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## ARTICLE SIX: RESTRICTIVE COVENANTS AND OBLIGATIONS

**6.1 Use and Occupancy of the Condominium Apartments.** Each Owner shall be entitled to the exclusive ownership and possession of his Condominium Apartment. Each Condominium Apartment shall be used only for residential purposes. No Condominium Apartment shall be used at any time for any business or commercial activity, except as follows: (a) Declarant may use any Condominium Apartment(s) as a model Condominium Apartment or sales office until all Units owned by Declarant are sold; subject to the provisions of Paragraph 14.4 hereof, (b) the Owner thereof may lease or rent such Condominium Apartment upon such terms and conditions as the Owner may deem advisable, subject to the following: (i) The Apartment may not be used for hotel or transient purposes but may be leased only for residential purposes as generally defined; (ii) Any such lease or rental agreement shall be in writing and shall provide that the lease is subject to the terms of this Declaration, the Articles of Incorporation, the Bylaws of the Association, and the Rules and Regulations of the Association; and (iii) No Apartment may be leased or rented for a period of less than thirty days. Any failure of a lessee or renter to comply with the terms of this Declaration, Articles or Bylaws, or the Rules and Regulations of the Association shall be a default under the lease enforceable by the Board of Directors. A copy of each lease or rental agreement shall be filed with the Board of Directors.

**6.2 Use of the Common Elements.** Each Owner and his or her Guests may use the appurtenant Common Elements in accordance with the purpose for which they are intended, without hindering or encroaching upon the lawful rights of the other Owners. The Board of Directors may adopt Rules and Regulations governing the use of the Common Elements, but such Rules and Regulations shall be uniform and non-discriminatory. Each Owner, by the acceptance of his deed or other instrument of conveyance or assignment and such Owner's Guests occupying the Apartment agree to be bound by any such adopted Rules and Regulations.

There shall be no obstruction of the Common Elements, nor shall anything be stored on any part of the Common Elements without the prior written consent of the Board of Directors. Nothing shall be altered, constructed on, or removed from the Common Elements except upon the prior written consent of the Board of Directors of the Association.

**6.3 Pets Within The Project.** No animals, livestock, or poultry of any kind shall be raised, bred or kept within The Project, except with the express written permission of the Board of Directors by a two-thirds vote of the total vote of all Directors. If a permitted dog, cat or other household animal constitutes a nuisance or inconvenience to a resident of The Project, then the Board of Directors of the Association shall have the right to direct that the animal be permanently removed from The Project. No removal of an animal shall be made until the animal's owner has been given written notice as to the reason for such animal's removal, such owner has had an opportunity for a hearing before the Board of Directors and the Board of Directors direct that the animal be removed from The Project by a two-thirds vote of the total vote of all of the Directors. All costs incurred by the Association in enforcing and effecting the removal of such animal including reasonable attorneys' fees and costs shall be properly assessed against the Owner of such animal as an Individual Assessment in accordance with Paragraph 5.3(b) hereof.

Permitted dogs, cats and other household animals shall not litter the Common Elements. It shall be the duty of the Association to keep the Common Elements free from litter caused by and left by pets. The owners of pets known to be at large upon the

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Common Elements shall be properly assessed an Individual Assessment in accordance with Paragraph 5.3(b) hereof by the Board of Directors for the cleanup expenses incurred, together with the costs of collection and enforcement, to include reasonable attorneys' fees and costs, if necessary.

Permitted dogs, cats and other household animals shall not be allowed to run at large within The Project, but shall be at all times on a leash while such animal is outside of his owner's Apartment. It shall be the duty of the Association, or its representatives, to notify the City Dog Warden of pets found at large within The Common Elements in violation of City Ordinances.

6.4 Nuisances. No noxious or offensive activity shall be carried on within The Project, nor shall anything be done or maintained thereon which may be or become an annoyance or nuisance to the neighborhood or detract from its value as an attractive residential community. Habitually barking, howling or yelping dogs shall be deemed a nuisance. Patios and balconies shall not be used for storage other than firewood. No activity shall be conducted on any part of The Project which is or might be unsafe or hazardous to any person. Trailers of any kind, boats, camper shells, motor homes, heavy equipment and machinery, recreational vehicles, and mobile homes shall not be stored on The Project. Inoperable or wrecked vehicles and tractors are prohibited from being parked anywhere within The Project. All rubbish, trash or garbage shall be regularly removed from The Project and shall not be allowed to accumulate thereon.

6.5 No Unsightliness. No activity shall be conducted on any part of The Project which is or might be unsafe, unsightly, unhealthy; or hazardous to any person. Without limiting the generality of the foregoing, nothing shall be kept or stored on or in the Common Elements, including areas which are Limited Common Elements; and nothing shall be placed on or in windows or doors of Condominium Apartments, which would or might create an unsightly appearance. No Owner shall modify, alter, repair, decorate, redecorate, or improve the exterior of any Condominium Apartment or any of the Common Elements without the express written approval of the Board of Directors in accordance with Paragraph 8.5 hereof.

6.6 Prohibition of Certain Activities. Nothing shall be done or kept in any Apartment or in the Common Elements or any part thereof which would result in the cancellation of the insurance on The Project or increase the rate of the insurance on The Project over what the Association, but for such activity, would pay, without the prior written consent of the Board of Directors.

Nothing shall be done or kept in any Apartment or in the Common Elements which would be in violation of any statute, ordinance, regulations, or other validly imposed requirement of any governmental body. No noxious, destructive or offensive activity shall be carried on in any Apartment or in the Common Elements, nor shall anything be done therein which may be or may become an annoyance or nuisance to others. No sound shall be emitted on any part of The Project which is unreasonably loud or annoying.

6.7 Antennas. No exterior television or radio antennas and/or masts or satellite dishes of any sort shall be placed, allowed or maintained upon The Project without prior written approval of the Board of Directors of the Association.

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**6.8 Restrictions on Signs.** No signs or advertising of any nature shall be erected or maintained on any part of The Project without the prior written consent of the Board of Directors. The Board shall permit the placing of at least one sign of reasonable size and dignified form to identify The Project and the Units therein.

**6.9 Owner Caused Damages.** If, due to the act or neglect of an Owner or such Owner's Guests, loss or damage shall be caused to any person or property within The Project, such Owner shall be liable and responsible for the payment of same. The amount of such loss or damage, together with costs of collection and reasonable attorney's fees, if necessary, may be collected by the Board of Directors from such Owner as an Individual Assessment against such Owner in accordance with Paragraph 5.3(b) hereof.

Determination with respect to whether or not a particular activity or occurrence shall constitute a violation of this Paragraph 6.9 shall be made by the Board of Directors and shall be final.

**6.10 Waiver of Summary Abatement.** The Declarant and the Association waive the right to use summary abatement or similar means to enforce the restrictions herein contained against any Unit property or its use. Judicial proceedings must be instituted before any items of construction can be altered or demolished.

**6.11 Parking and the Use of the Parking Spaces.** The Board of Directors shall promulgate rules and regulations to regulate the use of the Parking Spaces for the benefit of all Owners. All Limited Common Element Parking Spaces shall be assigned by the Declarant to Owners. An Owner is prohibited from parking in a Parking Space other than the Parking Space assigned to such Owner, and an illegally parked vehicle is subject to towing and impounding in accordance with the City of Broomfield Ordinances. Some Parking Spaces shall be part of the Common Elements and shall be designated as "Guest" or "Open" Parking Spaces. Parking is expressly prohibited on any grass or landscaped area. Only Preventive Maintenance and no repair of vehicles shall be allowed to be carried out on the Parking Spaces.

**6.12 Use of the Garage Spaces.** Each Owner shall maintain the interior of his Garage Space in a clean, safe and attractive condition and shall keep the same free from litter and debris. The Board of Directors shall have the authority to establish reasonable rules and regulations regarding the sightliness and cleanliness of the Garage Space and the use thereof by its Owner. It was the intent of the Declarant in designing the overall parking plan for The Project that Garage Spaces be used in such a manner so that automobiles and trucks could be parked within such spaces. Therefore, any use of a Garage Space that does not allow an automobile or truck to be parked within such space is expressly prohibited. The Board of Directors is granted the authority to enforce the provisions of this Paragraph by the levy of Fines against the Owner in accordance with Paragraph 5.3(c) hereof. All garage doors must remain closed at all times except when vehicles are entering or exiting the Garage Space.

No gasoline, gasohol, distillate, diesel, kerosene, naphtha or similar volatile combustible or explosive materials shall be stored in any Garage Space except in the fuel tanks of vehicles parked therein and used for transportation purposes or one container of outdoor grill fuel starter of no more than two liter capacity.

**6.13 Use of the Storage Spaces.** Each Owner shall maintain the interior of his or her Storage Space in a clean, safe and attractive condition and shall keep the same free from litter and debris. The Board of Directors shall have the power to establish reasonable rules and regulations relating to the sightliness and cleanliness of the Storage Space and the use thereof by its Owner.

No gasoline, gasohol, distillate, diesel, kerosene, naphtha or similar volatile combustible or explosive materials shall be stored in any Storage Space.

**6.14 Disclaimer of Bailee Liability.** Neither the Association, the Board of Directors, any Officer, Managing Agent, nor any Owner shall be considered as a bailee of any personal property placed anywhere within The Project and shall not be responsible for the security of such personal property or for any loss thereof or damage thereto from any cause, whether or not attributable to negligence, except to the extent covered by insurance in excess of any applicable deductible.

The Association, acting through its Board of Directors, shall have the standing and power to enforce all of the above Restrictive Covenants and Obligations.

**ARTICLE SEVEN: INSURANCE**

**7.1 Authority to Purchase/General Requirements.** Except as otherwise provided in Paragraph 7.7 hereof, all insurance policies relating to The Project shall be purchased by the Board of Directors. The Board of Directors, the Managing Agent and the Declarant shall not be liable for failure to obtain any coverages required by this Article or for any loss or damage resulting from such failure if such failure is due to the unavailability of such coverages from reputable insurance companies, or if such coverages are so available only at demonstrably unreasonable cost. The Board of Directors shall promptly furnish to each Owner and/or such Owner's First Mortgagee requesting same, written notice of the procurement of, subsequent changes in, or termination of, insurance coverages obtained on behalf of the Association.

The Board of Directors shall not obtain any policy where (a) under the terms of the insurance company's charter, bylaws or policy, contributions or assessments may be made against the Association, Owner, First Mortgagee or such First Mortgagee's successor and assigns, or (b) by the terms of carrier's charter, bylaws or policy, loss payments are contingent upon action by the carrier's Board of Directors, policyholders or members; or (c) the policy includes any limited clauses (other than insurance conditions) which could prevent Owners or First Mortgagees, their successors and assigns from collecting insurance proceeds.

Each such policy shall provide that:

- a) The insurer to the extent possible waives any right to claim by way of subrogation against the Declarant, the Association, the Board of Directors, the Managing Agent or the Owners, and their respective agents, employees, Guests and, in the case of the Owners, the members of their households.
- b) Such policy shall not be cancelled, invalidated or suspended due to the conduct of any Owner or his or her Guests or of any Member, officer or employee of the Board of Directors or the Managing Agent without a prior demand in writing that the Board or the Managing Agent cure the defect and neither shall have so cured such defect within thirty days after such demand.
- c) Such policy, including any fidelity insurance of the Association referred to in Paragraph 7.4 hereof may not be cancelled, reduced in coverage, or substantially modified by any party (including cancellation for non-payment of premium) without at least thirty days prior written notice to the Board of Directors, the Managing Agent and to each First Mortgagee listed as a scheduled holder of a first mortgage in the policy.
- d) Such policy must provide that no assessment may be made against a First Mortgagee, its successors or assigns and that any assessment made against others shall not become a lien upon a Unit superior to the lien of a First Mortgagee's.
- e) The Declarant, so long as Declarant shall own any Unit, shall be protected by all such policies as an Owner.

All policies of insurance shall be written by reputable companies duly authorized and licensed to do business in the State of Colorado and be in a financial category as designated in BEST'S INSURANCE REPORTS of Class X-B or better.

The name of the insured under the policies shall be the Association for the use and benefit of the individual Owners. Any loss covered by the policies carried under this Article shall be adjusted exclusively by the Association, and the insurance proceeds for that loss shall be payable to the Association as trustee for each Owner and such Owner's First Mortgagee. Each Owner and such Owner's First Mortgagee, if any, shall be beneficiaries of the insurance policy or policies according to each Owner's interest as such interests appear in the policy or policies, or in the event separate interests are not designated in the policy, then pro rata according to each Owner's percentage interest in the Common Elements.

All insurance policies shall contain the standard mortgagee clause or equivalent endorsement (without contribution) in which it appropriately names the First Mortgagee in the policy, its successors and assigns, beneficiary.

**7.2 Hazard Insurance.** The Board of Directors shall obtain and maintain a blanket, "all-risk" form policy of hazard insurance with extended coverage, vandalism, malicious mischief, windstorm, sprinkler leakage (if applicable), debris removal, cost of demolition and water damage endorsements, insuring all the Common Elements and Limited Common Elements within The Project including fixtures, machinery, equipment and supplies maintained for the service of The Project, as well as common personal property belonging to the Association. Such insurance shall be in the amount of the full current replacement cost, as defined below, to include, among other things, all fixtures, improvements, alterations and equipment, comprising a part of the individual Apartment within the unfinished interior surfaces of the perimeter walls, floors and ceilings of the Apartment initially installed or replacements thereof, in accordance with the original plans and specifications, or installed by or at the expense of the Owner and provide that all claims are to be settled on a replacement cost basis. All references herein to a "blanket" type policy of property insurance, are intended to denote "Single Entity" condominium insurance coverage.

In addition, any fixtures, equipment or other property within the Apartments which are to be financed by a First Mortgagee (regardless of whether or not such property is a part of the Common Elements) must be covered in such "blanket" policy.

Such insurance shall at all times represent one hundred percent of the current replacement cost of The Project based on the most recent appraisal of the entire Project. The replacement cost shall not include values for land, foundation, excavation and other items normally excluded therefrom and shall be without deduction for depreciation and with no provision for co-insurance. The Board of Directors shall review at least annually all of its insurance policies in order to insure that the coverages contained in the policies are sufficient. The Board of Directors shall be consistent with good business practices, and at reasonable intervals obtain a written appraisal for insurance purposes, which shall be maintained as a permanent record, showing that the insurance represents one hundred percent of the current replacement cost of The Project as defined above.

Such policies shall also provide:

- a) The following endorsements or their equivalent: No Control Endorsement, Contingent Liability from Operation of Building Laws or Codes

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Endorsement, (Loss of value for an undamaged portion, Cost of Demolition and Increased Cost of Construction), Agreed Amount Endorsement, and Inflation Guard Endorsement, if available.

- b) That any "no other insurance" clause expressly exclude individual Owners' policies from its operation so that the hazard insurance policy purchased by the Board of Directors shall be deemed primary coverage and any individual Owner's policies shall be deemed excess coverage, and in no event shall the insurance coverage obtained and maintained by the Board of Directors hereunder provide for or be brought into contribution with insurance purchased by individual Owners or their First Mortgagees, unless otherwise required by law.

The deductible, if any, on such insurance policy shall be as the Directors determine to be consistent with good business practice and which shall be consistent with the requirements of the First Mortgagees, not to exceed, however, ten thousand dollars or one percent of the face amount of the policy whichever is less. Any loss falling within the deductible portion of a policy shall be paid by the person or entity who is responsible for the repair and maintenance of the property which was damaged or destroyed. In the event of a joint duty of repair and maintenance of the property damaged or destroyed then the deductible shall be paid by the Association. Funds to cover the deductible amounts should be included in the Association's Reserve Funds and be so designated.

A duplicate original of the policy of hazard insurance, all renewals thereof, and any subpolicies or certificates and endorsements issued thereunder, together with proof of payment of premiums, shall be delivered by the insurer to any Owner and First Mortgagee requesting the same, at least thirty days prior to expiration of the current policy.

The Association shall hold any insurance proceeds received in trust for the Owners and First Mortgagees as their interests may appear. The proceeds shall be disbursed first for the repair or restoration of the damaged Common Elements and Apartments. Owners and First Mortgagees are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the Common Elements and Apartments have been repaired or restored or The Project is terminated.

**7.3 Liability Insurance.** The Board of Directors shall obtain and maintain comprehensive general liability insurance (including libel, slander, false arrest, and invasion of privacy) and property damage insurance covering all of the Common Elements, public ways of The Project and any other areas that are under the Association's responsibility and commercial spaces owned by the Association whether or not they are leased to some third party insuring each Officer, Director, the Managing Agent and each Owner, to include the Declarant in its capacity as an Owner. Such coverage under this policy shall include, without limitation, the legal liability of the insureds for property damage, bodily injuries and deaths of persons that result from the operation, maintenance or use of the Common Elements and the legal liability arising out of lawsuits relating to employment contracts in which the Association is a party.

Such insurance shall be issued on a comprehensive liability basis. Additional coverages may be required to include protection against such other risks as are customarily covered with respect to Projects similar in construction, location and use, where applicable and available, including, but not limited to, Host Liquor Liability coverage, with respect to events sponsored by the Association, Contractual and All-Written Contract Insurance, Workmen's Compensation and Employer's Liability Insurance, Comprehensive Automobile Liability Insurance, Severability of Interest endorsement, Garage Keepers Liability and Bailee's Liability endorsement.

The Board of Directors shall review such limits once each year, but in no event shall such insurance be less than one million dollars per occurrence covering all claims for personal injury, bodily injury, including deaths of persons and property damage. Reasonable amounts of "umbrella" liability insurance in excess of the primary limits may also be obtained.

**7.4 Fidelity Insurance.** The Board of Directors shall obtain and maintain adequate fidelity insurance coverage, to protect against dishonest or fraudulent acts committed by the Association's Directors, Officers, Managing Agent, Trustees, employees or volunteers of the Association and all others who manage or are responsible for handling funds collected and held for the benefit of the Association, provided however, the Board of Directors shall not maintain fidelity coverage to cover any Managing Agent.

Such fidelity coverage shall name the Association as the named insured, be written in an amount sufficient to cover the maximum funds that will be in the custody of the Association or its Managing Agent at any time while the insurance is in force, but must be no less than the sum of three months' of assessments on all Units within The Project, plus the Association's Reserve Funds, and contain waivers of any defense based upon the exclusion of persons who serve without compensation from any definition of "employee" or similar expression.

In the event the Association has delegated some or all of its responsibility for the management of its funds to a Managing Agent, such Managing Agent must be covered by its own fidelity insurance providing the same coverage required of the Association's fidelity insurance. The Association should be named as an obligee in the Managing Agent's fidelity insurance and evidence of such coverage must be submitted to the Association.

**7.5 Additional Insurance.**

a) If the area where The Project is located has been identified by the Secretary of Housing and Urban Development (HUD) or the Director of the Federal Emergency Management Agency (FEMA) as a Special Flood Hazard Area, flood insurance for The Project shall be maintained providing coverage equivalent to that provided under the National Flood Insurance Program in an amount of one hundred percent of The Project's current replacement cost.

The Association shall maintain coverage for any detached Common Elements and have separate coverage for each Building housing the Condominium Apartments for one hundred percent of their replacement cost including any machinery and equipment that are a part of the Building. The contents coverage must equal one hundred percent of the replacement cost of all contents, including machinery and equipment which are not part of a Building, that are owned in common with other Owners. A separate Association endorsement is required if not already a part of the policy.

Deductibles may not exceed the lower of five thousand dollars or one percent of the face amount of the coverage. Funds for such deductibles must be included in the Association's Reserve and be so designated.

If The Project at the time of the recording of this Declaration is not identified as a Special Flood Hazard Area but becomes reclassified at a later date as such and the Board becomes aware of such reclassification, then the Board of Directors shall obtain flood insurance for The Project in accordance with the above. Conversely flood insurance may be discontinued under certain conditions.



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b) Adequate Directors and Officers liability insurance, if available, and if deemed consistent with good business practices, for errors and omissions on all Directors and Officers to be written in an amount which the Association deems adequate.

c) If it is determined by a First Mortgagee that the existing coverages do not adequately protect The Project, the Board of Directors shall obtain such additional coverages.

d) Such other insurance of a similar or dissimilar nature, as the Board of Directors shall deem appropriate with respect to The Project.

**7.6 Payment of Insurance Premiums.** The cost of the insurance obtained by the Association in accordance with this Article, except for premiums on fidelity bonds maintained by a Managing Agent for its officers, employees and agents, shall be paid from Association funds and be collected from the Owners as part of the Annual Assessment for Common Expenses as provided for in Paragraph 5.3(a) hereof.

**7.7 Separate Insurance.** Each Owner shall have the right, at his own expense, to obtain insurance for his Unit for his own benefit and to obtain insurance coverage upon his personal property, furnishings and for his personal liability provided, however, that no Owner shall be entitled to exercise his right to acquire or maintain such insurance coverage so as to decrease the amount which the Board of Directors, on behalf of all Owners, may realize under any insurance policy maintained by the Board or to cause any insurance coverage maintained by the Board to be brought into contribution with insurance coverage obtained by an Owner. All such policies shall contain waivers of subrogation. No Owner shall obtain separate insurance policies except as provided in this Paragraph.

**ARTICLE EIGHT: MAINTENANCE, REPAIR, REPLACEMENT, ADDITIONS, AND ALTERATIONS**

**8.1 By the Association.** The Association shall be responsible for the maintenance, repair and replacement (unless, if in the opinion of not less than two-thirds of all of the Board of Directors such expense was necessitated by the negligence, misuse or neglect of an Owner) of all of the Common Elements including the Limited Common Elements, whether located inside or outside of the Apartments, the cost of which shall be charged to all Owners as part of the Annual Assessment for Common Expenses.

**8.2 By the Owner.**

a) Each Owner shall keep his or her Apartment and its equipment, appliance, and appurtenances in good order, condition and repair and in a clean and sanitary condition, and shall do all redecorating and painting which may at any time be necessary to maintain the good appearance and condition of his Apartment. In addition, each Owner shall be responsible for any damages to any other Apartments or to the Common Elements resulting from his failure or negligence to make any of the repairs required by this Paragraph. Each Owner shall perform his responsibility in such manner as shall not unreasonably disturb or interfere with the other Owners. Each Owner shall promptly report to the Board of Directors or the Managing Agent any defect or need for repairs for which the Association is responsible.

b) The Owner of any Unit to which a Limited Common Element is appurtenant shall keep it in a clean and sanitary condition, and shall also make all repairs thereto caused or permitted by his negligence, misuse or neglect. In the event any Owner shall fail to maintain or keep in good repair his Limited Common Elements in a manner satisfactory to the Board of Directors, the Board of Directors after notice and hearing shall have the right and duty, upon approval by a two-thirds vote of the total vote of all of the Directors to enter into said Limited Common Elements and repair, maintain, replace or restore said Limited Common Elements. The cost of such maintenance, replacement, repair and restoration shall be chargeable to such Owner by Individual Assessment in accordance with Paragraph 5.3(b) hereof. Each Limited Common Element is subject to an easement in favor of the Board of Directors (including its agents, employees and contractors) for providing the repair and restoration in accordance with the above.

All structural repair or replacement shall be made by the Association and charged as part of the Annual Assessment for Common Expenses in accordance with Paragraph 5.3(a).

c) Any Owner permitted by the Board of Directors to use a specific portion of the Common Elements for storage is responsible for the use of such portion in a safe and sanitary manner.

**8.3 Schedule of Maintenance Responsibilities.** Notwithstanding the general provisions for maintenance set forth above, specific maintenance responsibilities and the costs attributable thereto shall, to the extent set forth thereon, be determined pursuant to the Schedule of Maintenance Responsibilities attached as Exhibit C attached hereto.

**8.4 Manner of Repair and Replacement.** All repairs and replacements shall be substantially similar to the original construction and installation and shall be of first-class quality, but may be done with contemporary building materials and equipment.

**8.5 Additions, Alterations or Improvements by the Owners (Architectural Control).** No Owner shall make any structural addition, or alteration or improvement in or to his Unit without the prior written consent of the Board of Directors. No Owner shall paint or alter the exterior of his Unit, including the doors and windows, nor shall any Owner paint or alter the exterior of The Buildings, without the prior written consent of the Board of Directors.

The Board of Directors shall be obligated to answer any written request by an Owner for approval of a proposed structural addition, alteration or improvement within thirty days after such request, and failure to do so within the stipulated time shall constitute approval by the Board of Directors of such proposed structural addition, alteration or improvement.

If any application to any governmental authority for a permit to make any such structural addition, alteration or improvement in or to any Unit requires execution by the Association, and provided consent has been given by the Board of Directors, then the application shall be executed on behalf of the Association by an authorized Officer only, without however incurring any liability on the part of the Board of Directors, the Association or any of them to any contractor, subcontractor or materialman on account of such addition, alteration or improvement, or to any person having claim for injury to person or damage to property arising therefrom.

**8.6 Private Patios.** Notwithstanding the above, some Condominium Units will have a fenced patio as a Limited Common Element. It shall be the responsibility of the Owner to landscape and maintain this patio in a manner acceptable by the Board of Directors. Landscaping shall be completed within one year of the date of occupancy of the Unit by the original purchaser. All landscaping plans must be approved by the Board of Directors prior to the commencement of the landscaping in accordance with Paragraph 8.5 hereof.

In the event the Owner fails to install the landscaping in the time period prescribed above or in the event the Owner fails to properly maintain such landscaping in a manner satisfactory to the Board of Directors, then the Board of Directors shall have the right and duty to install and/or maintain such landscaping and charge the Owner therefore in accordance with Paragraph 2.8(b) hereof.

Each private patio is subject to an easement in favor of the Board of Directors (including its agents, employees and contractors) for providing the installation and/or maintenance in accordance with the above.

## ARTICLE NINE: DAMAGE, DESTRUCTION, CONDEMNATION, AND OBSOLESCENCE

9.1 Association as Attorney-in-Fact. This Declaration does hereby make mandatory the irrevocable appointment of an Attorney-in-Fact to deal with The Project upon its damage, destruction, condemnation and obsolescence.

Title to any Unit is declared and expressly made subject to the terms and conditions hereof, and acceptance by any grantee of a deed from the Declarant or from any Owner shall constitute appointment of the Attorney-in-Fact herein provided. All of the Owners irrevocably constitute and appoint the Association, in their names, place and stead for the purpose of dealing with The Project upon its damage, destruction, condemnation, and obsolescence as is hereinafter provided. As Attorney-in-Fact, the Association, by its Board of Directors shall represent the Owners in any proceedings, negotiations, settlements and/or agreements, and shall have full and complete authorization for the collection and appropriate disposition of all insurance proceeds, the negotiation of losses, and execution of releases of liability and the execution of all documents and the performance of all other acts necessary and appropriate to exercise the powers herein granted.

The Annual Assessments for Common Expenses shall not be abated during the period of insurance adjustment or repair and reconstruction.

### 9.2 Damage, Destruction, Reconstruction, and Repair.

a) Repair and reconstruction of The Project as used in the following paragraphs means restoring The Project substantially in accordance with this Declaration and in accordance with the original plans and specifications for The Project unless other action is approved by 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 the Units subject to first mortgages within The Project.

The proceeds of any insurance collected shall be available to the Association for the purpose of repair, restoration or replacement unless the Owners and the First Mortgagees agree not to rebuild in accordance with the provisions of Paragraph 9.2(e) below.

b) In the event of damage to or destruction of The Project to the extent of not more than sixty-six and two-thirds percent of the total replacement cost thereof, not including land, due to fire or other disaster, the Association shall promptly repair and reconstruct the same in a workmanlike manner. The Association shall have full authority, right, and power, as Attorney-in-Fact to cause the repair and reconstruction of The Project using the insurance proceeds. If the insurance proceeds are insufficient to repair and reconstruct The Project, such damage and destruction shall be promptly repaired and reconstructed by the Association as Attorney-in-Fact, using the proceeds of insurance and the proceeds of a Deficiency Assessment to be made against all of the Owners and their Units as more fully defined in paragraph 9.2(f). The Association shall have full authority, right, and power, as Attorney-in-Fact, to cause the repair or reconstruction of The Project using all of the insurance proceeds and such assessment.

c) In the event of damage to or destruction of The Project to the extent of more than sixty-six and two-thirds percent of the total replacement cost thereof, not including land due to fire or other disaster and insurance proceeds are sufficient to fully cover the

costs of such repair or reconstruction, then the Association shall promptly repair or reconstruct The Project.

d) In the event of damage to or destruction of The Project to the extent of more than sixty-six and two-thirds percent of the total replacement cost thereof, not including land due to fire or other disaster and the insurance proceeds are not sufficient to fully cover the costs of such repair or reconstruction, the Association, upon due notice to all Owners and giving them an opportunity to be heard, shall adopt and record a written "Plan for Reconstruction". All of the Owners shall be bound by the terms and other provisions of such Plan and the Association shall promptly repair or reconstruct The Project unless The Project is disposed of in accordance with Paragraph 9.2(e). The Association shall have the right to use, in accordance with such Plan, all proceeds of insurance for such repair and reconstruction, as well as the proceeds of a Deficiency Assessment to be made against all of the Owners and their Units as more fully defined in Paragraph 9.2(f). The Association shall have full authority, right and power, as Attorney-in-Fact, to cause the repair or reconstruction of The Project using all of the insurance proceeds for such purpose notwithstanding the failure of any Owner to pay the Deficiency Assessment.

e) In the event of damage to or destruction of The Project to the extent of more than sixty-six and two-thirds percent of the total replacement costs thereof, not including land, due to fire or other disaster and the insurance proceeds are not sufficient to fully cover the costs of such repair or reconstruction, and the Owners of Units to which at least eighty percent of the votes in the Association are allocated, upon due notice to all Owners and First Mortgagees and giving them an opportunity to be heard, adopt and record a written "Declaration not to Rebuild", which Declaration has the approval of those First Mortgagees holding mortgages on Units which have at least eighty percent of the votes of the units subject to first mortgages within The Project, the entire remaining Project shall be sold by the Association as Attorney-in-Fact for all Owners, free and clear of the provisions contained in this Declaration, the Map, the Articles of Incorporation and Bylaws and the legal status of The Project terminated.

The insurance settlement proceeds shall be collected by the Association and such proceeds shall be divided by the Association according to each Owner's interest (as such interests appear in the policy or policies, or in the event separate interests are not designated in the policy, then pro rata according to each Owner's percentage interest in the Common Elements), and such divided proceeds shall be paid into separate accounts, each such account representing one of the Units. Each such account shall be in the name of the Association, and shall be further identified by the Unit designation and the name of the Owner. Thereafter, each such account shall be supplemented by the apportioned amount of the proceeds derived from the sale of the entire Project. Such apportionment shall be based upon each Owner's percentage interests in the Common Elements. The total funds of each account shall be used and disbursed, without contribution from one account to another, by the Association, as Attorney-in-Fact for the same purposes and in the same order as is provided in Paragraph 10.6 hereof. The provisions contained in this Paragraph shall not hinder the protection given to a First Mortgagee under a mortgagee endorsement. No Owner or any other party shall be entitled to priority over First Mortgagees with respect to any such distribution of insurance proceeds.

f) The Deficiency Assessment made in connection with such repair and reconstruction as provided for in Paragraph 9.2(b) and 9.2(d) shall be a part of the Annual Assessment for Common Expenses and shall be levied pursuant to Paragraph 5.3(a) hereof and shall be due and payable as provided in such assessment but not sooner than thirty days after written notice thereof. Such Deficiency Assessment shall not be considered a Special Assessment and such assessment shall be exempt from any special voting

requirements of the Owners. Further assessments may be made in like manner if the amounts collected prove insufficient to complete the repair and reconstruction. In the event amounts collected are in excess of the amounts required for such repair and reconstruction, the excess shall be returned to the Owners by the Association in the same proportion as the assessment levied. The Deficiency Assessment provided for herein shall be a debt of each Owner and a lien on his Unit and may be enforced and collected as is provided for in Paragraph 5.8 hereof. Such lien shall have the same priority as that provided for in Paragraph 5.8 hereof.

### 9.3 Condemnation.

(a) If at any time or times during the continuance of condominium ownership pursuant to this Declaration, all or any part of The Project shall be taken or condemned by any public authority or sold or otherwise disposed of in lieu of or in avoidance thereof, the provisions of this Paragraph 9.3 shall apply.

(b) The Association, as their Attorney-in-Fact, shall represent the Owners in any condemnation proceedings or in any negotiations, settlements, and agreements with the condemning authorities for the acquisition of the Common Elements or any part thereof.

(c) All compensation, damages, or other proceeds therefrom, the sum of which is hereinafter called the "Condemnation Award" shall be payable to the Association as Attorney-in-Fact to be held in trust for the use and benefit of the Owners and First Mortgagees as their interests may appear. No Owner or any other party shall be entitled to priority over First Mortgagees with respect to any distribution of the Condemnation Award.

(d) In the event that the entire Project is taken or condemned, sold or otherwise disposed of in lieu of or in avoidance thereof, condominium ownership pursuant to this Declaration shall terminate. The Condemnation Award shall be apportioned among the Owners pro rata according to each Owner's percentage interest in the Common Elements, providing that if a standard different from the value of The Project as a whole is employed to measure the Condemnation Award in the negotiation, judicial decree, or otherwise, then in determining such share the same standard shall be employed to the extent it is relevant and applicable.

The Association shall as soon as practicable determine the share of the Condemnation Award to which each Owner is entitled. Such shares shall be paid into separate accounts and disbursed as soon as practicable in the same manner as provided in Paragraph 10.6 hereof.

(e) In the event that less than the entire Project is taken or condemned, sold or otherwise disposed of in lieu of or in avoidance thereof, the condominium ownership hereunder shall not terminate unless terminated in accordance with ARTICLE TEN hereof. If not terminated, each Owner shall be entitled to a share of the Condemnation Award to be determined in the following manner: (i) as soon as practicable the Association shall, reasonably and in good faith, allocate the Condemnation Award between compensation, damages or other proceeds, and shall apportion the amounts so allocated to the taking of or injury to the Common Elements among Owners in proportion to their respective percentage interests in the Common Elements, (ii) the total amount allocated to severance damages shall be apportioned to those Units which were not taken or condemned, (iii) the respective amounts allocated to the taking of or injury to a particular Unit and/or improvements an Owner had made within his own Units shall be apportioned to the particular Unit involved, and (iv) the amount allocated to the consequential

damages and any other takings or injuries shall be apportioned as the Association determines to be equitable in the circumstances. If a judicial decree or otherwise, then in allocating the Condemnation Award the Association shall employ such allocation to the extent it is relevant and applicable. The Association shall, as soon as practicable, determine the share of the Condemnation Award to which each Owner is entitled. Such shares shall be paid into separate accounts and distributed in the same manner as provided in Paragraph 10.6 hereof.

Any restoration or repair of the remaining Common Elements shall be performed substantially in accordance with this Declaration and in accordance with the original plans and specifications unless other action is approved by Owners representing an aggregate ownership interest of eighty percent or more of the Common Elements and by First Mortgagees holding mortgages on Units which have at least eighty percent of the votes of the Units subject to first mortgages within The Project.

**9.4 Reorganization/Reallocation.** In the event a partial taking by condemnation or by damage or destruction which is not rebuilt results in the taking of a complete Condominium Apartment, the Owner thereof automatically shall cease to be a member of the Association, and that Unit's entire Common Element interest, votes in the Association, and Annual Assessment Common Expenses liability are automatically reallocated to the remaining Units in proportion to their respective Common Element interests before the taking and the Board of Directors shall promptly prepare, execute, and record an amendment to the Declaration reflecting the reallocations. Any remnant of an Apartment remaining after part of an Apartment is taken under this Paragraph is thereafter a Common Element.

**9.5 Obsolescence and Reconstruction.** The Owners of Units to which at least eighty percent of the votes in the Association are allocated may agree, upon due notice to all Owners and granting them an opportunity to be heard, that the Units are obsolete and adopt and record a written "Plan for Renewal and Reconstruction", which Plan must have the approval of those First Mortgagees holding mortgages on Units which have at least eighty percent of the votes of the Units subject to First Mortgagees within The Project. Written notice of adoption of such Plan shall be given to all of the Owners. The expense of renewal or reconstruction shall be payable by all of the Owners as an Annual Assessment for Common Expenses whether or not such Owner may have previously consented to such Plan. The assessment shall be levied, allocated, and collected in the same manner as a Deficiency Assessment as provided for in Paragraph 9.2(f) hereof.

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## ARTICLE TEN: TERMINATION OF THE CONDOMINIUM PROJECT

**10.1 Vote of Owners and First Mortgagees.** Except in the case of a taking of all the Units by Condemnation or by fire or other casualty, The Project may be terminated only by agreement of the Owners of Units to which at least eighty percent of the votes in the Association are allocated. Such an agreement must have the approval of those First Mortgagees holding mortgages on Units which have at least eighty percent of the votes of the Units subject to first mortgages within The Project.

**10.2 Termination Agreement.** An agreement of Owners to terminate condominium ownership must be evidenced by their execution of a termination agreement or ratifications thereof. If, pursuant to a termination agreement, the real estate constituting The Project is to be sold following termination, the termination agreement must be recorded in every county in which a portion of The Project is situated, and is effective only upon recordation.

**10.3 Sale of The Project.** The Association, on behalf of the Owners, may contract for sale of The Project, but the contract is not binding on the Owners until approved pursuant to Paragraphs 10.1 and 10.2. If the real estate constituting The Project is to be sold following termination, title to that real estate, upon termination, vests in the Association as trustee for the holders of all interest in the Units. Thereafter, the Association has all powers necessary and appropriate to effect the sale. Until the sale has been concluded and the proceeds thereof distributed, the Association continues in existence with all powers it had before termination. Proceeds of the sale shall be apportioned among the Owners in accordance with Paragraph 10.5 of this Declaration. Unless otherwise specified in the termination agreement, as long as the Association holds title to the real estate, each Owner and his successors in interest have an exclusive right to occupancy of the portion of the real estate that formerly constituted his Unit. During the period in which the Owner has the right of occupancy, each Owner and his successors in interest remain liable for all assessments and other obligations imposed on Owners by the Declaration.

**10.4 Project not to be Sold.** If The Property constituting The Project is not to be sold following termination, title to The Property, upon termination, vests in the Owners as tenants in common in proportion to their respective Common Element interests and the liens on the Units shall shift to such Owner's undivided interest. While the tenancy in common exists, each Owner and his successors in interest have an exclusive right to occupancy of the portion of The Property that formerly constituted his Unit.

**10.5 Determination of Owner's Interests.** The respective interests of Owners referred to in Paragraphs 10.3, 10.4, and 10.6 are pro rata according to each Owner's percentage interest in the Common Elements immediately before termination.

**10.6 Distribution to Owners.** Following termination of The Project, the proceeds derived from the sale shall be divided in proportion to the Owner's respective interests as provided in Paragraph 10.5, and shall be used and disbursed by the Association, as Attorney-in-Fact, in the following order:

- a) for payment of the balance of the lien of any first mortgage;
- b) for payment of reasonable costs of sale incurred;



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- d) for payment of unpaid assessments;
- e) for payment of junior mortgages and encumbrances in the order of and to the extent of their priority;
- f) the balance remaining, if any, shall be paid to the Owner.

The proceeds of sale described in Paragraph 10.3 and held by the Association as trustee are not assets of the Association.

## ARTICLE ELEVEN: CERTAIN RIGHTS OF THE FIRST MORTGAGEES

11.1 Entitlement. A First Mortgagee, upon written request by such First Mortgagee to the Association, shall be entitled to timely receive in writing any of the following:

- (a) Budgets, notices of assessments, or any other notices provided for under this Declaration by the Association to the Owner of a Condominium Unit in which a First Mortgagee has a security interest.
- (b) Financial statements of the Association which are prepared for the Association and distributed to its Members.
- (c) Notices of meetings of the membership and the right to be represented at any meeting by a designated representative.
- (d) Notice of the decision of the Owners to make any amendment to this Declaration, the Bylaws, or the Articles of Incorporation of the Association.
- (e) Notice of the commencement of any condemnation proceedings with respect to any part of The Project.
- (f) Notice of any default by an Owner of a Unit in which a First Mortgagee has a security interest in the performance of any obligations under this Declaration, the Articles of Incorporation and/or Bylaws of the Association, which remains uncured for a period of sixty days.
- (g) Notice of any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association.
- (h) Notice of any condemnation loss or any casualty loss which affects a material portion of The Project or any Unit in which a First Mortgagee has a security interest.
- (i) Notice of any proposed action contained in Paragraphs 11.2 and 11.3 hereof, requiring the consent of the First Mortgagees.

The request of a First Mortgagee shall specify which of the above it desires to receive and shall indicate its name and the address to which same shall be sent by the Association together with the Unit number or address of the Unit it has a mortgage on. The Association need not inquire into the validity of any request made by a First Mortgagee hereunder and in the event of multiple requests from the purported First Mortgagees of the same Condominium Unit, the Association shall honor the most recent request received.

11.2 Restrictions on Amendments. The following restrictions do not apply to amendments to the Declaration made in accordance with ARTICLE NINE and ARTICLE TEN hereof, or to a reallocation of interests in the Common Elements which might occur pursuant to any plan of expansion in accordance with ARTICLE TWELVE hereof.

The consent of the Owners of Units to which at least eighty percent of the votes in the Association are allocated and the approval of those First Mortgagees holding mortgages on Units which have at least eighty percent of the votes of the Units subject to first mortgages within The Project shall be required to add or amend any material provi-

sions of the Declaration, Bylaws, Articles of Incorporation or The Map which establish, provide for, govern or regulate any of the following:

- (a) Assessments, manner of assessment, assessment liens or subordination of such liens;
- (b) Reserves for the maintenance, repair, and replacement of the Common Elements;
- (c) Insurance or Fidelity Bonds;
- (d) Right to use of the Common Elements;
- (e) Responsibility for maintenance and repair of The Project;
- (f) Subject to the provisions of ARTICLE TWELVE hereof the expansion or contraction of The Project or the addition, or annexation or withdrawal of property to and from The Project;
- (g) Boundaries of any Unit and the exclusive easement rights appertaining thereto;
- (h) Leasing of Condominium Apartments and uses to which an Apartment or the Common Elements are restricted;
- (i) Imposition of any right of first refusal or similar restriction on the right of an Owner to sell, transfer, or otherwise convey a Unit;
- (j) A decision by the Association to establish self management when professional management had been required previously by a First Mortgagee;
- (k) Restoration or repair of The Project (after a hazard damage or partial condemnation) in a manner other than that specified in the Declaration;
- (l) Any action to terminate the legal status of The Project after substantial destruction or condemnation occurs, or for reasons other than the substantial destruction or condemnation of the Project.
- (m) Any provision in this Declaration, Articles of Incorporation or Bylaws which specifically grants rights to First Mortgagees hereunder.

**11.3 Special FHLMC Provisions.** So long as required by The Mortgage Corporation, the following provisions apply in addition to the provisions of Paragraph 11.2 above. Unless eighty percent of the First Mortgagees (based upon one vote for each first mortgage owned) or Owners (other than the Declarant) give their prior written approval, the Association shall not be entitled to:

- (a) Use hazard insurance proceeds for losses to the improvements insured by the Association for other than the repair, replacement or reconstruction of such improvements;
- (b) Partition or subdivide any Condominium Unit;

(c) By act or omission seek to abandon, partition, subdivide, encumber, sell, or transfer any of the Common Elements, except that approval shall not be required for the Board of Directors to grant easements for utilities and similar or related purposes;

(d) By act or omission seek to abandon or terminate the Condominium Project;

11.4 Books and Records. Owners and their mortgagees shall have the right to examine the books and records of the Association at any reasonable time at the office of the Association upon reasonable notice. Copies are available at reasonable cost.

**ARTICLE TWELVE: EXPANSION**

**12.1 Reservation of Right to Expand.** Declarant reserves the right (without in any way being bound) to enlarge this condominium project in phases by submitting to The Project from time to time a Supplemental Condominium Map and Supplemental Declaration adding any of the Real Property described on Exhibit "D" attached hereto. The total number of condominium units in The Project as expanded shall not exceed one hundred and fifty-one Units.

If The Project has been or is to be approved by the Federal Housing Administration and/or the Veterans Administration, any such addition, expansion or annexation must be according to a General Plan heretofore filed with and approved by the Federal Housing Administration or the Veterans Administration and such addition, expansion or annexation must be supported by the written consent of the Federal Housing Administration or the Veterans Administration, evidence of which may be recorded.

**12.2 Supplemental Declarations and Supplemental Condominium Maps.** Such expansion may be accomplished by the filing for record by Declarant in the office of the Clerk and Recorder for Boulder County, Colorado, a supplement or supplements to this Declaration containing a legal description of the new Real Property or Properties, together with a Supplemental Condominium Map or Maps containing the same information with respect to the new Real Property as was required on the original Condominium Map with respect to the initial Real Property. The expansion may be accomplished in stages by successive supplements or in one supplemental expansion so long as each subsequent phase is contiguous to the Real Property already subject to this Declaration.

All intended improvements in future phases must be substantially completed prior to being brought within the Condominium Project.

**12.3 Expansion of Definitions.** In the event of such expansion, the definitions used in this Declaration shall be expanded automatically to encompass and refer to The Project as so expanded. For example, "Condominium Unit" shall mean the Condominium Units described hereinabove plus any additional Condominium Units added by a Supplemental Condominium Declaration or Declarations, and reference to this Declaration shall mean this Declaration as supplemented. All conveyances of Condominium Units shall be effective to transfer rights in The Project as expanded by use of the form of description set forth in Paragraph 2.3 hereof, with additional references to the Supplemental Condominium Declaration(s) and the Supplemental Condominium Map(s). The recordation in the records of Boulder County, Colorado, of a Supplemental Condominium Map or Maps incident to any expansion shall operate automatically to grant, transfer, and convey to the Owners of Condominium Units the respective undivided interests set forth in Paragraph 12.5 hereof in the new Common Elements added to the Condominium Project as the result of such expansion. Such recordation shall also operate to vest in any then Mortgagee of any Condominium Unit encumbering the new Common Elements added to The Project as the result of such expansion.

**12.4 Declaration Operative on New Properties.** The new Real Property shall be subject to all the terms and conditions of this Declaration or Declarations, and the Condominium Units therein shall be subject to the condominium regime with all incidents pertaining thereto as specified herein, upon placing the Supplemental Condominium Map(s) and Supplemental Condominium Declaration(s) of public record in the real estate records of Boulder County, Colorado.

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All future improvements to The Project will be consistent with the initial improvements in terms of quality of construction and shall be similar in building types, architectural style and size of Units.

**12.5 Interests Upon Enlargements.** The Owners at the time of their purchase of a Condominium Unit which has been brought into The Project by a Supplemental Declaration and a Supplemental Condominium Map shall be Members of the Association entitled to the same non-exclusive use of the Common Elements and the same voting privileges as those Owners of the initial property brought into The Project through the original Declaration and shall be subject to the same Assessments. The Assessments for that Phase shall commence for all Owners including the Declarant in accordance with Paragraph 5.7 hereof.

Whenever any additional property is brought into the Condominium Project, the interest of each owner of a Condominium Unit in the Common Elements in The Project after such addition shall be determined by the Declarant on the basis of the proportion which the approximate finished square footage area of each Apartment bears to the total approximate finished square footage area of all completed Apartments within The Project (including Apartments created on the additional real property submitted to The Project). The finished square footage area of each Apartment is based upon dimensions which are approximate and the calculation of the percentage interest has been rounded. The Supplemental Declaration recorded at the time of expansion shall set forth the new percentage ownership interests of the existing Units and of the newly added Units.

**12.6 Taxes, Assessments and Other Liens.** All taxes and other assessments relating to the real property described in Exhibit "D" covering any period of time prior to the addition of such property or any portion thereof to The Project must be paid or otherwise provided for by the Declarant to the satisfaction of all First Mortgagees.

Liens arising out of the construction of improvements in later phases shall not extend into prior phases and shall not adversely affect the rights of Owners or the priority of first mortgages and deeds of trusts on any Unit constructed in a prior phase.

**12.7 Project Treated as a Whole.** For all purposes hereof, each of the Phases of The Project after the recording of the Supplemental Map and Supplemental Declaration submitting each Phase to The Project, shall be treated as a part of The Project developed as a whole from the beginning, except to the extent expressly otherwise provided for herein. It is the express purpose hereof to provide that from and after the date of the submission of a Phase of The Project in accordance with the above, that such Phase shall be treated as though such Phase had been developed, owned, occupied and used by the Owners thereof as a single undivided Project.

**12.8 Termination of the Right of Expansion.** This right of expansion shall terminate at the option of the Declarant by its written notice to the Secretary of the Association, but in any event such right shall terminate without further act or deed not later than:

- (a) the annexation of all of the Real Property described on Exhibit "D" 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 this right of expansion as provided for above, any amendment to this Paragraph 12.8 must have the prior written assent of the Declarant.

## ARTICLE THIRTEEN: DURATION AND AMENDMENTS

**13.1 Duration.** All of the provisions contained in this Declaration shall continue and remain in full force and effect until condominium ownership of The Project and this Declaration are terminated, revoked, or amended as herein provided.

If and to the extent that any of these covenants, easements, rights and restrictions as contained herein would otherwise be unlawful or void for violation of (a) the rule against perpetuities; (b) the rule restricting restraint on alienation; or (c) any other applicable statute or common law rule analogous thereto or otherwise imposing limitation upon the time for which such covenants or restrictions may be valid, then the provisions concerned shall continue and endure only until the expiration of a period of twenty-one years after the death of the last to survive all of the lawful descendants of Ronald Reagan, President of the United States of America, living on the date this Declaration is recorded.

**13.2 Amendments.** Subject to the provisions of ARTICLE TWELVE hereof and except as permitted in Paragraph 14.7 hereof and except in cases of amendments that may be executed by the Declarant pursuant to Paragraphs 1.22 and 13.4, and the Board of Directors pursuant to Paragraphs 1.22 and 9.4 hereof and except as restricted by Paragraphs 3.7, 11.2, 11.3, and 14.4 hereof, this Declaration, including the Map, may be amended only by written agreement of Owners of Units to which at least eighty percent of the votes in the Association are allocated, provided, however, the consent of the Owners of Units to which one hundred percent of the votes are allocated and the approval of those First Mortgagees holding mortgages on Units which have one hundred percent of the votes of the Units subject to first mortgages within The Project shall be required to:

- (a) Increase the number of Units;
- (b) Change the number of votes in the Association appertaining to any Unit;
- (c) Change the pro rata interest or obligations of any individual Unit for the purposes of (i) levying assessments or allocating the distribution of hazard insurance proceeds or condemnation awards, or (ii) determining the pro rata share of ownership of each Unit in the Common Elements;
- (d) Convert Units into Common Elements or Common Elements into Units.

All amendments must be recorded in the real estate records of Boulder County, Colorado.

If The Project has been or is to be approved by the Federal Housing Administration and/or the Veterans' Administration, then until the conversion of the Class B Membership to Class A Membership in accordance with Paragraph 4.5 hereof, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration: annexation of additional properties, amendment of this Declaration and the assessment of a Special Assessment in accordance with Paragraph 5.4 hereof.

**13.3 Secretary's Certificate.** One method of satisfying the requirements of Paragraph 13.2 hereof shall be the recordation of a certificate of the Secretary of the Association, certifying that Owners representing the requisite percentage of the Units, and that the requisite percentage of First Mortgagees, have given written consent to the amendment. The Secretary must further certify that originals of such written consents by Owners and First Mortgagees, along with the recorded amendment, are in the records of the Association and available for inspection.

**13.4 Special Amendments.** Declarant hereby reserves and is granted the right and power to record Special Amendments to this Declaration at any time until the conversion of the Class B Membership to Class A Membership in accordance with Paragraph 4.5 hereof, which amends this Declaration to comply with the Statutes of the State of Colorado or any written requirements of the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Department of Housing and Urban Development, the Federal Housing Administration, the Veterans' Administration, or any other governmental agency or any other public, quasi-public or private entity which performs (or may perform in the future) functions similar to those currently performed by such entities to induce any of such agencies or entities to make, purchase, sell, insure or guarantee first mortgages or deeds of trust covering the Units.

In furtherance of the foregoing, a power coupled with an interest is hereby reserved and granted to Declarant to make or consent to a Special Amendment on behalf of such Owners of the Units. Each deed, mortgage, trust deed, other evidence of obligation or other instrument affecting a Unit and the acceptance thereof shall be deemed to be a grant and acknowledgement of, and a consent to the reservation of, the power of Declarant to make, execute and record such Special Amendments. No Special Amendment made by Declarant shall affect or impair the lien of the first mortgage or deed of trust upon a Unit or any warranties made by an Owner or First Mortgagee in order to induce any of the above agencies or entities to make, purchase, insure, or guarantee the first mortgage or deed of trust on such Owner's Unit.



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## ARTICLE FOURTEEN: GENERAL PROVISIONS

**14.1 Right of Action.** The Association and any aggrieved Owner shall have an appropriate right of action against Owners for failure to comply with the Declaration, Bylaws of the Association, Articles of Incorporation and Rules and Regulations of the Association or with decisions of the Board of Directors of the Association which are made pursuant thereto. Owners shall have a similar right of action against the Association.

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

**14.3 Successors and Assigns.** This Declaration shall be binding upon and shall inure to the benefit of the Declarant, Association and each Owner, and the heirs, personal representatives, successors and assigns of each of them.

**14.4 Temporary Use by the Declarant.** Notwithstanding any provision herein contained to the contrary, during the period of construction and sale, it shall be expressly permissible for the Declarant to maintain upon The Project, without charge, such facilities as may be reasonably required, convenient or incidental for construction or sales purposes, including, but not limited to, a business office, storage area, nursery, construction yard and structures, signs, model condominium apartments and sales offices.

No maintenance of such facilities or use or activity by Declarant shall unreasonably interfere with the access, enjoyment or use of any Unit by any Owner nor the access, enjoyment or use of the Common Elements; nor shall any activity be conducted which might be unsafe, unhealthy, or hazardous to any person.

This right of use 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 to The Project, provided however, the Declarant may maintain within the Project, without charge, model condominium apartments and a sales office until the last Unit has been sold; 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 this right of use as provided for above, any amendment to this Paragraph 14.4 must have the prior written assent of the Declarant.

**14.5 Severability.** Any portion of this Declaration invalidated in any manner whatsoever shall not be deemed to affect in any manner the validity, enforceability or effect of the remainder of this Declaration, and in such event, all of the other provisions of this Declaration shall continue in full force and effect as if such invalid provision has never been included herein.

**14.6 No Waiver.** No provision contained in this Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

14.7 Registration by Owner of Mailing Address. Each Owner shall register his mailing address with the Association, and except for monthly statements and other routine notices, which shall be personally delivered or sent by regular mail, all other notices or demands intended to be served upon an Owner shall be delivered personally or sent by either registered or certified mail, postage prepaid, addressed in the name of the Owner at such registered mailing address. All notices, demands or other notices intended to be served upon the Board of Directors of the Association or the Association shall be sent by certified mail, postage prepaid to Thomas R. Hoyt, 4730 Table Mesa Drive, Boulder, Colorado 80303, Registered Agent for the Association until the Registered Agent is changed by a notice duly filed by the Association with the Office of the Secretary of State of Colorado (Change of Registered Agent).

14.8 Attorneys' Fees and Costs. If any action is brought in a court of law or put into arbitration as to the enforcement, interpretation, or construction of any of the within covenants, conditions and restrictions of this Declaration, the prevailing party in such action shall be entitled to reasonable attorneys' fees as well as all costs incurred in the prosecution or defense of such action. Attorneys' fees and costs may be paid by mutual stipulation of the parties if such action is resolved by stipulation and agreement of the parties.

14.9 Captions. The captions and headings in this Declaration are for convenience only, and shall not be considered in construing any provision of this Declaration.

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

IN WITNESS WHEREOF, the Declarant has caused this Declaration to be executed this 22 day of May, 1985.



McSTAIN ENTERPRISES, INC.  
a Colorado Corporation

Secretary

By James Ryan  
Vice President

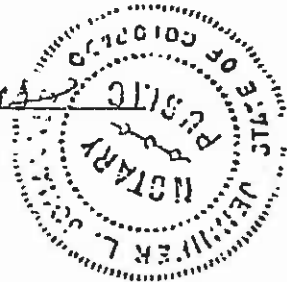
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STATE OF COLORADO     )  
                                      ) ss.  
COUNTY OF BOULDER    )

The foregoing instrument was acknowledged before me this 22nd day of May, 19 85, by Roger DeKloe as Secretary and Jeanne Dunn as Vice President of McStain Enterprises, Inc., a Colorado Corporation.

My commission expires: February 25, 1989.  
WITNESS my hand and official seal.

Annika L. Johanna  
Notary Public  
13186 Redstone  
Boulder, CO 80303



**EXHIBIT A**  
**TO THE CONDOMINIUM DECLARATION**  
**FOR THE SUNRIDGE CONDOMINIUMS**

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**LEGAL DESCRIPTION OF THE REAL PROPERTY**  
**SUBMITTED TO THE SUNRIDGE CONDOMINIUM REGIME**  
**FIRST PHASE**

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All that portion of Lot 1, Block 1, Lac Amora Filing No. 5, City of Broomfield, County of Boulder, State of Colorado described as follows: Commencing at the Northeast corner of said Lot 1, Block 1, thence North 89°35'12" West, 393.71 feet along the Northerly line of said Lot 1, Block 1 to the TRUE POINT OF BEGINNING; thence South 00°00'00" East, 169.87 feet; thence South 89°35'12" West, 39.28 feet; thence Westerly, 50.00 feet along the arc of a curve to the right, said curve having a radius of 237.62 feet, a central angle of 12°03'22" and is subtended by a chord that bears North 84°23'07" West, 49.91 feet; thence South 00°00'00" East, 73.00 feet; thence North 90°00'00" West, 147.05 feet; thence Southeasterly, 57.15 feet along the arc of a curve to the left, said curve having a radius of 127.99 feet, a central angle of 25°35'07" and is subtended by a chord that bears South 23°25'14" East, 56.68 feet; thence South 36°12'47" East, 13.47 feet; thence Easterly, Southeasterly, Southerly and Southwesterly, 221.62 feet along the arc of a curve to the right, said curve having a radius of 75.00 feet, a central angle of 169°18'18" and is subtended by a chord that bears South 32°21'13" East, 149.35 feet; thence Southerly, 100.32 feet along the arc of a curve to the right, said curve having a radius of 235.50 feet, a central angle of 24°24'27" and is subtended by a chord that bears South 05°35'00" West, 99.56 feet; thence South 17°47'13" West, 17.74 feet; thence Southerly, Southeasterly and Easterly, 38.19 feet along the arc of a curve to the left, said curve having a radius of 21.00 feet, a central angle of 104°11'31" and is subtended by a chord that bears South 34°18'32" East, 33.14 feet; thence South 03°35'42" West, 3.10 feet to a point on the Southerly line of said Lot 1, Block 1; thence Westerly, 55.98 feet along the arc of a curve to the right and along the Southerly line of said Lot 1, Block 1, said curve having a radius of 226.00 feet, a central angle of 14°11'31" and is subtended by a chord that bears North 79°18'32" West, 55.84 feet; thence North 72°12'47" West, 49.50 feet along the Southerly line of said Lot 1, Block 1; thence North 17°47'13" East, 3.10 feet; thence Easterly, Northeasterly and Northerly, 32.99 feet along the arc of a curve to the left, said curve having a radius of 21.00 feet, a central angle of 90°00'00" and is subtended by a chord that bears North 62°47'13" East, 29.70 feet; thence North 17°47'13" East, 23.90 feet; thence Northerly, 67.58 feet along the arc of a curve to the left, said curve having a radius of 178.50 feet, a central angle of 21°41'35" and is subtended by a chord that bears North 06°56'26" East, 67.18 feet; thence Northwesterly, Northerly and Northeasterly, 164.30 feet along the arc of a curve to the right, said curve having a radius of 75.00 feet, a central angle of 125°30'55" and is subtended by a chord that bears North 19°35'48" West, 133.36 feet; thence North 36°12'47" West, 13.79 feet; thence Northerly, 90.95 feet along the arc of a curve to the right, said curve having a radius of 153.82 feet, a central angle of 33°52'35" and is subtended by a chord that bears North 19°16'30" West, 89.63 feet; thence North 02°20'12" West, 223.09 feet to a point on the Northerly line of said Lot 1, Block 1; thence South 89°35'12" East, 273.00 feet along the Northerly line of said Lot 1, Block 1 to the TRUE POINT OF BEGINNING.

60.54

**EXHIBIT B  
TO THE CONDOMINIUM DECLARATION  
FOR THE SUNRIDGE CONDOMINIUMS**

**THE SUNRIDGE CONDOMINIUMS  
SCHEDULE OF PERCENTAGE INTERESTS IN THE COMMON ELEMENTS  
(FIRST PHASE)**

Subject to the provisions of ARTICLE TWELVE of the Declaration, each Unit in the Project is hereby vested with an undivided Percentage Interest in and to the Common Elements as set forth below:

UNIT NUMBER	FINISHED SQ. FT. PER APARTMENT	PERCENTAGE INTEREST PER UNIT
CA-27	1179	7.7134
CA-28	1152	7.5368
CA-29	1213	7.9359
CA-30	792	5.1816
CA-31	792	5.1816
CA-32	1176	7.6937
CA-33	960	6.2807
CA-34	1152	7.5368
CA-35	1213	7.9359
CA-36	1179	7.7134
CA-37	960	6.2807
CA-38	1152	7.5368
CA-39	1213	7.9359
CA-40	1152	7.5368
<b>TOTAL</b>	<b>15,285</b>	<b>100.00%</b>

The Percentage Interest in the Common Elements of each Unit 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 of the Apartments in the Project (including Apartments created on the additional real property submitted to the Project). The square footage for each Apartment is based upon dimensions which are approximate and the calculation of the Percentage Interest has been rounded. The Percentage Interest in the Common Elements shown for each Unit is subject to change in accordance with ARTICLE TWELVE of the Declaration.

In the event the Declarant exercises its right to enlarge this Project in Phases by submitted to the Project additional real property in accordance with ARTICLE TWELVE of the Declaration, each Percentage Interest in the Common Elements set forth above will decrease. The Percentage Interest of each Unit will then be 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 completed Apartments within The Project (including Apartments created on the additional real property submitted to the Project).