

After recording, please return to:

Michael Meacher, Esq.
Otten Johnson Robinson Neff + Ragonetti, P.C.
950 17th Street, Suite 1600
Denver, Colorado 80202

**DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
ELEVATE AT WILDHORSE MEADOWS**

Table of Contents

	Page
ARTICLE I DECLARATION	1
1.1 Declaration	1
1.2 Covenants Running With the Land	1
ARTICLE II DEFINITIONS	2
ARTICLE III CREATION OF THE COMMUNITY	7
3.1 Creation	7
3.2 Division of Property	7
3.3 Number of Units	7
3.4 Allocations	7
ARTICLE IV USE RESTRICTIONS	7
4.1 Residential Community	7
4.2 Leasing of Units	8
4.3 No Subdivision of Unit	9
4.4 Water and Mineral Operations	9
4.5 Unsightly or Unkempt Conditions	9
4.6 Quiet Enjoyment; Noise and Sound Generation	9
4.7 Prohibited Conditions	9
4.8 Animals and Pets	10
4.9 Parking and Vehicle Restrictions	11
4.10 Fences	11
4.11 Irrigation	11
4.12 Grading, Drainage and Septic Systems	12
4.13 Shacks, Mobile Homes and Other Temporary Structures	12
4.14 Firearms	12
4.15 Roads	12
4.16 Laws and Ordinances	12
4.17 Permittees Bound	12
ARTICLE V DEVELOPMENT OF THE PROPERTY	12
5.1 Development Rights	12
5.2 Exercise of Development Rights	14

Table of Contents
(continued)

		Page
5.3	Governmental Interests	14
5.4	Common Elements; Mechanics' Liens	14
5.5	Plat Amendments	15
5.6	Succession to Declarant's Interests.....	16
ARTICLE VI EASEMENTS.....		16
6.1	Easement for Use, Access and Enjoyment in and to General Common Elements.....	16
6.2	Certain Easements for the Association	17
6.3	Easements for Encroachments	17
6.4	Easements Benefiting Declarant	17
6.5	Easements for Declarant Utilities	18
6.6	Easements for Utilities as Initially Constructed.....	18
6.7	Right of Entry	18
6.8	Easements for Water Use and Development and Flood Control	19
6.9	Additional Easements	19
6.10	Easements Run with Land	19
ARTICLE VII PARTY WALLS		20
7.1	Declaration of Party Walls.....	20
7.2	Restrictions on Use	20
7.3	Intentional or Negligent Damage or Destruction.....	20
7.4	Other Damage or Destruction; Ordinary Maintenance	20
7.5	Right of Contribution.....	21
ARTICLE VIII SPECIAL DECLARANT RIGHTS		22
8.1	Special Declarant Rights.....	22
8.2	Transfer of Special Declarant Rights.....	22
8.3	Models and Offices	23
ARTICLE IX THE ASSOCIATION		23
9.1	Formation; Membership.....	23
9.2	Board of Directors.....	23
9.3	Association Powers.....	23

Table of Contents
(continued)

	Page
9.4 Bylaws.....	25
9.5 Enforcement.....	25
ARTICLE X FINANCIAL MATTERS AND ASSESSMENTS	26
10.1 Financial Matters	26
10.2 Creation of Assessments	27
10.3 Common Assessments	27
10.4 Limited Assessments	28
10.5 Special Assessments	28
10.6 Specific Assessments	29
10.7 Owners' Obligations for Assessments	29
10.8 Declarant's Obligation for Assessments.....	30
10.9 Lien for Assessments	30
10.10 Commencement of Assessments.....	31
10.11 Discount for Certain Assessments	31
10.12 Failure to Assess	32
10.13 Exempt Property	32
ARTICLE XI MAINTENANCE	32
11.1 Association's Responsibilities	32
11.2 Owners' Maintenance Responsibility	35
ARTICLE XII MODIFICATIONS TO IMPROVEMENTS.....	35
12.1 General.....	35
12.2 Procedures.....	36
12.3 No Waiver of Future Approvals	36
12.4 Limitation of Liability.....	36
12.5 Enforcement.....	37
ARTICLE XIII INSURANCE, DAMAGE AND TAKINGS	37
13.1 Association's Insurance	37
13.2 Owners' Insurance	39
13.3 Certificates of Insurance; Notices of Unavailability.....	40
13.4 Failure to Comply; Forced Policies; Liability of Association	40

Table of Contents
(continued)

	Page
13.5 Waiver of Claims	41
13.6 Proceeds	41
13.7 No Abatement	41
13.8 Damage and Destruction.....	42
13.9 Takings.....	44
ARTICLE XIV MORTGAGEE PROVISIONS	45
14.1 No Priority	45
14.2 Notice to Mortgagees.....	45
ARTICLE XV CONVEYANCING AND ENCUMBRANCING.....	45
15.1 Units.....	45
15.2 Transferee Liability.....	46
15.3 Common Elements.....	46
ARTICLE XVI ALTERNATIVE DISPUTE RESOLUTION	46
16.1 Intent, Applicability, and Applicability of Statutes of Limitation.....	46
16.2 Definitions.....	46
16.3 Exclusions from Claim	48
16.4 Approval Required for Association Action	48
16.5 Notice for Association Actions.....	49
16.6 Claims by Multiple Owners	49
16.7 Right to Inspect.....	50
16.8 Mandatory Procedures for Claims	50
16.9 Liability for Failure of Association to Maintain an Action	51
16.10 Severability	51
16.11 Inconsistencies Between Article XV and Other Provisions	51
ARTICLE XVII GENERAL PROVISIONS	51
17.1 Amendment.....	51
17.2 Duration and Termination.....	52
17.3 Indemnity	53
17.4 Use of the Name “Elevate at Wildhorse Meadows”.....	53
17.5 Owner Enforcement.....	53

Table of Contents
(continued)

	Page
17.6 Severability	54
17.7 Governing Law	54
17.8 Interpretation.....	54
17.9 Notices	54
17.10 Colorado Common Interest Ownership Act	54
17.11 FHA/VA Approval.....	55
17.12 Declarant Liability	55
17.13 No Merger	55

LIST OF EXHIBITS:

- Exhibit A-1 – Initial Property
- Exhibit A-2 – Recorded Matters Affecting Initial Property
- Exhibit B – Additional Property
- Exhibit C – Initial Common Allocations
- Exhibit D – Common Elements

**DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
ELEVATE AT WILDHORSE MEADOWS**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR ELEVATE AT WILDHORSE MEADOWS (this "Declaration") is made as of the ____ day of _____, 202____, by Rowhomes 2510 LLC, a Colorado limited liability company ("Declarant").

Recitals

A. Declarant owns the real property located in the City of Steamboat Springs, Routt County, Colorado, that is described on Exhibit A attached hereto (the "Initial Property").

B. Declarant desires to create a planned community on the Property (as defined in Article II below) pursuant to the Colorado Common Interest Ownership Act, codified at C.R.S. § 38-33.3-101 *et seq.* (as amended from time to time, the "Act").

C. Declarant deems it necessary and desirable to subject the Property to the covenants, conditions, restrictions, reservations, easements, assessments, charges, liens and other provisions set forth in this Declaration.

Declaration

In consideration of the foregoing, Declarant hereby declares as follows:

**ARTICLE I
DECLARATION**

1.1 Declaration. Declarant hereby creates a planned community named "Elevate at Wildhorse Meadows" on the Property and declares that the Property shall be held, sold and conveyed subject to the covenants, conditions, restrictions, reservations, easements, assessments, charges, liens and other provisions of this Declaration.

1.2 Covenants Running With the Land. All covenants, conditions, restrictions, reservations, easements, charges, liens and other provisions of this Declaration are covenants running with the land, or equitable servitudes, as the case may be. The obligations, burdens and benefits created by this Declaration shall bind and inure to the benefit of Declarant, the Association, and the Owners (as such terms are defined in Article II below) and their respective successors, assigns, heirs, devisees, executors, administrators and personal representatives.

ARTICLE II DEFINITIONS

As used in this Declaration, the following terms will have the meanings given to them in this Article II, unless the context expressly requires otherwise:

“Act” is defined in the Recitals above.

“Additional Property” means the real property described on Exhibit B attached hereto and such other real property as may be subject to annexation to this Declaration pursuant to the Act.

“Articles” means the Articles of Incorporation of the Association, as filed with the Colorado Secretary of State, as amended from time to time.

“Assessment” means an assessment that is levied by the Association on one or more Units pursuant to the terms of this Declaration. The term “Assessment” may refer to a Common Assessment, a Limited Assessment, a Special Assessment or a Specific Assessment.

“Association” means Elevate at Wildhorse Meadows Owners Association, Inc., a Colorado nonprofit corporation, and its successors and assigns as the association of Owners for the Community.

“Betterments” means any “improvements” or “betterments,” as those terms are commonly used in the insurance industry, to a Residence relating to upgraded or improved elements, fixtures or finishes of the Residences beyond those initially installed by the builder of the Residence, or reasonably comparable substitutes or replacements.

“Board” means the Board of Directors of the Association.

“Bylaws” means the Bylaws of the Association, as amended from time to time.

“City” means the City of Steamboat Springs, Colorado.

“Common Allocation” means, with respect to each Unit, a fraction, the numerator of which is one (1) and the denominator of which is the total number of Units in the Community. The initial Common Allocations for the initial Units are set forth on Exhibit C attached hereto.

“Common Assessment” means an Assessment to fund the Common Expenses and levied on each Unit that is subject to assessment under Article X, as more particularly described in Section 10.3.

“Common Elements” means all real property, easements, possessory interests in property and Improvements within the Community owned or to be owned and maintained by the Association pursuant to this Declaration for the benefit, use or enjoyment of the Owners, which shall be designated either General Common Elements or Limited Common Elements, as appropriate. Subject to Sections 5.1 and 5.2, the Common Elements are described on Exhibit D attached hereto. Common Elements described on Exhibit D as Improvements located or to be located on or within public rights-of-way shall, for the purposes of this Declaration, be deemed to

be owned by the Association, even if such Improvements are, by operation or requirement of law, actually owned by the City, the County, or another public entity.

“Common Expenses” means, except for those costs and expenses expressly excluded below, all costs, expenses and financial liabilities incurred by the Association pursuant to this Declaration or the Bylaws, including (a) all costs of operating, managing, insuring, maintaining, replacing or restoring the General Common Elements, the Association’s personal property or any other property as provided for in this Declaration, (b) taxes on the General Common Elements to the extent payable by the Association, (c) reasonable reserve funds, and (d) general administrative costs incurred by the Association. The term “Common Expenses” expressly excludes all Limited Common Elements Expenses and all costs or expenses to be funded by or payable through the levying of Specific Assessments.

“Community” means “Elevate at Wildhorse Meadows,” the planned community created by this Declaration pursuant to the Act.

“County” means Routt County, Colorado.

“Declarant” is defined in the introductory paragraph to this Declaration. In addition to Rowhomes 2510 LLC and its successors and assigns, the term “Declarant” also means any successor in interest or assignee who takes title to any portion of the Initial Property or the Additional Property for the purpose of development or sale and who is designated as Declarant in a Recorded instrument executed (a) by the immediately preceding Declarant or (b) in accordance with Section 304 of the Act.

“Declarant Control Period” means the period beginning on the date of the Recording of this Declaration and ending on the earlier of:

(a) sixty (60) days after conveyance, to Owners other than Declarant, of seventy-five percent (75%) of the maximum number of Units that may be created pursuant to Section 3.3;

(b) two (2) years after the last conveyance of a Unit by Declarant in the ordinary course of business;

(c) two (2) years after any right to add new Units is last exercised by Declarant;
or

(d) the date on which Declarant, in its sole discretion, voluntarily terminates the Declarant Control Period pursuant to a Recorded statement of termination; provided, however, that, in such event, Declarant may require that for the balance of what would have been the Declarant Control Period (had Declarant not terminated the same) certain actions of the Association or the Board, as described in a Recorded instrument executed by Declarant, be approved by Declarant before such actions become effective. During the Declarant Control Period, Declarant shall have the right to appoint and remove the Directors and the officers of the Association to the extent permitted by the Act.

“Declaration” is defined in the introductory paragraph to this Declaration.

“Developer” means any Owner who purchases one or more Units for the purpose of constructing Improvements for (a) subsequent sale to residential consumers, (b) further subdivision pursuant to Section 5.1(f) and Section 5.2 of this Declaration into two (2) or more Units, or (c) development, leasing or resale in the ordinary course of such Owner’s business.

“Development Period” means the period of time commencing on the date that this Declaration is Recorded and terminating on the thirtieth (30th) anniversary of such date, unless such period is reinstated or extended by a Recorded agreement between Declarant and the Association.

“Development Rights” means the rights reserved by Declarant pursuant to Section 5.1.

“Director” means a duly elected or appointed member of the Board.

“Eligible Holder” a Mortgagee who provides a written request for notices to the Association, stating the name and address of such Mortgagee and the street address, or, if not available, other sufficient identification, of the Unit to which its Mortgage relates. Additionally, each of the Fair Housing Administration and the Department of Veterans Affairs will be considered Eligible Holders regarding any Units for which they are insuring or guarantying Mortgages, notwithstanding that they are not a “Mortgagee,” if they otherwise satisfy the foregoing criteria.

“First Mortgage” means a Mortgage that is Recorded and has priority of Record over all other Recorded liens except those liens made superior by statute (e.g., general ad valorem tax liens and special assessments, mechanics’ liens and, to the extent set forth in the Act, the Association’s liens for Assessments).

“First Mortgagee” means a beneficiary or holder of a First Mortgage.

“General Common Elements” means those Common Elements that are for the benefit, use or enjoyment of all of the Owners, subject to the terms and conditions of this Declaration. Subject to Sections 5.1 and 5.2, the General Common Elements are described on Exhibit D attached hereto. Additional General Common Elements may be created by Declarant pursuant to Article V.

“Improvements” means all structures, improvements and appurtenances on or to real property of every type and kind, including buildings, outbuildings, fixtures, patios, garages, mailboxes, aerials, antennas, roads, driveways, parking areas, fences, trash bins and enclosures, screening walls, retaining walls, stairs, decks, hot tubs, landscaping, grading, drainage facilities, irrigation systems, plantings, planted trees and shrubs, poles, signs, pumps, tanks, solar collectors, reservoirs, pipes, lines, meters, towers and other facilities used in connection with water, sewer, gas, electricity, solar energy, telephone or other Utilities, as well as those construction activities necessary to build such items.

“Insured Permittee” means any Permittee who is required to maintain, who in fact does maintain, or who is listed as an additional insured under, a policy of property insurance covering a Unit, any portion thereof or any personal property located therein.

“Limited Assessment” means an Assessment levied in accordance with Section 10.4 to fund the Limited Common Elements Expenses.

“Limited Common Elements” means those Common Elements that are for the benefit, use or enjoyment of less than all of the Owners, subject to the terms and conditions of this Declaration. Subject to Sections 5.1 and 5.2, the Limited Common Elements and the specific Units to which they are allocated are described on Exhibit D. Additional Limited Common Elements may be created by Declarant pursuant to Article V.

“Limited Common Elements Expenses” means any and all costs, expenses and financial liabilities incurred by the Association in operating, maintaining, managing, repairing, restoring, replacing and paying taxes on, the Limited Common Elements.

“Member” means a Person who is a member of the Association pursuant to Section 9.1.

“Mortgage” means an unpaid or outstanding mortgage, deed of trust, deed to secure debt or any other form of security instrument encumbering the Property or a portion thereof.

“Mortgagee” means a beneficiary or holder of a Mortgage.

“Owner” means a Person or Persons, including Declarant and any Developer, owning fee simple title of Record to any Unit from time to time, but only during such Person’s or Persons’ ownership of said Unit. The term “Owner” includes (a) a seller under an executory contract for sale (but excludes a buyer thereunder), and (b) a landlord under a lease affecting a Unit (but excludes a tenant thereunder).

“Party Wall” means the common wall, together with the underlying footings, foundation and the overlying portion of the roof, which connects or is shared by two adjacent Residences and which has been or is constructed substantially along and over a portion of the boundary separating the Units on which the Residences are situated. The Party Wall shall not include sheet rock, interior paint, wall paper, molding, woodwork and other trim and finishes, or other non-structural, interior elements attached to, or incorporated in, the party wall.

“Permittee” means a Person, other than an Owner, who is a tenant or occupant of a Unit or a Person who is an agent, employee, customer, contractor, licensee, guest or invitee of an Owner or the Association, or of such tenant or occupant.

“Person” means a natural person or any corporation, partnership, limited liability company, trustee or other legal entity.

“Plat” means the plat of [ELEVATE AT WILDHORSE MEADOWS, FILING NO. 1], Recorded on [_____, 202__], at Reception No. [_____] as the same may be amended or supplemented from time to time pursuant to this Declaration or the Act. Without limiting any other provision of this Declaration, the Plat may be supplemented or amended by a subdivision or resubdivision plat that (i) is filed pursuant to the City’s subdivision regulations, (ii) references the Plat as originally recorded, and (iii) otherwise satisfies the requirements of the Act. The Plat may include certain real property that is not a part of the Property or the Additional

Property. The term “Plat” will include any subdivision or resubdivision plat of all or any portion of the Additional Property as the same may be annexed into the Community from time to time.

“Property” means the Initial Property (as legally described on Exhibit A), the appurtenances thereto, and all Improvements now in place or hereafter constructed thereon; together with any portion of the Additional Property annexed as part of the Property from time to time in accordance with Article V, the appurtenances thereto, and all Improvements then in place or thereafter constructed thereon. All easements and licenses and other matters of Record affecting the Property known by Declarant are listed on Exhibit A-2.

“Records” means the County’s official real property records. The phrases “to Record” and “Recording” mean, respectively, to file or filing for recording in the Records, and the phrases “of Record” and “Recorded” mean having been recorded in the Records.

“Residence” means the primary residential structure, and any fixtures attached and Improvements appurtenant thereto, located on each Unit, comprised of one or more connected rooms constituting a separate, independent housekeeping unit for permanent residential occupancy by a familial group and containing at least one kitchen facility. For the purposes of Article XIII, a Residence includes structural and non-structural components, exterior and interior walls, floors, ceilings, roofs, carpet, tile, vinyl, wood and other floor coverings, paint, tile, brick, wallpaper and other wall coverings, light fixtures, built-in dishwashers, trash compactors, ovens, ranges, hoods and other appliances, bathroom and kitchen sinks, toilets, bathtubs, shower enclosures and doors, electrical, plumbing, heating, ventilation, air-conditioning and mechanical systems, fixtures and equipment, base and case moldings, fireplaces, windows, doors and mirrors.

“Rules” means the policies, procedures, rules and regulations governing the use of the Property that are adopted from time to time by the Association or the Board. The Rules will be binding upon all Owners and their Permittees. To the extent not otherwise covered in this Declaration or the Bylaws, the Rules shall include policies as specified in Section 209.5 of the Act.

“Single Residence Damage” means casualty or other internal damage to a single Residence which damage does not affect such Residence’s Party Wall, does not affect the structure or exterior of such Residence, does not render such Residence uninhabitable, and the repair or restoration costs are not reasonably expected to exceed \$75,000, increased by 4% annually, compounding, on January 1 of each year following the year in which this Declaration is Recorded, or such other reasonable threshold amount as may be established from time to time by the Board.

“Special Assessment” means an Assessment levied in accordance with Section 10.5.

“Special Declarant Rights” means the rights of Declarant set forth in Article VIII.

“Specific Assessment” an Assessment levied in accordance with Section 10.6.

“Supplemental Declaration” means an amendment to this Declaration Recorded pursuant to this Declaration.

“Taking” means a taking by eminent domain or conveyance in lieu thereof.

“Unit” means a physical portion of the Property, whether improved or unimproved, that is designated for separate ownership pursuant to this Declaration and on which one (1) Residence has been or may be constructed pursuant to this Declaration and the Plat or other applicable zoning. Subject to Section 5.1(b), Section 5.1(f) and Section 5.2, the Units are or will be legally described and identified on the Plat and are listed on Exhibit C.

“Utilities” means any and all utilities, including water, sewer, telephone, gas, electricity, cable television, irrigation systems, fire sprinkler systems, and storm and surface water drainage.

“Utility Equipment” means any and all equipment, machinery and other improvements for the supply, provision, operation, metering and maintenance of Utilities, including pipes, wires, valves, chases, conduit, meters, controls, standpipes, timers, poles, panels, manholes, transformers, risers, junction boxes and antennae.

ARTICLE III CREATION OF THE COMMUNITY

3.1 Creation. Upon the Recording of this Declaration and the Plat, the Property will be a “planned community” pursuant to the Act, the name of which will be “Elevate at Wildhorse Meadows.”

3.2 Division of Property. Pursuant to the Act and subject to Section 5.1(b), Section 5.1(f) and Section 5.2, the Property is divided into the Units identified and legally described on the Plat. The Units are designated for separate ownership.

3.3 Number of Units. The Community will initially have six (6) Units. The maximum number of Units that may be created within the Community is thirty-six (36).

3.4 Allocations.

(a) Allocation of Votes. In all matters submitted to a vote of the Members, each Unit is allocated one (1) vote. Notwithstanding the foregoing, no vote may be exercised for any Unit owned by the Association and no vote may be exercised for any property that is exempt from Assessment under Section 10.13.

(b) Allocation of Common Expenses. Subject to Section 10.11, each Unit is allocated, and the Owner of such Unit is liable for, a fraction of the Common Expenses equal to such Unit’s Common Allocation. All other costs and expenses of the Association will be allocated among the Units as provided for elsewhere in this Declaration.

ARTICLE IV USE RESTRICTIONS

4.1 Residential Community.

(a) Residential Use. Except as expressly permitted otherwise in this Section 4.1, the Property shall be used solely for residential purposes consistent with this Declaration.

(b) Limited Business Activities. No business or trade may be conducted in or from any Unit, except that an Owner, tenant or occupant of a Unit may conduct business activities from the applicable Residence provided such business activities:

(i) are not apparent or detectable through sound, smell, or signage from outside the Residence;

(ii) conform to all applicable zoning and other legal requirements;

(iii) do not involve unreasonably frequent visitation of the Unit by clients, customers, suppliers or other business invitees;

(iv) do not involve the solicitation of, or otherwise constitute a nuisance to, other Owners or Permittees;

(v) do not constitute an unreasonably offensive use or a use that threatens the security or safety of other Owners or Permittees; and

(vi) are otherwise consistent with the residential character of the Community, all as determined in the reasonable discretion of the Board.

(c) Business or Trade. As used in this Section 4.1, the terms “business” and “trade” are to be construed to have their ordinary, generally accepted meanings and include any occupation, work or activity undertaken on an ongoing basis that involves the provision of goods or services to Persons other than the provider’s family and for which the provider receives a fee, compensation or other form of consideration, regardless of whether such occupation, work or activity (i) is undertaken on a full-time or part-time basis, (ii) is undertaken for profit, or (iii) requires a license.

(d) Exceptions.

(i) Notwithstanding anything to the contrary contained in this Declaration, the leasing of a Unit and the management of such Unit as rental property will not be considered a business or trade within the meaning of this Section 4.1.

(ii) This Section 4.1 will not apply to any activity conducted by Declarant with respect to the development, marketing or sale of any portion of the Property, or to any activity conducted by Declarant or the Association that relates to the performance of their respective rights or obligations under this Declaration or otherwise benefits the Owners.

4.2 Leasing of Units. For purposes of this Declaration, “leasing” means regular, exclusive occupancy of a Unit by any Person or Persons other than the Owner, for which the Owner receives any consideration or benefit, including rental payments, other fees or charges, services, or gratuities. All such leases must be in writing and specifically state that such lease is subject to this Declaration, the Rules and the Bylaws and any failure of a tenant to comply therewith will be a default under the lease. The Owner shall be liable for any violation of this Declaration, the Rules or the Bylaws that is committed by such Owner’s tenant or its invitees (without prejudice to such

Owner's right to collect any sums paid for by the tenant). The Owner must make available to each tenant copies of this Declaration, the Rules and the Bylaws.

4.3 No Subdivision of Unit. No Unit shall be subdivided or its boundary lines changed except pursuant to the exercise of applicable Development Rights by Declarant.

4.4 Water and Mineral Operations. No oil or water drilling, oil or water development operations, oil refining, quarrying or mining operations of any kind shall be permitted, except by Declarant or by a Person acting under written authorization of Declarant.

4.5 Unsightly or Unkempt Conditions. Owners shall keep all portions of their Unit outside of enclosed structures in a clean and tidy condition at all times. Nothing shall be done, maintained, stored or kept outside of enclosed structures on a Unit which, in the determination of the Board, causes an unclean, unhealthy or untidy condition to exist, or is obnoxious to the senses. Any structures, equipment or other items which may be permitted to be erected or placed on the exterior portions of Units shall be kept in a neat, clean and attractive condition and shall promptly be removed upon request of the Board if, in the judgment of the Board, they have become rusty, dilapidated or have otherwise fallen into disrepair. The pursuit of hobbies or other activities, including the assembly and disassembly of motor vehicles and other mechanical devices, which might tend to cause disorderly, unsightly or unkempt conditions is prohibited, unless either conducted entirely within an enclosed garage or, if conducted outside, begun and completed within twelve (12) hours, and not done on a regular or frequent basis. No Owner or Permittee shall dump grass clippings, leaves or other debris, petroleum products, fertilizers or other potentially hazardous or toxic substances in any drainage ditch, stream or pond or elsewhere on the Property.

4.6 Quiet Enjoyment; Noise and Sound Generation. Nothing shall be done or maintained on any part of a Unit that emits foul or noxious odors outside the Unit or creates noise or other conditions that tend to disturb the peace, quiet, safety, comfort or serenity of the Owners of other Units or their Permittees. Illegal activities, and any other activities that, in the reasonable determination of the Board, tend to cause embarrassment, discomfort, annoyance, or nuisance to Persons using the Common Elements or to the Owners of other Units or their Permittees, shall be prohibited on the Property. Without limiting the generality of the foregoing restrictions and prohibitions, the following specific restrictions and prohibitions shall apply: (a) no speakers, subwoofers, computers or other sound generation equipment or electronics shall be installed in any Party Wall; and (b) all home theatre systems, televisions, stereo systems, speakers, subwoofers, amplifiers, musical instruments and other sound generation equipment and electronics, whether installed, utilized or operated inside or outside a Residence, shall be installed, utilized and operated in such a manner as to prevent them from being heard or felt within the interior of any other Residence the doors and windows of which are closed.

4.7 Prohibited Conditions. Except as provided in Sections 106.5 and 106.7 of the Act, the following conditions, structures and activities are prohibited on the Property, unless prior approval, in writing, is obtained from the Board (which approval may be granted in blanket form by the Rules) and the same otherwise comply with all terms and conditions of this Declaration:

(a) Exterior Appearance. No Owner may make any alteration to the exterior of the Improvements to such Owner's Unit that would change the exterior appearance thereof,

including any full or partial enclosure or covering of any patio area or the construction of any new Improvements.

- (b) Landscaping. No Owner shall plant, remove or alter any landscaping.
- (c) Antennas. No exterior antennas, including satellite dishes, shall be permitted.
- (d) Tree Removal. No trees or shrubs shall be removed.
- (e) Air-Conditioning Units. No window air-conditioning units or evaporative coolers shall be installed on any Unit.
- (f) Lighting. Exterior lighting on the Residence shall not be permitted except for reasonable decorative lights that do not create any nuisance to other Owners or Permittees.
- (g) Artificial Vegetation, Exterior Sculpture and Similar Items. No artificial vegetation, exterior sculptures, or similar items shall be permitted outside of any structure on a Unit, including fountains or clotheslines.
- (h) Signs and Flags. No signs or flags of any kind shall be erected or otherwise displayed on the Property, except (i) entry and directional signs installed by Declarant, (ii) signs erected by or for Declarant pursuant to Section 8.3, (iii) one (1) two-sided sign, not to exceed two (2) feet by three (3) feet, which may be used in connection with the sale of the Unit, and (iv) signs or flags permitted pursuant to Section 106.5 of the Act; provided, however, that with respect to any such signs or flags, or any other signs or flags approved in writing by the Board, the Board reserves the right to restrict the size of the display, manner of display, location of display, number of signs or displays and other matters pertinent to such display.
- (i) Doors and Windows. No “burglar bars,” steel or wrought iron bars or similar fixtures, whether designed for decorative, security or other purposes, shall be installed on the exterior of any windows or doors of any Improvements.
- (j) Exterior Storage. No Owner shall store any materials or items on the deck or patio appurtenant to such Owner’s Residence to the extent any such stored materials are visible from outside such structures.
- (k) Fences. No fences shall be erected on any portion of any of the Units.

4.8 Animals and Pets. No animals, livestock, bees or poultry of any kind shall be raised, bred, boarded or kept on any portion of the Property, except that a reasonable number of dogs, cats and other usual and common household pets may be kept on a Unit, provided such pets are *bona fide* household pets (and are not kept, bred or maintained for any commercial purpose). Any pet that is permitted to roam free, or that, in the sole discretion of the Board, makes objectionable noise or endangers the health of or constitutes a nuisance or inconvenience to the Owners of other Units or their Permittees, shall be removed upon request of the Board. If the Owner responsible for such pet fails to honor such request, the pet may be removed by the Board. All pets shall be kept under the control of their Owner at all times, whether on or off such Owner’s

Unit. Any dog that is outside the Unit on which it resides shall be confined on a leash held by a responsible Person. Any Owner or Permittee who walks his or her pets on portions of the Property other than the Unit occupied by such Person shall immediately remove any excrement deposited by such pets on such other portions of the Property.

4.9 Parking and Vehicle Restrictions.

(a) Parking. Except as provided in Section 106.5 of the Act, vehicles shall be parked only in (i) an enclosed garage attached to a Residence, or (ii) other appropriate spaces or areas, if any, specifically designated by the Board. Service, construction and delivery vehicles may be parked in driveways for such periods of time as are reasonably necessary to provide services or to make deliveries to a Unit; provided, however, that they do not unreasonably interfere with the use thereof by other parties having the right to use such areas for access to a Unit or any portion of the Property or the Additional Property. For clarification, no vehicles shall be parked in the driveways of any Residence, except as set forth in the preceding sentence or as otherwise approved by the Board. Declarant or the Board may designate certain parking spaces within the General Common Elements for visitors or guests and may adopt reasonable Rules governing the use of such parking spaces.

(b) Vehicle Restrictions. Except as otherwise set forth in the Rules and except as otherwise permitted pursuant to Section 106.5 of the Act, commercial vehicles, tractors, mobile homes, recreational vehicles, all-terrain vehicles, snow mobiles, trailers, campers, camper trailers, boats and other watercraft, and boat trailers shall be parked only in an enclosed garage attached to a Residence or specific areas, if any, designated by the Board. Stored vehicles and vehicles that are inoperable or do not have current operating licenses shall be parked only in an enclosed garage attached to a Residence. For purposes of this Section 4.9, a vehicle will be considered “stored” if it is covered with a tarpaulin or similar covering or if it is up on blocks and such vehicle remains so covered or on blocks for seven (7) consecutive days without the prior approval of the Board.

(c) Towing of Vehicles. Any vehicle parked in violation of this Section 4.9, or in violation of any Rules promulgated by the Board regarding parking or vehicles, may be towed at the direction of the Association and at the expense of the Owner of the affected Unit.

4.10 Fences. Declarant may construct entryways, fences, fence pillars or walls on the Common Elements or those portions of the Property owned by Declarant. No other Owner shall construct, modify, replace, paint or obstruct any fence, fence pillars or walls except with prior written approval of the Board. For purposes of this Section 4.10, hedges will be considered to be the same as fences and subject to the same restrictions and the term “wall” mean walls that are free-standing and intended to enclose areas outside of a structure.

4.11 Irrigation. Except as otherwise approved by the Board, all sprinkler and irrigation systems serving the Units shall draw upon public water supplies and no Owner shall install any private irrigation well or sprinkler or irrigation system of any type that draws upon water from creeks, streams, rivers, ponds, wetlands, canals, ditches or other ground or surface waters on the Property. All landscape irrigation by an Owner of any additional Board-approved landscaping shall be limited in amount and frequency to that which is reasonably necessary and appropriate,

and shall not be allowed to result in flooding or saturation of, or other adverse effects to, any other property.

4.12 Grading, Drainage and Septic Systems. No Person shall alter the grading of any Unit without the prior approval of the Board. Catch basins and drainage areas are for the purpose of natural flow of water only and no obstructions or debris shall be placed in these areas. No Person, other than Declarant, may obstruct or rechannel the drainage flows after location and installation of drainage swales, storm sewers or storm drains, or materially alter the rate, volume or location of runoff from a Unit onto adjacent property. Septic tanks and drain fields, other than those installed by or with the consent of Declarant, are prohibited on the Property.

4.13 Shacks, Mobile Homes and Other Temporary Structures. No shack, mobile home, or, except as approved by the Board, other structure of a temporary nature shall be placed upon a Unit or any part of the Property, except that Declarant may construct or install construction trailers, sales trailers and similar temporary structures in connection with its development and sale of the Property.

4.14 Firearms. The discharge of firearms on the Property is prohibited. The term “firearms” includes so-called “B-B” guns, pellet guns and other firearms of all types, regardless of size.

4.15 Roads. No motor vehicles may be driven or operated upon any portion of the Property except for public or private roads, in garages or on driveways; provided that Declarant and the Association shall be permitted to operate motor vehicles on the Property, and off the roads, in connection with their respective activities under this Declaration.

4.16 Laws and Ordinances. Every Owner and Permittee shall comply with all laws, statutes, ordinances and rules of federal, state and municipal governments applicable to the Property or the Community. Any violation of any such laws, statutes, ordinances or rules may be considered a violation of this Declaration; provided, however the Board shall have no obligation to take action to enforce the same.

4.17 Permittees Bound. All provisions of this Declaration, the Bylaws and the Rules shall also apply to all Permittees. Each Owner shall cause all of its Permittees to comply with this Declaration, the Bylaws and the Rules, and each such Owner will be held responsible under this Declaration for the breach of this Declaration, the Bylaws and the Rules by such Owner’s Permittees.

ARTICLE V DEVELOPMENT OF THE PROPERTY

5.1 Development Rights. Declarant hereby reserves the following Development Rights for the duration of the Development Period:

(a) Withdrawal of Property. To the extent permitted by the Act, Declarant reserves the right to amend this Declaration to withdraw all or any portion of the Property from the coverage of this Declaration whether such Property was originally described on Exhibit A-1 or added by a Supplemental Declaration. For this purpose each portion of or tract within the Property

having its own discrete legal description at the time of its inclusion within the Property, whether as a separate subdivision unit or lot or by its own metes and bounds description, shall constitute a severable portion of the Property that may be withdrawn independently of all other portions of the Property, and upon withdrawal shall automatically become part of the Additional Property. Upon such a withdrawal, the Common Allocation for each remaining Unit shall be subject to recalculation pursuant to the definition of Common Allocation set forth in Article II, and the amendment to this Declaration effecting the withdrawal shall reflect such recalculation. No such amendment shall require the consent of any Person other than Declarant and, if the Property being withdrawn is not then owned by Declarant, the Owner of such portion of the Property. If the portion of the Property to be withdrawn includes any Common Elements, the Association shall consent to such withdrawal upon the request of Declarant.

(b) Annexation of the Additional Property. Declarant reserves the unilateral right, but not the obligation, to annex from time to time all or any portion of the Additional Property into the Community, causing the same to become part of the Property and subject to the provisions of this Declaration; provided, however, that such right of annexation shall apply only to those portions of the Additional Property owned in fee simple by Declarant at the time of annexation or for which the owner thereof has consented to such annexation. With respect to any portion of the Additional Property annexed into the Community pursuant to this Section 5.1(b), Declarant reserves the unilateral right to create additional Units, General Common Elements and Limited Common Elements within and from such annexed portion of the Additional Property as deemed appropriate by Declarant in its sole discretion. Furthermore, to the extent any subsequent Owner is obligated by agreement with Declarant to establish any Common Elements, those Common Elements will be regarded as established by Declarant for purposes of the foregoing, and the Association shall accept the conveyance of those Common Elements from the Owner as if the conveyance were made by Declarant (provided the conveyance conforms with the Owner's agreement with Declarant). If Declarant annexes any portion of the Additional Property not owned by Declarant at the request and with the consent of the owner of such portion of the Additional Property, then as a condition to such annexation Declarant shall have the right to require that any Mortgage or any other lien of any nature encumbering the Additional Property being annexed, whether of a voluntary or involuntary nature (excluding the lien for real property taxes not due and payable), be subordinated of record to the provisions of this Declaration (including the rights of Declarant and the Association hereunder), which subordination shall be in a form acceptable to Declarant.

(c) Annexation of Other Property. Declarant reserves the right, but not the obligation, to annex additional property other than the Additional Property to the extent allowed by Section 222 of the Act.

(d) Designation for Public Purposes. Declarant reserves the right to designate or dedicate sites within the Property for public or quasi-public facilities as provided in Section 5.3.

(e) Creation and Conversion of Common Elements. Declarant reserves the right to establish, create and convert General Common Elements and Limited Common Elements as provided in Section 5.4.

(f) Subdivision and Replatting. Declarant reserves the unilateral right to subdivide into additional Units, change the boundary lines of, or replat, any Units or other portions of the Property owned by Declarant.

5.2 Exercise of Development Rights. Declarant shall exercise any Development Right by preparing, executing and Recording a Supplemental Declaration amending the Declaration as necessary to effectuate the exercise of such Development Right, which Supplemental Declaration shall be accompanied by any amendment or supplement to the Plat as may be required by the Act. If the exercise of any Development Right by Declarant results in the creation of additional Units or a reduction in the number of Units, then the Supplemental Declaration effectuating the exercise of such Development Right shall include a revised Exhibit C conforming to and accurately detailing the new Common Allocation for each Unit pursuant to the definition of Common Allocation set forth in Article II. If Declarant, by exercising any Development Right, creates any new Common Elements, then the Supplemental Declaration shall describe such newly created Common Elements and, in the case of newly created Limited Common Elements, designate the Unit or Units to which such Limited Common Elements are allocated. Except as expressly provided to the contrary in this Declaration, Declarant's exercise of any Development Right shall not require the consent of any other Owner.

5.3 Governmental Interests. For so long as Declarant owns any of the Property or the Additional Property, Declarant may designate and dedicate sites within the Property for fire, police and Utility facilities, public parks, and other public or quasi-public facilities. Such a site may include Common Elements, in which case the Association shall take whatever action is required with respect to such site to permit such use, including conveyance or dedication of the site (subject to Section 15.3), if so directed by Declarant. Such a site may also include other property not owned by Declarant provided the owner of such property consents. Subject to Declarant's consent during the Development Period, but otherwise within the discretion of the Board, the Association may dedicate portions of the Common Elements to the City or to any other local, state or federal governmental or quasi-governmental entity, subject to such approval as may be required by Section 15.3.

5.4 Common Elements; Mechanics' Liens.

(a) Generally. The initial General Common Elements and the initial Limited Common Elements are described on Exhibit D attached hereto. Declarant shall be responsible for completing the construction of any Improvements that Declarant determines will be located on or that will constitute Common Elements, including private drives, parking areas, landscaping, monuments, signage, drainage facilities, irrigation systems, public trails, sidewalks, fences, walls and plantings; provided, however, that Declarant may prescribe and transfer, and any Developer may assume, responsibility for completing the construction of any portion of the Common Elements in connection with the sale of any Unit or Units to such Developer. To the extent any Developer so assumes such construction obligations, or otherwise assumes or undertakes for Declarant to complete any infrastructure or other Improvements on the Property, any Additional Property, or any public rights-of-way or public areas related thereto, such Developer shall become solely obligated to discharge such assumed responsibilities at its sole cost and expense, and shall become obligated to complete the applicable Improvements free and clear of any claims for mechanics' liens. If any such lien claims arise and are Recorded against any portion of the Property

or the Additional Property (other than property owned by the assuming Developer), the assuming Developer shall be obligated to secure a Recorded release and discharge of the claim no later than thirty (30) days after the filing thereof, and shall indemnify Declarant and the Association against any liability, loss, costs or expenses, including attorneys' fees, that either of them may incur in connection with the lien claim (including any sums that either of them may elect to pay to secure a release of the claim if the Developer fails to secure such release in accordance with the foregoing provisions). The Association at its election may agree to reimburse Declarant for sums incurred by Declarant that are indemnified under the foregoing provisions, in which case the Association's reimbursement obligation will also fall within the indemnity. All such indemnified amounts shall be due and payable no later than thirty (30) days after demand therefor and, if owed to the Association, may be levied as Specific Assessments against any Unit owned by such indemnifying Developer pursuant to Section 10.6(c). Declarant may also require that the assuming Developer, at the Developer's expense and prior to commencing construction, post or furnish performance and payment bonds for the assumed or undertaken Improvements in form and content satisfactory to Declarant, as well as notices which are sufficient under Colorado law to preclude any resulting mechanic's lien claim against the Property or Additional Property (other than property owned by the assuming Developer). Declarant (or a Developer who has taken title to such portions of the Property in connection with agreeing to construct the Improvements thereon) will convey those Common Elements to be owned by the Association (whether in fee simple or as an easement) to the Association by bargain and sale deed upon substantial completion of the Improvements to be located thereon (except that any conveying Developer shall furnish any warranties of title required pursuant to any agreement with Declarant). Common Elements that comprise Improvements located on or within public rights-of-way shall automatically become, to the extent provided in the definition of Common Elements in Article II, the property of the Association upon Declarant's substantial completion of such Improvements.

(b) Conversions. For the duration of the Development Period, Declarant reserves the unilateral right to convert any Unit or other portion of the Property owned by Declarant into General Common Elements or Limited Common Elements, so long as the pertinent Unit or portion of the Property is owned by Declarant or by an Owner who has agreed to the conversion with Declarant. In addition, for the duration of the Development Period, Declarant reserves the unilateral right to convert any General Common Elements into Limited Common Elements and to allocate such Limited Common Elements among particular Units as Declarant, in its discretion, deems appropriate.

(c) Association's Obligation. The Association shall accept any grant, conveyance or dedication to it of any Common Elements made pursuant to this Declaration, whether by Declarant or by a Developer pursuant to an agreement with Declarant.

5.5 Plat Amendments. Declarant reserves the right to amend the Plat as the Plat applies specifically to any Unit or other portion of the Property or the Additional Property owned by Declarant, or owned by another Owner with such Owner's consent. By taking title to a Unit, each Owner covenants and agrees to furnish cooperation (including any consent or joinder as may be required by the City) in connection with and not object to such proposed amendment so long as the amendment is sought in a manner that complies with the procedures prescribed in the City's zoning regulations; provided, however, that no such Owner will be required to incur any costs or expenses in connection with such cooperation.

5.6 Succession to Declarant's Interests. The rights and interests reserved to or otherwise allocated in favor of Declarant under this Declaration may be assigned or transferred in accordance with Section 304 of the Act. Each transferee of any portion of the Property, by such transferee's acceptance of the transfer or conveyance of Record, and any third party transferee or owner of any portion of the Additional Property, by its joinder in a Supplemental Declaration (or any related consent or similar documentation) by which the pertinent Additional Property are annexed within the Property, shall be bound by and subject to all such rights and interests in favor of Declarant hereunder, and the foregoing provisions governing the transfer of those rights and interests. Each such transferee and each Owner, and their successors in interest, shall be bound to execute and deliver such documents as Declarant may require from time to time in order to verify and confirm the rights and interests of Declarant hereunder.

ARTICLE VI EASEMENTS

6.1 Easement for Use, Access and Enjoyment in and to General Common Elements. Declarant hereby establishes and grants to each Owner a non-exclusive easement of use, access and enjoyment in and to the General Common Elements. Any Owner may extend its right of use and enjoyment to such Owner's Permittees subject to reasonable regulation by the Board. Without limiting the generality of the foregoing, Declarant hereby grants to each Owner a non-exclusive perpetual easement over and across all walkways and other pedestrian access-ways, and all private drives, roads and streets designated as General Common Elements, including any access easements of Record, for the purpose of gaining pedestrian or vehicular access, as applicable, between the public streets and sidewalks adjoining the Property and any other General Common Elements or such Owner's Unit. The easement granted by this Section 6.1 shall be appurtenant to and pass with the title to the Units and shall be subject to:

(a) This Declaration and any other applicable covenants, and any other easements, rights-of-way or other title matters Recorded against the Property;

(b) Any restrictions or limitations contained in any deed conveying the General Common Elements to the Association;

(c) The right of the Board to adopt Rules regulating the use and enjoyment of the General Common Elements in a manner consistent with their intended purpose, including Rules limiting the number of Permittees who may use the General Common Elements;

(d) The right of the Board to suspend any Owner's or such Owner's Permittees' rights of use and enjoyment of any Common Elements (i) for any period during which any Assessment or other charge against such Owner's Unit remains delinquent, and (ii) for a period not to exceed thirty (30) days for a single violation of this Declaration, the Bylaws or the Rules (or, in the case of a continuing violation, for the duration of such violation, plus a period not to exceed thirty (30) days), after providing such notice and hearing as may be required by the Bylaws; and

(e) The right of the Association, acting through the Board, to dedicate or transfer all or any part of the General Common Elements, or to mortgage, pledge or hypothecate

any or all of the General Common Elements as security for money borrowed or debts incurred, all subject to Section 15.3 and such other approval requirements as may be set forth in this Declaration or the Act.

6.2 Certain Easements for the Association. Declarant hereby establishes and grants to the Association a non-exclusive easement over each Unit and other portions of the Property (but excluding in any case the interior of each Residence and any other enclosed Improvements that do not constitute Common Elements) for the purpose of (a) permitting the Association reasonable and necessary access to any of the Common Elements, Units and Improvements for the purpose of performing the maintenance, repair and replacement obligations relating to the Common Elements, Units and the Improvements delegated to the Association under this Declaration, and (b) snow and ice removal, trash, refuse, and recycling removal, installing, maintaining, repairing, replacing and improving landscaping, fencing, monumentation, signage, sidewalks, irrigation and water distribution systems, and Utilities servicing any Common Elements; provided, however, that in using such easement, the Association shall not unreasonably interfere with any Owner's quiet use and enjoyment of such Owner's Unit.

6.3 Easements for Encroachments. If, as a result of the construction, reconstruction, shifting, settlement, restoration, rehabilitation, alteration or improvement of any Residence or other Improvement located on a Unit or the Common Elements or any portion thereof, any portion of any Unit or Common Elements now or hereafter encroaches upon any other Unit or Common Elements, Declarant hereby establishes and grants an easement for the continued existence and maintenance of such encroachment, which easement will continue for so long as such encroachment exists and which will burden the Unit or Common Elements encroached upon and benefit the encroaching Unit or Common Elements. In no event, however, will an easement for any such encroachment be deemed established or granted if such encroachment is materially detrimental to or interferes with the reasonable use and enjoyment of the Common Elements or Unit(s) burdened by such encroachment or if such encroachment occurred due to willful and knowing misconduct on the part of, or with the knowledge and consent of, the Person claiming the benefit of such easement, except for the following (a) any encroachment of a driveway serving a Unit onto the adjacent Unit or Units, to the extent and in the location such driveway was originally constructed by Declarant or the Developer, (b) minor encroachments of a Residence and/or the Party Wall onto its adjacent Unit, to the extent and in the location such Residence and/or Party Wall was originally constructed by Declarant or the Developer, and (c) any encroachment of the boundary wall, fencing, signage, landscaping or other Common Element onto one or more Units, to the extent and in the location of such encroachment as of the date this Declaration is Recorded.

6.4 Easements Benefiting Declarant. Declarant hereby reserves for itself and its successors, assigns and designees such easements over and across the Common Elements, which easements will exist for the duration of the Development Period, as may be reasonably necessary for Declarant's exercise of any Special Declarant Right, performance of any of Declarant's obligations hereunder, and the showing of the Property to prospective purchasers. In addition, and without limiting the easements reserved in the preceding sentence, Declarant reserves for itself and its successors, assigns and designees an easement over the Property for the purpose of Declarant's use and enjoyment of any water or water rights appurtenant to or associated with the Property (including all adjudicated, non-adjudicated, decreed, non-decreed, tributary, non-tributary and not non-tributary water rights, ditch rights and well permits) and mineral rights

(including oil, gas, distillate, condensate, gravel, geothermal energy, and any and all other hydrocarbon and non-hydrocarbon substances which may be produced, saved, mined, or otherwise extracted from any portion of the Property) owned by Declarant, if any.

6.5 Easements for Declarant Utilities. Declarant reserves for itself and its successors, assigns and designees (including, if so designated, the Association and its successors, assigns and designees), perpetual non-exclusive easements upon, across, over and under all of the Property (but not through any Residences or other structures), to the extent reasonably necessary for the purposes of monitoring, replacing, repairing, maintaining and operating cable television systems, master television antenna systems, and other devices for sending or receiving data or other electronic or similar signals, and all Utilities, and for installing any of the foregoing on property which Declarant or the Association, respectively, owns or within easements designated for such purposes on the Plat. This reserved right must be exercised, and any specific easements established pursuant thereto, no later than the expiration of the Development Period. The designees of Declarant and the Association may include any governmental or quasi-governmental entity and Utility company. Declarant specifically grants to the local water supplier, cable television provider, telephone company, sanitary or storm sewer district or company, electric company, natural gas supplier and other Utility providers easements across the Property for ingress, egress, installation, reading, replacing, repairing and maintaining Utility meters and boxes. The easement provided for in this Section 6.5 shall in no way affect, avoid, extinguish or modify any other Recorded easement on the Property. Any damage to a Unit resulting from the use of the easements described in this Section 6.5 shall promptly be repaired by, and at the expense of, the Person using the easement. The exercise of such easements shall not extend to permitting entry into the Residences or other structures on any Unit, nor shall it unreasonably interfere with the use of any Unit.

6.6 Easements for Utilities as Initially Constructed. Declarant hereby establishes and grants to the Owner of each Unit a non-exclusive easement upon, across, over and under those portions of the Property (including structures) in which Utilities serving such Unit are located as initially constructed by Declarant, or as subsequently enlarged, upgraded, replaced or relocated by the Association, and a non-exclusive easement through the electrical, cable and telephone conduits serving such Unit, including all underground Utilities located under structures on the Property. Declarant hereby declares, reserves and creates for itself, its successors, assigns and designees and the Association, perpetual non-exclusive easements upon, across, over and under all of the Property (including structures) to the extent reasonably necessary for the purposes of monitoring, replacing, repairing, maintaining, upgrading and operating Utilities serving the Units as initially constructed by Declarant, or as subsequently enlarged, upgraded, replaced or relocated, including access to and use of all Utility Improvements, and access to all underground Utilities located under structures on the Property.

6.7 Right of Entry. Declarant reserves for the Association and other Persons described below in this Section 6.7 an easement for the right, but not the obligation, to enter upon any Unit (a) for emergency, security and safety reasons, (b) to inspect any Unit for the purpose of ensuring compliance with this Declaration, the Bylaws or the Rules, and (c) to remove non-conforming Improvements. Such right may be exercised by any Director and the Association's officers, agents, employees and managers, and, for emergency, security and safety purposes, all police, fire and ambulance personnel and other similar emergency personnel in the performance of their duties.

This right of entry shall include the right of the Association to enter upon any Unit to cure any condition that may increase the possibility of a fire or other hazard if an Owner fails or refuses to cure such condition within a reasonable time after requested by the Board, but shall not authorize entry into any Residence without permission of the occupant, except by emergency personnel acting in their official capacities.

6.8 Easements for Water Use and Development and Flood Control. Declarant reserves for itself and its successors, assigns and designees, for the duration of the Development Period, and Declarant hereby establishes and grants to the Association in perpetuity, as Limited Common Elements, the non-exclusive right and easement, but not the obligation, to enter upon any ponds, streams, drainage ditches, irrigation ditches and wetlands located within the Common Elements (a) to provide water for the irrigation of any of the Common Elements or Units, (b) to alter drainage and water flow, (c) to construct, maintain, operate and repair any bulkhead, wall, dam or other structure retaining water, (d) to develop, maintain, rehabilitate, restore, repair and protect wetlands and other similar areas, and (e) to remove trash and other debris therefrom. Such easement shall include a non-exclusive access easement over and across the Property, to the extent reasonably necessary to exercise rights granted under this Section 6.8, and in order to maintain and landscape the slopes and banks pertaining to such ponds, streams, drainage ditches and wetlands. To the extent the exercise of such easement is anticipated to materially diminish the value of or unreasonably interfere with the use of any Unit, the consent of the Owner of such Unit shall be required before such exercise. Nothing herein shall be construed to make Declarant or any other Person liable for damage resulting from flooding due to heavy rainfall or other natural occurrences.

6.9 Additional Easements.

(a) Declarant's Right to Grant Easements; Additional Property. Declarant hereby reserves the non-exclusive right and power to grant, during the Development Period, such additional specific easements as may be necessary, in the sole discretion of Declarant, in connection with the orderly development of any of the Property or the Additional Property; provided, however, that such easements may not materially adversely affect the use or contemplated use, enjoyment or value of any of the Property by the Owners. In addition, during the Development Period, Declarant may unilaterally subject any portion of the Additional Property that is made subject to this Declaration to additional covenants and easements, including covenants obligating the Association to maintain and insure such property on behalf of the Owners and obligating the Owners to pay the costs incurred by the Association through Common Assessments. Such covenants and easements pertaining to the Additional Property shall be set forth in a Supplemental Declaration filed either concurrently with or after the annexation of such property and shall require the written consent of the owner(s) of such property, if other than Declarant.

(b) Association's Right to Grant Easements. Notwithstanding anything to the contrary in Section 13.9, Section 15.3 or other Sections of this Declaration, the Association, acting through the Board and without the approval of the Members, may grant easements over the Common Elements for installation and maintenance of Utilities, drainage facilities and roads and for other purposes not inconsistent with the intended use of the Common Elements.

6.10 Easements Run with Land. Except as otherwise provided in this Article VI, all easements established and granted pursuant to this Article VI are appurtenant to and run with the

Property and will be perpetually in full force and effect so long as this Declaration is in force and will inure to the benefit of and be binding upon Declarant, the Association, Owners, Permittees and any other Persons having any interest in the Property or any part thereof. The Units and the Common Elements will be conveyed and encumbered subject to all easements set forth in this Article VI, whether or not specifically mentioned in such conveyance or encumbrance.

ARTICLE VII PARTY WALLS

7.1 Declaration of Party Walls. Each Party Wall is hereby declared to be a party wall appurtenant to the Units on which the respective Residences sharing such Party Wall are located. The Owner of each Unit sharing a Party Wall shall be deemed to own an undivided one half interest in such Party Wall, together with the necessary or appropriate easements for the perpetual lateral and subjacent support, maintenance, repair and inspection of the Party Walls, and with equal rights of joint use of such Party Wall. Each Owner of a Party Wall shall have an easement in, under and over the adjacent Residence and Unit, to the extent reasonably necessary, upon reasonable advance notice, and in a mutually coordinated manner resulting in the least practical disruption of the use of the Residences by the Owners, to perform all necessary repairs, reconstruction and maintenance of such Party Wall. To the extent not inconsistent with the terms and conditions hereof, this Declaration shall be subject to the general rules of law of the State of Colorado concerning party walls.

7.2 Restrictions on Use. Neither Owner shall have the right to destroy, remove or make any structural changes in the Party Wall constituting a portion of such Owner's Residence that would jeopardize the structural integrity of either of the Residences without the prior written consent of the Owner and the First Mortgagee of the other Residence sharing the Party Wall. Neither Owner of a shared Party Wall shall subject the Party Wall or such Owner's Residence to any use which in any manner whatsoever interferes with the equal use and enjoyment of the Party Wall or the adjacent Residence by the other Owner.

7.3 Intentional or Negligent Damage or Destruction. If a Party Wall is damaged or destroyed by the intentional or negligent act or omission of either Owner thereof or such Owner's Permittee, such Owner shall promptly restore and repair the Party Wall and shall compensate the other Owner for any damages sustained to person or property as a result of such intentional or negligent act or omission, subject to the provisions of Section 13.2.

7.4 Other Damage or Destruction; Ordinary Maintenance. Subject to the terms and conditions of Article XI and Article XIII, if a Party Wall is damaged or destroyed by causes other than the intentional or negligent act or omission of either Owner or such Owner's Permittee, or otherwise requires maintenance or repair, the damaged or destroyed Party Wall shall be repaired or rebuilt, or such other maintenance and repairs shall be performed, at the equally shared expense of both Owners, subject to the provisions of Section 13.2; provided, however, that each Owner shall be solely responsible for the non-structural repair and maintenance of the interior surfaces of the Party Wall located within such Owner's Residence. If the Owners of a shared Party Wall are unable to agree on whether certain maintenance or repair of the Party Wall is necessary or appropriate, or the scope or nature of any such maintenance or repair, either Owner may submit the dispute to the Board for determination. Upon submission to the Board, the Board, acting by a

majority, shall determine the necessary maintenance or repair, if any, and the scope and nature thereof, and such determination shall be binding upon both Owners.

7.5 Right of Contribution. Any contributions or other amounts payable between the Owners of a Party Wall under this Article VII shall be subject to the provisions of this Section 7.5

(a) Personal Obligation. The amount so payable, together with interest computed from the date that is thirty (30) days after the delivery to the non-contributing Owner of written notice seeking payment (which interest shall be at the rate of the lesser of (i) twenty-one percent (21%) per annum, (ii) the maximum rate permitted by applicable law, or (iii) the rate set by the Board, if any) and costs and reasonable attorneys' fees, to the extent permitted by Section 123 of the Act, shall be a charge and continuing lien upon the Unit against which the payment is charged until paid, as more particularly provided in Section 7.5(d). Such contribution payment, together with such interest, costs and reasonable attorneys' fees, also shall be the personal obligation of the Person who was the Owner of such Unit at the time such expenses were incurred. No First Mortgagee who becomes the Owner of a Unit by exercising the remedies provided in its Mortgage shall be personally liable for unpaid contributions which accrued prior to such acquisition of title. Nothing in this Declaration is intended or shall be construed to limit the liability of a First Mortgagee (or its foreclosure purchaser or other successors in interest) who becomes the Owner of a Unit for any contributions accruing against such Unit while such First Mortgagee is the Owner of it.

(b) Terms of Payment. Contributions shall be paid immediately upon written demand.

(c) Estoppel Certificate. No later than ten (10) business days after receipt of a written request from any Owner or Mortgagee, delivered personally or by certified mail, first-class postage prepaid, return receipt requested, to an Owner or its registered agent, such Owner shall furnish to such other Owner or Mortgagee, by personal delivery or certified mail, first-class postage prepaid, return receipt requested, an estoppel certificate in writing signed by the Owner and addressed to such other Owner or Mortgagee, or the designee of either, stating any then unpaid contribution under this Article VII due from the requesting Owner or the Owner of the Unit encumbered by such Mortgagee's Mortgage, or stating that there are no unpaid contributions due from such Owner. Such an estoppel certificate executed in favor of an Owner, Mortgagee or other Persons named therein who rely thereon in good faith will be conclusive upon the Owner providing such estoppel certificate as to the matters set forth therein and such Owner's Unit will not be subject to a lien for any unpaid contributions against such Unit arising before the date of such certificate and in excess of any unpaid amounts stated in such certificate.

(d) Perfection and Priority of Lien. The Owner seeking contribution shall have a lien against the non-contributing Owner's Unit to secure payment of delinquent contribution, as well as interest computed from the date that is thirty (30) days after the delivery to the non-contributing Owner of written notice seeking payment (which interest shall be at the rate of the lesser of (i) twenty-one percent (21%) per annum, (ii) the maximum rate permitted by applicable law, or (iii) the rate set by the Board, if any) and costs and reasonable attorneys' fees, to the extent permitted by Section 123 of the Act. Such lien shall be perfected upon the Recording of a "Notice of Lien" which sets forth (A) the amount of the unpaid contribution, due and owing to the other

Owner; (B) the date such amount was due and payable and the date from which interest accrues; (C) a recitation of the costs and expenses (including reasonable attorneys' fees) incurred in attempting to collect the unpaid amount as of the date of recording of such Notice of Lien; (D) the Unit encumbered by the lien; and (E) the name or names, last known to the Owner seeking contribution, of the Owner of the Unit. Such lien shall be junior and subordinate to: (I) the liens of all taxes, bonds, assessments and other levies which by law are superior; (II) the lien or charge of any First Mortgage made in good faith for value; (III) any lien of the Association under this Declaration; and (IV) any Mortgage, lien or other charge against the Unit which is of Record and otherwise perfected prior to the recording of such Notice of Lien.

(e) Enforcement of Lien. Such lien, when delinquent, may be enforced in the same manner as provided for the foreclosure of mortgages under the laws of the State of Colorado. The Owner seeking contribution may bid for a Unit at any foreclosure sale and acquire, hold, lease, mortgage and convey such Unit. The Owner seeking contribution may sue for unpaid contributions and other charges authorized hereunder without foreclosing or waiving the lien securing the same.

(f) Transfer of Unit. The sale or transfer of any Unit shall not affect an existing perfected lien for previous unpaid contributions or relieve such Unit from any lien for subsequent unpaid contributions.

ARTICLE VIII SPECIAL DECLARANT RIGHTS

8.1 Special Declarant Rights. In addition to and without limiting any other right reserved by or for the benefit of Declarant in this Declaration or by operation of the Act (all of which shall also be Special Declarant Rights), Declarant reserves the following Special Declarant Rights:

(a) To complete any Common Elements Improvements described on or in the Plat or this Declaration (and to transfer the right and obligation to complete any such Improvements to any Developer) for the duration of the Development Period;

(b) To exercise any of the Development Rights for the duration of the Development Period as set forth in Article V;

(c) To maintain sales, construction and management offices and advertising signs on the Property and the Additional Property, as set forth in Section 8.3, for the duration of the Development Period;

(d) To merge or consolidate the Association with another common interest community of the same form of ownership for the duration of the Development Period; and

(e) To appoint and remove the Directors and the officers of the Association during the Declarant Control Period to the extent permitted by the Act.

8.2 Transfer of Special Declarant Rights. Declarant may transfer any or all of the Special Declarant Rights in accordance with Section 304 of the Act.

8.3 Models and Offices. During the Development Period, Declarant may maintain and carry on upon any Unit owned by Declarant (or any other Unit with the consent of its Owner) or any portion of the Common Elements such facilities and activities as, in the reasonable opinion of Declarant, may be required, convenient or incidental to the development of, construction of Improvements on, or sale of Units or other real property owned by Declarant, including business offices, construction offices, management offices, signs, model units and sales offices. Such facilities may be of a number, size and location that Declarant determines shall adequately accommodate Declarant's development, sale and marketing of the Units and the Property. Notwithstanding anything in this Declaration to the contrary, Declarant shall have the right to maintain models and sales offices on any Unit owned by Declarant.

ARTICLE IX THE ASSOCIATION

9.1 Formation; Membership. The Association will be formed prior to or promptly after the Recording of this Declaration. Each Owner, including Declarant, shall be a Member of the Association. When an Owner consists of more than one Person, all such Persons will, collectively, constitute one Member and all such Persons shall be jointly and severally obligated to perform the responsibilities of Owner. Each membership is appurtenant to the fee simple title to a Unit. Membership in the Association automatically terminates when a Person ceases to be an Owner, whether through sale, intestate succession, testamentary disposition, foreclosure or otherwise, and the new Owner automatically succeeds to the membership in the Association. The Association will recognize a new Member only upon presentation by a new Owner of satisfactory evidence of the sale, transfer, succession, disposition, foreclosure or other transfer of a Unit. Membership in the Association may not be transferred, pledged or alienated in any way, except to the new Owner upon conveyance of a Unit. Any purported prohibited transfer of a membership is void and will not be recognized by the Association.

9.2 Board of Directors. The affairs of the Association shall be governed by the Board, which may, by resolution, delegate any portion of its authority to a Director, an executive committee or an officer or managing agent. Except as otherwise specifically provided by law or in this Declaration, the Articles or the Bylaws, the Board may exercise all rights and powers of the Association (including those powers itemized in Section 9.3) without a vote of the Members. Subject to the provisions of this Section 9.2 and Section 8.1(e), the qualifications and number of Directors, the term of office of Directors, the manner in which Directors shall be appointed or elected and the manner in which Directors shall be replaced upon removal or resignation shall be as set forth in the Bylaws. In the performance of their duties, the Directors will act according to their ordinary business judgment, except to the extent the Act requires a greater standard of care.

9.3 Association Powers. Subject to the rights, powers and authority reserved by and conferred upon Declarant pursuant to this Declaration or the Act, the Association will serve as the governing body of the Community and shall have the powers and duties set forth in this Declaration and the Bylaws. The Association may:

(a) adopt and amend the Bylaws, and make and enforce the Rules, consistent with the rights, duties, terms and conditions established by this Declaration and the Bylaws;

(b) subject to Section 10.1(d), adopt and amend budgets for revenues, expenditures and reserves and assess and collect any Assessments and any other amounts due to the Association from the Owners or other Persons;

(c) hire and terminate managing agents and other employees, agents and independent contractors;

(d) exercise any of the enforcement powers set forth in Section 9.5 or elsewhere in this Declaration;

(e) institute, defend or intervene in litigation or administrative proceedings in its own name on behalf of itself or two (2) or more Owners on matters affecting the Property;

(f) make contracts and incur liabilities in accordance with the properly adopted and ratified budget;

(g) borrow funds to cover Association expenditures and pledge Association assets as security therefor, provided that Common Elements may be subjected to a security interest only pursuant to Section 15.3;

(h) install, maintain and operate other master, joint or individual Utility services, and assess and collect fees or Assessments (as Common Assessments, Specific Assessments or otherwise) from each Owner on a pro rata basis or based on usage and costs allocated in a fair, reasonable and uniform manner;

(i) regulate the use, maintenance, repair, replacement and modification of the Common Elements in accordance with the properly adopted and ratified budget or otherwise in accordance with this Declaration;

(j) cause additional improvements to be made as a part of the Common Elements in accordance with the properly ratified budget, or otherwise in accordance with this Declaration;

(k) acquire, hold, encumber and convey in its own name any right, title or interest to real or personal property (including one or more Units), provided that Common Elements may be conveyed or encumbered only pursuant to Section 15.3;

(l) grant easements, leases, licenses, and concessions through or over the Common Elements;

(m) impose and receive any payments, fees or charges for the use, rental or operation of the Common Elements and for any services provided to Owners;

(n) impose charges and interest for late payment of Assessments, recover reasonable attorneys' fees and other legal costs for collection of Assessments, to the extent permitted by Section 123 of the Act, and other actions to enforce the powers of the Association, regardless of whether or not suit was initiated, and, after providing notice and an opportunity to be

heard, as provided in the Bylaws, levy reasonable fines for violations of this Declaration, the Bylaws or the Rules;

(o) impose reasonable charges for the preparation and recordation of amendments to this Declaration or statements of unpaid Assessments;

(p) provide for the indemnification of its officers and Directors as provided in the Bylaws or the Articles and maintain directors' and officers' liability insurance;

(q) assign its right to future income, including the right to receive Assessments;

(r) exercise any other powers expressly conferred by this Declaration, the Bylaws, the Articles or the Act or reasonably implied from or necessary to effectuate such powers;

(s) except as prohibited by the Act, exercise all other powers that may be exercised in the State of Colorado by a nonprofit corporation; and

(t) exercise any other powers necessary or appropriate for the governance and operation of the Association.

This Declaration may not and is not intended to impose any limitations on the powers of the Association to deal with Declarant that are more restrictive than the limitations imposed on the power of the Association to deal with any other Person.

9.4 Bylaws. The Association may adopt Bylaws for the regulation and management of the Association, provided that the provisions of the Bylaws will not be inconsistent with the provisions of this Declaration, the Articles or the Act. The Bylaws may include provisions regarding the voting rights of the Owners, the appointment or election of the Board, and the appointment or election of officers of the Association.

9.5 Enforcement.

(a) Sanctions and Self-Help. After notice and an opportunity to be heard as provided in the Bylaws, the Association, acting through the Board or any authorized agent, may (i) impose sanctions (including reasonable monetary fines) for violations of this Declaration, the Bylaws or the Rules, provided, however, that the Board may not impose any monetary fines unless and until the Board adopts a schedule of fines, (ii) exercise self-help to cure any violations of this Declaration, the Bylaws or the Rules that an Owner or Permittee fails or refuses to cure, and (iii) suspend any services it provides to any Owner who is more than fifteen (15) days delinquent in paying any Assessment or other charge due to the Association. All of the remedies set forth in this Declaration and the Bylaws shall be cumulative of each other and any other remedies available at law or in equity. If the Association prevails in any action to enforce the provisions of this Declaration, the Bylaws or the Rules, it shall be entitled to recover all costs, including attorneys' fees and court costs, reasonably incurred by it in such action, to the extent provided in Section 123 of the Act. Any Owner who is successful in defending such a claim raised against it is entitled to its attorneys' fees and other legal costs reasonably incurred in successfully defending against such a claim to the extent provided in Section 123 of the Act.

(b) No Waiver. In no event shall the Association's failure to enforce any covenant, restriction or rule provided for in this Declaration, the Bylaws or the Rules constitute a waiver of the Association's right to later enforce such provision or any other covenant, restriction or rule.

ARTICLE X FINANCIAL MATTERS AND ASSESSMENTS

10.1 Financial Matters. The Board, on behalf of the Association, will discharge the following obligations with respect to financial matters:

(a) Books and Records. The Association shall keep correct and complete books and records of account and shall keep, at its principal office, those records required by Section 317 of the Act, a record of the names and addresses of its Members (including Declarant) and copies of this Declaration, the Articles, the Bylaws and any Rules (all of which copies may be purchased by any Member at reasonable cost). All books and records shall be kept using generally accepted accounting principles. All books and records of the Association, including the Articles and the Bylaws, as they may be amended from time to time, and minutes of meetings of the Members and the Board, may be inspected and copied by any Member or such Member's agent or attorney for any proper purpose. The right of inspection and copying shall be subject to any reasonable Rules adopted by the Board; provided, however, that the books and records must be available during normal business hours, upon five (5) business days' notice if (i) the request is made in good faith and for a proper purpose, (ii) the request describes with reasonable particularity the records sought and the purpose of the request, and (iii) the records are relevant to the purpose of the request. The Association may charge a reasonable copying fee, not to exceed the Association's actual cost per page, for copies of Association documents.

(b) Returns. The Board will cause to be prepared and filed before delinquency any and all tax, corporate or similar returns or reports that the Association is required by law to prepare and file.

(c) Preparation of Budget. The Board may, and if levying Assessments shall, cause to be prepared and adopt annually, not less than thirty (30) days prior to the beginning of each fiscal year of the Association, a proposed budget for the Association (except that, for the first fiscal year of the Association, the Board may adopt the estimated budget prepared by Declarant). The proposed budget will include the estimated revenue and expenses (including Common Expenses and Limited Common Elements Expenses) of the Association for such fiscal year, in reasonable detail as to the various categories of revenue and expense.

(d) Ratification of Budget. No later than thirty (30) days after adoption by the Board of any proposed budget for the Association, the Board will send by ordinary first-class mail or otherwise deliver to all Owners a summary of the proposed budget and will set a date for a meeting of the Owners to consider ratification of the proposed budget not less than fourteen (14) nor more than sixty (60) days after mailing or other delivery of the summary. Unless at that meeting Owners to whom are allocated a majority of the votes in the Association vote to reject the proposed budget, the proposed budget will be ratified, whether or not a quorum (as determined in the Bylaws) is present; provided, however, the portions of the proposed budget

pertaining to any Limited Common Elements Expenses will be ratified unless Owners holding a majority of the votes allocated to the Units encumbered thereby (*i.e.*, those Units subject to Assessments under Section 10.4 for such Limited Common Elements Expenses) vote to reject such portions of the budget. If the proposed budget or a portion of it pertaining to Limited Common Elements Expenses is rejected, the budget or applicable portion last ratified by the applicable Owners will continue in effect until such time as the necessary Owners ratify a subsequent budget or portion pertaining to such Limited Common Elements Expenses proposed by the Board. For the first fiscal year of the Association, the Board may adopt Declarant's estimated budget for the Association and assess Common Assessments and Limited Assessments, provided that the Board submits such budget to the Owners for ratification in accordance with the foregoing provisions within thirty (30) days after adopting the same.

(e) Annual Financial Statements. The Board shall cause to be prepared and distributed to each Member, not later than ninety (90) days after the close of each fiscal year of the Association, and within ninety (90) days after termination of the Declarant Control Period, a report of the Association containing (i) an income statement reflecting income and expenditures of the Association for such fiscal year, (ii) a balance sheet as of the end of such fiscal year, (iii) a statement of changes in the Association's financial position for such fiscal year, (iv) a statement of the place of the principal office of the Association where the books and records of the Association, including a list of names and addresses of current Members, may be found, and (v) all information and copies of corporate records required under Section 209.4 of the Act. In addition, the materials provided to each Member may include written educational material the Board deems appropriate to satisfy the requirements of Section 209.7 of the Act, to the extent such education is not conducted in person. Any or all of the items specified above may be distributed to Owners via posting on an internet web page with accompanying notice of the web address via first-class mail or electronic mail; the maintenance of a literature table or binder at the Association's principal place of business; or first-class mail or personal delivery.

10.2 Creation of Assessments. There are hereby created assessments for such Association expenses as may be authorized from time to time pursuant to this Declaration. There shall be four (4) types of Assessments: (a) Common Assessments; (b) Limited Assessments; (c) Special Assessments; and (d) Specific Assessments. Each Owner, by accepting a deed for any Unit, is deemed to covenant and agree to pay these Assessments pursuant to the terms and conditions of this Declaration.

10.3 Common Assessments. Subject to Section 10.11, each Unit is subject to Common Assessments for the Unit's share of the Common Expenses as allocated pursuant to Section 3.4(b). Common Assessments will be calculated, paid, adjusted and reconciled in accordance with the following provisions:

(a) Budget and Payment. The Association shall set the Common Assessments for each fiscal year at a level that is reasonably expected to produce total income for the Association for such fiscal year equal to the total Common Expenses set forth in the budget adopted by the Board and ratified by the Owners. In determining the total funds to be generated through the levy of Common Assessments, the Board, in its discretion, may consider other sources of funds available to the Association, including any surplus from prior years and any Assessment income

expected to be generated from any additional Units reasonably anticipated to become subject to Common Assessments during the fiscal year.

(b) Reconciliation. As soon as reasonably possible after the end of each fiscal year, the Board will cause the actual Common Expenses incurred by the Association during such fiscal year to be reconciled against the Common Assessments received by the Association from the Owners. To the extent that any Owner has paid more than its Common Allocation of such actual Common Expenses, the Board may either refund the overpayment to the Owner or credit such overpayment against such Owner's obligation for Common Assessments for the next ensuing fiscal year. To the extent any Owner has underpaid its Common Allocation of such actual Common Expenses, the Board may either demand in writing that such Owner pay the amount of such underpayment of Common Assessments to the Association within a specified period of time, as determined by the Board, after the Board notifies such Owner of such underpayment (which period of time may not be less than thirty (30) days), or the Board may include such underpayment in such Owner's obligations for Common Assessments for the next ensuing fiscal year.

10.4 Limited Assessments.

(a) Generally. Each Unit that is allocated any Limited Common Elements is subject to, and the Owner of such Unit is liable for, Limited Assessments for such Unit's allocated share (as determined pursuant to Section 10.4(b)) of the Limited Common Elements Expenses that are attributable to the Limited Common Elements allocated to such Unit. The Association shall set the Limited Assessments for each fiscal year at a level that is reasonably expected to produce income for the Association over such fiscal year equal to the Limited Common Elements Expenses set forth in the budget adopted by the Board and ratified by the Owners.

(b) Allocation. Subject to Section 10.11, each Unit subject to Limited Assessments is allocated a fractional share of the Limited Common Elements Expenses attributable to the Limited Common Elements allocated to such Unit, such share to be derived from a fraction, the numerator of which is one (1) and the denominator of which is the total number of Units to which such Limited Common Elements are allocated.

(c) Adjustment and Reconciliation. The Board shall adjust and reconcile the Limited Assessments in the same manner as provided for the Common Assessments.

10.5 Special Assessments. In addition to other authorized Assessments, the Association may levy Special Assessments from time to time to cover unbudgeted expenses or expenses in excess of those budgeted, including the costs of any construction, restoration, or unbudgeted repairs or replacements of capital improvements. Subject to Section 10.11, each Unit is subject to Special Assessments as follows (a) in the case of Special Assessments for the General Common Elements or that otherwise benefit all the Owners, each Unit is subject to the Unit's Common Allocation of the Special Assessments levied by the Association, (b) in the case of Special Assessments that benefit only Limited Common Elements, the Special Assessment shall be levied against the Units so benefitted in the same manner as Limited Common Elements Expenses, and (c) in the case of Special Assessments not covered by clauses (a) or (b) above, the Special Assessments shall be levied against the benefitted Units proportionately based on the total number of such benefitted Units. No Special Assessment proposed by the Association shall be levied until

it is ratified by the Owners of the Units that will be subject to such Special Assessment. A proposed Special Assessment will be ratified unless Owners representing a majority of the votes allocated to the Units that will be subject to the Special Assessment vote, either in person or by proxy, to reject the Special Assessment at a meeting called for such purpose. During the Development Period, any proposed Special Assessment shall also require Declarant's consent. Special Assessments may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved. The Board shall have the right to require that Special Assessments be paid in advance of the provision of the subject services or materials. Without limiting the generality of the foregoing, the Board may levy Special Assessments to cover certain costs of restoration or replacement of General Common Elements or Limited Common Elements in the event of damage, destruction or Taking of such Common Elements.

10.6 Specific Assessments. The Association shall have the power to levy Specific Assessments against one or more particular Units as follows:

(a) to cover the costs, including overhead and administrative costs, of providing benefits, items or services to such Unit or occupants thereof, upon request of the Owner of such Unit pursuant to a menu of special services which the Board may from time to time authorize to be offered to Owners and their Permittees, which Specific Assessments may be levied in advance of the provision of the requested benefit, item or service as a deposit against charges to be incurred by the Association;

(b) to cover liabilities and costs (including attorneys' fees) to the extent permitted by Section 123 of the Act, incurred in bringing the Unit into compliance with the terms of this Declaration, the Bylaws or the Rules, or costs incurred as a consequence of the conduct of the Owner or such Owner's Permittees (including any costs incurred at the election of Declarant or the Association to cure a breach or violation of any provision of this Declaration, the Bylaws or the Rules by such Owner or such Owner's Permittees); provided, however, the Board shall give the Owner of such Unit notice and an opportunity to be heard as provided in the Bylaws before levying any Specific Assessment under this Section 10.6(b); and

(c) to cover costs and expenses incurred by the Association that may be levied as Specific Assessments pursuant to the express terms of this Declaration.

10.7 Owners' Obligations for Assessments.

(a) Personal Obligation. Each Assessment, together with interest computed from the due date of such Assessment (at the rate of the lesser of (i) twenty-one percent (21%) per annum, (ii) the maximum rate permitted by applicable law, or (iii) the rate set by the Board, if any), late charges in such amount as the Board may establish by resolution, costs and reasonable attorneys' fees, to the extent permitted by Section 123 of the Act, shall be a charge and continuing lien upon the Unit against which the Assessment is made until paid, as more particularly provided in Section 10.9. Without limiting Section 15.2, each such Assessment, together with such interest, late charges, costs and reasonable attorneys' fees, to the extent permitted by Section 123 of the Act, and any other obligations or liabilities imposed by or pursuant to this Declaration, also shall be the personal obligation of the Person who was the Owner of such Unit at the time the Assessment, obligation or liability arose. No First Mortgagee who becomes the Owner of a Unit

by exercising the remedies provided in its Mortgage shall be personally liable for unpaid Assessments that accrued prior to such acquisition of title. Nothing in this Declaration is intended or shall be construed to limit the liability of a First Mortgagee (or its foreclosure purchaser or other successors in interest) who becomes the Owner of a Unit for any Assessments levied against such Unit while such First Mortgagee is the Owner of such Unit.

(b) Terms of Payment. Except for Specific Assessments, which shall be paid in the manner determined by the Board, Assessments shall be paid in equal monthly, quarterly or annual installments on or before the first day of each month, quarter or fiscal year, as applicable, or in such other reasonable manner as the Board may establish. The Board may grant discounts for early payment, require advance payment of Assessments at closing of the transfer of title to a Unit, and impose special requirements upon Owners with a history of delinquent payment.

(c) No Set-Off or Abatement. No Owner may exempt himself or herself from liability for Assessments by non-use of Common Elements, abandonment of such Owner's Unit or any other means. The obligation to pay Assessments is a separate and independent covenant on the part of each Owner. No diminution or abatement of Assessments or set-off shall be claimed or allowed for any alleged failure of the Association or the Board to take some action or perform some function required of it, or for inconvenience or discomfort arising from the making of repairs or improvements, or from any other action by the Association or the Board.

(d) Estoppel Certificate. Within fourteen (14) days after receipt of a written request from any Owner or Mortgagee, delivered personally or by certified mail, first-class postage prepaid, return receipt requested, to the Association's registered agent, the Association shall furnish to such Owner or Mortgagee, by personal delivery or certified mail, first-class postage prepaid, return receipt requested, an estoppel certificate in writing signed by an Association officer and addressed to such Owner or Mortgagee, or the designee of either, stating any then unpaid Assessments due from, or other known defaults by, the requesting Owner or the Owner of the Unit encumbered by such Mortgagee's Mortgage, or stating that there are no unpaid Assessments due from, or other known defaults by, such Owner, as the case may be. Such an estoppel certificate executed in favor of an Owner, Mortgagee or other Persons named therein who rely thereon in good faith will be conclusive upon the Association as to the matters set forth therein and such Owner's Unit will not be subject to a lien for any unpaid Assessments against such Unit arising before the date of such certificate and in excess of any unpaid amounts stated in such certificate. The Association may require the advance payment of a reasonable processing fee for the issuance of such certificate.

10.8 Declarant's Obligation for Assessments. Until the Association levies Assessments, Declarant shall pay the Association's costs and expenses.

10.9 Lien for Assessments.

(a) Perfection and Priority of Lien. The Association shall have a lien against each Unit to secure payment of delinquent Assessments, as well as interest (computed from the due date of such Assessment at the rate of the lesser of (i) twenty-one percent (21%) per annum, (ii) the maximum rate permitted by applicable law, or (iii) the rate set by the Board, if any), late charges in such amount as the Board may establish by resolution, costs and reasonable attorneys'

fees, to the extent permitted by Section 123 of the Act. Such lien shall be perfected upon the Recording of this Declaration and no further claim of lien shall be required. Notwithstanding the foregoing and without limiting the effectiveness or perfection of the lien against each Unit, the Association shall have the right, but not the obligation, to prepare and Record a "Notice of Lien" in a form satisfactory to the Board which may set forth (i) the amount of any Assessment, charge, fine or other amount due and owing to the Association, (ii) the date such amount was due and payable and the date from which interest accrues, (iii) a recitation of the costs and expenses (including reasonable attorneys' fees) incurred in attempting to collect the unpaid amount as of the date of recording of such Notice of Lien, (iv) the Unit encumbered by the lien, and (v) the name or names, last known to the Association, of the Owner of the Unit. Such lien shall be superior to all other liens, except (A) the liens of all taxes, bonds, assessments and other levies that by law are superior, and (B) the lien or charge of any First Mortgage made in good faith and for value. Notwithstanding the foregoing, the Association's lien for delinquent Assessments shall be prior to a First Mortgage to the extent provided by the Act.

(b) Enforcement of Lien. Such lien, when delinquent, may be enforced in the same manner as provided for the foreclosure of mortgages under the laws of the State of Colorado. The Association may bid for a Unit at any foreclosure sale and acquire, hold, lease, mortgage and convey such Unit. While a Unit is owned by the Association following foreclosure: (i) no right to vote shall be exercised on behalf of the Association as Owner of such Unit, (ii) no Assessments shall be levied against such Unit, and (iii) each other Unit shall be charged, in addition to its usual Assessments, its pro rata share of the Assessments that would have been charged the Unit acquired by foreclosure had such Unit not been acquired by the Association. The Association may sue for unpaid Assessments and other charges authorized hereunder without foreclosing or waiving the lien securing the same.

(c) Transfer of Unit. The sale or transfer of any Unit shall not affect an existing lien for previous Assessments or relieve such Unit from any lien for subsequent Assessments. Upon sale or transfer of a Unit pursuant to foreclosure of a First Mortgage, the amount of Assessments included in any lien extinguished by foreclosure of a First Mortgage shall become Common Expenses collectible as Common Assessments levied against the Units subject to Common Assessments, excluding, however, the Unit acquired through the foreclosed First Mortgage.

10.10 Commencement of Assessments. The obligation to pay Common Assessments, Limited Assessments and Special Assessments shall commence as to each Unit on the first day of the month following the later of (a) the month in which the Unit is made subject to this Declaration, or (b) the month in which the Association first establishes and ratifies a budget and levies Assessments pursuant to this Article X. The obligation to pay Specific Assessments shall commence as to any Unit when the Association levies the Specific Assessments against the Unit pursuant to this Declaration. The first annual Common Assessments, Limited Assessments and Special Assessments levied on each Unit, whether levied at the partial or full rate as provided in Section 10.11, shall be prorated according to the number of months remaining in the fiscal year at the time Assessments commence on the Unit.

10.11 Discount for Certain Assessments. With regard to an Owner's obligation to pay Common Assessments, Limited Assessments and Special Assessments assessed against such

Owner's Unit, the Owner shall be entitled to a discount on such Assessments as follows: until the first day of the first month following the issuance by the City of a certificate of occupancy for the Residence on such Unit (or other applicable form of approval which authorizes the occupancy thereof), the Association shall not assess such Unit for the Assessments due under Section 10.3, Section 10.4 and Section 10.5, and thereafter, such Unit shall be assessed for the full amount of Assessments due under Section 10.3, Section 10.4 and Section 10.5. Any Owner who is entitled to a discount on Assessments made against a particular Unit pursuant to this Section 10.11, shall, upon receiving a certificate of occupancy for the applicable Residence, promptly notify the Association of the receipt of such certificate of occupancy. For so long as any Unit is eligible for and receiving the Assessment discount provided for by this Section 10.11, then for the purposes of levying Assessments under Section 10.3, Section 10.4 and Section 10.5, the total number of Units (or, with regard to Limited Assessments, the total number of Units allocated such Limited Common Elements), shall be deemed to be reduced by subtracting from it the number of Units receiving such Assessment discount. The foregoing adjustment in Assessments shall not reduce or otherwise affect the number of votes appurtenant to any Unit with respect to voting rights or establishing a quorum.

10.12 Failure to Assess. Failure of the Board to fix Assessment amounts or rates or to deliver or mail to each Owner an Assessment notice shall not be deemed a waiver, modification or release of any Owner's obligation to pay Assessments. In such event, each Owner shall continue to pay Common Assessments on the same basis as during the last year for which an Assessment was made, if any, until a new Assessment is levied, at which time the Association may retroactively assess any shortfalls in collections.

10.13 Exempt Property. The following property shall be exempt from payment of Assessments (a) all Common Elements owned in fee simple by the Association, and (b) any property dedicated to and accepted by any governmental authority or public utility.

ARTICLE XI MAINTENANCE

11.1 Association's Responsibilities.

(a) Maintenance of Common Elements and Rights-of-Way. The Association shall maintain and keep in good condition, repair and working order the Common Elements and certain landscaping and improvements located within public rights-of-way, which maintenance may pertain, without limitation, to:

(i) all landscaping and other flora, parks, open space, ditches and gullies, private streets, parking areas, bike and pedestrian pathways/trails, signs, benches, trash bins and enclosures, fencing and irrigation systems, and any other Improvements situated upon the Common Elements;

(ii) public or private rights-of-way that abut or provide access to the Property (unless maintained by any public entity), along with any landscaping associated therewith;

(iii) all ponds, streams, wetlands, detention ponds, and water quality ponds owned by the Association and located on the Property, including any retaining walls, bulkheads or dams (earthen or otherwise) retaining water therein, and any fountains, lighting, pumps, conduits and similar equipment installed therein or used in connection therewith; and

(iv) all conservation and open space areas owned by the Association and located on the Property or for which the Association has undertaken maintenance obligations under any agreement with any other party.

(b) Exterior Improvements to the Residences, Utilities, Landscaping, Snow Removal and Other Services. Subject to the limitations set forth in Section 11.1(c), the Association shall maintain and keep in good condition, repair and working order certain Utility Equipment and the landscaping (and related Improvements) located within the Units, and provide certain additional services to the Units (but not the Residences), as follows:

(i) the maintenance, repair and replacement of roofs, roofing, exterior siding, trim, masonry, soffits, fascia, gutters, downspouts and similar exterior components of the Residence on each Unit;

(ii) the maintenance, repair and replacement of front patios, decks and appurtenant railings;

(iii) the maintenance, repair and replacement of all exterior paved surfaces, including drive lanes, driveways and walkways located within the Community (but expressly excluding the concrete slabs underlying the garage on each Unit);

(iv) the maintenance, repair and replacement of exterior lighting, except for any decorative exterior lighting installed by an Owner as may be permitted by this Declaration;

(v) the maintenance, repair and replacement of any shared sanitary sewer lines and those portions of any sanitary sewer line located outside of a Residence served by such sanitary sewer line, excluding any portion thereof;

(vi) the maintenance, repair and replacement of those portions of any supply systems for household water, electricity, telephone, cable television, and Internet, located outside of a Residence served by such supply system, excluding any portion thereof maintained by a Utility provider;

(vii) the maintenance, repair and replacement of those portions of any gas supply system located outside of a Residence served by such gas supply system, including any gas pipes running from the meter located on the outside of a building through other Units and Residences to the entry point on the individual Residence served by such pipe, excluding any portion thereof maintained by a Utility provider;

(viii) the maintenance, watering and replacement of all landscaping, including the maintenance of irrigation systems, equipment and time clocks, lawns, trees, shrubs, bushes, flowers and other flora, edging, retaining walls and fencing;

(ix) pest and vermin control outside of a Residence; and

(x) the removal of snow and ice from all private roadways, sidewalks, parking spaces, driveways, front walkways, and other paved surfaces located on a Unit.

(c) Excluded Maintenance. Unless otherwise assumed by the Association under Section 11.1(d), the obligations of the Association under Section 11.1(b) shall expressly exclude the following, which shall be the obligation of each Owner on its respective Unit:

(i) the maintenance, repair, and replacement of all interior components of a Residence and all garage doors, exterior doors, and windows of a Residence;

(ii) the maintenance, repair, and replacement of those portions of sanitary sewer lines and the supply systems for household water, gas, electricity, telephone, cable television, and Internet located within a Residence;

(iii) the removal of snow and ice from all patios, decks and terraces;

(iv) pest and vermin control within a Residence;

(v) the removal of all trash, refuse, and recycling from a Unit (provided, however, that the Association shall use its commercially reasonable efforts to secure and make available to the Owners preferable terms for the removal of typical household trash, refuse, and recycling from one or more local service providers; but provided, further, that each Owner will be separately responsible for contracting for such services and paying all costs associated therewith); and

(vi) the maintenance, repair, and replacement of the concrete slabs underlying the garage on each Unit.

(d) Maintenance of Other Property. The Association may maintain other property which it does not own, including any property that has been transferred to the City or dedicated to the public, if the Board determines that such maintenance is necessary or desirable.

(e) Operation of Facilities. The Association shall maintain the facilities and equipment within the Common Elements in continuous operation, except for any periods necessary, as determined in the sole discretion of the Board, to perform required maintenance or repairs, or unless Members representing seventy percent (70%) of the total vote in the Association agree in writing to discontinue such operation.

(f) Election to Perform Owners' Duties. The Association may elect to maintain or repair any Unit or portion thereof, the maintenance or repair of which is the responsibility of an Owner pursuant to Section 11.2, if (i) such Owner has failed, for more than thirty (30) days after notice from the Association, to perform its responsibilities under this Declaration with respect to the maintenance or repair of its Unit, and (ii) such failure has a material effect on the appearance of such Unit when viewed from any area outside such Unit or has, or potentially will have, a material adverse effect on the use of or, Improvements to, another Unit or any Common Element for its permitted and intended use; provided, however, that if such failure is not susceptible of

being cured within such thirty (30)-day period, the Association will not be entitled to perform any repairs or maintenance if such Owner commences performance of its obligations within such thirty (30)-day period and thereafter diligently completes such performance. Such Owner will pay all costs (including reasonable attorneys' fees), to the extent permitted by Section 123 of the Act, incurred by the Association in exercising its rights under this Section 11.1(f), and such costs shall be levied against such Owner as a Specific Assessment. Such payment will be made upon receipt of a demand from the Association therefor. If an Owner fails to make such payment within thirty (30) days of receipt of a demand therefor, the Association will be entitled to take whatever lawful action it deems necessary to collect such payment including foreclosing its lien or instituting an action at law or in equity.

11.2 Owners' Maintenance Responsibility. In addition to the responsibilities set forth in Section 11.1(c), each Owner shall maintain such Owner's Unit and the Residence and Improvements thereon in a clean, safe, attractive and orderly manner and shall perform all necessary repairs of such Unit and Improvements, unless such maintenance responsibility is otherwise assumed by the Association pursuant to this Declaration.

ARTICLE XII MODIFICATIONS TO IMPROVEMENTS

12.1 General.

(a) Approval Required. Subject to the following provisions of this Article XII, no Improvements shall be constructed, installed, modified or renovated on any Unit, except as approved by the Board.

(b) Handicapped Persons. Notwithstanding any provision in this Declaration, the Bylaws or the Rules to the contrary, to the extent provided in Section 106.5(1)(g) of the Act, the Board shall make reasonable accommodations and allow reasonable modifications if those accommodations or modifications may be necessary or be required by law to afford a person with disabilities full use and enjoyment of that person's Unit and the Common Elements.

(c) Energy Efficiency Measures and Rain Barrels. Notwithstanding any provision in this Declaration, the Bylaws or the Rules to the contrary, to the extent provided by Sections 106.5(1), (1.5) and 106.7 of the Act, the Board shall not effectively prohibit (i) renewable energy generation devices or the installation or use of an energy efficiency measure, or (ii) the use of rain barrels to collect precipitation from the rooftops of the Residences.

(d) Interior Modifications; Modifications to Decks and Patios. Any Owner may remodel, paint or redecorate the interior of its Residence and the deck(s) and patio(s) appurtenant thereto, in each case without the approval of the Board; provided, however, with respect to the decks, patios and similar portions of structures on a Unit, an Owner may not modify the same to the extent the modification would be visible from outside such structures, except as approved by the Board. In addition to and without limiting the generality of the foregoing, no Owner may install or relocate any hot tub, fire pit, portable fire place, barbeque grill (whether gas, charcoal or other) or other burning device on such Owner's deck or patio except as approved by the Board.

(e) Declarant and Common Elements Exempt. Notwithstanding any provisions to the contrary contained in this Declaration, this Article XII will not apply to the activities of Declarant, or to the construction, modification or removal of Improvements on the Common Elements by or on behalf of the Association.

(f) No Amendment During Development Period. This Article XII may not be amended during the Development Period, unless consented to in writing by Declarant.

12.2 Procedures.

(a) Submission of Plans. Plans and specifications showing the nature, kind, shape, color, size, materials and location of all proposed Improvements shall be submitted to the Board for review and approval or disapproval prior to the commencement of construction of such Improvements. In addition, information concerning lighting and other features of proposed construction shall be submitted as applicable. The Board may condition its approval on such changes in the plans and specifications as it deems appropriate, and may require submission of additional plans and specifications or other information prior to approving or disapproving the material submitted. In reviewing each submission, the Board may consider the quality of materials and design, harmony of external design with existing structures, and location in relation to surrounding structures, topography and finish grade elevation, among other things. Decisions of the Board may be based on purely aesthetic considerations. Each Owner acknowledges that opinions on aesthetic matters are subjective and may vary over time.

(b) Decisions. The Board shall meet from time to time as necessary to perform its duties hereunder. If the Board fails to approve or disapprove any application within thirty (30) days after submission of all information and materials reasonably requested, the application shall be deemed granted.

12.3 No Waiver of Future Approvals. Approval of proposals, plans and specifications, or drawings for any work done or proposed, or in connection with any other matter requiring approval, shall not be deemed to constitute a waiver of the right to withhold approval as to any similar proposals, plans and specifications, drawings or other matters subsequently or additionally submitted for approval.

12.4 Limitation of Liability. Review and approval of any application pursuant to this Article XII are made on the basis of aesthetic considerations only and the Board shall not bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications, for ensuring compliance with building codes and other governmental requirements, for ensuring that the proposed Improvements do not interfere or encroach upon property boundaries, easements or setbacks, for changes in drainage on either the Owner's Unit or any adjacent property, or for ensuring compliance of such improvements with any specific requirements of this Declaration (*e.g.*, restrictions on altering established drainage). Neither Declarant, the Association, the Board, nor any member of any of the foregoing shall be held liable for the approval or rejection of any submittal, nor any injury, damages or loss arising out of the manner or quality of approved construction on or modifications to any Unit. In all matters, the Board and the Directors shall be defended and indemnified by the Association as may be provided herein or in the Articles.

12.5 Enforcement.

(a) Removal of Improvements. Any Improvement constructed, installed, modified or renovated on or to any Unit in violation of this Article XII shall be deemed to be nonconforming. Upon written request from the Board, the Owner of the Unit on which such Improvement is located shall, at such Owner's own cost and expense, remove such Improvement and restore the Unit to substantially the same condition as existed prior to the nonconforming work or, if applicable, cure such nonconformance by bringing the Improvement into compliance with the requirements of the Board. Should an Owner fail to remove and restore or cure any nonconforming Improvement, as required, then the Association, acting through the Board in accordance with Section 9.5(a), shall have the right, to enter the Unit, remove the nonconforming Improvement, and restore the Unit to substantially the same condition as previously existed. All costs of any such entry, removal and restoration, together with interest at the maximum rate then allowed by law, may be assessed against the subject Unit and collected as a Specific Assessment.

(b) Completion of Work. Unless otherwise specified in writing by the Board, any approval granted under this Article XII shall be deemed conditioned upon completion of all elements of the approved work and all work previously approved with respect to the same Unit, unless approval to modify any application has been obtained. If any Person fails to commence and diligently pursue to completion all approved work, the Association, acting through the Board or the Association in accordance with Section 9.5(a), shall be authorized to enter upon the Unit and remove or complete any incomplete work and to assess all costs incurred against the Unit and the Owner thereof as a Specific Assessment.

(c) Exclusion from Property. Any contractor, subcontractor, agent, employee or other invitee of an Owner who fails to comply with the terms and provisions of this Article XII may be excluded from the Property, subject to the notice and hearing procedures contained in the Bylaws. Neither Declarant, the Association, nor the officers, Directors or committee members of either, shall be held liable to any Person for exercising the rights granted by this Section 12.5(c).

(d) Legal and Equitable Remedies. In addition to the foregoing, Declarant and the Association shall have the authority and standing to pursue all legal and equitable remedies available to enforce the provisions of this Article XII and the decisions of the Board.

ARTICLE XIII INSURANCE, DAMAGE AND TAKINGS

13.1 Association's Insurance. The Association's responsibilities with respect to insurance will be as follows and, except as expressly provided to the contrary in this Declaration, the cost of all insurance maintained by the Association hereunder will be included in Common Expenses:

(a) Property Insurance. The Association will maintain property insurance upon the Residences, the Common Elements and any personal property of the Association, in such amounts, against such risks, and containing such provisions as the Board may reasonably determine from time to time, but at a minimum insuring against all risks of direct physical loss as the result of fire or other hazard normally covered by the standard extended coverage endorsement,

and all other hazards customarily covered for similar types of projects, including those hazards covered by the standard “all risk” endorsement, for 100% of the full replacement cost of the Residences (including Betterments), the Common Elements and such personal property (excluding land, excavations, foundations and other items normally excluded from property policies) less a deductible in an amount not to exceed \$10,000, at the time such insurance is purchased and at each renewal date; provided, however, that such property insurance shall not cover any personal property not owned by the Association. Such property insurance will be maintained in the name of the Association, for the use and benefit of all Owners, who may be named as additional insureds, as their interests may appear. To the extent available on reasonable terms, such property insurance will further (i) contain no provisions pursuant to which the insurer may impose a so-called “co-insurance” penalty; (ii) permit a waiver of claims among, and provide for a waiver of subrogation by the insurer as to claims against, the Association, its directors, officers, employees and agents, each Owner and the members of such Owner’s household, each Mortgagee, any other person for whom the Association or any Owner or Mortgagee may be responsible, and any Insured Permittee; (iii) be written as a primary policy, not contributing with and not supplemental to the coverage that any Owner may carry; (iv) provide that, notwithstanding any provision that gives the insurer an election to restore damage in lieu of making a cash settlement, such option will not be exercisable if the proper party(ies) elect not to restore the damage in accordance with the provisions of this Declaration or the Act (in which event the proceeds from such insurance will not be based on full replacement cost of the Residences, the Common Elements and the insured business personal property but will instead be based on actual cash value, typically calculated as replacement cost less depreciation); (v) provide that no act or omission by any Owner, unless acting within the scope of such Owner’s authority on behalf of the Association, will void the policy or be a condition to recovery under the policy; (vi) provide that it may not be cancelled, nor may coverage be reduced, without ten (10) days’ prior notice to the Association and all additional insureds named therein; (vii) include so-called “inflation guard,” and “building ordinance or law”; and (viii) if either FNMA or FHLMC are First Mortgagees, contain a standard mortgage clause or equivalent endorsement (without contribution) that is commonly accepted by private institutional mortgage investors in the Steamboat Springs area. In the event that, as a result of any improvements or alterations made to a Residence by its Owner, the premium for the property insurance policy described above is increased to an amount in excess of what such premium would have been had such Owner not made such improvements or alterations, the Board may assess the amount of such increase in premium against such Owner’s Residence as a Specific Assessment pursuant to Section 10.6. In the event of an insured loss, the deductible shall be treated as a Common Expense in the same manner as the premiums for the applicable insurance coverage. However, if the Board reasonably determines, after providing notice and an opportunity to be heard in accordance with the Bylaws, that the loss is the result of the negligence or willful misconduct of one or more Owners or their Permittees, then the Board may specifically assess the full amount of such deductible against such Owners and their Unit pursuant to Section 10.6.

(b) Liability Insurance. The Association will maintain commercial general liability insurance insuring against damage, injury or death caused by the negligence of the Association or any of its Members, officers, directors, employees agents or contractors while acting on its behalf, with all Owners named as additional insureds, in such amounts and with such coverage as may be determined from time to time by the Board; provided that, to the extent available on reasonable terms, such liability insurance will (i) have a combined single occurrence limit of not less than \$1,000,000; (ii) contain a “severability of interest” or “cross-liability”

endorsement which will preclude the insurer from denying the claim of any named or additional insured due to the negligent acts, errors or omissions of any other named or additional insured; (iii) be written as a primary policy, not contributing with and not supplemental to any coverage that any Owner may carry; (iv) provide that no act or omission by any Owner, unless acting within the scope of such Owner's authority on behalf of the Association, will void the policy or be a condition to recovery under the policy; (v) insure all of the named and additional insured parties against liability for negligence resulting in death, bodily injury or property damage arising out of or in connection with the operation, use, ownership or maintenance of the Common Elements and legal liability arising out of lawsuits related to employment contracts of the Association; and (vi) provide that it may not be cancelled, nor may coverage be reduced, without 30 days' prior written notice to the Association and all additional insureds named therein. The liability insurance required to be maintained under this Section 13.1(b) will not include coverage for any liability arising out of the operation, use, ownership or maintenance of any Unit.

(c) Worker's Compensation and Employer's Liability. The Association will maintain such worker's compensation and employer's liability insurance as may be determined from time to time by the Board, provided that such insurance will in no event be maintained in an amount or with coverages less than that required by applicable law.

(d) Automobile Insurance. If the Association operates owned, hired or non-owned vehicles, the Association will maintain comprehensive automobile liability insurance at a limit of liability of not less than \$1,000,000 for combined bodily injury and property damage.

(e) Directors' and Officers' Insurance. The Association may maintain directors' and officers' liability coverage in such amount as it determines from time to time.

(f) Other Insurance. The Association may procure and maintain such other insurance as the Board may from time to time deem appropriate to protect the Association or the Owners.

(g) Qualifications of Insurers. All policies of insurance required to be maintained by the Association will be placed with insurers that are generally accepted as reputable insurers and that are licensed in the State of Colorado.

13.2 Owners' Insurance. The Owners' responsibilities with respect to insurance will be as follows:

(a) Property Insurance. Each Owner shall maintain at its expense (or will cause its Permittee to maintain at its expense) property insurance upon all personal property of Owner (or such Permittee), in such amounts, against such risks, and containing such provisions as the Owner may reasonably determine from time to time. Any such property insurance will (i) permit a waiver of claims among, and provide for a waiver of subrogation by, the insurer as to claims against the Association, its directors, officers, employees and agents, each Owner and the members of such Owner's household, each Mortgagee, any other person for whom the Association or any Owner or Mortgagee may be responsible, and any Insured Permittee; (ii) be written as a primary policy, not contributing with and not supplemental to the coverage that the Association may carry; and (iii) provide that, notwithstanding any provision that gives the insurer an election to restore

damage in lieu of making a cash settlement, such option will not be exercisable if the proper party(ies) elect not to restore the damage in accordance with the provisions of this Declaration or the Act. All insurance carried under this Section 13.2(a) will provide that insurance proceeds payable on account of a loss of, or damage to, the Residence shall be adjusted with the insurance carrier by the Association and shall be payable to the Association as insurance trustee for the Owner. Such insurance proceeds shall be applied to the repair or restoration of the Residence, in accordance with Section 13.8(c).

(b) Liability Insurance. Each Owner will maintain at its expense bodily injury and property damage liability insurance for the benefit of such Owner and such additional insureds as it may elect to name, in such amounts and with such coverage as are from time to time customarily maintained by prudent owners of similar property; provided that such liability insurance will (i) have a combined single occurrence limit of not less than \$300,000; (ii) be written as a primary policy, not contributing with and not supplemental to any coverage that the Association or another Owner may carry; and (iii) insure all of the named and additional insured parties against liability for negligence resulting in death, bodily injury or property damage arising out of or in connection with the operation, use, ownership or maintenance of such Owner's Unit.

(c) Other Insurance. Each Owner may obtain additional insurance, at its own expense, affording personal property, association assessment, loss of rents, personal liability and any other coverage obtainable, to the extent and in the amount such Owner deems necessary to protect its own interests; provided that any such insurance will contain waivers pursuant to Section 13.5 and will provide that it is without contribution as against the insurance maintained by the Association.

(d) Assignment of Proceeds. If a casualty loss is sustained and there is a reduction in the amount of proceeds that would otherwise be payable under any policy of insurance carried by the Association due to the existence of any insurance carried by an Owner or Permittee, such Owner or the Owner of such Permittee's Unit will be liable to the Association to the extent of such reduction and will pay the amount of such reduction to the Association upon demand; such Owner also hereby assigns the proceeds of its insurance, to the extent of such reduction, to the Association.

13.3 Certificates of Insurance; Notices of Unavailability. Each Owner will provide to the Association at the Association's request, certificate(s) of insurance evidencing the insurance required to be carried under Sections 13.2(a) and 13.2(b). The Association will, upon the request of any Owner, provide certificates of insurance evidencing the insurance required to be carried by the Association under Section 13.1. If the insurance described in Section 13.1(a) or 13.1(b) is not reasonably available or if any policy of such insurance is cancelled or not renewed without a replacement policy therefor having been obtained, the Association promptly will cause notice of such fact to be given to all Owners.

13.4 Failure to Comply; Forced Policies; Liability of Association. If any Owner fails to obtain the insurance, or fails to provide the Association with certificates of insurance evidencing the insurance, required to be carried under Sections 13.2(a) and 13.2(b), the Association may, but shall not be obligated to, obtain such insurance on behalf and at the expense of such Owner. Any insurance so obtained by the Association shall not be a Common Expense, but shall be an expense

of the Owner on whose behalf such insurance is obtained, and the Board may assess the amount of the premium therefor, plus an administrative fee, against such Owner's Residence as a Specific Assessment pursuant to Section 10.6. The provisions of Section 13.3 and this Section 13.4 notwithstanding, the Association shall have no liability to any Owner, Permittee, Mortgagee or other third party, for any claim, loss, cost, expense or obligation arising out of or resulting from the Association's failure to perform, or negligent performance of, any of its obligations, or its failure to exercise any of its rights, under Section 13.3 or this Section 13.4.

13.5 Waiver of Claims. The Association will make no claim against any Owner or the members of such Owner's household, any Mortgagee, any other person for whom any Owner or Mortgagee may be responsible, or any Insured Permittee, and no Owner, Mortgagee or Insured Permittee will make any claim against the Association, its directors, officers, employees or agents, or any other Owner, Mortgagee or Insured Permittee or any of their respective employees, agents, officers or directors, for any loss or damage to any portion of the Property or any personal property located thereon, and all such claims are hereby waived, to the extent that such loss or damage would be covered by any property insurance policy upon the affected property that is required to be maintained by or for the benefit of the waiving Person under this Declaration (assuming such insurance policy is maintained on a 100% replacement cost basis), that is in fact maintained by such Person, or under which such Person is named as an additional insured. All property insurance policies carried by the Association or any Owner or Insured Permittee will contain a waiver of subrogation in accordance with the preceding sentence. For purposes of this Section 13.5, the deductible amount under any property insurance policy required to be, or in fact, maintained by a waiving Person will be deemed to be "covered" by such policy so that, in addition to waiving claims for amounts in excess of such deductible (up to the covered limits, or deemed covered limits, of such policy), such waiving Person waives all claims for amounts within such deductible. The foregoing notwithstanding, to the extent that any provisions contained in this Section 13.5 would result in an insured party's insurance coverage being reduced, impaired or voided, such provisions of this Section 13.5 shall be deemed inoperative and of no effect.

13.6 Proceeds. Except as provided in Section 13.2(a), Section 13.2(d) and 13.8(c), the Association will have no claim to and each Owner will be entitled to receive all proceeds of any insurance policy maintained by such Owner. The Board will be solely responsible for adjustment of any losses under insurance policies maintained by the Association and is hereby irrevocably appointed the agent of all Owners, Mortgagees and other Persons having an interest in the Property for purposes of adjusting all claims arising under insurance policies maintained by the Association and executing and delivering releases upon the payment of claims. The Association will be entitled to receive all proceeds of any insurance policy maintained by the Association, except that the Association shall hold in trust any proceeds under casualty insurance for Owners and their First Mortgagees, as their interests may appear, to the extent they are due such proceeds, and except that other insured parties under liability insurance policies will be entitled to proceeds arising out of their insured losses. The Board will disburse the proceeds of any property insurance relating to damage to any Residence or Common Element in accordance with Section 13.8.

13.7 No Abatement. Each Unit will continue to be subject to Assessments following any damage to any portion of the Project, without abatement or modification as a result of such damage.

13.8 Damage and Destruction.

(a) Common Elements Insured by Association.

(i) Immediately after damage or destruction to all or any part of the Common Elements covered by insurance written in the name of the Association, the Board or its duly authorized agent shall file and adjust all insurance claims and obtain reliable and detailed estimates of the cost of repair or reconstruction. Repair or reconstruction, as used in this paragraph, means the repair or restoration of the damaged property to substantially the condition in which it existed prior to the damage, allowing for changes necessitated by changes in applicable building codes.

(ii) Any damage to or destruction of the Common Elements shall be repaired or reconstructed unless, within sixty (60) days after the loss, a decision not to repair or reconstruct is made by Members representing at least 67% of the votes in the Association (or, with respect to Limited Common Elements, 67% of the votes of the Members to whose Units such Limited Common Elements are allocated), and, if the damage or destruction occurs during the Development Period, the vote of Declarant. If either the insurance proceeds or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not available to the Association within such sixty (60)-day period, then such period shall be extended until such funds and information are available. However, such extension shall not exceed sixty (60) additional days. No Mortgagee shall have the right to participate in the determination of whether damage or destruction to the Common Elements shall be repaired or reconstructed.

(iii) If a decision not to repair or reconstruct the damage or destruction to the Common Elements is made pursuant to Section 13.8(a)(ii) and no alternative improvements are authorized, the affected property shall be cleared of all debris and ruins and thereafter shall be maintained by the Association in a neat and attractive landscaped condition.

(iv) Any insurance proceeds attributable to damage to Common Elements shall be applied to the costs of repair or reconstruction and then, if any insurance proceeds remain, distributed among the Owners in proportion to the Common Allocation for each of their Units, except that with regard to damage to Limited Common Elements, the proceeds shall be distributed, pro rata, among the Members to whose Units such Limited Common Elements are allocated.

(v) If insurance proceeds are insufficient to cover the costs of repair or reconstruction of any Common Element, the Board of Directors may levy Assessments to cover the shortfall pursuant to Section 10.5.

(vi) Each Unit will continue to be subject to Assessments following any damage to any portion of the Common Elements, without abatement as a result of such damage.

(b) Other Property Insured by Association.

(i) Immediately after damage or destruction to all or any part of any Property, other than the Common Elements, covered by insurance written in the name of the Association, the Board or its duly authorized agent shall file and adjust all insurance claims and

obtain reliable and detailed estimates of the cost of repair or reconstruction. Repair or reconstruction, as used in this paragraph, means the repair or restoration of the damaged property to substantially the condition in which it existed prior to the damage, allowing for changes necessitated by changes in applicable building codes.

(ii) Any damage to or destruction of such Property shall be repaired or reconstructed unless, within sixty (60) days after the loss, a decision not to repair or reconstruct is made by all Members who own, and all First Mortgagees who hold First Mortgages on, all or a portion of such Property, and, if the damage or destruction occurs during the Development Period, the vote of Declarant. If either the insurance proceeds or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not available to the Association within such sixty (60)-day period, then such period shall be extended until such funds and information are available. However, such extension shall not exceed sixty (60) additional days.

(iii) If insurance proceeds are insufficient to cover the costs of repair or reconstruction, the Board of Directors may levy Assessments to cover the shortfall pursuant to Section 10.5.

(c) Property Insured by Owners.

(i) In the case of Single Residence Damage, the Board shall assign all of its rights as insurance trustee and all insurance proceeds under the Association's insurance relating to such damage to the Owner.

(ii) In all cases other than those involving only Single Residence Damage, immediately after damage or destruction to all or any part of the Property, including any Residence, covered by insurance written in the name of the Association (including any policy obtained under Section 13.4), the Board or its duly authorized agent shall file and adjust all insurance claims and obtain reliable and detailed estimates of the cost of repair or reconstruction. Repair or reconstruction, as used in this paragraph, means the repair or restoration of the damaged property to substantially the condition in which it existed prior to the damage, allowing for changes necessitated by changes in applicable building codes.

(iii) Any damage to or destruction of a Residence sharing a common wall shall be repaired or reconstructed unless, within sixty (60) days after the loss, a decision not to repair or reconstruct the Residence is made by the Owners of the damaged or destroyed Residence and any Residence sharing a common wall therewith, and the Owners obtain the consent of their respective First Mortgagees and, if the damage or destruction occurs during the Development Period, the Declarant. If either the insurance proceeds or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not available to the Association within such sixty (60)-day period, then such period shall be extended until such funds and information are available. However, such extension shall not exceed sixty (60) additional days.

(iv) If a decision not to repair or reconstruct the damage or destruction to the Residences is made pursuant to Section 13.8(c)(ii), the affected Units shall be cleared of all debris and ruins, at the Owners' expense, and thereafter shall be maintained by the respective Owners in a neat and attractive landscaped condition.

(v) Any insurance proceeds attributable to damage to a Residence shall be applied to the costs of repair or reconstruction and then, if any insurance proceeds remain, distributed to the Owner of the affected Unit.

(vi) If insurance proceeds are insufficient to cover the costs of repair or reconstruction (including Betterments), the Board of Directors may levy Special Assessments to cover the shortfall pursuant to Section 10.5.

(vii) Each Unit will continue to be subject to Assessments following any damage to any portion thereof, without abatement as a result of such damage.

13.9 Takings.

(a) Taking of Units. In the event of a Taking of all or any part of any Unit, the Owner thereof will be solely responsible for negotiating with the condemning authority concerning the award for such Taking and will be entitled to receive such award after the liens of all Mortgagees on the affected Unit or portion thereof have been satisfied or otherwise discharged. If only part of a Unit is acquired by a Taking, the Owner of such Unit will be responsible for the restoration of its Unit as necessary to return the Unit to a safe and lawful condition that does not adversely affect the use or enjoyment of the other Units or Common Elements or detract from the general character or appearance of the Property (provided that, if required pursuant to Article XII, the Association may be the party to actually cause such restoration). Any such restoration must be completed in accordance with the provisions of Article XII. If a Taking occurs by which the condemning authority acquires all or any part of one or more Unit(s) in such a manner that such Unit(s) is or are no longer subject to this Declaration, then the Association will consider and pass an amendment to this Declaration revising the allocations made among the various Units hereunder.

(b) Taking of Common Elements.

(i) The Board will be solely responsible for negotiating, and is hereby authorized to negotiate with the condemning authority on behalf of the Owners concerning, the amount of the award for any Taking by which a condemning authority acquires one hundred percent (100%) of the interests in and to any Common Elements owned in fee simple by the Association without also acquiring one hundred percent (100%) of the Units, and the acceptance of such award by the Board will be binding on all Owners. Any award made for such a Taking shall be payable to the Association as trustee for the Owners and shall be disbursed as set forth in Section 13.9(b)(ii) and Section 13.9(b)(iii). Notwithstanding the foregoing, no Common Elements shall be conveyed in lieu of and under threat of condemnation except in accordance with Section 15.3 and, during the Development Period, with the consent of Declarant.

(ii) If a Taking involves a portion of the Common Elements on which Improvements have been constructed, the Association shall restore or replace such Improvements on the remaining land included in the Common Elements to the extent feasible and economically cost-efficient, unless within sixty (60) days after such Taking Members representing at least sixty-seven percent (67%) of the total votes of the Association and, if the Taking occurs during the Development Period, Declarant shall otherwise agree. Any such construction shall be in

accordance with plans approved by the Board. If the award made for such Taking is insufficient to cover the costs of restoration or replacement, the Board may levy Special Assessments to cover the shortfall pursuant to Section 10.5.

(iii) If the Taking involves property owned by the Association but not any Improvements on the Common Elements, or if a decision is made not to repair or restore, or if net funds remain after any such restoration or replacement is complete, then such award or net funds shall be disbursed to the Association and used for such purposes as the Board shall determine.

ARTICLE XIV MORTGAGEE PROVISIONS

The following provisions are for the benefit of First Mortgagees and holders, insurers and guarantors of First Mortgages on Units. The provisions of this Article XIV apply to both this Declaration and the Bylaws, notwithstanding any other provisions contained therein.

14.1 No Priority. No provision of this Declaration or the Bylaws gives or shall be construed as giving any Owner or other party priority over any rights of the First Mortgagee of any Unit in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a Taking of the applicable Unit or the Common Elements.

14.2 Notice to Mortgagees. Upon receipt by the Association of the notice described in the definition of Eligible Holder in Article II, any Eligible Holder who provides such notice will be entitled to prompt written notice of:

(a) Any condemnation loss or casualty loss that affects a material portion of the Property or that affects any Unit on which there is a First Mortgage held, insured or guaranteed by such Eligible Holder;

(b) Any delinquency in the payment of Assessments or charges levied against a Unit subject to the Mortgage of such Eligible Holder, where such delinquency has continued for a period of sixty (60) days after notice of such delinquency has been delivered to the Owner, or any other violation of this Declaration or the Bylaws relating to such Unit or the Owner or occupant thereof which is not cured within sixty (60) days of notice of such violation; and

(c) Any lapse, cancellation or material modification of any insurance policy maintained by the Association and required by the Act.

ARTICLE XV CONVEYANCING AND ENCUMBRANCING

15.1 Units. A description of any Units in accordance with the requirements of Colorado law for the conveyance of real property will, if included in an otherwise proper instrument, be sufficient for all purposes to sell, convey, transfer, encumber or otherwise affect not only such Unit but also all Easements, rights and other benefits appurtenant thereto as provided in this Declaration. A Person who becomes an Owner will promptly notify the Association of his or her

ownership of a Unit. An Owner may encumber his or her Unit as he or she sees fit, subject to the provisions of this Declaration.

15.2 Transferee Liability. In the event of any voluntary or involuntary transfer of a Unit to any Person (other than a Person taking title through a foreclosure of a First Mortgage), the transferee will be jointly and severally liable with the transferor of such Unit for all unpaid Assessments against such Unit up to the time of transfer, without prejudice to such transferee's right to recover from the transferor any amounts paid by such transferee hereunder.

15.3 Common Elements. The Common Elements or portions thereof may be conveyed or subjected to a security interest by the Association pursuant to the minimum requirements of Section 312(1) of the Act. Any net proceeds from the sale of any portion of the Common Elements may be distributed to the Owners as if such amounts were an award paid as a result of the Taking of such portion of the Common Elements.

ARTICLE XVI ALTERNATIVE DISPUTE RESOLUTION

16.1 Intent, Applicability, and Applicability of Statutes of Limitation. Each Party or Parties (as defined below) agrees to encourage the swift and amicable resolution of disputes that constitute Claims (as defined below), without the financial costs and delay of litigation. Accordingly, each Party covenants and agrees to submit all Claims such Party alleges to have to the procedures set forth in this Article XVI and not to a court of law. By acceptance of a deed for a Unit, each Owner agrees to abide by the terms of this Article XVI. No Claim may be initiated after the date when institution of legal or equitable proceedings based on such Claim would be barred by the applicable statute of limitation or statute of repose. Each Party acknowledges and agrees that by being bound by this Article XVI: (a) SUCH PARTY, INCLUDING EACH OWNER AND THE ASSOCIATION, IS FREELY AND KNOWINGLY WAIVING ANY RIGHTS IT MIGHT POSSESS TO HAVE A CLAIM LITIGATED IN A COURT OR JURY TRIAL; (b) such Party's discovery and appeal rights will be limited; (c) an Owner's election to purchase a Unit subject to this Declaration is voluntary and the Owner understands the provisions of this Declaration and this Article XVI; (d) if a Claim involves property or Common Elements owned or managed by the Association, the procedures set forth herein bind the Association and are acceptable and mandatory for resolving Claims with respect to such matters; (e) each Owner and the Association will take all actions necessary to secure participation by other appropriate parties who are not bound by this Declaration in the dispute resolution procedures set forth herein; and (f) the Association and the interest of all Owners in the Association will be bound by the dispute resolution procedures described in this Article XVI.

16.2 Definitions. For the purposes of this Article XVI only, the following terms shall have the meanings as set forth in this Section 16.2.

(a) "AAA" means the American Arbitration Association.

(b) "Arbitrator" means, with respect to a particular Claim to be resolved by arbitration in accordance with Section 16.8(d), the arbitrator agreed to by all of the Parties to such Claim, or if such Parties fail to agree upon an arbitrator within ten (10) days after initiation of the

arbitration for such Claim, the arbitrator selected by the District Court in and for the County upon petition of the Claimant. Unless otherwise agreed by all of the Parties to a Claim, there shall be one arbitrator who, to the extent reasonably feasible, shall have expertise in the area(s) of dispute, which may include legal expertise if legal issues are involved.

(c) “Claimant” means any Party having a Claim.

(d) “Claim” means, except as excluded or exempted by the terms of this Article XVI, any claim, grievance, or dispute between one Party and another, that arises out of or pertains to the Common Elements or any Improvements, including those arising out of or pertaining to (i) the interpretation, application, or enforcement of any of the Governing Documents or the rights, obligations, and duties of any Party under any of the Governing Documents, (ii) the design, engineering, construction, installation, use, operation, maintenance, repair or replacement of any Common Elements or Improvements, (iii) any statements, representations, promises, warranties, or other communications made by or on behalf of any Party, and (iv) any claim, grievance or dispute between one Party and another that arises, or that pertains to the Common Area, any Improvements, the Association’s governing documents, or the sale or transfer of any portion of the Common Elements by the Association to another Party.

(e) “Dispute Resolution Act” means the Colorado Dispute Resolution Act contained in Part 3 of Article 22 of Title 13 of the Colorado Revised Statutes (as the same may be amended or replaced from time to time); provided, however, that the terms and provisions of the Dispute Resolution Act shall, for the purposes of this Article XVI, unless the Claimant and Respondent of a Claim otherwise agree, be deemed supplemented by the terms and provisions of the AAA’s Commercial or Construction Industry Mediation Rules, as shall be appropriate for the particular Claim (but only if and to the extent that such terms and provisions are not inconsistent with the terms and provisions of the Dispute Resolution Act and this Article XVI).

(f) “Governing Documents” means this Declaration, the Articles, the Bylaws, the Rules, and any and all other rules, regulations, policies, and official decisions of the Association.

(g) “Mediator” means, with respect to a particular Claim submitted to mediation in accordance with Section 16.8(c), the mediator agreed to by all of the Parties to such Claim, or if such Parties fail to agree upon an arbitrator within ten (10) days after request by any Party to such Claim, the mediator selected by the District Court in and for the County upon petition of the Claimant.

(h) “Party” or “Parties” means each of the following: Declarant, its officers, directors, partners, members, employees, and agents; Declarant’s successors or assigns; the Association, its officers, directors, and committee members; all persons subject to this Declaration; any Owner of a Unit; any builder who constructs any Residence or Improvements on a Unit, its officers, directors, partners, members, employees, and agents; and any person not otherwise subject to this Declaration who agrees to submit to this Article XVI.

(i) “Restrictions” means the covenants, conditions, restrictions, easements, limitations, reservations, exceptions and equitable servitudes affecting real property as set forth in this Article XVI.

(j) “Respondent” means any Party against whom a Claimant asserts a Claim.

(k) “Termination of Mediation” means that a particular mediation initiated in connection with a Claim pursuant to Section 16.8(c) either (i) has been voluntarily terminated by all of the Parties to such mediation, or (ii) has automatically terminated on the date which is sixty (60) days (or such other period of time as determined by the Mediator or to which the Parties to such Claim may have agreed) after the Mediator for such mediation has been agreed upon by the Parties or appointed by the District Court in and for the County, as the case may be, because the Parties have not resolved the Claim by such date.

(l) “Uniform Arbitration Act” means the Colorado Uniform Arbitration Act contained in Part 2 of Article 22 of Title 13 of the Colorado Revised Statutes (as the same may be amended or replaced from time to time); provided, however, that the terms and provisions of the Uniform Arbitration Act shall, for the purposes of this Article XVI and unless the Claimant and Respondent of a Claim otherwise agree, be deemed supplemented by the terms and provisions of the AAA’s Commercial or Construction Industry Arbitration Rules, as shall be appropriate for the particular Claim (but if and only to the extent that such terms and provisions are not inconsistent with the terms and provisions of the Uniform Arbitration Act and this Article XVI).

16.3 Exclusions from Claim. Unless specifically exempted by this Article XVI, all Claims between any of the Parties shall be subject to the Restrictions in this Article XVI. Notwithstanding the foregoing, unless all Parties to the action, suit, or proceeding otherwise agree, “Claim” does not include the following, whether the same are brought by lawsuit, counterclaim, cross-claim, mediation, arbitration, or in any other manner, and the same shall not be subject to the Restrictions in this Article XVI: (a) an action by the Association to enforce any provisions of this Declaration against an Owner, in its capacity as an Owner, including any action or suit to collect unpaid Assessments payable by an Owner to the Association or to foreclose the lien of the Association in connection therewith; (b) an action by the Association to obtain a temporary restraining order or injunction (or equivalent emergency equitable relief) and such other ancillary relief as the court may deem necessary in order to enforce any of the provisions of the Governing Documents against an Owner or such Owner’s Permittees; and (c) any suit between or among Owners, which does not include Declarant or the Association as a party, if such suit asserts a Claim which would constitute a cause of action independent of the Governing Documents.

16.4 Approval Required for Association Action. The Association may only bring action on any Claim to the extent permitted by, and in accordance with the Restrictions in, this Declaration. Unless a larger or smaller percentage is required by the Act or other applicable law, the approval of seventy percent (70%) of the voting power in the Association by votes cast by Owners voting in person or by proxy at a meeting duly called for this purpose, or voting pursuant to written ballot, must be obtained before the Association shall have the power to institute action on any Claim pursuant to this Article XVI, or to make any counterclaim or cross-claim in any lawsuit or other action brought against the Association. Such approval must be obtained in accordance with the requirements of Section 16.5 of this Declaration.

16.5 Notice for Association Actions. Written notice of any meeting of Owners which includes a vote pursuant to Section 16.4 of this Declaration shall be sent to all Owners not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. Such written notice, or if the vote is to be by written ballot then such written ballot, shall include the following information: (a) a statement regarding the nature of the Claim, which shall include the name(s) of the proposed Respondent(s), a detailed description of the basis and reasons for the Claim, the likelihood of success in the Claim by the Association, the impact, if any, which such Claim may have upon the market value of the Units, and the Residences and other Improvements located thereon, or other portions of the Common Elements, and any other information necessary to adequately explain the nature of the proposed Claim; (b) a good-faith estimate of the costs and fees, including the fees of consultants, expert witnesses and attorneys, reasonably anticipated to be incurred by or for the Association in prosecuting the Claim, with such estimate prepared by the primary attorney the Board proposes to have prosecute the Claim on its behalf, and the impact that such costs and fees may have on the resources of the Association and whether a special assessment or depletion of reserves will be required in connection therewith or as a result thereof; (c) a statement as to whether an offer of settlement has theretofore been received by the Association from a Respondent in connection with such Claim, and if such a settlement offer has been received, the material terms and provisions of such settlement offer, and an explanation of the reasons why the Association believes such settlement offer should or should not be accepted; (d) a good-faith estimate of the manner in which any monies reasonably anticipated to be recovered from the Claim will be distributed or paid to consultants, expert witnesses, the Association, its attorney(s) and any others, prepared by the primary attorney the Board proposes to have prosecute the Claim on its behalf; (e) a good faith estimate of the projected time frame for resolution of the Claim; and (f) the material terms and provisions of the agreement between the Association and the attorney(s) the Board proposes to have prosecute the Claim.

Nothing in this Section 16.5 shall, however, require the disclosure in such notice, or the disclosure to any Owner, of attorney-client communications or other privileged information, permit such notice to serve as a basis for any person to assert the waiver of any applicable privilege or right of confidentiality resulting from, or to claim immunity in connection with, the disclosure of information in such notice, or to limit or impair the authority of the Board to contract for legal services, or limit or impair the ability to enforce such a contract for legal services. Each Owner shall comply with all lawful requirements of the Association pertaining to confidential or privileged information or communications as may be set forth in such notice. If the Owners so approve the initiation of a Claim by the Association, then during the course of all proceedings with respect to such Claim, the Board shall advise the Owners of each settlement offer received by the Association from a Respondent in connection with such Claim, and shall inform the Owners whether the Board believes such settlement offer shall be accepted and the reasons therefor, subject, however, to the Restrictions in this Section 16.5 regarding confidentiality and privileged information.

16.6 Claims by Multiple Owners. For any Claim regarding more than one Unit, (i) the Association shall have the exclusive right to pursue such Claim on behalf of the Owners and to seek redress against the appropriate Parties; and (ii) individual Owners shall not be permitted to pursue such claim or seek redress against the appropriate Party on their own behalf or on the behalf of any other person. Notwithstanding the foregoing, the Association may not pursue any such Claim unless, at a special meeting of the Owners held in accordance with the provisions of the

Bylaws, more than seventy percent (70%) of all the votes in the Association are cast in favor of pursuing such Claim. If seventy percent (70%) or less of all of the votes in the Association do not vote in favor of so pursuing the claim, no Owner shall be entitled to pursue the Claim or seek redress against any Party on such Owner's own behalf or on behalf of the Association or other Owners. By accepting a deed to a Unit, each Owner hereby irrevocably grants to the Association a power of attorney to pursue a claim in the manner set forth in this Section 16.6 and to settle such claim on the Owner's behalf without further consent or action by such Owner.

16.7 Right to Inspect. Prior to any Party commencing any proceeding involving a Claim to which another Party is a party, including, but not limited to, an alleged defect of any Improvement, the Respondent shall have the right to be heard by the Claimant and, if any Claimant is the Association, by the Owners, and any rights allowed under Colorado law to access, inspect, or correct the condition of, or redesign any portion of any Improvement as to which a defect is alleged; provided, however, that any correction to, or redesign of, an Improvement shall be made upon terms and conditions acceptable to all affected Parties. The exercise of such inspection rights shall be in full compliance with Colorado law.

16.8 Mandatory Procedures for Claims.

(a) Good Faith Negotiations. The Parties shall make every reasonable effort to meet in person and confer for the purposes of resolving the Claim through good faith negotiation. Any Party may be represented by attorneys and independent consultants to assist such Party in negotiations and to attend meetings.

(b) Notice. Prior to proceeding with any Claim against a Respondent, each Claimant shall give a notice (a "Notice of Claim") to each Respondent, which notice shall state plainly and concisely: (i) the nature of the Claim, including all persons involved and Respondent's role in the Claim, (ii) the legal or contractual basis of the Claim (i.e., the specific authority out of which the Claim arises), and (iii) the specific relief and proposed remedy sought.

(c) Mediation. If the Parties do not resolve the Claim through negotiations within sixty (60) days after delivery of the Notice of Claim to the Respondent(s), Claimant shall have an additional thirty (30) days to submit the Claim to mediation under the Dispute Resolution Act. If the Claimant does not submit the Claim to mediation within such time, or does not appear for the mediation, Claimant shall be deemed to have waived the Claim, and Respondent shall be released and discharged from any and all liability to Claimant on account of such Claim; provided, however, that nothing herein shall release or discharge the Respondent from any liability to any person other than the Claimant. Any settlement of the Claim through mediation shall be documented in writing by the Mediator and signed by the Parties. If a Termination of Mediation occurs, the Mediator shall issue a notice of termination of mediation. The termination of mediation notice shall set forth that the Parties are at an impasse, and state the date that mediation was terminated. Each Party shall bear its own fees and costs of the mediation, including attorneys' fees, and each Party shall share equally all charges rendered by the Mediator. If the Parties agree to a resolution of any Claim through negotiation or mediation in accordance with Section 16.8(a) or this Section 16.8(c) and any Party thereafter fails to abide by the terms of such agreement, then any other Party may file suit or initiate arbitration proceedings to enforce such agreement without the need to again comply with the procedures set forth in this Section 16.8. In such event, the

Party taking action to enforce the agreement shall be entitled to recover from the non-complying Party (or if more than one non-complying Party, from all such Parties pro rata) all costs incurred (excluding, however, any portion of the attorneys' fees incurred by the enforcing Party) in enforcing such agreement, including court costs.

(d) Binding Arbitration. Upon Termination of Mediation, if Claimant desires to pursue the Claim, Claimant shall thereafter be entitled to initiate final, binding arbitration of the Claim under the Uniform Arbitration Act. Colorado law shall apply to the arbitration proceedings. Any judgment upon the award rendered by the Arbitrator may be entered in and enforced by any court having jurisdiction over such Claim. Each Party shall bear its own fees, costs and expenses, including attorneys' fees and an equal share of the Arbitrator's and administrative fees of arbitration. In any arbitration proceeding, the Arbitrator shall have no authority to require one Party to pay all of a portion of another Party's attorneys' fees, and each Party shall bear its own attorneys' fees. Notwithstanding the foregoing, if a Party contests the validity or scope of arbitration in a court of law, the Arbitrator or the court may award expenses incurred (but not attorneys' fees), including those incurred in trial or on appeal, to the substantially prevailing Party. All decisions respecting the arbitrability of any Claim shall be decided by the Arbitrator. The award of the Arbitrator shall be accompanied by detailed written findings of fact and conclusions of law, which findings shall be issued within thirty (30) days after completion of the arbitration. Except as may be required by law or for confirmation of an award, neither a Party nor an Arbitrator may disclose the existence, content, or results of any arbitration without the prior written consent of all Parties to the Claim.

16.9 Liability for Failure of Association to Maintain an Action. No director or officer of the Association shall be liable to any person for failure to institute or maintain or bring to conclusion a cause of action, mediation or arbitration for a Claim if the following criteria are satisfied: (a) the director or officer was acting within the scope of his duties, (b) the director or officer was acting in good faith, and (c) the act or omission was not willful, wanton or grossly negligent.

16.10 Severability. All Restrictions in this Article XVI are severable. Invalidation of any of the Restrictions in this Article XVI, by judgment, court order or otherwise, shall in no way affect or limit any other Restrictions in this Article XVI which shall remain in full force and effect.

16.11 Inconsistencies Between Article XV and Other Provisions. In the event of any inconsistency between the Restrictions contained in this Article XVI and the provisions contained elsewhere in this Declaration, the Restrictions in this Article XVI shall control.

ARTICLE XVII GENERAL PROVISIONS

17.1 Amendment.

(a) Amendment by Declarant. Declarant may unilaterally amend this Declaration during the Development Period in the exercise of its respective Development Rights to the extent permitted by the Act. Additionally, notwithstanding any contrary provision contained in this Declaration, Declarant may unilaterally amend this Declaration and the Plat to correct any

clerical, typographical or technical errors, and may amend this Declaration to comply with the requirements, standards or guidelines of recognized secondary mortgage markets, the Department of Housing and Urban Development, the Federal Housing Administration, the Veterans Administration, the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association or the Federal National Mortgage Association.

(b) Amendment by Association. Except in the case of amendments which may be executed unilaterally by Declarant as set forth in Section 17.1(a), amendments which may be executed by the Association without a vote of the Members as provided in the Act and amendments that are subject to the approval of Eligible Holders pursuant to the terms of this Declaration, this Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of Members representing fifty percent (50%) of the total votes in the Association and, if such amendment occurs during the Development Period, with the consent of Declarant; provided, however, that any amendment which changes the uses to which any Unit is restricted shall require the affirmative vote or written consent or any combination thereof, of Members representing sixty-seven percent (67%) of the total votes in the Association and, if such amendment occurs during the Development Period, with the consent of Declarant. Notwithstanding the above, the percentage of votes necessary to amend a specific clause of this Declaration shall not be less than the prescribed percentage of affirmative votes required for action to be taken under such clause. Amendments to this Declaration shall be prepared, executed, Recorded and certified by the president or other duly appointed officer of the Association. For any amendments that are subject to the approval of Eligible Holders that are also First Mortgagees, the Association shall deliver notice of such proposed amendment as required hereunder, by certified or registered mail, with a return receipt requested.

(c) Consent of Declarant. During the Development Period, no amendment may remove, revoke or modify any right or privilege of Declarant without the written consent of Declarant.

(d) Consent of Owner. Any amendment of this Declaration made in conformity with this Declaration and the Act shall be conclusively presumed to have received the consent of each Owner and such Owner's Mortgagee, if applicable, and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment.

(e) Effective Date; Change in Conditions. Any amendment shall become effective upon Recording, unless a later effective date is specified in the amendment. Any procedural challenge to an amendment must be made within one (1) year of its Recording or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of this Declaration.

17.2 Duration and Termination.

(a) Perpetual Duration. Unless terminated as provided in Section 17.2(b), this Declaration shall have perpetual duration. If Colorado law hereafter limits the period during which covenants may run with the land, then to the extent consistent with such law, this Declaration shall

automatically be extended at the expiration of such period for successive periods of 20 years each, unless terminated as provided herein.

(b) Termination. This Declaration may not be terminated prior to the date that is thirty (30) years after the date of Recording without the consent of all the Owners and, during the Declarant Control Period, the consent of Declarant. Thereafter, it may be terminated only by an instrument signed by Owners who represent at least seventy percent (70%) of the votes in the Association or such greater or lesser percentage as may be required by the Act. Any termination instrument shall be Recorded and must comply with the termination procedures set forth in the Act. Nothing in this Section 17.2(b) shall be construed to permit termination of any easement created in this Declaration without the consent of the holder of such easement.

17.3 Indemnity. No Owner will hold or attempt to hold the Association or its employees or agents liable for, and each Owner shall indemnify and hold harmless the Association, its employees and agents from and against, any and all demands, claims, liens (including mechanics' and materialmen's liens and claims), causes of action, fines, penalties, damages, liabilities, judgments, costs and expenses (including attorneys' fees and costs of litigation), to the extent permitted by Section 123 of the Act, incurred in connection with or arising from (a) the use or occupancy or manner of use or occupancy of the Common Elements (or any other property owned by the Association) by such Owner or such Owner's Permittees, (b) any activity, work or thing done, permitted or suffered by such Owner in or about the Common Elements or any other property owned by the Association, or (c) any acts, omissions or negligence of such Owner or such Owner's Permittees; except to the extent that any injury or damage to persons or property on the Common Elements or any other property owned by the Association is proximately caused by or results proximately from the negligence or deliberate act of the Association or its agents or employees. Nothing contained in this Section 17.3 will be construed to provide for any indemnification which would violate applicable laws, void any or all of the provisions of this Section 17.3, or negate, abridge, eliminate or otherwise reduce any other indemnification or right which the Association or the Owners have by law.

17.4 Use of the Name "Elevate at Wildhorse Meadows". No Person shall use the name "Elevate at Wildhorse Meadows" or any derivative in any printed or promotional material without Declarant's prior written consent. However, Owners may use the name "Elevate at Wildhorse Meadows" in printed or promotional matter where such term is used solely to specify that a particular property is located within the Community, and the Association shall be entitled to use the name "Elevate at Wildhorse Meadows" in its name.

17.5 Owner Enforcement. In accordance with and in furtherance of Section 124 of the Act, except as necessary to prevent a violation or attempted violation that results or would result in direct and immediate physical damage to an Owner's Unit or the Improvements thereon, no Owner may prosecute any proceeding at law or in equity to enforce the provisions of this Declaration. Except as provided above with respect to threatened immediate physical damage, the Association, acting through the Board, shall have the exclusive right, power and authority to enforce the provisions of this Declaration. If the preceding provisions of this Section 17.5 are adjudged to be unenforceable, an Owner may institute a proceeding to enforce a provision of this Declaration only if the Board does not, at its election, take action to enforce such provisions within sixty (60) days after the Owner gives written notice to the Board specifying the violation or

attempted violation of the provisions of this Declaration, the facts and circumstances surrounding the violation, and the name of the Person alleged to have violated or attempted to violate the provisions of this Declaration. Nothing in this Section 17.5 is intended or shall be construed to limit Declarant's exercise or enjoyment of any rights reserved or granted to Declarant pursuant to this Declaration or the Act.

17.6 Severability. If any provision of this Declaration is deemed illegal or invalid by judgment or court order, a legally valid provision similar to the invalidated provision shall be substituted therefor. Invalidation of any provision of this Declaration, in whole or in part, or of any application of a provision of this Declaration, by judgment or court order shall in no way affect other provisions or applications of this Declaration.

17.7 Governing Law. This Declaration shall be governed by and construed under the laws of the State of Colorado.

17.8 Interpretation. The headings and captions contained in this Declaration are for convenience only and will not be considered in interpreting any provisions of this Declaration. As used in this Declaration, (a) the term "including" means "including, without limitation" and "including, but not limited to" and will not be interpreted to imply any limitation on the more general preceding provision, unless otherwise expressly stated, and (b) the singular pronouns include the plural, masculine pronouns include the feminine and neutral genders, and vice-versa, as appropriate.

17.9 Notices. Except for notices concerning meetings of the Association or the Board, which will be given in the manner provided in the Bylaws, any notices required or permitted hereunder or under the Bylaws to be given to any Owner, the Association, the Board or any Eligible Holder will be sent by certified mail, first-class postage prepaid, return receipt requested, to the intended recipient at, in the case of notices to an Owner, the address of such Owner at its Unit; in the case of notices to the Association or the Board, the address of the Association's registered agent (as set forth in the Articles); or in the case of notices to an Eligible Holder, the address thereof most recently given to the Association by notice from such Eligible Holder; provided however, that notices regarding proposed amendments to this Declaration to any First Mortgagee whose approval is required for such amendment shall be delivered as required by Section 217(1)(b) of the Act. All notices will be deemed given and received three (3) business days after such mailing. Any Owner or Eligible Holder may change its address for purposes of notice by notice to the Association in accordance with this Section 17.9. The Association or the Board may change its address for purposes of notice by notice to all Owners in accordance with this Section 17.9. Any such change of address will be effective five (5) days after giving of the required notice.

17.10 Colorado Common Interest Ownership Act. This Declaration shall be subject to all mandatory requirements of the Act. In the event of any conflict between any term or provision of this Declaration and any mandatory provision of the Act, the mandatory provisions of the Act shall control in all instances, and neither Declarant nor the Association shall have any liability to any party for actions taken in conformity with Act, notwithstanding the fact that such actions may be contrary to the provisions of this Declaration. In the event of any conflict between any term of provision of this Declaration and any permissive or non-mandatory provision of the Act, the provisions of this Declaration shall control in all instances.

17.11 FHA/VA Approval.

(a) During Declarant Control. If and to the extent required by the Fair Housing Administration (the “FHA”) and the United States Department of Veterans Affairs (“VA”), during the Declarant Control Period, the following actions will require the approval of the FHA and VA: (i) annexation of additional property into the Property; (ii) amendment of this Declaration; or (iii) termination of the Community as a planned community under the Act.

(b) Amendment Cooperation. If the FHA or VA, as a condition to approving any development project on the Property for loans insured or guaranteed by them, require the Owner proposing such development project to obtain an amendment to this Declaration for the purpose of making this Declaration comply with the statutory or regulatory requirements enforced by the FHA or VA, then Declarant and the other Owners agree to cooperate reasonably with such Owner in making such amendment; provided, however, that the proposed amendment must be consistent with the Act and the Owner requesting such amendment shall pay all costs and expenses (including attorneys’ fees) reasonably incurred by Declarant and the other Owners so cooperating.

17.12 Declarant Liability. Except as otherwise provided in the Act, no Person holding the status of, or exercising any rights or performing any obligations of, Declarant under this Declaration shall be liable to any Owner or Mortgagee for any acts or omissions of another Person holding such status, or exercising any rights or performing any obligations associated with the status of Declarant.

17.13 No Merger. Notwithstanding that Declarant currently holds title to all the Property, and all, part or none of the Additional Property, and notwithstanding that a subsequent Owner may own or hold title to more than one Unit, any such commonality of interests shall not result in or cause any merger and extinguishment, in whole or in part, of any provisions of this Declaration, it being intended by Declarant, for its benefit and the benefit of its successors in interest, that the terms of this Declaration not be merged by virtue of those common ownership interests to any extent, but instead that such terms be and remain in full force and effect upon and following the making and Recording of this Declaration.

[Signature appears on following page]

Exhibit A-1
to
Declaration of Covenants, Conditions and Restrictions
for Elevate at Wildhorse Meadows

Initial Property

[To be inserted]

Exhibit A-2
to
Declaration of Covenants, Conditions and Restrictions
for Elevate at Wildhorse Meadows

Recorded Matters Affecting Initial Property
(All recording information refers to the real property records of Routt County, Colorado.)

1. All easements referred to or contained in or granted or created by this Declaration.
2. [*To be inserted*]

Exhibit B
to
Declaration of Covenants, Conditions and Restrictions
for Elevate at Wildhorse Meadows

Additional Property

[To be inserted]

Exhibit C
to
Declaration of Covenants, Conditions and Restrictions
for Elevate at Wildhorse Meadows

Initial Common Allocations
[To be inserted]

Note: Per Section 10.11 of the Declaration, certain Assessments are discounted for Units that do not contain a Residence for which a valid certificate of occupancy has been issued. As of the date of this Declaration, such discounts will apply to some or all of the Units. Therefore, the chart above will not reflect the actual allocations of Common Assessments until each Unit contains a Residence for which a valid certificate of occupancy has been issued.

Exhibit D
to
Declaration of Covenants, Conditions and Restrictions
for Elevate at Wildhorse Meadows

Common Elements

A. GENERAL COMMON ELEMENTS:

1. General Common Elements to be Owned in Fee Simple by the Association:

All or any portion of the following real property, if any, if, when and at such time as all or any portion of such real property is conveyed to the Association:

[Tracts [A and B] as shown on the Plat.]

Neither Declarant nor any other party shall have any obligation to convey all or any portion of the foregoing real property to the Association.

2. General Common Elements Easements for the Benefit of the Association and Related Improvements:

As described in the Declaration.

3. General Common Elements Improvements to be Maintained by the Association (located on property that may not be owned by the Association):

All landscaping and related improvements owned and maintained by the Association and located in public rights-of-way and alleys.

All Utilities and Utility Equipment owned and maintained by the Association and which serve all of the Units.

All other such General Common Elements as described in the Declaration.

B. LIMITED COMMON ELEMENTS:

1. Limited Common Elements to be Owned in Fee Simple by the Association:

As described in the Declaration.

2. Limited Common Elements Easements for the Benefit of the Association and Related Improvements:

As described in the Declaration.

3. Limited Common Elements Improvements to be Owned by the Association (located on property not to be owned by the Association):

All Utilities and Utility Equipment owned and maintained by the Association and which serve some, but not all, of the Units.

Any shafts, chutes, flues, ducts, vents, chases, pipes, wires, conduits, lines or other Utility Equipment lines that are located in a Unit but do not exclusively serve that Unit are Limited Common Elements allocated to the Units which they serve.

All other such Limited Common Elements as described in the Declaration.

C. ALLOCATION OF LIMITED COMMON ELEMENTS:

As described in the Declaration.