



**CONDOMINIUM DECLARATION**

**FOR**

**HIGH ALTITUDE AERO HANGAR CONDOMINIUMS, INC.**

**A CONDOMINIUM ASSOCIATION**

THIS DECLARATION, made as of this 7th day of March 2024, by ALTITUDE AERO, LLC, a Colorado corporation, hereinafter called "Declarant", for itself, its successors, and assigns:

WITNESSETH:

WHEREAS, Declarant is the owner of certain real property located in the County of El Paso, State of Colorado, which real property is described in **Exhibit A** attached hereto and made a part hereof (hereinafter called the "Property"); and

WHEREAS, Declarant desires to create a condominium project on the Property pursuant to the provisions of the Condominium Ownership Act of the State of Colorado (the "Condo Act") and the provisions of this Declaration; and

WHEREAS, Declarant also desires to reserve the option to expand such project with successive phases.

WHEREAS, Declarant has formed a nonprofit corporation, High Altitude Aero Condominium Association, Inc., (the "Association"), to, *inter alia*, manage, operate, clean, maintain and repair the common elements of the Association; to administer and enforce the covenants, conditions, restrictions, agreements, reservations, and easements contained herein; and to levy, collect and enforce the assessments, charges and liens imposed herein.

WHEREAS, water for the Association shall be provided from the Upper Black Squirrel Creek Basin pursuant to Well Permit 323153.

NOW, THEREFORE, Declarant hereby submits the Property, together with all appurtenances, facilities, and improvements thereon to condominium ownership pursuant to the Condo Act, the Colorado Common Interest Ownership Act ("CCIOA") and this Declaration, and Declarant hereby imposes upon the Property the following terms, provisions, covenants, conditions, restrictions, easements, reservations, uses, limitations and obligations, which are for the purpose of protecting the value and desirability of the Property and which shall be deemed to run with the Property and any real property or improvements hereafter added to the Association and shall be a burden and a benefit to Declarant, its successors, assigns and any person or entity acquiring, using, occupying, or owning any right, title or interest in the Property or any part thereof or any part of any

added property, and any person entering or physically affecting the Property or any part thereof, and the grantees, guests, successors, heirs, executors, administrators, devisees or assigns of any person or party described above.

## ARTICLE I – DEFINITIONS

The terms used herein shall have the meanings stated in the Condo Act and CCIOA, except as otherwise provided herein:

1.1 “Association” means the High Altitude Aero Condominium Association, a Colorado nonprofit corporation, its successors and assigns. Except as specified herein, the Association shall act by and through its Board of Directors, which shall be referred to herein as the “Board”. Both “Association” and “Board” are used interchangeably throughout herein and shall be read consistent with this description.

1.2 “Building” means a separate building improvement located upon the Property and containing one or more Units.

1.3 “Common Elements” shall mean, collectively, the General Common Elements and the Limited Common Elements.

1.4 “Common Expenses” means and includes all expenses of administration, maintenance, repair and replacement of the Common Elements and expenses declared to be Common Expenses by the Association, by this Declaration or by the Condo Act.

1.5 “Condominium Unit” (alternatively “Unit”) means one Unit together with the undivided interest in the Common Elements appurtenant to such Unit, all fixtures and improvements therein contained, and all other appurtenant rights. A Unit may exist without a structure upon it.

1.6 “Declarant” means Altitude Aero, LLC, a Colorado Limited Liability Company, and its successors and assigns to which it specifically transfers all or part of its rights as Declarant hereunder.

1.7 “Declaration” means this Declaration, as it may be amended or supplemented from time to time as herein provided. The Declaration shall be recorded in the office of the Clerk and Recorder of El Paso County, Colorado in accordance with the provisions of the Condo Act.

1.8 “Expansion Property” means and includes all the real property described in **Exhibit A** attached hereto which may be developed and incorporated into the Association through future phases.

1.9 “General Common Elements” means a part of the Common Elements and includes by way of illustration and not limitation any of the following to the extent located within the Association: the Property; the foundations, columns, girders, beams,

supports, main walls, chimneys, roofs, common stairs and stairways; common landscaping; installations of central services such as electricity, water, common utilities and related tanks, pumps, motors, fans, compressors, pipes and lines; common sidewalks; taxiways; roads and streets located within the Association; and in general all property, apparatus and installations existing for the common use or normally in common use including, without limitation, the air space above the Property which is not included within the Units, and shall include all tangible physical property of the Association, except Limited Common Elements and Units.

1.10 “Guest” means any agent, employee, guest, contractor, licensee or invitee of an Owner.

1.11 “Limited Common Elements” means those portions of the Common Elements which are either limited to and reserved for the exclusive use and enjoyment of an Owner or limited to and reserved for the common use of more than one, but less than all, of the Owners, and may include by way of illustration and not limitation, any of the following which are specifically designated on the Map or any supplement thereto as being Limited Common Elements: doors and door motors; parking spaces; doorsteps; stoops; private ramps and aprons; sidewalks and driveways; all exterior doors and window or other fixtures designed to serve a single Unit, even if located outside of the Unit’s boundaries; attics, crawl spaces and any other area, item or mechanical equipment designated for the exclusive use of a Unit. Limited Common Elements may be designated as being appurtenant to a particular Condominium Unit either by the Map or by any deed or other conveyance of a Condominium Unit from Declarant but shall not be thereafter severed from the Condominium Unit to which they are assigned.

1.12 “Map” or “Condominium Map” means the engineering drawings and survey containing the information required in Article II hereof and recorded as required in said Article, and shall include the original and all supplemental maps, if any.

1.13 “Member” means and includes any person or entity that holds membership in the Association.

1.14 “Mortgage” means an interest in a Condominium Unit created by contract which secures payment or performance of an obligation, including without limitation, a lien created by a mortgage or deed of trust. A “First Mortgage” is a Mortgage having a priority of record over all other recorded Mortgages, and the beneficiary named therein shall be referred to as a “First Mortgagee”.

1.15 “Owner” means any Person, including Declarant, who owns the record fee simple interest in a Condominium Unit.

1.16 “Owner’s Proportionate Share” or “Proportionate Interest” means that percentage of the total which is equal to such Owner’s fractional interest in the Common Elements, as set forth in **Exhibit B** attached hereto and made a part hereof, and which is subject to adjustment if the Association is expanded as provided herein.

1.17 “Person” means a natural person, a corporation, a partnership, a limited liability company, an association, a trust, or any other entity or combination thereof.

1.18 “Property” means the real property described in **Exhibit A** attached hereto, together with any real property subsequently annexed hereto and made subject to this Declaration.

1.19 “Project” means the Property and all Buildings and other improvements located on the Property, along with all rights, easements and appurtenances belonging thereto. (See generally **Exhibit C** attached hereto.) The term “Project” shall include the Expansion Property or any other real property, and all Buildings and improvements thereon, to the extent that the same are subsequently annexed to the Project and made subject to this Declaration.

1.20 “Unit” means an individual air space which is contained within and bounded by the unfinished interior surfaces of the perimeter walls, floors, windows, ceilings and doors; or, for purposes of undeveloped lots upon which structures are to be built, the boundaries of that lot. If two or more Units adjoin each other, the adjoining walls, floors and ceiling shall be deemed to be perimeter with the mid-point of the common wall being deemed the dividing line. The term shall include fixtures and improvements which are contained within a Unit and the inner decorated and/or finished surfaces of perimeter walls, floors and ceilings. The term does not include any of the structural components of the Building, if any, located within the Unit, any utilities running through the Unit that serve more than one Unit, or any other Common Element or part thereof located within a Unit. The boundaries of the Units shall be shown on the recorded Map which is hereby incorporated herein by this reference.

## ARTICLE II – CONDOMINIUM MAP

2.1 Recording. The Map of the Property and the improvements thereon shall be filed for record in the office of the Clerk and Recorder of El Paso County, Colorado. The Map as recorded is hereby incorporated in this Declaration by this reference.

2.2 Contents. The Map (and each and every supplement thereto, if any) shall clearly and legibly depict and show at least the following: the legal description of the Property and a survey thereof; the location of all Buildings in reference to the exterior boundaries of the Property; the floor and elevation plans; the location of the Units within the Building or Buildings, both horizontally and vertically; the thickness of the common walls between or separating the Units; the location of any structural components or supporting elements of the Building(s) located within any Unit; the Condominium Unit designations; the Building designations; and the designations of the Limited Common Elements. Reference to the Map shall include its recorded contents, together with any amendment or supplement thereto. In interpreting the Map, the existing physical boundaries of each separate Unit as constructed shall be conclusively presumed to be its boundaries. Declarant reserves the right to amend the Map, from time to time, without

the consent of the Owners being required, to conform the same according to the actual location of any improvements and to establish, vacate and relocate easements, access roads, and on-site parking areas. Declarant's rights, as hereinabove set forth, shall terminate on the conveyance by Declarant of all Condominium Units within the Association, or ten (10) years from the date of the recording of this Declaration, whichever comes first.

### ARTICLE III – NATURE OF OWNERSHIP

3.1 Division of Property into Condominium Units. The Property is hereby divided into separate Condominium Units as shown on the Map and **Exhibit B** hereto, each consisting of a separate fee simple estate in a Unit, an appurtenant, undivided Proportionate Interest as tenant in common in and to the Common Elements, and all rights appurtenant thereto, but subject to adjustment if additional phases are added to the Association, or the Association is otherwise expanded as provided herein. Ownership of the Common Elements is shown on **Exhibit B** as Owner's Proportionate Interest / Proportional Share and is allocated based on the approximate square footage of a Unit as compared to the approximate square footage of all Units in the Association, including any Units added by the addition of any phase or the expansion of the Association.

3.2 Inseparability of a Condominium Unit. Each Unit, together with the undivided Proportionate Interest in the General Common Elements and Limited Common Elements appurtenant thereto, and all other rights appurtenant thereto, shall be inseparable and may be conveyed, leased, devised, sold, transferred, or encumbered only as a Condominium Unit.

3.3 Nonpartitionability of Common Elements. The Common Elements shall be owned in common by all of the Owners as tenants in common and shall remain undivided. No Owner, group of Owners or the Association shall bring an action for partition or division thereof, it being agreed that this restriction is necessary in order to preserve the rights of the Owners with respect to the operation and management of the Condominium Association, and each Owner hereby expressly waives any and all such rights of partition it may have by virtue of its ownership of a Condominium Unit. Nothing contained herein shall be construed as a limitation of the right of legal partition of a Condominium Unit between the Owners thereof, but such legal partition shall not affect any other Condominium Unit, nor shall any such partition sever any part thereof from such Condominium Unit as a whole.

3.4 Separate Taxation. All taxes, assessments and other charges of the State of Colorado or any political subdivision thereof, or of any special improvement district or other taxing or assessing authority shall be assessed against and collected on each Condominium Unit separately and not on any Building or on the Association as a whole, and each Condominium Unit shall be carried on the tax books as a separate and distinct parcel. For the purpose of valuation for assessment, the valuation of the Common Elements shall be apportioned among the Condominium Units in proportion to the fractional undivided Proportionate Interests in the Common Elements appurtenant to and

part of the Condominium Units. The Association or the Declarant shall deliver to the County Assessor of El Paso County, Colorado, any written notice required by the Condo Act, setting forth descriptions of the Condominium Units and shall furnish all necessary information with respect to such apportionment of valuation of Common Elements for assessment. The lien of taxes assessed to any Condominium Unit shall be confined to that Condominium Unit. No forfeiture or sale of any Condominium Unit for delinquent taxes, assessments or other governmental charges shall divest or in any way affect the title to any other Condominium Unit. In the event that such taxes or assessments for any year are not separately assessed to each Owner, but rather are assessed on the Property as a whole, then each Owner shall pay its Proportionate Share thereof in accordance with its ownership interest in the General Common Elements, and in such event, such taxes or assessments shall be a Common Expense. Without limiting the authority of the Board provided for elsewhere herein, the Board shall have the authority to collect from the Owners their proportionate share of taxes or assessments for any year in which taxes are assessed on the Property as a whole.

3.5 Ownership-Title. A Condominium Unit may be held and owned by more than one person as joint tenants or as tenants in common, or in any real property tenancy relationship recognized under the laws of the State of Colorado. Each such Owner shall have and be entitled to the exclusive ownership and possession of its Unit, subject to the provisions of this Declaration and such laws.

3.6 Use of Common Elements. Subject to the restrictions contained in this Declaration, including without limitation the restriction contained in or enabled under Section 9.7 hereof, each Owner, and all family members, Guests and tenants thereof, shall have the non-exclusive right to use and enjoy the General Common Elements for the purpose for which they are intended, subject to the rules and regulations of the Association and without hindering or interfering with the lawful rights of other Owners, and shall have the exclusive right to use and enjoy the Limited Common Elements appurtenant to that Condominium Unit and designated for exclusive use by such Owner.

3.7 Charges for Use. Except for the assessments and other sums set forth herein, no Unit Owner shall be required to pay any additional fees or charges in connection with such Owner's use of any of the Common Elements existing at the recording of this Declaration except for any fees due and payable to the Meadow Lake Airport Association as every owner is a member of the Meadow Lake Airport Association; provided, however, the Association may undertake on a contractual basis any activity, function or service, for the benefit of all, some or any Owners who agree to pay therefore, separate and apart from the assessments hereunder.

3.8 Recreational Facilities. It is not anticipated that any major recreational facilities will be constructed by the Declarant on or as a part of the Common Elements.

3.9 Relocation of Unit Boundaries. The boundaries between adjoining Units may be relocated as provided by C.R.S. 38-33.3-212. Any Unit may be subdivided by the Declarant into two or more units pursuant to C.R.S. 38-33.3-213.

3.10 New Additions to the Existing Common Elements. If the Declarant or the Association makes any new additions of General or Limited Common Elements to be constructed hereafter, then, except as may be otherwise provided in Article XVII hereof, (a) each Owner shall be responsible for its Proportionate Share of any increase in the Common Expenses created thereby, (b) each Owner shall own, as a tenant in common with the other Owners, an undivided interest in the new additions in accordance with its Proportionate Interest, (c) each Owner's interest in the existing Common Elements shall be unaffected by such additions, and (d) each Owner's voting powers in the Association shall be unaffected by such additions.

#### **ARTICLE IV – DESCRIPTION, TRANSFER AND CONVEYANCE OF A CONDOMINIUM UNIT**

4.1 Description. Every contract for the sale of a Condominium Unit, and every deed, lease, mortgage, trust deed, will or other instrument affecting that Condominium Unit, shall describe that Condominium Unit in the following manner, with appropriate insertions, and if applicable, with additional references to any amendments or supplements to this Declaration or the Map and may include references to areas designated as Limited Common Elements:

*Condominium Unit \_\_\_\_, Building \_\_\_\_, High Altitude Aero Condominiums, Inc., according to the Declaration thereof filed for record in the records of the Clerk and Recorder of El Paso County, State of Colorado on \_\_\_\_\_, 2023, at Reception No. \_\_\_\_\_, and as defined and described in the Condominium Map for High Altitude Aero Condominiums, Inc., recorded on \_\_\_\_\_, 2023 at Reception No. \_\_\_\_\_ in said records.*

4.2 Transfer. Every instrument affecting title to or interest in a Condominium Unit which describes it in the manner set forth above, shall be good and sufficient for all purposes to sell, convey, transfer, assign, encumber or otherwise affect not only that Unit, but also, without requiring specific reference thereto, the undivided interest in the General Common Elements and the Limited Common Elements appurtenant thereto and all other appurtenant property rights and interests, together with all easements and all fixtures and improvements therein contained, and to incorporate all of the rights, easements, limitations and burdens incident to ownership of a Condominium Unit as provided in this Declaration and the Condominium Map; Declarant may assign any Limited Common Element, which is not assigned by the Map, by adding its description to the legal description set forth in Section 4.1 above.

4.3 Amendments and Supplements. The reference to the Map and Declaration in any instrument shall be deemed to include any supplements or amendments to the Map or Declaration without the necessity for specific reference(s) thereto; all of which are incorporated herein by this reference.

## ARTICLE V – EASEMENTS

5.1 Recorded Easements. The Property, and all portions thereof, shall be subject to all recorded licenses and easements, including without limitation, any shown on any recorded plat affecting the Property, including any easement for detention basins. **Exhibit C.** The Association and the Owners hereby covenant and agree to be bound by all easements and indemnify Declarant and its successors and assigns from any claims or liability therefor.

5.2 Ingress and Egress and Support. Subject to the provisions of this Declaration, each Owner, its family members, guests and tenants shall have a perpetual non-exclusive easement for the purpose of airplane, vehicular and pedestrian ingress and egress over, upon and across the General Common Elements necessary for access to that Condominium Unit, to taxiways, public and private streets, and to the Limited Common Elements designated for use in conjunction with that Condominium Unit, and each Owner shall have the right to the horizontal and vertical support of its Unit.

5.3 Association Use. The Association, its officers, agents and employees shall have a non-exclusive easement to make use of and to enter into, upon, across, under or above the General Common Elements as may be necessary or appropriate to perform the duties and functions which it is permitted or required to perform pursuant to this Declaration or otherwise, including but not limited to the right to construct and maintain on the Common Elements any maintenance and storage facilities for use by the Association.

5.4 Repairs – Ordinary and Emergency. If any Common Elements are located within a Unit, or are conveniently accessible only through a Unit, the Association, its officers, agents or employees, shall have a right to enter such Unit after service of reasonable written notice and during regular business hours, for the inspection, maintenance, repair or replacement of any of such Common Elements or after service of such notice, if any, as is reasonable under the circumstances, at any time as may be necessary for making emergency repairs to prevent damage to the Common Elements or to another Unit or Units. Damage to any part of a Unit or Units resulting from the above-described repairs or any damage caused to a Unit by the Common Elements located outside of the Unit, including without limitation broken water pipes, sewer lines or other utilities, shall be a Common Expense of all Owners, unless such damage is the result of misuse or negligence of the Owner, or its family, tenants or guests, in which case such Owner shall be responsible and liable for all such damage and may be charged for any cost thereof by special assessment. No diminution or abatement of assessments shall be claimed or allowed for inconveniences or discomfort arising from the making of the above-described repairs or from action taken to comply with any law, ordinance, or order of any governmental authority. Damaged improvements, fixtures or personalty shall be restored to substantially the same condition in which they existed prior to the damage.



5.5 Encroachments. If any part of the Common Elements encroaches upon a Unit or Units, a valid easement for such encroachment and for the maintenance of the same, so long as it stands, shall and does exist. If any portion of a Unit encroaches upon the Common Elements, or upon any adjoining Unit or Units, a valid easement for the encroachment and for the maintenance of the same, so long as it stands, shall and does exist. In the event that a Building or Condominium Unit is partially or totally destroyed, and then rebuilt, the Owners agree that minor encroachments of parts of the Common Elements due to such construction shall be permitted and that a valid easement for said encroachments and the maintenance thereof shall exist. Encroachments referred to herein include, but are not limited to, encroachments caused by error in the original construction of any Building or Unit constructed on the Property, by error in the Condominium Map, by settling, rising, or shifting of the earth, or by changes in position caused by repair or reconstruction of the Association or any part thereof. Such encroachments and easements shall not be considered or construed to be encumbrances either on the Limited or General Common Elements or on the Condominium Units. In interpreting any and all provisions of this Condominium Declaration, subsequent deeds, mortgages, deeds of trust or other security instruments relating to the Condominium Units, the actual location of a Condominium Unit shall be deemed conclusively to be the property intended to be conveyed, reserved, or encumbered, notwithstanding any minor deviations, either horizontally, vertically or laterally, from the location of such Condominium Unit as indicated on the Condominium Map.

5.6 Utilities. Declarant reserves the right to create, grant and transfer non-exclusive easements in, under, over, across, through and upon the Property, the Common Elements and/or the roofs or walls of any Building for the purpose of installing, maintaining, repairing, and replacing any utilities, including but not limited to gas, electric, water, sewer and telephone and cable television lines, any heating or cooling installations, any master antenna system and any other necessary or related facilities. The foregoing easements shall include the right of ingress and egress and the right to erect and maintain the necessary pipes, wires, lines, poles, and other equipment. Should any person or party furnishing a service covered by the general easement hereinabove described request a specific easement by separate recordable document, Declarant shall have the right to grant such easement without conflicting with the terms hereof. The foregoing easements shall not affect any other recorded easement on the Property, including but not limited to any easements granted on the Map. The right reserved herein for Declarant shall pass automatically to the Board upon Declarant's sale of the last Condominium Unit within the Association or ten (10) years from the date of the recording of this Declaration, whichever occurs first. Furthermore, easements are hereby declared and granted to install, lay, maintain, repair, and replace any pipes, wires, ducts, conduits, public utility lines or structural components running through the Common Elements and the walls of the Units whether or not such walls lie in whole or in part within the Unit boundaries.

5.7 Reservation for Declarant's Further Development. To the fullest extent permitted by law or statute, Declarant, for itself and its assigns, shall have the easement and right to ingress and egress over, under, across and through the Property and the

Common Elements and the right to store materials thereon and to make such other reasonable use thereof as may be necessary to add any phase, annex any Expansion Property or otherwise complete the Association, to provide access or utilities or both to any phase or the Expansion Property, or any part thereof, or to change, correct, install or construct such drainage facilities or modification of landscaping and drainage, to construct and assign as Limited Common Elements, any parking spaces, or similar improvement, or to exercise any development rights and special Declarant rights hereunder or under the Condo Act or CCIOA, as may be necessary in Declarant's reasonable discretion, except that such use may not unreasonably interfere with the Owners' use and enjoyment of their Condominium Units and the Common Elements, nor with their rights of ingress and egress to their Units from a public or private street or taxiway. The Declarant shall have the right to execute or record or both any writing or document necessary or advisable to confirm, implement or transfer the rights reserved in this Section 5.7 or otherwise in this Declaration; the rights set forth in this Section 5.7 shall terminate upon the earlier of ten (10) years from the date of the recording of this Declaration or upon Declarant's sale of the last Condominium Unit within the Association.

5.8 Public Servants and Emergencies. Subject to the provisions of this Declaration, a non-exclusive easement is further granted to all police, sheriff, fire protection, ambulance, and all similar persons to enter upon the streets, Common Elements and the Association in the proper performance of their duties.

5.9 Easements Deemed Created. The easements, uses and rights herein created for an Owner shall be deemed appurtenant to the Unit of that Owner, and all conveyances of Condominium Units hereafter made, whether by Declarant or otherwise, shall be construed to grant to reserve the easements, uses and rights set forth herein, even though no specific reference to such easements or this Declaration appears in the instrument for such conveyance.

## ARTICLE VI – MECHANICS' LIENS

6.1 Mechanics' Liens – Association Work. Labor performed, or services or materials furnished for the Common Elements, if duly authorized by the Board, shall be deemed to be performed or furnished at the express consent of each Owner, provided, however, any Owner may remove its Condominium Unit from any such lien against the Association or against two or more Condominium Units, or against the Common Elements or a portion thereof, by payment to the holder of the lien of the fraction of the total sum secured by such lien, based upon the percentages shown in **Exhibit B** hereof, and the Board shall have no authority to bind the Owners beyond their pro rata share as provided herein.

6.2 Mechanics' Liens – Owner Work. In the event a lien arises from work or material 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 Board, 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 Condominium 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 Condominium 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 Condominium Unit of a non-consenting Owner or against the non-consenting Owner's interest in the Common Elements shall, to the extent permitted by law, be null and void and shall entitle such Owner or the Association to recover damages and expenses, including without limitation attorney fees, costs, and interest, from the lienor.

6.3 Other Liens. As required by the Condo Act and/or the CCIOA, Declarant hereby states that it is possible that additional liens, other than mechanics' liens, assessment liens or tax liens, may be obtained, to the extent permitted by law or by this Declaration, against the Common Elements. To the extent permitted by law, all liens shall be subject to the covenants, terms, and provisions of this Declaration.

## ARTICLE VII – USE RESTRICTIONS

7.1 Permitted Use. Each Unit shall be occupied and used primarily as an airplane hangar and shop (for the storage and light maintenance of an airplane). No commercial business, (including, but not limited to warehousing, automotive mechanical, wood shop, metal shop, etc.), may be conducted in or from a Unit without the prior written approval of the Board. In no circumstances shall any Unit be used for the painting of aircraft.

7.2 Architectural Control. No building, fence, wall, or other structure shall be commenced, erected, or maintained upon the Common Elements, nor shall any addition to, or change or alteration thereto or to any Unit be made until the plans and specifications showing the nature, shape, height, material and location of the same shall have been submitted to and approved in writing by the Board as to harmony of external design and location in relation to surrounding structures and topography and as to any applicable FAA regulations, state laws or local codes. In the event the Board fails to approve or disapprove such plans and specifications within sixty (60) days after they have been submitted to it and have been receipted in writing by the Association's President, approval will not be required, and this Section will be deemed to have been fully complied with, subject to any applicable FAA regulations, state laws, or local codes. No Owner shall undertake any work in his Unit which would jeopardize the soundness or safety of the Building or the Association, reduce the value thereof or impair any easement thereon or thereto, nor shall any Owner enclose, by means of screening or otherwise, any Common Element without having first obtained the prior written approval of the Board with respect to the materials, design and specifications for such enclosure, as more particularly provided in this paragraph. Structural alterations shall not be made by an Owner to the Building or in the water, gas or steam pipes, electric conduits, plumbing, or other fixtures connected therewith, nor shall an Owner remove any

additions, improvements or fixtures from the Building without the prior written consent of the Board first having been obtained.

7.3 Common Elements. The Common Elements shall be used for the furnishing of services and facilities for which the same are reasonably intended and for the enjoyment of the Owners, their families, tenants, and guests. There shall be no obstruction of the Common Elements, nor shall anything be kept or stored on any part of the Common Elements without the prior written consent of the Association except as specifically provided herein. The Common Elements, including without limitation all improvements and landscaping thereon, shall not be altered, constructed upon, or removed except upon the consent of the Board. The Board may adopt rules and regulations governing the use of Common Elements, and each Owner, by the acceptance of his deed and other instrument of conveyance or assignment agrees to be bound by any such adopted rules and regulations and to ensure compliance by his or her family, tenants, and guests. No Owner shall enter any meter rooms, mechanical equipment areas, crawl spaces, or attic areas designated as General Common Elements, without the prior approval of the Board.

7.4 Prohibitions. Nothing shall be done or kept in any Unit, or in the Common Elements, or any part thereof, which would result in the cancellation of any insurance on the Association, or in an increase in the rate of any insurance on the Association, without the prior written consent of the Board. No part of the Association or of any Condominium Unit shall be used in any way or for any purpose which may endanger the health, safety, or life of any person or which may unreasonably disturb any other Owner. No activities shall be permitted upon any portion of the Association which will violate the provisions of any applicable statute, rule, ordinance, regulation, permit, or other validly imposed requirement of any governmental body. No nuisance shall be allowed upon the Property, nor shall any use or practice be allowed which is a source of annoyance to Owners, or which interferes with the peaceful possession and proper use of the Property by Owners. No damage to or waste of the Common Elements, or any part thereof, or any Unit, shall be committed by any Owner, family member of the Owners, tenant, or any guest of any Owner, and each Owner shall indemnify and hold the Association and the other Owners harmless against any loss resulting from any such damage or waste caused by him, the members of his family, guests or tenants.

7.5 Animals. No horses, snakes, fish, insects, birds, reptiles, cattle, sheep, goats, pigs, rabbits, poultry or similar pets or other animals of any description shall be kept or maintained within the Association.

7.6 Storage Restrictions. Except for common trash bins maintained and located in accordance with rules and regulations adopted by the Board, all garbage and trash shall be placed in receptacles which are kept within the Units except on the day of pick up.

7.7 Maintenance. Each Owner shall keep the interior of his Unit and the Limited Common Elements appurtenant thereto in a clean, sanitary, and attractive condition and in a good state of repair. All rubbish, trash, garbage, and recyclable materials shall be regularly removed from the Association, or unit so as not to create unsightly or nuisance and shall not

be allowed to accumulate thereon. The Board may, in its discretion, enter into agreements or arrangements for common trash, garbage, and recycling removal from all Condominium Units.

7.8 Outside Structures. No exterior solar panels, television or radio antenna, satellite dish, tower or similar structure of any sort shall be placed, allowed, or maintained upon any portion of the improvements located upon the Property or any part of a Unit, without the prior written consent of the Board.

7.9 Leasing of Condominium Units. An Owner shall have the right to lease its Condominium Unit for the uses permitted in this Declaration pursuant to the following conditions: (a) all leases shall be in writing, and (b) all leases shall provide that the terms of the Lease, and Lessee's occupancy of the Condominium Unit, shall be subject in all respects to the provisions of this Declaration, the Articles of Incorporation and Bylaws of the Association and the rules and regulations of the Board and that any failure by the lessee to comply therewith shall be a default under the lease. The Owner agrees to submit a copy of each lease to the Board and permit the Board to enforce it against the Owner's tenant. (For example, if the tenant's conduct violates the restrictions of the Association, such as operating a commercial business.)

7.10 Parking. There shall be no parking of automobiles, trucks, RVs, campers, trailers, or vehicles of any type upon any part of the Association, including taxiways, except in designated parking spots or within a Unit's structure. Parking shall be for owners and guests only and will be governed by the Association through passes or vehicle identification. Violation of this provision shall permit the Board or any Owner to remove the offending vehicle at the expense of the Owner thereof. No mechanical work shall be performed upon any vehicle located upon the Property unless permitted by the rules of the Board and done solely for non-commercial purposes within the Owner's Unit.

7.11 Abandoned or Junk Vehicles and Airplanes. No abandoned or junk vehicles, boats, trailers, RVs, or airplanes or parts thereof shall be stored or parked upon any part of the Association, except within the interior of Unit structures. In the event that the Board shall determine in its sole discretion that a vehicle boat, trailer, RV, or airplane is an abandoned or junk, then a written notice describing the vehicle boat, trailer, RV, or airplane will be personally delivered to the owner thereof (if such owner can be reasonably ascertained) or will be conspicuously placed on the vehicle boat, trailer, RV, or airplane (if the owner thereof cannot be reasonably ascertained), and if the abandoned or junk vehicle boat, trailer, RV, or airplane is not removed within seventy (72) hours thereafter, the Board shall have the right to remove the vehicle boat, trailer, RV, or airplane at the sole expense of the owner thereof. For the purpose of this Section, an "abandoned vehicle boat, trailer, RV, or airplane" is any vehicle boat, trailer, RV, or airplane which has not been driven under its own propulsion or has not been moved for a period of fifteen (15) days or longer, as determined by the Board in its sole discretion. For the purpose of this section, a "junk" vehicle boat, trailer, RV, or airplane shall be determined by the Board in its sole discretion.

7.12 Signs and Advertising. Except as otherwise provided by law, no signs, advertising, displays, billboards, flags, unsightly objects or nuisances shall be placed,

erected or permitted to remain in or on any Condominium Unit or any part of the Association; provided, however, the Board may adopt written rules and regulations which permit signs to be placed upon an Owner's Unit; notwithstanding the foregoing, the right is reserved by Declarant or its agents to place such signs of any size on the Property as may be required to facilitate the business of disposing of unsold Units.

7.13 Exception for Declarant. Notwithstanding any provisions herein contained to the contrary, it shall be permissible for Declarant, or any contractor involved in the construction of said Condominium Units, or in the development of the Association, to maintain during the period of construction and sale of said Units, upon such portions of the Association as the Declarant may choose, such uses and facilities as may be reasonably required, convenient or incidental to the construction, sale or rental of said Condominium Units, and to the development of the Association, including without limitation the use of any clubhouse or meeting house, or vestibule for sales office, management office and models and temporary parking and access facilities for prospective and actual tenants, occupants and purchasers, and Declarant may promptly remove any of the foregoing if Declarant ceases to be an Owner. The provisions of this Article VII shall not apply to such use or other construction and sales activities by the Declarant or its contractors, except that such reasonable use by the Declarant or its contractors may not unreasonably interfere with the Owners' use and enjoyment of their Condominium Units and the Common Elements, nor with their right of ingress and egress to their Units from a public or private street. In addition, the Declarant, its agents, employees, financiers, or its contractors shall have such rights of ingress and egress over the General Common Elements as in Declarant's discretion shall be necessary to add any Phase, annex or develop the Expansion Property or otherwise complete the Association and additionally any and all rights set forth in C.R.S. 38.33.3-215 and 216.

## **ARTICLE VIII - ASSOCIATION MEMBERSHIP AND VOTING RIGHTS**

8.1 Membership. Every Owner shall be a member of the Association and shall remain a Member until such time as his ownership of his Condominium Unit ceases. When more than one person holds title to a Condominium Unit, all such persons shall be Members of the Association, but such multiple or joint ownership shall not increase the voting rights allocable to such Unit. Membership in the Association shall not be transferred, except in connection with the sale or conveyance of a Condominium Unit. However, the rights of membership may be assigned to a Mortgagee as further security for a loan secured by a lien on a Condominium Unit. Membership in the Association is not transferred when an Owner leases his Condominium Unit.

8.2 Voting Membership. The Association shall have one class of voting membership who shall be the Owners. The Owners shall elect all the members of the Board, following the termination of Declarant Control as set forth in Section 8.3 below.

8.3 Voting Rights.

A. Each Condominium Unit shall have voting rights based upon the Proportionate Interests shown on **Exhibit B** hereto; the affirmative vote of a majority of the

Proportionate Interests shall be required for decisions and action by the Association, unless otherwise provided herein or in the Association's Articles of Incorporation or Bylaws. If only one of the multiple Owners of a Unit is present at a meeting of the Association, such Owner is entitled to cast all voting rights allocated to that Unit. Alternatively, if more than one person holds an interest in a Condominium Unit, they may appoint one of their co-owners as proxy, in writing, to cast the vote for the Condominium Unit. The vote for such Condominium Unit shall be cast as the Owners holding a majority interest therein agree, but in no event shall they cast more than their voting rights on any one question. If such Owners of such Condominium Unit cannot agree as to the manner in which their vote shall be cast when called upon to vote, then they will be treated as having abstained; during any such period, each Owner shall retain all other rights and obligations of membership in the Association.

B. Notwithstanding anything herein to the contrary, the Declarant shall have the right to appoint the Board of Directors as follows: During the Period of Declarant Control, the Declarant, or persons designated by it, subject to certain limitations, may appoint and remove the officers and members of the Board. The Period of Declarant Control shall commence upon recording of this Declaration and shall terminate no later than the earlier of: (1) sixty (60) days after conveyance to Unit Owners other than the Declarant of seventy-five percent (75%) of the Units that may be created; (2) two (2) years after Declarant has last conveyed a Unit in the ordinary course of business; or (3) two (2) years after any right to add new Units was last exercised. The Declarant may voluntarily surrender the right to appoint and remove officers and Directors of the Board before termination of the Period of Declarant Control, but in that event, the Declarant may require, for the duration of the Period of Declarant Control, that specified actions of the Association or Board, as described in a recorded instrument executed by the Declarant, be approved by the Declarant before they become effective.

C. Not later than sixty (60) days after conveyance of twenty-five percent (25%) of the Units that may be created to Unit Owners other than the Declarant, at least one member, and not less than fifteen percent (15%) of the members of the Board shall be elected by Unit Owners other than the Declarant. Not later than sixty (60) days after conveyance of fifty percent (50%) of the Units that may be created to Unit Owners other than the Declarant, not less than one-third of the members of the Board must be elected by Unit Owners other than the Declarant.

D. Except as otherwise provided in Section 8.3.B hereof, not later than the termination of any Period of Declarant Control, the Owners shall elect a Board of at least three (3) members, at least a majority of whom must be Owners other than the Declarant or designated representatives of Owners other than the Declarant. The Board shall elect the officers. The Board members and officers, who are elected by the Owners, shall take office upon termination of the period of Declarant Control as provided herein.

E. Notwithstanding any provision of the Declaration or Bylaws to the contrary, the Owners, by a sixty-seven percent (67%) vote of all persons present and entitled to vote at any meeting of the Owners at which a quorum is present, may remove any

member of the Board with or without cause, other than a member appointed by the Declarant.

F. Within sixty (60) days after the Owners other than Declarant elect a majority of the members to the Board, the Declarant shall deliver to the Association all property and items described by C.R.S. 38-33.3-303(9), to the extent such property and terms are in Declarant's possession at that time.

8.4 Membership in Meadow Lake Airport Association. Each Member of the Association shall also be required to be a member of the Meadow Lake Airport Association (hereafter referred to as the "Airport Association"), and as such all Members of the Association shall be entitled to the rights and privileges, and shall be required to comply with the obligations, of membership in the Airport Association. Dues and assessments for the Airport Association shall be assessed by and paid directly to the Airport Association.

## ARTICLE IX - ASSOCIATION FUNCTIONS

9.1 Management. Subject to Article X, the management and operation shall be by the Association which shall be organized and shall have all powers and fulfill its functions pursuant to this Declaration, the Articles of Incorporation, the Bylaws, the Condo Act, the CCIOA, and all other applicable statutes and common law of the State of Colorado in effect from time to time. The Association shall act by and through its Board, its elected officers, and its agents and employees. The Board may take any action without any vote of the Owners or Members unless such vote is specifically required in this Declaration, the Articles of Incorporation, the Bylaws, or the rules and regulations.

9.2 Association Powers and Responsibilities. The Association, subject to the rights and duties of the Owners as set forth elsewhere in this Declaration, shall be responsible for the management, control, operation, maintenance, replacement, and repair of the Common Elements as more specifically provided herein.

9.3 Property of Association. The Association may pay for, acquire, and hold real and tangible and intangible personal property and may dispose of the same by sale or otherwise. Subject to the rules and regulations of the Association, each Owner and each Owner's family, tenant and Guests may use such property. Upon termination of condominium ownership of the Association and dissolution of the Association, if ever, the beneficial interest in any such property shall be deemed to be owned by the then Owners as tenants in common in the same proportion as their respective Proportionate Interests. The transfer of title to a Condominium Unit by sale, conveyance, foreclosure, or procedure in lieu of foreclosure shall transfer to the purchaser, without the necessity of any reference thereto, the beneficial interest in such property associated with the Condominium Unit; such beneficial interest shall not be transferable except with the transfer of the Condominium Unit.



9.4 Prohibition on Leasing and Licensing of Common Elements. The Association shall not lease or license all or any part of the General Common Elements or Limited Common Elements.

9.5 Restrictions Upon Association and Owners. Except as provided in Articles XV, XVI and XVII hereof and except as provided in C.R.S. 38-33.3-219, unless at least sixty-seven percent (67%) of the First Mortgagees of Units (based upon one [1] vote for each First Mortgage owned or held) and at least sixty-seven percent (67%) of the Owners, other than Declarant (based upon one [1] vote for each Condominium Unit owned), have given their prior written approval, neither the Association nor the Owners shall be empowered or entitled to:

(i) by act or omission, seek to abandon or terminate the Association or the provisions hereof for architectural control and enforcement or for maintenance of the Common Elements as herein provided;

(ii) change the pro rata interest or obligations of any individual Condominium Unit for the purpose of (a) levying assessments or changes or allocating distributions of hazard insurance proceeds or condemnation awards; or (b) determining the pro rata share of ownership of each Condominium Unit in the Common Elements except as provided in Article XVII hereof;

(iii) partition or subdivide any Condominium Unit;

(iv) by act or omission seek to abandon, partition, subdivide, encumber, sell, or transfer any of the General or Limited Common Elements apart from any Condominium Unit, except as provided by Section 5.7 hereof, but subject to C.R.S. 38-33-312; or

(v) use hazard insurance proceeds for loss to Condominium Unit and/or Common Element improvements for other than repair, replacement, or reconstruction of such improvements.

(vi) make a material change in any of the following provisions of this Declaration: voting rights; assessments, assessment liens, or the priority of assessment liens; reserves for maintenance, repair, and replacement of Common Elements; responsibility for maintenance and repairs; reallocation of interests in the Common Elements, or rights to their use; redefinition of any Unit boundaries; convertibility of Units into Common Elements or vice versa; insurance requirements; leasing of Units; imposition of any restrictions on an Owner's right to sell or transfer his or her Units; a decision by the Association to establish self-management when professional management had been required previously by this Declaration or by a First Mortgage holder; restoration or repair of the Association (after a hazard damage or partial condemnation) in a manner other than that specified in this Declaration; any action to terminate the legal status of the Association after substantial destruction or condemnation occurs; or any provisions that expressly benefit First Mortgage holders, insurers, or guarantors.

9.6 Inspection of Records and Notice to First Mortgagees. The Association shall keep financial records sufficiently detailed to enable the Association to provide the certificates of assessments described in Section 11.7.D hereof. The Association shall make available to Owners and lenders, and to holders, insurers or guarantors of any First Mortgage, current copies of the Declaration, Articles of Incorporation, Bylaws, other rules concerning the Association and the books, records, and financial statements of the Association. "Available" means available for inspection, upon request, during normal business hours or under other reasonable circumstances. Additionally, the holders of fifty-one percent (51%) or more of First Mortgagees shall be entitled to have an audited financial statement prepared at their expense if one is not otherwise available; said financial statement shall be furnished within a reasonable time following such request. Further, the Association shall, if requested in writing, notify each First Mortgagee recorded on its books of any proposed amendment of the Association's Declaration, Articles of Incorporation or Bylaws or any other action requiring the First Mortgagee's consent at least ten (10) days prior to the effective date of such amendment or action.

9.7 Promulgation of Rules and Regulations. The Board may make such rules and regulations to enforce the provisions of this Declaration or the Bylaws or to govern the use of the Common Elements, or the Units or both, as are, in its sole discretion, consistent with the rights and duties established in this Declaration. The Board shall have the sole discretion and authority to interpret this Declaration or the Bylaws and to resolve any dispute as to the interpretation thereof. The Board's interpretation of the Declaration, Articles of Incorporation, Bylaws, and rules shall be final, conclusive and binding on all persons and parties.

9.8 Enforcement. The Board and any aggrieved Owner shall have the power and authority to enforce each and every one of the provisions of this Declaration, the Articles of Incorporation, the Bylaws, and the decisions, resolutions, rules, and regulations of the Board. Except as otherwise provided, each Owner shall comply strictly with the provisions of the Declaration, the Articles of Incorporation and Bylaws of the Association, and the decisions, resolutions, rules, and regulations of the Board adopted pursuant thereto as the same may be lawfully made and amended and/or modified from time to time. Failure to comply with any of the same shall mean that (a) the Board may suspend the Owner's voting rights in the Association during any period during which such Owner fails to comply, (b) the Board may also file and enforce the liens provided for herein and/or take judicial action against the Owner to enforce compliance with such rules, regulations or other obligations, or to obtain damages for non-compliance, all to the extent permitted by law, including recovery of costs and reasonable attorneys' fees, costs, and interest, and/or (c) the Board may also fine any Owner, and his family member, guest, or tenant who violates the terms and provisions of this Declaration, the Bylaws, and/or the rules and regulations, a sum as set forth in the rules and regulations and if such fine remains unpaid for ten (10) days after notice, it shall become a Unit Assessment as provided herein. Any person or entity employed as a manager may be authorized by the Board to undertake the foregoing enforcement, including without limitation the instituting of litigation and/or the impositions of fines on behalf of the Board.

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

## ARTICLE X - MANAGEMENT

10.1 Management Agreements. The Association may utilize professional management in performing its duties hereunder. Each Owner shall be bound by the terms and conditions of all management agreements entered into by the Board. A copy of all such agreements shall be reasonably available, upon request, to each First Mortgagee and each Owner. Any and all professional management agreements shall be made with a responsible party or parties having experience adequate for the management of a project of this type. Any professional management agreement shall not exceed one (1) year and shall provide that it can be terminated without payment of a termination fee by the Board with or without cause upon thirty (30) days' written notice. Further, each and every management contract made between the Association and a manager or managing agent during the period when the Declarant or other developer controls the Association, shall terminate absolutely, in any event, not later than thirty (30) days after termination of the Period of Declarant Control. Furthermore, any contracts or leases during the Period of Declarant Control shall be subject to C.R.S. 38-33.3-305. If professional management has been previously required by any holder, insurer or guarantor of a First Mortgage, then any decision to establish self management shall require the prior consent of sixty-seven percent (67%) of the Owners, who are voting in person or by proxy at a meeting duly called for that purpose, and sixty-seven percent (67%) of the First Mortgagees; no such management agreement by the Association or its Board and it shall be the duty of the Association or its Board to effect a new management agreement prior to the expiration of any prior management contract.

10.2 Other Personnel. The Board may obtain and pay for the services of such other personnel as it deems appropriate in its sole discretion.

## ARTICLE XI - ASSESSMENTS

11.1 Personal Obligation to Pay Assessments and Charges. Each Owner of any Condominium Unit, including Declarant, covenants and agrees to pay, and shall be personally obligated to pay to the Association, in the manner, amounts and times prescribed herein, all assessments, charges, fines, fees and other sums described in this Declaration and/or imposed by the Association as permitted by this Declaration. All Owners of a Condominium Unit shall be jointly and severally liable to the Association for the payment of all assessments, charges, fees, and other sums attributable to them and/or their Condominium Unit. The personal obligation for delinquent assessments and sums shall not pass to an Owner's successors in title or interest unless expressly assumed by them. No Owner may waive or otherwise escape personal liability for the payment of the assessments, charges, fees, and other sums provided for herein by non-use of the Common Elements or the facilities contained therein, by abandonment or leasing of his Condominium Unit, or by

asserting any claims against the Association, the Declarant or any other person or entity. In addition to the foregoing assessments, charges, fees and other sums, each Owner shall have the obligation to pay all assessments and dues required by the Airport Association (MLAA), as well as real property ad valorem taxes and special assessments imposed by Colorado governmental subdivisions against his Condominium Unit, as well as all charges for separately metered utilities servicing his Condominium Unit. Any utilities which are master metered shall be included in the annual common expense assessments levied by the Association.

11.2 Enforcement of Personal Obligation. In addition to the lien described herein, the Association may, at its option, suspend all voting rights and the right to use any common facilities, until all payments owed by an Owner are received, and/or may bring an action at law against any Owner to collect any unpaid assessments, charges, fees, and other sums. In any such action, the Association shall be additionally entitled to recover, and the Owner to pay, interest thereon at the rate of eighteen percent (18%) per annum, an administrative charge as set forth in the Association's rules and regulations, court costs and other collection costs, and reasonable attorneys' fees. Notwithstanding any terms and provisions of this Condominium Declaration to the contrary, but subject to the Condo Act and CCIOA, the sale or transfer of any Condominium Unit shall not affect the personal liability or the lien for assessments, charges, fees or other sums levied hereunder, except that sale or transfer of a Condominium Unit pursuant to foreclosure of a First Mortgage, or any proceeding in lieu thereof, including deed in lieu of foreclosure, shall extinguish the lien of assessments which became due prior to the First Mortgagee's acquisition of title to such Unit pursuant to any such sale or transfer or foreclosure, or any above-described proceeding in lieu thereof, and further, no First Mortgagee shall be liable for any unpaid assessments, charges, fees or other sums accruing against a Condominium Unit prior to such First Mortgagee's acquisition of title to such Unit pursuant to any such sale, transfer, foreclosure or any above-described proceeding in lieu thereof. No such sale, transfer, foreclosure, or any above-described proceeding in lieu thereof shall relieve either any Owner or any Condominium Unit from liability or the lien for any assessments, charges, fees, or other sums thereafter becoming due. As provided above, the lien of the assessments provided for herein shall be subordinate to the lien of any purchase money by a First Mortgage of record (including deed of trust), and to any refinancing loan to refinance any such purchase money loan, provided that any such refinancing loan is evidenced by a First Mortgage of record (including deed of trust).

11.3 Annual Assessments. The annual assessment shall be based upon the Board's advance budget of the requirements needed by it to provide for the Common Expenses and the administration and performance of its duties during such assessment year. The annual budget shall be adopted pursuant to C.R.S. 38-33.3-303(4). Any surplus funds of the Association remaining after the payment of or provision for Common Expenses and any prepayment of or provision of reserves shall be applied as the Board in its sole discretion determines appropriate; the Board is not required to credit or pay such funds to Owners. The annual assessments may, at the Board's discretion, include, but shall not be limited to the following:

A. any costs and expenses related to management and to the activities and property of the Association;

B. any taxes and special tax assessments on the activities and property of the Association;

C. premiums for all insurance which the Association is required or permitted to maintain as provided in Article XIII hereof and any deductibles or expenses attributable to such insurance;

D. expenses for common services which may include, without limitation, common lighting, water, gas, electricity, sewer, snow removal, garbage, trash, and recycling collection;

E. landscaping and care of the grounds;

F. such repairs, restorations, replacements, improvements, and maintenance of the Common Elements which are the responsibility of the Association; provided, however, there shall be no division of assessment charge between the expenses of Limited and General Common Elements and provided further such work shall not require the prior approval of the Association regardless of the expense or amount thereof unless a Special Assessment is required pursuant to Section 11.4 hereof;

G. wages for Association employees;

H. legal and accounting fees;

I. any deficit remaining from a previous assessment year;

J. the creation of reasonable reserves, surpluses and sinking funds for the periodic replacement, repair, and maintenance of the Common Elements and for other periodic expenses, and are payable in regular installments, rather than by special assessments, and adequate reserves for insurance deductibles;

K. any other costs, expenses, and fees, which may be incurred or may reasonably be expected to be incurred by the Board for the benefit of the Owners under or by reason of this Declaration; and

L. cleaning, maintaining, and repairing the detention basins or water collection areas.

11.4 Special Assessments. In addition to the annual assessments authorized above, the Association may levy in any assessment year, as provided in Section 11.5, a special assessment applicable to that year only for the purpose of defraying, in whole or in part:

A. The cost of any emergency situation or any construction, demolition, reconstruction, repair or replacement of all or a substantial part of the Project, including without limitation the Common Elements and any fixtures and personal property related thereto, or

B. The expense of any other contingencies or unbudgeted costs, including replenishment or establishment of appropriate reserves.

11.5 Procedure for Special Assessments Under Section 11.4. Written notice of any meeting called for the purpose of taking any action authorized under Section 11.4 shall be sent by the Board to all Owners not less than ten (10) days nor more than fifty (50) 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 sixty-seven percent (67%) 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, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. Such subsequent meeting shall not be held more than sixty (60) days following the preceding meeting. Any such assessment shall require the assent of sixty-seven percent (67%) of the votes which are cast at such a meeting where a quorum is present.

11.6 Unit Assessments. In the event that the Association incurs any expense or liability as a result of the willful, negligent or wrongful act of an Owner, his family, tenants or guests, or any breach by any of such parties of any of the provisions of this Declaration, the Association's Bylaws or the Association's rules and regulations, and the same is not paid for by insurance, the cost thereof shall be an assessment against that Owner and his Condominium Unit and if unpaid shall be both a personal obligation of such Owner and a lien as herein provided. Additionally, except as otherwise provided in this Declaration, the Board may impose assessments against particular Owners and Units pursuant to C.R.S. 38-33.3-315(3)(a) and (b).

11.7 Payment Procedures.

A. Amounts. Subject to the provisions of this Declaration, any amounts assessed as annual or special assessments shall be assessed against each Owner and his Condominium Unit in accordance with that Owner's Proportionate Share. If an Owner's Proportionate Share is reallocated as a result of expansion under Article XVII, assessments, and any installment thereof not yet due shall be recalculated in accordance with the reallocated Owner's Proportionate Share. Unit assessments shall be assessed and payable solely by the Owner and the Condominium Unit against which they are levied.

B. Payment Dates.

(i) Annual Assessments. The annual assessment shall be divided into four (4) equal installments per year, which shall be due and payable by the Owners in advance on the first day of each month. The annual and special assessments hereunder shall commence upon taking ownership of any Unit, whether or not a structure has been erected on the Unit, with the exception that the Declarant shall not be responsible for those Units not transferred. At least twenty (20) days in advance of the annual assessment year, the Board shall establish the amount of the annual assessment against each Unit for the following year, and written notice of any change of the Annual Assessment shall be sent to each Owner of record.

(ii) Special Assessments and Unit Assessments. Special Assessments and Unit Assessments shall be due and payable on the date specified by the Board in written notice to each Owner, but such date shall not be less than ten (10) days after such notice is sent.

(iii) New Owner Assessment Payment. Upon transfer or sale of a Unit, the new Owner(s) shall pay the outstanding Annual Assessment in full within thirty (30) days of the transfer or sale. If there has been payment of part of the Annual Assessment, the new Owner(s) shall be responsible for paying the remaining part of the Annual Assessment in full.

C. Procedure. Failure of the Board to comply strictly with the procedure for setting or imposing assessments or to give timely notice of any assessment as provided herein shall not affect the liability of the Owner or his Condominium Unit for such assessment, and shall not be deemed to be a waiver, modification or release of any Owner from his obligation to pay the same, but if notice is not given, the date when payments shall be due shall be deferred to a date after such notice given.

D. Estoppel Certificate. The Association shall furnish to an Owner or such Owner's designee or to a holder of a security interest or its designee upon written request, delivered personally or by certified mail, first-class postage prepaid, return receipt, to the Association's registered agent, a written statement setting forth the amount of unpaid assessments currently levied against such Owner's Unit. The statement shall be furnished within fourteen (14) calendar days after receipt of the request and is binding on the Association, the Board, and every Owner. Said certificate may be relied upon by all persons acting in good faith, as conclusive evidence of the payment of any assessments therein stated to have been paid.

E. Initial Fee. The Board shall require each new Owner of a Unit, at the time of sale or transfer, to make a one-time payment in an amount equal to fifty cents per square foot of the Owner's Unit, which sum shall be used for working capital and to enroll that Owner in the Association and for all matters related thereto and shall be placed in the working capital account of the Association. Such a payment shall not relieve an Owner from making any regular assessment payments as the same come due and shall not be refundable. Upon termination of the Period of Declarant Control, the Declarant shall pay the working capital for any unsold Units in the Association but shall be reimbursed by

subsequent purchasers. During the Period of Declarant Control, the Declarant may not use any of the working capital funds to defray its expenses, reserve contributions, or construction costs or to make up any budget deficits.

11.8 Enforcement by Lien.

A. In addition to the personal liability under Sections 11.1 and 11.2 hereof and any statutory lien and rights to which the Association may be entitled under C.R.S. 38-33.3-316, any unpaid assessment, charge, fee, fine or other sums assessed against an Owner or his Condominium Unit, including without limitation with interest thereon at the rate of eighteen percent (18%) per annum, an administrative charge as set forth by the Association's rules and regulations, court costs and all other collection costs, and reasonable attorneys' fees, shall be a charge on the land and shall be a continuing lien, in favor of the Association, upon the Condominium Unit against which each such assessment, charge, fee or other sum is made. All payments on account shall be first applied to interest, the late charge, any costs or fees, and then to the assessment payment first due.

B. The Board may enforce such lien by filing with the Clerk and Recorder of El Paso County a statement of lien with respect to the Condominium Unit, setting forth the name of the Owner, the legal description of the Condominium Unit, the name of the Association and the amount of delinquent assessments then owing. The lien statement shall be duly signed and acknowledged by an officer or authorized agent of the Association and notice thereof shall be mailed to the Owner of the Condominium Unit, at the address of the Unit or at such other address as the Association may have in its records for the Owner of the Condominium Unit. Such a claim of lien shall also secure all assessments, charges, fees, and sums which come due thereafter until the lien, together with all costs, attorneys' fees, administrative charges and interest have been fully paid or otherwise satisfied. Any recorded lien may be released by recording a document to that effect executed by an officer or agent of the Association. Thirty (30) days following the mailing of such notice, the Board may proceed to foreclose the statement of lien in the same manner as provided for the foreclosure of mortgages under the statutes of the State of Colorado. Foreclosure or attempted foreclosure by the Association of its lien shall not be deemed to estop or otherwise preclude the Association from pursuing any other right or remedy or from suing the Owner personally liable therefor or from thereafter again foreclosing or attempting to foreclose its lien for any subsequent assessments, charges, fees, or other sums, which are not fully paid when due. The Association shall have the power and right to bid on or purchase any Condominium Unit at foreclosure or other legal sale, to have the total amount of its lien credited towards any purchase price, and to acquire and hold, lease, mortgage, convey or otherwise deal with the same, but pursuant to C.R.S. 38-33.3-310(4), no votes allocated to a Unit owned by the Association shall be cast.

C. The lien provided for herein shall be subordinate to the lien of any real estate taxes and, as provided above, the lien of any First Mortgage, which was duly recorded prior to the date such assessment, charge, fee or other sums became due, and which shall include any and all advances made by a First Mortgagee, notwithstanding that any of such advances may have been made subsequent to the date of the attachment of the



Condominium Association's lien. However, such lien shall be superior to all other liens and encumbrances and shall be superior to any homestead exemption as now or hereafter may be provided by Colorado or Federal law, and the acceptance of any right, title or interest in or to a Condominium Unit shall constitute a waiver of such homestead exemption.

11.9 Notice and Opportunity to Cure by First Mortgagee. The holder of any First Mortgage upon a Condominium Unit may request that the Association notify it, in writing at its specified address, of any default by the Owner of said Unit in paying assessments, charges, fees or other sums or performing other obligations under this Declaration, the Bylaws, or rules and regulations, which is not cured within sixty (60) days of when due. Any First Mortgagee may, but shall not be required to, cure any such default, and pay any such assessments, charges, fees or other sums.

11.10 Payments by First Mortgagees. First Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against any Association common property and may pay overdue premiums on hazard insurance policies, or secure new hazards insurance coverage on the lapse of a policy, for such common property, and First Mortgagees making such payments shall be owed immediate reimbursement therefor from the Association.

## **ARTICLE XII - MAINTENANCE AND REPAIR**

### **12.1 Owner's Responsibility.**

A. Total Responsibility. An Owner shall be responsible, at his sole expense, for the maintenance, repair, replacement, alteration and remodeling of the following: (i) any loss, damage or injury to the Association, the Common Elements, or any other Condominium Unit caused, in the sole discretionary determination of the Board, by the negligent or willful act or omission of Owner, his family, guests, tenants, contractors, other persons or parties acting with the consent of any of the foregoing, or any pets or animals of the foregoing; (ii) the interior of the Unit including interior non-supporting walls, floors and ceilings of his Unit and the materials thereof, which make up the finished surfaces of the perimeter walls, ceiling and floors within the Unit; (iii) all interior and exterior doors, locks, screens, light bulbs, windows and window fixtures, (iv) all cabinets, fixtures and equipment, and appliances; (v) all light, plumbing, furnace, hot-water heater and heating improvements which are for the exclusive use of his Unit, and the related hardware, (vi) any and all additions and improvements made by the Owner after Declarant's initial construction, and (vii) all utility lines, pipes, conduits, equipment and fixtures from the point where they enter his Unit, provided, however, an Owner shall not do or permit any act or work which might impair the structural soundness of the Building or would impair any utilities, or parts thereof, which serve other Condominium Units and provided further an Owner shall not be obligated to undertake any repairs, maintenance, or replacements for which the Association has received insurance proceeds sufficient to repair or replace the above. All maintenance, repair, alteration, or remodeling done by an Owner shall be of equal or better materials and workmanship than as originally constructed by Declarant.

B. Limited Responsibility. In addition, each Owner shall be responsible to keep and maintain, at his sole expense, in good repair and a clean sanitary condition, his Limited Common Elements, if any, including without limitation, repair and restoration of concrete or asphalt in the taxiways, driveways, sidewalks; provided, however, the Board may decide, in its sole discretion, to repair, maintain, and restore any landscaping, taxiway, driveway, sidewalk, fence, railing, or other Limited Common Element, as Common Expenses pursuant to Section 12.3, even though located within or designated as Limited Common Elements. Except as provided herein, the Owner's responsibility shall not include replacement, repainting, alteration, or structural repairs thereto, which shall be the responsibility of the Association nor for any maintenance which is included as a Common Expense in the Association's budget.

C. Owner's Failure. If Owner fails to fulfill his responsibilities under paragraphs A and B of this Section, the Board may, at its option, take such action as it deems appropriate, after ten (10) days' notice to such Owner, except in emergencies, including without limitation performing the Owner's obligations, and any costs resulting therefrom shall be a Unit Assessment against such Owner and his Condominium Unit and shall be due and payable by the Owner thereof.

12.2 Association's Responsibilities. The Board shall determine in its reasonable business judgment the specification, scope, nature, and parameters of the Association's maintenance responsibilities hereunder and the performance thereof. Subject to the foregoing, the Association shall have the duty of maintaining, repairing, and replacing the following:

(A) All of the Common Elements which are not the Owner's responsibility under Section 12.1; such repair and maintenance shall include, but not be limited to, the provision of exterior maintenance as follows: paint, repair, replace and care for roofs, gutters, downspouts, exterior Building surfaces (except doors, locks, light bulbs, glass and window screen surfaces which shall be the Owner's responsibility), trees, grass, roads, taxiways, driveways, walks and other exterior improvements;

(B) All of utilities located outside of a Unit and serving more than one Unit (to the extent not maintained or repaired by the utility company) and, if applicable, any drainage structures or facilities or public improvements to the extent set forth in C.R.S. 38-33.3-307(1.5);

(C) Any part of the structure of any Building, or General Common Element even if located within the Unit; and/or

(D) Any damage caused to a Condominium Unit by any defect, occurrence, or condition of the Common Elements or otherwise for which the Association receives insurance proceeds.

12.3 Repair Work by Association. It shall be the responsibility of each Owner to promptly report to the Association any defect or need for repairs which would be the

responsibility of the Association. The Board shall engage and pay for all labor and materials as may be necessary for the work for which the Association is responsible. The Board and its authorized representatives shall have the right to enter upon the exterior, and at reasonable times, the interior of any Unit, for inspection or the performance of such work. The cost of the maintenance and repair described in Section 12.2 hereof and any incidental damage caused to a Unit by such work shall be a Common Expense of all the Owners, and regardless of amount, it shall be assessed as provided herein for annual or special assessments, unless, however, the need for maintenance or repair is the Owner's responsibility under Sections 11.6 or 12.1 hereof. The Board or its authorized representative is hereby authorized to act for any Owner in his absence when, in the reasonable discretionary opinion of the Board or its authorized agent, an emergency exists or damage to other Condominium Units is eminent; the cost of such action shall be a Common Expense except as provided above.

### ARTICLE XIII – INSURANCE

13.1 Insurance by the Association. Commencing not later than the time of the first conveyance of a Unit to a person other than a Declarant, the Association shall maintain, to the extent reasonably available:

A. Property. Property insurance on the Common Elements for broad form covered causes of loss; except that the total amount of the insurance must be not 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; such insurance must include the Units. The insurance need not include improvements and betterments installed by Owners, but if they are covered, any increased charge shall be assessed by the Association to those Owners. Such insurance shall contain a "Replacement Cost Endorsement" providing that any claim will be settled on a full replacement cost basis without deduction for depreciation, and shall include to the extent available an "Inflation Guard Endorsement", "Agreed Amount Endorsement", "Demolition Cost Endorsement", "Increased Cost of Construction Endorsement" and a "Contingent Liability from Operation of Building Laws Endorsement" or the equivalent. Such insurance as maintained by the Association pursuant to this Section shall afford protection against at least the following:

(1) loss or damage by fire and all other hazards that are normally covered by the standard extended coverage endorsement, and

(2) such other risks as shall customarily be covered with respect to similar types of projects including those covered by standard "all risk" endorsement including without limitation endorsements for vandalism and malicious mischief, and

(3) any damage which is caused by or originating from the Common Elements and which is the responsibility of the Association to repair or remedy.

B. Public Liability. Commercial general liability insurance against claims and liabilities arising in connection with the ownership, existence, use, or management of the Common Elements, in an amount deemed sufficient in the judgment of the Board but not less than any amount specified in this Declaration or in the Association's documents, insuring the Board, the Association, any management agent, and their respective employees, agents, and all persons acting as agents. The Declarant shall be included as an additional insured in such Declarant's capacity as a Unit Owner and Board member. The Unit Owners shall be included as additional insureds but only for claims and liabilities arising in connection with the ownership, existence, use, or management of the Common Elements. The insurance shall cover claims of one or more insured parties against other insured parties. Such insurance shall be in such amounts as the Association may from time to time determine, but not in an amount less than One Million Dollars (\$1,000,000.00) per occurrence covering claims for personal injury, bodily injury and/or for property damage. Coverage shall include, without limitation, liability for personal injuries, operation of automobiles (whether owned, non-owned or hired) on behalf of the Association.

C. Workmen's Compensation. Workmen's Compensation, or similar insurance with respect to its employees in the amounts and forms sufficient to meet the requirements of law, shall be acquired by the Association.

D. Officers' and Directors' Personal Liability Insurance. To the extent obtainable, appropriate officers' and directors' personal liability insurance may be obtained by the Association to protect the officers and directors from personal liability in relation to their duties and responsibilities in acting as such officers and directors on behalf of the Association.

E. Flood Insurance. If the Association is located in an area identified by the Secretary of the U.S. Department of Housing and Urban Development or the Director of the Federal Emergency Management Agency as an area having special flood hazards and the sale of flood insurance has been made available under the National Flood Insurance Act of 1968, a "blanket" policy of flood insurance on the Association in an amount which is the lesser of the maximum amount of insurance available under that Act or one hundred percent (100%) of the current replacement cost of all Buildings and other insurable property located in the flood hazard area.

F. Other Insurance. The Association may obtain such other insurance as the Board shall determine from time to time to be desirable, with respect to the Association's responsibilities and duties.

G. Notice of Unavailability. If any insurance described in this Declaration is not reasonably available, or if any policy of such insurance is cancelled or not renewed without a replacement policy therefore having been obtained, the Association promptly shall cause notice of that fact to be hand delivered or sent prepaid by United States mail to all Owners and First Mortgagees as provided herein.

### 13.2 Insurance Policies.

A. Policy Provisions. All insurance shall be carried in blanket form naming the Association as insured, as trustee and attorney-in-fact pursuant to Articles XIV and XV hereof for all of the Owners and First Mortgagees as their interests may appear, in the loss payable clause and otherwise, and shall identify the interest of each Owner (Owner's name and Unit number designation) and the First Mortgagee. Insurance policies carried pursuant to this Declaration shall provide that:

(a) 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;

(b) The insurer waives its rights to subrogation under the policy against the Association, its officers and directors and any Owner or member of his household;

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

(d) 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 provides primary insurance.

All policies of insurance to the extent obtainable shall contain the standard mortgage clause and cross-liability endorsements to cover the liabilities of the Owners as a group to an Owner.

B. Insurer. An insurer that has issued an insurance policy for the insurance described in this Declaration shall issue certificates or memoranda of insurance to the Association and, upon request, to any Owner or Mortgagee. Unless otherwise provided by statute, the insurer issuing the policy may not cancel or refuse to renew it until thirty (30) days after notice of the proposed cancellation or nonrenewal has been mailed to the Association, and each Owner and Mortgagee to whom a certificate or memorandum of insurance has been issued, at their respective last-known addresses. All insurance policies shall be written by companies licensed to do business in the State of Colorado and having a Best's Insurance Report rating of B/VI or better.

C. Premiums. Premiums upon insurance policies purchased by the Board and any other expenses connected with acquiring such insurance shall be part of the Common Expenses included in the annual assessments. The policy shall provide that no assessment may be made against First Mortgagees and that any assessment for insurance premium made against others shall not become a lien on the Condominium Units superior to the First Mortgage.

D. Deductibles. Any insurance policy may contain such deductible provisions as the Association deems consistent with good business practice and as are consistent with the requirements of First Mortgagees and any secondary lenders purchasing First Mortgages. Any loss falling within the deductible portion of the policy shall be borne by the Association, except as otherwise provided in this Declaration or as determined by the Board.

E. Claims Procedures. The Association may adopt and establish written nondiscriminatory policies and procedures relating to the submittal of claims, responsibility for deductibles, and any other matters of claims adjustment. To the extent the Association settles claims for damages to real property, it shall have the authority to assess negligent Owners causing such loss or benefiting from such repair or restoration all deductibles paid by the Association. In the event that more than one Unit is damaged by a loss, the Association in its reasonable discretion may assess each Owner a pro rata share of any deductible paid by the Association.

13.3 Severability. All policies of insurance shall contain a severability of interest endorsement providing that the insurance thereunder shall be invalidated or suspended only in respect to the interest of any particular Owner guilty of a breach of warranty, act, omission, negligence or non-compliance of any provision of such policy, including payment of the insurance premium applicable to that Owner's event, whether occurring before or after a loss, which under the provisions of such policy would otherwise invalidate or suspend the entire policy, but that the insured Owners not guilty of any such act or omission, shall not be invalidated or suspended and shall remain in full force and effect.

13.4 Proceeds. All insurance policies shall contain a standard noncontributory mortgagee clause in favor of each First Mortgagee of a Condominium Unit, which has given notice of its lien to the Association and shall provide that they are for the benefit of the Association, the Owners and their First Mortgagees as their interests may appear and shall provide that all proceeds covering losses shall be paid to the Association in trust for the purposes set out herein. The duty of the Association shall be to receive such proceeds as are paid and to hold them in trust for the benefit of the Owners and First Mortgagees as provided herein. The Board may disburse the net proceeds of all insurance policies arising out of such casualty to the contractors engaged in the repair and reconstruction in appropriate progress payments.

13.5 Annual Review of Insurance Policies. All insurance policies carried by the Association shall be reviewed at least annually by the Board to ascertain that the coverage provided by such policies adequately meets the requirements of this Declaration and covers such other risks as are customarily covered with respect to Condominium projects similar in construction, location, and use. Prior to obtaining any policy of fire insurance or renewal thereof, the Board may obtain a written valuation from a duly qualified real estate insurance appraiser or other person knowledgeable of replacement value of the entire Association, without deduction for depreciation, for the purpose of determining the amount of the insurance required pursuant to the provisions of this Article. Any First Mortgagee shall be furnished with a copy of such valuation upon request.

13.6 Notice to First Mortgagees. Provided that a First Mortgagee has, in writing, requested the following information with respect to a Condominium Unit upon which said First Mortgagee holds the First Mortgage, and has furnished the Association with the address to which said First Mortgagee wants the information sent, then in the event that there shall be any damage in excess of Ten Thousand Dollars (\$10,000.00) or destruction of: (a) the Condominium Unit on which such First Mortgagee holds the First Mortgage, and/or (b) the Common Elements, or in the event of any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association, then timely written notice of any such matters shall be given by the Association to such First Mortgagee.

13.7 Owners' Insurance. An insurance policy issued to the Association does not obviate the need for Owners to obtain insurance for their own benefit. It shall be the responsibility of each Owner, and at his own expense, to make arrangements in regard to title insurance on his Condominium Unit, for all insurance on his personal property, including without limitation, airplanes, and for public liability insurance covering his individual Unit, and, in addition, the Owner may obtain such other and additional insurance coverage on and in relation to his Condominium Unit as he, in his sole determination, shall conclude to be desirable; provided, however, that none of such insurance shall affect the coverage obtained by the Association, nor cause the diminution or termination thereof. Any such insurance obtained by an Owner shall waive the particular insurance company's right of subrogation against the Association and the other Owners. Neither the Association nor the Declarant shall have any responsibility regarding the obtaining or continuation of any such insurance. If at any time of any loss under any policy which is in the name of the Association, there is other insurance in the name of any Owner and such Owner's policy covers the same property or loss, or any portion thereof, which is covered by such Association policy, such Association policy shall be primary insurance not contributing with any of such other insurance.

#### **ARTICLE XIV - ASSOCIATION AS ATTORNEY-IN-FACT**

This Declaration does hereby make mandatory the irrevocable appointment of the Association as insurance trustee, pursuant to C.R.S. 38-33.3-313(5) and (9) and under this Declaration, and as attorney-in-fact to deal with the Association in the event of its destruction, damage, obsolescence, condemnation, liquidation of all or a part of the Association, or termination of the Association, including without limitation the repair, replacement and improvement of any Units, Buildings, Common Elements or other portion of the Association which have been so destroyed, damaged, condemned or becomes 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 Owner or grantor shall constitute appointment of the attorney-in-fact herein provided. All of the Owners irrevocably constitute and appoint the Association as their true and lawful attorney in their name, place and stead, for the purpose of representing the Owners in any proceedings, negotiations, settlements or agreements related thereto and dealing with the Association upon its damage, destruction,

obsolescence or condemnation as is hereinafter provided, and any proceeds therefrom shall be payable to the Association for the benefit of the Owners and their First Mortgagees. 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 such event. At such meeting a new attorney-in-fact, to deal with the Association upon its destruction, damage, obsolescence, or condemnation shall be appointed. Said appointment must be approved by the Owners representing an aggregate Proportionate Interest of sixty-seven percent (67%) or more of the Common Elements and at least sixty-seven percent (67%) of the First Mortgagees of the Condominium Units. Notwithstanding any contrary provision of this Condominium Declaration, the Association's Articles of Incorporation and Bylaws, no Owner or any other party shall have priority over any rights of the First Mortgagee of the Condominium Unit pursuant to its Mortgage in the case of a distribution to such Owner of insurance proceeds or condemnation awards for losses or a taking of Condominium Units and/or Common Elements.

#### **ARTICLE XV - DESTRUCTION, DAMAGE OR OBSOLESCENCE**

15.1 Damage or Destruction. 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 Association's original architectural plan and scheme to the extent then reasonably and economically feasible. Any portion of the Association for which insurance is required under this Declaration and available to the Association, and which is damaged or destroyed must be repaired or replaced promptly by the Association pursuant to this Declaration and C.R.S. 38-33.3-313, unless notwithstanding any contrary provision:

- A. The Association is terminated, as provided in this Declaration;
- B. Repair or replacement would be illegal under any state or local statute or ordinance governing health or safety;
- C. Eighty percent (80%) of the Owners, including every Owner of a Unit or assigned Limited Common Element that will not be rebuilt, vote not to rebuild; or
- D. Prior to the conveyance of any Unit to a person other than the Declarant, the holder of a deed of trust or mortgage on the damaged portion of the Association rightfully demands all or a substantial part of the insurance proceeds.



15.2 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, 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. The Association, Owners, and lienholders are not entitled to receive payment of any portion of the insurance proceeds unless there is a surplus of proceeds after the Association has been completely repaired or restored or the Association is terminated.

15.3 Insurance Proceeds Insufficient.

A. If the insurance proceeds are insufficient to repair and reconstruct the improvement(s), and if such damage is not more than sixty-seven percent (67%) of the total replacement cost of all of the Condominium Units in this Association, 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 Condominium Units. Such special assessments shall be a Common Expense and made according to each Owner's Proportionate 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 assessment. The assessment provided for herein shall be a debt of each Owner and a lien on his Condominium Unit and may be enforced and collected as is provided in Article XI. 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, late charge, interest at a rate of eighteen percent (18%) per annum, in the amount of the assessment and all reasonable attorneys' fees and costs. In addition thereto, the Association, as attorney-in-fact, shall have the absolute right and power to sell the Condominium Unit of any Owner refusing or failing to pay such deficiency assessment within the time provided, and if not so paid, the Association shall cause to be recorded a notice that the Condominium Unit of the delinquent Owner shall be sold by the Association, as attorney-in-fact, pursuant to the provisions of this Section. The proceeds derived from the sale of such Condominium Unit shall be used and disbursed by the Association, as attorney-in-fact, in the following order:

(1) For payment of the balance of the lien of any First Mortgagee;

(2) For payment of taxes and special assessment liens in favor of any assessing entity and the customary expenses of sale;

(3) For payment of unpaid assessments levied by the Association under this Article and Article XI hereof and all costs, expenses and fees incurred by the Association;

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

(5) The balance remaining, if any, shall be paid to the Owner of the Condominium Unit.

B. If the insurance proceeds are insufficient to repair and reconstruct the improvement(s), and if such damage is more than sixty-seven percent (67%) of the total replacement cost of all of the Condominium Units in this Association, 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 Condominium Units, provided, however, that Owners representing an aggregate Proportionate Interest of eighty percent (80%), including every Owner of a Unit or assigned Limited Common Element that will not be rebuilt, and at least seventy-five percent (75%) of the First Mortgagees of record may agree not to repair or reconstruct the improvements; and 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 Association 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 Bylaws. Any termination of this Condominium Association shall also comply with C.R.S. 38-33.3-218. Assessments under Article XI hereof 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 Proportionate Interest, and such divided proceeds shall be paid into separate accounts, each such account representing one of the Condominium Units. Each such account shall be in the name of the Association and shall be further identified by the Condominium 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 Condominium 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 Proportionate Interest. The total funds of each account shall be used and disbursed, without contribution, from one account to another by the Association, as attorney-in-fact, for the same purposes and in the same order as is provided in subsections (1) through (5) of Section 15.3.A.

C. Notwithstanding any provision of this Declaration, if the entire Association is not repaired or replaced, the insurance proceeds attributable to the damaged Common Elements must be used to restore the damaged area to a condition compatible with the remainder of the Association, and, except to the extent that other persons will be

distributees, the insurance proceeds attributable to Units and Limited Common Elements that are not rebuilt must be distributed to the Owners of those Units and the Owners of the Units to which those Limited Common Elements were allocated, or to lienholders, as their interests may appear, and the remainder of the proceeds must be distributed to all the Owners or lienholders, as their interests may appear, in proportion to the Proportionate Interest of all the Units.

#### 15.4 Obsolescence.

A. The Owners representing an aggregate Proportionate Interest of sixty-seven percent (67%) or more may agree that the Common Elements are obsolete and adopt a plan for the renewal and reconstruction. If a plan for the renewal and 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 Condominium 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 Condominium 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 rate of eighteen percent (18%) per annum, and all reasonable attorneys' fees and costs. The proceeds derived from the sale of such Condominium 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 (1) through (5) of Section 15.3.A.

B. The Owners representing an aggregate Proportionate Interest of sixty-seven percent (67%) or more, may agree that the Condominium Units are obsolete and that the same should be sold. Such plan or agreement must have the approval of sixty-seven percent (67%) of the First Mortgagees of the Condominium Units. In such instance, 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, 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 Bylaws. Any termination of this Condominium Project shall also comply with C.R.S. 38-33.3-218. The sale proceeds shall be apportioned among the Owners on the basis of each Owner's Proportionate Interest and such apportioned proceeds shall be paid into separate accounts, each such account representing one Condominium Unit. Each such account shall be in the name of the Association and shall be further identified by the Condominium 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 subsections (1) through (5) of Section 15.3.A.

## ARTICLE XVI - CONDEMNATION

16.1 Consequences of Condemnation. If at any time or times during the continuance of the condominium ownership pursuant to this Declaration, all or any part of the Association shall be taken or condemned by any public authority or sold or otherwise disposed of in lieu of or in avoidance thereof, the following provision of this Article shall apply, subject to C.R.S. 38-33.3-107;

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

B. Complete Taking.

(1) In the event that the entire Association 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 Proportionate Interest, provided, however, that if a different standard was used in determining the value of the Award in the negotiation, judicial decree or otherwise, then in determining such shares the same standard shall be employed to the extent it is relevant and applicable.

(2) On the basis of the principle set forth in the last preceding paragraph, the Association shall as soon as practicable, determine the share of the Condemnation Award to which each Owner is entitled. Such shares shall be paid into separate accounts and disbursed as soon as practicable in the same manner provided in Section 15.3.A(1) through (5).

C. Partial Taking. In the event that less than the entire Association 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 Proportionate Interest; (b) the total amount allocated to severance damages shall be apportioned to those Condominium 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 taking 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 employ such allocation to the extent it is relevant and applicable.

Distribution of apportioned proceeds shall be disbursed as soon as practicable in the same manner provided in Section 15.3.A(1) through (5).

D. The Association shall timely notify each First Mortgagee of any Condominium 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 Ten Thousand Dollars (\$10,000.00).

16.2 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 according to the same principles employed in this Declaration at its inception and shall submit such reallocation to the Owners and First Mortgagees of remaining units for amendment of this Declaration as provided in Article XVIII.

16.3 Reconstruction and Repair. Any reconstruction and repair necessitated by condemnation shall be governed by the procedures specified in Article XV.

#### **ARTICLE XVII - PHASING AND EXPANSION OF PROJECT**

17.1 Phased Development of Property. Declarant reserves the right to develop Condominium Units on the Property in phases (collectively, the "Phases"). At the time of the recording of this Declaration, there has been constructed on the Property a building containing twelve (12) Units, as shown on the Map.

A. Phase I. Phase I ("Phase I") shall consist of the initial twelve (12) Condominium Units created by the recording of this Declaration, together with the Common Areas, both General and Limited, as shown on the Map.

17.2 Declarant's Reserved Development Rights for Phasing. Notwithstanding any contrary provisions of this Declaration, the Declarant shall have and hereby specifically reserves the right, until ten (10) years from the date of the recording of this Declaration, without the approval of the Owners or First Mortgagees, to add from time to time one or more Phases, and to submit such Phase and improvements thereon, including without limitation the Condominium Units and Common Elements, to the terms and provision of this Declaration. By accepting a deed to a Condominium Unit, each Owner hereby grants to Declarant a right to add Phases the Association and to modify the Owner's Proportionate Interest accordingly, as hereinafter set forth in this Article. Notwithstanding any contrary provision, any expansion hereunder shall also comply with C.R.S. 38-33.3-209 and 210.

17.3 Documents for Addition of a Phase. For any addition of a Phase by the Declarant pursuant to the provisions of this Article, Declarant shall cause to be prepared a supplemental Condominium Map of such Phase and an Amendment to this Declaration,

which shall contain an identification of the Condominium Units in the Association after the addition of the Phase and the reallocation of the Proportionate Interests. The amendment must describe any Common Elements and any Limited Common Elements thereby created and, in the case of Limited Common Elements, designate the Unit to which each is allocated to the extent required by C.R.S. 38-33.3-208. These documents (the "phasing documents") shall be filed in the records of the office of the Clerk and Recorder of the County of El Paso, Colorado, prior to conveyance of the first Condominium Unit in such Phase. The addition of Phases may be accomplished by successive supplements.

**17.4 Modification of Owners' Proportionate Interests Following the Addition of a Phase.** Upon the Declarant's addition of any Phase to this Condominium Declaration and the recording of the phasing documents, each Owner's Proportionate Interest in the Common Elements, including those included in the Association prior to the addition of a Phase and those added by the inclusion of a Phase, shall be automatically adjusted for all Condominium Units, including those in the Association before and after the inclusion of a Phase. The basis for that adjustment shall be a determination made pursuant to Section 3.1 of this Declaration. Such adjustment of Proportionate Interest in the Common Elements appurtenant to a Condominium Unit shall be automatic upon recording of such documents, and no further documentation need be filed of record or further action need be taken by Declarant, any Owner, or any First Mortgagee to reflect such modification in Proportionate Interests.

**17.5 Declarant's Reserved Right to Expand.** Notwithstanding any contrary provisions of this Declaration, the Declarant shall have and hereby specifically reserves the right until ten (10) years from the date of the recording of this Declaration, without the approval of the Owners or First Mortgagees, to annex to the Property from time to time any contiguous portion or portions of the Expansion Property and to submit such additional property and improvements thereon, including without limitation any Condominium Units and Common Elements, to the terms and provisions of this Declaration. Any Buildings and Condominium Units which are constructed by Declarant on any part of the Expansion Property, which is annexed hereby, shall be substantially completed prior to annexation and substantially comparable in style and quality to the Condominium Buildings and Condominium Units existing on the Property at the date of such annexation, as determined by the Declarant in its sole discretion. By accepting a deed to a Condominium Unit, each Owner hereby grants to Declarant a right to expand the Association and to modify the Owner's Proportionate Interest accordingly, as hereinafter set forth in this Article. Notwithstanding any contrary provision, any expansion hereunder shall also comply with C.R.S. 38-33.3-209 and 210.

**17.6 Documents for Expansion.** For any annexation of Expansion Property by the Declarant pursuant to the provisions of this Article, Declarant shall cause to be prepared a supplemental Condominium Map of such annexed property and an Amendment to this Declaration, which shall contain an identification of the Condominium Units in the Association after expansion and the reallocation of the Proportionate Interests. The amendment must describe any Common Elements and any Limited Common Elements thereby created and, in the case of Limited Common Elements, designate the unit to which

each is allocated to the extent required by C.R.S. 38-33.3-208. These documents ("annexation documents") shall be filed in the records of the office of the Clerk and Recorder of the County of El Paso, Colorado, prior to conveyance of the first Condominium Unit in such annexed property. The expansion may be accomplished in "phases" by successive supplements.

17.7 Modification of Owners' Proportionate Interest Following Expansion. Upon the Declarant's annexation of any part of the Expansion Property to this Condominium Declaration and the recording of the annexation documents, each Owner's Proportionate Interest in the Common Elements, including those included in the Association prior to annexation and those added by the annexation, shall be automatically adjusted for all Condominium Units, including those in the Association before and after annexation. The basis for that adjustment shall be a determination made pursuant to Section 3.1 of this Declaration. Such adjustment of Proportionate Interest in the Common Elements appurtenant to a Condominium Unit shall be automatic upon recording of such documents, and no further documentation need be filed of record or further action need be taken by Declarant, any Owner, or any First Mortgagee to reflect such modification in Proportionate Interests.

17.8 Assessments Following Expansion or the Addition of a Phase. Notwithstanding any addition of a Phase or annexation of any Expansion Property, and any resulting adjustment to the Owner's Proportionate Share or Interest, each Owner (regardless of whether such Owner is the owner of a Condominium Unit enumerated in **Exhibit B** attached hereto or is the owner of a Condominium Unit contained in an added Phase or in an annexation of any Expansion Property) shall be fully liable, in accordance with Article XI hereof, with respect to his obligation for the payment of assessments, charges, fines, fees and other sums to the Association, including without limitation, the expenses for the new General and Limited Common Elements.

17.9 New Members Subject to Declaration. Upon the recording of any phasing documents or annexation documents, each Owner of a Condominium Unit located in an added Phase or upon any annexed Expansion Property shall automatically become a member of the Association, and that Owner and his Condominium Unit shall be subject to covenants, terms and provisions of this Declaration, including without limitation, the assessment and voting provisions hereof, together with the Articles of Incorporation, the Bylaws, and any rules then in effect. Similarly, the definitions used in this Declaration shall be automatically expanded to encompass and refer to the Association as so expanded; for example, "Common Elements" shall mean the Common Elements originally described herein together with any Common Elements added thereto by the addition of any Phase or the annexation of any Expansion Property.

17.10 Declarant's Right not to add a Phase or Expand Project. The Declarant shall have the absolute right not to add any Phase or annex all or any part of the Expansion Property and may record any documentation necessary to demonstrate conclusively such fact. The Declarant alone shall be liable for all expenses of the Expansion Property unless and until annexed hereunder and shall be entitled to any income and proceeds therefrom.

Any part of the Expansion Property, which has not been annexed to the Association as provided herein, shall not be subject in any way whatsoever to the covenants, terms, or provisions of this Declaration, except for any rights or assessments reserved herein for the benefit of such property. Unless and until annexation, any part of the Expansion Property may be conveyed by the Declarant free and clear of this Declaration, except to confer easements and rights reserved hereunder by Declarant, and any such conveyance shall terminate the application of this Declaration as to said part of the Expansion Property. Any development right of the Declarant may be exercised with respect to different portions of the Expansion Property at different times, and no assurance is made with regard to the boundaries of those portions or regulating the order in which those portions may be subjected to the exercise of any development right. If any development right is exercised in any portion of the Expansion Property subject to that right, that development right is not required to be exercised in all or any portion of the remainder of the Expansion Property.

## ARTICLE XVIII - GENERAL PROVISIONS

### 18.1 Amendment.

A. The covenants and restrictions of this Declaration and the separate Condominium estates created hereby shall run with and bind the land, until such time as this Declaration is terminated or revoked in the manner herein provided.

B. Except as is otherwise provided in Articles XV and XVI, this Declaration shall not be revoked or terminated unless all the Owners and all First Mortgagees consent and agree to such termination or revocation by an instrument duly recorded; such termination and revocation shall also comply with C.R.S. 38-33.3-218. This Declaration shall not be amended or modified unless the Owners having at least sixty-seven percent (67%) of the Proportionate Interests and the First Mortgagees of at least sixty-seven percent (67%) of the Condominium Units have agreed to such amendment, provided, however, (a) that any section in this Declaration which requires a particular percentage of Owners and/or Mortgagees may be amended only by written consent of that percentage of those parties, (b) that this section may be amended by an instrument signed by Owners of at least ninety percent (90%) of the Condominium Units, and one hundred percent (100%) of all First Mortgagees who have given the Association notice of their lien, (c) an Owner's Proportionate Interest in the Common Elements appurtenant to each Unit as set forth in **Exhibit B** thereto, shall have a permanent character and shall not be altered without the consent of all of the Owners and shall not be altered without the consent of all of the Owners and all of the First Mortgagees of Condominium Units, except as provided in Article XVII regarding the addition of Phases and the expansion of the Association, and (d) that the Declarant hereby reserves the right until the Period of Declarant Control is terminated, and subject to Article IX, Section 9.6, but without the vote of the Owners, to make such amendments to this Declaration, the Articles of Incorporation and/or the Bylaws, as may be permitted to the Declarant by this Declaration or by the Condo Act or CCIOA, or as may be necessary to correct typographical errors or ambiguities in said documents, and each Owner and Mortgagee by accepting a deed or other instrument to this Condominium Unit appoints Declarant as his attorney-in-fact for purposes of executing in said Owner's name and



recording any such amendments to this Declaration, and each deed, mortgage, trust deed, other evidence of obligation or other instrument affecting a Condominium Unit and the acceptance thereof shall be deemed to be a grant and acknowledgement of, and a consent to the reservation of the power to the Declarant to make, execute and record any such amendments.

C. The consent of any junior Mortgagee shall not be required under the provision of this Article. In determining whether the appropriate percentage of Mortgagee approval is obtained, each First Mortgagee shall have one (1) vote for each First Mortgage owned.

D. To be effective, all amendments to this Declaration must be recorded in the office of the Clerk and Recorder of the county in which the Property is located, and an amendment must be indexed in the grantee's index in the name of the common interest community and the Association and in the grantor's index in the name of each person executing the amendment. The amendment shall be prepared, executed, recorded, and certified on behalf of the Association by any officer of the Association designated for that purpose or, in the absence of designation, by the president of the Association. All expenses associated with preparing and recording an amendment to the Declaration shall be the sole responsibility of the party designated in C.R.S. 38-33.3-217(6).

18.2 Acceptance of Provision of all Documents/Waiver of Homestead. The conveyance, sale, transfer, lease, or encumbrance of a Condominium Unit shall be deemed to include the acceptance of all of the provisions of this Declaration, the Articles of Incorporation and Bylaws of the Association and the waiver of any homestead rights and any exemptions under any state or federal law and shall be binding upon each grantee and mortgagee without the necessity of inclusion of such an express provision in the instrument of conveyance or encumbrance.

18.3 Severability. The provisions of this Declaration shall be deemed to be independent and severable and if any of the provisions of this Declaration or any clause, paragraph, sentence, phrase or word, or the application thereof, in any circumstances be invalidated by judgment or court order, such invalidity shall not affect the validity of the remainder of the Declaration, which other provisions shall remain in full force and effect.

18.4 Conflict. In the event there should be any conflict between the provisions of this Declaration and the Articles of Incorporation of the Association and any Bylaws or rules or regulations of the Association, the provisions of this Declaration shall be deemed controlling. In case of conflict between the Articles of Incorporation and the Bylaws, the Articles of Incorporation shall control. The provision of this Declaration shall be in addition to and supplemental to the Condo Act, the CCIOA and to all other provisions of law.

18.5 Notice. Each Owner shall register his mailing address with the Association, and except for monthly statements and other routine notices of matters affecting the Property, which may be given to the Owners by the Association or other Owners by use of regular mail to the registered address, all other notices or demands intended to be served

upon an Owner shall be sent by either registered or certified mail, postage prepaid, addressed in the name of the Owner at such registered mailing address. All notices, demands or other notices the Association shall be sent by certified mail, postage prepaid, to the registered agent of the Association as his address filed with the Secretary of State of the State of Colorado, together with a copy addressed to the President of the Association at his registered address.

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

18.7 Captions. The captions to the Articles and Sections are inserted herein only as a matter of convenience and for references and are in no way to be construed to define, limit or otherwise describe the scope of the Declaration or the intent of any provisions hereof.

18.8 Successors and Assigns. This Declaration shall be binding upon and shall inure to the benefit of the Declarant, the Association and each Owner, and the heirs, personal representatives, successors and assigns of each of them. The Declarant may assign its rights and authority hereunder, in whole or in part, by express written assignment, duly recorded.

18.9 No Waiver. Failure to enforce any provisions of this Declaration shall not operate as a waiver of any such provision or of any other provision of this Declaration.

18.10 Governing Law. This Condominium Declaration shall be governed by, and construed in accordance with, the laws of the State of Colorado. Any dispute or litigation shall exclusively be venued in the District or County Court for El Paso County, Colorado.

18.11 Remedies Cumulative. The rights and remedies of the Association are distinct and cumulative to any other right or remedy hereunder or afforded by law or equity and may be exercised concurrently, independently, or successively without effect or impairment upon one another.

18.12 Implied Approval by Mortgagees. Notwithstanding any provision of this Declaration, or any matter requiring Mortgagee approval will be assumed when that Mortgagee fails to submit a response to any written proposal for an amendment within 30 days after it receives proper notice of the proposal, provided the notice was delivered by certified or registered mail with a "return receipt" requested. Any First Mortgagee shall be given notice of any proposed action requiring its consent, if the First Mortgagor has sent a written request to the Association, stating both its name and address and the Unit number or address of the Unit on which it has (or insures or guarantees) the Mortgage.

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**EXHIBIT A**  
**to**  
**Condominium Declaration**  
**for**  
**HIGH ALTITUDE AERO HANGAR CONDOMINIUMS, INC.**

Legal Description of Property

Lot 7, Block 1, Meadowlake Airport Filing No. 2,

County of El Paso,  
State of Colorado.

**EXHIBIT B**  
**to**  
**Condominium Declaration**  
**for**  
**HIGH ALTITUDE AERO HANGAR CONDOMINIUMS, INC.**

Owners' Proportionate Interests





**EXHIBIT C**  
**to**  
**Condominium Declaration**  
**for**  
**HIGH ALTITUDE AERO HANGAR CONDOMINIUMS, INC.**

Site Plan



