

**CONDOMINIUM DECLARATION  
FOR  
IRONWOOD PLAZA CONDOMINIUMS  
(a Common Interest Community)**

THIS DECLARATION is made and entered into this 10<sup>th</sup> day of July, 2002, by IRONWOOD PLAZA, LLC, a Colorado Limited Liability Company, hereinafter referred to as the "Declarant".

**RECITALS**

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

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

C. The Declarant has caused or will cause to be incorporated under the laws of the State of Colorado IRONWOOD PLAZA CONDOMINIUMS ASSOCIATION, a nonprofit corporation, for the purpose of exercising the functions herein set forth.

**ARTICLE I. SUBMISSION OF REAL ESTATE**

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 In the event the Act is repealed, the Act on the effective date of this Declaration shall remain applicable.

**ARTICLE II. DEFINITIONS**

Section I: When used in this Declaration, unless the context clearly indicates otherwise, capitalized terms not otherwise defined in the Act or in the Condominium Map of the Real Estate shall have the meanings provided in the following sections of this Article:

(a) "Allocated Interests" shall mean and refer to the Common Expense Liability and votes in the Association.

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

(c) "Association" shall mean and refer to a unit owners' association organized and existing under §38-33.3-301 of the Act.

(d) "Building(s)" shall mean and refer to the building(s) containing Units as shown on the Condominium Map or any supplement thereto.

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

(f) "Common Elements" shall mean and refer to all portions of the Condominium other than the Units.

(g) "Common Expense Liability" shall mean and refer to the liability for Common Expenses allocated to each Unit pursuant to this Declaration.

(h) "Common Expenses" shall mean and refer to expenditures made or liabilities incurred by or on behalf of the Association, together with any allocations to reserves.

(i) "Common Interest Community" shall mean and refer to the Real Estate and all improvements constructed thereon.

(j) "Condominium" shall mean an individual air space, together with an interest in the Common Elements appurtenant to such Units.

(k) "Condominium Map" shall mean and refer to the Condominium Map of the Real Estate recorded in the office of the Clerk and Recorder of Larimer County, Colorado, and all recorded amendments thereto.

(l) "Declarant" shall mean and refer to any Person or group of Persons acting in concert who:

- (1) As a part of a common promotional plan, offers to dispose of to a Purchaser such Declarant's interest in a Unit not previously disposed of to a Purchaser; or

(2) Reserves or succeeds to any Special Declarant Right.

(m) "Declaration" shall mean and refer to this Declaration, including any amendments hereto and also including, but not limited to, plats and maps of the Real Estate recorded in the Clerk and Recorder's office of Larimer County, Colorado.

(n) "Dispose" or "Disposition" shall mean and refer to a voluntary transfer of any legal or equitable interest in a Unit, but the term does not include the transfer or release of a Security Interest.

(o) "Documents" shall mean and refer to this Declaration, the Condominium Map as recorded and filed, the Articles of Incorporation, the Bylaws, and the Rules and Regulations as they may be amended or supplemented from time to time, together with any exhibit, schedule or certificate accompanying such Documents.

(p) "Executive Board" shall mean and refer to the Executive Board of the Association.

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

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

(s) "Map" shall mean the Condominium Map of Ironwood Plaza, including any amendments or supplements thereto.

(t) "Member" shall mean and refer to each Owner of a Unit in the Common Interest Community. Membership shall be appurtenant to, and may not be separated from, ownership of a Unit.

(u) "Mortgagee" shall mean and refer to any Person who has a Security Interest in a Unit and who has provided written notice of such interest to the Association.

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

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

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

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

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

(z) "Security Interest" shall mean and refer to an interest in real estate or personal property created by contract or conveyance which secures payment or performance of an obligation. The term includes a lien created by a mortgage, deed of trust, trust deed, security deed, contract for deed, land sales contract, lease intended as security, assignment of lease or rents intended as security, pledge of an ownership interest in an association, and any other consensual lien or title retention contract intended as security for an obligation. "First Security Interest" shall mean and refer to a Security Interest in a Unit prior to all other Security Interests except the Security Interest for real property taxes and assessments made by Larimer County, Colorado, or other governmental authority having jurisdiction over the Common Interest Community.

(aa) "Unit" shall mean and refer to a physical portion of the Common Interest Community which is designated for separate ownership or occupancy and the boundaries of which are described in or determined from the Declaration and Condominium Map.

(bb) "Unit Owner" or "Owner" shall mean and refer to 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 in the Declaration until that Unit is conveyed to another Person.

Section 2: Other Terms Defined in Act. Unless the context clearly indicates otherwise, other terms defined in the Act shall have the meanings attributable to such terms in the Act.

Section 3: Other Terms in Declaration. Other terms in this Declaration may be defined in specific provisions contained herein and shall have the meaning assigned by such definition.

### ARTICLE III. COMMON INTEREST COMMUNITY

Section 1: **Name.** The name of the Common Interest Community is IRONWOOD PLAZA CONDOMINIUMS.

Section 2: **Association.** The name of the Association is IRONWOOD PLAZA CONDOMINIUMS ASSOCIATION.

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

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

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

Section 6: **Maximum Number of Units.** The maximum number of Units that the Declarant reserves the right to create within the Common Interest Community is fifty (50).

Section 7: **Division of Property into Condominium Units.** The Real Estate, including the improvements thereon, initially shall be divided into eight (8) fee simple estate Units consisting of eight (8) office-warehouse Units to be constructed upon the Real Estate. Units Y and Z each may be resubdivided into a number of smaller condominium Units. Each Unit shall consist of a separately designated Unit and an undivided interest in and to the Common Elements appurtenant to such Unit. The undivided interest in the Common Elements appurtenant to each Unit for the initial eight (8) Units are as set forth on **Exhibit "B"** attached hereto and incorporated herein by reference. If and when the Declarant further divides Units Y and Z into additional Units or adds additional Units as provided in Articles V and VI hereof, and the common element percentages and common assessments shall be reallocated in accordance with the respective exterior square footage of the ground levels of such Units, all as more fully provided in Article VI hereinafter.

Section 8: **Common Elements.** Subject to the right of the Association to adopt reasonable, non-discriminatory and uniform rules and regulations regarding usage, all Owners of Units in this Common Interest Community shall have a non-exclusive right in common with all of the other Owners to use the sidewalks, open spaces and parking areas located within the entire Common Interest Community. In addition to the rights of use described in this Declaration, the Association, its Executive Board, and its managers have an unrestricted irrevocable easement to traverse, cross and utilize any portion of the Common Elements which may be necessary in order to maintain, repair or replace General and/or Limited Common Elements. Except as specifically herein required, no reference thereto need be made in any instrument of conveyance or other instrument.

Section 9: **Boundaries of Units.** The boundaries of each Unit are located as shown on the Condominium Map and are more particularly described as follows:

(a) Walls, floors, and ceilings are designated as boundaries of a Unit.

(b) Each Unit shall include the heating, water and electrical apparatus exclusively serving the Unit, whether or not located within the boundaries of the Unit.

Section 10: **Identification of Units.** The Identifying Number of each Unit is shown on the Condominium Map.

Section 11: **Description of Condominium Unit.** After the Condominium Map and this Declaration have been recorded in the Office of the County Clerk and Recorder of Larimer County, Colorado, every contract, deed, lease, Security Interest, trust deed, will or other instrument may legally describe a Condominium Unit as follows:

Condominium Unit \_\_\_\_\_, IRONWOOD PLAZA  
CONDOMINIUMS, in accordance with the Condominium Map of  
Ironwood Plaza Condominiums recorded on  
\_\_\_\_\_, \_\_\_\_\_, at Reception No.  
\_\_\_\_\_ and subject to the Condominium Declaration  
for Ironwood Plaza Condominiums recorded on  
\_\_\_\_\_, \_\_\_\_\_, at Reception No. \_\_\_\_\_  
of the Larimer County, Colorado records of the Clerk and Recorder  
of Larimer County.

Every such description shall be good and sufficient for all purposes to sell, convey, transfer, encumber, or otherwise affect not only the Unit, but also the undivided interest in the Common Elements appurtenant to said Unit and all other appurtenant properties and property rights, and incorporate all of the rights and burdens incident to ownership of a Condominium Unit and all of the limitations thereon as described in this Declaration and the Condominium Map. Each such description shall be construed to include a non-exclusive easement for use of all of the Limited Common Elements appurtenant to said Unit as well as all the General Common Elements. The reference to the Condominium Map and Declaration in any instrument shall be deemed to include any amendment to the Condominium Map or Declaration, without specific reference(s) thereto.

Section 12: **Condominium Map.** Subject to the limitations contained herein, the Condominium Map may be filed for record in whole or in parts or sections, from time to time, as the stages of construction of the Building and other improvements are substantially completed or as already constructed Building is added to the Condominium Map. Each section of the Condominium Map filed subsequent to the first or initially filed section shall be termed a

supplement and a numerical sequence of such supplements shall be shown thereon. The Condominium Map, or any part of a section thereof depicting Units, shall not be filed for record until an independent licensed or registered engineer, surveyor or architect shall have certified, in accordance with the Act, that all structural components of all Buildings containing or comprising any Units thereby created are substantially completed in accordance with the provisions of the Act.

Section 13: **Allocated Interests.** The undivided interest in the Common Elements, Common Expense Liability, and votes in the Association initially shall be allocated to each Unit in the manner set forth on **Exhibit "B"** attached hereto and incorporated herein by reference.

In the event any additional Units are added to the Real Estate or Units Y and Z are further divided, then the undivided interest in the Common Elements, Common Expense Liability, and votes in the Association shall be reallocated in the manner set forth in Section 14 below.

Section 14: **Allocation Formula for Added Units.** In the event additional Units are added, then, in such event, and upon the recordation of an amendment to the Declaration and a supplement to the Condominium Map, the undivided interest in the Common Elements, Common Expense Liability, and votes in the Association shall be reallocated in proportion to the interior square footage of such Units.

Section 15: **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 transfer, conveyance, lease, devise, encumbrance or other disposition of a Unit shall be deemed to be a transfer, conveyance, lease, devise, 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.

Section 16: **Non-Partitionability and Transfer of Common Elements.** 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, subject to the Declarant's rights set forth in Articles V and VI hereof. By acceptance of his, her, or its deed or other instrument of conveyance or assignment, each Owner specifically waives his, her, or its 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 pled 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.

Section 17: **Recording Data.** All easements and licenses to which the Common Interest Community is presently subject to or are appurtenant to described on the Condominium Map and upon **Exhibit "C"** attached hereto and incorporated herein by reference. In addition, the Common Interest Community may be subject to other easements or licenses granted by the Declarant or the Association after the termination of the period of Declarant's control pursuant to the terms of this Declaration.

Section 18: **Notice.** Notice of matters affecting the Common Interest Community may be given to Unit Owners by the Association or by other Unit Owners in the following manner: notice shall be hand delivered or sent prepaid by United States mail to the mailing address of each Unit or to any other mailing address designated in writing by the Unit Owner. Such notice shall be deemed given when hand delivered or when deposited in the United States mail.

#### **ARTICLE IV. ASSOCIATION**

Section 1: **Authority and Power.** The business and affairs of the Common Interest Community shall be managed by the Association. The administration of the Common Interest Community shall be governed by this Declaration, the Act, the Articles of Incorporation, the Bylaws and published Rules and Regulations of the Association. The Association shall have all of the powers, authority and duties permitted pursuant to the Documents and the Act which are necessary and proper to manage the business and affairs of the Common Interest Community.

Section 2: **Declarant Control.** The Declarant, or persons designated by it, may appoint and remove the officers and members of the Executive Board of the Association for a period of seven (7) years after this Declaration is recorded in the office of the Clerk and Recorder of Larimer County, Colorado. The period of Declarant control as herein set forth is subject to the limitations of §38-33.3-303(5) of the Act.

Section 3: **Executive Board Powers and Duties.** The Executive Board may act in all instances on behalf of the Association, except as provided in this Declaration or the Bylaws. The Executive Board shall have, subject to the limitations contained in this Declaration and the Act, the powers and duties necessary for the administration of the affairs of the Association and of the Common Interest Community, which shall include, but not be limited to, the following:

- (a) Adopt and amend Bylaws.
- (b) Adopt and amend Rules and Regulations.
- (c) Adopt and amend budgets for revenues, expenditures and reserves.
- (d) Collect assessments from Unit Owners.



- (e) Hire and discharge managing agents.
- (f) Hire and discharge independent contractors, employees and agents, other than managing agents.
- (g) Institute, defend or intervene in litigation or administrative proceedings or seek injunctive relief for violation of the Documents in the Association's name, on behalf of the Association, or two (2) or more Unit Owners on any matters affecting the Common Interest Community.
- (h) Make contracts and incur liabilities.
- (i) Regulate the use, maintenance, repair, replacement and modification of the Common Elements including, but not limited to, matters necessary to maintenance or to insure proper stormwater drainage.
- (j) Cause additional improvements to be made as a part of the Common Elements.
- (k) Acquire, hold, encumber and convey in the Association's name, any right, title or interest to real estate or personal property, including the granting or becoming a grantee of easement rights, but the Common Elements may be conveyed or subjected to a Security Interest only pursuant to this Declaration and applicable law.
- (l) Grant easements for any period of time, including permanent easements, leases, licenses and concessions through or over the Common Elements.
- (m) Impose and receive a fee or charge for the use, rental or operation of the Common Elements and for services provided to Unit Owners.
- (n) Impose a reasonable charge for late payment of assessments and levy a fine for violation of this Declaration, the Bylaws and the Rules and Regulations of the Association.
- (o) Impose a reasonable charge for the preparation and recordation of supplements or amendments to this Declaration and for statements of unpaid assessments.
- (p) Provide for the indemnification of the Association's officers and the Executive Board and maintain Directors' and officers' liability insurance.
- (q) Assign the Association's right to future income, including the right to receive Common Expense assessments, only upon the affirmative vote of the Unit Owners of Units to which at least sixty-seven percent (67%) of the votes in the Association are allocated. at a meeting called for that purpose.

(r) Arrange for the repair and/or replacement of water and sewer lines located under any Unit and to restore any damage caused to such Unit as a result of such repair or replacement.

(s) Exercise any other powers conferred by the Documents.

(t) Exercise any other power that may be exercised in the State of Colorado by a legal entity of the same type as the Association.

(u) Exercise any other power necessary and proper for the governance and operation of the Association.

(v) By resolution, establish permanent and standing committees of Directors to perform any of the above functions under specifically delegated administrative standards as designated in the resolution establishing the committee. All committees must maintain and publish notice of their actions to Unit Owners and the Executive Board. However, actions taken by a committee may be appealed to the Executive Board by any Unit Owner within forty-five (45) days of publication of a notice. If an appeal is made, the committee's action must be ratified, modified or rejected by the Executive Board at its next regular meeting.

(w) enforce any easement rights appurtenant to and bordering the Real Estate and supervise any easements crossing or serving the Real Estate.

(x) enforce parking regulations and/or policy restrictions and limitations, and the changes of type of use within a unit if such change could cause a reduction of projected future entitlement to parking allowances under the rules, regulations, and laws of the County of Larimer.

Section 4: **Professional Management and Contract Termination Provisions.** The Association may utilize professional management in performing its duties hereunder. Any agreement for professional management of the Association's business shall have a maximum term of three (3) years and shall provide for termination by either party thereto, with or without cause, and without payment of a termination fee, upon sixty (60) days' prior written notice. Any contracts, licenses or leases entered into by the Association while there is Declarant control of the Association shall provide for termination by either party thereto, with or without cause and without payment of a termination fee, at any time after termination of Declarant control of the Association, upon sixty (60) days' prior written notice; provided, however, that any contract entered into at any time by the Association providing for services of the Declarant shall provide for termination at any time by either party thereto without cause and without payment of a termination fee upon sixty (60) days' prior written notice.

Section 5: **Executive Board Limitations.** The Executive Board may not act on behalf of the Association to amend this Declaration, to terminate the Common Interest Community, or to elect members of the Executive Board or determine their qualifications, powers and duties or the terms of office of Executive Board members, but the Executive Board may fill vacancies in its membership for the unexpired portion of any term.

**ARTICLE V. SPECIAL DECLARANT RIGHTS AND  
ADDITIONAL RESERVED RIGHTS**

Section 1: **Special Declarant Rights.** Declarant hereby reserves the right for a period of seven (7) years after this Declaration is recorded in the office of the Clerk and Recorder of Larimer County, Colorado, to perform the acts and exercise the rights hereinafter specified ("Special Declarant Rights"). Declarant's Special Declarant Rights include the following:

(a) **Completion of Improvements.** The right to complete or make improvements indicated on the Condominium Map, including any amendments or supplements thereto.

(b) **Exercise of Development Rights.** The right to exercise any Development Rights reserved in Article VI of this Declaration.

(c) **Sales Management and Marketing.** The right to maintain sales center, management center and signs advertising the Common Interest Community.

(d) **Construction Easements.** The right to use the Common Elements for the purpose of making improvements within the Common Interest Community or within the Real Estate. The right to construct and complete the construction of Units, utilities, entrance signage, landscaping, buildings, streets and roads and all other improvements on the Real Estate and to repair and maintain the Common Elements.

(e) **Merger.** The right to merge or consolidate a Common Interest Community with another Common Interest Community of the same form of ownership.

(f) **Control of Association and Executive Board.** The right to appoint or remove any officer of the Association or any Executive Board member.

(g) **Modifications.** The right to make modifications or additions or withdrawals to the real estate, or any portion thereof as may be required by Larimer County or other governmental officials as a condition to the approval of the Property as a condominium, or as a subdivision or a planned unit development.

(h) **Future Division of Units.** The right to divide Condominium Unit Y into two (2) or more separate condominium Units at any time during the first seven (7) years after the filing of this Declaration without the consent and joinder of the Unit Owner.

(i) **Future Addition of Square Footage and Units.** The right to amend the Condominium Map and the Condominium regime by additional units, improvements and space to the original Condominium Map and Condominium regime.

(j) **Potential Future Addition of Units South of Unit Z.** The right to amend the Condominium Map and Condominium regime by adding additional condominium units commencing at the southerly boundary line of Unit Z which is labeled on the Condominium Map as subject to future development rights. If and when such units are added to the area encompassed by all units shall become units and such area shall be removed from its prior designation of common elements and shall not require the joinder, deed, or consent of the other then existing unit holders owning an interest in such common elements in such expansion area at the time of such expansion.

(k) **Restrictions of Change of Use.** Enforce parking regulations and/or policy restrictions and limitations, or the changes of use within a unit if such change could cause a reduction of projected future entitlement to parking allowances under the rules, regulations, and laws of the County of Larimer. Notwithstanding the foregoing, the Declarant, in its sole discretion, may approve allocation of use changes in writing during the period of Declarant control.

(l) The right to withdraw from the real estate and the condominium regime all or any portion of the real estate for any purpose, including, but not limited to, frontage on the north portion of the real estate for dedication for a roadway and the right to withdraw or subdivide any portion of the real estate as a separate parcel.

Section 2: **Additional Reserved Rights.** In addition to the Special Declarant Rights set forth in Section 1 above, Declarant also reserves the following additional rights ("Additional Reserved Rights"):

(a) **Dedications.** The right to establish, from time to time, by dedication or otherwise, utility and other easements over, across, and upon the Common Elements for purposes including, but not limited to, streets, paths, walkways, drainage, and parking areas, and to create other reservations, exceptions, and exclusions over, across, and upon the Common Elements for the benefit of and to serve the Unit Owners within the Common Interest Community.

(b) **Use Agreements.** The right to enter into, establish, execute, amend, and otherwise deal with contracts and agreements for the use, lease, repair, maintenance, or regulation of Common Elements, which may or may not be a part of the Common Interest Community for the benefit of the Unit Owners and/or the Association.

(c) **Colorado Common Interest Ownership Act.** The right to amend this Declaration to comply with the requirements of the Colorado Common Interest Ownership Act in the event any provision contained herein does not so comply with the Act.

(d) **Other Rights.** The right to exercise any Additional Reserved Right created by any other provision of this Declaration.

Section 3: **Rights Transferable.** Any Special Declarant Right or Additional Reserved Right created or reserved under this Article for the benefit of the Declarant may be transferred to any Person by an instrument describing the rights transferred and recorded in Larimer County, Colorado. Such instrument shall be executed by the transferor Declarant and the transferee.

## **ARTICLE VI. RESERVATION OF DEVELOPMENT RIGHTS**

Section 1: **Development Rights.** The Declarant expressly reserves the right to create additional Units and Common Elements which may or may not create additional square feet, to subdivide the Units into smaller or larger Units, and to convert Common Elements into Units on all or any portion of the Real Estate if such property is reserved for future development on the Condominium Map. The Declarant reserves the right to add real estate and/or additional Units or buildings shown as area of Future Expansion on the Map. The Declarant reserves the right to withdraw any portion of the Real Estate. The Declarant may exercise its Development Rights on all or any portion of the Real Estate in whatever order of development the Declarant, in its sole discretion, determines.

Section 2: **Amendment of Declaration.** As the Declarant creates an additional Unit(s) by addition or subdivides Units Y or Z into a number of small Units or adds additional square footage and converts Common Elements into Units on all or any portion of the Real Estate, the Declarant shall record an supplement to the Declaration reallocating the Allocated Interests so that the Allocated Interest appurtenant to each Unit will be apportioned according to the total number of Units submitted to the Declaration. The Allocated Interest appurtenant to each Unit thereafter in the Common Interest Community shall be determined in accordance with the provisions of Article III, Section 14 above.

Section 3: **Withdrawal Rights.** Declarant reserves the right to withdraw all or any part of the area described on Exhibit D, including, but not limited to, any area designed General Common Elements or Limited Common Elements on the Condominium Map and from the Condominium Area and Condominium regime by filing an Amendment or Supplement to the Map which shall legally describe the Additional Parcel which is being withdrawn from the Condominium regime. Such Amendment shall be recorded in the records of the Clerk and Recorder of Larimer County. Until such withdrawal, the Additional Parcel shall be described as part of the General Common Elements, but the Declarant shall not need to consent or obtain the signature of any Unit Owner to effect such withdrawal.

Section 4: **Supplement to Condominium Map.** The Declarant shall, contemporaneously with an amendment to this Declaration reallocating the Allocated Interests in the Common Interest Community, subdividing or adding on additional Units, file a supplement to the Condominium Map. Each supplemental Condominium Map filed subsequent to the first Condominium Map shall be termed a supplement and a numerical sequence of such supplements shall be shown thereon. The Condominium Map or any part of a section thereof depicting Units shall not be filed for record until the Building in which the Units are located has been substantially completed in order to allow a certificate of completion executed by an independent licensed or registered engineer, surveyor or architect stating that all structural components of all Buildings containing or comprising any Units thereby created are substantially completed. Each supplement to the Condominium Map shall be filed for record prior to the conveyance of a Unit to a Purchaser which is included within such supplement.

Section 5: **Interpretation.** Recording of amendments to the Declaration in the office of the Clerk and Recorder of Larimer County, Colorado, shall automatically (i) vest in each existing Unit Owner the reallocated Allocated Interest appurtenant to his, her, or its Unit and (ii) vest in each existing Mortgagee a perfected Security Interest in the reallocated Allocated Interest appurtenant to the encumbered Unit. Upon the recording of an amendment to the Declaration, the definitions in this Declaration shall automatically be extended to encompass and to refer to the additional Units included within the Common Interest Community. The additional Units shall be added to and become a part of the Common Interest Community for all purposes. All conveyances of Units after such action shall be effective to transfer rights in all Common Elements as modified, whether or not reference is made to any amendment to the Declaration. Reference to this Declaration in any instrument shall be deemed to include all amendments to the Declaration without specific reference thereto.

Section 6: **Maximum Number of Units.** The maximum number of Units in the Common Interest Community shall not exceed fifty (50).

Section 7: **Construction Easement.** The Declarant expressly reserves the right to perform construction work, store materials on the Common Elements, and the future right to control such work and the right of access thereto until its completion. All work may be performed by the Declarant without the Consent or Approval of any Unit Owner or Mortgagee. The Declarant shall have such easements through the Common Elements as may be reasonably necessary for the purpose of discharging the Declarant's obligations and exercising the Declarant's reserved rights in this Declaration. Such easements shall include the right to construct underground utility lines, pipes, wires, ducts, conduits, drainage facilities, and other facilities across the Common Elements for the purpose of furnishing utility and other services to newly created Units. The Declarant's reserved construction easement includes the right to grant easements to public utility companies upon the Real Estate and to convey improvements within those easements. If the Declarant grants any such easements, the Condominium Map will be amended, if necessary, to include reference to the recorded easement(s).

Section 9: **Termination of Development Rights.** The Development Rights reserved to the Declarant, for itself, its successors and assigns, shall expire seven (7) years from the date of the recording of this Declaration, unless the Development Rights are (i) extended as allowed by law, or (ii) reinstated or extended by the Association, subject to whatever terms, conditions and limitations the Executive Board may impose upon the subsequent exercise of the Development Rights by the Declarant.

Section 10: **Transfer of Development Rights.** Any Development Right created or reserved under this Article for the benefit of the Declarant may be transferred to any person by an instrument describing the rights transferred and recorded in Larimer County, Colorado. Such instrument shall be executed by the transferor Declarant and the transferee.

## **ARTICLE VII. COVENANT FOR ASSESSMENTS**

Section 1: **Creation of Lien and Personal Obligation for Assessments.** Each Owner, including the 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 setoff 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. The Association's lien on a Unit for assessments and other amounts shall be superior to any exemption now or hereafter provided by the laws of the State of Colorado or the United States and shall be continuing and superior whether an actual lien has been recorded or not. The acceptance of a deed to a Unit subject to this Declaration shall constitute a waiver of any exemption as against said lien.

Section 2: **Purpose of Assessment.** The assessments levied by the Association shall be used exclusively (i) to promote the health, safety, and welfare of the Owners; (ii) for the improvement, repair, replacement, and maintenance of the Common Elements; (iii) payment of common water, sewer, lighting and heating, if any, provided to the Common Interest Community; (iv) payment of expenses for common facilities and other expenses properly assessable against the Real Estate and any Units located thereon, if any, pursuant to any

underlying covenants, conditions and restrictions affecting the Real Estate or any Units located thereon; and (v) payment of increased insurance premiums on account of increased risk or activities of a Unit.

Section 3: **Amount of Assessment.** Annual and special assessments shall be fixed in an amount 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 share of Common Expenses.

Section 4: **Date of Commencement of Annual Assessments; Due Dates.** The annual assessments provided for herein shall commence as to all Units on the first day of the month following the conveyance of a Unit by the Declarant to a Purchaser. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Executive Board shall fix the amount of the annual assessment against each Unit at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Executive Board. The Executive Board may, at its discretion, permit annual assessments to be payable in twelve (12) equal monthly installments.

Section 5: **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. Notwithstanding the foregoing, special assessments levied during the period of Declarant control may not be used for the purpose of constructing capital improvements.

Section 6: **Charges for Utilities or Services to Less than All Units or Disproportionate Change to Some Units (Active - Inactive).** The Association may, at any time from time to time, provide utilities or services to less than all of the Units, and the Owners of such Units shall pay the Association for such utilities and/or services as hereinafter provided, which amounts shall be in addition to the annual and special assessments. Utilities or services which may or may not be provided by the Association pursuant to this section include, without