



DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS FOR  
THE HIGHWAY 24 EASTGATE BUSINESS PARK CONDOMINIUM ASSOCIATION

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR THE HIGHWAY 24 EASTGATE BUSINESS PARK CONDOMINIUM ASSOCIATION ("Declaration") is made by LACA-LOJA, LLC, a Colorado limited liability company ("Declarant").

WHEREAS, Declarant is the owner of that certain real estate located in the County of El Paso, State of Colorado, more particularly described on Exhibit A attached hereto ("Real Property").

WHEREAS, Declarant desires to create a non-residential office warehouse project to be referred to as the "Highway 24 Eastgate Business Park" on the Property. The Project (defined below) will consist of up to five buildings, all sharing certain common property to be owned and maintained in accordance with the terms of this Declaration. Declarant shall have the right to annex into the Property certain described real estate and create upon such real estate additional common elements, buildings, and units within such buildings.

WHEREAS, Declarant has caused, or will hereafter cause, to be incorporated under the laws of the State of Colorado, The Highway 24 Eastgate Business Park Condominium Association, Inc., a Colorado nonprofit corporation ("Association"), for the purpose of exercising the functions set forth herein.

SUBMISSION OF REAL ESTATE

NOW, THEREFORE, Declarant hereby submits the Real Property described on Exhibit A attached hereto which is Building 1, Phase I of the Project, and Buildings 2, 3, 4 and 5, which are Phases II through VIII, all as further described herein and described on and as depicted in the Map (as defined below) together with all improvements, rights, and appurtenances thereto ("Property") to the provisions of this Declaration and the Colorado Common Interest Ownership Act, C.R.S. §§ 38-33.3-101 *et seq.*, as amended ("Act"). Declarant further declares that the Property and all of the real estate that Declarant hereinafter may add to the Property shall be held or sold, and conveyed subject to the following easements, restrictions, covenants, and conditions which are for the purpose of protecting the value and desirability of the Property, and which covenants shall run with the Property and shall inure to the benefit of and bind all parties having any right, title or interest in the Property or any part thereof, their heirs, legal representatives, successors, and assigns.

ARTICLE 1  
DEFINITIONS

Each capitalized term not otherwise defined in this Declaration or in the recorded Maps for this Condominium shall have the meaning specified or used in the Act and the Act shall control for all purposes. As used in this Declaration, the following capitalized terms shall have the meanings set forth on the following page:

Allocated Interests. The undivided interests of the Owners in the Common Elements, their respective percentages of Common Expense Liability and the number of votes in the Association appurtenant to each Owner's Unit. The initial Allocated Interests shall be as set forth on Exhibit B attached hereto. The formulae for determining the Allocated Interests are set forth in ARTICLE 7 hereof in the event that the Allocated Interests are to be recalculated due to the addition or withdrawal of any Unit or as otherwise permitted herein.

Annexation Amendment. Shall have the meaning set forth in Article 15.

Articles of Incorporation. The Articles of Incorporation for the Association, as the same may be amended from time to time.

Association. The Highway 24 Eastgate Business Park Condominium Association, Inc., a Colorado nonprofit corporation, its successors and assigns.

Boma Standard. The BOMA Standard Method for Measuring Floor Area in Buildings, ANSI/BOMA Z65.1 -1996.

Building. Each office warehouse building now constructed or hereafter constructed and annexed into the Condominium Project which is intended for office and commercial use. The term Building shall refer to Condominium Buildings and Individual Building Units therein.

Bylaws. The Bylaws of the Association, as the same may be amended from time to time.

Clerk and Recorder. The Clerk and Recorder for the real property records of El Paso County, Colorado.

Common Elements. All portions of the Property other than the Units. The Common Elements are owned by the Owners in undivided interests and include only General Common Elements and Limited Common Elements.

Common Expenses. As used in this Declaration, all expenses incurred by and for the benefit of the Association pursuant to the Governing Documents including, but not limited to: (i) annual costs and expenses of the Association; (ii) insurance premiums; (iii) large, single item expenditures of the Association (including but not limited to, capital expenditures that may be paid through the use of Special Assessments); (iv) amounts necessary to fund Reserves; and (v) all expenses otherwise determined to be Common Expenses by the Executive Board.

Common Expense Liability; Common Expense Assessment(s); Assessment(s). "Common Expense Liability" shall mean the liability for Common Expenses. "Assessments" or "Common Expense Assessments" shall mean the monetary obligation to pay for such Common Expenses allocated to each Unit pursuant to this Declaration and shall also include, without (i) Annual Assessments, Special Assessments, and Default Assessments (see Article 8 hereof); (ii) late charges, attorneys' fees, fines, and interest charged by the Association; (iii) charges against a

particular Owner and such Owner's Unit for the purpose of reimbursing the Association for expenditures and other costs of the Association in curing any violation of the Governing Documents by the Owner or a Related User of such Owner (including Default Assessments); and (iv) insurance assessments assessed in proportion to risk against individual Units and Owners.

Condominium Building. A Building which has, or will be, subdivided into individual Office Warehouse Units. All portions of any such Condominium Building which are not Office Warehouse Units shall be Common Elements. Limited Common Elements, if any, that are appurtenant to one or more Office Warehouse Units in a Condominium shall be described on the applicable Map or in this Declaration. A Condominium Building shall be designated as such on the Map as a "Building" followed by an identifying letter.

Covenants. Collective term for all covenants, restrictions, reservations, conditions, terms, easements, and rights-of-way specifically set forth in this Declaration or referenced in this Declaration and set forth in the Governing Documents, as the same may be adopted, amended and supplemented from time to time.

Declarant. LACA-LOJA, LLC, a Colorado limited liability company and any successor or successors in interest. The rights of the Declarant may be transferred in accordance with the applicable provisions of the Act.

Declaration. This Declaration, and any and all duly executed amendments, supplements or additions to this Declaration recorded in the office of the Clerk and Recorder, and also including all Maps recorded in connection herewith.

Default Rate of Interest. Shall have the meaning set forth in Article 8.

Design Guidelines. Shall have the meaning set forth in Article 9.

Design Review Committee. Shall have the meaning set forth in Article 9.

Exclusions. Except when specifically included by other provisions of this Declaration or by the Map, the following are excluded from each Office Warehouse Unit: the spaces and improvements lying outside the boundaries described above, central air conditioners and heating systems, thresholds, exterior lighting and all chutes, pipes, flues, ducts, wires, conduits, and other facilities running through or within any interior wall or partition for the purpose of furnishing utility and other service to other Office Warehouse Units or to Common Elements.

Executive Board. The governing body, or board of directors, of the Association.

Expansion Property. The property as may be described on Exhibit D attached hereto and described in and depicted on the Map as well as all real property not described or specified in this Declaration but that the Declarant may have the right to annex into the Project in accordance with the terms of the Act. The Expansion Property is not a part of the Project and is not subject to the terms of this Declaration until such time, and to only such extent, that such property is annexed into the Project by exercise of the Declarant's rights hereunder.

Exterior IBU Maintenance. Shall have the meaning set forth in Article 10.

Exterior Improvements. Shall have the meaning set forth in Article 9.

First Lien Security Interest. Any unpaid and outstanding mortgage or deed of trust on a Unit or other instrument creating a security interest against a Unit recorded with the Clerk and Recorder, having priority of record over all other recorded liens except those governmental liens, statutory liens, and Common Expense Assessment liens which are made superior by statute. A mortgage or deed of trust granted to a Person who was previously an Owner or to an affiliate of a Person who is or previously was an Owner solely to avoid the lien of the Association for payment of past due Assessments, shall not be deemed a First Lien Security Interest.

First Mortgagee. The Mortgagee which has priority of record over all other recorded encumbrances and liens except those governmental liens made superior by statute (such as general ad valorem tax liens and special assessments).

General Common Elements. All portions of the Common Elements not designated in this Declaration (including, but not limited to, designation on any Maps recorded herewith) as Limited Common Elements. General Common Elements may be designated, without limitation, as a "General Common Element" or a "GCE" on a Map.

Governing Documents. Collective reference to those documents which govern the operation of the Association and the Project, including: (a) Articles of Incorporation, (b) Bylaws, (c) Rules and Regulations, (d) all recorded Maps and plats affecting the Project, and (e) this Declaration, as one or more of the same may be amended from time to time. Each and every provision of the Governing Documents shall be given the same force and effect as if set forth in this Declaration; provided that if any provision of a Governing Document is contrary to a provision of this Declaration, the Declaration shall control.

Improvement(s). All structures, Buildings, improvements, gates, fences, walls, landscaping, and fixtures located within the Property.

Inclusions. Each Office Warehouse Unit includes the spaces and improvements lying within the boundaries of the Office Warehouse Unit, as depicted on the Map. Each Office Warehouse Unit also includes all utility fixtures, air conditioning and heating systems, electrical switches, wiring, pipes, ducts, conduits, smoke detector or security systems and communications, television, telephone and electrical receptacles and boxes located within the Office Warehouse Unit and serving that Office Warehouse Unit exclusively.

Individual Building Unit. A Building that is not a Condominium Building. An Individual Building Unit shall itself be a single Unit, as defined herein and in the Act. An Individual Building Unit shall be designated as such on the Map as an "Individual Building Unit" or an "IBU" followed by an identifying number. The interior and exterior Improvements constituting an Individual Building Unit shall be owned and maintained exclusively (except as otherwise provided herein) by the Owner thereof and no portion thereof shall be a Common

Element. The Map shall contain the two-dimensional horizontal building footprint of each Individual Building Unit, which shall describe the horizontal dimensions of the Unit. The vertical boundaries of an Individual Building Unit shall extend from the ground level to the highest point of the Building and, also, from ground level to the lowest depth of any below ground improvements constructed to support or otherwise service the Building. Such vertical and horizontal boundaries shall set forth each Individual Building Unit's dimensions and the condominium "airspace" that defines such Unit pursuant to this Declaration. Each Individual Building Unit shall be identified with an identifying number on the Map.

Interior Services. Shall have the meaning set forth in Article 10.

Limited Common Elements. Those portions of the Common Elements designated in this Declaration (including, but not limited to, designation on any Maps recorded herewith) for the exclusive use of one or more Units but fewer than all of the Units. The method for designating a Limited Common Element shall include, without limitation, by labeling the Limited Common Element on a Map with the words "Limited Common Element," or as an "LCE."

Maintenance Standards. Shall have the meaning set forth in Article 10.

Map. The Highway 24 Eastgate Business Park Condominium Map recorded in the office of the Clerk and Recorder on Oct. 21, 09 at Reception No. 209600917 depicting a plan and elevation schedule of all or a part of the Property subject to this Declaration and any supplements and amendments thereto.

Office Warehouse Unit. An individual air space unit contained within an enclosed area occupying part of any Condominium Building (as shown on the Map) and bounded by the unfinished interior surfaces of the perimeter walls (or the adjoining walls, if two or more Office Warehouse Units adjoin each other), unfinished interior surfaces of floors, ceilings, windows, window frames, doors and door frames, and which is described in three dimensions by horizontal and vertical boundaries on the Map and identified with an identifying letter on the Map. Office Warehouse Units are "units" within the meaning of the Act.

Noncontiguous Portions. Certain Office Warehouse Units may include certain spaces or pieces of equipment which are located outside the Unit. Such special equipment, spaces and storage areas are a part of the Office Warehouse Unit, notwithstanding their location outside of the Unit or their non-contiguity with the principal portions. Each Office Warehouse Unit includes the spaces and improvements lying within the boundaries described above, and also includes the utilities and utility meters and communications, television, telephone and electrical receptacles and boxes serving that Office Warehouse Unit exclusively, whether or not in the boundaries of the Office Warehouse Unit or contiguous to the Office Warehouse Unit, unless the same are maintained by a governmental agency or entity. The Common Elements are excluded from each Office Warehouse Unit and any utilities or other facilities running through or within any Office Warehouse Unit for the purpose of furnishing utility and other services to other Office Warehouse Units or the Common Elements are also excluded.

Identification. An Office Unit shall be designated as such on the Map by an identifying letter and reference to the Condominium Building in which it is located.

Overall Condominium Share. Shall have the meaning set forth in Article 7.

Owner. The record Owner, whether one or more Persons or entities, of a fee simple title to any Unit, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Parking Share. A Unit's allocated share of parking spaces within the Community. Each Unit shall be allocated a total of three parking spaces.

Person. Any individual or entity, and the heirs, successors, assigns and representatives of such Person where the context so requires.

Project: Common Interest Community Condominium. The commercial condominium complex known as the "Highway 24 Eastgate Business Park" created by this Declaration and as shown on the Map.

Related User. Any guest, licensee, invitee, customer, or visitor of any Owner who is not strictly a trespasser on the Project.

Relative Building Share. Shall have the meaning set forth in Article 7.

Relative Unit Share. Shall have the meaning set forth in Article 7.

Remediation Notice. Shall have the meaning set forth in Article 10.

Rules and Regulations. Collective term for all rules, regulations, policies, procedures and guidelines of the Association, as the same may be adopted and amended from time to time by the Executive Board pursuant to the Act and the Governing Documents.

Unit. Each Individual Building Unit (if any) and each Office Warehouse Unit now or hereafter constructed on the Property shall be a Unit, as such term is used herein and defined by the Act. Each Unit shall consist of a separate estate in fee simple in a Unit, together with the following appurtenances: (a) an undivided Allocated Interest as tenant in common in and to the General and Limited Common Elements, and all rights appurtenant thereto; (b) an exclusive easement for the use of the air space occupied by the Unit as it exists at any particular time and as the Unit may lawfully be altered or reconstructed from time to time, which easement shall be terminated automatically in any air space which is vacated from time to time; (c) membership in the Association and an undivided share in the common surplus of the Association; (d) the right to use, occupy and enjoy common facilities subject to the provisions of this Declaration, the By-Laws and the rules and regulations adopted by the Association; and (f) the easements described herein.

Withdrawn Property. Shall have the meaning set forth in Article 15.

ARTICLE 2  
GENERAL STATEMENT OF COVENANTS

2.1 Covenants Bind the Property. The Property shall be held, sold, and conveyed subject to the Covenants for the purpose of protecting the value and desirability of the Property and any other purposes incidental thereto. All Covenants shall continue to run with the Property and shall be binding on all parties having any right, title or interest in the Property or any part thereof, their heirs, legal representatives, successors, and assigns and shall inure to the benefit of each Owner thereof and the Association.

2.2 Property Location: Encumbrances. The Property is located in El Paso County, State of Colorado, and includes the real property described on Exhibit A. The Property is presently subject to those various easements, licenses, covenants, conditions, and restrictions as are recorded with the Clerk and Recorder and described, as of the date hereof, on Exhibit C attached hereto.

2.3 Name and Type of Project. The name of the Project is the "HIGHWAY 24 EASTGATE BUSINESS PARK." For purposes of the Act, the Project is a Condominium, as such term is defined by the Act. The name of the Association is "The Highway 24 Eastgate Business Park Condominium Association, Inc." In order to maintain a superior Project, and thus protect the value of the Units, each Unit shall be occupied and used for a business, manufacturing or commercial purpose only; unless, prior, proper written approval of the Association is obtained, which approval may thereafter be withdrawn or terminated by the Association at any time.

2.4 Delegation of Use. An Owner may delegate his or her right of enjoyment to the Common Elements to a Related User. In the event of a delegation, the Owner shall be deemed to have agreed to be an indemnitor of any liabilities of the Related User arising from such Related User's use of the Common Elements including, without limitation, for any physical damage caused by the Related User to the Common Elements. The Association, or the person injured by the Related User's use, shall have the right to enforce any claim indemnified in the manner set forth herein directly against the Owner without first exhausting or even pursuing such claim against the Related User. The indemnity provided herein may be enforced by Assessment and fines levied pursuant to this Declaration.

ARTICLE 3  
UNITS, IDENTIFICATION

3.1 Number of Units. The number of Condominium Buildings initially included in the Project is one (1). The number of Office Warehouse Units initially included in the Project is six (6). Declarant reserves the right to include up to four (4) additional Condominium Buildings and up to thirty nine (39) additional Office Warehouse Units such that, in the aggregate, the total number of Office Warehouse Units that may be created is schedule to be forty-five (45). The number of Office Warehouse Units that may be created within a Condominium Building may vary and Declarant expressly reserves the right to create additional

Condominium Buildings in which to locate such Office Warehouse Units. Each Individual Building Unit, Condominium Building and Office Warehouse Unit initially included in the Project shall be located as described on the Map. The total number of Office Warehouse Units in the Project will depend upon determinations to be made from time to time by Declarant. Notwithstanding the foregoing, nothing in this Declaration shall be construed to obligate Declarant to subject to this Declaration any real property other than that described on Exhibit A.

3.1.1 Project Improvements. The Project is expected to ultimately consist of a approximately five (5) Buildings and the associated parking areas, which are, or will become part of, the Common Elements or Limited Common Elements. With the exception of the already completed Building 1 in Phase I, all future Buildings to be constructed in Phases II – VIII are presently intended to be constructed in accordance with the technical drawings for such Buildings and as depicted in Declarant's marketing materials.

3.1.2 Phased Construction. Declarant intends to expand and develop the Project in phases as described below:

Phase I. The construction of: (i) the first building, Condominium Building 1, which shall contain six (6) Condominium Units; (ii) accompanying, parking spaces, if any.

Phase II. The construction of: (i) the first part of the second building, Condominium Building 4, which will contain six (6) Condominium Units; and (ii) accompanying, parking spaces, if any.

Phase III. The construction of: (i) the second part of the second building, Condominium Building 4, which shall contain seven (7) Condominium Units; (ii) accompanying parking spaces, if any.

Phase IV. The construction of: (i) the third building, Condominium Building 5, which shall contain seven (7) Condominium Units; (ii) accompanying parking spaces, if any.

Phase V. The construction of: (i) the first part of the fourth building, Condominium Building 3, which shall contain five (5) Condominium Units; (ii) accompanying parking spaces, if any.

Phase VI. The construction of: (i) the second part of the fourth building, Condominium Building 3, which shall contain five (5) Condominium Units; (ii) accompanying parking spaces, if any.

Phase VII. The construction of: (i) the first part of the fifth building, Condominium Building 2, which shall contain five (5) Condominium Units; (ii) accompanying parking spaces, if any.

Phase VIII. The construction of: (i) the second part of the fifth building, Condominium Building 2, which shall contain four (4) Condominium Units; (ii) accompanying parking spaces, if any.

The Units to be created in the Project will not be substantially identical to the Units now existing in Phase I of the Project and Declarant reserves the right to change the size, design, and mix of the Units in order to meet requirements of the market or for other reasonable reasons. Declarant reserves the right to create General or Limited Common Elements within a portion of any Phase and to designate Common Elements therein which may subsequently be assigned as



Limited Common Elements for the purpose of making parking spaces and such other traditional types of Limited Common Elements as the Declarant may see fit.

3.2 Identification of Units/Unit Descriptions. The identification number of each Unit within the Project is listed on Exhibit B of this Declaration and is labeled on the Map. Every contract for sale, deed, lease, security interest, or other legal instrument shall legally describe a Unit by its identifying letter followed by the name of the Project with reference to the Map and this Declaration as well as the applicable Parking Share of such Unit. An illustrative description is as follows:

For Individual Building Units:

Individual Building Unit # \_\_\_\_, Highway 24 Eastgate Business Park, together with its applicable Parking Share, in accordance with the Highway 24 Eastgate Business Park Condominium Map, as may be amended, recorded on \_\_\_\_\_, 200 \_\_\_\_, at Reception No. \_\_\_\_\_ and the Declaration of Covenants, Conditions and Restrictions for the Highway 24 Eastgate Business Park, recorded on \_\_\_\_\_, 200 \_\_\_\_, at Reception No. \_\_\_\_\_, County of El Paso, State of Colorado, and any amendments thereto.

For Office Warehouse Units within Condominium Buildings:

Office Warehouse Unit \_\_\_\_, [letter corresponding to each Unit] Condominium Building \_\_\_\_\_, [number designation given to CB on Map], Highway 24 Eastgate Business Park, together with the Parking Share, in accordance with the Highway 24 Eastgate Business Park Condominium Map, as may be amended, recorded on \_\_\_\_\_, 2009, at Reception No. \_\_\_\_\_ and the Declaration of Covenants, Conditions and Restrictions for the Highway 24 Eastgate Business Park, recorded on \_\_\_\_\_, 2009, at Reception No. \_\_\_\_\_, County of El Paso, State of Colorado, and any amendments thereto.

Reference to the Declaration or Map in any instrument shall be deemed to include any supplements or amendments without specific reference thereto.

3.3 Inseparability of Unit. The interest of an Owner in a Unit and that Unit's appurtenant interest in Common Elements, any Limited Common Elements, and such Unit's Parking Share shall be inseparable.

3.4 Partition of Common Elements Not Permitted. The Common Elements shall be owned in common by all Owners, and no Owner may bring any action for partition thereof.

3.5 Common Elements. All Owners shall have a right to enjoy and use all of the General Common Elements, subject to the Governing Documents. Use of a Limited Common Element is limited to those Owners to whom such Limited Common Element is allocated in this Declaration (and any Map). The Association may, from time to time, adopt reasonable Rules and Regulations for the use of all the Common Elements. Rules and Regulations may, without limitation, impose limited time periods for the use of Common Elements and may charge reasonable use fees. Rules and Regulations may not discriminate between Owners except to

restrict or prohibit use by Owners and such Owners' guests during periods of delinquency in the payment of Assessments.

#### ARTICLE 4 MEMBERSHIP RIGHTS IN THE ASSOCIATION; DECLARANT CONTROL

4.1 Membership. Every Person who is a record Owner of any Unit subject to this Declaration and the Declarant, so long as the Declarant continues to own an interest in a Unit, shall be a Member of the Association including, without limitation, contract sellers. Membership is appurtenant to and may not be separated from ownership of any Unit, Ownership of a Unit is the sole qualification for membership. Where more than one Person holds an interest in a Unit, all such Persons shall be Members.

4.2 Rights Subject to Governing Documents. Membership and voting rights are subject to the Governing Documents.

4.3 Declarant Control. The Declarant shall have the powers, for the time period set forth herein ("Declarant Control Period") to appoint and remove officers of the Association and members of the Executive Board and of the Design Review Committee ("Declarant Control"). This Declarant Control Period terminates no later than the earlier of: (i) sixty (60) days after seventy-five percent (75%) of the total Units that may be created are conveyed to Unit Owners other than the Declarant (including Individual Building Units and Office Warehouse Units); or (ii) two (2) years after the last conveyance of a Unit by the Declarant in the ordinary course of business; or (iii) two (2) years after the right to add new Units was last exercised.

4.4 Limitation on Declarant Control. During the Declarant Control Period:

(i) Not later than sixty (60) days after twenty-five percent (25%) of the total Units that may be created and conveyed to Unit Owners other than the Declarant (including Individual Building Units and Office Warehouse Units) at least one member, and not less than twenty-five percent (25%) of the members, of the Executive Board must be elected by Owners other than the Declarant.

(ii) Not later than sixty (60) days after fifty percent (50%) of the total Units that may be created and conveyed to Unit Owners other than the Declarant (including Individual Building Units and Office Warehouse Units), not less than thirty-three and one-third (33 1/3%) percent of the members of the Executive Board must be elected to the Executive Board by Owners other than the Declarant.

4.4.2 Surrender of Declarant Control. At any time prior to the end of the Declarant Control Period (as described in Section 4.3 above), the Declarant may voluntarily surrender the right to appoint and remove officers, but may require, for the duration of the Declarant Control Period, that specific actions of the Association or Executive Board, as described in a recorded instrument executed by the Declarant, be approved by the Declarant before the action becomes effective.

4.4.3 Turnover Date. The date described by subsections (i), (ii), or (iii) of Section 4.3 or that date upon which Declarant surrenders Declarant Control as provided in Section 4.4.2. shall be referred to as the “Turnover Date.”

4.5 Executive Board Election. Not later than the Turnover Date, the Owners shall elect the Executive Board as described more fully in the Bylaws and Articles of Incorporation. The Owners shall elect an Executive Board of three members, a majority of whom must be Unit Owners other than the Declarant or designated representatives of Unit Owners other than the Declarant. As soon as reasonably practical after the Turnover Date and after the Owners election of the Executive Board the Executive Board shall elect the officers. The Executive Board and Officers shall take office upon the election.

4.6 Transfer of Property. Within sixty days after the Unit Owners, other than the Declarant, elect a majority of the members of the Executive Board, the Declarant shall comply with and deliver to the Association those items of property held by or controlled by the Declarant as required in Section 38-33.3-303(9) of the Act.

## ARTICLE 5 ASSOCIATION

5.1 General Purposes and Powers. The Association, acting in all instances through its Executive Board unless otherwise required by the Act or this Declaration, shall perform such functions and manage the Condominium as provided in this Declaration so as to further the interests of the Owners. The Association, acting through its Executive Board, shall have all power necessary or desirable to effectuate such purpose, and shall also have such additional power and authority as set forth in the Governing Documents. All Unit Owners shall be deemed to have assented to, ratified, and approved such designation and management to the Association. The Executive Board may, by written resolution, delegate authority to a manager or managing agent for the Association, provided such delegation shall not relieve the Executive Board of ultimate responsibility.

5.2 Powers; Duties. The Association shall have the following powers and duties:

5.2.1 The Association shall have all of the powers, authority and duties permitted pursuant to the Act and the Colorado Revised Nonprofit Corporation Act.

5.2.2 The Association shall have all of the powers, authority and duties necessary and proper to own, operate, manage, lease, encumber, maintain, repair, replace and improve the Common Elements, and such other portions of the Property for which it properly assumes responsibility.

5.2.3 The Association shall have the irrevocable right to access each Unit from time to time to the extent reasonably necessary for the maintenance, repair or replacement of any Common Elements or any portion of a Unit to be maintained, repaired, or replaced pursuant to the Governing Documents, this Declaration or by agreement with the Association.

5.2.4 The Association shall have the absolute right to engage a professional property manager. The expense of such engagement shall be a Common Expense Liability.

5.2.5 The Association shall have complete authority and control to issue and amend restrictions on the use and occupancy of the Units in addition to those contained in this Declaration.

5.2.6 The Association shall have the power to issue and amend various Rules and Regulations concerning the use of the common driveways and parking areas. Without limitation, the Association may create "guest" or "visitor" parking spaces and may enforce the use of such spaces in any lawful manner; provided, however, that no such Rule or Regulation shall be promulgated that, if enforced, would cause any Unit to be in violation of any local ordinance or development agreement.

5.2.7 The Association shall have the right to levy and collect Assessments in accordance with the terms of this Declaration and otherwise to the fullest extent permitted by the Act.

5.2.8 The Association shall have the right to procure and maintain insurance upon the Common Elements and any property owned by the Association in accordance with the terms of this Declaration and otherwise to the fullest extent permitted by the Act.

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

5.3 Enforcement. The Association shall have the power to enforce provisions in the Governing Documents and shall take such action as the Executive Board deems desirable to cause such compliance by each Owner and each Related User, by any one or more of the following means:

5.3.1 By entry upon or into any Unit after notice and an opportunity to be heard (except that notice and opportunity to be heard shall be obviated if an emergency exists), without liability to the Owner thereof, for the purpose of enforcement or causing compliance with the Governing Documents, including by curing said violation;

5.3.2 By commencing and maintaining actions and suits: (i) to recover damages; or (ii) to restrain and enjoin any violation or threatened violation of, or compel compliance with, provisions of the Governing Documents by mandatory injunction or otherwise;

5.3.3 By exclusion of any Owner or Related User from use of any recreation facilities or Common Elements for a period of sixty (60) days following any violation, or for so long as the violation continues, whichever is longer;

5.3.4 By suspending the voting rights of an Owner for up to thirty (30) days following any violation, or for so long as the violation continues, whichever is longer;

5.3.5 By levying and collecting, after notice and an opportunity to be heard, fines against any Owner and/or Related User for violation of this Declaration, the restrictive covenants contained herein, the Rules and Regulations promulgated by the Association, and any other of the Covenants, conditions, or restrictions imposed by the Governing Documents by such Owner or a Related User. Such fines shall be a Common Expense Assessment to be secured, from the date it is levied, by a continuing lien subject to foreclosure.

5.4 Association Maintenance. The Association shall have the right and obligation to perform, or cause to be performed by others hired by the Association (all as a Common Expense Assessment), the maintenance and repair of the Common Elements and such operating equipment, plumbing, electrical, and utilities serving the Common Elements and the Improvements constructed thereon. The expense of maintaining the Common Elements shall be a Common Expense Liability and paid for by means of Assessments; provided, however, such Common Expense Liability shall be apportioned between the Owners in accordance with the terms and conditions of these Covenants. The Association shall be charged with providing such maintenance in accordance with reasonable standards.

5.5 Standard of Performance. The term "maintenance" as used in this Article, shall include, without limitation, repair and replacement as needed, as well as such other duties as the Executive Board may determine necessary or appropriate. Notwithstanding anything to the contrary contained herein, neither the Association, nor an Owner shall be liable for property damage or personal injury occurring on, or arising out of the condition of, property which is not owned by either the Association or an Owner unless and only to the extent one or the other has been negligent in the performance of its maintenance responsibilities.

5.6 Easement for Maintenance. The Association shall have the irrevocable right, to be exercised only by the Association's designated manager, the Executive Board, or an officer or employee of the Association, to have access to each Unit from time to time during reasonable hours on reasonable notice (except in emergency) for the maintenance, repair, or replacement of any of the Common Elements, or at any time for the purpose of making emergency repairs, maintenance or inspection necessary to prevent damage to the Common Elements or another Unit.

5.6a. Maintenance of Private Street System. The Declarant and Association agree for themselves, their respective successors and assigns, including individual Unit Owners within this Project, that they will regularly and routinely inspect, clean, maintain, and remove snow, gravel, and pave the private road system within this filing and otherwise keep the same in good repair all at their own cost and expense. El Paso County shall have no responsibility whatsoever to

construct, maintain, and repair, any portion of the private road system. Maintenance or repair includes, but is not limited to, graveling, paving, draining, removing snow, clearing or providing any other maintenance or repair however defined.

5.6b. Detention Basin. A detention basin (“Detention Basin” is included in the subdivision. A “Private Detention Basin / Stormwater Quality Best Management Practice Maintenance Agreement and Easement” (“Detention Basin Agreement”) between and among the Declarant, the Association, the Owners, and the Board of County Commissioners of El Paso County, Colorado, is recorded at reception no. 209629750, in the records of the clerk and recorder of El Paso County Colorado. The provisions of the Detention Basin Agreement (Attached as Exhibit F) are incorporated herein by this reference.

5.7 Owner’s Negligence; Prohibition of Certain Activities. Notwithstanding anything to the contrary contained in this Declaration, in the event that the need for maintenance, repair or replacement of any portion of the Common Elements, the Units, or personal property belonging to any Owner or Related User is caused through or by the negligent or willful act or omission of an Owner or Related User (such determination of negligence or willful act or omission, and the amount of the Owner’s liability therefor, having been determined by the Association by a hearing after notice to the Owner), then the expenses, costs and fees incurred by the Association for such maintenance, repair or replacement, including, but not limited to, any insurance deductibles paid by the Association, shall be the personal obligation of such Owner; and, if not repaid to the Association within ten (10) days after the Association shall have given notice to the Owner of the total amount of such expenses, costs and fees, then the failure to so repay shall automatically become a Default Assessment levied against such Unit and Owner as an Assessment.

5.8 Right to Notice and Comment. Pursuant to C.R.S. § 38-33.3-205(1)(o), before the Board amends the Bylaws or adopts or amends Rules and Regulations, or whenever the Governing Documents require that an action be taken after “Notice and Comment,” or at any other time the Executive Board determines, the Unit Owners have the right to receive notice of the proposed action and the right to comment orally or in writing. Further, any Unit Owner may give “Notice and Comment” to the other Unit Owners of any matter affecting the Common Interest Community. Notice shall be given to each Unit Owner in writing, delivered personally or by mail to all Unit Owners at such address as appears in the records of the Association, or notice shall be published in a newsletter or similar publication which is routinely circulated to all Unit Owners, or notices may be given in any other way permitted by the Bylaws. A Notice shall be given not less than three days before the proposed action is to be taken.

5.9 Security. The Association may, but shall not be obligated to, maintain or undertake certain security measures within the Project designed to make the Project safer than it otherwise might be. The Association, the Declarant, any successor declarant, or any representative or agent of the foregoing shall in no way be considered insurers, guarantors, or providers of security within the Project, nor shall any of them be held liable for any injury, loss or damage by reason of failure to provide adequate security or of the ineffectiveness of any security measures that are undertaken. The installation or maintenance of any security system by the Association or the Declarant shall not be deemed an assumption of any duty to maintain such

system or to be responsible for the system. Each Owner hereby waives and releases the Association and the Declarant from any claim, duty or liability in connection therewith. No representation or warranty is made that any entry or access system, fire protection system, burglar alarm system or other security system (including, but not limited to, lighting system, gate locks and door locks) cannot or will not be compromised or circumvented, nor that any such systems or security measures undertaken will in all cases prevent loss or provide the detection or protection for which the system is designed or intended. Each Owner acknowledges, understands and covenants to inform all Related Users of the terms of this Section and that such Related User and anyone within the Project assumes all risks for loss or damage to persons and to property resulting from the acts or the failure to act of third parties.

## ARTICLE 6 UNITS; ALLOCATION OF LIABILITY

6.1 Type of Units. Units within this Community are either Individual Building Units or Office Warehouse Units. Each Individual Building Unit (defined more specifically above) generally consists of a single Building, in its entirety, and except as may be set forth on a Map, does not contain Common Elements. Responsibility for the maintenance and repair of all portions of a Building that is an Individual Building Unit therefore remains with the Owner of such Unit; provided, however, that exterior maintenance of Individual Building Units may be performed by the Association in accordance with Article 10 below. Office Warehouse Units are condominiumized airspace units within the Buildings designated as Condominium Buildings. All portions of a Condominium Building that are not Office Warehouse Units are Common Elements and the responsibility for the maintenance and repair of such Condominium Building's Common Elements shall be vested in the Association.

6.2 Liability for Assessments. Liability for Common Expenses shall be apportioned in accordance with the following:

### 6.2.1 Definitions.

"General Community Expenses" shall mean those expenses arising or related to the general maintenance, repair and replacement of all Common Elements outside of the Buildings (e.g., the parking lot, landscaping, drainage improvements and including maintenance and repair of the private detention basin), non-Project easements granting access to the Property, and all Common Expenses incurred by the Association in providing "outside" services to the Buildings on a uniform basis. For purposes of specifying certain of these expenses, without limiting the definition, General Community Expenses shall include (i) all maintenance of the access road and parking areas and access road and parking lot lighting, access road and parking lot pavement repair and restriping, all landscaping, monument signage, and any shared utilities and utility infrastructure passing through the Common Elements, including without limitation, sanitary sewer, storm sewer, water, gas, electric and similar lines; (ii) costs related to the maintenance and repair or replacement of the retention pond and related storm water drainage improvements on contiguous property which is by agreement, required to accept the developed flows from the Project; and (iii) provision of services in all Buildings such as trash collection and snow removal.

“General Condominium Building Expenses” shall mean all Common Expenses arising or related to the general maintenance, repair and replacement of all Common Elements constituting the Condominium Buildings and all Common Expenses incurred by the Association in providing “inside” services to the Condominium Buildings on a uniform basis. General Condominium Building Expenses shall not include expenses defined as “Capital Expenses” other than for capital replacements of damaged or obsolete components of the Common Elements outside of a specific Condominium Building (such as parking lot asphalt replacement). For purposes of illustration, and without limitation, General Condominium Building Expenses shall include (i) the general maintenance, repair and upkeep of the Condominium Buildings by the Association, and (ii) the provision of general services within the Condominium Buildings such as janitorial services. General Condominium Building Expenses shall not include similar expenses incurred by the Association in respect to any Individual Building Unit but only to Condominium Buildings. If the Association is engaged by the Owner of an Individual Building Unit to provide such services, the Owner of the Individual Building Unit shall engage the Association on a contractual basis (and pay in accordance with the contract).

“Capital Expenses” shall mean any Common Expenses for capital improvements or replacements to or within the Common Areas or a specific Condominium Building. Whether or not a particular item will be deemed a Capital Expense shall be determined by the Executive Board, in the Executive Board’s sole judgment and discretion.

6.2.2 Condominium Building Specific Expenses. Capital Expenses shall be allocated exclusively to the Owners of the Office Warehouse Units within the applicable Condominium Building in accordance with their Unit Relative Shares, as defined below (their relative interests to each other within the same Building).

6.2.3 General Condominium Expenses. General Condominium Building Expenses shall be allocated exclusively to the Owners of all of the Office Warehouse Units in all of the Condominium Buildings in accordance with their Overall Condominium Share, as defined below (their relative interests among all Office Warehouse Units in the Association).

6.2.4 General Community Expenses. General Community Expenses shall be allocated to all of the Owners of Individual Building Units and Office Warehouse Units in accordance with their Allocated Interests, as defined below.

6.2.5 Executive Board Determinations. If a particular expense is susceptible to different classifications, the Executive Board shall have the right, in its sole judgment and discretion, to apportion such expense as the Executive Board deems appropriate. The Executive Board shall further have the right to apportion Common Expenses for administration, insurance, or other costs not directly attributable to a single Building, but otherwise disproportionately attributable to the Condominium Buildings or Individual Building Units, in accordance with such disproportionate use or other basis.

6.2.6 Other IBU Maintenance Expenses. Exterior IBU Maintenance and Interior Services shall be assessed by the Association directly to the Owners of the



applicable Individual Building Units in accordance with the terms set forth in Article 10 hereof.

6.3 Parking. Parking within the Project shall, except as limited herein, be unreserved, shall be on a first available basis, and shall be for the use and benefit of all Owners and their Related Users; provided, however, each Owner's (and such Owner's Related Users') use of the parking areas shall be in accordance with such Owner's Parking Share. All Units shall be permitted the use of no more than 3 parking spaces. The Parking Share shall be deemed an interest appurtenant to the Unit and shall run with the Unit. Each Owner acknowledges that the amount of parking set forth herein is sufficient for each Owner's use and occupation of a Unit and each Owner further covenants that such Owner shall not use more than the allocated Parking Share whether for the Owner's use or for use by an Owner's employees, guests, licensees, or invitees. However, the designation of the Parking Share does not guarantee an Owner that a certain number of parking spaces will always be available. No Owner shall have any right or claim against the Declarant or the Association for a failure of any spaces to be available. Nevertheless, the Association shall use reasonable efforts to enforce the parking restrictions set forth in this Section.

6.3.1 Association Enforcement. The Association shall have the right to enforce the restrictions on parking set forth in this Declaration through any means available to the Association pursuant to the Governing Documents and applicable law including, without limitation, the levying of Default Assessments for violations.

6.3.2 Additional Rules and Regulations. The Association shall have the right to issue Rules and Regulations pertaining to the use of all parking areas not contrary to any other express term of this Declaration. The Association shall further have the right to designate certain spaces to be used exclusively as handicap parking spaces or to be reserved for specific purposes (such as, for example, loading zones).

6.4 Electric Service. Each Owner acknowledges that only phase 1 electrical service will be available to each Unit and that such service is presently believed to be adequate for Owner's full use and occupancy of a Unit. Should a Unit Owner require phase 3 service, such Owner shall be required to apply to the Association for approval of the upgraded service per the application and approval requirements set forth for Unit modifications. The Owner must also secure approval of the upgraded service from the County and other applicable regulatory agencies and utility suppliers.

## ARTICLE 7 ALLOCATED INTERESTS

7.1 Initial Allocated Interests. The Allocated Interests initially assigned to each Unit are set forth on Exhibit B attached hereto and are being established using outside building measurements. However, the Allocated Interests for particular Office Warehouse Units and Condominium Buildings will change due to changes in the Condominium Building and Unit sizes once the Buildings are actually constructed in the future and as built measurements are

taken in conformance with the BOMA standard. Changes to the final Allocated Interests are anticipated to be minor and to not exceed a reduction of approximately 6-7% from the initial allocated interests set forth in Exhibit B. Because all of the Unit sizes are anticipated to change from the initial measurements by the same approximate amount, any affect on the Allocated Interests should be immaterial. As each Building is constructed, Exhibit B will be updated as an administrative change permitted by these Covenants and the updated Exhibit sent to owners. This section 7.1 is further supplemented and clarified by the provisions of the second paragraph of section 7.2.6.

7.2 Formulae for Reallocation of Allocated Interests. In the case of an event requiring reallocation of the Allocated Interests, the Allocated Interests shall be determined in accordance with the following:

7.2.1 Buildings. Each Building (each Individual Building Unit and each Condominium Building) shall be accorded a relative interest in the Association to each other Building which shall be determined by dividing the Building Rentable Area of the particular Building by the aggregate Building Rentable Area of all of the Buildings (resulting in each Building's "Relative Building Share"). By way of example only, if the Building Rentable Area of an Individual Building Unit is 20,000 square feet of Rentable Area and the aggregate Building Rentable Area of all of the Buildings (including all Individual Building Units and Condominium Buildings) is 100,000 square feet of Rentable Area, then the Relative Building Share of the Individual Building Unit is 20% (20,000 / 100,000).

7.2.2 Specific Building Office Shares. Each Office Warehouse Unit's relative interest in such unit's Condominium Building shall be determined by dividing the Rentable Area of the Office Warehouse Unit by the Building Rentable Area of the particular Condominium Building in which the Office Warehouse Unit is located (resulting in each Office Warehouse Unit's "Relative Unit Share"). By way of example, if the Rentable Area of a particular Office Warehouse Unit is 5,000 square feet of Rentable Area and the Building Rentable Area of the Condominium Building in which that Office Warehouse Unit is located is 20,000 square feet of Rentable Area, then the Relative Unit Share of the particular Office Warehouse Unit is 25% (5,000 / 20,000).

7.2.3 Overall Office Warehouse Shares. Each Office Warehouse Unit's relative percentage among all Office Warehouse Units shall be determined by dividing the Rentable Area of the Office Warehouse Unit by the aggregate Rentable Area of all Office Warehouse Units in all Condominium Buildings (resulting in each "Overall Condominium Share"). By way of example, if the Rentable Area of a particular Office Warehouse Unit is 5,000 square feet and the aggregate Rentable Area of all Office Warehouse Units in all other Condominium Buildings (excluding any Individual Building Units from this calculation) is 80,000 square feet, then the Office Warehouse Unit's Overall Condominium Share and the particular Office Warehouse Unit's percentage of undivided interest in the Common Elements is 6.25% (5,000 / 80,000).

7.2.4 Allocated Interests of Individual Building Units. Each Individual Building Unit's Allocated Interest in the Association and its percentage of undivided interests in the Common Elements shall be the Individual Building Unit's Relative Building Share as determined in subsection 7.2.1 above.

7.2.5 Allocated Interests of Office Warehouse Units. Each Office Warehouse Unit's Allocated Interest in the Association shall be determined by multiplying the unit's Relative Unit Share by the applicable Condominium Building's Relative Building Share. By way of example, if a Condominium Building were to have a 30% Relative Building Share and if an Office Warehouse Unit within such Building were to have a 50% Relative Unit Share, then such Unit would have an Allocated Interest in the Association of 15%.

7.2.6 Rounding. Allocated Interests shall be rounded to three (3) decimal places such that, for example, an Allocated Interest of 15.4542% shall be rounded to 15.454% and an Allocated Interest of 15.4547% shall be rounded to 15.455%.

The initial determination of "Rentable Area" shall be based upon the Rentable Area using the BOMA Standard Method for Measuring Floor Area in Buildings, ANSI/BOMA Z65.1 -1996 (the "BOMA Standard") and such determinations shall be set forth on Exhibit B attached hereto and, upon the annexation of additional Buildings and the creation of additional Office Warehouse Units, the Rentable Area of such annexed Building and of any annexed or newly created Office Unit shall be as determined by Declarant using the BOMA Standard and set forth in the applicable Annexation Amendment or Supplement to Exhibit B. The Declarant's determination of "Rentable Area" shall be deemed conclusive and binding upon all Owners absent manifest error. In the event that the Declarant exercises any of the Special Declarant Rights which would result in affecting the Rentable Area, the creation of new Office Warehouse Units (such as by division or combining of existing Office Warehouse Units) or would result in changing the Allocated Interests, the Declarant reserves the right and shall have the authority to file amendments and supplements to Exhibit B to reflect such changes.

7.3 Voting Rights. For any vote, each Owner shall be allocated one vote per Unit owned.

7.4 Reallocation. When Units are withdrawn from, or added to, the Project, pursuant to the provisions of this Declaration and the Act, the formulae set forth above shall be used to reallocate the Allocated Interests.

7.5 Votes may not be Split. Irrespective that an Owner shall be allocated more than one vote on a particular matter, all such votes must be cast together and no vote or votes may be split by an Owner.

## ARTICLE 8 COVENANT FOR COMMON EXPENSE ASSESSMENT

8.1 Personal Obligation to Pay Common Expense Assessments. All Owners of Units covenant and agree, and shall be personally obligated, to pay the Association: (a) Assessments

imposed by the Association to meet the Common Expense and Reserve (defined below) requirements of the Association; (b) Special Assessments; and (c) other charges, costs, fees, assessments, and reasonable attorney fees, including without limitation, Default Assessments. Multiple Owners of a Unit shall be jointly and severally liable to the Association for the payment of all Assessments, fees and charges attributable to their Unit. At a minimum, the amount of the annual Assessment shall be fixed at an amount adequate to clean, maintain, and repair (to include replacement as may be necessary) the Private Detention Basin. No Owner may waive or otherwise escape personal liability for the payment of the Assessments, charges and fees provided herein by non-use of the Common Elements or the facilities contained therein or by abandonment or leasing of his or her Unit. The obligation for payment of Assessments, charges, costs and fees by each Owner to the Association shall be an independent covenant, with all amounts due from time to time to be payable in full when due without notice or demand and without setoff or deduction. In addition to the foregoing Assessments, charges and fees, each Owner shall have the obligation to pay real property ad valorem taxes and special assessments imposed by Colorado governmental and quasi-governmental entities against his or her Unit, as well as all charges for separately metered utilities servicing his or her Unit. The charges for utilities which are not separately metered to an individual Unit shall be included in the Assessments levied by the Association.

8.1.1 Burden Upon the Land; Lien. Without limitation upon the foregoing, any and all Assessments shall burden and be a charge upon the land and shall run with the land and the Association shall have a continuing lien on the Unit upon which any Assessment is made.

8.1.2 Alternative Actions. Nothing in this Article 8 shall be construed as prohibiting an alternative action to recover sums for which the Association has a lien, nor shall the Association be prohibited from taking a deed in lieu of foreclosure. In the event that the Association obtains a deed in lieu of foreclosure, unless expressly stated in such deed, it shall be presumed that the lien was not merged into the deed but that it was the express intent of the Owner and the Association that the lien was to survive. In the event that the Association obtains a monetary judgment for a sum for which the Association has a lien, such monetary judgment shall be deemed continuously secured by the lien, with the priority referred to in Section 8.14.

8.1.3 Acceptance and Agreement. Each Owner by acceptance of a deed to a Unit, whether or not it shall be so expressed in any such deed or other instrument of conveyance, shall be deemed to covenant and agree to pay all Assessments. An Assessment shall be the personal obligation of the Owner at the time when the Assessment becomes due.

8.2 Commencement of Assessments. Assessments shall commence, as to each Unit, upon recordation of a deed to an Owner of a fee simple title to such Unit. Any Owner purchasing a Unit between monthly assessment due dates shall be responsible for a pro rata share of the last installment due.

**8.3 Purpose of Assessments.** In addition to the purposes set forth in the Act, Assessments shall be used:

8.3.1 To provide all funds necessary or convenient to pay the Association's costs and expenses incurred in the administration and performance of its duties under this Declaration and the other Governing Documents which shall specifically include, but shall not be limited to (a) expenses of management; (b) taxes and special assessments; (c) premiums for all insurance which the Association is required or permitted to maintain; (d) common lighting, heating and other common utility charges, water charges, trash collection or sewer service charges; (e) landscaping and care of the grounds; (f) repairs and maintenance which are the responsibility of the Association; (g) wages for Association employees; (h) legal and accounting fees; (i) any deficit remaining from a previous assessment year; (j) the creation of reasonable contingency reserves, surpluses and sinking funds and (k) any other costs, expenses and fees, which may be incurred or may reasonably be expected to be incurred by the Association for the benefit of the Owners under or by reason of this Declaration;

8.3.2 To discharge all expenses incurred by the Association in the alteration, improvement, construction, reconstruction, repair, maintenance or replacement of the Common Elements and all improvements located thereon, including fixtures and personal property related thereto;

8.3.3 To discharge all expenses incurred by the Association in the alteration, improvement, construction, reconstruction, repair, maintenance or replacement of the exterior improvements of any Building, as such responsibility is assumed by the Association in accordance with the terms hereof;

8.3.4 To provide funds to the Association projected as necessary to discharge prior to delinquency Common Expense Liability projected for the next fiscal year of the Association;

8.3.5 To enforce all provisions of the Governing Documents;

8.3.6 To exercise all rights and powers and to discharge all duties and obligations pursuant to the Act and the Governing Documents;

8.3.7 To fund any operating deficit or Reserve the Association deems necessary to meet its financial obligations;

8.3.8 To fund and pay any and all ad valorem taxes and special assessments imposed by any and all Colorado governmental and quasi-governmental entities against the Common Elements;

8.3.9 To fund and pay the cost of administration, accounting, legal and other professional services necessary or convenient to assist the Association in the discharge of its duties.

**8.4 Apportionment of Common Expenses, Generally.** Common Expenses shall be allocated among the Units on the basis of the Allocated Interests, except as provided below, in Article 6 above, and elsewhere in this Declaration.

8.4.1 Any expense associated with the maintenance, repair, or replacement of a Limited Common Element may be assessed solely against the Unit Owner and the Unit or Units to which that Limited Common Element is assigned in proportions reasonably determined by the Association.

8.4.2 Any Common Expense or portion thereof benefiting fewer than all of the Units may be assessed exclusively against the Units benefited.

8.4.3 The costs of insurance may be assessed in proportion to risk. The costs of utilities may be assessed in proportion to usage.

8.4.4 Any expense for services provided by the Association to an individual Unit pursuant to the Governing Documents or at the request of the Owner may be assessed against that Owner's Unit.

8.4.5 If an expense, charge or liability is caused by the misconduct of an Owner or a Related User of such Owner, the Association may assess that expense exclusively against that Owner and that Owner's Unit.

8.4.6 Fees, charges, taxes, late charges, fines, collection costs and interest charged against an Owner are enforceable as Common Expense Assessments.

8.4.7 If Allocated Interests are reallocated, Common Expense Assessments and any installment thereof not yet due shall be recalculated in accordance with the reallocated Allocated Interests.

8.5 Annual Assessment. A Common Expense Assessment shall be made on an annual basis ("Annual Assessment") against all Units and shall be based upon the Association's advance budget (as provided below) of the cash requirements needed by it to provide for the administration and performance of its duties during such assessment year.

8.6 Budget. Within thirty (30) days after the adoption of any proposed budget for the Association, the Executive Board shall mail, by ordinary first-class mail, or shall transmit by electronic email, or shall otherwise deliver a summary of such proposed budget to all of the Owners and shall set a date for a meeting of the Owners to consider ratification of the budget not less than fourteen (14) nor more than sixty (60) days after mailing or other delivery of the summary. Unless at that meeting sixty-six and two-thirds percent (66 2/3%) of all the Owners of the Association (whether a quorum is present or not) reject the budget, the budget shall be deemed ratified. In the event that the proposed budget is rejected, the periodic budget last ratified by the Owners must be continued until such time as the Owners ratify a subsequent budget proposed by the Executive Board. The Executive Board shall adopt a budget and submit the budget to a vote of the Owners as provided herein no less frequently than annually. The Executive Board shall levy and assess the Annual Assessment in accordance with the annual budget.

8.7 Payment of Assessments. Assessments shall be due and payable in monthly, quarterly, or annual installments, or in any other manner, as determined by the Executive Board. The omission or failure of the Executive Board to levy an Assessment for any period shall not be deemed a waiver, modification or a release of the Unit Owners from their obligation to pay.

8.8 Installments Assessments. The Executive Board may determine that any Common Expense Assessment shall be payable in installments, and may also elect to accelerate the installments remaining for such assessment year.

8.9 Reserve. The Association may establish an adequate Reserve fund ("Reserve") for the performance of its obligations under the Governing Documents and the Act, particularly including, but not limited to, to pay the expense associated with projected capital improvement replacement and major items of maintenance which occur less frequently than annually. Such Reserve shall be funded through the monthly payments of the annual Common Expense Assessments; however, the Association may levy and assess a Special Assessment to establish or to add to the Reserve as deemed necessary. The Association shall have the right also to collect Reserves from the IBU Owners for Exterior IBU Maintenance.

8.10 Surplus Funds. Funds of the Association remaining after payment of or provision for Common Expenses and any prepayment of or provision for Reserve in a fiscal year may be credited to the Owners in reduction of their future assessments or retained by the Association as additional Reserve in the Executive Board's absolute discretion.

8.11 Special Assessments. In addition to the Annual Assessment authorized above, the Association may at any time, and from time to time, determine, levy and assess a "Special Assessment" applicable to that particular assessment year for the purpose of defraying, in whole or in part, payments for any operating deficit and/or unbudgeted costs, fees and expenses of any construction, reconstruction, repair, demolition, replacement or maintenance of a capital improvement and any fixtures or personal property related thereto. The Special Assessment may be an assessment for paying costs associated with cleaning, maintaining, and repairing, (to include replacement if necessary) the Private Detention Basin and for paying any liability of the Declarant, the Association, or the Owners under the Detention Basin Agreement. Any such Special Assessment shall be due and payable as determined by the Executive Board. The term "capital improvement", as used herein, shall mean the construction, erection or installation of substantial structure(s) or other substantial improvements on the Property, or the construction, reconstruction, erection, installation, maintenance, repair or replacement of Common Elements presently located on the Property or which may hereafter be constructed, erected or installed on the Property. Notice in writing setting forth the amount of such Special Assessment per Unit and the due date for payment thereof shall be given to the Owners not less than thirty (30) days prior to such due date. The Association shall also have the authority to establish and fix a special assessment upon any Unit to secure the liability of the Owner of such Unit to the Association for any breach by such Owner of any of the provisions of this Declaration or of the Association's By-Laws or rules and regulations, or any wilful, negligent or wrongful act of an Owner or Occupant, which breach or act shall have required or will require any expenditure by the Association for repair or remedy is not covered or paid for by the Owner's insurance. In the case of any Special Assessments, written notice of any meeting called for the purpose of taking any action shall be sent to all Owners not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. Said notice shall specify the amount of the assessment and the date of the meeting. At the first such meeting called, the presence of Owners or of proxies entitled to cast fifty-one percent (51%) of all the votes shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement. No such

subsequent meeting shall be held more than sixty (60) days following the initial or any preceding meeting. Any such assessment shall require the assent of a majority (51%) of the outstanding votes present in person or by proxy at a meeting where a quorum called for this purpose is present.

8.12 Default Assessments. All monetary fines assessed against an individual Owner pursuant to the Governing Documents, or any expense of the Association which is the obligation of one or more (but less than all) Owners which is incurred by the Association, shall be a "Default Assessment" against the Owner (and the Owner's Unit) who has been fined or who owes the expense. Notice of the amount and due date of a Default Assessment shall be sent to the Owner subject to such Default Assessment at least ten (10) days prior to the due date.

8.13 Effect of Non-Payment of Assessments. Any Assessment provided for in this Declaration, or any monthly or other installment thereof, not fully paid within ten (10) days after the due date thereof, shall be deemed delinquent and shall bear interest at the maximum rate permitted by law or at such lesser rate as may be set by the Executive Board from time to time ("Default Rate of Interest"). If any assessment or installment thereof becomes delinquent, the Association in its sole and absolute discretion may take any, all, or none of the following actions:

8.13.1 Assess a late charge for each delinquent Assessment in an amount the Association deems proper; however, such late charges, if any, shall be set by the Association in advance of each year and contemporaneously with the annual budget. Such late charge shall not discriminate between Owners;

8.13.2 Suspend the voting rights of the defaulting Owner during any period of delinquency;

8.13.3 Suspend the rights of the Owner and such Owner's Related Users to use Common Element facilities (including, but not limited to, parking facilities) during any period of delinquency;

8.13.4 Accelerate all remaining Assessment installments so that unpaid Assessments for the remainder of the fiscal year shall be due and payable at once;

8.13.5 Bring an action at law or equity against the defaulting Owner personally obligated to pay the delinquent Assessments;

8.13.6 Proceed with foreclosure of the Unit of a delinquent Owner, as set forth in the next Section.

Any action at law or in equity by the Association against an Owner to recover a money judgment for unpaid Assessments, or any monthly or other installment thereof, may be commenced and pursued by the Association without foreclosure and without in any way waiving the Association's lien therefor. The Association's costs of suit, expenses and reasonable attorney fees incurred by virtue of the failure of the Owner to timely pay Assessments when due, including attorney fees, legal fees and costs for preparing and recording any lien notice, and the



Association's costs of suit, expenses and reasonable attorney and legal fees incurred for any such action and/or foreclosure proceedings, shall be the obligation of the Owner against whom such action has been commenced and shall be taxed by the court as a part of the costs of any such action or foreclosure proceeding and shall be recoverable by the Association from any Owner personally obligated to pay the same and from the proceeds of the foreclosure sale of such Owner's Unit.

8.14 Lien. The Association has a lien continuing on an Owner's Unit for any Assessment (inclusive of Common Element Assessments, Annual Assessments, Special Assessments and Default Assessments) levied against the Unit or against Owner of such Unit or for fines imposed against such Unit's Owner pursuant to this Declaration, from the time the Assessment or fine becomes due. Fees, charges, late charges, attorney fees, fines, and interest charged are enforceable as Assessments under this Section. If an Assessment is payable in installments, each installment is a lien from the time it becomes due, including the due date set by any valid Association acceleration of an installment obligation.

8.14.1 The Association's lien is prior to all other liens and encumbrances on a Unit except; (a) liens and encumbrances recorded before the recordation of the Declaration; (b) a First Lien Security Interest on the Unit which has priority over all other security interests on the Unit and which was recorded before the date on which the Assessment sought to be enforced became delinquent; and (c) liens for real estate taxes and other governmental assessments or charges against the Unit. A lien under this Section is also prior to all First Lien Security Interests described in clause (b) of this Subsection to the extent that the Assessments are based on the annual budget adopted by the Association which would have become due in the absence of acceleration, during the six months immediately preceding institution by either the Association or any party holding a lien senior to any part of the Association's lien of an action or a non-judicial foreclosure either to enforce or extinguish the Association's lien. Solely as pertains to such six month priority under the preceding sentence, the Association's lien shall be deemed to relate back to and gain priority as of the date of recordation of this Declaration. This Subsection does not affect the priority of mechanic's or materialmen's liens or the priority of a lien for other Assessments made by the Association. Neither a lien under this Section nor the Unit as regards to a lien under this Section is subject to the exemptions provided by Colorado Homestead laws, which are specifically and expressly waived by each Owner upon acceptance of a deed to his or her Unit.

8.14.2 A judgment or decree in any action brought under this Section shall include costs and reasonable attorney and legal fees of the Association, which shall be additional Assessments.

8.14.3 The Association's lien may be foreclosed by the same procedure by which a mortgage on real estate is foreclosed.

8.14.4 In the case of foreclosure, the Association shall give reasonable notice of its action to each lien holder of a Unit whose interest would be affected.

8.14.5 Any payments received by the Association in the discharge of an Owner's obligation may be applied to the oldest balance due and shall first be applied to recover late charges, then interest accrued, then costs imposed and, lastly, to the principal amount.

8.14.5 Upon written request delivered personally to the Association's Treasurer or delivered to the Association's Treasurer by certified mail - return receipt requested, and upon payment of a reasonable fee as established by the Association, the Association shall furnish to an Owner or such Owner's designee or to a holder of a security interest or its designee a written statement setting forth the amount of unpaid Assessments currently levied against such an Owner's Unit. The request shall expressly set forth a mailing and a delivery address for the inquiring party or it may be ignored and shall be deemed ineffective. The statement from the Association in response to such request shall be furnished within fourteen calendar days after receipt of the request and the statement shall be binding on the Association, the Executive Board, and every Unit Owner. If no statement is furnished to the Unit Owner or holder of a security interest or their designee, such statement to be delivered personally or by certified mail, first-class postage prepaid, return receipt requested, to the inquiring party, then the Association shall have no right to assert a lien upon the Unit for unpaid Assessments which were due as of the date of the request. Such failure shall not, however, discharge any personal liability of an Owner for unpaid Assessments.

8.14.6 Foreclosure or attempted foreclosure by the Association of its lien shall not be deemed to estop or otherwise preclude the Association from thereafter again foreclosing or attempting to foreclose its lien for any subsequent Assessments, or monthly or other installments thereof, which are not fully paid when due. The Association shall have the power and right to bid on or purchase any Unit at foreclosure or other legal sale, and to acquire and hold, lease, mortgage, convey or otherwise deal with the same.

8.14.7 The grantee of a Unit shall personally be jointly and severally liable with the grantor for all unpaid Assessments against the Unit which accrued prior to the conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor.

8.15 Declaration is Notice. Recording of the Declaration constitutes record notice and perfection of the lien. No further recordation or notice is required. However, the Executive Board may prepare and record with the Clerk and Recorder, a written notice setting forth the amount of any unpaid indebtedness, the name of the Owner, and a description of the Unit. The cost of preparation of such statement (including, without limitation, any legal fees incurred in connection therewith) and all other expenses shall be the responsibility of the defaulting Owner.

8.16 Assessment of Declarant. Declarant shall have no obligation to pay the estimated annual or special assessments on Units owned by Declarant or on property not yet subjected to this Declaration by inclusion in the Project. However, if deemed necessary or prudent by Declarant, Declarant agrees it may pay to the Association a sum up to the difference between the

monthly cost of operating and maintaining the Common Elements, exclusive of reserves, and the amount of funds payable by the other Owners to the Association. All voluntary subsidy payments by Declarant shall terminate when Declarant relinquishes its right to elect the Association's Board of Directors in accordance with pertinent provisions hereof. Subsequently, Declarant shall be obligated, as any other Owner, in reference to Units then constructed and owned by Declarant to pay the assessments imposed by the Board of Directors to meet the common expenses and reserves.

## ARTICLE 9 ARCHITECTURAL CONTROL

9.1 Architectural Control. No Exterior Improvement (as defined below) shall be made within the Property (and, specifically, to any Individual Building Unit) except in compliance with this Article and the Design Guidelines (as also defined below), if such Design Guidelines have been promulgated and adopted by the Executive Board, and until such Exterior Improvement has been approved by the Design Review Committee (defined below).

9.2 Exterior Improvement. The term "Exterior Improvement" shall mean:

9.2.1 The construction, demolition, installation, erection, alteration, contraction, or expansion of any structural component of any Building or any exterior Building structure, improvement, façade, entry, walkway, monument, landscaping or other exterior improvement, including, without limitation, utility boxes and other utility installations;

9.2.2 Any maintenance, repair, improvement, alteration or other work to the roof of any Building, whether or not such work is visible from the exterior of the Building and including, without limitation, the installation of any rooftop antenna or other roof-mounted equipment (such as, for example, air conditioning equipment);

9.2.3 The repainting or resurfacing of exterior surfaces;

9.2.4 The planting, clearing or removal of trees, shrubs, grass, perennial plants, or other landscaping including, without limitation, any landscaping improvements such as flower boxes;

9.2.5 The staking, clearing, grading, excavation, filling or similar disturbance to the surface of the land including, without limitation, change of grade, change of ground level, change of drainage pattern or change of stream bed;

9.2.6 Any change or alteration of any previously approved Exterior Improvement, such as any change of exterior appearance, finish material, color or texture; and,

9.2.7 Exterior Improvements shall not, however, include any improvements or alterations to the Common Elements made by or on behalf of the Association and all such work conducted by or on behalf of the Association on or in the Common Elements shall

be exempt from the provisions of this Article. This Article shall similarly not apply to any improvements made by the Declarant to property not yet annexed into the Community nor shall it apply to the original construction by Declarant of a Building.

9.3 Design Review Committee. The Executive Board may appoint a design review committee (the "Design Review Committee") which shall consist of at least three (3) persons. Members of the Design Review Committee need not be Owners or Executive Board members and may be professionals engaged by the Association to provide design review services. The Executive Board shall have the right to appoint and remove all members of the Design Review Committee except that during the Declarant Control Period, Declarant may directly appoint and remove all members of the Design Review Committee. Each member of the Design Review Committee shall hold office until such time as he/she has resigned and his/her successor has been appointed, or until such Design Review Committee member has been removed. Members of the Design Review Committee may be removed with or without cause. If the Executive Board fails or does not appoint the members of the Design Review Committee, then the powers, rights and responsibilities of such committee shall be held by the Executive Board.

9.4 Guidelines and Procedures - General. The Declarant may, but shall have no obligation to, prepare the initial design requirements and guidelines ("Design Guidelines") which thereafter may be amended in whole or in part by the Executive Board. The Design Review Committee shall be charged with implementing and enforcing the Design Guidelines. The Design Guidelines may contain general provisions applicable to all of the Property, as well as specific provisions which vary from one portion of the Property to another depending upon location, unique characteristics, and intended use. Design Guidelines shall also include the procedures for obtaining Design Review Committee approval of an Exterior Improvement, the materials to be submitted and any additional factors which will be taken into consideration in connection with the approval of any proposed Exterior Improvement. Design Guidelines may specify circumstances under which the strict application of limitations or restrictions under this Declaration will be waived or deemed waived in whole or in part, and may waive the requirement for approval of certain Exterior Improvements or exempt certain Exterior Improvements from the requirement for approval if such approval is not reasonably required to carry out the purposes of this Declaration. The Design Guidelines shall not be recorded, but shall be considered incorporated herein by reference and shall be enforceable as though set forth in full. The Executive Board (but not the Design Review Committee, unless expressly provided by the Design Guidelines) shall have the right to waive any provision of the Design Guidelines. It shall not be a condition precedent to any design review that the Executive Board shall have promulgated or adopted any Design Guidelines. Reviews made without Design Guidelines shall be made upon a reasonable basis and no denial of a proposal shall be made that is based upon discriminatory intent or is otherwise arbitrary or capricious.

9.5 Architectural Review. The Design Review Committee shall administer the Design Guidelines and shall review all applications for construction and modifications under this Article or provided for elsewhere in this Declaration. The Applicant (defined below) shall be responsible for all costs and expenses of the Design Review Committee in reviewing an application including, but not limited to, the fees charged by any outside consultant or professional reasonably engaged by the Association to provide review-related services (such as,

without limitation, those of an architect or attorney). In addition, the Executive Board or Design Review Committee may establish and charge reasonable fees for the review of applications and may require such fees to be paid in full prior to review. The Executive Board may also establish fines and other penalties for failure to comply with the provisions of this Article and the Design Guidelines.

9.6 Address of Committee. The address of the Design Review Committee shall be that of the principal office of the Association or as designated by the Executive Board.

9.7 Submission of Plans. Prior to commencement of work, the Person proposing to make an Exterior Improvement (“Applicant”) shall submit to the Design Review Committee, at its address those descriptions, surveys, plot plans, drainage plans, elevation drawings, construction plans, specifications and samples of materials and colors, showing the nature, kind, shape, height, width, color, materials, and location of the proposed Exterior Improvement (the “Plans” or “Application”) as necessary to permit the Design Review Committee to review the nature and extent of the proposed Exterior Improvement. The Design Review Committee may require submission of additional plans, specifications or other information prior to approving or disapproving a proposed Exterior Improvement. Until receipt by the Design Review Committee of all required materials in connection with the proposed Exterior Improvement, the application shall be deemed incomplete, and the Design Review Committee may postpone review of any materials submitted for approval by a particular Applicant. The Applicant shall be entitled to receive a receipt from the Design Review Committee or its authorized agent at the time the application is deemed complete.

9.8 Criteria for Approval. The Design Review Committee shall approve any proposed Exterior Improvement only if it deems, in its reasonable discretion, that the Exterior Improvement (i) complies with the Design Guidelines; (ii) will be in harmony with the surrounding areas of the Property; (iii) will not detract from the attractiveness and integration of the Buildings and of the Property; and (iv) that the upkeep and maintenance of the proposed Exterior Improvement will not become a burden on the Association. While no Owner shall be deemed to have any right to light, air or view to or from an existing Building, such factors may be considered by the Design Review Committee in assessing the integration of the Exterior Improvement into the Property. The Design Review Committee may condition approval of any proposed Exterior Improvement upon the making of such changes or modifications to the Plans as the Design Review Committee may deem appropriate.

9.9 Decision of Committee. The decision of the Design Review Committee shall be made within sixty (60) days of receiving the complete Application, unless such time period is extended by mutual agreement. The decision shall be in writing and, if the decision disapproves a proposed Exterior Improvement, the reasons therefor shall be stated with reasonable specificity. The decision of the Design Review Committee shall be promptly transmitted to the Applicant at the address furnished by the Applicant to the Design Review Committee.

9.10 Failure of Committee to Act on Plans. If the Committee fails to approve or disapprove properly and complete submitted Plans within the sixty day period provided above, the Exterior Improvement shall be deemed disapproved.

9.11 Prosecution of Work After Approval. After approval of any proposed Exterior Improvement, the proposed Exterior Improvement shall be accomplished as promptly and diligently as possible and in strict conformity with the Plans, materials submitted, and conditions, if any, imposed by the Design Review Committee. The Committee's approval of a proposed Exterior Improvement shall be effective for not longer than three (3) months (unless extended in writing by the Design Review Committee, which extension may be granted or denied in the sole discretion of the Design Review Committee). If an Exterior Improvement is not commenced within such time period, the approval shall be automatically withdrawn and of no further force and effect. Furthermore, the approval shall be deemed to have lapsed and shall be withdrawn, *ab initio*, if the Applicant fails to complete the proposed Exterior Improvement and provide Notice of Completion (as defined below) within six (6) months of the date of the Design Review Committee's approval (unless extended in writing by the Design Review Committee in the sole discretion of the Design Review Committee or otherwise approved by the Design Review Committee). In the event of such lapse, Applicant will be required to re-submit a new application to the Design Review Committee which new application must conform with the Design Guidelines in effect as of the date of re-submittal. A failure to complete the Exterior Improvement in accordance with the Plans, materials submitted by the Applicant, and any conditions imposed by the Design Review Committee, shall constitute a violation of this Article.

9.12 Notice of Completion. Upon completion of the Exterior Improvement, the Applicant shall give written notice ("Notice of Completion") to the Design Review Committee. Until the date of receipt of a Notice of Completion, the Design Review Committee shall not be deemed to have any knowledge of completion of any Exterior Improvement and the time period by which an approved Exterior Improvement must be completed shall continue to run until such Notice of Completion has been given (and until actual completion occurs).

9.13 Inspection of Work. The Design Review Committee or its duly authorized representative shall have the right (but not the obligation) to inspect any Exterior Improvement prior to or after completion; provided, however, that the right of inspection shall terminate no earlier than thirty-five (35) days after the Design Review Committee receives a Notice of Completion from the Applicant. Such inspection shall be solely for the benefit of the Association to determine that the construction of the Exterior Improvement is being (or has been) performed in accordance with the approval by the Committee and neither such inspection (nor any express or implied approval) shall be deemed a representation by the Committee that the Exterior Improvement is built in accordance with applicable building codes, is built in a safe manner, is built in a workmanlike manner, or is built in accordance with standards of the construction industry. There are no intended third party beneficiaries of either the approval or inspection processes performed by the Committee, and no person shall be justified in relying, for any purpose, upon the fact that the Committee has approved the application, inspected the Exterior Improvement or approved the completion of the Exterior Improvement.

9.14 Notice of Noncompliance. If as a result of inspections or otherwise, the Design Review Committee finds that any Exterior Improvement was performed without the approval of the Design Review Committee, or is not being done or was not done in strict compliance with the Plans and materials furnished to, and any conditions imposed by, the Design Review Committee,

or was not completed within six months (or such longer period as extended by the Committee as hereinabove provided) after the date of the Committee's approval of the Application, the Design Review Committee shall notify the Applicant in writing of the noncompliance. The notice shall specify the particulars of the noncompliance and shall require the Applicant to take such action as may be necessary to remedy the noncompliance and may, at the sole election of the Executive Board, be recorded in the records of the office of the Clerk and Recorder.

9.15 Failure of Committee to Act After Completion. If, for any reason other than the Applicant's act or neglect, the Design Review Committee fails to notify the Applicant of any noncompliance within thirty-five (35) days after receipt of a Notice of Completion from the Applicant, the Exterior Improvement shall be deemed to be in compliance if the Exterior Improvement was, in fact, completed as of the date of the Notice of Completion.

9.16 No Waiver of Future Approvals. Each Owner acknowledges that the members of the Design Review Committee will change from time to time and that interpretation, application, and enforcement of the Design Guidelines may vary and that the Design Guidelines themselves may be changed from time to time. Approval of Plans 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 submitted for approval.

9.17 Non-liability of the Design Review Committee and Executive Board Members. No member of the Design Review Committee or the Executive Board shall be liable to the Association or to any Owner or Person for any loss, damage or injury arising out of or in any way connected with the performance of the Design Review Committee's or Executive Board's respective duties under this Declaration or the Governing Documents unless due to an act or omission not in good faith or which involves intentional misconduct, actual malice, or a knowing violation of the law (as defined in § 7-22-101, C.R.S.) by the Design Review Committee or Executive Board or individual members thereof. The Design Review Committee or Executive Board shall not be responsible for reviewing, nor shall its approval of any Plans nor its inspection of any Exterior Improvement be deemed approval of structural safety, engineering soundness, or conformance with building codes or any other laws or standards.

9.18 Variations. The Design Review Committee may authorize variances from compliance with any of the architectural provisions or Design Guidelines and the Executive Board may authorize variances from compliance with Rules and Regulations, when circumstances so warrant. Such variances must be evidenced in writing and must be signed by at least a majority of all the members of the Design Review Committee, as to architectural provisions or Design Guidelines or by a majority of the Executive Board as to Rules and Regulations. If such a variance is granted, no violation of the Covenants shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of such a variance shall not operate to waive any of the terms and provisions of this Declaration for any purpose except as to the particular property and particular instance covered by the variance. The granting of a variance in one instance shall be deemed or construed as a waiver of the particular Design Guideline for which the variance was granted nor shall the granting of a variance in any instance constitute grounds for the granting in any other similar instance. Separate variances

(not available from the approving authority) may also be required pursuant to the El Paso County Land Development Code.

9.19 Enforcement. Any Exterior Improvement made in violation of this Article, any other provision in this Declaration, or of the Design Guidelines shall be deemed nonconforming. Upon written request from the Executive Board, the Owner of the Building upon which such Exterior Improvement is made (or the Owner that caused the Exterior Improvement to be made) shall, at the Owner's sole cost and expense, take any and all steps necessary to cause such Exterior Improvement to conform or to remove such structure or improvement and to restore the Property to substantially the same condition as existed prior to the nonconforming work. Should an Owner fail to cause conformance, or to remove and restore as required, the Executive Board or its designees shall have the right (but not the obligation) to enter the Property and remove the violation, and shall have the right (but not the obligation to) restore the property to substantially the same condition as previously existed. All costs, together with interest at the Default Rate of Interest, may be assessed against the benefited Property and collected as an Assessment. The Association may also obtain injunctive relief either prohibiting continued construction of an incomplete nonconforming Exterior Improvement or mandating removal or correction of any completed Exterior Improvement. If the Association seeks judicial enforcement against a nonconforming Exterior Improvement, the Owner causing the Exterior Improvement shall pay all of the Association's legal fees and costs with interest on such amounts at the Default Rate of Interest. The provisions of this Section shall be in addition, and not in limitation, to all other legal and equitable remedies the Association shall have.

9.20 Scope of Judicial Review. The scope of judicial review of any action taken by the Association or the Design Review Committee pursuant to this Article 9, including but not limited to, the promulgation and enforcement of Design Guidelines and review of any proposed Exterior Improvement, shall be limited to cases of fraud, bad faith, or lack of due process. Except in such cases of fraud, bad faith, or lack of due process, neither the exercise of discretion by the Committee nor the interpretation of Design Guidelines shall be subject to review.

9.21 Emergency. An Owner is authorized to take such measures as may be necessary to remedy an emergency and to mitigate a physical condition that would, if permitted to continue, cause additional damage to such Owner's property, the property of others, or personal injury. Notwithstanding the foregoing, any permanent improvement or alteration that would be subject to the conditions of this Article shall remain subject to review by the Design Review Committee and the Owner shall submit an Application for the same as if the work had not yet been performed.

9.22 Signage. All signage shall be subject to the terms of this Article and Article 11. The Association may also promulgate such specific Design Guidelines as it deems necessary or convenient pertaining to the size, architectural style, colors, materials, location and installation of signage on any Building and may prohibit signage not complying with such Signage Design Guidelines. Prior to installing or erecting any sign, the Person proposing the sign shall submit an Application to the Design Review Committee together with an artistic color drawing of the proposed sign. The Association shall be responsible for, and shall maintain, all signage installed



by Declarant within the Common Elements. All signs shall also conform at all times to all applicable governmental regulations.

9.23 Satellite Dishes. Installation of any satellite dish or receiver or any other equipment permitting wireless transmission on the roof, the exterior of any Building, or within the Common Elements shall be deemed an Exterior Improvement and shall be subject to the terms of this Article as well as to the terms of Section 11.5. Such installation shall be further subject to any other rules, regulations or design guidelines, and local law, or ordinance. The Association may require, as a condition to any approval, that the person installing a satellite dish or other rooftop antenna upon a Condominium Building enter into a license agreement with the Association upon such terms and conditions as may be required by the Association.

## ARTICLE 10 DUTY OF MAINTENANCE; RIGHTS OF ASSOCIATION TO MAINTAIN

10.1 Owner's Responsibility; Office Warehouse Units. Each Owner of an Office Warehouse Unit shall maintain his or her Unit and all furniture, fixtures, equipment, appliances, improvements and other property located within such Unit in a manner consistent with the Governing Documents, unless such maintenance is otherwise assumed by or assigned to the Association. All equipment installed within an Office Warehouse Unit, commencing at the point in which the equipment is attached to the Unit or where the utilities enter the Unit, shall be maintained and kept in good repair by the Unit Owner. However, an Owner shall not be responsible for the lines, pipes, wire conduits or utility systems running through a Unit which serve one or more other Units, except as a tenant in common with the other Owners. Such utilities shall not be disturbed or relocated by an Owner without the written consent and approval of the Association. Such right to repair, alter and remodel is coupled with the obligation to replace any finishing or other materials removed with similar types or kinds of materials. Each Owner shall maintain any Limited Common Elements appurtenant to such Owner's Unit in good repair and free from clutter, refuse, and debris. Each Owner of an Office Unit shall be responsible for the maintenance, repair, alteration, and remodeling of the interior non-supporting walls, floors, and ceilings, of his or her Unit, and the surface materials of all interior walls such as plaster, wallpaper or paint. Similarly, Unit Owners shall be responsible for all floor coverings and ceiling surfaces, interior and exterior doors, screens, window coverings, light and plumbing fixtures, and related hardware exclusively used in an Owner's Unit. An Owner shall do no act nor any work that will impair the structural soundness or integrity of any Condominium Building or impede any easement or right-of-way. In addition to any other enforcement rights, if an Owner fails to properly perform his or her maintenance responsibilities, the Association may perform such maintenance responsibilities and assess all costs incurred by the Association against the Unit and the Owner in accordance with the Governing Documents. The Association shall afford the Owner reasonable notice and an opportunity to cure the problem prior to any entry necessary for performance of such maintenance, except when immediate entry is required due to an emergency situation.

10.2 Owner's Responsibility; Individual Building Units. Each Owner of an Individual Building Unit shall insure and maintain such Unit and all exterior and interior Improvements comprising the Individual Building Unit, any equipment and utilities that are a part of the Unit or

exclusively serving the Unit, and any Limited Common Elements appurtenant to the Unit in a manner consistent with this Article, the Maintenance Standards (defined below) and the Governing Documents, unless such maintenance is otherwise assumed by the Association by Agreement or pursuant to Section 10.3 below.

10.3 Right of Association to Maintain. The Association shall have the special right to undertake, unilaterally, the exterior maintenance of an Individual Building Unit (“Exterior IBU Maintenance”) in order to preserve the overall aesthetic harmony of the Community, to achieve economies of scale in the engagement of contractors and the purchase of supplies for maintenance of all Buildings in the Community, or for other reasons. Exterior IBU Maintenance shall include, without limitation, painting or resurfacing the exterior of a Building, the replacement of windows, the repair or replacement of any concrete walks, walls or other improvements within the boundaries of the Unit, and the maintenance of any other portion of a Building that is visible from outside of the Building itself. In the event the Association shall determine to assume and perform any Exterior IBU Maintenance, the Association shall notify the Owner of the Individual Building Unit of the time and date(s) that such maintenance will be performed, the estimated cost of the maintenance and the Owner shall comply with any reasonable directives of the Association regarding access to the Unit, to temporarily close any areas necessary to perform the maintenance or such other reasonable requests; provided, however, the Association shall take such reasonable steps as may be necessary to minimize the impact upon the business of all occupants of the Building. The right of the Association to perform Exterior IBU Maintenance shall not be obligatory but may be exercised by determination of the Executive Board, in its discretion. Notwithstanding this special right of the Association, the Owner of the Individual Building Unit shall remain primarily obligated to perform all maintenance to such Owner’s Building, as and when needed (in accordance with the Maintenance Guidelines and Design Guidelines). The Association shall not be deemed to have assumed any other maintenance responsibility or any continuing responsibility by performance, in any one case, of any Exterior IBU Maintenance, unless the Association specifically notifies the Owner to the contrary. The actual labor and material costs of the Association (including, without limitation, any increased management fees charged by the manager) in performing Exterior IBU Maintenance shall be the responsibility of the Owner of the Individual Building Unit, may be assessed against the Owner as a Special Assessment hereunder (and enforced in accordance with the terms of this Agreement), and such Owner shall pay the same to the Association upon demand accompanied by reasonable evidence that payment for the supplies and services has been made (with copies of all invoices, bills and other relevant information). The Association shall have the right to collect, from time to time, in accordance with a duly adopted budget, reasonable Reserves for the payment and performance of Exterior IBU Maintenance.

10.4 Maintenance Guidelines. The Association shall have the right and authority to adopt, in addition to and in accordance with the Design Guidelines, certain standards of performance with respect to maintenance, general upkeep and interior and exterior appearance of the Individual Building Units and Office Warehouse Units (“Maintenance Standards”). Such Maintenance Standards may prescribe the type, timing and manner of required maintenance to the Individual Building Units and may, for example, prescribe the indications requiring painting or surface repair of an Individual Building Unit and the timing or frequency of window washing

and window replacement. In addition, Maintenance Standards may provide reasonable guidelines with respect to the exterior appearance of Buildings and may, for example, restrict, limit, or provide uniform standards for window treatments, tints, shades or other such matters that may be visible to observers outside of the Property. Maintenance Standards shall be applied in a non-discriminatory manner.

10.5 Remediation Notice. Unless assumed by the Executive Board or delegated to another committee formed by the Executive Board, the Design Review Committee shall be charged with the enforcement and application of the Maintenance Standards. In the event that the Design Review Committee determines that any Owner has violated a Maintenance Standard, the Design Review Committee shall deliver to such Owner written notice describing the violation and the Design Review Committee's minimum requirements for remediation (a "Remediation Notice"). An Owner receiving a Remediation Notice shall have not less than ninety (90) days to cause the repairs or maintenance required by the Remediation Notice to be performed; provided, however, the Design Review Committee (i) may permit a greater amount of time if requested or if the nature of the remediation would require a greater time and the Owner diligently commences performance within thirty (30) days of the Remediation Notice, and (ii) may require a shorter period of time if the condition is reasonably determined by the Design Review Committee to be an emergency condition or if it otherwise poses a threat to the health, safety, or property of any person.

10.6 Enforcement. Without limitation upon any other right or remedy of the Association contained herein arising from a default of any Owner, if an Owner shall fail or refuse to timely remedy a condition set forth in a Remediation Notice, the Association shall have the right to, among other things, assess a Default Assessment against the Owner and provide for a recurring Default Assessment on such basis as the Association shall deem reasonable and necessary to cause the Owner to comply with the Remediation Notice. In addition to the foregoing and without limitation:

10.6.1 The Association shall have the right to enter into and upon the Unit and cause the maintenance, repair or remediation to be performed and charge the cost thereof to the Owner as a Special Assessment. The Association is hereby authorized and instructed by the Owner to accomplish the same and the Association (and its contractors and agents) shall be given all such access and accommodations necessary to the performance of the remediation work.

10.6.2 The Association shall have the right to seek and obtain, in an appropriate proceeding in equity, the specific performance of any Maintenance Standard and requirement of a Remediation Notice or to enjoin any activity in violation of any Maintenance Standard or other covenant or restriction contained herein or in any Rule or Regulation.

10.7 Association Services. Nothing herein may be construed as prohibiting an Owner of an Individual Building Unit from engaging the Association to provide certain maintenance services or management to the Individual Building Unit (in order to obtain uniformity among the Buildings and achieve economies of scale in expenses); provided, however, that the costs of such maintenance shall be paid for directly by the engaging Owner and shall not be made Common

Expenses. The Association shall be not be required to provide such services, but neither shall the Association discriminate among Owners.

## ARTICLE 11 RESTRICTIVE COVENANTS

11.1 Rules and Regulations. The Executive Board shall have the authority to promulgate, to issue and to amend reasonable Rules and Regulations concerning the use and occupancy of Units in addition to the terms and conditions contained in this Declaration; provided that such Rules and Regulations may not be contrary to the terms of this Declaration, the Articles, Bylaws or applicable law. The strict application of any such Rule or Regulation in any specific case may be modified or waived, in whole or in part, by the Executive Board or by an appropriate committee (subject to review by the Executive Board) if such strict application would be unreasonable or unduly harsh under the circumstances. Any such modification or waiver shall not operate as a waiver in future circumstances. All provisions of the Governing Documents shall apply to Owners and Related Users. Owners and their successors and assigns, by acceptance of a deed to their Unit, acknowledge that they have been given notice that:

11.1.1 The Owner and the Owner's Unit is subject to and bound by the provisions of this Declaration with the same force and effect as if the Owner had personally executed this Declaration, as a party thereto, affirmatively stating that the Owner agrees to be bound by this Declaration and to subject such Owner's Unit to the Covenants and agreements set forth herein.

11.1.2 The ability of Owners to use their Units is limited by the provisions in the Governing Documents.

11.1.3 The Executive Board may, in its sole discretion, add, delete, modify, create exceptions to, or amend use guidelines and restrictions in accordance with this Declaration.

11.1.4 The Executive Board may, from time to time, adopt and amend definitions of words, phrases and terms used in this Declaration and other Governing Documents.

11.1.5 The use, enjoyment and marketability of his or her Unit can be affected by these provisions and that the Rules and Regulations may change from time to time.

11.2 Right of Owners Regarding Rules and Regulations. Except as otherwise provided herein, the Executive Board may not adopt any rule in violation of the following provisions:

11.2.1 Equal Treatment. Rules and Regulations shall be reasonable and uniformly applied. Rules and Regulations shall be effective fifteen (15) days after delivery of written notice of adoption, which notice of adoption shall be accompanied by a copy of such newly adopted Rules and Regulations. Rules and Regulations may be amended or repealed and the effective date of such action shall be fifteen (15) days after

receipt of notice thereof and delivery of a copy of the newly modified Rules and Regulations.

11.2.2 Alienation. No rule shall prohibit transfer of any Unit, or require consent of the Association or Executive Board for transfer of any Unit.

11.3 Use Restriction. The Property shall be restricted to commercial uses permitted by local zoning. No activity in violation of federal, state or local laws, ordinances, zoning or other governmental restrictions shall be conducted.

11.4 Prohibition of Activities Increasing Insurable Risks. No hazardous materials (other than *de minimus* amounts used in compliance with applicable laws) may be brought into or used within any Unit. Nothing shall be done or kept in any Unit or in or on the Common Elements, or any part thereof, that would result in the cancellation of the insurance on all or any part of the Project or, without the prior written approval of the Association, that would result in an increase in insurance premiums for all or any part of the Project over the premiums that would be applicable in the absence of such activity. Nothing shall be done or kept in any Unit or in or on the Common Elements in violation of any statute, rule, ordinance, regulation, permit or other requirement of any governmental body having jurisdiction over the Condominium. No damage to or waste of the Common Elements shall be committed by any Owner, and each Owner shall indemnify and hold the Association and the other Owners harmless against all loss resulting from any such damage or waste caused by such Owner or by any Related User of such Owner's Unit. Failure to so indemnify shall be a default by such Owner under this Section. At its own initiative or upon the written request of any Owner (and if the Association determines that further action by the Association is warranted), the Association may enforce the foregoing indemnity as a Default Assessment levied against such Unit.

11.5 Roof or Exterior Antennae and Roof Top Improvements. Except to the extent this provision contravenes applicable state or federal law, no satellite dishes or exterior aerials or antennas of any kind or any other construction or improvements may be placed upon the exterior of a Building or upon any part of a Unit or Limited Common Element without the prior written consent of the Design Review Committee or Executive Board. The Design Review Committee may impose conditions and restrictions upon the installment of such equipment including, but not limited to, size and height limitations and screening requirements, as it may deem appropriate, in connection with any approval. In the event that consent is granted by either the Design Review Committee or the Executive Board, permitting any antenna, satellite dish or other improvement to be placed upon the roof or in the event any improvement of any sort is made by an Owner or the Association which would result in a penetration of the roof (even in *de minimus* size) any such installation or improvement and all subsequent maintenance thereof, shall be performed in a manner so as not to adversely affect any warranty applicable to the roof and if determined to be necessary to assure that no adverse effect upon the roof warranty will arise, shall be conditioned upon supervision of the installation, improvement or maintenance by the roofing contractor which installed the roof or roof membrane, a different roofing contractor, and by a representative of the Association and of the Declarant. Each Owner who makes any installation or improvement upon the roof or who performs any maintenance (including without limitation, installations, improvements or maintenance performed by independent contractors

retained by an Owner) shall indemnify and hold harmless the Association and the Declarant and their respective agents, contractors, employees and representatives from and against any and all personal injury and property damage claims arising therefrom and also against any claim that such activities violated, adversely affected or voided the roof warranty. Such indemnity shall include, without limitation, the Owner's obligation to hold the Association and Declarant harmless from any damage to the roof, to any of the Common Elements and to any and all Units and shall also hold the Association and Declarant harmless of and against any consequential or incidental damages arising from the installation, improvement or maintenance activities of the Owner (and Owner's agents and contractors) such as, by way of example, water damage to personal property located within the Building or the occurrence of mold and resultant injuries arising therefrom.

11.6 Abandoned or Inoperable Vehicle Parking. No abandoned or inoperable automobiles or vehicles of any kind shall be stored or parked on any portion of the Project. An "abandoned or inoperable vehicle" shall be defined as any automobile, truck, motorcycle or other similar vehicle, which has not been driven under its own propulsion for a period of two (2) weeks or longer. In the event the Association shall determine that a vehicle is an abandoned or inoperable vehicle, then a written notice describing said vehicle shall be personally delivered to the owner thereof (if such owner can be reasonably ascertained) or shall be conspicuously placed upon the vehicle (if the owner thereof cannot be reasonably ascertained), and if the vehicle is not removed within 48 hours thereafter, the Association shall have the right to remove the vehicle at the sole expense of the owner thereof.

11.7 Use of Common Elements. Subject to the rights of Declarant as provided in this Declaration, there shall be no obstruction of the Common Elements nor shall anything be kept or stored on any part of the Common Elements without prior written approval of the Association. Except for those improvements erected or installed by Declarant in its construction and completion of the Project, the Common Elements shall not be altered, improved, or in any way modified by any party except the Association without the express written consent of the Association.

11.8 Leasing. The term "lease", as used herein, shall include any agreement for the leasing or rental of a Unit and shall specifically include, without limitation, a month-to-month rental. Owners shall have the right to lease their Units only under the following conditions:

11.8.1 All leases shall be in writing and shall not permit any purpose or activity in contravention of any restriction made herein or any applicable law or ordinance;

11.8.2 All leases shall provide that the terms of the lease and the lessee's occupancy of the Unit shall be subject in all respects to the provisions of this Declaration and all Governing Documents including, without limitation, all Rules and Regulations, and that any failure by the lessee to comply with the Governing Documents, in any respect, shall be a default under the lease, said default to be enforceable by the Association, the Owner/landlord, or both of them against the tenant. Any noncompliance of a tenant with the Governing Documents shall be enforceable against the Owner to the same extent as if such Owner had failed to comply with the Governing Documents;

11.8.3 No lease shall be for a term of less than thirty (30) days; and,

11.8.4 Any Owner who leases his Unit shall forward a copy of the fully executed lease to the Association within ten (10) days after the execution by Owner and the tenant/lessee.

11.9 Parking. No Owner shall permit the Owner's employees, tenants, guests or other Related Users to exceed the Parking Share allocated to such Owner's Unit.

11.10 Refuse. Trash receptacles, dumpsters and enclosures for dumpsters shall be located within the Common Elements. Certain dumpsters may be designated as Limited Common Elements on the Map and shall be allocated to the exclusive use of one or more Buildings or, if not so designated, may be allocated by the Association for the exclusive use of one or more Buildings. The Association shall be generally responsible for trash removal and the maintenance and repair of trash receptacles and enclosures and such costs shall be a General Community Expense. Notwithstanding the foregoing, in the event that the Association determines that a particular Owner's use is disproportionate and such use increases the costs of trash removal, then the Association may, in its discretion, charge to such Owner the increased costs occasioned by the Owner's disproportionate use. Dumpsters and trash receptacles shall not be used by any Owner or Related User for refuse not generated at the Project in the normal and customary conduct of such persons' business and activities at the Project. Each Owner shall be solely responsible for any damage to the trash enclosures resulting from the negligence, misconduct or misuse of such Owner or any Related User, tenant, guest or invitee of such Owner. The Association may adopt such reasonable Rules and Regulations concerning the disposition of trash and use of trash receptacles and dumpsters as the Association may deem necessary or convenient.

11.11 Signage. No sign, picture, advertisement, window display or other public display or notice shall be inscribed, exhibited, painted or affixed by an Owner upon or within any part of the Common Elements, on the exterior of a Unit, or in any location as to be seen from the outside of the Unit or the Building without the express prior written consent of the Association. Without limitation upon the foregoing, any "For Sale," "For Lease," or "For Rent" signs shall be strictly prohibited; provided, however, the foregoing restriction shall not apply to signage utilized by the Declarant to advertise Units for initial sale or to advertise the Project, generally. In the event of the violation of any of the foregoing, the Association may after ten (10) days prior written notice to the Owner remove the articles constituting the violation without any liability therefor, and the Owner shall reimburse the Association for the reasonable expenses incurred in such removal upon demand. Interior signs on doors and upon a Building directory (including, without limitation, an Individual Building Unit directory) shall be subject to the express prior written approval of the Association and shall be inscribed, painted, or affixed by the Association at the reasonable expense of Owner upon submission of applicable bills to Owner.

ARTICLE 12  
OTHER EASEMENT DEDICATIONS AND RESERVATIONS

12.1 Recorded Easements. The Property shall be subject to all easements as shown on any Map or Plat, those of record (including those set forth on Exhibit C attached hereto), those provided in the Act (including easements for encroachments set forth in Section 38-33.3-214 of the Act and an easement for maintenance of any such encroachment), and otherwise as set forth in this Article.

12.2 Encroachment Easement. In the event any portion of the Common Elements, including Limited Common Elements, encroaches upon any Unit or any Unit encroaches upon the Common Elements, including Limited Common Elements, or another Unit as a result of the construction, reconstruction, repair, shifting, settlement or movement of any portion of the improvements, a valid easement for the encroachment and for the maintenance of the same shall exist so long as the encroachment exists. There shall be easements for the maintenance of said encroachments as long as they shall exist, and the rights and obligations of Owners shall not be altered in any way by said encroachments, settlement, or shifting, provided, however, that in no event shall an easement relieve an Owner of liability in case of willful misconduct of such Owner. In the event any portion of a structure on the Project is partially or totally destroyed and then repaired or rebuilt, each Owner agrees that minor encroachments over adjoining Units or Common Elements shall be easements for the maintenance of said encroachments so long as they shall exist.

12.3 Declarant's Rights Incident to Construction. Declarant, for itself and its successors and assigns, hereby reserves an easement for construction, utilities, drainage, ingress and egress over, in, upon, under and across the Common Elements, together with the right to store materials on the Common Elements, to build and maintain temporary walls, and to make such other use of the Common Elements as may be reasonably necessary or incident to any improvement or construction to the Common Elements, Units, any Expansion Property which may hereafter be annexed into the Project, or other real property owned by Declarant, or other properties abutting and contiguous to the Property; provided, however, that no such rights shall be exercised by Declarant in a way which unreasonably interferes with the occupancy, use, enjoyment or access to the Project by the Owners.

12.4 Utility Easements. There is hereby created a blanket easement upon, across, over, in and under the Property for the benefit of the Common Elements and the Units and the structures and improvements situated on the Property for ingress and egress, installing, replacing, repairing and maintaining all utilities, including, but not limited to, water, sewer, gas, telephone, cable tv and electricity. Said blanket easements include future utility services not presently available to the Units which may reasonably be required in the future. By virtue of this easement, it shall be expressly permissible for the companies providing utilities to erect and maintain the necessary equipment on any of the Units and to affix and maintain electrical and/or telephone wires, circuits and conduits on, above, across and under the roofs and exterior walls of the improvements, all in a manner customary for such companies in the area surrounding the Property, subject to approval by the Association as to locations, visual appearance, or for other reasons.



12.5 Reservation of Easements Exceptions and Exclusions. The Association is hereby granted the right to establish from time to time, by declaration or otherwise, utility and other easements, permits, or licenses over the Common Elements for the best interests of all the Owners and the Association. Each Owner is hereby granted a perpetual non-exclusive right of ingress to and egress from the Owner's Unit over and across the General Common Elements and those (but only those) Limited Common Elements appurtenant to that Owner's Unit, which right shall be appurtenant to the Owner's Unit, and which right shall be subject to limited and reasonable restriction (for example, guest parking and parking lot closure for repair and maintenance, and use restrictions on any storage facilities) on the use of Common Elements set forth in writing by the Association.

12.6 Owners' Easements of Enjoyment. Every Owner shall have an undivided right and easement of enjoyment in and to in the Common Elements, subject, without limitation, to the following:

12.6.1 The right of the Association to exercise all powers and duties pursuant to applicable provisions of the Governing Documents and the Act;

12.6.2 The right of the Association to adopt, from time to time, Rules and Regulations concerning all or any portion of the Property and any Improvements located thereon, as the Association may determine necessary or prudent;

12.6.3 The right of the Association to dedicate, transfer or encumber all or any part of the Common Elements subject to the Act including, without limitation, § 38-33.3-312 of the Act;

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

12.6.5 The limitation to a certain Owner, or a limited number of Owners, of the use and enjoyment of certain Limited Common Elements.

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

## ARTICLE 13 INSURANCE

13.1 Insurance Carried by the Association. Commencing not later than the time of the first conveyance of a Unit to a Person other than the Declarant, the Association shall obtain and at all times maintain in full force and effect, to the extent reasonably available, the insurance coverage set forth below in this Article 13.

13.1.1 Property Insurance on the Common Elements. The Association shall obtain adequate property insurance on the Common Elements and the other property owned by the Association. Such policy shall be for broad form covered losses including, but not limited to, loss or damage by fire and other periods normally covered by the “standard extended coverage” endorsement and such other risks as the Association in its discretion deems prudent. The total amount of property insurance may not be less than the full insurable replacement cost of the insured property less applicable deductibles at the time the insurance is purchased and at each renewal date, exclusive of land, excavations, foundations, and other items normally excluded from property policies. The Association may obtain additional endorsements and reasonable deductibles as deemed by the Executive Board. The premiums for such insurance shall be a Common Expense and payable by Assessment.

13.1.2 Commercial General Liability Insurance on the Common Elements. The Association shall obtain an adequate comprehensive policy of commercial general liability insurance against claims and liabilities arising in connection with the ownership, existence, use, or management of the Common Elements, in such limits as the Executive Board may from time to time determine, but in any event, providing coverage of not less than One Million Dollars (\$1,000,000) per injury, per person, and per occurrence, and in all cases covering all claims for bodily injury or property damage, to the insurable limits. Coverage shall include, without limitation, liability for personal injuries, operation of automobiles on behalf of the Association, and activities in connection with the ownership, operation, maintenance and other uses of the Common Interest Community. All liability insurance shall name the Association as the insured. The Declarant shall be included as an additional insured in such Declarant’s capacity as a Unit Owner and member of the Executive Board. The Owners shall be included as additional insureds but only for claims and liabilities arising in connection with ownership, existence, use, or management of the Common Elements. The insurance shall cover claims of one or more insured parties against other insured parties.

13.1.3 If Insurance Unavailable. If the insurance described in subsection 13.1.1 and 13.1.2 is not reasonably available, or if any policy of such insurance is canceled or not renewed or replaced, the Association shall promptly cause notice of that fact to be hand-delivered or sent by United States Mail to all Owners.

13.1.4 Insurance Requirements. Insurance policies carried pursuant to subsection 13.1.1 and 13.1.2 shall provide that:

(i) Each Owner is an insured person under the policy with respect to liability arising out of such Owner’s interest in the Common Elements or membership in the Association.

(ii) The insurer waives its rights to subrogation under the policy against the Declarant, natural persons employed by Declarant, and any Owner and any member of Owner’s household.

(iii) No act or omission by any Owner, unless acting within the scope of such Owner’s authority to act on behalf of the Association, will void the policy or be a condition to recovery under the policy.

- (iv) If, at the time of a loss under the policy, there is other insurance in the name of an Owner covering the same risk covered by the policy, the Association's policy shall nevertheless provide primary coverage.
- (v) All policies shall provide that such policies may not be canceled or modified without at least twenty (20) days prior written notice to all of the Owners and the Association.
- (vi) All liability insurance shall be carried in blanket form naming the Association, the Executive Board, the manager or managing agent, if any, the officers of the Association, their successors and assigns and Owners as insureds.
- (vii) Prior to obtaining any policy of casualty insurance or renewal thereof, pursuant to the provisions hereof, the Executive Board may obtain an appraisal from a duly qualified real estate or insurance appraiser, which appraiser shall reasonably estimate the full replacement value of the Common Elements, without deduction for depreciation, review any increases in the cost of living, and/or consider other factors, for the purpose of determining the amount of the insurance to be effected pursuant to the provisions hereof. In no event shall any casualty insurance policy contain a co-insurance clause for more than twenty percent (20%), such that the policy will pay at least 80% of the full replacement cost.

13.2 Content Insurance. Each Owner must independently obtain any and all further insurance which such Owner deems necessary or desirable including, without limitation, those forms of insurance generally referred to as "content" insurance and others.

13.3 IBU Insurance. The Individual Building Units are owned in fee simple and no portion of such Buildings are Common Elements hereunder. As such, each Owner of an Individual Building Unit is responsible for obtaining such insurance as the Owner may deem necessary or convenient.

13.4 Fidelity Insurance. The Association may obtain adequate fidelity coverage or fidelity bonds to protect against dishonest acts on the parts of its officers, directors, trustees and employees and on the part of all others who handle or are responsible for handling the funds of the Association, including persons who serve the Association with or without compensation. The fidelity coverage or bonds should be in an amount sufficient to cover the maximum funds that will be in the control of the Association, its officers, directors, trustees and employees.

13.5 Worker's Compensation and Employer's Liability Insurance. The Association shall obtain worker's compensation and employer's liability insurance and all other similar insurance with respect to its employees in the amounts and forms as may now or hereafter be required by law.

13.6 Officers' and Directors' Personal Liability Insurance. The Association shall obtain officers' and directors' personal liability insurance to protect the officers and directors from personal liability in relation to their duties and responsibilities in acting as officers and directors on behalf of the Association.

13.7 Other Insurance. The Association may obtain insurance against such other risks as it shall deem appropriate with respect to the Association's responsibilities and duties.

13.8 Insurance Premium. Except as assessed in proportion to risk, where permitted under the terms of this Declaration, insurance premiums for the above provided insurance shall be a Common Expense to be included as a part of the Annual Assessment levied by the Association.

13.9 Managing Agent Insurance. The manager or managing agent, if any, shall be insured for the benefit of the Association, and shall maintain and submit evidence of such coverage to the Association.

13.10 Waiver of Claims Against Association. As to all policies of insurance maintained by or for the benefit of the Association and Owners, the Association and the Owners hereby waive and release all claims against one another, the Executive Board, to the extent of the insurance proceeds available, whether or not the insurance damage or injury is caused by the negligence of or breach of any agreement by or of said persons.

13.11 Adjustments by the Association. Any loss covered by an insurance policy described above shall be adjusted by the Association, and the insurance proceeds for that loss shall be payable to the Association. The Association shall hold any insurance proceeds in trust for the Association and Owners.

13.12 Condemnation and Hazard Insurance Allocations and Distributions. In the event of a distribution of condemnation proceeds or hazard insurance proceeds to the Owners, the distribution shall be as the parties with interests and rights are determined or allocated by record, and pursuant to the Act.

#### ARTICLE 14 SPECIAL DECLARANT RIGHTS

14.1 Special Declarant Rights. Declarant hereby reserves the following Special Declarant Rights for a time period of ten (10) years from the date of recordation of this Declaration.

14.1.1 Expansion. The right to add the Expansion Property to the Project and create within the existing Project or the Expansion Property additional Units and Common Elements.

14.1.2 Withdrawal. The right to withdraw Units and Common Elements from the Property in accordance with the terms of the Act.

14.1.3 Development Rights. The right to exercise those development rights described in Article 15 of this Declaration.

14.1.4 Rights Provided by Act. Irrespective of whether specifically stated herein, the right to exercise each right defined in the Act as a “special declarant right” or “development right.”

14.1.5 Completion of Improvements. The right to complete improvements on the Common Elements and Units owned by the Declarant.

14.1.6 Sales Management and Marketing. The right to maintain a sales and management office within any Unit owned by Declarant or on or within any Common Element, and the right to maintain signs advertising the Project, and the right to maintain model units and sales and management offices on any Unit owned by the Declarant. Any sales and management office on the Common Elements shall be removed no later than 30 days after the conveyance of the last Unit owned by the Declarant.

14.1.7 Construction Facilities. The right of the Declarant and its employees, representatives, agents, and contractors to maintain within the Property (including, but not limited to, any portion of the Common Elements) and the Expansion Property temporary construction facilities, construction trailers, and construction materials, staging yards, and other facilities reasonably required during the construction and sale period of the Project.

14.1.8 Construction: Construction Easements. The Declarant reserves the right to perform warranty work, repairs, and construction work in Units and Common Elements, to store materials in secure areas, and to control and have the right of access to work. All such work may be performed by the Declarant without the consent or approval of the Association. Declarant shall have an easement through the Common Elements for the purpose of making improvements within the Property or within real estate that may be added to the Project, and the right to use, and to permit others to use, easements through the Common Elements as may be reasonably necessary for the purpose of discharging the Declarant’s obligations and exercising Declarant’s rights (including, without limitation, any Special Declarant Rights and Development Rights) under the Act and this Declaration.

14.1.9 Master Association. The right to make the Project subject to a Master Association (as is defined in the Act).

14.1.10 Merger. The right to merge or consolidate the Project with another common interest community.

14.1.11 Control of Association and Executive Board. The right to appoint or remove any Officer of the Association or any Executive Board or Design Review Committee member during the Declarant Control Period.

14.1.12 Amendment of Declaration. The right to amend the Declaration and Map in connection with the exercise of any Development Right.

14.1.13 Supplements to Exhibit B. The right to amend and supplement Exhibit B to this Declaration.

14.1.14 Allocate and Designate Parking Shares. The right to designate the Parking Share to be allocated to a Unit.

14.2 Rights Transferable. Any Special Declarant Right created or reserved under this Article for the benefit of Declarant may be transferred to any person by an instrument describing the rights transferred and recorded with the Clerk and Recorder. Such instrument shall be made in accordance with the Act.

14.3 Applicability. All Special Declarant Rights shall apply to the Property and any Expansion Property.

## ARTICLE 15 EXPANSION AND DEVELOPMENT RIGHTS

15.1 Future Buildings. Declarant reserves the right to create up to the number of Individual Building Units, Condominium Buildings and Office Warehouse Units set forth in Section 3.1 and to annex all or any portion of the Expansion Property into the Property. Declarant shall not be obligated to annex any portion of the Expansion Property into the Property but shall have the right to annex the real estate in such portions and at such times as the Declarant deems necessary or convenient. Furthermore, Declarant shall have the right to locate any new Condominium Building or Individual Building Unit within the Property or Expansion Property in any manner and in such phases as Declarant deems appropriate. There shall be no restriction, pursuant to this Declaration, on the size, location, or configuration of any new Building or additional Common Elements that may be annexed by Declarant and all such improvements may be located and configured in any manner determined by Declarant. A new Individual Building Unit or Office Warehouse Unit may be created by an Annexation Amendment (defined below) on property currently within the Project or may be created simultaneously upon annexation of any portion of the Expansion Property.

15.2 General Recitation of Development and Withdrawal Rights. Declarant expressly reserves the right, but shall have no obligation, to create additional Units and Common Elements; to annex the Expansion Property into the Property and thereby submit the Expansion Property, or any portion of the Expansion Property, to this Declaration in one or more annexations; relocate boundaries between Units, convert Units into Common Elements, combine or subdivide Units, convert Common Elements into Units, to convert one or more Condominium Buildings into Individual Building Units, to convert Individual Building Units into Condominium Buildings, to make any designations of the Parking Share of a Unit and to reallocate Parking Shares among Units, on all or any portion of the Property or the Expansion Property owned by the Declarant. Declarant may exercise its Development Rights on all or any portion of the Property in whatever order of development Declarant, in its sole discretion, determines. Declarant expressly reserves the right to withdraw all or any portion of the Property by recording a document evidencing such withdrawal in the office of the Clerk and Recorder, provided, however, that no portion of any phase of the Property may be withdrawn after a Unit in that phase has been conveyed to a

purchaser other than the Declarant. Any real estate withdrawn from the Property shall be subject to whatever easements, if any, are reasonably necessary for access to or operation of the Property or the withdrawn property. Declarant shall prepare and record in the office of the Clerk and Recorder whatever documents are necessary to evidence such easements and may amend the Declaration and the Map to include reference to the recorded easement.

15.3 Amendment of Declaration. If Declarant elects to submit the Expansion Property, or any portion of the Expansion Property, to this Declaration, or to exercise any other rights referred in Section 15.2 above, Declarant shall record an "Annexation Amendment to the Declaration and Map" ("Annexation Amendment") to the Declaration. An Annexation Amendment shall be in conformance with the Act and shall contain, to the extent necessary:

- (i) a legal description of that portion of the Expansion Property being annexed to and submitted to this Declaration;
- (ii) a legal description of any Individual Building Units, Condominium Buildings, Office Warehouse Units, Common Elements and Limited Common Elements created thereby;
- (iii) a schedule of the Allocated Interests appurtenant to each Unit as reallocated subsequent to the annexation;
- (iv) a designation of Parking Share applicable to a Unit (such designation to be made, in Declarant's discretion, either at the time of the Annexation Amendment or at the time of conveyance by Declarant of the particular Unit to which the Parking Share is appurtenant);
- (v) a supplemental Exhibit B to become a part of this Declaration and to supplement and supersede the previously existing Exhibit B; and
- (vi) shall otherwise conform to the requirements of this Declaration and the Act.

In addition to and contemporaneously with any Annexation Amendment, a new or amended Map, or new certification of the Map (which certification may be included as a provision of the Annexation Amendment) shall be recorded with the Clerk and Recorder conforming to the requirements of this Declaration and the Act.

15.4 Interpretation. Recording of amendments to the Declaration and Map in the office of the Clerk and Recorder shall automatically vest in each existing Owner the reallocated Allocated Interests appurtenant to such Owner's Unit, and shall vest in each existing mortgagee of a Unit a perfected security interest in the reallocated Allocated Interests appurtenant to the encumbered Unit. Upon the recording of an Annexation Amendment, the definitions used in this Declaration shall automatically be extended to encompass and to refer to the Property and the Project, as expanded. The Expansion Property referred to in an Annexation Amendment shall be added to and become a part of the Property for all purposes. All conveyances of Units after such expansion shall be effective to transfer beneficial rights in the Common Elements as expanded to the Owners, whether or not reference is made to any Amendment to the Declaration or Map.

Reference to the Declaration and Map in any instrument shall be deemed to include all Amendments to the Declaration and Map without specific reference thereto.

15.5 Construction. The buildings, structures and types of improvements to be placed within or on the Expansion Property or any part thereof and to be annexed into the Property shall be of a quality equal to or better than the improvements previously constructed within the Project, but need not be of the same size, style or configuration.

15.6 Construction Easement. Declarant expressly reserves the right to perform construction work and to store materials in secure areas, in Units owned by the Declarant and in or on Common Elements, and the future right to control such work and repairs, and the right of access thereto, until its completion. All work may be performed by Declarant without the consent or approval of any Owner or mortgagee; provided, however, Declarant shall endeavor to perform all such work without unreasonable interference with the use and occupancy of the Owners unless such interference is unavoidable (using commercially reasonable methods) and, in such event, Declarant shall diligently and expeditiously perform such work to completion in order to reasonably minimize the interference with the business operations of the affected Owners. Declarant shall not be liable to any Owner for any delays or interference. Declarant has an easement through the Common Elements as may be reasonably necessary for the purpose of discharging Declarant's obligations and exercising Declarant's reserved rights in this Declaration. Such easement includes the right to construct underground utility lines, pipes, wires, ducts, conduits, and other facilities across the land not designated as reserved for future development in the Declaration or on the Map for the purpose of furnishing utility and other services to the property so reserved for future development. Declarant's reserved construction easement includes the right to grant easements to public utility companies and to convey improvements within those easements anywhere in the Common Elements. If Declarant grants any such easements, the Declaration and Map will be amended to include reference to the recorded easement.

15.7 Reciprocal Easements. If all or part of the Expansion Property is not submitted to this Declaration or if any Unit or Common Element is withdrawn from the Property ("Withdrawn Property"):

The Owner(s) of the Expansion Property and/or Withdrawn Property shall have whatever easements are necessary or desirable, if any, for access, utility service, repair, maintenance and emergencies over and across the Property; and

The Owner(s) shall have whatever easements are necessary or desirable, if any, for access, utility service repair, maintenance and emergencies over and across the Expansion Property and Withdrawn Property.

Declarant shall prepare and record in the office of the Clerk and Recorder whatever documents are necessary to evidence such easements and shall amend the Declaration and the Map to include reference to the recorded easement(s). Such recorded easement shall specify that the owners of the Expansion Property and the Withdrawn Property and the Owners shall be obligated to pay a proportionate share of the cost of the operation and maintenance of any



easements utilized by either one of them on the other's property upon such reasonable basis as the Declarant shall establish in the easement(s). Preparation and recordation by Declarant of an easement pursuant to this Section shall conclusively determine the existence, location and extent of the reciprocal easements that are necessary or desirable as contemplated by this Section.

15.8 Termination of Expansion and Development Rights. The expansion and development rights reserved to Declarant, for itself, its successors and assigns, shall terminate ten (10) years from the date of recording this Declaration, unless the expansion and development rights are (i) extended as allowed by law or (ii) reinstated or extended by the Association, subject to whatever terms, conditions, and limitations the Executive Board may impose on the subsequent exercise of the Expansion and Development Rights by Declarant. Irrespective of any right to amend this Declaration, no amendment shall be valid if made prior to the tenth (10th) anniversary of the date of recordation of this Declaration if such amendment would have the effect of terminating, limiting or restricting the Development Rights or Special Declarant Rights reserved herein.

## ARTICLE 16 ALTERATION AND SUBDIVISION OF UNITS

16.1 Alteration of Individual Building Units. The Owner of an Individual Building Unit may make or perform any alteration or change to the Individual Building Unit as the Owner determines necessary or convenient; subject, however, to any term, condition or limitation contained in this Declaration including, but not limited to, Article 9 above, compliance with the provisions of Articles 16.3 or 16.4 which apply to the particular alteration being proposed (i.e., relocation of boundaries, subdivision or combination, and any applicable governmental regulation.

16.2 Alteration of Office Warehouse Units. Subject to any contrary provisions of this Declaration and applicable law, the Owner of an Office Warehouse Unit:

16.2.1 May make any improvements or alterations to the Office Warehouse Unit that do not impair the structural integrity, electrical systems or mechanical systems of the Condominium Building; or

16.2.2 After acquiring an adjacent Office Unit, may remove or alter an intervening partition or create doors or apertures therein, even if the partition is a Common Element, if such acts do not impair the structural integrity, electrical systems or mechanical systems of the Condominium Building and so long as all required governmental and Association approvals are first secured. Removal of partitions under this subsection will not affect the boundaries of the two Office Warehouse Units and the such actions will not be effective, on its own, to combine the two Units into one Unit.

16.3 Relocation of Boundaries between Office Warehouse Units. Subject to any contrary provisions of this Declaration and applicable law, the boundaries between two Office Warehouse Units may be relocated by an amendment to this Declaration upon application to the Association by the Owners of all affected Units (the "Affected Unit Owner"). Any such

amendment to this Declaration shall comply with all applicable provisions of the Act but shall not require any other vote of Owners or other requirements contained herein for an amendment. In order to effect a relocation of boundaries the Affected Unit Owners shall make an application to the Executive Board which shall be executed by the Affected Unit Owners and shall contain, at a minimum, the following:

16.3.1 Evidence that the Affected Unit Owners have complied with all (and that the proposed change does not violate any) local governmental rules and regulations, building codes, fire codes, zoning codes or any and all other applicable requirements and ordinances and that the proposed relocation of boundaries does not violate the terms of any mortgage or deed of trust;

16.3.2 The proposed reallocation of interests, which reallocation shall comply with Article 7 above and shall have no effect upon any Unit Owner not affected by the boundary change;

16.3.3 The proposed form and content of the amendments necessary to this Declaration and the Map;

16.3.4 A deposit against attorney fees and costs which the Association will incur in reviewing and effectuating the application, in an amount reasonably determined by the Association; and,

16.3.5 Any such other information as may be reasonably requested by the Executive Board.

No work pursuant to any application shall be effected except upon the approval of the Executive Board (which approval may, notwithstanding the foregoing, be denied in the Executive Board's reasonable discretion) and except upon the recordation of the necessary amendments to the Declaration and the Map, all in accordance with the terms and requirements of the Act. All costs and expenses of the Association including, but not limited to, all attorneys' fees and costs shall be the sole responsibility of the Affected Unit Owners, jointly and severally, and may be assessed against such Owners as a Special Assessment hereunder.

16.4 Subdivision or Combination of Office Warehouse Units. The combination or subdivision of adjoining Office Warehouse Units shall be permitted in accordance with the terms of this Section. If one Unit Owner shall acquire two adjoining and contiguous Office Warehouse Units and shall desire to combine the Units or if one Unit Owner shall wish to subdivide one Office Unit into two or more Office Warehouse Units, such Owner (an "Applicant Owner") may apply to the Association to effect such combination or subdivision. Any such amendment to this Declaration shall comply with all applicable provisions of the Act but shall not require any other vote of Owners or other requirements contained herein for an amendment. To effect a combination or subdivision, an Applicant Owner shall make an application to the Executive Board which shall be executed by the Applicant Owner and which shall contain, at a minimum, the following:

16.4.1 Evidence that the Applicant Owner shall have complied with all (and that the proposed resulting change does not violate any) local governmental rules and regulations, building codes, fire codes, zoning codes or any other applicable requirements and ordinances and that the proposed change does not violate the terms of any mortgage or deed of trust;

16.4.2 The proposed reallocation of interests, which reallocation shall comply with Article 7 above and shall have no effect upon any other Unit Owner, as well as a reallocation of the Parking Share such that, subsequent to such combination or subdivision, there is no greater demand upon the parking areas than existed prior to the modification (and which reallocation shall be subject to approval by the Association);

16.4.3 The proposed form and content of the amendments to this Declaration and the Map as may be necessary to show the resulting units, dimensions and identifying information;

16.4.4 A deposit against attorney's fees and costs which the Association will incur in reviewing and effectuating the application, in an amount reasonably determined by the Association; and,

16.4.5 Any such other information as may be reasonably requested by the Executive Board.

No work pursuant to any application shall be effected except upon the approval of the Executive Board (which approval may, notwithstanding the foregoing, be denied in the Executive Board's reasonable discretion) and except upon the recordation of the necessary amendments to the Declaration and the Map, all in accordance with the terms and requirements of the Act. All costs and expenses of the Association including, but not limited to, all attorneys' fees and costs shall be the sole responsibility of the Applicant Owner, jointly and severally (if more than one), and may be assessed against such Owner as a Special Assessment hereunder.

16.4 Parking Limitations. Owners agree that they shall not, at any time, expand the amount of space within a Unit or IBU that is used for office purposes to a level that will cause the Unit, the IBU, or the Project to exceed the Parking Share for the Unit or the cumulative Parking Shares for the IBU or the Project as a whole nor will Owners otherwise violate any applicable regulatory or Association limits on parking.

16.5 No Interference; Reasonable Rules. All work performed under this Article or otherwise to the Office Warehouse Units shall be done in a good and workmanlike manner and, to the extent possible, without interference, obstruction or other hindrance to the other Office Warehouse Units. The Executive Board may promulgate reasonable Rules and Regulations regarding the procedures and working conditions for any action to be performed under this Article including, without limitation, with respect to working hours and noise emissions.

ARTICLE 17  
LIENS

17.1 Mechanics' Liens - Association Work. Labor performed, or services or materials furnished for the Common Elements, if duly authorized by the Association, shall be deemed to be performed or furnished at the express consent of each Owner, provided however, any Owner may remove his Unit from any such lien against the Project or against two or more Units, or against the Common Elements or a portion thereof, by payment to the holder of the lien the fraction of the total sum secured by such lien, based upon the percentage such Unit represents to the portion of the Project completed as of the date of the lien, and the Association shall have no authority to bind the Owners beyond their pro rata share as provided above.

17.2 Mechanics' Liens - Owner Work. In the event a lien arises from work or materials furnished for use and incorporated in any Unit with the consent of or at the request of the Owner thereof or his agent or his contractor or subcontractor, and not requested by the other Owners or the Association, such Owner shall indemnify, defend and hold harmless all other Owners and the Association from, and against any liability or loss arising from the claim of any such lien. In no event, shall the claim of any such individual lien be the basis for the filing of a lien against a Unit of any other Owner not expressly consenting to or requesting the same, or against any interest in the Common Elements except as to the undivided interest therein appurtenant to the Unit of the Owner for whom such labor shall have been performed or such materials shall have been furnished; the filing of any such lien against the Unit of a non-consenting Owner shall, to the extent permitted by law, be null and void and shall entitle such Owner to recover damages and expenses, including without limitation attorney's fees, from the lienor.

17.3 Other Liens. As required by the Act, Declarant hereby states that it is possible additional liens, other than mechanics' liens, assessment liens or tax liens, may be obtained by third parties, to the extent permitted by law, against the Common Elements in which each Owner has a percentage Ownership.

ARTICLE 18  
ASSOCIATION AS ATTORNEY-IN-FACT

18.1 Appointment. Each Owner hereby makes an irrevocable appointment of the Association and/or Declarant as attorney-in-fact to allow the Association to negotiate and settle with third parties claims arising with respect to the destruction, damage, obsolescence or condemnation, including the repair, replacement and improvement of any Units, Buildings, Common Elements or other portions of the Project which have been destroyed, damaged, condemned or become obsolete. Title to any Condominium Unit is declared and expressly made subject to the terms and conditions hereof and acceptance by any grantee of a deed or other instrument of conveyance from the Declarant or from any other instrument of conveyance from the Declarant or from an Owner or grantor shall constitute the Association's appointment as attorney-in-fact as herein provided. As attorney-in-fact, the Association, by its President and Secretary or Assistant Secretary or its duly authorized officers and agents, shall have full and

complete authorization, right and power to make, execute and deliver any contract, deed or other instrument with respect to the interest of an Owner which may be necessary and appropriate to exercise the powers herein granted. In the event that the Association is dissolved or becomes defunct, a meeting of the Owners shall be held within thirty (30) days after either such event. At such meeting a new attorney-in-fact, to deal with the Project upon its destruction, damage, obsolescence, or condemnation shall be appointed. Said appointment must be approved by the Owners representing an aggregate Ownership of seventy-five percent (75%) or more of the Common Elements and at least seventy-five percent (75%) of the First Mortgagees of the Condominium Units. Unless otherwise agreed by the Unit Owners and at least fifty-one percent (51%) of the holders of mortgages on the Units, repair and reconstruction of the improvements as used in the succeeding subparagraphs means restoring the improvement(s) to substantially the same condition in which they existed prior to the damage, with each Unit and the General and Limited Common Elements having substantially the same vertical and horizontal boundaries as before, and all improvements being reconstructed or repaired in substantial conformance with the Project's original architectural plan and scheme to the extent then reasonably and economically feasible or any new architectural plan and scheme then desired by the Owners and approved by vote of the Owners as required herein or in the Bylaws. The proceeds of any insurance collected shall be available to the Association for the purpose of repair, restoration, reconstruction or replacement unless all of the Owners and all First Mortgagees agree not to rebuild in accordance with the provisions hereinafter set forth. In determining whether the appropriate percentage of mortgage approval is obtained, each First Mortgagee shall have one (1) vote for each First Mortgage owned.

18.2 Association as Attorney-in-Fact. In addition to the Association's rights to act as attorney-in-fact for the Owners with regard to condemnation and casualty damages as set forth above, each Owner, by his acceptance of a deed or other conveyance vesting in him an interest in a Unit, also does irrevocably constitute and appoint the Association and/or Declarant with full power of substitution in the Owner's name, place and stead to deal with Owner's interest in order to effectuate the rights reserved by Declarant or granted to the Association, as applicable, with full power, right and authorization to execute and deliver any instrument affecting the interest of the Owner and to take any other action which the Association or Declarant may consider necessary or advisable to give effect to the provisions of this Article and this Declaration generally. If requested to do so by the Association or Declarant, each Owner shall execute and deliver a written, acknowledged instrument confirming such appointment.

## ARTICLE 19 DESTRUCTION, DAMAGE OR OBSOLESCENCE

19.1 Damage - Insurance Proceeds Sufficient. In the event of damage or destruction due to fire or other disaster, the insurance proceeds, if sufficient to reconstruct the improvement(s), shall be applied by the Association and/or Declarant, as attorney-in-fact, to such reconstruction, and the improvement(s) shall be promptly repaired and reconstructed. The Association shall have full authority, right and power as attorney-in-fact to cause the repair and restoration of the improvement(s). Assessments for common expenses shall not be abated during the period of insurance adjustments and repair and reconstruction.

## 19.2 Damage - Insurance Proceeds Insufficient.

19.2.1 If the insurance proceeds are insufficient to repair and reconstruct the improvement(s), and if such damage is less than sixty percent (60%) of the total replacement cost of all of the Units in the Project, not including land, such damage or destruction shall be promptly repaired and reconstructed by the Association and/or Declarant as attorney-in-fact, using the proceeds of insurance and the proceeds of a Special Assessment to be made against all of the Owners and their Units. Such Special Assessment shall be a common expense and made according to each Allocated Interest and shall be due and payable within thirty (30) days after written notice thereof. The Association shall have full authority, right and power as attorney-in-fact, to cause the repair, replacement or restoration of the improvement(s) using all of the insurance proceeds for such purpose, notwithstanding the failure of an Owner to pay the Special Assessment. The Special Assessment provided for herein shall be a debt of each Owner and a lien on his Unit and may be enforced and collected as is provided herein. In addition thereto, the Association, as attorney-in-fact, shall have the absolute right and power to sell the Unit of any Owner refusing or failing to pay such deficiency Special Assessment within the time provided, and if not so paid, the Association shall cause to be recorded a notice that the Unit of the delinquent Owner shall be sold by the Association, as attorney-in-fact, pursuant to this provision. Assessments for the Common Expenses shall not be abated during the period of insurance adjustment and repair and reconstruction. The delinquent Owner shall be required to pay to the Association the costs and expenses for filing the notice, interest at the on the amount of any unpaid Special Assessment at the then prevailing legal rate, and all reasonable attorney's fees. The proceeds derived from the sale of such Unit shall be used and disbursed by the Association, as attorney-in-fact, in the following order:

For payment of the balance of the lien of any First Mortgagee;

For payment of taxes and special assessments liens in favor of any assessing entity and the customary expenses of sale;

For payment of unpaid Common Expenses and all costs, expenses and fees incurred by the Association;

For payment of junior liens and encumbrances in the order of and to the extent of their priority; and

The balance remaining, if any, shall be paid to the Condominium Unit Owner.

19.2.2 If the insurance proceeds are insufficient to repair and reconstruct the improvement(s), and if such damage is sixty percent (60%) or more of the total replacement cost of all of the Units in the Project, not including land, such damage or destruction shall be promptly repaired and reconstructed by the Association, as attorney-in-fact, using the proceeds of insurance and the proceeds of a Special Assessment to be

made against all of the Owners and their Units, provided, however, that Owners representing an aggregate Ownership interest of seventy-five percent (75%) or more and at least seventy-five percent (75%) of the First Mortgagees of record may agree not to repair or reconstruct the improvements. In such event, the Association shall forthwith record a notice setting forth such fact or facts, and upon the recording of such notice by the Association's President and Secretary or Assistant Secretary, the entire Project shall be sold by the Association pursuant to the provisions of this Section, as attorney-in-fact, for all of the Owners, free and clear of the provisions contained in this Declaration, the Map, Articles of Incorporation and By-Laws. Assessments for Common Expenses shall not be abated during the period prior to sale. The insurance settlement proceeds shall be collected by the Association, and such proceeds shall be divided by the Association, according to each Owner's Allocated Interest, and such divided proceeds shall be paid into separate accounts, each account shall be in the name of the Association, and shall be further identified by the Unit designation and the name of the Owner. From each separate account the Association, as attorney-in-fact, shall forthwith use and disburse the total amount of each of such accounts, without contribution from one account to another, toward the partial or full payment of the lien of any First Mortgagee encumbering the Unit represented by such separate account. Thereafter, each such account shall be supplemented by the apportioned amount of the proceeds obtained from the sale of the entire Property. Such apportionment shall be based upon each Owner's Allocated Interest. The total funds of each account shall be used and disbursed, without contribution, from one account to another by the Association for the same purposes and in the same order as is provided in subsection 19.2.1.

19.3 Obsolescence of Common Areas. The Owners representing an aggregate Allocated Interest of eighty percent (80%) or more may agree that the Common Elements are obsolete and adopt a plan for the renewal and reconstruction, which plan must have the approval of at least eighty percent (80%) of the First Mortgagees of record at the time of the adoption of such plan. If a plan for the renewal or reconstruction is adopted, notice of such plans shall be recorded, and the expenses of renewal and reconstruction shall be payable by all of the Owners as a Common Expense, whether or not they have previously consented to the plan of renewal and reconstruction. The Association, as attorney-in-fact, shall have the absolute right and power to sell the Unit of any Owner refusing or failing to pay such assessment within the time provided, and if not so paid, the Association shall cause to be recorded a notice that the Unit of the delinquent Owner shall be sold by the Association. The delinquent Owner shall be required to pay to the Association the costs and expenses for filing the notices, interest at the then prevailing legal rate, and all reasonable attorney's fees. The proceeds derived from the sale of such Unit shall be used and disbursed by the Association, as attorney-in-fact, for the same purposes and in the same order as is provided in subsection 19.2.1.

19.4 Obsolescence of Units. The Owners representing an aggregate Allocated Interest of eighty percent (80%) or more, may agree that the Units are obsolete and that the same should be sold. Such plan or agreement must have the approval of all of the First Mortgagees of the Units. In such instance, the Association shall forthwith record a notice setting forth such fact or facts, upon the recording of such notice by the Association's President and Secretary or Assistant Secretary, the entire project shall be sold by the Association, as attorney-in-fact, for all of the

Owners, free and clear of the provisions contained in this Declaration, the Map the Articles of Incorporation and the By-Laws. The sale proceeds shall be apportioned among the Owners on the basis of each Owner's Allocated Interest and such apportioned proceeds shall be paid into separate accounts, each such account representing one Unit. Each such account shall be in the name of the Association and shall be further identified by the Unit designation and the name of the Owner. From each separate account, the Association, as attorney-in-fact, shall use and disburse the total amount of each of such accounts, without contribution from one account to another, for the same purposes and in the same order as is provided in subsection 19.2.1.

## ARTICLE 20 CONDEMNATION

20.1 Consequences of Condemnation. If at any time or times during the continuance of the Project, all or any part of the Project shall be taken or condemned by any public authority or sold or otherwise disposed of in lieu of or in avoidance thereof, the following provisions of this Article shall apply:

20.1.1 Proceeds. All compensation, damages or other proceeds therefrom, the sum of which is hereafter called the "Condemnation Award" shall be payable to the Association.

20.1.2 Partial Taking. In the event that less than the entire Project is taken or condemned, sold or otherwise disposed of in lieu of or in avoidance thereof, the condominium ownership hereunder shall not terminate. Each Owner shall be entitled to a share of the Condemnation Award to be determined in the following manner: As soon as practicable the Association shall reasonably and in good faith, allocate the Condemnation Award between compensation, damages or other proceeds and shall apportion the amounts among the Owners as follows: (a) the total amount allocated to the taking of or injury to the Common Elements shall be apportioned among the Owners on the basis of each Owner's Allocated Interest; (b) the total amount allocated to severance damages shall be apportioned to those Units which were not taken or condemned; (c) the respective amounts allocated to the taking of or injury to a particular Unit and to the improvements an Owner has made within his own Unit shall be apportioned to the particular Unit involved and (d) the total amount allocated to consequential damages and any other takings or injuries shall be apportioned as the Association determines to be equitable in the circumstances. If the allocation of the Condemnation Award is already established in negotiations, judicial decree or otherwise, then in allocating the Condemnation Award, the Association shall abide by such agreed or decreed allocation. Distribution of apportioned proceeds shall be disbursed as soon as practicable in the same manner provided in Section 19.2.1. The Association shall timely notify each First Mortgagee of any Unit of the commencement of the condemnation proceedings or eminent domain proceedings and shall notify said mortgagees in the event of the taking of all or any part of the Common Elements, if the value of the Common Elements taken exceeds \$10,000.00.



20.1.3 Reorganization. In the event a partial taking results in the taking of a complete Unit, the Owner thereof automatically shall cease to be a member of the Association, shall cease to hold any right, title or interest in the remaining common elements and shall execute any and all documents necessary to accomplish the same. Thereafter, the Association shall reallocate the Ownership, voting rights and assessment ratio in accordance with this Declaration and shall submit such reallocation to the Owners and First Mortgagees of remaining Units for amendment of this Declaration.

20.1.4 Reconstruction and Repair. Any reconstruction and repair necessitated by condemnation shall be governed by the procedures and requirements specified herein.

20.1.5 Complete Taking. In the event that the entire Project is taken or condemned or sold or otherwise disposed of in lieu of or in avoidance thereof, the condominium ownership pursuant hereto shall terminate. The Condemnation Award shall be apportioned among the Owners on the same basis of each Owner's Allocated Interest, provided however, that if a standard different from the value of the Property as a whole is employed as the measure of the Condemnation Award in the negotiation, judicial decree or otherwise, then in determining such shares the Association shall abide by the such agreed or decreed allocation. Such shares shall be paid into separate accounts and disbursed as soon as practicable in the same manner provided in Section 19.2.1.

## ARTICLE 21 AMENDMENTS

21.1 Amendment. Subject to the Act, and other than amendments to this Declaration that may be executed by the Declarant (including, but not limited to, an Annexation Amendment), this Declaration may not be amended, in whole or in part, except by Owners holding not less than sixty-seven percent (67%) of the votes possible to be cast under this Declaration at a meeting called for that purpose. Notice of the subject matter of a proposed amendment shall be included in the notice of any meeting at which a proposed amendment is to be considered. All amendments shall be recorded in the office of the Clerk and Recorder of El Paso County, Colorado. Notwithstanding the above, any provisions regarding the obligations of the Declarant (except as otherwise provided in the Detention Basin Agreement), the Association and the Owners, regarding the Detention Basin Agreement, shall neither terminate nor be amended except by the written Agreement of the Board of County Commissioners of El Paso County, Colorado.

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

22.3 Unanimous Consent Required for Certain Amendments. Except as otherwise provided in this Declaration or the Act, no amendment may eliminate, reduce, create or increase Special Declarant Rights, increase the number of Units or change the boundaries of any Units or the Allocated Interests of a Unit, or the uses to which any Unit is restricted in the absence of unanimous consent of the Unit Owners.

22.4 Expenses. All expenses associated with preparing and recording an amendment to the Declaration shall be the sole responsibility of:

In the case of an amendment for the purpose of relocating boundaries between adjoining Units, and any permitted subdivision of Units, the Owners desiring the amendment;

In the case of an amendment pursuant to reallocation of Allocated Interests, recordation of new plats and maps, and exercise of Development Rights, the Declarant; and

In all other cases, by the Association as a Common Expense.

22.5 Permitted Amendment. Notwithstanding anything to the contrary herein, the Declarant may amend this Declaration or the Map (i) to correct clerical, typographical, or technical errors which do not substantively change the rights and obligations of the parties, (ii) as required for expansion of the development and annexation of additional property, (iii) with regard to substantive revisions mandated by any judicial or quasi-judicial body, and, (iv) to comply with the requirements, standards, or guidelines of recognized secondary mortgage markets, and/or any agency thereof, and, (v) as needed to adjust Allocated Interests on Exhibit B to conform to the actual "as built" future Building and Unit sizes as discussed herein including in sections 7.1 and 7.2.6. In addition, Declarant reserves the right to change the interior design and arrangement of all Units, and to alter the boundaries between Units, so long as Declarant owns the Units so altered. If Declarant shall make any changes in Units so authorized, such changes shall be reflected by an amendment to the Declaration. An amendment of this Declaration reflecting such alteration of Unit plans by Declarant need be signed and acknowledged only by the Declarant and need not be approved by the Association, Unit Owners or lienors, or mortgagees of Units or of the Project, whether or not elsewhere required for amendment.

## ARTICLE 23 GENERAL PROVISIONS

23.1 Covenants to Run. All of the covenants and provisions contained in this Declaration shall be a burden on the title to all of the lands within the Property, and the benefits thereof shall inure to the owners of all of the lands within the Property and shall run with the Property including, but not limited to, all of the Units.

23.2 Severability. Should any part or parts of the Declaration be declared invalid or unenforceable by any court of competent jurisdiction, such decisions shall not affect the validity of the remaining provisions.

23.3 Repeal of the Act. In the event that the Act is repealed, the provisions of the Act in effect immediately before its repeal shall control this Declaration.

23.4 Paragraph Headings. The paragraph headings in this instrument are for convenience only and shall not be construed to be a part of the provisions contained herein or to limit the contents of any paragraph.

23.5 Registration by Owner of Mailing Address and Notice. Each Owner shall register his mailing address with the Association. All notices or demands affecting this planned

community may be served upon an Owner by the Association or by other Owners by certified United States Mail, postage prepaid, addressed in the name of the Owner at such registered mailing address or by personal service. If an Owner fails to register such Owner's address with the Association any and all notices to such Owner may be served upon the Owner by addressing such notice to the Unit owned by the Owner and shall be deemed effective and received even if the notice is refused or otherwise returned as undeliverable. All notices or demands intended to be served upon the Association shall be sent by certified United States Mail, postage prepaid, return receipt requested, to the address of the Association as designated in the Articles of Incorporation and Bylaws of the Association or served by personal service on the Association's registered agent for service or President. Notice is deemed effective when personally served or three business days after mailing if notice is given by certified mail.

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

23.7 Binding Agreement. It is understood and agreed that this Declaration shall be binding upon and inure to the benefit of the successors, executors, administrators and assigns of the parties hereto.

23.8 Reference to Ownership Interests. Whenever in this Declaration or in the Articles of Incorporation or Bylaws of the Association reference is made to a specific percentage interest of Owners, such reference shall be deemed to mean such percentage of the total aggregate Allocated Interests of such Owners, unless the context otherwise requires, and shall not be deemed to mean a percentage of owners by number of individual persons, partnerships, corporations or other entities.

23.9 Non-Dedication of Common Elements. Declarant, in recording this Declaration, has designated certain areas of real estate or air space within the Property as Common Elements intended for the common use and enjoyment of Unit Owners for recreation and other related activities. The Common Elements owned by the Association are not dedicated hereby for use by the general public.

23.10 Restriction on Declarant Powers. Notwithstanding anything to the contrary herein, no rights or powers reserved to Declarant hereunder shall exceed the time limitations or permissible extent of such rights or powers as restricted under the Act. Any provision in this Declaration in conflict with the requirements of the Act shall not be deemed to invalidate such provision as a whole but shall be adjusted as necessary to comply with the Act.

23.11 Enforcement. Except as otherwise provided in this Declaration, the Executive Board, Declarant or any Owner shall have the right to enforce, by a proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Executive Board of the Association, Declarant or by any Owner to enforce any covenant or restriction contained in this Declaration shall in no event be deemed a waiver of the right to do so thereafter.

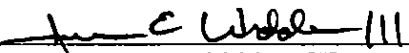
23.12 Conflicts Between Documents. In case of conflict between this Declaration and the Articles and the Bylaws of the Association, this Declaration shall control. In case of conflict between the Articles and the Bylaws, the Articles shall control. In the event of any conflict between the Rules and Regulations and any other Governing Document, the provision of Governing Document other than the Rules and Regulations shall control.

23.13 Certificates. The Association shall, upon demand and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Condominium Unit have been paid. Said certificate shall be conclusive evidence of the payment of any assessments therein stated to have been paid.

23.14 Surveyor's Certificate. The certificate attached hereto as Exhibit E is incorporated herein by this reference and is made pursuant to C.R.S. § 38-33.3-201(2).

DECLARANT

LACA-LOJA, LLC, a Colorado limited liability company

  
By: James E. Whidden, III  
Its: Managing Member

STATE OF COLORADO    )  
  ) §  
COUNTY OF EI PASO    )

The foregoing instrument was acknowledged before me, a notary public, this 20<sup>th</sup> day of October, 2009, by James E. Whidden, III, as the Managing Member, of LACA-LOJA, LLC a Colorado limited liability company.

Witness my hand and official seal.

  
Notary Public

My commission expires:  
7-21-2010

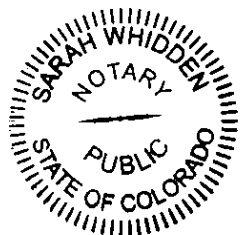


EXHIBIT A  
(Real Property)

Lot 3 in Hillcrest Acres, County of El Paso, State of Colorado, except those portions conveyed to the Department of Transportation by instruments recorded in book 6206 at page 523 and under reception no. 203001280 and as may be modified by the recorded Map for some or all of the referenced property including the following Phases as they are denoted on the Map:

Phase I. Condominium Building 1

Phase II. First part of Condominium Building 4 containing six (6) Condominium Units.

Phase III. Second part of Condominium Building 4 containing seven (7) Condominium Units.

Phase IV. Condominium Building 5 containing seven (7) Condominium Units.

Phase V. First part of Condominium Building 3 containing five (5) Condominium Units.

Phase VI. Second part of Condominium Building 3 containing five (5) Condominium Units.

Phase VII. First part of Condominium Building 2 containing five (5) Condominium Units.

Phase VIII. Second part of Condominium Building 2 containing four (4) Condominium Units.

## EXHIBIT B

### Each Building's Allocated Interest and Each IBU's Allocated Interest in the Association and Percentage Undivided Interest in Association:

|            | <u>Building<br/>Rentable<br/>Area:</u> | <u>Aggregate<br/>Building<br/>Rentable<br/>Area:</u> | <u>Relative<br/>Building<br/>Share<br/>and<br/>Building<br/>Allocated<br/>Interest:</u> |
|------------|--|--|---|
| Building 1 | 7,129                                  | 72,037   | 9.896%  |
| Building 2 | 14,625                                 | 72,037   | 20.302%   |
| Building 3 | 16,250                                 | 72,037   | 22.558%   |
| Building 4 | 21,125                                 | 72,037   | 29.325%   |
| Building 5 | 12,908                                 | 72,037   | 17.919%   |

EXHIBIT B - Continued  
(Each Unit's Relative Unit Share and Overall Condominium Share)

|                   | <u>Unit's<br/>Rentable<br/>Area:</u> | <u>Building<br/>Rentable<br/>Area:</u> | <u>Relative<br/>Unit<br/>Share:</u> | <u>Unit's<br/>Rentable<br/>Area:</u> | <u>Aggregate<br/>Rentable<br/>Area of<br/>All Units in<br/>All Buildings:</u> | <u>Unit<br/>Allocated<br/>Interest<br/>and<br/>Overall<br/>Condo<br/>Share:</u> |
|-------------------|--------------------------------------|--|-------------------------------------|--------------------------------------|---|---|
| <b>Building 1</b> |                                      |  |                                     |                                      |   |   |
| Unit A            | 1,200                                | 7,129                                  | 16.833%                             | 1,200                                | 72,037  | 1.665%  |
| Unit B            | 1,199                                | 7,129                                  | 16.819%                             | 1,199                                | 72,037  | 1.664%  |
| Unit C            | 1,160                                | 7,129                                  | 16.272%                             | 1,160                                | 72,037  | 1.610%  |
| Unit D            | 1,168                                | 7,129                                  | 16.384%                             | 1,168                                | 72,037  | 1.622%  |
| Unit E            | 1,171                                | 7,129                                  | 16.425%                             | 1,171                                | 72,037  | 1.626%  |
| Unit F            | 1,231                                | 7,129                                  | 17.267%                             | 1,231                                | 72,037  | 1.709%  |
| <b>Building 2</b> |                                      |  |                                     |                                      |   |   |
| Unit A            | 1,735                                | 14,625                                 | 11.858%                             | 1,734                                | 72,037  | 2.407%  |
| Unit B            | 1,612                                | 14,625                                 | 11.022%                             | 1,612                                | 72,037  | 2.238%  |
| Unit C            | 1,614                                | 14,625                                 | 11.036%                             | 1,614                                | 72,037  | 2.241%  |
| Unit D            | 1,615                                | 14,625                                 | 11.043%                             | 1,615                                | 72,037  | 2.241%  |
| Unit E            | 1,617                                | 14,625                                 | 11.057%                             | 1,617                                | 72,037  | 2.245%  |
| Unit F            | 1,619                                | 14,625                                 | 11.072%                             | 1,619                                | 72,037  | 2.248%  |
| Unit G            | 1,619                                | 14,625                                 | 11.072%                             | 1,619                                | 72,037  | 2.248%  |
| Unit H            | 1,622                                | 14,625                                 | 11.091%                             | 1,622                                | 72,037  | 2.252%  |
| Unit I            | 1,572                                | 14,625                                 | 10.749%                             | 1,572                                | 72,037  | 2.182%  |
| <b>Building 3</b> |                                      |  |                                     |                                      |   |   |
| Unit A            | 1,618                                | 16,250                                 | 9.957%                              | 1,618                                | 72,037  | 2.246%  |
| Unit B            | 1,618                                | 16,250                                 | 9.957%                              | 1,618                                | 72,037  | 2.246%  |
| Unit C            | 1,622                                | 16,250                                 | 9.982%                              | 1,622                                | 72,037  | 2.252%  |
| Unit D            | 1,622                                | 16,250                                 | 9.982%                              | 1,622                                | 72,037  | 2.252%  |
| Unit E            | 1,623                                | 16,250                                 | 9.988%                              | 1,623                                | 72,037  | 2.253%  |
| Unit F            | 1,625                                | 16,250                                 | 10.000%                             | 1,625                                | 72,037  | 2.256%  |
| Unit G            | 1,626                                | 16,250                                 | 10.006%                             | 1,626                                | 72,037  | 2.257%  |
| Unit H            | 1,628                                | 16,250                                 | 10.018%                             | 1,628                                | 72,037  | 2.260%  |
| Unit I            | 1,630                                | 16,250                                 | 10.030%                             | 1,630                                | 72,037  | 2.263%  |
| Unit J            | 1,638                                | 16,250                                 | 10.080%                             | 1,638                                | 72,037  | 2.273%  |
| <b>Building 4</b> |                                      |  |                                     |                                      |   |   |
| Unit A            | 1,625                                | 21,125                                 | 7.692%                              | 1,625                                | 72,037  | 2.256%  |
| Unit B            | 1,625                                | 21,125                                 | 7.692%                              | 1,625                                | 72,037  | 2.256%  |
| Unit C            | 1,625                                | 21,125                                 | 7.692%                              | 1,625                                | 72,037  | 2.256%  |
| Unit D            | 1,625                                | 21,125                                 | 7.692%                              | 1,625                                | 72,037  | 2.256%  |
| Unit E            | 1,625                                | 21,125                                 | 7.692%                              | 1,625                                | 72,037  | 2.256%  |
| Unit F            | 1,625                                | 21,125                                 | 7.692%                              | 1,625                                | 72,037  | 2.256%  |
| Unit G            | 1,625                                | 21,125                                 | 7.692%                              | 1,625                                | 72,037  | 2.256%  |
| Unit H            | 1,625                                | 21,125                                 | 7.692%                              | 1,625                                | 72,037  | 2.256%  |
| Unit I            | 1,625                                | 21,125                                 | 7.692%                              | 1,625                                | 72,037  | 2.256%  |
| Unit J            | 1,625                                | 21,125                                 | 7.693%                              | 1,625                                | 72,037  | 2.256%  |
| Unit K            | 1,625                                | 21,125                                 | 7.693%                              | 1,625                                | 72,037  | 2.255%  |
| Unit L            | 1,625                                | 21,125                                 | 7.693%                              | 1,625                                | 72,037  | 2.255%  |
| Unit M            | 1,625                                | 21,125                                 | 7.693%                              | 1,625                                | 72,037  | 2.255%  |

EXHIBIT B - Continued

(Each Unit's Relative Unit Share and Overall Condominium Share - Continued)

|                   | <u>Unit<br/>Rentable<br/>Area:</u> | <u>Building<br/>Rentable<br/>Area:</u> | <u>Relative<br/>Unit<br/>Share:</u> | <u>Unit's<br/>Rentable<br/>Area:</u> | <u>Aggregate<br/>Rentable<br/>Area of<br/>All Units in<br/>All Buildings:</u> | <u>Unit<br/>Allocated<br/>Interest<br/>and<br/>Overall<br/>Condo<br/>Share:</u> |
|-------------------|------------------------------------|--|-------------------------------------|--------------------------------------|---|---|
| <b>Building 5</b> |                                    |  |                                     |                                      |   |   |
| Unit A            | 1,480                              | 12,908                                 | 11.466%                             | 1,480                                | 72,037  | 2.054%  |
| Unit B            | 1,828                              | 12,908                                 | 14.162%                             | 1,828                                | 72,037  | 2.538%  |
| Unit C            | 2,113                              | 12,908                                 | 16.370%                             | 2,113                                | 72,037  | 2.933%  |
| Unit D            | 2,398                              | 12,908                                 | 18.578%                             | 2,398                                | 72,037  | 3.329%  |
| Unit E            | 1,710                              | 12,908                                 | 13.248%                             | 1,710                                | 72,037  | 2.374%  |
| Unit F            | 1,685                              | 12,908                                 | 13.053%                             | 1,685                                | 72,037  | 2.339%  |
| Unit G            | 1,694                              | 12,908                                 | 13.123%                             | 1,694                                | 72,037  | 2.352%  |



EXHIBIT C  
(Exceptions to Title)

EXHIBIT D  
(Expansion Property)

Not Applicable at the time of the initial recording of this Declaration

EXHIBIT E  
(Surveyor's Certificate)

EXHIBIT F  
(Detention Basin Agreement)