

The Condominium Declaration
for
The Sunridge Condominiums

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THE
CONDOMINIUM DECLARATION
FOR
THE SUNRIDGE CONDOMINIUMS

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THE
CONDOMINIUM DECLARATION
FOR
THE SUNRIDGE CONDOMINIUMS

PREAMBLE

THIS DECLARATION, made and entered into by McSTAIN ENTERPRISES, INC., a Colorado Corporation, hereinafter referred to as the "Declarant";

WHEREAS, the Declarant is the owner of the real property situated in the County of Boulder, State of Colorado, which is described as:

See legal description attached hereto as Exhibit "A"

hereinafter referred to as "THE PROPERTY"; and

WHEREAS, the Declarant desires to establish a Condominium Project under the Condominium Ownership Act of the State of Colorado, to wit: Colo. Rev. Stat. Ann. § 38-33-101, et seq.; and

WHEREAS, the Declarant does hereby establish a plan for the separate fee simple ownership of real property estates consisting of Condominium Apartments in The Building, both as hereinafter defined, and the co-ownership by the separate owners thereof, as tenants in common, of all the remaining property, which is hereinafter referred to as the Common Elements.

NOW THEREFORE, the Declarant does hereby publish and declare that the following terms, covenants, conditions, easements, restrictions, uses, reservations, limitations and obligations shall be deemed to run with the land and shall be a burden and a benefit to the Declarant, its successors and assigns and any person acquiring or owning an interest in The Project and improvements thereon which is subject to this Declaration, their grantees, successors, heirs, personal representatives, administrators, devisees or assigns.

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ARTICLE ONE: DEFINITIONS

As used in this Declaration, unless the context otherwise requires, the terms hereinafter set forth shall have the following meanings:

- 1.1 ARTICLES means the Articles of Incorporation of the Association.
- 1.2 ASSESSMENTS (Annual Assessment for Common Expenses) means all monies due the Association from the Members as duly assessed against the membership by the Board of Directors of the Association in accordance with ARTICLE FIVE hereof.
- 1.3 ASSOCIATION means THE SUNRIDGE CONDOMINIUM ASSOCIATION, a Colorado Corporation, not for profit, its successors and assigns, the Articles of Incorporation and Bylaws of which, as herein defined, along with this Declaration, shall govern the administration of The Project, the Members of which shall be all of the Owners of the Units in The Project.
- 1.4 BOARD OF DIRECTORS or BOARD means the Board of Directors of the Association duly elected pursuant to the Bylaws of the Association or appointed by the Declarant as therein provided. The term Board of Directors as used herein shall be synonymous with the term Board of Managers as the latter term is used in the Colorado Condominium Act, Colo. Rev. Stat. Ann. §38-33-106. The Board of Directors is the governing body of the Association.
- 1.5 BYLAWS means the Bylaws of the Association as amended from time to time.
- 1.6 COMMON ELEMENTS means all of The Project, as hereinafter defined, except the portions thereof which constitute Condominium Apartments, and also means all parts of The Buildings or any facilities, improvements and fixtures which may be within a Condominium Apartment which are or may be necessary or convenient to the support, existence, use, occupation, operation, maintenance, repair or safety of The Buildings or any part thereof or any other Condominium Apartment therein and includes those Common Elements which are assigned to the exclusive use of one or more, but not all of the Condominium Apartment Owners. The term Common Elements as used herein shall be synonymous with the term General Common Elements as the latter term is used in the Colo. Rev. Stat. Ann. §38-33-103(3).

Without limiting the generality of the foregoing, the following shall constitute Common Elements:

- (a) all of the land, landscaping, some parking spaces, private driveways and easements which are a part of the Project; and
- (b) all foundations, columns, girders, beams and supports of The Buildings; and
- (c) the exterior walls of The Buildings, the main or bearing walls within The Buildings, the main or bearing subflooring and the roofs of The Buildings; and
- (d) all stairs, stairways and walkways not within a Condominium Apartment; the swimming pool and changing rooms; and

- (e) all utility, service and maintenance rooms, fixtures, apparatus, installations and central facilities for power, light, gas, telephone, television, hot water, cold water, heating, refrigeration, air conditioning, incineration, or similar utility, service or maintenance purposes, including furnaces, tanks, pumps, motors, fans, compressors, vents, similar fixtures, apparatus, installations, facilities, all of which serve more than one Apartment and are not located within an Apartment; and
- (f) the exterior of the firebox within a fireplace or stove located in an Apartment together with the flues and flue chases. The space within the firebox is a Limited Common Element; and
- (g) all other parts of The Project necessary in common use or convenient to its existence, maintenance and safety.

1.7 COMMON EXPENSES means expenditures made by, or financial liabilities incurred by the Association, together with any allocations to reserves, all as may be found to be reasonable and appropriate by the Board of Directors pursuant to this Declaration, the Bylaws and the Articles of Incorporation of the Association.

1.8 CONDOMINIUM APARTMENT or APARTMENT (Individual air space Unit) means the individual air space of such Condominium Apartment which is contained in an enclosed room or rooms occupying all or part of a floor or floors in The Buildings as hereinafter defined, not including, however, any of the Common Elements located within such air space. Each Condominium Apartment is shown on The Map as hereinafter defined and is identified thereon with a number.

1.9 CONDOMINIUM PROJECT or THE PROJECT means all of The Property, The Buildings, and all improvements submitted to this Declaration.

1.10 CONDOMINIUM UNIT or UNIT means the fee simple interest and title to a Condominium Apartment together with the undivided interest in the Common Elements appurtenant to such Condominium Apartment and all other rights and burdens created by this Declaration.

1.11 DECLARANT means McSTAIN ENTERPRISES, INC., a Colorado Corporation, its successors and assigns, if such successors and assigns shall acquire any portion of The Project for the purpose of development and be designated by the Declarant or a successor Declarant, as a Declarant for the purpose hereof by a duly recorded written instrument. Any such designation by the Declarant or a successor Declarant may include the right of redesignation by such successor or further successors.

1.12 DECLARATION means this **CONDOMINIUM DECLARATION FOR THE SUNRIDGE CONDOMINIUMS** as may be amended from time to time, together with any and all Supplementary Declarations that may be recorded from time to time pursuant to the provisions of **ARTICLE TWELVE** hereof.

1.13 FIRST MORTGAGEE means any person, corporation, partnership, trust, company, association or other legal entity which owns, holds, insures or is a governmental guarantor of a mortgage or deed of trust, which mortgage or deed of trust is a first and prior lien encumbering a Condominium Unit within The Project. A First Mortgagee shall also include the holder of every executory land sales contract wherein the Administrator of Veterans Affairs (Veterans Administration) is Seller, whether such contract is owned

by the Veterans Administration or its assigns, and whether such contract is recorded or not.

1.14 GUEST means any agent, tenant, guest, licensee or invitee of an Owner and the members of such Owner's household.

1.15 LIMITED COMMON ELEMENTS means those Common Elements which are reserved for the use of certain Owners to the exclusion of the others, such as, for example, decks, entry ways, balconies, patios, garage spaces, some parking spaces, storage spaces, garage aprons and crawl spaces.

1.16 MANAGING AGENT means the person employed and paid by the Board to perform the management and operational functions of The Project.

1.17 MEMBER means all those who are Members of the Association as provided in Paragraph 4.4 hereof.

1.18 OWNER means the person owning a Condominium Apartment in fee simple together with an undivided interest in fee simple in the Common Elements in the percentage specified and established in this Declaration, whether one or more persons or entities, including the Declarant so long as any Unit remains unsold, excluding however, those having an interest merely as security for the performance of an obligation.

1.19 PERSON means an individual, corporation, partnership, association, trustee or any other legal entity or any combination thereof.

1.20 RULES means the Rules and Regulations adopted by the Board of Directors as amended from time to time.

1.21 THE BUILDING means the multiple unit buildings comprising part of The Project.

1.22 THE MAP means THE CONDOMINIUM MAP OF THE SUNRIDGE CONDOMINIUMS which may be filed in whole or in part, and if filed in part shall be supplemented as determined by the Declarant, depicting thereon:

- (a) The legal description of the surface of The Project; and
- (b) The linear measurements and location, with reference to the exterior boundaries of The Project, of The Buildings and all improvements built on The Project; and
- (c) The floor plans and elevation plans of The Buildings within The Project, showing the location, the designation and the linear dimensions of each Condominium Apartment, Parking Spaces, Garage Spaces, Storage Spaces and the designation of all of the Common Elements and Limited Common Elements; and
- (d) The elevations of the unfinished interior surfaces of the floors and ceilings as established from a datum plan, and the linear measurements showing the thickness of the exterior or perimeter walls of the Apartments and of The Buildings.

The Map, and any supplements thereto, shall contain a statement of an architect, engineer or registered land surveyor certifying that The Map fully and accurately depicts the layout, measurements and location of all of the improvements, the Condominium Apartment designations, the dimensions of such Condominium Apartments and the elevations of the floors and ceilings and that The Map was prepared subsequent to substantial completion of the improvements.

Declarant hereby reserves unto itself the right, from time to time, without the consent of any Owner or First Mortgagee being required to amend The Map and any supplement(s) thereto in accordance with ARTICLE TWELVE hereof, so long as such amendment is made no later than seven years from the date of the recording of this Declaration in the Boulder County, Colorado Records.

Declarant hereby reserves unto the Board of Directors of the Association the right, from time to time, without the consent of any Owner or First Mortgagee being required to amend The Map to (a) insure that the language and all particulars used on The Map and contained in the Declaration are identical, (b) establish, vacate and relocate outside the Buildings utility easements, driveway easements, and parking spaces, and (c) establish certain Common Elements as Limited Common Elements.

In all other cases The Map may be amended in accordance with Paragraph 13.2 hereof.

The Map and any supplement(s) thereto is hereby incorporated herein by reference as if set forth in its entirety.

1.23 VA AND/OR FHA APPROVAL means that The Project has been approved by the Veterans Administration and/or the Federal Housing Administration so that such agencies will insure or guarantee loans made upon the Unit within The Project.

ARTICLE TWO: NATURE AND INCIDENTS OF CONDOMINIUM OWNERSHIP

2.1 Division into Units, Estates of an Owner. Subject to the provisions of ARTICLE TWELVE hereof, The Project is hereby divided into fourteen Units, each consisting of a separate fee simple estate in a particular Condominium Apartment, and an appurtenant undivided fee simple interest in the Common Elements. The undivided interest in the Common Elements appurtenant to a particular Condominium Apartment has been determined by the Declarant on the basis of the proportion which the approximate square footage finished area of each Apartment bears to the total approximate square footage finished area of all Apartments in The Project and is as set forth in Exhibit "B" attached hereto and incorporated herein.

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

2.3 Description of a Condominium Unit. Every contract for the sale of a Unit written prior to the filing for record of The Map and this Declaration may legally describe a Unit by its identifying Unit number designation followed by the words "THE SUNRIDGE CONDOMINIUMS" with further reference to The Map thereof to be filed for record and the Declaration to be recorded. Upon recordation of The Map and the Declaration in the records of the Clerk and Recorder of Boulder County, Colorado, such description shall be conclusively presumed to relate to the therein described Units.

Every deed, lease, mortgage, trust deed, will or other instrument may legally describe a Unit by its identifying number followed by the words THE SUNRIDGE CONDOMINIUMS:

A sufficient description of a Condominium Unit shall be as follows:

Condominium Unit No. , THE SUNRIDGE CONDOMINIUMS according to THE CONDOMINIUM MAP FOR THE SUNRIDGE CONDOMINIUMS recorded on Film as Reception No. and as defined by THE CONDOMINIUM DECLARATION FOR THE SUNRIDGE CONDOMINIUMS recorded on Film as Reception No. , in the Office of the County Clerk and Recorder, Boulder, Colorado.

Every description shall be good and sufficient for all purposes to sell, convey, transfer, encumber or otherwise affect not only the Condominium Apartment, but also the Common Elements and the right to the use of the Limited Common Elements appurtenant thereto. Each such description shall be construed to include: a nonexclusive easement for appropriate ingress and egress throughout The Project and for the use of the Common Elements which are not Limited Common Elements; the right to the appropriate exclusive use of the Limited Common Elements; and all other easements, obligations, limitations, rights, encumbrances, covenants, conditions and restrictions created in this Declaration.

The reference to The Map and Declaration in any instrument shall be deemed to include any supplements or amendments to The Map or Declaration, without specific references thereto.

2.4 Apartment Boundaries. The interior unfinished surfaces of the perimeter walls, lowermost floors and uppermost ceilings shall mark the perimeter boundaries of a Condominium Apartment and all lath, furring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, finished flooring and any other materials constituting any part of the finished surfaces thereof are a part of the Condominium Apartments, and all other portions of the walls, floors, or ceilings are a part of the Common Elements.

If any chute, flue, duct, wire, conduit, bearing wall, bearing column, or any other fixtures lies partially within and partially outside the designated boundaries of a Condominium Apartment, any portion thereof serving only that Apartment is a Limited Common Element allocated solely to that Apartment, and any portion thereof serving more than one Apartment or any portion of the Common Elements is a part of the Common Elements.

Any shutters, awnings, window boxes, doorsteps, stoops, porches, balconies, patios, and all exterior doors and windows or other fixtures designed to serve a single Condominium Apartment, but located outside the Apartment's boundaries, are Limited Common Elements allocated exclusively to the Apartment.

Subject to the above, all spaces, interior partitions, and other fixtures and improvements located within the boundaries of a Condominium Apartment are a part of the Apartment.

2.5 Right to Combine Units. Declarant hereby reserves the right to physically combine the area or space of one Unit with the area or space of one or more adjoining Units; provided, however, that Declarant shall not exercise said right without the written consent of any Mortgagee having an interest in said Units. In the event of any such physical combining of Units to create a combined Unit, such combined Unit shall also include the combining of the fixtures and improvements and of the undivided interests in Common Elements appurtenant to the Units so combined. Declarant reserves the right to designate and convey to any purchaser of any such combined Units, as additional Limited Common Elements appurtenant thereto, any walls, floors or other structural separations between the Units so combined, or any space which would be occupied by such structural separations but for the combination of such Units; provided, however, that such walls, floors or other structural separations for such space shall automatically become Common Elements if the combined Units become subject to separate ownership in the future. This reserved right in Declarant shall terminate upon the conversion of the Class B Membership to Class A Membership in accordance with Paragraph 4.5 hereof.

2.6 Physical Boundaries. In interpreting deeds, mortgages, deeds of trust and other instruments for any purpose whatsoever, or in connection with any matter, the existing physical boundaries of any Condominium Apartment or Common Elements shall be conclusively presumed to be the boundaries regardless of settling, rising or lateral movements of The Building, and regardless of variance between boundaries as shown on The Map and the actual boundaries of The Building.

2.7 Inseparability of a Unit. An Owner's undivided interest in the Common Elements shall not be separated from the Condominium Apartment to which it is appurtenant and shall be deemed to be conveyed or encumbered with the Condominium Apartment even though the interest is not expressly mentioned or described in a deed or other instrument.

2.8 No Partition. The Common Elements shall remain undivided, and no owner or any other person shall bring any action for partition or division of the Common Elements. Similarly, no action shall be brought for the physical partition or subdivision of a Condo-

minium Apartment or a Unit between or among the Owners thereof, provided, however, an action of partition of a Unit shall be permitted by sale and the division of the sale proceeds.

2.9 Separate Taxation. Each Unit shall be deemed to be a parcel and shall be subject to separate assessment and taxation by each assessing unit and special district for all types of taxes authorized by law, including ad valorem levies and special assessments. Neither The Building, The Property nor any of the Common Elements shall be deemed to be a parcel. The lien for taxes assessed to any Unit shall be confined to that Unit. 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.

2.10 Limited Common Elements. Subject to the definition thereof, the Limited Common Elements shall be identified on The Map. Any deck, balcony, door, window, entry way, patio, garage space, crawl space, garage apron and the space within the fire box within the fireplaces and stoves which are accessible from, associated with and which adjoins a Condominium Apartment identified as Limited Common Elements on The Map shall without further reference thereto, be used in connection with such Condominium Apartment to the exclusion of the use thereof by the other Owners, except by invitation.

2.11 Compliance with Provisions of Declaration, Articles and Bylaws of the Association. Each Owner shall comply strictly with, and shall cause each of his Guests to comply strictly with, all of the provisions of this Declaration and the Articles and Bylaws of the Association, and the decisions, rules, regulations and resolutions of the Association adopted pursuant thereto, as the same may be lawfully amended from time to time. Failure to comply with any of the same shall be grounds for an action to recover sums due and for damages or injunctive relief or both, along with costs of suit and reasonable attorneys' fees, maintainable by the Board of Directors in the name of the Association on behalf of the Owners, or, in a proper case, by an aggrieved Owner.

2.12 Liens Against Condominium Apartments - Removal From Lien - Effect of Part Payment. Upon the completion of The Project by the Declarant and payment of all of the costs thereof, no lien shall arise or be effective against The Project. Liens or encumbrances shall only arise or be created against each Condominium Apartment and the percentage of undivided interest in the Common Elements appurtenant to the Condominium Apartment; in the same manner and under the same conditions as liens and encumbrances may arise or be created upon any other parcel of real property subject to individual ownership; provided, however, that no labor performed or materials furnished, with the consent or at the request of an Owner or his agent shall be the basis for the filing of a lien pursuant to law against the Unit or other property of another Owner not expressly consenting to or requesting the same, except that express consent shall be deemed to be given by the Owner of any Unit to the Board in the case of emergency repairs. Labor performed or materials furnished for the Common Elements, if duly authorized by the Board of Directors in accordance with the Declaration or Bylaws, shall be deemed to be performed or furnished with the express consent of each Owner, and shall be the basis for the filing of a lien pursuant to law against each of the Units within The Project.

In the event a lien is effected against two or more Units, the Owners of each of the separate Units may remove their Condominium Apartment and the percentage of undivided interests in the Common Elements appurtenant to said Condominium Apartment from the lien by payment of the fractional or proportional amount attributable to each of the Units affected. Individual payment shall be computed by reference to the percentages appearing in this Declaration. Subsequent to payment, discharge or other satisfac-

tion, the Unit shall be released from the lien paid, satisfied or discharged. Partial payment, satisfaction or discharge shall not prevent the lienor from proceeding to enforce his rights against any Unit not so released or discharged.

Each Owner shall indemnify and hold each of the other Owners harmless from and against liability or loss arising from the claim of any lien against the Unit of the Owner, or any part thereof, for labor performed or for materials furnished in the course of work performed on such Owner's Unit. At the written request of any Owner, the Board shall enforce such indemnity by collecting from the Owner of the Unit on which the labor was performed and materials furnished the amount necessary to discharge any such lien and all costs incidental thereto, including reasonable attorneys' fees by an Individual Assessment against such Owner in accordance with Paragraph 5.3(b) hereof.

2.13 Sale of a Condominium Unit. The right of an Owner to sell, transfer or otherwise convey his Unit shall not be subject to any right of first refusal or similar restriction and such Unit shall be sold free of any such restrictions.

2.14 Restrictions on Mortgaging Units. There are no restrictions on the right of an Owner to mortgage or otherwise encumber his Unit. There is no requirement for the use of a specific lending institution or particular type lender.

2.15 Parking and the use of Parking Spaces. Certain Parking Spaces contained within The Project shall be a part of the Limited Common Elements. Such Parking Spaces together with the right of ingress and egress in and to such Parking Spaces shall be limited to and reserved for the exclusive use of the Owners of a particular Condominium Unit as designated by the Declarant and upon such designation, such Parking Space will be appurtenant to that Unit. Any contract, deed, lease, assignment, mortgage, deed of trust or other instrument to convey, lease, assign, encumber or otherwise affect the right to use a particular Parking Space may describe the Parking Space by adding to the appropriate description, as set forth in Paragraph 2.3 hereof, the additional language "together with the right to use Parking Space No. ____."

Certain Parking Spaces contained within The Project shall be a part of the Common Elements and shall be designated as "Open" or "Guest" Parking Spaces. All Parking Spaces and their appropriate designations shall be depicted on The Map.

2.16 Garage Spaces. All Garage Spaces contained within The Project shall be a part of the Limited Common Elements. Each Garage Space together with the right of ingress and egress in and to said Garage Space shall be limited to and reserved for the exclusive use of the Owners of a particular Condominium Unit as designated by the Declarant and upon such designation said Garage Space will be appurtenant to that Unit. Any contract, deed, lease, assignment, mortgage, deed of trust or other instrument to convey, lease, assign, encumber or otherwise affect the right to use a particular Garage Space may describe the Garage Space by adding to the appropriate description, as set forth in Paragraph 2.3 hereof, the additional language "together with the right to use Garage Space No. ____."

2.17 Storage Spaces. All Storage Spaces contained within The Project shall be a part of the Limited Common Elements and shall be limited to and reserved for the exclusive use of the Owners of a particular Condominium Unit as designated by the Declarant and upon such designation, said Storage Space will be appurtenant to that Unit. Any contract, deed, lease, assignment, mortgage, deed of trust or other instrument to convey, lease, assign, encumber or otherwise affect the right to use a particular Storage Space may describe the Storage Space by adding to the appropriate description, as set forth in Paragraph 2.3 hereof, the additional language "together with the right to use Storage Space No. ____."

ARTICLE THREE: VARIOUS RIGHTS AND EASEMENTS

3.1 Owner's Rights in Limited Common Elements. Each Owner and his Guests shall have an exclusive right to use and enjoy the Limited Common Elements designated herein or on The Map as appurtenant to the Unit owned by such Owner.

3.2 Owner's Easement for Access, Support and Utilities. Each Owner shall have a non-exclusive easement for access between his Condominium Apartment and the roads and streets within and adjacent to The Project. There shall be no restrictions upon any Owner's right of ingress and egress to or from such Owner's Apartment. Each Owner shall have a non-exclusive easement in and over the Common Elements within the Condominium Project including the Common Elements within the Condominium Apartment of another Owner, for horizontal and lateral support of the Condominium Apartment which is part of his Unit, and for utility service to the Condominium Apartment, including water, sewer, gas, electricity, telephone and television service.

3.3 Easements for Encroachments. If any part of the Common Elements encroaches or shall hereafter encroach upon a Condominium Apartment, an easement for such encroachment and for the maintenance of the same shall and does exist. If any part of a Condominium Apartment encroaches or shall hereafter encroach upon the Common Elements, or upon another Condominium Apartment, the Owner of that Condominium Apartment shall and does have an easement for such encroachment and for the maintenance of same. Such easements for encroachments shall extend for whatever period of time the encroachment shall exist. Such encroachments shall not be considered to be encumbrances either on the Common Elements or on a Condominium Apartment. Encroachments referred to herein include, but are not limited to, encroachments caused by error in the original construction of The Building, by error in The Map, by settling, rising or shifting of the earth, or by changes in position caused by repair or reconstruction of The Project or any part thereof or by any other movement of any portion of the improvements located upon The Project.

3.4 Easement in Condominium Apartments for Repair, Maintenance and Emergencies. Some of the Common Elements are or may be located within a Condominium Apartment or may be conveniently accessible only through a particular Condominium Apartment. All Owners shall permit a right of entry to the Board of Directors or any other person authorized by the Board of Directors, whether the Owner is present or not, for access through each Condominium Apartment to all Common Elements, from time to time, as may be necessary for the routine maintenance, repair, or replacement of any of the Common Elements located thereon or accessible therefrom or for making emergency repairs necessary to prevent damage to the Common Elements or to another Condominium Apartment. For routine maintenance and non-emergency repairs, entry shall be made only on a regular business day during regular business hours, after service of at least one day's notice in writing to the Owner. In case of emergency, entry shall be made at any time provided that a reasonable effort according to the circumstances is made to give notice of entry.

The Board of Directors or its agents is granted the authority to use such reasonable force as is necessary to gain entry into the Apartment in the event of an emergency, if no other means of entry are available in view of the circumstances. The Association shall bear the full responsibility and expense of all damages incurred to the Apartment and/or Common Elements because of such forcible entry.

All damage to the interior or any part of a Condominium Apartment resulting from the maintenance, repair, emergency repair or replacement of any of the Common Elements, at the instance of the Association, shall be paid for as part of the Annual Assessments for Common Expenses by all of the Owners. No diminution or abatement of Annual Assessments for Common Expenses shall be claimed or allowed for inconveniences or discomfort arising from the making of repairs or improvements or from action taken to comply with any law, ordinance or order of any governmental authority. Restoration of the damaged improvements shall be substantially the same as the condition in which they existed prior to damage. Notwithstanding the foregoing, if any such damage is the result of the carelessness or negligence of any Owner, then such Owner shall be solely responsible for the costs of repairing such damage. In the event the Owner fails within a reasonable time upon proper notice to pay the cost of the damages incurred, the Board of Directors may pay for said damages and charge the Owner responsible as an Individual Assessment in accordance with Paragraph 5.3(b) hereof.

3.5 Emergency Easements. A nonexclusive easement for ingress and egress is hereby granted to all police, sheriff, fire protection, ambulance, and other similar emergency agencies or persons, now or hereafter servicing The Project, to enter upon all driveways located in The Project, in the performance of their duties.

3.6 Utility Easements. The Board of Directors has the right to grant permits, licenses and easements over the Common Elements for utilities, roads and other purposes reasonably necessary or useful for the proper maintenance or operation of The Project.

3.7 Declarant's Easements. Anything to the contrary herein notwithstanding, the Declarant and/or its agents hereby reserve reasonable easements and rights-of-ways over all Common Elements and all Apartments not conveyed for the sole purpose of constructing improvements to The Project and/or making repairs required pursuant to the Declaration or pursuant to contracts of sale made with Unit Purchasers, but only if access thereto is otherwise not reasonably available. Such easements and rights-of-way however shall not inhibit the use of the Common Elements by the Owners and their Guests. The Declarant shall be fully responsible for any damage to the Common Elements caused by its use of such easements and rights of way.

These reservations shall terminate at the option of the Declarant by its written notice to the Secretary of the Association, but in any event such reservations shall terminate without further act or deed not later than:

- (a) the completion of all of the improvements and repair to The Project;
or
- (b) seven years from the date of the recording of this Declaration in the Boulder County, Colorado records, whichever shall first occur.

Until the termination of these reservations as provided for above, any amendment to this Paragraph 3.7 must have the prior written assent of the Declarant.

3.8 Solar Easements. It is possible that certain portions of the Common Elements will be locations for solar collector panels to enable the improvements constructed thereon to utilize solar energy. To encourage the use of such solar energy, the Board of Directors of the Association is hereby irrevocably appointed attorney-in-fact for the Owners and each of them to grant easements over any portion of the Common Elements to enable the Association or an Owner to use any portion of the Common Elements necessary to install facilities to utilize solar energy to include, but not be limited to, solar collector panels,

plumbing, storage facilities, wiring, etc. The acceptance by any person of any interest in any Unit shall constitute an appointment of the Board of Directors as attorney-in-fact as provided above. The Board of Directors shall be granted all of the powers necessary to grant such easements.

In the event the Association or an Owner wishes to utilize solar energy, the Association shall call a Special Meeting of the Owners and shall submit the plans and specifications at that Special Meeting describing the new construction and the easements needed. At such Special Meeting, after giving the Owners an opportunity to be heard, the Board may or may not grant the easements required.

Upon approval of the easements, the Board of Directors shall promptly record the easements, identifying the Common Elements affected. Such easements must be granted within twenty years of the date of the recording of this Declaration and shall at all times comply with the provisions of Colo. Rev. Stat. Ann. §38-32.5. The installation of the solar energy system shall be done under the supervision of the Board of Directors.

3.9 Recording Data Regarding Easements. The recording data for recorded easements and licenses appurtenant thereto, or included in The Project or to which any portion of The Project is or may become subject are identified on Exhibit "E" attached hereto.

3.10 Easements Deemed Appurtenant. The easements, uses and rights herein created for an Owner shall be perpetual and appurtenant to the Unit of that Owner and all conveyances or any other instruments affecting title to a Unit shall be deemed to grant and reserve the easements, uses and rights as are provided for herein, even though no specific reference to such easements, uses and rights appear in any such conveyance.

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ARTICLE FOUR: THE ASSOCIATION

4.1 General Purposes and Powers. The Association through its Board of Directors shall perform functions and manage The Project as provided in this Declaration so as to further the interests of all of the Owners of Units within The Project and Members of the Association. Any purchaser of a Unit shall be deemed to have assented to, ratified and approved such designations and management. It shall have all the powers necessary or desirable to effectuate such purposes.

4.2 Board of Directors. The affairs of the Association shall be managed by a Board of Directors which may by resolution delegate any portion of its authority to a Managing Agent for the Association as more fully provided for in the Bylaws, provided no such delegation shall relieve the Board of final responsibility.

4.3 Articles and Bylaws. The purpose and powers of the Association and the rights and obligations with respect to Members set forth in this Declaration may and shall be amplified by provisions of the Articles of Incorporation and the Bylaws of the Association. In the event the Articles or the Bylaws conflict with the Declaration, the Declaration shall control. In the event the Articles conflict with the Bylaws, the Articles shall control.

4.4 Membership. Each Owner of a Unit, including the Declarant so long as it shall be an Owner, shall automatically become a member of the Association. Said membership is appurtenant to the Unit of said Owner and title to the ownership of the membership for that Unit shall automatically pass with fee simple title to the Unit. Each Owner of a Unit shall automatically be entitled to the benefits and subject to the burdens relating to the membership for his Unit. If the fee simple title to a Unit is held by more than one person, all such persons shall be members.

4.5 Voting Rights. The Association shall have two classes of voting memberships:

Class A. Class A Members shall be all Owners with the exception of the Declarant and shall be entitled to one vote for each Unit owned; provided, however, the Declarant shall be a Class A Member after the conversion of the Class B Membership to Class A Membership in accordance with this Paragraph and shall thereafter be entitled to one vote for each Unit owned.

The vote for such Unit, the ownership of which is held by more than one Owner, may be exercised by any one of them, unless an objection or protest by any other holder of an interest of the Unit is made prior to the completion of the vote, in which case the vote for such Unit shall be exercised, as the persons holding such interest shall determine between themselves. Should the joint owners of a Unit be unable, within a reasonable time, to agree upon how they will vote any issue, they shall be passed over and their right to vote on such issue shall be lost. In no event shall more than one vote be cast with respect to any such Unit.

Class B. Class B Members shall be the Declarant who shall be entitled to three votes for each Unit owned. Class B Membership may be converted to Class A Membership at the option of the Declarant by its written notice to the Secretary of the Association but in any event shall be converted to Class A Membership without further act or deed not later than:

- (a) four months from the date seventy-five percent of the Units in The Project (including Units added by the expansion of the Project in accordance with Article Twelve hereof) have been conveyed to purchasers other than the Declarant; or
- (b) seven years from the date of the recording of this Declaration in the Boulder County, Colorado records, whichever shall first occur.

4.6 Indemnification. The Association shall indemnify every director, officer, agent or employee, and any former director, officer, agent, or employee against loss, costs, and expense, including counsel fees reasonably incurred in connection with any action, suit, or proceeding in which such person may be made a party by reason of being, or having been such director, officer, agent or employee of the Association, except as to matters concerning which such person shall be finally adjudged to be liable for gross negligence or fraud. Any such indemnification shall be limited to and may only be paid out of the insurance proceeds provided by an insurer furnishing Officers and Directors Errors and Omissions insurance coverage or similar protection and any other insurance protecting the Association from liability because of the negligent acts of its servants, including insurance covering motor vehicles or public liability, property damage, medical and other similar coverage, it being the intent and purpose of this Paragraph to limit all payments or settlements in indemnification to the actual proceeds of insurance policies received by the Association; provided, however, any deductible shall be paid by the Association.

No officer, director, agent or employee of the Declarant, its successors or assigns, nor of any managing agent who is an independent contractor, shall be protected by these indemnification provisions nor by any insurance policies obtained by the Association in relation thereto, but any such protection is the sole and separate responsibility of the Declarant, its successors and assigns, and any managing agent who is an independent contractor or any other independent contractor as one of their expenses of doing business.

In the event of a settlement, the settlement shall be approved by the insurance carrier and paid for by the insurance carrier out of the insurance proceeds.

4.7 Association Agreements. Any agreement for professional management of The Project or any contract providing for services of the Declarant or an Affiliate of the Declarant, may not exceed one year. Any such agreement must provide for termination by either party without cause and without payment of a termination fee or penalty upon thirty days' written notice; provided however, the Association shall not be bound either directly or indirectly to contracts or leases (including management contracts) entered into prior to the conversion of the Class B Membership to the Class A Membership in accordance with Paragraph 4.5 hereof unless the Association is provided with a right of termination of any such contract or lease without cause, which is exercisable without penalty at any time after such conversion upon not more than thirty days' notice to the other party thereto.

When professional management has been required by any First Mortgagee any decision to establish self management by the Association shall require the prior written consent of Owners of Units to which at least eighty percent of the votes in the Association are allocated and the approval of First Mortgagees holding mortgages on Units which have at least eighty percent of the votes of Units subject to first mortgages within The Project.

4.8 Certain Rights and Obligations of the Association.

(a) Association as Attorney-in-Fact for Owners. The Board of Directors is hereby irrevocably appointed attorney-in-fact for the Owners, and each of them, to manage, control and deal with the interest of such Owner in the Common Elements so as to permit the Association to fulfill all of its duties and obligations hereunder and to exercise all of its rights hereunder, to deal with The Project upon its destruction, condemnation or obsolescence as hereinafter provided. The acceptance by any person of any interest in any Unit shall constitute an appointment of the Board of Directors as attorney-in-fact as provided above and hereinafter. The Board of Directors shall be granted all of the powers necessary to govern, manage, maintain, repair, administer and regulate The Project and to perform all of the duties required of it.

(b) Contracts, Licenses and Other Agreements. The Board of Directors shall have the right to enter into, grant, perform or enforce: contracts, agreements, licenses, leases, easements and/or rights-of-way, for the use by Owners, their Guests, members of their households and other persons, concerning the Common Elements and any improvements located thereon. Any of such contracts, licenses, leases, agreements, easements and/or rights-of-way, shall be upon such terms and conditions as may be agreed to from time to time by the Board of Directors, without the necessity of the consent thereto, or joinder therein, by the Owners or First Mortgagees and which may include provisions by which the Association agrees that it shall pay part or all of the costs and expenses of maintaining and repairing same. Such costs shall be treated by the Board of Directors as a portion of the Annual Assessment for Common Expenses pursuant to Paragraph 5.3(a) hereof.

(c) Other Association Functions. The Association may undertake any activity, function or service for the benefit of or to further the interests of all, some or any Owners of Units on a self-supporting, Special Assessment or Annual Assessment for Common Expenses basis. Such activities, functions or services may include the providing of police or similar security services, the providing of garbage and trash collection services, the providing of firewood and the providing of maid and cleaning service for individual Condominium Apartments.

(d) Property of Association. The Association may pay for, acquire and hold tangible and intangible personal property and may dispose of the same by sale or otherwise. Subject to the Rules and Regulations of the Association, each Owner and each Owner's guests as herein defined, may use such property. Upon termination of condominium ownership of The Project and dissolution of the Association, if ever, the beneficial interest in any such property shall be deemed to be owned by the then Owners as tenants in common in the same proportion as their respective interest in the Common Elements. A transfer of a Unit shall transfer to the transferee ownership of the transferor's beneficial interest in such property without any reference thereto. Each may use such property in accordance with the purposes for which it is intended, without hindering or encroaching upon the lawful rights of the other Owners. The transfer of title to a Unit under foreclosure shall entitle the purchaser to the beneficial interest in such property associated with the foreclosed Unit.

(e) Implied Rights. The Board of Directors shall have and may exercise any right or privilege given to it expressly by this Declaration, or reasonably to be implied from the provisions of this Declaration, or given or implied by law, or which may be necessary or desirable to fulfill its duties, obligations, rights or privileges.

ARTICLE FIVE: ASSESSMENTS

5.1 Creation of the Lien and Personal Obligation of the Assessment. The Declarant for each Condominium Unit owned, within the Condominium Project, hereby covenants, and agrees to pay, and each Owner, of any Unit by acceptance of a deed thereof, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association certain assessments to be fixed, established and collected from time to time as hereinafter provided. All assessments created and defined in this Declaration, together with late fees, costs, and reasonable attorney's fees shall be:

- (a) a charge upon the Unit and shall be a continuing lien upon such Unit against which each such assessment is made, which lien shall attach as of the date the assessment was levied, and shall continue until such assessment, together with any penalties and late fees, costs of collection, and attorney's fees are paid; and
- (b) a personal obligation of the person who was the Owner or of the persons jointly and severally, who were the Owners of such Unit at the time when the assessment was levied. The personal obligation for delinquent assessments shall not pass to successors in title unless expressly assumed by them.

5.2 Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the health, safety and welfare of the residents of The Project and the Members of the Association and in particular for the improvement and maintenance of the Common Elements and the furnishing of common services to the Units, which may include, among other things, expenses of management; premiums for all insurance which the Association is required or permitted to maintain pursuant hereto; water charges; trash collection, sewage service charges; wages for Association employees; legal and accounting fees; payment of any deficit remaining from a previous fiscal year; and any other expenses and liabilities which may be incurred by the Board of Directors for the benefit of the Owners under or by reason of this Declaration. Such assessment shall include the establishment and maintenance of an adequate reserve fund for the maintenance, replacement and repair of those portions of the Common Elements which the Association has an on going duty to replace, repair and maintain on a periodic basis.

5.3 Basis of Assessment.

(a) **Annual Assessment for Common Expenses.** The Board of Directors shall assess against each Owner of a Unit within The Project an Annual Assessment for Common Expenses to pay for Common Expenses as herein defined of the Association. Said assessment shall include the establishment and maintenance of a reserve fund for the maintenance, replacement and repair of those portions of the Common Elements which the Association has a duty to replace, repair and/or maintain on a periodic basis. There shall be no division of the Annual Assessment for Common Expenses between Common Elements and Limited Common Elements. Such Assessment shall be paid by Owners in the proportion which the number of Units owned by an Owner bears to the total number of Units within The Project as initially contained herein or as expanded in accordance with ARTICLE TWELVE hereof, provided however each Owner of a Garage Space shall pay to the Association an additional sum equal to ten percent of the Annual Assessment for Common Expenses to provide for the maintenance, repair and necessary reserves of all of the Garage Spaces located within The Project. Such Assessment shall commence in accordance with Paragraph 5.7 hereof.

(b) Individual Assessment: The Board of Directors shall have the right to individually assess any Owner amounts as provided for by this Declaration, to include but not be limited to, charges assessed under Paragraphs 2.12, 3.4, 6.3, 6.9, and 8.2(b) hereof. No Individual Assessment shall be assessed until: (i) the Owner or Owners to be charged have been given written notice as to the reason for the assessment; (ii) the Owner or Owners to be charged have had an opportunity for a hearing before the Board of Directors; and (iii) the Board of Directors levy the assessment by a two-thirds vote of the total vote of all of the Board of Directors.

(c) Fines: The Board of Directors of the Association shall have the right to assess a Fine against any Owner or Owners for each violation of this Declaration, the Bylaws, the Articles of Incorporation and the Rules and Regulations of the Association. No such Fine shall be assessed until the Owner or Owners to be charged: (i) have been given written notice as to the reason for the Fine; (ii) the Owner or Owners to be charged have had the opportunity for a hearing before the Board of Directors; and (iii) the Board of Directors levy the Fine by a two-thirds vote of the total vote of all of the Board of Directors.

Fines shall be assessed in a reasonable amount, as determined from time to time by the Board of Directors in its discretion and uniformly applied.

(d) Levy Assessments: At least thirty days prior to the end of the Association's fiscal year, the Board shall determine the Annual Assessment for Common Expenses which is payable monthly during the year by each Owner; provided however, that said assessment may be adjusted upon a finding of necessity by the Board, but no more than twice in any one year. Said Assessment shall be the amount estimated to be necessary to pay for the Common Expenses as herein defined of the Association and to provide the necessary reserves and shall include but not be limited to the expense items set forth in Paragraphs 5.2 and 5.3 hereof.

The omission or failure of the Board of Directors to fix the assessment for any period shall not be deemed a waiver, modification or release of the Owners from their obligations to pay.

Fines and Individual Assessments may be assessed at any time as required and are exempt from any voting requirements required for the levy of other assessments called for under this Declaration.

(e) Non-Exemption: No Owner shall be relieved from payment of any assessment or charge by waiver or suspension of the use of any of the Common Elements or by the abandonment of his or her Unit.

5.4 Special Assessments: In addition to the assessments authorized above, the Board may levy in any assessment year, a special assessment applicable for the year only, for the purpose of defraying in whole or in part, any unexpected expense, to include but not to be limited to, the cost of any construction, reconstruction, repair or replacement of any of the Common Elements, provided that such assessment shall have the assent of two-thirds of the votes of the Class A Members (not including the Declarant) who are voting in person or by proxy at a meeting duly called for this purpose.

If The Project has been or is to be approved by the Federal Home Administration and/or Veterans Administration, then until the conversion of Class B Membership to Class A Membership, in accordance with Paragraph 4.5 hereof, any Special Assessment for capital improvements in addition to the two thirds majority vote of the Class A

Members as required above, will require the written consent of the Veterans Administration and/or the Federal Housing Administration.

The limitation set forth above shall not apply to any expenditures made by the Board of Directors for the maintenance and repair of the Common Elements as set forth in Paragraph 5.3(a) or for the repair in the event of damage, destruction, condemnation, and obsolescence as set forth in ARTICLE NINE.

5.5 Notice and Quorum Needed to Levy a Special Assessment. Written notice of any meeting called for the purpose of levying a Special Assessment shall be sent to all Class A Members not less than thirty days nor more than sixty days in advance of the meeting. At the first such meeting called, the presence of Class A Members or of proxies entitled to cast sixty percent of all the votes of Class A Membership shall constitute a quorum. A majority vote of the quorum shall control. 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 of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty days following the preceding meeting.

5.6 Uniform Manner of Assessment. The Annual Assessment for Common Expenses and Special Assessments must be assessed in a uniform manner upon all Units which are subject to such Assessment subject to the provisions of Paragraph 5.9 hereof.

5.7 Date of Commencement of Assessments; Prorations. The Annual Assessment for Common Expenses, as provided for herein, shall commence as to all Units within a Phase when the first Unit in such Phase is sold, leased or occupied as a residence subject to the provisions of Paragraph 5.9 hereof.

The Annual Assessment for Common Expenses for a Unit shall be prorated on the basis of the number of days in the Association's fiscal year remaining from the date such Unit is sold, leased or occupied as a residence.

5.8 Due Dates, Non-Payment of Assessments, Remedies of the Association.

(a) Fines and Individual Assessments shall be due and payable as established by the Board of Directors.

(b) The Annual Assessment for Common Expenses shall be levied on an annual basis but shall be due and payable on the first day of each month on an installment basis. Special Assessments shall be due and payable as established by the Board of Directors but may be payable on an installment basis as determined by the Board of Directors.

(c) Written notice of all assessments shall be sent to each Owner subject thereto specifying the type of assessment, the amount and the date such assessment is due.

(d) All assessments shall become delinquent unless paid by their due date. If such assessments are not paid by their due date, the Owner obligated to pay such assessment may be required to pay a reasonable late fee, as determined by the Board of Directors from time to time in its discretion and uniformly applied.

In the event it shall become necessary for the Board to collect any delinquent assessments, whether by foreclosure of a lien herein created or otherwise, the delinquent Owner shall pay, in addition to the assessment, and late fees as herein provided, all costs of collection including a reasonable attorney's fee and costs incurred by the Association

in enforcing payment. In the event a "Notice of Lien" is required to be filed to enforce collection, the cost of preparation, filing and release shall be considered a cost of collection.

Failure to make payment within sixty days of the due date thereof shall also cause the full amount of such Owner's Annual Assessment for Common Expenses for the remainder of that fiscal year to become due and owing at once at the option of the Board.

(e) The Association is hereby granted a lien against the Owner's Unit for any payment of an assessment which the Owner fails to make as required by this Declaration. The lien of the assessments together with late fees, costs of collection, to include attorney's fees and Fines as provided for herein shall be subordinate to the lien of any loan evidenced by a first mortgage of record (including deed of trust) and to any executory land sales contract wherein the Administrator of Veterans Affairs (Veterans Administration) is seller, whether such contract is owned by the Veterans Administration or its assigns, and whether such contract is recorded or not. Such lien to attach at the time of the levy of the assessment, and continue until such assessment, together with all late fees, costs of collection, and reasonable attorney's fees are paid.

The lien hereby given shall also be a lien upon all of the rents and profits of the encumbered Unit; provided, however, the lien shall also be subject and subordinated to the rights of any First Mortgagee of a Unit under any assignment of rents given in connection with a first deed of trust or mortgage.

If a foreclosure action is filed to foreclose any assessment lien, and an Owner abandons or leaves vacant his Apartment, the Board may take possession and rent said Apartment or apply for the appointment of a receiver for the Apartment without prior notice to the Owner. The rights of the Association shall be expressly subordinate to the rights of any First Mortgagee as set forth in his deed of trust or mortgage (including any assignment of rents) which creates that First Mortgagee's interest in the Unit.

In addition to the lien herein granted, the Board shall have the right to bring an action at law against any Owner who fails to pay any amounts assessed against his Unit and obtain judgment for the amount of the assessments due, together with late fees accrued plus attorneys' fees and costs as herein provided and all costs incurred, including reasonable attorneys' fees in collecting the judgment.

(f) In the event an Owner is in default on any obligation secured by an encumbrance on his Unit, the Board, at its option, may pay the amount due on said obligation and shall have a lien against the Unit which lien shall attach in the manner as provided for unpaid assessments.

(g) The lien accruing hereunder shall be foreclosed upon as provided by the laws of the State of Colorado for foreclosure of mortgages on real property. The Board shall have the power to bid at the foreclosure sale, and if title is obtained, hold, lease, mortgage and encumber or convey the same.

(h) The lien of all assessments created and defined by this Declaration shall be superior to any homestead exemption as is now or may hereafter be provided by Colorado or Federal law. The acceptance of a deed to a Unit subject to this Declaration shall constitute a waiver of the homestead exemption as against said assessment lien.

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(i) Sale or transfer of an interest in any Unit shall not affect the liens for unpaid assessments except that sale or transfer of any Unit pursuant to mortgage foreclosure or any proceeding in lieu of foreclosure or cancellation or forfeiture of an executory land sales contract by a First Mortgagee shall extinguish the lien of all unpaid assessments as to assessments which became due prior to such transfer of title or cancellation or forfeiture of executory land sales contract; i.e., the date the First Mortgagee acquires fee simple title to the Unit. Provided however, the Association shall still have the right to recover such amount from the delinquent Owner. No transfer of title, or cancellation or forfeiture of executory land sales contract shall relieve such Unit from liability for any assessments thereafter becoming due or from the lien thereof.

Any such delinquent assessments which were extinguished pursuant to the foregoing provisions may be reallocated and assessed to all Owners as part of the Annual Assessment for Common Expenses.

(j) The Association shall upon demand, and for a reasonable charge, furnish to an Owner, or his First Mortgagee, a certificate signed by an officer of the Association setting forth whether the assessments on a specified Unit have been paid. A properly executed certificate of the Association as to the status of assessments on a Unit is binding upon the Association as of the date of its issuance.

5.9 Declarant's Obligations. The Declarant for each Unit owned within each Phase of The Project, shall pay to the Association, twenty-five percent of the Annual Assessment for Common Expenses until such time as the Unit is sold, leased or occupied as a residence; provided however, the "Reserve" portion of the Annual Assessment for Common Expenses shall be fully funded from this twenty-five percent payment commencing not later than sixty days after the first Unit in that Phase has closed. Upon the sale, lease or occupancy, such Unit shall be liable for the payment of the full Annual Assessment for Common Expenses.

The Declarant agrees that it has a binding obligation and a duty to pay any deficit or shortage that may arise in connection with the estimated budget prepared for the initial period of the operation of the Association. The obligation of the Declarant to subsidize the obligations of the Association shall terminate when the last Unit within The Project is sold, leased or occupied as a residence.

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5.10 Working Capital Fund. The Association shall establish a Working Capital Fund to cover the costs of the initial period of The Association's operation. Each Unit's contribution to the Fund shall be equal to at least a two month's installment of the Annual Assessment for Common Expenses for such Unit. Each Unit's non-refundable contribution shall be collected and transferred to the Association at the time of the closing of the initial sale of such Unit and be maintained in a segregated account for the use and benefit of the Association. The purpose of the Fund is to insure that the Association will have cash available to meet foreseen expenditures or to acquire additional equipment or services deemed necessary or desirable by the Board. Contributions paid into the Fund are not considered as advance payments of the Annual Assessment for Common Expenses and each Owner must pay the Annual Assessment for Common Expenses as the same becomes due.

Within sixty days after the closing has been held for the first Unit in each Phase, the Declarant shall pay each unsold Unit's share in that Phase, of the Working Capital Fund to the Association. The Declarant shall reimburse itself for this payment from the funds collected at closings when the unsold Units are closed.

5.11 No Offsets. All Assessments shall be payable in the amounts specified in the levy thereof, and no offsets or reduction thereof shall be permitted for any reason including, without limitation, any claim that the Association or the Board of Directors is not properly exercising its duties and powers under this Declaration.