In the event that the proposed budget is rejected, the periodic budget last ratified by the Owners must be continued until such time as the Owners ratify a subsequent budget proposed by the Executive Board.

3.7 Delegation to Manager. The Association, acting through the Executive Board, may employ or contract for the services of a Manager to act for the Association and the Executive Board and the officers according to the powers and duties delegated to the Manager pursuant to the Bylaws or resolution of the Executive Board. Neither the Executive Board nor any officer of the Association will be liable for any omission or improper exercise by a Manager of any such duty, power or function so delegated by written instrument executed by or on behalf of the Executive Board.

ARTICLE 4 COVENANT FOR ASSESSMENTS

4.1 Creation of the Lien and Personal Obligation for Assessments. Each Owner, including Declarant, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, covenants and agrees and shall be personally obligated to pay to the Association: Annual assessments or charges, special assessments, and other charges, fines, fees, interest, late charges, and other amounts, all as provided in this Declaration; with such assessments and other amounts to be established and collected as hereinafter provided. The annual and special assessments, and other charges, fees and fines, together with interest, late charges, costs, and reasonable attorneys' fees, shall be a charge on the land and shall be a continuing lien upon the Unit against which each such assessment is made. The obligation for such payments by each Owner to the Association is an independent covenant with all amounts due, from time to time, payable in full when due without notice or demand (except as otherwise expressly provided in this Declaration), and without set-off or deduction. All Owners of each Unit shall be jointly and severally liable to the Association for the payment of all assessments, fees, charges and other amounts attributable to their Unit. Each assessment, charge, fee, and all other amounts under this Declaration, together with interest, late charges, costs, and reasonable attorneys' fees, shall also be the personal obligation

of the Person who was the Owner of such Unit at the time when the assessment became due. The personal obligation for delinquent assessments shall not pass to such Owner's successors in title unless expressly assumed by them. The Association's lien on a Unit for assessments and other amounts shall be superior to any homestead exemption now or hereafter provided by the laws of the State of Colorado or any exemption now or hereafter provided by the laws of the United States. The acceptance of a deed to a Unit subject to this Declaration shall constitute a waiver of the homestead and any other exemption as against said lien.

4.2 Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents of the Units, and for all of those purposes and activities which may be required of the Association or which the Association may be empowered to pursue pursuant to this Declaration or the Articles of Incorporation or Bylaws of the Association, or by law; provided, however, that such assessments levied during the Period of Declarant Control may not be used for the purpose of constructing capital Improvements.

4.3 Initial Annual Assessment. Until the effective date of an Association budget ratified by the Owners with a different amount for the annual assessment, as provided above, the amount of the annual assessment against each Unit shall be computed at a rate not in excess of One Hundred Seventy Dollars (\$170.00) per Unit per month.

4.4 Rate of Assessment. Annual and special assessments shall be fixed at a uniform rate for all Units sufficient to meet the expected needs of the Association. The annual assessments shall include an adequate reserve fund for the maintenance, repair and replacement of those items that must be maintained, repaired or replaced on a periodic basis, and for the payment of insurance deductibles. All assessments shall be assessed against all the Units in accordance with the Allocated Interests set forth in this Declaration, except as specifically elsewhere provided in this Declaration. If the Common Expense Liability is reallocated, annual assessments and any installment thereof not yet due shall be recalculated in accordance with the reallocated Common Expense Liability.

4.5 Date of Commencement of Annual Assessments. Until the Association makes an annual assessment, which shall commence at such time as the Executive Board may determine in its discretion, the Declarant shall pay all Common Expenses. After any annual assessment has been made by the Association, annual assessments shall initially not be greater than the amount set forth in Section 4.3 of this Article, and thereafter shall be based on a budget adopted by the Association as provided above. A budget shall be so adopted by the Association no less frequently than annually. The annual assessments shall be due and payable in monthly installments, in advance, or on such other dates, and with such frequency (which may be other than monthly, but not less

frequently than annually), as the Executive Board may determine in its discretion from time to time; provided that the first annual assessment shall be adjusted to reflect the time remaining in the first Association fiscal year. Any Owner purchasing a Unit between installment due dates shall pay a pro rata share of the last payment due.

4.6 Special Assessments. In addition to the annual assessments authorized in this Article, the Executive Board may levy, in any fiscal year, with the approval of the votes of two-thirds (2/3) of the Members voting in person or by proxy at a meeting duly called for this purpose, a special assessment applicable to that year only, for the purpose of defraying in whole or in part the cost of any construction, reconstruction, repair or replacement of a capital Improvement upon the Common Elements or any property for which the Association has repair and/or reconstruction obligations, including fixtures and personal property related thereto, or for repair or reconstruction of any damaged or destroyed Improvements, or for the funding of any operating deficit incurred by the Association. Any such special assessment shall be set against each Unit in accordance with the Allocated Interests therefor. A meeting of the Members called for the purpose of considering the establishment of a special assessment shall be held in conformance with Section 4.7 of this Article 4. Notwithstanding the foregoing, special assessments levied during the Period of Declarant Control may not be used for the purpose of constructing capital Improvements.

4.7 Notice and Quorum for Any Special Assessments. Written notice of any meeting called for the purpose of taking any action authorized under Section 4.6 of this Article shall be sent to all Members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast sixty percent (60%) of all the Membership votes shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

4.8 Charges for Services to Less than All of the Units. The Association may, at any time from time to time, provide services to less than all of the Units, and the Owners of such Units shall pay the Association for such services as hereinafter provided, which amounts shall be in addition to the annual and special assessments. Any such services shall be provided, if at all, pursuant to an agreement in writing between the Association and the Owners of the Units for which such service(s) are to be provided, with such agreement to include a statement of the costs, fees and expenses reasonably expected to initially be incurred by the Association in providing such service(s), including overhead expenses of the Association. Services which may be provided by

the Association pursuant to this Section include, without limitation, (a) the construction, care, operation, management, maintenance, upkeep, repair, replacement and renovation of Improvements or property owned by such Owner(s); (b) the provision of any services or functions to or for such Unit(s); (c) the enforcement of the provisions of any document or agreement for, on behalf of, and in the name of the applicable Owners; (d) the payment of taxes or other amounts for Owners with funds provided by such Owners; and (e) the procurement of insurance for Owners. The Association may, at its election, at any time from time to time, collect the aforesaid costs, fees, expenses and other charges from Owners to whom such services are provided, in advance or arrears, in monthly or other installments, or in addition to and on the same date for payment of, the assessments.

4.9 Lien for Assessments.

A. The Association has and is hereby granted a lien on a Unit for any assessment levied against that Unit or for fines imposed against its Owner. Fees, charges, late charges, attorneys' fees, fines and interest charged pursuant to this Declaration are enforceable as assessments under this Article. The amount of the lien shall include all those items set forth in this Section from the time such items become due. If an assessment is payable in installments, each installment is a lien from the time it becomes due, including the due date set by any valid Association acceleration of installment obligations.

B. Recording of the Declaration constitutes record notice and perfection of the lien. No further recordation of any claim of lien for assessments is required. However, the Executive Board or managing agent of the Association may prepare, and record in the county in which the applicable Unit is located, a written notice setting forth the amount of the unpaid indebtedness, the name of the Owner of the Unit, and a description of the Unit. If a lien is filed, the costs and expenses thereof shall be added to the assessment for the Unit against which it is filed and collected as part and parcel thereof. The Association's lien may be foreclosed in like manner as a mortgage on real estate.

C. A lien for unpaid assessments is extinguished unless proceedings to enforce the lien are instituted within six (6) years after the full amount of assessments becomes due.

D. Unless the Declaration otherwise provides, if two (2) or more associations have liens for assessments created at any time on the same property, those liens have equal priority.

4.10 Priority of Association Lien.

A. A lien under this Article 4 is prior to all other liens and encumbrances on a Unit except:

(1) Liens and encumbrances recorded before the recordation of the Declaration;

(2) A First Security Interest on the Unit, which was recorded or perfected before the date on which the assessment sought to be enforced became delinquent; and

(3) Liens for real estate taxes and other governmental assessments or charges against the Unit.

B. A lien under this Section is also prior to the First Security Interests described in the preceding Subsection A.(2) to the extent of an amount equal to the annual assessment based on a periodic budget adopted by the Association as provided above which would have become due, in the absence of any acceleration, during the six (6) months immediately preceding institution by either the Association or any party holding a lien senior to any part of the Association lien.

C. This Section does not affect the priority of mechanics' or materialmen's liens or the priority of liens for other assessments made by the Association. A lien under this Article is not subject to the provisions of Part 2 of Article 41 of Title 38, C.R.S., as amended, or to the provisions of Section 15-11-201, C.R.S., as amended.

4.11 Receiver. In any action by the Association to collect assessments or to foreclose a lien for unpaid assessments, the court may appoint a receiver of the Owner to collect all sums alleged to be due from the Owner prior to or during the pending of the action. The court may order the receiver to pay any sums held by the receiver to the Association during the pending of the action to the extent of the Association's assessments.

4.12 Certificate of Status of Assessments. The Association shall furnish to an Owner or such Owner's designee or to a holder of a Security Interest or its designee, upon written request delivered personally or by certified mail, first class postage prepaid, return receipt, to the Association's registered agent, a written statement setting forth the amount of unpaid assessments currently levied against such Owner's Unit. The statement shall be furnished within fourteen (14) calendar days after receipt of the request and is binding on the Association, the Executive Board, and every Owner. If no statement is furnished to the Owner or Security Interest Holder or their designee, delivered personally or by certified mail, first class postage prepaid, return receipt requested, to the inquiring party, then the Association shall have no right to assert a lien upon the Unit for unpaid assessments which were due as of the date of the request. The Association shall have the right to charge a reasonable fee for the issuance of such certificates.

4.13 Effect of Non-Payment of Assessments; Remedies of the Association. Any assessment not paid within ten (10) days after the due date thereof may bear interest from the due date at the rate of twenty-one percent (21%) per annum, or at such lesser rate as may be set from time to time by the Executive Board, and the Executive Board may assess thereon a late charge not in excess of Twenty-Five Dollars (\$25.00) per month. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against such Owner's Unit. If a judgment or decree is obtained, including without limitation in a foreclosure action, such judgment or decree shall include a reasonable attorneys' fee to be fixed by the court, together with the costs of the action, and may include interest and late charges as above provided. No Owner may be exempt from liability for payment of the assessments by waiver of the use or enjoyment of any of the Common Elements or by abandonment of the Unit against which the assessments are made. This Article does not prohibit actions or suits to recover sums for which this Declaration creates a lien or prohibit the Association from taking a deed in lieu of foreclosure.

4.14 Surplus Funds. Any surplus funds of the Association remaining after payment of or provision for Common Expenses and any prepayment of or provision for reserves shall be retained by the Association as reserves and need not be paid to the Owners in proportion to their Common Expense Liability or credited to them to reduce their future assessments.

4.15 Working Capital Fund. The Association or Declarant shall require the first Owner of any Unit who purchases that Unit from Declarant to make a non-refundable contribution to the Association in an amount equal to two (2) times the monthly installment of the annual assessment at the time of closing (regardless of whether or not assessments have commenced as provided in Section 4.5 of this Article). Said contribution shall be collected and transferred to the Association at the time of closing of the sale by Declarant of each Unit and shall, until use, be maintained in a segregated account with other such working capital funds for the use and benefit of the Association, including, without limitation, to meet unforeseen expenditures or to purchase additional equipment, property or services; provided, however, that the working capital fund shall not be used to defray any of the assessments, or any of the reserve contributions, which are payable by Declarant to the Association, or to pay for construction costs, or to make up any budget deficits, during the Period of Declarant Control. Such contribution to the working capital fund shall not relieve an Owner from making regular payments of assessments as the same becomes due. Upon the transfer of his Unit, an Owner shall be entitled to a credit from his transferee (but not from the Association) for the aforesaid contribution to working capital fund.

4.16 Assessments for Misconduct. If any Common Expense is caused by the misconduct of any Owner, the Association may assess that Common Expense exclusively against such Owner and his Unit.

4.17 General Remedies of Association for Nonpayment of Assessment. Any installment of an annual assessment or a special assessment which is not paid within thirty (30) days after its due date shall be delinquent. If such an assessment installment becomes delinquent, or if any default assessment is levied, the Association, in its sole discretion, may take any or all of the following actions:

4.17.1. Assess a late charge for each delinquency at uniform rates set by the Executive Board from time to time;

4.17.2. Assess an interest charge from the date of delinquency at the uniform rate of interest set by the Executive Board from time to time;

4.17.3. Suspend the voting rights of the Owner during any period of delinquency;

4.17.4. Accelerate all remaining assessment installments for the fiscal year in question so that unpaid assessment for the remainder of the fiscal year shall be due and payable at once;

4.17.5. Bring an action at law against any Owner personally obligated to pay the delinquent assessments charges;

4.17.6. File a statement of lien with respect to the Unit and foreclose as set forth in more detail below.

The remedies provided under this Declaration shall not be exclusive, and the Association may enforce any other remedies to collect delinquent assessments as may be provided by law.

ARTICLE 5 ARCHITECTURAL REVIEW COMMITTEE

5.1 Composition of Committee. The Architectural Review Committee shall consist of three (3) or more persons appointed by the Executive Board; provided, however, that until all of the Units have been conveyed to the first Owner thereof (other than Declarant), Declarant shall appoint the Architectural Review Committee. The power to "appoint," as provided herein, shall include without limitation the power to: Constitute the initial membership of the Architectural Review Committee; appoint member(s) to the Architectural Review Committee on the occurrence of any vacancy therein, for whatever reason; and remove any member of the Architectural Review Committee, with or without cause, at any time, and appoint the successor thereof. Each such appointment may be made for such term(s) of office, subject to the aforesaid power of removal, as may be set from time to time in the

discretion of the appointor.

5.2 Review by Committee. No Improvements shall be erected, constructed, placed, planted, applied or installed on any General Common Elements, nor shall any structural alteration be made to any Unit or any Common Elements unless complete plans and specifications therefor, including without limitation such information and materials as may be required by the Architectural Review Committee in its discretion from time to time, shall have been first submitted to and approved in writing by the Architectural Review Committee; provided, however, that the Declarant shall be exempt from seeking or obtaining Architectural Review Committee approval during Declarant's development of, construction on, or sales of any Unit. The Architectural Review Committee shall exercise its reasonable judgment to the end that all improvements conform to and harmonize with the existing surroundings, residences, landscaping and structures, and do not affect the structural integrity of any Unit or other Improvement. In its review of such plans, specifications and other materials and information, the Architectural Review Committee may require that the applicant(s) reimburse the Committee for the actual expenses incurred by the Committee in the review and approval process. Such amounts, if any, shall be levied in addition to the assessments against the Unit for which the request for Architectural Review Committee approval was made, but shall be subject to the Association's lien for assessments and subject to all rights of the Association for the collection of assessments, as more fully provided in this Declaration.

5.3 Procedures. The Architectural Review Committee shall decide all requests for approval within forty-five (45) days after the complete submission of all plans, specifications, and other materials and information which the Committee may require in conjunction therewith. If the Architectural Review Committee fails to approve or disapprove any request within forty-five (45) days after the complete submission of all plans, specifications, materials and other information with respect thereto, approval shall not be required and this Article shall be deemed to have been fully complied with.

5.4 Vote and Appeal. A majority vote of the Architectural Review Committee is required to decide a request for approval pursuant to this Article, unless the Committee has appointed a representative to act for it, in which case the decision of such representative shall control. In the event a representative acting on behalf of the Architectural Review Committee decides a request for architectural approval which is adverse to the applicant, then the applicant shall have the right to an appeal of such decision to the full Committee, upon a request therefor submitted to the Committee within thirty (30) days after such decision by the Committee's representative.

5.5 Records. The Architectural Review Committee shall maintain written records of all applications submitted to it and all actions taken by it thereon, and such records shall be available to Members for inspection at reasonable hours of the business day.

5.6 Liability. The Architectural Review Committee and the members thereof shall not be liable in damages to any Person submitting requests for approval or to any Person by reason of any action, failure to act, approval, disapproval, or failure to approve or disapprove in regard to any matter within its jurisdiction hereunder.

5.7 Variance. The Architectural Review Committee may grant reasonable variances or adjustments from any conditions and restrictions imposed by this Article or Article 9 hereof, in order to overcome practical difficulties or prevent unnecessary hardships arising by reason of the application of any such conditions and restrictions. Such variances or adjustments shall be granted only in case the granting thereof shall not be materially detrimental or injurious to any other property or improvements in the Community and shall not militate against the general intent and purpose hereof.

5.8 Waivers. The approval or consent of the Architectural Review Committee to any application for architectural approval shall not be deemed to constitute a waiver of any right to withhold or deny approval or consent by the Committee on any application or other matters whatsoever as to which approval or consent may subsequently or additionally be required.

ARTICLE 6 INSURANCE

6.1 Insurance. The Association shall maintain the following types of insurance on the Common Elements, to the extent that such insurance is reasonably available, considering the availability, cost and risk coverage provided by such insurance, and the cost of said coverage shall be paid by the Association as Common Expenses. Notwithstanding any of the specific insurance requirements specified in this Article, the Association may also consider, in determining the types and amount of insurance it needs to obtain, the then-existing requirements of any of the Agencies with respect to their insurance, guaranty, or purchase of Security Interests.

A. Property insurance for broad form covered causes of loss, including the Units (but not the finished interior surfaces of the walls, floors and ceilings of the Units); except that the total amount of insurance must not be less than the full insurable replacement cost of all the insured property less applicable deductibles at the time the insurance is purchased and at each renewal date, exclusive of land, foundations, excavations, and other matters normally excluded from property policies.

B. Commercial general liability insurance against claims and liabilities arising in connection with the ownership, existence, use or management of the Common Elements, insuring the Association in an amount not less than One Million Dollars (\$1,000,000.00) per occurrence, insuring the Executive Board, the Association, any managing agent, and their respective employees, agents and all Persons acting as agents. The Declarant shall be included as an additional insured in such Declarant's capacity as an Owner and member of the Executive Board. The Owners shall also be included as additional insureds but only for claims and liabilities arising in connection with the ownership, existence, use or management of the Common Elements. The insurance shall cover claims of one (1) or more insured parties against other insured parties.

C. A policy providing comprehensive fidelity coverage or fidelity bonds to protect against dishonest acts on the part of officers, directors, trustees and employees of the Association and/or any independent contractor employed by the Association for the purpose of managing the Community, in an amount at least equal to the estimated maximum of funds, including maintenance reserves, in the custody of the Association at any given time; provided, however, that such fidelity coverage or fidelity bonds shall not be in an amount less than three (3) months' aggregate assessments on the Units, plus such reserve funds as calculated from the current budget of the Association. The Association may carry fidelity insurance in amounts greater than required hereinabove and may require any independent contractor employed for the purposes of managing the Community to carry more fidelity insurance coverage than required hereinabove. In the event the Association has delegated some or all of its responsibility for the handling of funds to a managing agent, the Association may require the managing agent to purchase, at its own expense, a policy of fidelity insurance or bonds which fully complies with the provisions of this Subsection C.

D. If any Common Elements are located within an area identified by the Federal Emergency Management Agency as having special flood hazards, and flood insurance coverage on such parcels has been made available under the National Flood Insurance Program, then such a policy of flood insurance on such parcels in an amount at least equal to the lesser of:

(1) The maximum coverage available under the National Flood Insurance Program for all Condominium Buildings and other insurable property located within a designated flood hazard area; or

(2) One hundred percent (100%) of current replacement cost of all Condominium Buildings and other insurable property located within a designated flood hazard area.

E. In addition, the Association may obtain insurance against such other risks of a similar or dissimilar nature as it shall deem appropriate from time to time, to the extent that such coverage is reasonably available, including, but not limited to, personal liability insurance to protect directors and officers of the Association from personal liability in relation to their duties and responsibilities in acting as directors and officers on behalf of the Association, and coverage on fixtures, equipment and other personal property inside Units.

6.2 General Provisions of Insurance Policies. All policies of insurance carried by the Association shall be carried in blanket policy form naming the Association as insured, or its designee as trustee and attorney-in-fact for all Owners, and each Owner shall be an insured person under such policies with respect to liability arising out of any Owner's membership in the Association. The policy or policies shall contain a standard non-contributory Security Interest Holder's clause in favor of each Security Interest Holder and a provision that it cannot be cancelled or materially altered by either the insured or the insurance company until at least thirty (30) days' prior written notice thereof is given to the insured and each Security Interest Holder, insurer or guarantor of a Security Interest. The Association shall furnish a certified copy or duplicate original of such policy or renewal thereof, with proof of premium payment and a certificate identifying the interest of the Owner in question, to any party in interest, including Security Interest Holders, upon request. All policies of insurance carried by the Association shall also contain waivers of subrogation. All policies shall contain waivers of any defense based on invalidity arising from any acts or neglect of an Owner where such Owner is not under the control of the Association.

6.3 Deductibles. The Association may adopt and establish written non-discriminatory policies and procedures relating to the submittal of claims, responsibility for deductibles, and any other matters of claims adjustment.

A. To the extent the Association settles claims for damages, it shall have the authority to assess negligent Owners causing such loss or benefiting from such repair or restoration all deductibles paid by the Association. In the event that more than any one (1) Unit is damaged by a loss, the Association, in its reasonable discretion, may assess each Owner a pro rata share of any deductible paid by the Association.

B. Any loss to any Unit or to any Common Elements which the Association has the duty to maintain, repair and/or reconstruct, which falls within the deductible portion of such policy, shall be borne by the Person who is responsible for the repair and maintenance of the property which is damaged or destroyed. In the event of a joint duty of repair and maintenance of the damaged or destroyed property, then the deductible may be apportioned among the Persons sharing in such joint duty or may be

partly or wholly borne by the Association, at the election of the Executive Board. Notwithstanding the foregoing, after notice and hearing, the Association may determine that a loss, either in the form of a deductible to be paid by the Association or an uninsured loss, resulted from the act or negligence of an Owner. Upon said determination by the Association, any such loss or portion thereof may be assessed to the Owner in question and the Association may collect the amount from said Owner in the same manner as any assessment.

6.4 Payment of Insurance Proceeds. Any loss covered by an insurance policy described in Section 6.1 of this Article must be adjusted with the Association, but the insurance proceeds for that loss shall be payable to any insurance trustee designated for that purpose, or otherwise to the Association, and not to any Security Interest Holder. The insurance trustee or the Association shall hold any insurance proceeds in trust for the Association, Owners and Security Interest Holders as their interests may appear. Subject to the provisions of Section 7.1 of Article 7 of this Declaration, the proceeds must be disbursed first for the repair or restoration of the damaged property; and the Association, Owners and Security Interest Holders are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the property has been completely repaired or restored or the Community is terminated.

6.5 Association Insurance as Primary Coverage. If at the time of any loss under any policy which is in the name of the Association, there is other insurance in the name of any Owner and such Owner's policy covers the same property or loss, or any portion thereof, which is covered by such Association policy, such Association policy shall be primary insurance not contributing with any of such other insurance. An Owner shall be liable to the Association for the amount of any diminution of insurance proceeds to the Association as a result of policies of insurance of an Owner, and the Association may collect the amount from said Owner in the same manner as any assessment. Any such Owner's policy shall also contain waivers of subrogation.

6.6 Acceptable Insurance Companies. Each hazard insurance policy purchased by the Association must be written by a hazard insurance carrier which is authorized by law to do business in the State of Colorado. The Association shall not obtain any policy where (a) under the terms of the insurance company's charter, bylaws, or policy, contributions or assessments may be made against the mortgagor or mortgagee's designee, or (b) under the terms of the carrier's charter, bylaws, or policy, loss payments are contingent upon action by the carrier's Board of Directors, policy holders or members, or (c) the policy includes any limiting clauses (other than insurance conditions) which could prevent mortgagees or any Owner from collecting insurance proceeds.

6.7 Insurance to be Maintained by Owners. An insurance policy issued to the Association does not obviate the need for Owners to obtain insurance for their own benefit. Insurance coverage on the furnishings and other items of personal property belonging to an Owner, and public liability insurance coverage on each Individual Air Space Unit, shall be the responsibility of the Owner of such Unit.

6.8 Annual Review of Insurance Policies. All insurance policies carried by the Association shall be reviewed at least annually by the Executive Board to ascertain that the coverage provided by such policies adequately covers those risks intended to be insured by the Association. In making the aforesaid determination, the Executive Board or the managing agent of the Association may obtain a written appraisal from a duly qualified real estate or insurance appraiser, or seek other advice or assistance.

6.9 Notice of Cancellation. If the insurance described in Section 6.1 of this Article is not reasonably available, or if any policy of such insurance is cancelled or not renewed without a replacement policy therefor having been obtained, the Association promptly shall cause notice of that fact to be hand delivered, or sent prepaid by United States mail, to all Owners.

ARTICLE 7 DAMAGE OR DESTRUCTION

7.1 Damage or Destruction.

A. Any portion of the Community which is covered by a policy of insurance carried by the Association and which is damaged or destroyed must be repaired or replaced promptly by the Association unless:

- (1) The Community is terminated;
- (2) Repair or replacement would be illegal under any state or local statute or ordinance governing health or safety;
- (3) Eighty percent (80%) of the Owners, including every Owner of a Unit that will not be rebuilt, vote not to rebuild; or
- (4) Prior to the conveyance of any Unit to a Person other than the Declarant, the holder of a deed of trust or mortgage on the damaged portion of the Community rightfully demands all or a substantial part of the insurance proceeds.

B. The cost of repair or replacement in excess of insurance proceeds and reserves is a Common Expense. If the entire Community is not repaired or replaced, the insurance

proceeds attributable to the damaged Common Elements must be used to restore the damaged area to a condition compatible with the remainder of the Community, and except to the extent that other Persons will be distributees, the insurance proceeds attributable to Units that are not rebuilt must be distributed to the Owners of those Units or to lienholders, as their interests may appear, and the remainder of the proceeds must be distributed to all the Owners or lienholders, as their interests may appear, in proportion to the Allocated Interests of all the Units. If the Owners vote not to rebuild any Unit, that Unit's Allocated Interests are automatically reallocated upon the vote as if the Unit had been condemned as provided in Article 14, Section 14.10, hereof, and the Association promptly shall prepare, execute and record an amendment to the Declaration reflecting such reallocations.

7.2 Use or Distribution of Insurance Proceeds. In the event of damage or destruction to all or a portion of the Common Elements, due to fire or other adversity or disaster, the insurance proceeds, if sufficient to reconstruct or repair the damage, shall be applied by the Association to such reconstruction and repair. If the insurance proceeds with respect to such damage or destruction are insufficient to repair and reconstruct the damaged or destroyed area, the Association shall levy a special assessment in the aggregate amount of such insufficiency pursuant to Article 4, Section 4.6 hereof, but without approval of the Owners, and shall proceed to make such repairs or reconstruction. No distributions of insurance proceeds shall be made unless made jointly payable to the Owners and any Security Interest Holders of their respective Units. The assessment provided for herein shall be a debt of each Owner and a lien on his Unit and the Improvements thereon, and may be enforced and collected in the same manner as any assessment provided for in this Declaration.

7.3 Destruction of Units. If, due to casualty, or for any other reason, an Individual Air Space Unit shall be destroyed or damaged, then the Owner thereof shall, within a reasonable time thereafter, commence and diligently pursue repair and reconstruction of the Individual Air Space Unit, using any available personal insurance proceeds of such Owner, unless the Common Elements are not repaired and reconstructed as hereinabove provided.

ARTICLE 8 MAINTENANCE

8.1 Management and Maintenance Duties. Subject to the rights of Owners as set forth in this Declaration:

A. The Association shall be responsible for the management, control, maintenance, repair, replacement and improvement of the Common Elements (including the private streets, private sidewalks, common parking areas, any privacy fences installed by Declarant, privacy walls, screening fences

and the Limited Common Elements except as hereinafter provided), and of any property owned by the Association, including facilities, furnishings and equipment related thereto, and shall keep the same in good, clean, attractive and sanitary condition, order and repair. However, each Owner shall be responsible for exclusive maintenance, repair and replacement of all fixtures, equipment and utilities installed or located within such Owner's Individual Air Space Unit, any exterior lights attached to the Unit, any windows, window screens and doors to the Unit (except painting or staining of exterior doors), any patio area designated as a Limited Common Element and assigned to each Unit (excluding any privacy walls installed by Declarant) and all other equipment providing exclusive service thereto or therefor and any service lines from such equipment to the Unit, including, without limitation, all utility, heating, plumbing, air conditioning and domestic hot water equipment and appurtenances (excluding any landscaping irrigation system), regardless of whether such fixtures, equipment and utilities are owned by said Owner or are Common Elements. Each Owner shall also keep the Limited Common Elements, or portions thereof, designated for use solely in connection with his Unit, in good, clean, sanitary and attractive condition, order and repair.

B. Further, the Association shall be responsible for maintenance, repair and replacement of any drainage structure or facilities, or other public Improvements required by the City of Fort Collins or other local governmental entity as a condition of development of the Community or any part thereof, and of any other property or Improvements that the Executive Board may elect on behalf of the Association, unless such Improvements have been dedicated to and accepted by a local governmental entity for the purpose of maintenance, repair or replacement or unless such maintenance, repair or replacement has been authorized by law to be performed by a special district or other municipal or quasi-municipal entity.

C. Finally, the Association shall collect as assessments, and expend, funds for the costs of the maintenance, repair and replacement to be performed by the Association under this Section, subject to Section 8.4 of this Article.

D. Notwithstanding anything to the contrary contained in this Declaration, none of the responsibilities of the Association for management, control, maintenance, repair, replacement and improvement of the Common Elements or Improvements thereon shall give rise to any interest of the Association in any Unit or the quality of any Improvements therein or thereon, nor any right by the Association to pursue any claims against the Declarant, any member thereof, or any other Person, for negligence, breach of express or implied warranties, or any other matters, with respect to any such Improvements or the construction thereof.

8.2 Association's Right to Repair and Maintain, Restore and Demolish. In the event any Owner shall fail to perform his maintenance, repair and replacement obligations in a manner satisfactory to the Executive Board, the Association may, if said failure continues for a thirty (30) day period after written notice to said Owner by the Executive Board, enter upon said Unit subsequent to the expiration of said thirty (30) day time period to perform any or all of such maintenance, repair or replacement. The cost of such maintenance, repair and replacement shall be the personal obligation of the Owner of the Unit on which such work is performed, and shall be subject to all of the terms and provisions applicable to "assessments" as provided in Article 4 hereof, including, without limitation, interest, late charges and lien rights.

8.3 Easement for Maintenance Access and Entry. Each Owner shall afford to the Association and the other Owners, and to their agents or employees, access through such Owner's Unit reasonably necessary for maintenance, repair and replacement of any Common Elements and any other property or Improvements maintained, repaired or replaced by the Association. If damage is inflicted, or a strong likelihood exists that it will be inflicted, on the Common Elements, any other property, or any Unit, the Owner responsible for the damage or expense to avoid damage, or the Association if it is responsible, is liable for the cost of prompt repair or avoidance. Further, each Unit shall be subject to an easement in favor of the Association (including its agents, employees, and contractors) for performing maintenance, repair and/or reconstruction as provided in this Article during reasonable hours after reasonable notice to the Owners or occupants of any affected Unit, except that in emergency situations entry upon a Unit may be made at any time provided that the Owner or occupants of each affected Unit shall be warned of impending emergency entry as early as is reasonably possible.

8.4 Owner's Negligence. Notwithstanding anything to the contrary contained in this Declaration, in the event that the need for maintenance, repair or reconstruction of the Common Elements, any other property, a Unit, or any Improvements located thereon, is caused by the willful or negligent act or omission of any Owner, any member of such Owner's family or by a guest or invitee of such Owner, the cost of such repair, maintenance, reconstruction or expense to avoid such damage shall be the personal obligation of such Owner to the extent that said Owner would be liable for the acts of such Persons under the laws of the State of Colorado; and any costs, expenses and fees incurred by the Association for such maintenance, repair or reconstruction shall be added to the assessment to which such Owner's Unit is subject and shall be subject to all of the terms and provisions of Article 4 of this Declaration. A determination of the negligence or willful act or omission of any Owner, or any member of an Owner's family or a guest or invitee of any Owner, and the amount of the Owner's liability therefor, shall be determined by the Association at a hearing after notice to the Owner, provided that

any such determination which assigns liability to any Owner pursuant to the terms of this Section may be appealed by said Owner to a court of law.

ARTICLE 9 RESTRICTIONS

9.1 General Plan. It is the intention of the Declarant to establish and impose a general plan for the improvement, development, use and occupancy of the Units, all in order to enhance the value, desirability, and attractiveness of the Units and subserve and promote the sale thereof.

9.2 Restrictions Imposed. This Community is subject to the recorded easements, licenses and other matters listed on Exhibit "C" attached hereto and incorporated herein by this reference. In addition, the Declarant declares that all of the Units shall be held and shall henceforth be sold, conveyed, used, improved, occupied, owned, resided upon and hypothecated, subject to the following provisions, conditions, limitations, restrictions, agreements and covenants, as well as those contained elsewhere in this Declaration.

9.3 Residential Use. Subject to Section 9.4 of this Article, Units shall be used for residential use only, including uses which are customarily incident thereto, and shall not be used at any time for business, commercial or professional purposes; provided, however, that an Owner may use his Unit for professional or home occupation(s) so long as the applicable zoning permits such use, there is no external evidence thereof (e.g., signs), and no unreasonable inconvenience to other residents of the Units is created thereby.

9.4 Declarant's Use. Notwithstanding anything to the contrary contained in this Declaration, it shall be expressly permissible and proper for Declarant and its employees, agents and contractors, to perform such reasonable activities, and to maintain upon portions of the Units such facilities, as Declarant deems reasonably necessary or incidental to the construction and sale of Units, and development and construction of Improvements, including, but not limited to, maintaining management offices, signs, model units and sales offices, in such numbers, of such sizes, and at such locations as Declarant may determine from time to time in its reasonable discretion. Notwithstanding the foregoing, Declarant shall not perform any activity or maintain any facility on any portion of the Units in such a way as to unreasonably interfere with or disturb any Owner, or to unreasonably interfere with the use, enjoyment or access of such Owner, his family members, guests or invitees, of and to his Unit and to a public right-of-way. Any real estate used as a sales office, management office or a model, shall be a Unit.

9.5 Use of Common Elements. Subject to the rights of Declarant as provided in this Declaration, there shall be no obstruction of the Common Elements, nor shall anything be kept or stored on any part of the Common Elements except as provided in this Declaration with respect to Limited Common Elements. Other than those Improvements erected or installed by Declarant in its completion of the Community, nothing shall be altered on, constructed in or removed from the Common Elements except as provided in this Declaration with respect to Limited Common Elements.

9.6 Exterior Changes. Except for those Improvements erected, constructed or installed by Declarant in its completion of the Community and those permitted by the Association, if any, no exterior additions to, alterations or decoration of any Condominium Building or Units shall be commenced, erected, placed or maintained, except as provided in this Declaration with respect to Limited Common Elements.

9.7 Household Pets. No animals, livestock, birds, poultry, reptiles or insects of any kind shall be raised, bred, kept or boarded in or on the Units; provided, however, that the Owners of each Unit may keep a reasonable number of dogs, cats, or other domestic animals which are bona fide household pets, so long as such pets are not kept for any commercial purpose and are not kept in such number or in such manner as to create a nuisance to any resident of the Units. The Association shall have, and is hereby given, the right and authority to determine in its sole discretion that dogs, cats or other household pets are being kept for commercial purposes or are being kept in such number or in such manner as to be unreasonable or to create a nuisance, or that an Owner is otherwise in violation of the provisions of this Section, and to take such action or actions as it deems appropriate to correct the same. An Owner's right to keep household pets shall be coupled with the responsibility to pay for any damage caused by such pets, as well as any costs incurred by the Association as a result of such pets, and any such costs and damages shall be subject to all of the Association's rights with respect to the collection and enforcement of assessments as provided in Article 4 hereof. Without limiting the foregoing, no otherwise permitted household pets shall be kept outside any Unit (whether on the Common Elements or otherwise). Furthermore, no animal shall be allowed to remain tied or chained to any balcony, patio or other exterior portion of any portion of the Community. Any household pet temporarily allowed outside a Unit shall be at all times accompanied by its Owner, and shall be kept on a leash or other physical restraint. No animal shall be allowed to litter on any portion of the Common Elements, and an Owner shall be responsible and obligated to immediately clean-up after such Owner's animals.

9.8 Signs. No advertising or signs of any character shall be erected, placed, permitted, or maintained on any Unit other than a name plate of the occupant and a street number and/or Condominium Building and Unit identification as provided by the

Declarant, and except for one (1) "For Sale," "Open House" or "For Rent" sign of not more than five (5) square feet located only in one (1) window of the Unit. Notwithstanding the foregoing, reasonable signs, advertising, or billboards used by the Declarant in connection with the sale or rental of Units, or otherwise in connection with development of or construction in the Common Interest Community, shall be permissible, provided that such use shall not interfere with the Owners' use and enjoyment of their Unit or with their ingress or egress from a public way to their Unit.

9.9 Vehicular Parking, Storage and Repairs.

A. No house trailer, camping trailer, boat trailer, hauling trailer, boat, or accessories thereto, truck (larger than three-fourths [3/4] ton), self-contained motorized recreational vehicle, or other type of recreational vehicle or equipment, nor any commercial vehicle, may be parked or stored in the Community unless such parking or storage is within the garage of any Unit or is in any area(s), if any, designated from time to time by the Executive Board, except that any such vehicle may be otherwise parked as a temporary expedient for loading, delivery, or emergency. This restriction, however, shall not restrict trucks or other commercial vehicles which are necessary for construction or for the maintenance of the Units, Common Elements, other property, or any Improvements.

B. Except as hereinabove provided, no abandoned or inoperable automobiles or vehicles of any kind shall be stored or parked in the Community. An "abandoned or inoperable vehicle" shall be defined as any automobile, truck, motorcycle, or other similar vehicle, which has not been driven under its own propulsion for a period of one (1) week or longer, or which does not have an operable propulsion system installed therein, or which does not have a current license plate thereon; provided, however, that otherwise permitted vehicles parked by Owners while on vacation (for a maximum of two [2] weeks) or during a period of illness shall not be deemed to be abandoned.

C. In the event the Association shall determine that a vehicle is parked or stored in violation of Subsections A. or B. of this Section, then a written notice describing said vehicle shall be personally delivered to the owner thereof (if such owner can be reasonably ascertained) or shall be conspicuously placed upon the vehicle (if the owner thereof cannot be reasonably ascertained), and if the vehicle is not removed within a reasonable time thereafter, as determined by the Association in its discretion from time to time, the Association shall have the right to remove the vehicle at the sole expense of the owner thereof.

D. No activity such as, but not limited to, maintenance, repair, rebuilding, dismantling, repainting or servicing of any kind of vehicles, trailers or boats, may be

performed or conducted on any Unit unless it is done within completely enclosed structures which screen the sight and sound of the activity from the street and from adjoining property. The foregoing restriction shall not be deemed to prevent washing and polishing of any motor vehicle, boat, trailer, motor-driven cycle, or other vehicle, together with those activities normally incident and necessary to such washing and polishing.

E. An Owner and such Owner's family members and tenants shall park only within the garage constituting a portion of such Owner's Unit. Those parking spaces located on the Common Elements of the Community are designated for temporary parking by guests only. The Association shall have the right to adopt such rules and regulations and to take such other actions as it may deem necessary to enforce these restrictions.

9.10 Nuisances. No nuisance shall be permitted on any Unit nor any use, activity or practice which is a source of annoyance or embarrassment to, or which offends or disturbs, the resident of any Unit or which interferes with the peaceful enjoyment or possession and proper use of any Unit, or any portion thereof, by its residents. As used herein, the term "nuisance" shall not include any activities of Declarant which are reasonably necessary to the development and construction of, and sales activities on, the Units; provided, however, that such activities of the Declarant shall not unreasonably interfere with any Owner's use and enjoyment of his Unit, or with any Owner's ingress and egress to or from his Unit and a public way. No noxious or offensive activity shall be carried on upon any Unit nor shall anything be done or placed on any Unit which is or may become a nuisance or cause embarrassment, disturbance or annoyance to others, and no unsightly conditions, structures, facilities, equipment or objects shall be so located on any Unit as to be visible from a street or from any other Unit. Further, no immoral, improper, offensive or unlawful use shall be permitted or made of any Unit or any portion thereof. All valid laws, ordinances and regulations of all governmental bodies having jurisdiction over the Units, or any portion thereof, shall be observed.

9.11 No Hazardous Activities; No Hazardous Materials or Chemicals. No activities shall be conducted on any Unit or within Improvements constructed on any Unit which are or might be unsafe or hazardous to any Person or property. Without limiting the generality of the foregoing, no firearms shall be discharged upon any Unit and no open fires shall be lighted or permitted on any Unit except in a contained barbecue unit while attended and in use for cooking purposes or within an interior fireplace. Further, no hazardous materials or chemicals shall at any time be located, kept or stored in, on or at any Unit except such as may be contained in household products normally kept at homes for use of the residents thereof and in such limited quantities so as to not constitute a hazard or danger to person or property.

9.12 No Annoying Light, Sounds or Odors. No light shall be emitted from any Unit which is unreasonably bright or causes unreasonable glare; no sound shall be emitted from any Unit which is unreasonably loud or annoying; and no odor shall be permitted from any Unit which is noxious or offensive to others.

9.13 Restrictions on Trash and Materials. Unless otherwise authorized in writing by the Architectural Review Committee, no refuse, garbage, trash, lumber, grass, shrubs or tree clippings, plant waste, metal, bulk materials, scrap or debris of any kind shall be kept, stored, or allowed to accumulate on any Unit unless placed in a suitable container suitably located solely for the purpose of garbage pickup. All equipment for the storage and disposal of such materials shall be kept in a clean and sanitary condition. No garbage or trash cans or receptacles shall be maintained in an exposed or unsightly manner or left outside any Unit except for such time as is required for scheduled pick up.

9.14 Rules and Regulations. Rules and regulations concerning and governing the Units, Common Elements and/or this Community may be adopted, amended or repealed from time to time by the Executive Board, and the Executive Board may establish and enforce penalties for the infraction thereof, including, without limitation, the levying and collecting of fines for the violation of any of such rules and regulations. Such rules and regulations may be adopted to implement the provisions of this Article 9, including, but not limited to, regulation and control of pets, exterior improvements, signs, trash collection, parking, automotive repair and other activities which are subject to restriction pursuant to the terms hereof.

9.15 Leases. The term "lease," as used herein, shall include any agreement for the leasing or rental of a Unit, or any portion thereof, and shall specifically include, without limitation, month-to-month rentals and subleases. Any Owner shall have the right to lease his Unit, but no lease shall be for less than thirty (30) days. All leases shall be in writing and all leases shall provide that the terms of the lease and lessee's occupancy of the leased premises shall be subject in all respects to the provisions of this Declaration, and the Articles of Incorporation, Bylaws and rules and regulations of the Association.

9.16 Management Agreements and Other Contracts. Any agreement for professional management of the Association's business or other contract providing for the services of the Declarant shall have a maximum term of three (3) years and any such agreement shall provide for termination by either party thereto, with or without cause and without payment of a termination fee, upon not more than ninety (90) days' prior written notice. Notwithstanding the foregoing, however, any such management agreement(s) entered into by the Association with a manager or managing agent prior to termination of the Period of Declarant Control shall be subject to review and approval by HUD

or VA if, at the time such agreement is entered into, HUD has insurance or VA has a guarantee(s) on one (1) or more First Security Interests, and shall terminate absolutely, in any event, no later than thirty (30) days after termination of the Period of Declarant Control.

9.17 Declarant's Easement and Use of Common Elements. An easement is hereby granted to the Declarant through the Common Elements as may be reasonably necessary for the purpose of discharging any of Declarant's obligations or exercising any Special Declarant Rights. Subject to the immediately preceding sentence:

A. No use shall be made of the Common Elements which will in any manner violate the statutes, rules, or regulations of any governmental authority having jurisdiction over the Common Elements.

B. No Owner shall engage in any activity which will temporarily or permanently deny free access to any part of the Common Elements to all Members, nor shall any Owner place any structure whatsoever upon the Common Elements.

C. The use of the Common Elements shall be subject to such rules and regulations as may be adopted from time to time by the Executive Board.

D. No use shall ever be made of the Common Elements which will deny ingress and egress to those Owners having access to their Units only over Common Elements, and the right of ingress and egress to said Units is hereby expressly granted.

9.18 Easement for Encroachments. To the extent that any Unit or Common Element encroaches on any other Unit or Common Element, a valid easement for the encroachment exists.

9.19 Maintenance Easement. An easement is hereby granted to the Association, its officers, agents, employees and assigns upon, across, over, in and under the Common Elements and a 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, including the right to construct and maintain on the Common Elements, maintenance and storage facilities for use by the Association.

9.20 Drainage Easement. An easement is hereby granted to the Association, its officers, agents, employees, successors and assigns, to enter upon, across, over, in and under the Common Elements for the purpose of changing, correcting or otherwise modifying the grade or drainage channels of the Community so as to improve the drainage of water in the Community.

9.21 Utilities. There is hereby created a blanket easement upon, across, over and under the Common Elements for utilities and the installation, replacement, repair and maintenance of utilities, including, but not limited to, water, sewer, gas, telephone, data transmission, electricity, computer cable, fiber optics and master television antenna or cable or satellite television systems, if any. By virtue of this blanket easement it shall be expressly permissible to erect and maintain the necessary facilities, equipment and appurtenances on the Common Elements and to affix, repair, and maintain water and sewer pipes, gas, electric, telephone, data transmission, computer and television wires, cables, fiber optics lines, circuits, conduits and meters.

In the event any utility or quasi-utility company furnishing a service covered by the general easement created herein requests a specific easement by separate recordable document, Declarant reserves and is hereby given the right and authority to grant such easement upon, across, over or under any part or all of the Common Elements without conflicting with the terms hereof; provided, however, that such right and authority shall cease upon the earlier of seven (7) years after recordation of this Declaration in the County of Larimer, Colorado, or conveyance by Declarant of the last Unit to the first Owner thereof (other than Declarant), at which time said reserved right shall vest in the Association. The easement provided for in this Section shall in no way affect, avoid, extinguish or modify any other recorded easement(s) on the Common Elements.

9.22 Emergency Easement. A general easement is hereby granted to all police, sheriff, fire protection, ambulance and all other similar emergency agencies or persons to enter upon all streets and upon the Common Elements in the proper performance of their duties.

ARTICLE 10
PROPERTY RIGHTS IN THE COMMON ELEMENTS

10.1 Owners' Easements. Subject to the provisions of Section 10.2 of this Article, every Owner shall have a non-exclusive right and easement of enjoyment in and to the General Common Elements and those Limited Common Elements appurtenant to his Unit, plus a right and easement of ingress and egress over, across and upon the General Common Elements and those Limited Common Elements appurtenant to his Unit, for the purpose of getting to and from his Unit and public ways, for both pedestrian and vehicular travel, which rights and easements shall be appurtenant to and pass with the transfer of title to every Unit.

10.2 Extent of Owners' Easements. The rights and easements created hereby shall be subject to the following:

A. The terms, provisions, covenants, conditions, restrictions, easements, reservations, uses, limitations and obligations contained in this Declaration;

B. The right of the Association, in accordance with its Articles and Bylaws, to borrow money for the purpose of improving the Common Elements and to mortgage said property as security for any such loan; provided, however, that the Association may not subject any portion of the Common Elements to a Security Interest unless such is approved by Members casting at least eighty percent (80%) of the votes in the Association, including eighty percent (80%) of the votes allocated to Units not owned by the Declarant, and unless such is approved by all of the Owners of Units to which is allocated any Limited Common Element that will be subject to a Security Interest;

C. The right of the Association to take such steps as are reasonably necessary to protect the Common Elements against foreclosure;

D. The right of the Association to promulgate, amend, repeal, re-enact and publish rules and regulations with which each Member shall strictly comply;

E. The right of the Association to suspend the voting rights of a Member for any period during which any assessment against his Unit or any other amount due from such Member to the Association remains unpaid and, for a period not to exceed sixty (60) days, for any infraction of the Bylaws of the Association or the Association's rules and regulations;

F. The right of the Association to dedicate or transfer all or any part of the Common Elements to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members, provided that no such dedication or transfer shall be effective unless first approved by the Members entitled to cast at least eighty percent (80%) of the votes in the Association, including eighty percent (80%) of the votes allocated to Units not owned by the Declarant, and unless first approved by all of the Owners of Units to which is allocated any Limited Common Element that will be dedicated or transferred, and unless written notice of the proposed agreement and the proposed dedication or transfer is sent to every Member at least thirty (30) days in advance of any action taken. Notwithstanding the foregoing, the granting of permits, licenses and easements for public utilities, roads or for other purposes reasonably necessary or useful for the proper maintenance or operation of the Community shall not be deemed a transfer within the meaning of this Subsection F.;

G. The right of the Association, through its Executive Board, to enter into, make, perform or enforce any contracts, leases, agreements, licenses, easements and rights-of-way, for the use of real property or Improvements by Owners, other Persons, their family members, guests and invitees, for any purpose(s) the Executive Board may deem to be useful, beneficial or otherwise appropriate; and

H. The right of the Association to close or limit the use of the Common Elements while maintaining, repairing and making replacements in the Common Elements.

10.3 Delegation of Use. Any Owner may delegate his rights of use of and access over the Common Elements to the members of his family, his tenants, or contract purchasers who reside on his Unit.

10.4 Limited Common Elements. Subject to the terms and provisions of this Declaration, every Owner shall have the right to use and enjoy the Limited Common Elements appurtenant to his Unit, and such right shall be exclusive except as to those Owners with a right to use such Limited Common Elements.

10.5 New Additions to Common Elements. The Association shall have the right to construct new additions to the Common Elements. Ownership of any such additions to the Common Elements shall be apportioned among all Units in proportion to the respective undivided interest in the Common Elements appurtenant thereto, as shown on the attached Exhibit "B," which shall be subject to modification as provided in this Declaration. The Common Expenses for any such additions to the Common Elements shall be apportioned among all Units as provided in Article 4 hereof. The construction of new additions to the Common Elements shall not affect an Owner by way of modification of his voting power in the Association.

10.6 Conveyance or Encumbrance of Common Elements.

A. Portions of the Common Elements may be conveyed or subjected to a Security Interest by the Association only if Persons entitled to cast at least eight percent (80%) of the votes in the Association, including eighty percent (80%) of the votes allocated to Units not owned by a Declarant, agree to that action; and all Owners of each Unit to which any Limited Common Element is allocated must agree in order to convey that Limited Common Element or subject it to a Security Interest.

B. An agreement to convey Common Elements or subject them to a Security Interest must be evidenced by the execution of an agreement, or ratification thereof, in the same manner as a deed, by the requisite number of Owners. The agreement must specify a date after which the agreement will be void unless recorded before that date. The agreement and all ratifications thereof must be recorded in every county in which a portion of the Community is situated and is effective only upon recordation.

C. The Association, on behalf of all Owners, may contract to convey an interest in the Community pursuant to Subsection A. of this Section, but the contract is not enforceable against the Association until approved, executed and ratified. Hereafter, the Association has all powers necessary and

appropriate to effect the conveyance or encumbrance, including the power to execute deeds or other instruments.

D. Unless in compliance with this Section, any purported conveyance, encumbrance, judicial sale or other transfer of Common Elements is void.

E. A conveyance or encumbrance of Common Elements pursuant to this Section shall not deprive any Unit of its rights of ingress and egress to the Unit and support of the Unit.

F. A conveyance or encumbrance of Common Elements pursuant to this Section does not affect the priority or validity of preexisting encumbrances.

G. The Common Elements are not subject to partition. Any purported conveyance or encumbrance, individual sale or other involuntary or voluntary transfer of an undivided interest in the Common Elements made without the Unit to which that interest is allocated is void.

10.7 Acquiring and Disposing of Real and Personal Property. The Association may acquire, own and hold for the use and benefit of all Owners tangible and intangible personal property and real property for such uses and purposes as the Executive Board may in its discretion deem appropriate from time to time, and may dispose of the same by sale or otherwise. The beneficial interest in any such property shall be deemed to be owned by the Owners on the same undivided proportion as their respective undivided interests in the Common Elements. Such beneficial interest of an Owner shall not be transferable except with the transfer of that Owner's Unit. Transfer of a Unit, including transfer pursuant to foreclosure, shall transfer to the transferee ownership of the transferor's beneficial interest in such personal and/or real property without any reference thereto. Each Owner may use such personal and/or real property in accordance with the purposes for which such property is intended and in accordance with such conditions, limitations, restrictions, and rules and regulations as may be placed on any such property by the Executive Board in its sole discretion from time to time, provided that such use of any Owner shall not hinder or encroach upon the lawful rights of other Owners.

ARTICLE 11
CONVEYANCE, OWNERSHIP AND TAXATION OF UNITS

11.1 Contracts Entered into Prior to Recording of Condominium Map and Declaration. A contract or other agreement for the sale of a Unit entered into prior to the filing for record of the Condominium Map and/or this Declaration in the office of the Clerk and Recorder of the County of Larimer, Colorado, may legally describe such Unit in the manner set forth in Section 11.2 of this Article and may indicate that the Condominium Map and/or this Declaration are to be recorded. Upon recordation of the

Condominium Map and this Declaration in the County of Larimer, Colorado, such description shall be conclusively presumed to describe the corresponding Unit shown on the Condominium Map and such Unit shall be subject in all respects to this Declaration.

11.2 Contracts Entered into Subsequent to Recording of Condominium Map and Declaration. Subsequent to the recording of the Condominium Map and this Declaration, every contract, deed, lease, mortgage, deed of trust, will and every other instrument affecting title to a Unit may legally describe that Unit as follows:

Condominium Unit _____, Riverbend Condominiums, according to the Condominium Map thereof, recorded on _____, 2004, at Reception No. _____, in the records of the office of the Clerk and Recorder of the County of Larimer, Colorado, and as defined and described in the Declaration of Covenants, Conditions and Restrictions of Riverbend Condominiums, recorded on _____, 2004, at Reception No. _____ in said records.

11.3 Legal Effect of Description.

A. Every contract, deed, lease, mortgage, deed of trust, will and every other instrument affecting title to a Unit which legally describes said Unit substantially in the manner set forth in Section 11.2 of this Article shall be good and sufficient for all purposes to sell, convey, transfer, encumber or otherwise affect the Unit, including the undivided interest in the Common Elements appurtenant thereto and all other appurtenant properties and property rights, and to incorporate all of the rights, limitations and burdens incident to ownership of a Unit 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 each Unit and the use of all the General Common Elements, as well as all of the Limited Common Elements appurtenant to said Unit, all as more fully provided in this Declaration.

B. It shall not be necessary to use the term "unit" as a part of the legally sufficient description of a Unit.

11.4 Taxation. Each Unit shall be assessed separately for all taxes, assessments and other charges of the State of Colorado, any political subdivision thereof, any special improvement district, and any other taxing or assessing authority, in accordance with the Act. For the purpose of such assessments, the valuation of the Common Elements shall be apportioned among the Units in proportion to the undivided interest in the Common Elements appurtenant to the Unit in question. The Association shall furnish to the Tax Assessor of the County of Larimer, Colorado, and to all other appropriate persons and authorities, all necessary information with respect to such apportionment. No

forfeiture or sale of any Unit for delinquent taxes, assessments or other governmental charges shall divest or in any way affect the title to any other Unit.

11.5 Inseparability. Each Unit, as well as all other appurtenances, rights and burdens connected therewith, shall be inseparable and may be transferred, conveyed, leased, devised, encumbered or otherwise disposed of only as a Unit. Every conveyance, transfer, devise, lease, encumbrance or other disposition of a Unit shall be deemed to be a conveyance, transfer, devise, lease, encumbrance or other disposition, as the case may be, of the entire Unit, together with all appurtenant rights, interests, duties and obligations created by law or by this Declaration.

11.6 Non-Partitionability. The Common Elements shall be owned in common by all of the Owners and shall remain undivided and not subject to partition, such that any purported conveyance, encumbrance, judicial sale or other voluntary or involuntary transfer of an undivided interest in the Common Elements made without the Unit to which that interest is allocated is void. By the acceptance of his deed or other instrument of conveyance or assignment, each Owner specifically waives his right to institute and/or maintain a partition action or any other action designed to cause a division of the Common Elements. Furthermore, each Owner agrees that this Section may be pleaded as a bar to the maintenance of such an action. Any violation of this Section shall entitle the Association to collect, jointly and severally, from the parties violating the same, the actual attorneys' fees, costs, expenses and all damages which the Association incurs in connection therewith.

ARTICLE 12 MECHANIC'S LIENS

12.1 Mechanic's Liens. No labor performed and/or materials furnished for use and incorporated in any Unit with the consent or at the request of the Owner thereof, his agent, contractor or subcontractor, shall be the basis for the filing of a lien against a Unit of any other Owner not expressly consenting to or requesting the same, or against any interest in the Common Elements except as to the undivided interest therein appurtenant to the Individual Air Space Unit of the Owner for whom such labor shall have been performed or such materials furnished. Each Owner shall indemnify and hold harmless each of the other Owners and the Association from and against any liability or loss arising from the claim of any mechanic's lien against the Unit of any other Owner, the Common Elements, or any part thereof, for labor performed and/or materials furnished in work on the first Owner's Unit.

12.2 Enforcement by the Association. At its own initiative or upon the written request of any Owner or any Security Interest Holder, if the Association determines that further action by it is

proper and the mechanic's lien(s) are not disputed claims with a reasonable basis for such dispute, the Association, after notice and hearing, shall enforce the indemnity provided by Section 12.1 of this Article by collecting from the Owner of the Unit on which the labor was performed and/or materials furnished, the amount necessary to discharge any such mechanic's lien, including all costs and reasonable attorneys' fees incidental thereto, and obtain a discharge of such lien. In the event that the Owner of the Unit on which the labor was performed and/or materials furnished refuses or fails to so indemnify within seven (7) days after the Association shall have given notice to such Owner of the total amount, or any portions thereof, from time to time, to be indemnified, then the failure to so indemnify shall be a default by such Owner under the provisions of this Section 12.2 and such amount to be indemnified shall be and constitute an additional assessment for collection by the Association subject to all of the provisions of Article 4 hereof.

12.3 Effect of Part Payment. In the event a lien attributable to labor performed and/or materials furnished on the Community, or any portion thereof, is effected against two (2) or more Units, the Owner(s) of any of the affected Units may pay to the lienholder the amount of the lien attributable to such Owner's Unit and the lienholder shall release such Unit from the lien. The amount required to be paid by any such Owner in order to obtain release of his Unit from any such lien shall be equal to the quotient of (a) the amount of the lien divided by (b) the total number of Units affected by the lien. Partial payment and release of any such lien with respect to any Unit(s) shall not prevent the lienholder from enforcing his rights against the Unit(s) for which payment has not been received.

ARTICLE 13 SECURITY INTERESTS

13.1 Approval by Members and Security Interest Holders of First Security Interests. Notwithstanding any provisions of this Declaration to the contrary, the Association shall not:

A. Except as provided by statute, in case of condemnation or substantial loss to the Units and/or Common Elements, unless it has obtained the prior written approval of the Owners (other than the Declarant) casting at least sixty-seven percent (67%) of the votes in the Association and of those Security Interest Holders holding at least sixty-seven percent (67%) of the First Security Interests (based upon one [1] vote for each First Security Interest owned):

(1) By act or omission seek to abandon or terminate the Community;

(2) Change the pro rata interest or obligations of any Unit in order to levy assessments or charges, allocate distribution of hazard insurance proceeds or condemnation

awards, or determine the pro rata share of ownership of each Unit in the Common Elements (however, this requirement will be deemed waived to the extent necessary to allow phasing and add-ons in accordance with this Declaration);

(3) Partition or subdivide any Unit;

(4) Seek to abandon, partition, subdivide, encumber, sell, or transfer the Common Elements by act or omission. The granting of easements for public utilities or other public purposes consistent with the intended use of the Common Elements by the Community is not a transfer within the meaning of this clause. (However, this requirement will be deemed waived to the extent necessary to allow phasing and add-ons in accordance with this Declaration);

(5) Use hazard insurance proceeds for losses to any condominium property (whether Units or Common Elements) for other than the repair, replacement, or reconstruction of such condominium property.

B. Unless it has obtained the consent of Owners who represent at least sixty-seven percent (67%) of the total allocated votes in the Association, and of Security Interest Holders who represent at least fifty-one percent (51%) of the votes of Units that are subject to such First Security Interests (and who have submitted a written request that the Association notify them on any proposed action requiring the consent of a specified percentage of Security Interest Holders of First Security Interests), add or amend any material provisions of this Declaration, the Articles of Incorporation or Bylaws of the Association which govern any of the following, provided that the implied approval of any Security Interest Holder of a First Security Interest shall be assumed if such Security Interest Holder fails to submit a response to any written proposal for an amendment within thirty (30) days after such Security Interest Holder receives proper notice of the proposal delivered by certified or registered mail with a "return receipt" requested:

(1) Voting rights;

(2) Increases in assessments that raise the previously assessed amount by more than twenty-five percent (25%), assessment liens, or the priority of assessment liens;

(3) Reductions in reserves for maintenance, repair, and replacement of Common Elements;

(4) Responsibility for maintenance and repairs;

(5) Reallocation of interests in the General Common Elements, Limited Common Elements, or rights to their use;

- (6) Redefinition of any Unit boundaries;
- (7) Convertability of Units into Common Elements or vice versa;
- (8) Subject to Article 16, below, expansion or contraction of the Community, or the addition, annexation or withdrawal of property to or from the Community;
- (9) Hazard or fidelity insurance requirements;
- (10) Imposition of any restrictions on the leasing of Units;
- (11) Imposition of any restrictions on an Owner's right to sell or transfer his Unit;
- (12) Restoration or repair of the Community (after a damage or partial condemnation) in a manner other than that specified in the Declaration, the Articles of Incorporation, or Bylaws of the Association; or
- (13) Any provisions that expressly benefit Security Interest Holders, or insurers or guarantors of Security Interests.

13.2 Termination of Legal Status. Any action to terminate the legal status of the Community after substantial destruction or condemnation occurs must be agreed to by Owners who represent at least sixty-seven percent (67%) of the total allocated votes in the Association and by Security Interest Holders of First Security Interests who have submitted a written request that the Association notify them on any proposed action requiring the consent of a specified percentage of Security Interest Holders of First Security Interests and who represent at least fifty-one percent (51%) of the votes of the Units that are subject to such First Security Interests. Termination of the legal status of the Community for reasons other than substantial destruction or condemnation of the Community shall be permitted if agreed to by Security Interest Holders of First Security Interests who have submitted a written request that the Association notify them on any proposed action requiring the consent of a specified percentage of such Security Interest Holders of First Security Interests and who represent at least sixty-seven percent (67%) of the votes of the Units subject to First Security Interests.

13.3 Notice of Action. Upon written request to the Association, identifying the name and address of the Security Interest Holder of a First Security Interest or insurer or guarantor of the First Security Interest, and the residence address of the Unit which is subject to such First Security Interest, each Security Interest Holder of a First Security Interest, or insurer or guarantor of a First Security Interest, shall be entitled to timely written notice of:

A. Any condemnation loss or casualty loss which affects a material portion of the Community or any Unit subject to a First Security Interest held, insured or guaranteed by such Security Interest Holder, insurer or guarantor of a First Security Interest;

B. Any delinquency in the payment of assessments or charges owed to the Association by the Owner of the Unit subject to a First Security Interest held, insured or guaranteed by such Security Interest Holder, insurer or guarantor, or any default by such Owner in any obligation under the Declaration, Articles of Incorporation or Bylaws of the Association if and when the Executive Board has actual knowledge of such default, and such delinquency or default 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; and

D. Any proposed action that would require the consent of a specified percentage of Security Interest Holders of First Security Interests as provided in this Article.

13.4 Audit. Since the Community consists of fewer than fifty (50) Units, when there is not an audited statement available, any Security Interest Holder of a First Security Interest, insurer or guarantor will be allowed to have an audited statement prepared at its own expense.

13.5 Confirmation of Rights of Security Interest Holders of First Security Interests. No provision of this Declaration, the Articles of Incorporation, or Bylaws of the Association give any Owner, or any other party, priority over any rights of the Security Interest Holder of a First Security Interest, pursuant to its First Security Interest, in the case of payment to the Owner of insurance proceeds or condemnation awards for losses to or taking of Units and/or Common Elements.

ARTICLE 14 GENERAL PROVISIONS

14.1 Enforcement. Enforcement of the covenants, conditions, restrictions, easements, reservations, rights-of-way, liens, charges and other provisions contained in this Declaration, the Articles of Incorporation, Bylaws or rules and regulations of the Association, as amended, may be by any proceeding at law or in equity against any Person(s) (including, without limitation, the Association) violating or attempting to violate any such provision. The Association and any aggrieved Owner shall have the right to institute, maintain and prosecute any such proceedings, and the Association shall further have the right to levy and collect fines for the violation of any provision of any of the

aforesaid documents. In any action instituted or maintained under this Section, the prevailing party shall be entitled to recover its costs and reasonable attorneys' fees incurred pursuant thereto, as well as any and all other sums awarded by the Court. Failure by the Association or any Owner to enforce any covenant, restriction or other provision herein contained, or any other provision of any of the aforesaid documents, shall in no event be deemed a waiver of the right to do so thereafter.

14.2 Severability. All provisions of the Declaration, the Articles of Incorporation and Bylaws of the Association are severable. Invalidation of any of the provisions of any such documents, by judgment, court order or otherwise, shall in no way affect or limit any other provisions which shall remain in full force and effect.

14.3 Construction. In interpreting words in this Declaration, unless the context provides or requires otherwise, the singular will include the plural, the plural will include the singular, and the use of any gender will include all genders.

14.4 Headings. The headings are included only for purposes of convenient reference, and they will not affect the meaning or interpretation of this Declaration.

14.5 Waiver. No failure on the part of the Association or the Executive Board to give notice of default or to exercise or to delay in exercising any right or remedy will operate as a waiver, except as specifically provided above in the event the Executive Board fails to respond to certain requests. No waiver will be effective unless it is in writing and signed by the President or Vice President of the Association or by a member of the Executive Board on behalf of the Association.

14.6 Limitation of Liability. Neither the Association nor any officer or member of the Executive Board will be liable to any party for any action or for any failure to act with respect to any matter arising by, through or under the Association Documents if the action or failure to act was made in good faith. The Association will indemnify all of the officers and Executive Board members with respect to any act taken in their official capacity to the extent provided in this Declaration and by law and in the Articles of Incorporation and Bylaws.

14.7 Conflict of Provisions. In case of any conflict between this Declaration, the Articles of Incorporation or Bylaws of the Association, this Declaration shall control. In case of any conflict between the Articles of Incorporation and the Bylaws of the Association, the Articles of Incorporation shall control.

14.8 Conflict with Act. In the event that any of the terms or provisions of this Declaration are in conflict or inconsistent with the Act, the terms and provisions of the Act shall control and govern. In case of any such conflict or inconsistency, the

applicable terms and provisions contained in this Declaration shall, to the extent possible, be construed in accordance with the Act, and any conflict with or violation of the Act by any terms or provisions of this Declaration shall not affect, void, or render unenforceable any other term or provision of this Declaration which shall be in full force and effect in accordance with their terms.

14.9 Duration, Revocation, and Amendment.

A. Each and every provision of this Declaration shall run with and bind the land for a term of twenty (20) years from the date of recording of this Declaration, after which time this Declaration shall be automatically extended for successive periods of ten (10) years each. Except as provided in Subsection D. of this Section 14.9, this Declaration may be amended during the first twenty (20) year period, and during subsequent extensions thereof, by a vote or agreement of Owners holding at least sixty-seven percent (67%) of the Allocated Interests.

B. No action to challenge the validity of an amendment adopted by the Association pursuant to this Section may be brought more than one (1) year after the amendment is recorded.

C. Every amendment to the Declaration must be recorded in every county in which any portion of the Community is located, and is effective only upon recordation.

D. Except to the extent expressly permitted or required by other provisions of this Declaration, no amendment may create or increase Special Declarant Rights, increase the number of Units, change the boundaries of any Unit or the Allocated Interests of a Unit, or the uses to which any Unit is restricted, in the absence of unanimous consent of the Owners.

E. Amendments to the Declaration that are required by this Declaration to be recorded by the Association shall be prepared, executed, recorded, and certified on behalf of the Association by any officer of the Association designated for that purpose or, in the absence of designation, by the president of the Association.

14.10 Registration of Mailing Address. Each Owner and each Security Interest Holder, insurer or guarantor of a Security Interest, shall register a mailing address with the Association, and except for annual statements and other routine notices, all other notices or demands intended to be served upon an Owner, or upon a Security Interest Holder, insurer or guarantor of a Security Interest, shall be sent by either registered or certified mail, postage prepaid, addressed in the name of such Person at such registered mailing address. However, if any Owner fails to notify the Association of a registered address, then any notice or demand may be delivered or sent, as aforesaid, to such Owner at the address of such Owner's Unit. All notices, demands, or other

notices intended to be served upon the Executive Board or the Association shall be sent by registered or certified mail, postage prepaid, to Riverbend Condominium Association, 1218 West Ash, Suite A, Windsor, Colorado 80550, until such address is changed by the Association.

14.11 HUD or VA Approval. During the Period of Declarant Control, the following actions shall require the prior approval of HUD or VA if, at the time any such action is taken, HUD has insurance or VA has a guarantee(s) on one (1) or more First Security Interests: Amendment of this Declaration; termination of this Community; or merger or consolidation of the Association.

14.12 Transfer of Special Declarant Rights. A Special Declarant Right created or reserved under this Declaration may be transferred only by an instrument evidencing the transfer recorded in every county in which any portion of the Community is located, and in accordance with the Act.

14.13 Eminent Domain. The taking by eminent domain of a Unit(s) or Common Element(s), or any portion thereof; shall be done in accordance with applicable law, including without limitation the Act.

14.14 Termination of Community. The Community may be terminated only in accordance with the Act.

14.15 Association as Trustee. With respect to a third Person dealing with the Association in the Association's capacity as a trustee, the existence of trust powers and their proper exercise by the Association may be assumed without inquiry. A third Person is not bound to inquire whether the Association has the power to act as trustee or is properly exercising trust powers. A third Person, without actual knowledge that the Association is exceeding or improperly exercising its powers, is fully protected in dealing with the Association as if it possessed and properly exercised the powers it purports to exercise. A third Person is not bound to assure the proper application of trust assets paid or delivered to the Association in its capacity as trustee.

14.16 Run with Land; Binding upon Successors. The benefits, burdens and all other provisions contained in this Declaration shall be covenants running with and binding upon the Community and all real property and Improvements which are, or which hereafter become, a part thereof. The benefits, burdens and all other provisions contained in this Declaration shall be binding upon, and inure to the benefit of the Declarant, the Association and all Owners, and upon and to their respective heirs, personal representatives, successors and assigns. Any right or any interest reserved or contained in this Declaration to or for the benefit of the Declarant may be transferred or assigned by the Declarant, either separately or with one (1) or more of

EXHIBIT "A" ATTACHED TO AND MADE A PART OF DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF RIVERBEND CONDOMINIUMS.

Legal Description of Real Estate Constituting the Community

A tract of land located in the Northwest $\frac{1}{4}$ of Section 17, Township 7 North, Range 68 West of the 6th Principal Meridian, City of Fort Collins, County of Larimer, State of Colorado, and being more particularly described as follows:

Considering the North line of the Northwest $\frac{1}{4}$ of Section 17, Township 7 North, Range 68 West of the 6th Principal Meridian, as monumented by a 3-1/4" aluminum cap in a monument box Marked "LS 17497" at the Northwest corner of said Section 17 and a 3-1/4" aluminum cap in a monument box marked "20123" bears S 88°29'42" E with all bearings contained herein being relative thereto.

COMMENCE at the Northwest corner of Section 17, Township 7 North, Range 68 West of the 6th Principal Meridian;

thence run S 65°07'48" E for a distance of 1047.91 feet;

thence run N 86°04'48" E for a distance of 851.16 feet;

thence run S 00°38'18" W for a distance of 660.66 feet;

thence run N 86°04'48" E for a distance of 200.00 feet;

thence run S 00°01'01" E for a distance of 171.12 feet

to a point on the West line of Countryside Park Phase III and the POINT OF BEGINNING; thence run S 00°35'52"

W along said West line for a distance of 224.86 to the Southwest corner of Lot 236 of the aforementioned

Countryside Park Phase III; thence leaving said West

line run N 88°58'08" W for a distance of 199.38 feet to

the East line of a right of way easement in Book 1286

at Page 457; thence run N 00°35'54" E along said East

line for a distance of 223.70 feet to the beginning of

non-tangent curve concave to the Northeast having a

radius of 15.00 feet and a chord bearing of S 46°40'56"

E; thence leaving said East line run Southeasterly

along the arc of said curve through a central angle of

94°33'23" for a distance of 24.75 feet to the end of

said curve; thence run N 86°02'22" E for a distance of

183.76 feet to the Point of Beginning.

Also legally described as Lots 1 and 2, Building Envelopes A, B and C, and Tract A, a Plat of Riverbend PDP, City of Fort Collins, County of Larimer, State of Colorado.

EXHIBIT "B" ATTACHED TO AND MADE A PART OF DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF RIVERBEND CONDOMINIUMS.

CONDOMINIUM UNIT NUMBER	ALLOCATED INTERESTS ATTRIBUTABLE TO THE UNIT*
1	1/8
2	1/8
3	1/8
4	1/8
5	1/8
6	1/8
7	1/8
8	1/8

EXHIBIT "C" ATTACHED TO AND MADE A PART OF DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF RIVERBEND CONDOMINIUMS.

EASEMENTS AND LICENSES

Easements and licenses appurtenant to the Community which are not depicted upon the Condominium Map are as follows:

1. Dedication of Easement and Right of Way for the installation, reinstatement, servicing, maintenance and repair of a sanitary sewer line as granted to the City of Fort Collins, Colorado, by instrument recorded January 16, 1974, in Book 1586 at Page 16, and in instrument recorded June 11, 1974, in Book 1605 at Page 314.
2. Reservations as contained in Deed from R.G. Spitzer and Mary E. Spitzer to Riverbend Farms, Inc., a Colorado Corporation, recorded October 7, 1957, in Book 1053 at Page 194, of an undivided $\frac{1}{2}$ interest in and to all oil, gas and other minerals and excepting an easement for drainage and irrigation system that rises in the NE $\frac{1}{4}$ of Section 17; and empties into the SE $\frac{1}{4}$ of Section 17, together with the right to repair and maintain the same.
3. Right of way to the Cache La Poudre Reservoir Company as created by Warranty Deed recorded September 23, 1892, in Book 87 at Page 568 of the Larimer County Records.
4. An Agreement entered into on June 1, 1922, and recorded in Book 446 at Page 426 on July 10, 1922, the property was made subservient to certain lands owned by Charles R. Evans, whereby the right and easement was given to discharge the waters drained from Evans Lands onto the lands in Section 17. Rights and obligations are created by said Agreement as to the maintenance of the drainage title.
5. Deed of Dedication as set forth in instrument recorded April 8, 1965, in Book 1286 at Page 457, wherein Riverbend Farms, Inc. grants, conveys and dedicates unto the public a right of way and easement for road purposes and for the purpose of installation of utilities.

6. Easement for Riverbend Farms, Inc., a Colorado Corporation, to Boxelder Sanitation District in instrument recorded April 19, 1973, in Book 1550 at Page 144.
7. An easement for electric transmission line and incidental purposes granted to Platte River Power Authority by the instrument recorded May 18, 1976, in Book 1700 at Page 148.
8. An easement for a storm sewer line granted to HOORAZ LLC, a Colorado Limited Liability Company, from The City of Fort Collins, Colorado, a Municipal Corporation, by Easement Agreement dated September 17, 2003, recorded October 3, 2003, as Reception No. 2003-0127162.

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