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El Paso County, CO

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**DECLARATION OF
COVENANTS, CONDITIONS AND EASEMENTS
FOR
MY GARAGE @ NORTHCREST CONDOMINIUMS OWNERS ASSOCIATION, INC.**

This Declaration of Covenants, Conditions and Easements for MY GARAGE @ NORTHCREST CONDOMINIUMS OWNERS ASSOCIATION, INC. (the "Declaration") is made effective as of May 1, 2026.

I. DECLARATION

1.1 K & S DEVELOPMENT, LLC, a Florida limited liability company (the "Declarant") is the owner of the real property described on **Exhibit "A"** attached hereto and incorporated herein by this reference (the "Property"). The Declarant has condominiumized the Property into Seventy-one (71) separate units (the "Units"), which are shown on the condominium map of My Garage @ Northcrest, recorded in the real property records of El Paso County on May 1, 2026, at Reception No. 226601067 (the "Condominium Map").

1.2 The Declarant hereby declares that all of the Property, together with all appurtenances, facilities and Improvements thereon, shall be held, sold, used, improved, owned, hypothecated, encumbered, liened, and conveyed subject to the easements, reservations, uses, limitations, obligations, restrictions, covenants, provisions and conditions contained in this Declaration, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the Property and all of which shall run with the land and be binding on and inure to the benefit of all parties having any right, title or interest in the Property or any part thereof, or using any part of the Property, their heirs, successors, and assigns.

1.3 This Declaration applies to all of the Property and to any individual or entity having any interest in the Property after the date of this Declaration. The Property and the Association shall be exempt from the Colorado Common Interest Ownership Act (CRS, §38.33.3.101, et sq.) because all Property shall be restricted to commercial, rather than residential uses.

II. NATURE OF OWNERSHIP

2.1 Division of Property into Condominium Units. The Property is hereby divided into the separate Condominium Units as shown on the Map, 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. Ownership of the Common Elements is shown on Exhibit B as Owner's Proportionate Interest.

2.2 Inseparability of a Condominium Unit. Each Unit, together with the undivided proportionate Interest in the General Common Elements and the 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 Unit.

2.3 Non-partitionability 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 or the Association shall bring any 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 Property, and each Owner hereby expressly waives any and all such rights of partition he may have by virtue of his/her ownership of a Unit; provided however, the Owners may subsequently agree by recorded document to partition the Common Elements into separate lots and terminate the Condominium Project, subject to the requirements of this Declaration and any applicable law or statute. Nothing contained herein shall be construed as a limitation of the right of legal partition of a Unit between the Owners thereof, but such legal partition shall not affect any other Unit, nor shall any such partition sever any part thereof from such Unit as a whole.

2.4 Separate Taxation. All taxes, assessments and other charges of the State of Colorado or of any political subdivision or of any special improvement district or of any other taxing or assessing authority shall be assessed against and collected on each Unit separately and not on the Property as a whole, and each 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 Units in proportion to the fractional undivided Proportionate Interests in Common Elements appurtenant to and part of the Units. The Association or the Declarant shall deliver to the County Assessor of the County of El Paso, Colorado, any written notice required by applicable law, setting forth descriptions of the Units and shall furnish all necessary information with respect to such apportionment of valuation of Common Elements for assessment. The lien for taxes assessed to any Unit shall be confined to that Unit. No forfeiture or sale of any Unit for delinquent taxes, assessments or other governmental charges shall divest or in any way affect the title to any other Unit. 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 his/her Proportionate Interest thereof in accordance with his/her ownership interest in the General Common Elements, and, in said 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.

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

2.6 Use of Common Elements. Subject to the restrictions contained in this Declaration and in the Rules, and without hindering or interfering with the lawful rights of other Owners, each Owner, Guests, and tenants shall have the non-exclusive right to use and enjoy the General Common Elements for the purpose for which they are intended and shall have the exclusive right to use and enjoy the Limited Common Elements appurtenant to that Condominium Unit. Subject to the provisions of this Declaration, no use by any person, nor any alteration, of the Property, or any right or interest therein or appurtenant thereto shall be made which shall interfere with the use of the Common Elements within the Property for the purposes for which they were intended as provided in this Declaration or impede the free flow of vehicular or pedestrian traffic thereon. There shall be no fence, barricade, structure, building, merchandise, or other obstruction of any kind whatsoever placed, kept, permitted, or maintained on the Common Elements unless the same is authorized by the Board or by this Declaration or is temporary for maintenance or repairs and used in such manner as to minimize the disturbance to and interruption of pedestrian and vehicular traffic so as not to unreasonably impair or interfere with the use of the Common Elements or the use of any Unit.

2.7 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 General Common Elements existing at the recording of this Declaration; 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 therefor, separate and apart from the assessments hereunder.

III. DEFINITIONS

As used in this Declaration, the following terms shall have the following meanings:

3.1 “Association” shall mean the MY GARAGE @ NORTHCREST CONDOMINIUMS OWNERS ASSOCIATION, INC., a Colorado non-profit corporation, its successors and assigns. Except as specified herein, the Association shall act by and through its Board of Directors.

3.2 “Board” shall mean the Board of Directors of the Association. Except as specified herein, or in the Association’s Articles of Incorporation or Bylaws, the Board may act on behalf of the Association without any vote or consent of the Members.

3.3 “Committee” shall mean the Architectural Review Committee described in Article V.

3.4 “Common Elements” means and includes all of the Property and all of the improvements thereto and thereon located, excluding all Units as the same are herein defined. Common Elements shall consist of the General Common Elements and the Limited Common Elements, which are defined as:

A. “General Common Elements” means those portions of the Common Elements which are for the common use of all the Owners, subject to the provisions hereof, and includes by way of illustration and not limitation any of the following to the extent located within the Project: the real Property described on Exhibit A, excepting the Units, but including all of the landscaping, driveway, certain parking spaces and easement as designated on the Condominium Map, all foundations, columns, girders, beams, and supports of the buildings located upon the Property, the exterior walls of such buildings, the main bearing or utility walls within such buildings, the main or bearing sub-flooring and the roofs of such buildings, common utility lines, common sidewalks, drive aisles, streets, common signs, common trash receptacles, common mailboxes, and in general all property, apparatus and installations existing for common use or normally in common use including, without limitation, the air space above the Property which is not within the respective Condominium Units, and the leasehold interest in the real property subject to the terms and conditions contained in the Ground Lease. General Common Elements shall include all tangible physical properties of this Project, except Limited Common Elements and the Units. No part of the General Common Elements may be conveyed to any person or entity except as specifically provided in this Declaration except that the Association may lease certain areas designated as General Common Elements as provided for herein

B. “Limited Common Elements” shall mean any 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 fewer than all, of the Owners, which may include by way of illustration designated on the Condominium Map or supplement thereto as being Limited Common Elements.

3.5 “Common Expenses” means and includes (i) expenses of administration, maintenance, repair or replacement of the General Common Elements; (ii) expenses declared common expenses by the Association or otherwise identified as such in this Declaration; (iii) all sums lawfully assessed against the Units by the Board of the Association; (iv) expenses agreed upon as common expenses by the Owners; and

(v) expenses described in Section 11.1 hereof.

3.6 “Damage” shall mean any loss, damage, or expense caused by the negligent or wrongful acts or omissions of the Owners, their contractors, invitees, and customers in connection with the usage of the easements described in this Declaration.

3.7 “Declarant” shall mean K & S DEVELOPMENT, LLC, a Florida limited liability company, its successors and any person or entity to which it expressly assigns all or part of its rights hereunder, but such assignment shall only be effective upon the recordation of the assignment in the real property records of El Paso County, Colorado.

3.8 “Guests” shall mean and include customers, visitors, contractors, invitees, agents and assigns of an Owner.

3.9 “Improvements” shall mean any object, thing, or item of any kind installed, located or occurring on the Units which changes the external appearance or functionality of any portion of the Units, or any structure of any type or kind or thing affixed to the Property, from its external appearance as it existed immediately prior to the installation, location or occurrence of the object, thing or activity. Improvements include, but are not limited to, all truck loading equipment or fixtures, garage doors or other roll-up siding/doors, fences, poles, walls, utility lines, lighting, excavations, drainage facilities, repairs, alterations, painting and all other things or objects of any type or kind installed or constructed on the Property.

3.10 “Map” or “Condominium Map” shall mean the recorded engineering drawings and survey containing the information concerning the Property. Either term shall include the Map and the originals and all supplemental maps, if any, as further identified in Section 1.1 of this Declaration.

3.11 “Member” shall mean and refer to the person or entity who/which owns fee title to a Unit and holds membership in the Association.

3.12 “Mortgagee” shall mean any person or other entity or any successor to the interest of such person or entity named as the mortgagee, trust beneficiary, or creditor under any recorded mortgage, deed of trust, or other security instrument by which a Unit or any interest therein is encumbered. First Mortgagee shall mean the holder of a First Mortgage.

3.13 “Mortgage” as used herein shall include deeds of trust and trust deeds. “First Mortgage” shall mean and include a mortgage having priority of record over all other recorded encumbrances and liens except those governmental liens made superior by statute (such as ad valorem tax liens and special assessments).

3.14 “Owner” shall mean the party or parties owning record fee simple title to a Unit, including Declarant.; provided, however, that an Owner may, upon written notice to Declarant, or Board of Directors of the Association after the Period of Declarant Control, assign all or part of its rights but not its duties hereunder to Owner’s tenant. The term “Owner” shall include any grantee, transferee, heir, successor, personal representative, executor, administrator, devisee, and assign of any Owner, but shall not refer to any Mortgagee as herein defined, or other person or entity having an ownership interest in any Unit merely as security for the performance of an obligation, unless such Mortgagee has acquired titled pursuant to

foreclosure or any proceeding in lieu of foreclosure. This term shall have the same meaning as “unit owner” under the CCIOA.

3.15 “Period of Declarant Control” shall mean a period of ten (10) years from the recording of this Declaration or upon Declarant’s sale of the last Unit within the Property, whichever occurs earlier. The Declarant may terminate this period at an earlier date by a written, recorded document containing such reservation of rights to Declarant as Declarant may elect. Any reference in this Declaration to the “Association” shall be a reference to the Declarant, if applicable, during the Period of Declarant Control.

3.16 “Property” shall mean the real property described in Exhibit “A” attached hereto and incorporated herein by this reference.

3.17 “Proportionate Interest” shall mean the percentage interest of a Unit relative to the total number of Units within the Property, as allocated on a direct pro-rata basis. Proportionate Interest shall be used to determine voting rights, assessments, and other purposes and are as shown on Exhibit “B” attached hereto and incorporated herein by this reference.

3.18 “Project” or “Condominium Project” shall mean the Property and other improvements located thereon, and all rights, easements, and appurtenances belonging thereto, and all of the undivided fee simple interest in the Property.

3.19 “Rules” shall mean and refer to any rules, regulations, standards, guidelines, resolutions of the Board or similar decisions of the Board, whether or not designated as rules and regulations.

3.20 “Unit” shall mean the Unit as shown on the Map and the individual air space to the interior surfaces of the Unit to be used for commercial purposes and having access to a public street and bounded by the interior surfaces of the perimeter floors, walls and any other perimeter surfaces, and also bounded by the exterior surfaces of window and doors. The full thickness of drywall on the perimeter walls shall be considered an interior surface. The term shall include all floors, fixtures, built-in cabinets, built-in appliances, and improvements which are contained within a Unit and which comprise part of the Property, together with all interior walls, utilities, and equipment within the Unit and any other Common Element or part thereof located within the Unit, except as otherwise provided in this Declaration. The boundaries of the Units shall be shown on the recorded Map which is incorporated herein by this reference.

3.21 “Unit Assessment” shall mean an assessment against a particular Owner and his/her/its Unit.

IV. USE OF PROPERTY

4.1 Permitted Uses. The Property may be used for general storage use. Notwithstanding the above, all uses of the Property must comply with all applicable building, zoning and other governmental requirements, including without limitation those contained in the Plat, and are expressly subject to the prohibitions contained in Section 4.2 of this Declaration. All permitted uses of the Property shall also be subject to any requirements of the City, which may limit on-unit lighting, signage, landscaping and parking requirements and restrictions.

4.2 Prohibited Uses. Notwithstanding any other provision of this Declaration or any provision of any applicable zoning ordinance, the following uses shall not be permitted on any portion of the Property:

- (a) residential use, including but not limited to, any attempt to stay overnight on the

- Property, or any persons residing in any improvement or recreational vehicle;
- (b) retail use
 - (c) on-site point of sale or service for any commercial business
 - (d) pet boarding or storage facilities;
 - (e) In addition, no immoral, improper, offensive, or unlawful use shall be made of any part of the Property. All valid laws, zoning ordinances, and regulations of all governmental bodies having jurisdiction over the Property shall be observed. Any violation of such laws, zoning ordinances or regulations shall be a violation of this Declaration.

The Property, all Units and Improvements thereon shall be restricted to nonresidential use, and Article 33.3 of Title 38 of Colorado Revised Statutes shall not be applicable to the Property, the Association or this Declaration.

4.3 Underground Utilities. All telephone and power lines and lines for transmission of electronic signals installed upon the Property after the date of this Declaration shall be underground, except for power substations and switching stations which shall be adequately screened from view, and except for customary surface devices for access or control.

4.4 Antennas. No antenna, satellite dish or other device for the transmission or reception of television signals, radio signals or any other form of electromagnetic radiation which is visible from the exterior of any Unit Improvement shall be erected, used or maintained on any Unit except with the prior written approval of the Association.

4.5 Exterior Illumination. All roadways, sidewalks and parking areas shall have illumination and shall be lighted from dusk to at least 10:00 p.m. each day. All exterior lights for roadways, sidewalks and parking areas shall be "cut off fixtures" or otherwise designed to direct light down and not toward adjacent property. No poles or fixtures shall be installed until approved by the Association. All poles and lighting must comply with the Design Guidelines.

4.6 Animals. No animals, birds, fowl, poultry, or livestock of any type or nature shall be maintained in or on any Unit or Improvements thereon or the Common Elements except for: (i) an assistance animal under the direct control of any disabled person.

4.7 Diseases and Insects. No Owner shall permit any thing or condition to exist upon the Property which could induce, breed or harbor infectious disease or noxious insects.

4.8 Parking. No parking shall be permitted on the Property other than within a designated parking space. **All vehicles must fit within the painted lines of the parking stall when parked.** All parking for each Unit must meet the requirements of the City of Colorado Springs. All parking designs and improvements must be approved by the Association. Recreational vehicles, campers, trailers, large commercial trucks, vans or vehicles shall not be parked on the Property (unless parking fully enclosed within a Unit), except that commercial trucks and vans may temporarily stop for loading and unloading or repair and maintenance of the Property and Units. The Association may adopt additional parking rules governing the parking spaces and the use of the Drive Aisles, as defined in Article 6.

4.9 Storage and Loading Areas. Unless approved in writing by the Association, no materials,

supplies or equipment, including trucks or other motor vehicles, shall be stored upon any portion of the Property, except inside a Unit. Specifically, no outdoor or open storage shall be permitted on any Unit. Any such approved on-site storage shall, at all times, comply with Section 311- Storage Group S-2 of the Pikes Peak Regional Building Department code for basic occupancy classification- 2015 IBC. Storage of material not included in section 311.3 Low-Hazard storage, group S-2 will not be permitted.

4.10 Towing of Vehicles. The Declarant or the Association shall have the right to have any motor vehicle or equipment parked, kept, maintained, constructed, reconstructed or repaired on the Common Elements in violation of the Documents towed away at the sole cost and expense of the owner of the vehicle or equipment. Any expense incurred by the Association in connection with the towing of any vehicle or equipment shall be paid to the Association upon demand by the owner of the vehicle or equipment. Owner shall be responsible for vehicles not parked in accordance with the parking Rules if the vehicle belongs to a visitor, invitee, tenant, guest, employee, contractor or workman of the Owner or tenant. If the owner of the vehicle does not pay the Association for such towing within 30 days of written demand, at the discretion of the Association, the cost of the towing shall be paid by the Owner being visited by the vehicle. If the vehicle or equipment is owned by an Owner, or if the towing amount is owed by an Owner, any amounts payable to the Association shall be secured by the Assessment Lien and the Association may enforce collection of such amounts in the same manner as provided for in this Declaration for the collection of Enforcement Assessments.

4.11 Signs. The design, height, width, appearance, construction material, and locations of all signs (including signage on any building or building wall and any monument signs on a Unit) are subject to the sign ordinance of the City of Colorado Springs and the approval of the Association. One common free-standing association sign may be constructed and owned by the Association. The cost of construction and maintenance of said common sign shall be a common expense of the Association. This common sign will be located adjacent to an entrance to the Property.

4.12 Nuisances and Noxious Odors. No exterior speakers, horns, whistles, bells or other sound devices, except security or other emergency devices used exclusively for security or emergency purposes, shall be located, used or placed on the Property. No noxious or offensive odors are allowed to emanate from any Unit; provided, however, that a restaurant's normal cooking odors shall not be deemed noxious or offensive.

4.13 Rubbish and Debris. No rubbish or debris of any kind (including weeds, brush, or material of any nature reasonably deemed to be rubbish or debris by the Association) shall be placed or permitted to accumulate upon any Unit, and no odors shall be permitted to arise therefrom so as to render any portion of the Unit unsanitary, unsightly, offensive, or detrimental to any other property or to its occupants. The Association shall reasonably determine what constitutes rubbish, debris, or odors and what conditions render any portion of the Unit to be unsanitary, unsightly, offensive, or detrimental to any other property or to its occupants based upon reasonable community standards. Notwithstanding the foregoing, this paragraph shall not be construed to prevent the normal construction of Improvements upon any Unit.

4.14 Roofs. No Owner or tenant may place or install any mechanical equipment on the roof or make any intrusion or penetration of the roof, without the prior written authorization of the Association, which may be withheld in its sole discretion. All approved mechanical equipment placed on the roof, such as vents, air conditioning equipment, and the like shall be screened from public view by screens approved by the Association. The Association shall determine the height and materials of all screens.

4.15 Leasing. All leases of a Unit shall: (i) be in writing; (ii) provide that the terms of the lease shall be subject in all respects to the provisions of this Declaration and any failure by the Lessee and Lessee to comply with the terms of this Declaration shall be a default under the lease. The Owner must also provide the following information if such information is not readily ascertainable from the lease provided to the Association: (i) the commencement date and termination date of the lease and the names of each Lessee or other Person who will be using the Unit during the term of the lease; (ii) the contact address and telephone number of the Owner while the Lease is in effect. Any Owner who leases its Unit must provide the Lessee with copies of this Declaration and any Rules. The Owner shall be liable for any violation of this Declaration or the Rules caused by the Lessee and its Guests and, upon demand of the Association, shall immediately take all necessary actions to correct any such violations. Among other remedies, the Association may fine any Owner who leases its building without complying with the provisions of this Section 4.15.

4.16 Variances. The Board of Directors of the Association may authorize a variance from compliance with any of the provisions of the rules and regulations adopted as authorized by this Declaration, when circumstances such as hardship, or environmental considerations may require, in its sole discretion. Such variances must be evidenced in writing and must be approved in advance in writing by the majority of the Board. If such variance is granted, no violation of the rules and regulations shall be deemed to have occurred with respect to the specific matter for which the variance was granted. The granting of such a variance shall not operate to waive any of the terms and provisions of the rules and regulations for any purpose except as to the particular provision covered by the variance, and only for so long as the special circumstances warranting the variance exist, nor shall it affect in any way any Owner's obligation to comply with all governmental laws and regulations affecting the use of its Unit. The Board shall have the right to condition the granting of a variance as it may determine in the Board's sole discretion. Moreover, because of the unique facts and circumstances surrounding each variance request, the granting of a variance in one instance or under certain terms and conditions does not mandate the granting of variance under similar or related circumstances, terms or conditions.

4.17 Temporary Structures. No tent, shack, or other temporary building, Improvement or structure shall be placed upon any Unit or the Common Elements, without the prior written authorization of the Association.

V. ARCHITECTURAL CONTROL

5.1 Review by Committee. After the purchase of a Unit, no Improvement shall be constructed or maintained within or to any Unit; no alterations, no interior construction to any Unit shall be made unless the following, if applicable, shall have been submitted to and approved by the Association: complete plans, specifications, and Unit plans therefor, showing the construction design and building materials shall have been submitted to and approved in writing by the Association, and a copy of such plans and specifications as finally approved shall be deposited with the Association. All interior construction shall comply with all applicable building and fire codes and governmental regulations; and to the extent applicable, all required governmental permits shall be obtained, the Owner's or tenant's insurance policy and the insurance policies of all contractors shall list the Association as an additional named insured, and all construction shall be done by licensed contractors. References to the Declaration in this Article V shall refer to the Committee if, the Declarant has assigned its rights and powers to the Committee as provided herein, if so assigned, the Committee shall be appointed by the Board of the Association pursuant to its Bylaws.

5.2 Adoption of Rules. The Association or Committee may adopt such procedural and

substantive rules, not in conflict with this Declaration, as it may deem necessary or proper for the performance of its duties, including but not limited to a building code, a fire code, a housing code, and other similar codes as it may deem necessary and desirable.

5.3 Preliminary Documents. No subdivision plat or replat of all or any portion of the Property may be submitted to governmental authorities or placed of record unless such plat has been approved in writing by the Association prior to such submission or recording and satisfies the requirements contained in this Declaration. No request for a rezoning or a zoning variance or waiver and no development plan or concept plan (as those terms are defined in the zoning ordinances of the City of Colorado Springs) may be submitted to governmental authorities for approval without the prior written approval of the Declarant.

5.4 Construction Documents. Before any building permit is obtained or any work is commenced on any Improvement (as defined below) of or in any Unit, there shall be delivered to the Association final plans and specifications for the Improvement, which must be approved by the Association prior to issuance of a building permit and commencement of construction on the Improvement. Construction schedules shall also be delivered to the Declarant for informational purposes prior to commencement of construction on an Improvement. All Improvements shall be constructed substantially in accordance with plans and specifications previously approved by the Association pursuant to this Declaration, and in compliance with all applicable government regulations and applicable building and fire codes.

5.5 Common Use Documents. All documents either establishing condominiums or other forms of common use or ownership, or regulating use or maintenance of any portions of the Property, shall be submitted to and approved in writing by the Association prior to their being recorded, and prior to the sale, transfer, conveyance or construction of, any Improvement on the Property to any party. The Association's review of these documents is for the limited purpose of ensuring that adequate provisions are made for first-class maintenance of the Property and all Units of the Property and all Improvements thereon, for control and approval of any exterior changes or modifications to Improvements, for establishment of enforceable covenants that prescribe standards for use of the Property and all improvements thereon, including, but not limited to the use of parking areas and landscaping areas, and for adequate assessment procedures to fund the implementation of the documents, including the reimbursement of charges assessable against the Units pursuant to this Declaration. This Section 5.5 does not apply to leases, which shall not be submitted to or reviewed by the Declarant or Association.

5.6 Changes. No substantial change in any Condominium Map, plat, development plan, plans and specifications or any document required to be approved by the Association in Sections 5.1, 5.3, 5.4, and 5.5 above shall be made unless the same shall be submitted to and approved by the Association. **Any uses other than garage storage will require a new site development plan for that unit.**

5.7 Design Guidelines and Approval Procedures. This Declaration requires owners of the Units to obtain the Association's approval of various plats, plans, information, documents, writings and materials delivered to the Declarant pursuant to this Article V. The Association's approval shall not be unreasonably withheld. The Unit must be improved with architecturally integrated and high-quality Improvements consistent with the aesthetic and functional standards of the Association and in accordance with the requirements contained in Design Guidelines and Building and Architectural Guidelines adopted by the Association. Accordingly, all Improvements must be consistent with the Design Guidelines for the Association (the "Design Guidelines") promulgated by the Association, as they are initially adopted by the Association and as they may be amended from time to time. The Design Guidelines, as they may exist on

the date of this Declaration, shall apply to the Unit, and the procedure for approval shall be as set forth in the Design Guidelines. The Design Guidelines shall not be amended hereafter with respect to the Units without the express written consent of the Declarant during the Period of Declarant Control. Requests for approval shall be submitted to the Association's principal place of business in Colorado Springs, Colorado. The Association shall designate a person for plan approvals at its principal place of business.

5.8 Review Period. All determinations by the Committee under this Article V must be made within twenty (20) business days of the receipt of any request for approval.

VI. COMMON ELEMENTS AND EASEMENTS

6.1 Description of General Common Elements. In addition to the description set forth in Section 3.4(A) above, the components of the General Common Elements shall consist of the following:

(a) Drive Aisles. The portions of the private roadways and drive aisles as shown on the Plat (the "Drive Aisles"). The Association shall be solely responsible to repair, maintain, and replace the Drive Aisles, including snow removal, seal coating and resurfacing; and further provided that if the damage necessitating the repair and maintenance is caused by an Owner or a tenant, in which case the Owner or tenant shall be responsible for such repair, maintenance and/or replacement the Drive Aisles. To the extent not repaired or maintained by the public utility, the utilities (water and sewer) shall be repaired and maintained by the Association. Any street lighting in the Drive Aisles Area as shown on the Plat shall be installed by the Declarant at its expense, but shall thereafter be maintained, repaired and replaced either by the Association or by a public utility. The Association's maintenance of the Drive Aisles shall include snow removal, periodic seal coating and other general maintenance and repair services determined to be appropriate by the Association from time to time.

(b) Landscaping. "Landscaping" shall refer to the landscaping located within the Property, including without limitation, any retaining walls, sprinkler system, perimeter sidewalks and landscape related Improvements, as may be identified on the Plat. The Association shall provide customary operation, maintenance and repair of the Landscaping, as determined by the Association's Board in its discretion, including snow removal from the sidewalks, the watering, fertilization, and mowing of the Landscaping and the minor repairs to the sprinkler system (if any).

(c) Security Systems. "Security Systems" shall refer to all perimeter fencing and security cameras in and around the Property, and the controlled access security gates and associated keypad entries located at the entrances to the Property. The Association shall provide customary operation, maintenance and repair of the Security Systems, as determined by the Association's Board in its discretion.

(d) Mechanical Spaces. "Mechanical Spaces" shall refer to the fire riser rooms and information technology rooms located in each Building on the Property, and the vehicle wash station and RV dump station located on the Property adjacent to Canada Drive. The Association shall provide customary operation, maintenance and repair of the Mechanical Spaces, as determined by the Association's Board in its discretion.

(e) Common Bathrooms. "Common Bathrooms" shall refer to the bathroom located in each Building on the Property. The Association shall provide customary operation, maintenance and repair of the Common Bathrooms, as determined by the Association's Board in its discretion.

(f) Mailboxes. "Mailboxes" shall refer to the mailboxes located on the southeast corner of Building B as further identified on the Condominium Map.

(g) Easements.

(i) Grant of Reciprocal Easements. Subject to any express conditions, limitations or reservations contained herein, the Owners and Declarant hereby grant, establish, covenant and agree that the Property and all Owners and Guests shall be benefited and burdened by the following nonexclusive, perpetual, and reciprocal easements which are hereby imposed upon the Property, and all present and future Owners and Guests of the Units:

(A) Access Easements. An easement for reasonable access, ingress and egress over the Drive Aisles, all paved driveways, roadways, and parking spaces, sidewalks, and walkways as presently or hereafter constructed and constituting a part of the Drive Aisles, so as to provide for the passage of motor vehicles, bicycles, and pedestrians between the Units to and from public streets and furnishing access to such Units as shown on the Plat. The easements created in this subsection 6.2 (d) (i) (A) are not easements for parking, except only parking spaces specifically identified on the Plat.

(B) Association Easement. The Association is hereby granted easements over, across and through the Property to maintain, repair and replace the Common Elements and the Improvements located therein and to provide services to the Owners approved by the Board of the Association.

(C) Drainage Easements. An easement for drainage of the Property as determined by the Association.

(D) Free Standing Signs. An easement for the construction of maintenance of one or more free standing signs placed on the Property as determined by the Association.

The easements described in this Section 6.2 shall be for the private use of the parties described herein and shall not be dedicated or granted to the public or for public purposes hereby.

6.2 Owners' Common Elements Easement of Enjoyment. Subject to the limitations and restrictions of this Declaration, every Owner shall have an equal, nonexclusive right and easement of enjoyment in and to the General Common Elements, and such easement shall be appurtenant to and shall pass automatically with the title to every Unit without the necessity of additional reference. This General Common Elements easement is for the enjoyment of Owners, and their Guests. Each Owner and his/her/its Guests will use the General Common Elements at their own risk and liability, and specifically hold harmless Owners and the Association for any claims or liability arising from such use, provided, however, such claims or liability may be covered by that Owner's own insurance.

6.3 Extent of Owners' General Common Elements Easement. The rights and easements of enjoyment created hereby in the General Common Elements shall be subject to the following:

(a) The right of the Association to enforce the restrictions contained in this Declaration and to promulgate and publish rules and regulations with which every Owner and its Guests shall comply;

(b) The right of the Association, as provided in its Articles or Bylaws, to suspend an

Owner's voting rights and the right to the use of the General Common Elements for any period, during which such Owner is in default under the Association's rules or regulations or this Declaration, including without limitation, the non-payment of any sums or assessment levied by the Association;

(c) The right of the Association to close or limit the use of the General Common Elements while maintaining, repairing and making replacements in the General Common Elements, but in no event will access to any Unit be completely closed, other than in the event of an emergency;

(d) The right of the Association to take such steps as are reasonably necessary to protect the General Common Elements against foreclosure; and

(e) The right of the Association or the Declarant to construct Improvements on the General Common Elements, and notwithstanding any provision of this Declaration to the contrary, Declarant reserves the right to create, grant and transfer non-exclusive easements in, under, over, across, through, and upon the General Common Elements for the purpose of installing, maintaining, repairing and replacing any utilities or related services to service the Property (and not any third party) so long as the central purpose of that portion of the General Common Elements is not impaired, hampered or diminished in any manner, including but not limited to any gas, electric, water or sewer line, wells, mains or laterals, any telephone and telecommunications lines, any heating or cooling installations, any drainage or retention areas, or for other public purposes consistent with the intended use of the Property under this Declaration. The foregoing easements shall include, without limitation, the right of ingress and egress, the right to erect and maintain the necessary pipes, wires, poles and other equipment and the right to enter into agreements relating to such utility service and easements; all of which shall be binding upon the Association and the Owners. Should any person or party furnishing a service covered by the general easement herein provided request a specific easement by separate recordable document, Declarant shall have the right to grant such easement on the General Common Elements without conflicting with the terms hereof. The foregoing easements shall be in addition to any other recorded easements on the General Common Elements, including, but not limited to, any easements granted in the recorded Plat. The rights reserved herein for Declarant shall pass to the Association when the Declarant no longer owns any Unit or real property in the Property, and any and all of the covenants, terms, provisions, rights and duties arising from such easements granted by the Declarant and any related agreements shall thereupon pass to the Association and be assumed by it in place of the Declarant.

6.4 Delegation of Use. Any Owner may delegate, in accordance with the Bylaws, its right of enjoyment to the Common Elements and facilities to its Guests, but each Owner shall, to the maximum extent permitted by law, be liable for any Damage done to the Common Elements by its Guests or contract purchasers and for any breach of the Association's rules and regulations by such persons.

6.5 Non-Dedication of Common Elements. Declarant, in recording this Declaration, has designated certain areas of land and improvements as Common Elements intended for the common use and enjoyment of Owners for access, utilities and other related activities. Nothing contained in this Declaration shall be deemed to dedicate the Common Elements for use by the general public.

6.6 Association Maintenance. Subject to the determination of the Association's Board of Directors, in its sole discretion, the Association shall provide such repair, replacement, improvement and maintenance as provided in Articles VI and VII of this Declaration. Notwithstanding any provision of, this Declaration, any damage to the Drive Aisles, the Landscaping, Security Systems, Mechanical Spaces,

and/or Common Bathrooms or other portions of the Common Elements shall be the liability of, the person or party causing such Damage and any Owner or the Association may seek legal or equitable remedies against such person or party.

6.7 Utilities. The Declarant hereby grants to the Association a perpetual, non-exclusive easement over, across, under and through the Common Elements for the installation of common utilities. In addition, the Declarant hereby grants a perpetual non-exclusive easement to each Owner for the installation of utilities from the Common Elements onto that Owner's Unit in such locations as may be designated by the Plat or as may be designated by the Declarant or the Association in a document recorded at this time or subsequently.

VII. MAINTENANCE OF IMPROVEMENTS

7.1 Association Obligation to Maintain. The Association shall be responsible for the repair, maintenance, restoration, and replacement of the following:

(a) Common Elements. The General Common Elements, including without limitation, all Improvements thereon such as the Drive Aisles, Landscaping, Security Systems, Mechanical Spaces, and Common Bathrooms shall be maintained by the Association. The Association's responsibility shall include snow removal, repair of asphalt and paving seal coating the Drive Aisles, the maintenance of the Landscaping including without limitation irrigation and mowing, the maintenance, repair, and restoration of private utility lines and lighting in the Drive Aisles, the servicing and preservation of the operationality of the Security Systems, Mechanical Spaces, and Common Bathrooms. Sidewalks located in the General Common Elements shall be repaired, maintained, and restored by the Association as a common expense. The Association shall be responsible for obtaining and maintaining water, wastewater, garbage, and landscaping utilities services for the General Common Elements, the cost of which shall be included as part of the Assessments due hereunder.

(b) Utilities. Any and all main utility lines serving more than one Unit, whether or not located in the General Common Elements, and the common expense thereof, shall be the Association's responsibility if not maintained by the public utilities. Branch utility lines that serve only one Unit shall be the responsibility of the Owner of the Unit. In the future, the Association reserves the right to meter and separately charge Unit Owners for Utilities that are paid for by the Association.

7.2 Owner Maintenance. Except as provided in Section 7.1, all other maintenance, repair, replacement, and restoration within a Unit shall be at the expense of the Owner of the Unit. The Owner shall cause such work to be done in a prompt, professional, workmanlike manner to keep the Improvements in a first-class condition, including any painting as required by the Association's Board of Directors. Each Owner shall keep that Owner's Unit free of trash and debris at all times. All lighting on the Unit shall be the responsibility of the Owner, provided, however, all lighting on the Unit shall be subject to review and approval pursuant to Section 5.1. All lighting, Improvements, repairs, and maintenance shall also comply with all governmental requirements. At all times, but particularly during any construction activity, the Owner of a Unit shall control and prevent all fugitive dust in accordance with applicable governmental requirements and shall keep the adjacent Drive Aisles free of obstruction and accumulations of dirt and debris originating from the Unit. Each Owner shall keep the Limited Common Elements appurtenant to its Unit, if any, in a clean, sanitary and attractive condition and in a good state of repair, maintain and appearance as determined by the Board in its reasonable discretion.

7.3 Intentionally Reserved.

7.4 Declarant's Right to Maintain. If the Association, in good faith, reasonably determines any portion of the Unit or the Improvements located thereon is not being maintained in the manner specified in Section 7.2 above, the Association shall give the Owner thereof, and the person occupying the portion of the Property involved, a written notice specifying the maintenance which the Association determines is required under this Declaration. If the maintenance specified in such notice is not satisfactorily performed within thirty (30) days after delivery of such notice, or within, such shorter time in the event of an emergency, the Association shall thereafter have the right, but not the obligation, to perform such maintenance and shall have the right to enter any of the Property and perform any acts reasonably necessary to complete such maintenance. The Association shall not be liable for any losses, costs or, damages to any tenant or Owner of the Unit on account of its performance of such maintenance, except for any such loss, cost or damage caused by the Association's gross negligence or willful misconduct. The Association may delegate its maintenance rights hereunder to its agents and independent contractors.

7.5 Reimbursement and Lien. In the event the Association, or its designee, elects to perform maintenance pursuant to section 7.4 above, the Association, or its designee, will submit to Owner of the Unit upon which or for whose benefit such maintenance was performed, a written statement of the costs incurred in performing the maintenance. Those costs shall be paid to the Association, or its designee, within thirty (30) days after receipt of such notice. If such costs have not been paid after expiration of this thirty (30) day period, the Association, or its designee, may thereafter record a lien against the Unit for all costs (including reasonable attorneys' fees) incurred in performing the maintenance and in collecting such costs and foreclosing upon the lien, which lien shall be junior to all other liens or encumbrances or record with respect to the Unit on the date this lien is recorded. This lien may thereafter be foreclosed upon in the manner provided by Colorado law for foreclosing upon real estate mortgages. This lien shall provide that all sums expended by the Association, or its designee, in foreclosing the lien and collecting the amounts due (including reasonable attorneys' fees) shall be additional indebtedness secured by the lien.

VIII. MEMBERSHIP

8.1 Membership. Every Owner of a Unit shall automatically be a Member of the Association upon acquiring ownership of a Unit, and shall remain a Member until such time as his/her/its ownership of his/her/its Unit ceases. Membership shall be appurtenant to and may not be separated from ownership of any Unit provided, however, an Owner may, upon notice to the Declarant, or Board of Directors of the Association after the Period of Declarant Control, assign part of its rights, but not its voting right and not its duties, hereunder to Owner's tenant. Ownership of such Unit shall be the sole qualification for membership.

8.2 Voting and Member Rights. As more fully provided in the Bylaws, each Unit shall have one class of voting rights based upon the Proportionate Interest applicable to that Unit, as further described in Section 3.17 of this Declaration, assigned by the Declarant to each Unit. The Owners shall elect all the members of the Board, following the termination of declarant Control as set forth in Section 8.3 below, provided however, the Declarant reserves the right to appoint the Board of Directors during the Period of Declarant Control. 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 votes allocated to the Unit. Alternatively, if more than one person holds an interest in a Unit, they may appoint one of their co-Owners as proxy to cast the vote for that Unit. The vote for such a Unit shall be cast as the Owners holding a majority interest in the Unit agree, but in no event shall they cast more than the voting rights allocated that unit on any one question. It such Owners of such

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.

8.3 Declarant Rights. During the Period of Declarant Control, the Declarant hereby reserves and shall have the following rights, which may be exercised without approval of any Owner, Mortgagee, or the Association:

(a) The right to amend or modify the Condominium Map or other plats or plans with respect to those portions of the Property which are owned by Declarant and which will not in any way alter the location or impede the purpose of the Common Elements as provided for in this Declaration, or adversely affect any Unit not owned by Declarant; and

(b) The right to install signs on that portion of the Property owned by Declarant and to advertise the Property; and

(c) The right to use and permit others to use easements through the General Common Elements and/or Landscaping as may be reasonably necessary for the purpose of making Improvements within the Property or performing other rights under the Declaration; and

(d) The right to establish, from time to time, within those portions of the Property owned by Declarant, by dedication or otherwise, utility and other easements for purposes, including but not limited to, streets, paths, walkways, drainage, recreation areas, parking areas, pipes, wires, conduit installation areas, and to create other reservations, exceptions and exclusions for the benefit of and to serve the Owners within the Property; and

(e) The right to enter into, establish, execute, amend, and otherwise deal with contracts, assignments, and agreements for the use, repair, maintenance or regulation of the General Common Elements and/or other common facilities, which are not a part of the Property, for the benefit of the Owners and/or the Association; and

(f) The right to amend the Declaration in connection with the exercise of any rights or to correct any clerical or technical errors, or ambiguity or as requested by any Mortgagee provided however that any amendment of the Declaration after eighty percent (80%) of the Units have been sold, shall require the approval of at least eighty percent (80%) of the Proportionate interests, unless the amendment is to correct a clerical or technical error or is required by law, and any such amendment shall not adversely affect any Unit not owned by Declarant; and

(g) The right to transfer, assign or delegate any right reserved to Declarant or granted by this Declaration, law or statute to Declarant, to the Association earlier than the time set forth elsewhere in this Declaration to the fullest extent permitted under this Declaration, law or statute; and

(h) Any and all other rights of Declarant as set forth in this Declaration, by law or statute; in the event of any conflict, the broadest right granted and/or reserved by Declarant shall prevail.

Notwithstanding any provision hereof, the Declarant shall not exercise any right under this Declaration in an arbitrary, unreasonable, discriminatory manner nor in any manner which would unreasonably deny or eliminate ingress or egress from an Owner's Unit.

IX. INSURANCE

9.1 Insurance Coverages. The Association shall obtain and maintain at all times, to the extent

reasonably obtainable, insurance policies covering the following risks:

(a) Property and casualty insurance for, any Association owned Improvements or personal property in such amounts and forms as determined by the Board; and

(b) Commercial general liability insurance against claims and liabilities arising in connection with the ownership, existence, use, or management of the General Common Elements and other areas of Association responsibility as are deemed sufficient in the judgment of the Board but not less than any amount specified herein, insuring the Board, the Association, the management agent, and their respective employees, agents, and all persons acting as agents. To the extent obtainable, the 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 General Common Elements and other areas of Association responsibility. The insurance shall cover claims of one or more insured parties against other insured parties. Such insurance shall be in such amounts as the Board of Directors of 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. To the extent reasonably obtainable, coverage shall include, without limitation, liability for personal injuries, operation of automobiles (whether owned, non-owned or hired) on behalf of the Association, and activities in connection with the ownership, operation, maintenance or other use of the General Common Elements or other areas by the Association, its officers, directors, agents, employees, and representatives, off premises employee coverage, water damage liability, contractual liability, bailee's liability for property of others, and any legal liability that results from lawsuits related to employment contracts to which the Association is a party.

9.2 Other Insurance. In addition, the Board of Directors may obtain any other insurance against such other risks, of a similar or dissimilar nature, which the Board shall deem appropriate with respect to the Property, or which may be required by any lending institutions.

9.3 Notice of Unavailability. If any insurance described in this Declaration is not reasonably available, or if any policy of such insurance is canceled or not renewed without a replacement policy therefor 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 holders of Mortgages upon the Units which have provided in writing their addresses and requests for notification.

9.4 Policy provisions. All insurance shall be carried in blanket form naming the Association as insured, in the loss payable clause. Insurance policies carried pursuant to this Declaration shall provide that:

(1) 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;

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

(3) No act or omission by any Owner will void the policy or be a condition to recovery under the policy;

(4) if at the time of a loss under the policy, there is other insurance in the name of any Owner covering the same risk covered by the policy, the Association's policy provides primary insurance. Also, 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.

(5) Premiums upon insurance policies purchased by the Board and any other expenses connected with acquiring such insurance shall be part of the General Common Elements Expenses included in the annual assessments.

(6) Any insurance policy may contain such deductible provisions as the Association deems consistent with good business practices.

(7) 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.

(8) The Association shall disburse the proceeds arising out of the Association casualty to the contractors engaged in the repair and reconstruction in appropriate progress payments.

(9) An insurance policy issued to the Association does not remove the need for each Owner to obtain insurance for his/her/its own benefit. It shall be the responsibility of each Owner, at each Owner's own expense, to make arrangements in regards to insurance on his/her/its Unit, and for all insurance on his/her/its personal property, including without limitation, the Unit, furniture, appliances, fixtures, inventory, and furnishings, and for public liability insurance covering his/her/its Unit.

(10) This Declaration does hereby make mandatory the irrevocable appointment of the Association as insurance Trustee under this Declarations, and as attorney in fact to deal with the Property in the event of its destruction, damage, obsolescence, condemnation, liquidation of all or a part of the Property, including without limitation the repair, replacement and improvement of any Units and the Property which have been so destroyed, damaged, condemned or become obsolete.

9.5 Owners' Insurance. An insurance policy issued to the Association does not remove the need for Owners to obtain insurance for their own benefit. It shall be the responsibility of each Owner, and at his/her/its own expense, to make arrangements in regard to insurance on its Unit and Limited Common Elements appurtenant thereto, for all insurance on such Owner's personal property, including without limitation, furniture, appliances, fixtures, furnishings, and for public liability insurance covering such Owner's individual Unit, and, in addition, the Owner may obtain such other and additional insurance coverage on and in relation to such Unit and Limited Common Elements as it, in its 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 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 such other insurance.

X. ASSOCIATION FUNCTIONS

10.1 Management. Subject to the provisions of this Declaration, the management and operation of the Property 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, 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 unless such Member vote is specifically required in this Declaration, the Articles of Incorporation, the Bylaws or the rules.

10.2 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 General Common Elements and the Property, excluding the Units, as more specifically provided herein.

10.3 Promulgation of Rules. The Board may make such rules to enforce the provisions of this Declaration or the Bylaws or to govern the use of the Common Elements or Units, 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 change such rules from time to time and 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 and Members.

10.4 Enforcement. Except as otherwise provided herein, 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 and rules 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 Associations, and the decisions, resolutions and rules 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 (i) the Board may suspend the Owner's voting rights in the Association and any Association services and usage of Association facilities during any period during which such Owner fails to comply, (ii) 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, decisions 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 and/or (iii) the Board the Board may also jointly fine any Owners and his/her/its Guest, who violates the terms and provisions of this Declaration, the Bylaws, and/or the rules.

10.5 Implied Rights. Except as provided herein, 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 reasonably necessary or desirable to fulfill its duties, obligations, right or privileges.

10.6 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 the Board. Such management may be provided by the Declarant or an affiliate of the declarant. A copy of all such agreements shall be reasonably available upon request to each Owner.

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

XI. ASSESSMENTS

11.1 Enforcement of Assessments.

(a) Obligation to Pay Assessments. Each Owner of any Unit, 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 for the purposes described in this Declaration, including without limitation any expenses related to the General Common Elements. All Owners of a Unit, including the Owner(s) of a Unit at the time of an assessment and any successor if assessment was not paid by the Owner(s) of the Unit at the time of the assessment, shall be jointly and severally liable to the Association for the payment of all assessments, charges, fees and other sums attributable to such Owners and/or their Unit. The personal obligation for delinquent assessments and sums shall not pass to an Owner's successor in title or interest unless expressly assumed by such successor.

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 General Common Elements or the facilities contained therein, by abandonment or leasing of its Unit, or by asserting any claims, defenses or other matters 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 real property ad valorem taxes and special assessments imposed by Colorado governmental subdivisions against its Unit, insurance of the Unit, as well as all charges for separately metered utilities servicing its Unit.

(b) Assessment Procedure. Within thirty (30) days after the date on which a notice of assessment (the "Notice") is mailed or delivered with respect to the Owner's Proportionate Interest of the Association expenses hereunder, including without limitation, insurance, attorneys' fees, management costs, the cost of maintenance, repair and replacement of the General Common Elements; the cost of utilities, trash disposal, and other services to the General Common Elements, the cost of insurance and surety bonds maintained by the Association; reserve amounts determined by the Board; and other expenses reasonably deemed to be common expenses by the Declarant or the Association, the Owner shall remit the amount of such assessment to the Association. All assessments for General Common Elements and Common Expenses, including Landscaping, shall be prorated by the Unit's Proportionate Interest as determined pursuant to Section 3.17. Any assessment not paid within the aforesaid 30-day period from the date of such notice shall bear interest after said 30-day period at the rate which is the higher of twelve percent (12%) per annum or the federal funds rate set by the United States Federal Reserve plus five percent (5%) per annum.

(c) Adjustment of Assessments. At the beginning of each year, the Association will review the assessments for Common Expenses and Association operating expenses and determine if they should be adjusted upwards or downwards and the assessments shall be subject to increase or decrease as determined by the Association to reflect the estimated expenses for the next year. The Association may impose a Special Assessment in extraordinary circumstances and upon the approval by the same percentage of Owners required to approve an amendment of this Declaration in accordance with the voting procedures set out in Section 10.1 (f) below. The Association shall notify each Owner on or before March 1 of the estimate for that calendar year which shall be paid by the respective Owner. In addition, on or before March 1 of each calendar year, the Association shall provide each Owner an accounting of the previous year's expenses. If the respective Owner's payments were less than the actual costs of the previous year's Common Expenses, then the Owner shall pay to the Association the difference to the Association within thirty (30) days after written notice for such payment. If the payments are more than the actual costs, then the Association shall retain such excess and credit it to the Owner's next accruing monthly assessments.

(d) Liens. All assessments which are not paid as set forth herein, plus accrued interest shall constitute a lien on the Unit superior and prior to all other liens and encumbrances, except those liens for general taxes and special assessment liens, and all liens unpaid on any First Mortgage of record. To evidence such lien, the Association shall prepare a written notice ("the Lien") setting forth the amount of such unpaid assessment, the name of the Owner or the reputed Owner of the Unit and a legal description of such Unit. The Lien shall be signed by an officer of the Association and shall be recorded in the real property

records of El Paso County, Colorado after having been mailed not less than thirty (30) days prior to such recording to the Owner or reputed Owner of the Unit in default. The lien for the unpaid assessment shall attach from the date of the recording of this Declaration. Any such lien may be enforced by the foreclosure upon the Unit with respect to which the assessment has not been paid in like manner as a mortgage on real property is foreclosed under the laws of the State of Colorado. In any such foreclosure, the Owner of the Unit which is being foreclosed shall be required to pay the cost, expenses and reasonable attorneys' fees in connection with the preparation and filing of the Lien as provided herein and all costs and reasonable attorneys' fee incurred in connection with the foreclosure. The Association shall have the power to bid on the Unit being foreclosed upon.

(e) Mortgagees. The Association shall notify any mortgagee of the Unit being foreclosed, if such encumbrancer has its address of record in the encumbrance document or otherwise furnishes its address in writing to the Association. Any First Mortgagee holding a lien on the Unit may, but shall not be required to, pay any unpaid assessment and upon such payment, such encumbrancer shall have a lien on the Unit for the amount paid, with the same rank as the lien of the Association. The amount of the assessment assessed against each Unit shall also be the personal and individual debt of the Owner thereof at the time the assessment is made and suit to recover money judgment (together with reasonable attorneys' fees and costs as aforesaid) for unpaid assessments may be maintainable without foreclosing or waiving the liens securing the same.

(f) Special Assessment. In addition to General Common Elements assessments, the Association may levy, in any fiscal year of the Association, a special assessment applicable to that fiscal year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair, or replacement of a capital improvement of the General Common Elements, including fixtures and personal property related thereto, or for any other lawful Association purpose (a "Special Assessment"). Any Special Assessment shall have first been approved by Owners representing fifty percent (50%) of the votes in the Association and who are voting in person or by proxy at a meeting duly called for such purpose and approved by Declarant, while Declarant owns any Units. Unless otherwise specified by the Board of Directors, Special Assessments shall be due thirty (30) days after they are levied by the Association and notice of the Special Assessment is given to the Owners.

11.2 Certificate of Compliance. Upon payment of a reasonable fee as set forth in the Association's rules and regulations, and upon written request of any Owner, Mortgagee, prospective Owner, tenant or prospective tenant of a Unit, the Association shall issue an acknowledged certificate in recordable form setting forth the amounts of any unpaid assessment, if any; and setting forth generally whether or not said Owner is in violation of any of the terms and conditions of this Declaration. Such statement shall be furnished by the Association within a reasonable time.

11.3 Initial Fee; Working Capital. The Board may, at its option, require the first Owner, at the time of acquisition of a Unit to pay to the Association an amount equal to two (2) months of monthly assessments against the Unit in effect at the closing thereof; such sum shall be held by the Association as and for working capital. Such sum shall not be refundable to such Owner but shall be placed in a segregated account for use by the Board to meet unforeseen expenditures or to acquire additional equipment or services deemed necessary or desirable by the Board. Furthermore, payment of such sum shall not relieve an Owner from making the regular payment of assessments as the same become due. The working capital fund may be used by the Association to defray any budget deficits, especially during the inception of the Association when the Owners' assessments may be insufficient to cover the costs of operating the Association and performing the obligations of the Association.

XII. REMEDIES

12.1 **Injunctive Relief.** Remedies at law may not adequately compensate the Declarant, the Association or an Owner for a violation of this Declaration, and therefore the Declarant, the Association and each Owner shall each have the right to obtain from any court of competent jurisdiction injunctive relief against any owner or tenant of any of the Property, or any of their agents, contractors or assigns, or enjoining any activity which is in violation of this Declaration. Neither the Declarant or the Association shall be required to post any bond as a condition to the granting of any such injunctive relief (including a preliminary injunction or, temporary restraining order), nor shall such right to such injunctive relief be affected by any arbitration provisions in contracts executed by such owner, tenant or their agents.

12.2 **Cumulative Remedies.** The rights and remedies of the Declarant, the Association and each Owner set forth hereinabove shall be in addition to, and not in lieu of, any other rights and remedies the Declarant, the Association or Owner may have in the event of a violation of this Declaration; all such rights and remedies shall be cumulative, and the exercise of any one or more of such rights and remedies shall not be deemed an election precluding the exercise of any of the others. Any remedies hereunder, shall be enforceable both, against all Property and Unit owners; all of whom shall, be entitled to enforce this Declaration.

12.3 **Costs.** All reasonable costs incurred by the Declarant, the Association or an Owner in any dispute or litigation involving enforcement of this Declaration (including expert witness fees, attorneys' fees and all additional costs incurred in enforcing or collecting any judgment rendered) shall be awarded as additional damages.

12.4 **Notice and Cure.** Before exercising its legal rights hereunder in the event of a breach or default, the Declarant, the Association or an Owner shall give to the person or entity in default written notice of the default and an opportunity to cure any monetary default within ten (10) days after delivery of such notice, or thirty (30) days to cure any non-monetary default.

XIII. LAND BENEFITED

13.1 **Run with Land.** This Declaration shall run with and burden the Property and are for the benefit of the Declarant and each Owner and all land within the Property.

13.2 **Enforcement.** This Declaration shall be enforceable only (a) by the Declarant and (b) after the period of Declarant Control by the Board. No other person or entity shall have standing to enforce this Declaration.

XIV. AMENDMENT

14.1 **General Amendments.** Except as otherwise provided in Section 8.3 hereof, this Declaration may be modified, amended, in whole or in part, or terminated with respect to all of the Property at any time only by a written instrument referring to this Declaration executed by (i) the Declarant, during the Period of Declarant Control and thereafter by the Association, and (ii) the then current Owners of at least seventy-five percent (75%) of the Proportionate Interest for an amendment or modification, or eight-five percent (85%) of the Proportionate Interest for termination.

14.2 **Unit Amendment.** Except as otherwise provided in Section 8.3 hereof, this Declaration may also be amended with respect to any Unit by a written instrument executed by (i) all Owners of the Units affected by the amendment, and (ii) by the Declarant, during the Period of Declarant Control and thereafter by the Association, which instrument contains the legal description of the Units affected by the

change.

14.3 Recording. Amendments to this Declaration shall become effective upon their being recorded with, the El Paso County real property records.

XV. TERM

This Declaration, and any amendments hereto, shall remain in effect for a period of twenty-one (21) years from the date of this Declaration and shall automatically be renewed for successive ten (10) year periods unless, prior to the expiration of the initial term or any ten (10) year extension thereof, an instrument stating that extension is not desired, signed and acknowledged by the applicable Proportionate Interests set forth in Section 13.1, is filed of record in the El Paso County real property records. No termination of this Declaration shall terminate (i) the ingress/egress rights of the Owners to use the Drive Aisles, or (ii) any easements of record as reflected on the Plat.

XVI. SUCCESSORS AND ASSIGNS OF DECLARANT

The Declarant may assign its rights and authority hereunder to the Association, the Committee, or a person or entity who purchases substantially all of the land owned by the Declarant within the Property. Any such assignment shall be evidenced by an express written assignment referring to this Declaration, duly recorded. Any references in this Declaration to the Declarant shall also mean any successors of the Declarant pursuant to such assignment. If the Declarant makes such an assignment, it shall record an instrument in the real property records of El Paso County, Colorado, stating that its rights and authority under this Declaration have been assigned and setting forth the name and address of the assignee. If at the time that the Declarant dissolves in accordance with Colorado law, the Declarant has not recorded an instrument of assignment as provided above, then the provisions of this Declaration shall automatically be assigned to the Association.

XVII. GENERAL PROVISIONS

17.1 Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect. The provisions of this Declaration shall be deemed to be independent and severable.

17.2 Remedies Cumulative. Each remedy provided in Article XI and elsewhere in this Declaration is cumulative and not exclusive and the exercise of one right or remedy shall not waive the right to exercise another right or remedy.

17.3 Notices. All notices, demands, statements or other communications required to be given or served under this Declaration shall be in writing and shall be deemed to have been duly given and served if delivered personally or sent by United States mail, postage prepaid, return receipt requested, addressed as follows: (i) if to an Owner, at the address at which the Owner shall designate in writing and file with the Association or, if no such address is designated, at the address of the Unit of such Owner or (ii) if to the Association or the Declarant, to the last known business address of such Person on file with the Colorado Secretary of State, and if such address is no longer valid, then to the address of the statutory agent of such Person. An Owner may change his address on file with the Association for receipt of notices by delivering a written notice of change of address to the Association pursuant to this section. A notice given by mail, whether regular, certified or registered, shall be deemed to have been received by the Person to whom the notice was addressed on the earlier of the date the notice is actually received or three (3) days after the

notice is mailed. If a Unit is owned by more than one Person, notice to one of the Owners shall constitute notice to all Owners of the same Unit. Each Owner shall file its correct mailing address with the Association, and shall promptly notify the Association in writing of any subsequent change of address.

17.4 Binding Effect. By acceptance of a deed or by acquiring any ownership interest in any portion of the Property, each Person, for himself, his heirs, personal representatives, transferees and assigns, binds himself, his heirs, personal representatives, successors, transferees and assigns, to all of the provisions, restrictions, covenants, conditions, easements, rules, and regulations now or hereafter imposed by this Declaration and any amendments thereof. In addition, each such Person by so doing thereby acknowledges that this Declaration set forth a general scheme for the improvement and development of the real property covered thereby. Furthermore, each such Person fully understands and acknowledges that this Declaration shall be mutually beneficial, prohibitive and enforceable by the various subsequent and future Owners and all other persons having any interest in the Property. Declarant, its successors, assigns and grantees, covenants and agrees that the Units and the membership in the Association and the other rights created by this Declaration shall not be (except as allowed herein) separated or separately conveyed and each shall be deemed to be conveyed or encumbered with its respective Unit even though the description in the instrument of conveyance or encumbrance may refer only to the Unit.

17.5 Number and Gender. The singular, whenever used in this Declaration, shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions of this Declaration apply to either entities or individuals, or men or women, shall in all cases be assumed as though in each case fully expressed.

17.6 Headings. The marginal or topic headings of the sections contained in this Declaration are for convenience only and do not define, limit or construe the contents of the sections or of this Declaration.

17.7 Survival of Liability. The termination of a membership in the Association or the cessation of occupancy of a Unit shall not relieve or release any such former Owner, Member or Lessee from any liability or obligation incurred under, or in any way connected with, the Association or this Declaration during the period of such ownership, membership, or occupancy or impair any rights or remedies which the Association may have against such former Owner, Member or Lessee arising out of, or in any way connected with, such ownership, membership or occupancy and the covenants and obligations incident thereto.

17.8 Successors and Assigns. This Declaration shall be binding upon and shall inure to the benefit of the Declarant, Association and each owner, and its 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.

17.9 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.

17.10 Governing law. This Declaration of Covenants, Conditions and Restrictions shall be governed by, and construed in accordance with, the laws of the State of Colorado.

17.11 Joint and Several Liability. In the case of joint ownership of a Unit, the liabilities and obligations of each of the joint Owners set forth in, or imposed by, this Declaration shall be joint and several.

17.12 Third-Party Compliance. To the extent permitted by law, each Owner shall be responsible for compliance with this Declaration by all of their respective Guests. An Owner and/or Lessee failure to

ensure compliance by such Guests shall be grounds for the same action of enforcement to be available to the Association or any other Owner desiring to enforce this Declaration against such Persons. Notwithstanding the foregoing, no provision of this Declaration shall be interpreted or construed as imposing on Owners absolute liability for damage to the General Common Elements. Owners shall only be responsible for damage to the General Common Elements or caused by the negligence or intentional acts of the Owners, or Guests or other persons for whom they are legally responsible under Colorado law.

17.13 Attorney's Fees. In the event Declarant, the Association or any Owner employs an attorney or attorneys to enforce an Assessment Lien or to collect any amounts due from an Owner or to enforce compliance with or recover damages for any violation or noncompliance with this Declaration or in any other manner arising out of this Declaration or the operations of the Association, the prevailing party in any such action shall be entitled to recover from the other party its reasonable attorney's fees incurred in the action.

17.14 Number of Days. In computing the number of days for purposes of any provision of this Declaration, all days shall be counted including Saturdays, Sundays and holidays; provided, however, that if the final day of any time period falls on a Saturday, Sunday or holiday, then the final day shall be deemed to be the next business day which is not a Saturday, Sunday or holiday.

17.15 Declarant Disclaimer of Representations. While Declarant has no reason to believe that any of the provisions contained in this Declaration are or may be invalid or unenforceable for any reason or to any extent, Declarant makes no warranty or representation as to the present or future validity or enforceability of any provisions of this Declaration. Any Owner acquiring a Unit in reliance on one or more of the provisions of this Declaration shall assume all risks of the validity and enforceability thereof and by acquiring the Unit agrees to hold Declarant harmless therefrom.

17.16 Declarant Right to Use Similar Name. The Association hereby irrevocably consents to the use by any other corporation or entity which may be formed or incorporated by Declarant of any entity name which is the same or deceptively similar to the name of the Association, provided, however, one or more words are added to the name of such other entity to make the name of the Association distinguishable from the name of such other entity. Within five (5) days after being requested to do so by Declarant, the Association shall sign such letters, documents or other writings as may be required by Colorado law or the Colorado Secretary of State in order for any other corporation or other entity formed or incorporated by Declarant to use a name which is similar to the name of the Association.

[SIGNATURE AND NOTARIZATION PAGE FOLLOWS]

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

LOT 3A NORTHCREST CENTER , FILING NO. 1A, IN THE CITY OF COLORADO SPRINGS,
COUNTY OF EL PASO, STATE OF COLORADO

EXHIBIT B

PROPORTIONATE INTERESTS

<u>Units</u>	<u>Proportionate Interest</u>	<u>Units</u>	<u>Proportionate Interest</u>	<u>Units</u>	<u>Proportionate Interest</u>
Unit A101	1.408%	Unit B101	1.408%	Unit C101	1.408%
Unit A102	1.408%	Unit B102	1.408%	Unit C102	1.408%
Unit A103	1.408%	Unit B103	1.408%	Unit C103	1.408%
Unit A104	1.408%	Unit B104	1.408%	Unit C104	1.408%
Unit A105	1.408%	Unit B105	1.408%	Unit C105	1.408%
Unit A106	1.408%	Unit B106	1.408%	Unit C106	1.408%
Unit A107	1.408%	Unit B107	1.408%	Unit C107	1.408%
Unit A108	1.408%	Unit B108	1.408%	Unit C108	1.408%
Unit A109	1.408%	Unit B109	1.408%	Unit C109	1.408%
Unit A110	1.408%	Unit B110	1.408%	Unit C110	1.408%
Unit A111	1.408%	Unit B111	1.408%	Unit C111	1.408%
Unit A112	1.408%	Unit B112	1.408%	Unit C112	1.408%
Unit A113	1.408%	Unit B113	1.408%	Unit C113	1.408%
Unit A114	1.408%	Unit B114	1.408%	Unit C114	1.408%
Unit A115	1.408%	Unit B115	1.408%	Unit C115	1.408%
Unit A116	1.408%	Unit B116	1.408%		
Unit A117	1.408%	Unit B117	1.408%		
Unit A118	1.408%	Unit B118	1.408%		
Unit A119	1.408%	Unit B119	1.408%		
Unit A120	1.408%	Unit B120	1.408%		
		Unit B121	1.408%		
		Unit B122	1.408%		
		Unit B123	1.408%		
		Unit B124	1.408%		
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