

**AMENDED AND RESTATED CONDOMINIUM DECLARATION  
FOR  
WOODBRIIDGE INN CONDOMINIUMS**

This Amended and Restated Condominium Declaration for Woodbridge Inn Condominiums (the "Declaration") is made effective on the date hereinafter set forth.

**RECITALS**

1. The Declarant (as that term is defined in the Original Declaration) executed and recorded the following Condominium Declaration and amendments, supplements and addendum thereto pertaining to the Woodbridge Inn Condominiums all of which were recorded in the office of the Clerk and Recorder, Summit County, Colorado at the date and reception number set forth below:

<u>Document</u>	<u>Date Recorded</u>	<u>Reception No.</u>
*Condominium Declaration	February 12, 1985	292182
*First Amendment to Declaration	May 19, 1985	293869
*First Supplemental Declaration	December 11, 1987	347490
*Designation of Commercial and Residential Units	March __, 1988	351294
*Second Supplemental Declaration	November 1, 1991	412116
*Third Supplemental Declaration	July 28, 1992	425485
*Addendum for Clarification of First Supplemental	March 1, 1995	487032

The foregoing documents are collectively referred to herein as the "Original Declaration."

2. The Declarant further executed and recorded the following Condominium Map for Woodbridge Inn Condominiums and supplements thereto all of which were recorded in the office of the Clerk and Recorder, Summit County, Colorado at the date and reception number set forth below:

<u>Document</u>	<u>Date Recorded</u>	<u>Reception No.</u>
*Condominium Map	February 12, 1985	292181
*First Supplemental Condominium Map	December 11, 1987	347489
*Second Supplemental Condominium Map	July 28, 1992	425447

The foregoing maps are referred to collectively as the "Map".

3. The Association desires to fully amend and restate the Original Declaration as herein provided.

4. In accordance with the terms of the Original Declaration and § 38-33.3-217, C.R.S., this Amended and Restated Declaration has been approved by the affirmative vote and agreement of Owners to which at least **sixty-seven percent (67%)/seventy-five percent (75%)** of the votes in the Association are allocated, and by the approval of sixty-seven percent (67%) of First Mortgagees. The approval of First Mortgagees was obtained in accordance with § 38-33.3-217(1)(b), C.R.S.

**NOW THEREFORE**, this Amended and Restated Declaration having been adopted pursuant to the Original Declaration and § 38-33.3-217, C.R.S., the real property described on *Exhibit A* hereto along with the all easements, rights and appurtenances thereto and all buildings and improvements erected or to be erected thereon (the "Property") is hereby subjected to the following terms, covenants, conditions, easements, restrictions, uses, reservations, limitations and obligations, which shall be deemed to run with the land, shall be a burden and a benefit to the owners of the Property and their heirs, personal representatives and assigns, and any person acquiring or owning an interest in the Property, their grantees, successors, heirs, executors, administrators, devisees or assigns.

The Project was first created on February 12, 1985. Those provisions of the Colorado Common Interest Ownership Act, Sections 38-33.3-101, *et seq.*, Colorado Revised Statutes, as it may be amended from time to time (the "Act") which would otherwise apply to the Project if the Project had been created on or before July 1, 1992 shall apply to the Project if and to the extent such provisions of the Act do not conflict with this Declaration, and the Articles, Bylaws, and Rules and Regulations of the Association. To the extent that those provisions of the Act conflict with the terms of the Declaration, Articles, Bylaws, and Rules and Regulations the terms of those documents shall control. In the event the Act is repealed, the Act on the effective date of this Declaration shall remain applicable.

## ARTICLE 1 DEFINITIONS

The following words when used in this Declaration shall have the following meanings. Each term not otherwise defined in this Declaration or in the Map shall have the meanings specified or used in the Act or other statute governing or applicable to the term in issue.

Section 1.1 "Agency" means any agency or corporation such as Housing and Urban Development ("HUD"), Department of Veteran's Affairs ("VA"), Federal National Mortgage Association ("FNMA") or Federal Home Loan Mortgage Corporation ("FHLMC") that purchases, insures or guarantees residential mortgages.

Section 1.2 "Allocated Interests" means the undivided interest in the Common Elements, and the Common Expense liability as set forth in *Exhibit B*.

Section 1.3 "Annual Assessment" means the Assessment levied pursuant to the annual General Common Expenses budget and the User Group budgets, if any, adopted as provided in Section 9.2.

Section 1.4 “Articles” means the Articles of Incorporation for Woodbridge Inn Condominium Association, a Colorado nonprofit corporation, as amended or restated from time to time.

Section 1.5 “Assessments” means the Annual, Special and Default Assessments levied pursuant to Article 9 below.

Section 1.6 “Association” means the Woodbridge Inn Condominium Association, a Colorado nonprofit corporation, and its successors and assigns.

Section 1.7 “Association Documents” means this Declaration, the Articles of Incorporation, the Bylaws, the Map, any design guidelines, procedures, rules, regulations or policies adopted under such documents by the Association.

Section 1.8 “Board” means the Board of Directors, sometimes also called the Board of Managers, which is the governing body of the Association.

Section 1.9 “Bylaws” means the Bylaws adopted by the Association, as amended from time to time.

Section 1.10 “Commercial Unit” means Unit 111 and any Unit subsequently created pursuant to Article 2 by a supplemental Declaration and depicted on a supplemental Map as Commercial Units which shall be used for commercial purposes in accordance with and subject to the Association Documents and applicable zoning ordinances for the Property, as they may be amended from time to time.

Section 1.11 “Common Element” means all portions of the Property except the Units. The Common Elements are owned by the Owners in undivided interests according to the Allocated Interests set forth in Section 1.2 above and consist of General Common Elements and Limited Common Elements.

1.11.1 “General Common Elements” means all tangible physical properties of the Property except Limited Common Elements and the Units, and without limiting the foregoing, specifically includes all parts of the structures or any facilities, improvements and fixtures which may be within a Unit which are or may be necessary or convenient to the support, existence, use, occupation, operation, maintenance, repair or safety of the structures or any part thereof or any other Unit. The General Common Elements shall include, without limitation, the following:

a. All of the Land, and landscaping within the Property, and those parking spaces and areas, which are not Limited Common Elements, regardless of whether leased or purchased by the Association;

b. the structural components of the building; foundations; columns; girders; beams and supports; main walls; rooms; balconies; halls; corridors; elevators; stairs; and stairways and walkways located outside the perimeter walls of the Units;

c. the exterior walls of the structures making up the Units; the main or bearing walls within the structures making up the Units; the main or bearing subflooring and the roofs of the structures making up the Units; and all portions of the walls, floors or ceilings that are not part of the Unit as described in Section 1.34 below;

d. all utility service and maintenance rooms, fixtures, apparatus, installations and the mechanical installations of the building consisting of the equipment and materials making up any central services existing for common use such as, but not necessarily limited to central facilities for power, light, gas, telephone, trash chutes, sewer, hot water, cold water, heating, or similar utility service or maintenance purposes, including furnaces, apparatus, installations, facilities, cable or satellite television, wired or wireless communication systems, fire sprinkler systems, all of which serve more than one Unit and are not located within a Unit;

e. in general, all other parts of the Property and the improvements thereon necessary or convenient to its existence, maintenance and safety which are normally and reasonably in common use, including the air above such building; and

f. those things and areas of the Property designated as such on the Map or in this Declaration.

All of which shall be owned as tenants in common, by the owners of the separate Units, each owner of a unit having an undivided percentage interest in the Common Elements as provided herein.

1.11.2 “Limited Common Elements” means those parts of the Common Elements which are either limited to, designated or reserved in this Declaration, the Map, or by action of the Association, for the exclusive use of an Owner of a Unit or are limited to and reserved for the common use of more than one but fewer than all Owners. Without limiting the foregoing, any portion of a chute, flue, duct, pipe, drain, wire, conduit, bearing wall, bearing column, or other fixture which lies completely or partially within and/or completely or partially outside the designated boundaries of a Unit which serves only that Unit is a limited common element allocated solely to that Unit, and any portion thereof serving more than one Unit or any portion of the Common Elements is a part of the Limited Common Elements. Any shutters, awnings, window boxes, doorsteps, stoops, porches, balconies, decks, patios, and other fixtures designed to serve a single Unit, but located outside the Unit’s boundaries, are Limited Common Elements allocated exclusively to that Unit.

1.11.3 “Commercial Limited Common Elements” means those Limited Common Element which are either limited to, designated or reserved in this Declaration, the Map, or by action of the Association, for the exclusive use of an Owner of a Commercial Unit or are limited to and reserved for the common use of more than one but fewer than all Owners of Commercial Units. Commercial Limited Common Elements include without limitation the deck located outside of and to the west of Unit 111, the hot water boiler serving Unit 111, and the storage room designated on Map as Limited Common Element for Unit 111 and the adjoining laundry room.

1.11.4 “Residential Limited Common Elements” means Limited Common Elements which are either limited to, designated or reserved in this Declaration, the Map, or by action of the Association, for the exclusive use of an Owner of a Residential Unit or are limited to and reserved for the common use of more than one but fewer than all Owners of Residential Units. Residential Limited Common Elements include without limitation the hot water boilers serving one or more Residential Units, decks serving one or more Residential Unit, the hot tub, ski lockers and storage rooms and areas used by one or more Owner of a Residential Unit.

Section 1.12 “Common Expenses” means expenditures made or liabilities incurred by or on behalf of the Association, together with allocations to reserves, including but not limited to: (i) all expenses expressly declared to be Common Expenses by the Association Documents; (ii) all other expenses of administering, servicing, conserving, managing, maintaining, repairing or replacing the Common Elements; (iii) expenses incurred for the benefit of more than one Owner; (iv) insurance premiums for the insurance carried under Article 11; (v) all expenses related to the leasing or purchase of parking areas for common use; (vi) all expenses reasonably determined to be Common Expenses by the Board. The Common Expenses shall consist of both General Common Expenses and User Group Common Expenses.

1.12.1 “General Common Expenses” are all Common Expenses which are not User Group Common Expenses.

1.12.2 “User Group Common Expenses” are those Common Expenses of each of the User Groups, or for the benefit of Owners within each of the User Groups.

Section 1.13 “Declaration” means this Amended and Restated Declaration and any amendments and supplements to it.

Section 1.14 “Expansion Area” means that portion of the Property and space which an Owner may, subject to the provisions and requirements of this Declaration, submit to the terms of this Declaration by one or more Supplemental Declarations.

Section 1.15 “First Mortgage” means a Mortgage the priority of which is not subject to any monetary lien or encumbrance except liens for taxes or other liens that are given priority by statute.

Section 1.16 “First Mortgagee” means any person named as a Mortgagee in any First Mortgage when the holder has notified the Association, in writing, of its name and address and that it holds a First Mortgage on a Unit. The notice must include the address of the Unit on which it has a First Mortgage. This notice shall include a request that the First Mortgagee be given the notices and other rights described in Articles 16 and 17, and specify an address to which such notices shall be sent.

Section 1.17 “Good Standing” means that an Owner is no more than thirty (30) days late in the payment any Annual, Special or Default Assessments, and who has none of his, her or its membership privileges suspended.

Section 1.18 “Land” means all of the land or interests in land now included within the Property, or hereafter acquired by the Association, or by the Owners in accordance with their Allocated Interests.

Section 1.19 “Majority in Interest” means a cumulative total of voting rights which exceed fifty percent (50%) of all of the voting rights within a User Group or of the Association as a whole, as applicable.

Section 1.20 “Managing Agent” means a person or entity engaged by the Association to perform certain duties, powers or functions of the Association, as the Board may authorize from time to time.

Section 1.21 “Map” means collectively the following Condominium Map for Woodbridge Inn Condominiums and supplements thereto all of which were recorded in the office of the Clerk and Recorder, Summit County, Colorado at the date and reception number set forth below:

<u>Document</u>	<u>Date Recorded</u>	<u>Reception No.</u>
*Condominium Map	February 12, 1985	292181
*First Supplemental Condominium Map	December 11, 1987	347489
*Second Supplemental Condominium Map	July 27, 1992	425447

as such Map may be amended from time to time, depicting a plan and elevation schedule of all or a part of the Property subject to this Declaration and any supplements and amendments thereto. The Map and any amendments and supplements thereto are incorporated herein by reference as if set forth in their entirety.

Section 1.22 “Member” means any person or entity that holds membership in the Association.

Section 1.23 “Mortgage” means any mortgage, deed of trust or other document pledging any Unit or interest therein as security for payment of a debt or obligation.

Section 1.24 “Mortgagee” means any person or entity named as a mortgagee or beneficiary in any Mortgage or any successor to the interest of any such person under such Mortgage.

Section 1.25 “Owner” means the owner of record, whether one or more persons or entities, of fee simple title to any Unit, and also includes the purchaser under a contract for deed covering a Unit with a current right of possession and interest in the Unit.

Section 1.26 “Permitted User” means members of the Unit Owner’s family, or the guest, employee, invitee, licensee, tenant, or agent of the Unit Owner, or the guest, employee, invitee, licensee, tenant or agent of the Unit Owner’s tenant.

Section 1.27 “Project” means the common interest community described in this Declaration and as shown on the Map.

Section 1.28 “Residential Unit” means all Units, except Commercial Units, which shall be used and occupied solely for residential purposes as set forth in this Declaration.

Section 1.29 “Supplemental Declaration” means an instrument which supplements or amends this Declaration.

Section 1.30 “Supplemental Map” means a supplemental or amended Map of the Project which depicts any change in the Project through a Supplemental Declaration.

Section 1.31 “Two-Thirds in Interest” means a cumulative total of voting rights which exceed sixty-six and 67/100 percent (66.67%) of all of the voting rights within a User Group or of the Association as whole, as applicable.

Section 1.32 “Unit” means the fee simple interest and title in and to an individual airspace which is contained within, and is inclusive of, the perimeter windows, doors and unfinished interior surfaces of perimeter walls, floors and ceilings as shown on the Map, together with all fixtures and improvements therein contained but not including any of the structural components of the building or Common Elements, if any, located within the Unit, and together with the appurtenant undivided interest in the Common Elements. All exterior doors and windows shall be a part of the Unit. All spaces, interior partitions, and other fixtures and improvements within the boundaries of a Unit and all lath, furring, wallboard, plasterboard, plaster, paneling, titles, wallpaper, paint, finished flooring and any other materials constituting any part of the interior finished surfaces thereof are a part of a Unit. The term shall include both Commercial Units and Residential Units.

Section 1.33 “User Group” means those areas of the Property containing the Common Elements, Units and Property that make up a specific use. **As of the date of recording this Declaration, the only two User Groups are as follows: Commercial Units and the Commercial Limited Common Elements appurtenant to their use (“Commercial User Group”), and Residential Units and the Residential Limited Common Elements appurtenant to their use (“Residential User Group”).** The Association may create additional User Groups from time to time as it deems necessary, without amending their Declaration, upon the approval or affirmative vote of Two-Thirds Interest of the Owners.

## ARTICLE 2 CONDOMINIUM REGIME

Section 2.1 Condominium Map. The Map depicts the Units, certain Limited Common and certain General Common Elements. Upon combination or subdivision of a Unit as provided herein, or upon expansion into all or any part of the Expansion Areas, the Board shall supplement the Map by recording a Supplemental Map which, however, shall not be filed for

record until the combination, subdivision or expansion has been substantially completed in order to permit the location thereof, both horizontally and vertically. The Map shall depict and show at least the following: the legal description of the Land and a survey thereof; the location of the building(s); the floor and elevation plans; the location of each Unit within the building, 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 a building located within a Unit; the Unit designations and the building symbol; and the Common Elements, including utility lines. The Map and each Supplemental Map shall contain the certificate of a registered professional engineer or licensed architect, or both, certifying that the Map substantially depicts the location and the horizontal and vertical measurements of the Units, the area of the Units, the Unit designations, building symbols, ceilings as constructed, the elevations of the unfinished floors and that such Map was prepared subsequent to substantial completion of the improvements. In interpreting the Map, the existing physical boundaries of each separate Unit as constructed shall be conclusively presumed to be its boundaries. Only such Map, and amendments and supplements thereto as have been approved by the Board, as so noted thereon, shall be valid.

## Section 2.2 Creation and Description of Units.

2.2.1 The Property and the improvements thereon are hereby divided into fee simple estates as condominium Units. Each Unit, the appurtenant interest in the Common Elements and the appurtenant use of Limited Common Elements, shall comprise one Unit, shall be inseparable and may be transferred, leased, devised or encumbered only as one Unit. Any attempted transfer of the appurtenant interest in the Common Elements or Limited Common Elements shall be void unless the Unit to which that interest is allocated is also transferred.

2.2.2 Any contract of sale, deed, lease, mortgage, will or other instrument may legally describe a Unit by its Unit number, followed by the words “Woodbridge Inn Condominium” with further reference to the Map thereof filed for record and the recorded Declaration. Every such description shall be good and sufficient for all purposes to sell, convey, transfer, encumber or otherwise affect the Unit. Each such description shall be construed to include a non-exclusive easement for ingress and egress to an Owner’s Unit and use of all of the general common elements, together with the right to the use of the Limited Common Elements appurtenant to such Unit. The reference to the Map and Declaration in any instrument shall be deemed to include any supplements to the Map or Declaration without specific reference thereto.

Section 2.3 Limited Common Elements. A portion of the General Common Elements are reserved for the exclusive use of the individual Owners of the respective Units, and such areas are referred to as Limited Common Elements. The Limited Common Elements so reserved include the decks as shown on the Map. The deck which is accessible from, associated with and which adjoins a Unit shall, without further reference thereto, be used in connection with such Unit to the exclusion of the use thereof by the other Owners of the General Common Elements, except by invitation. **The deck associated with and which adjoins Unit 111 shall be a Limited Common Element appurtenant to Unit 111.** No reference thereto, whether such Limited Common Elements are exclusive or non-exclusive, need be made in any deed, instrument of conveyance or other instrument. Each Owner shall have a non-exclusive right in common with

all of the other Owners to the use of sidewalks, pathways and other General Common Elements located within the Project. A Limited Common Element may also be a Residential or Commercial Limited Common Element.

Section 2.4 Combining, Subdividing and Expanding Units.

2.4.1 Subject to the provisions, requirements and approvals of subsection 2.4.4, the Owner or Owners of one or more Units shall have the right to: (a) physically combine the entire space within one Unit with the entire space within one or more adjoining Units; or (b) combine a part of or combination of parts of the space of one Unit with a part of or combination of parts of the space within one or more adjoining Units. Upon the combination of any Units, the Unit resulting from such combination shall be allocated the undivided interest, or a part thereof, of the predecessor Units in and to the Allocated Interests and vote. All or part of a Residential Unit may be combined only with all or part of one or more Residential Units, and all or part of a Commercial Unit may be combined only with all or part of one or more Commercial Units. All other combining of Units shall be prohibited.

2.4.2 Subject to the provisions of subsection 2.4.4, the Owner or Owners of Units shall have the right to subdivide the space within a Unit to its original configuration as it existed prior to any combination of space permitted under Section 2.4.1; and the Owner or Owners of Commercial Units only shall have the right to subdivide the space, or a part of the space, within a Commercial Unit to create additional Commercial Units. Upon the subdivision of any Unit in accordance with the terms and conditions contained herein, the Units resulting from such subdivision shall have Allocated Interests according to the provisions of Section 1.2 hereof, and the vote of the subdivided Unit shall be allocated amongst the resulting Units based on the relative square footing of the resulting Units, except in no event shall the number of votes allocated to such Units exceed the total number of votes allocated to such Units prior to subdivision or subdivision.

2.4.3 Subject to the provisions, requirements and approvals of subsection 2.4.4, an Owner may expand the space and boundaries of its Unit into and so as to encompass certain Limited Common Elements appurtenant, and General Common Elements adjacent to that Owner's Unit (the "Expansion Area"), and convert such Expansion Area from such Common Elements into and as part of such Unit. Upon such expansion in accordance with the terms and conditions contained herein, the Unit resulting from such expansion shall have continue to have one vote, and the same Allocated Interests according to the provisions of Section 1.2 hereof, or, if the Board in its sole discretion determines that the size of the Expansion Area is significant, the Board may require and cause the Allocated Interests for all affected Units to be reallocated using the following formula: the figure is determined by the percentage equivalent to a fraction, the numerator of which shall be the area of a Unit and the denominator of which shall be the area of all Units in the Property.

2.4.4 In order to combine, subdivide or expand any Unit as provided in subsections 2.4.1, 2.4.2 and 2.4.3 above, the Owners of such Units shall submit an application to the Board, which shall include: (a) evidence that the proposed combination, subdivision or expansion complies with this Declaration, all building codes, fire codes, zoning codes,

subdivision, and other applicable ordinances or restrictions adopted and enforced by the Town of Frisco or Summit County; (b) that the proposed combination, subdivision or expansion does not violate the terms of any mortgage encumbering the Unit(s); (c) the impact on the General and Limited Common Elements, including specifically the structural and mechanical components; (d) the proposed form for amendment or supplement to this Declaration, including the Map, as may be necessary to show the Unit(s) which are combined, subdivided or expanded and their dimensions and identifying numbers, and reallocated Allocated Interests, as applicable; (e) proposed changes to the exterior of the Unit(s), if any (including those changes that may be interior to a building, but exterior to the Unit); (f) with respect to a proposed expansion, the detailed plans of such expansion; (g) a deposit for attorneys', architects', engineering or other consultants' fees and costs which the Association may incur in reviewing and effectuating the combination, subdivision or expansion, in an amount reasonably estimated by the Board; and (h) such other information requested by the Board. All costs and fees of combining, subdividing or expanding any Units, including all costs and fees incurred by the Association in reviewing the request (including, but not limited to, any attorneys', architects', engineers or other consultants' fees and recording fees), shall be borne by the applicant. Until paid, all amounts due from the Owner under this subsection 2.4 shall constitute an Assessment and lien against the Owner's Unit, enforceable in accordance with the terms of this Declaration.

2.4.5 The Board shall be entitled in its sole discretion to deny, approve, or approve with conditions, any request for combination, subdivision or expansion of Units on the grounds that: (a) the combination, subdivision or expansion adversely impacts the exterior appearance of the Project; (b) the combination, subdivision or expansion adversely impacts the maintenance or insurance responsibilities of the Association; (c) the combination, subdivision or expansion adversely impacts other Units, including by locating an expansion area over or above, in whole or in part, another Unit; or (d) for any other reason whereby the combination, subdivision or expansion adversely impacts the Association or its responsibilities. In considering whether to deny, approve, or approve with conditions, any request for combination, subdivision or expansion of Units, the Board shall consider and determine whether the proposed combination, subdivision or expansion materially or unreasonably impairs, inhibits, hinders or obstructs the following: existing view corridors of other Units; open areas between building and Units; traffic flow; parking areas; snow storage areas; use of and access to existing roads and driveways; use of and access to trash enclosures and other common elements; and access to utilities.

2.4.6 Without limiting the foregoing, in the event the application from the Owner is for expansion, the Board may condition approval on: (a) the Owner paying to the Association, according to the schedule determined by the Board, the Owner's allocable share of the cost of construction as determined by the Board, which shall include all construction-related fees and overhead; (b) the Owner agreeing to pay the Association the costs of prior construction that has created the structural support or infrastructure, or both, necessary to support the subsequent proposed construction. In no event will the Association be required to provide physical support for a Unit to subsequently expand if the Owner has elected to forego expansion as part of a previous expansion by the Association or other Owners; (c) the Owner paying to the Association the fair market value of the applicable Expansion Area, which may be assessed according to the provisions of herein. The fair market value shall be determined by an MAI

designated appraiser selected by the Board, at the Owner's expense, and the appraiser's determination shall be binding on the Association and the Owner; and (d) the Owner's completion of construction associated with such expansion during a time period established by the Board, and the Board may also require remediation measures and compensation necessary for any displacement or reduction in any other Owner's ability to use his or her Unit as a result of such construction.

2.4.7 In addition to the approval of the Board, the Owner shall be responsible for obtaining all other approvals (governmental and otherwise) required to affect the combination, subdivision or expansion, including, without limitation, subdivision and any other approval from the Town of Frisco. No approval of a combination, subdivision or expansion by the Board shall be final, and no amendments to the Map shall be recorded, until all other required approvals are obtained, and written evidence thereof is furnished to the Board.

2.4.8 Upon substantial completion of the approved combination, subdivision or expansion of one or more Units in compliance with the provisions of this Section 2.4, the Board, at the expense of the Owner who is combining, subdividing or expanding his or her Unit, shall prepare and record an amendment or supplement to this Declaration, if appropriate, and the Map to reflect the revised Unit boundaries, any revisions to the Limited Common Elements, any change to the Allocated Interests, and such other matters as the Board determines are desirable or necessary. The President of the Association is hereby authorized to sign such amended Declaration and maps in order to evidence the approval of the Owners and First Mortgagee as contained herein, and each Owner and First Mortgagee hereby designates the Association as its agent and attorney-in-fact for such purpose. The Owners and First Mortgagees hereby acknowledge and agree that, although a combination, subdivision or expansion constitutes an amendment to the Declaration and Map, this Declaration provides that the Declaration and Map may be amended by the Board for this purpose, that the procedures to be followed by the Board to approve the combination, subdivision and expansion are sufficient to safeguard the Owners and First Mortgagees, and that no additional approval from the Owners or First Mortgagees is required in order to so amend the Declaration and Map. In addition to the recording of the amendment or supplement to the Declaration and the Map in connection with an expansion, the President of the Board shall be authorized to execute, deliver and record a quitclaim deed of the Association's interest in any Common Elements thereby converted into a Unit to the Owner of that Unit.

2.4.9 Each Owner shall be responsible for the ongoing maintenance, repair, replacement and insurance of the exterior and interior of the Expansion Area converted into part of its Unit. In addition to the other Assessments authorized in the Declaration, the Board shall have the right to levy an Assessment against any owner undertaking an expansion, combination or subdivision for the purpose of defraying, in whole or in part, any additional expense or cost in maintaining, repairing, replacing, or insuring the Common Element(s) that has resulted from a combination, subdivision, or expansion. Determination of whether a cost to the Association in maintaining, repairing, replacing, or insuring the Common Element(s) resulted from a combination, subdivision or expansion by an Owner shall be made by the Board and shall be final. The Board may adopt rules, regulations, restrictions or policies governing or restricting the

combining, subdividing and expanding of units, provided, they shall be uniform, non-discriminatory and do not conflict with this Section 2.

Section 2.5 No Partition, or Other Combination, Subdivision, or Expansion. Except as expressly provided in Section 2.4 and its subsections: (a) each Unit, the appurtenant undivided interest in the general common elements and the appurtenant limited common elements shall together comprise one condominium Unit, shall be inseparable, and may be conveyed, leased, devised or encumbered only as a condominium Units; and (b) no portion of the Project shall be subject to an action for partition or division and no Units shall be subdivided, resubdivided, combined or expanded.

Section 2.6 Separate Taxation . Each Unit shall be deemed to be a parcel and shall be subject to separate assessment and taxation for all types of taxes authorized by law, including ad valorem levies and special assessments. No part of the Project other than Units shall be deemed a parcel. The lien for taxes assessed to any Unit shall be confined to such Unit. No forfeiture or sale of any Unit for delinquent taxes, assessments or other governmental charges shall divest or in any other way affect the title to any other Unit.

Section 2.7 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.

### ARTICLE 3 USE OF THE COMMON ELEMENTS AND UNITS

Section 3.1 Use of General and Limited Common Elements . Each Owner and the Owner's Permitted Users may use the General Common Elements and Limited Common Elements in accordance with the purpose for which they are intended, without hindering or encroaching upon the lawful rights of the other Owners or Permitted Users. The Board may adopt rules, regulations, restrictions or policies governing or restricting the use of the Limited Common Elements and the General Common Elements provided such rules, regulations, restrictions and policies shall be uniform and non-discriminatory. Each Owner and Permitted User shall be bound by any such adopted rules, regulations, restrictions or policies. No Owner or Permitted User shall cause, or further, an obstruction of the General Common Elements or Limited Common Elements, nor shall anything be stored on any part of the General Common Elements or Limited Common Elements, nor shall anything be altered, constructed on, or removed from the General Common Elements or Limited Common Elements, without prior written consent of the Board, which consent may be granted or withheld at the Board's sole and absolute discretion, except as otherwise provided in the Association Documents.

Section 3.2 Possession and Use of Residential Units . Each Residential Unit and the appurtenant Limited Common Elements shall be used and occupied principally for residential purposes by the Owner and any Permitted User. No Residential Unit shall be used for commercial purposes, except that home operated businesses are permitted, so long as such businesses (i) are allowed by applicable government laws and regulations, including zoning

regulations; (ii) are not apparent or detectable by sight, sound, or smell from the exterior of the Unit, (iii) do not increase traffic within the Project; and (iv) do not increase the insurance obligation or premium of the Association.

Section 3.3 Possession and Use of Commercial Units . Each Commercial Unit may be used only for and as a retail shop, store, restaurant, offices, or for any other commercial use and purposes which are allowed under applicable government laws and regulations, including zoning regulations, and reasonable rules and regulations of the Association.

Section 3.4 Occupancy Restrictions . The following occupancy restrictions apply to all Units and to the Common Elements:

3.4.1 No improper, offensive or unlawful use may be made of the Property. Owners and Permitted Users shall comply with and conform to all applicable laws and regulations of the United States, the State of Colorado and all other governmental ordinances, rules and regulations. Violations thereof shall be a breach of this Declaration, subject to enforcement by the Association or any Owner.

3.4.2 No noxious, offensive, dangerous or unsafe activity shall be conducted in or on any Unit or the Common Elements, nor shall anything be done, either willfully or negligently, which may be or become a reasonable annoyance or nuisance to the other Owners or Permitted Users. No Owner or Permitted User shall make or permit any disturbing noises nor do or permit anything to be done by others that will interfere with the rights, comforts or convenience of other Owners or Permitted Users. Determination of whether an activity violates this covenant shall be at the discretion of the Board or other committees and shall be subject to rules and regulations adopted by the Board.

3.4.3 Except as may be approved in writing by the Board, nothing shall be done or kept which may result in a material increase in the rates of insurance or would result in the cancellation of any insurance maintained by the Association.

3.4.4 The right to keep animals as household pets may be restricted by rules, regulations or restrictions adopted by the Board. No household pet or animal shall be allowed in or about the Project, including Common Elements, except in compliance with the terms of this Declaration and in compliance with such additional rules, regulations and restrictions issues by the Board. No household pet or animal shall be allowed at any time without adequate supervision or left unattended by an Owner or Permitted User. Owners will be held responsible for any litter, waste, mess or damage created by their pets in the Common Elements and for any offensive or prolonged noises created by their pets. Animals may not be kept for any commercial purposes. The right to keep animals as household pets shall be coupled with the responsibility to pay for any damage caused by such animals, and any damages and any costs incurred by the Association in connection with the enforcement of the Association's rights shall be subject to all of the Association's rights with respect to the collection and enforcement of assessments as provided in this Declaration.

3.4.5 If, due to the act or neglect of any Owner or an Owner's Permitted User, loss or damage shall occur or be caused to any person or property other than the Owner's Unit, such Owner shall be liable and responsible for the payment of same. The amount of such loss or damages and any costs incurred by the Association in connection with the enforcement of the Association's rights shall be subject to all of the Association's rights with respect to the collection and enforcement of assessments as provided in this Declaration.

3.4.6 No abandoned or inoperable vehicle of any kind shall be stored or parked on any of the General or Limited Common Elements. An "abandoned or inoperable vehicle" shall be defined as any vehicle which is not capable of being driven under its own propulsion or does not have current registration. No motor homes, boats, trailers, campers, oversized vehicles or equipment shall be stored or parked anywhere within the Project, except as otherwise provided under Section 106.5 of the Act or by law. The Board shall have the right to remove and store a vehicle or equipment in violation of this section after notice, the expense of which shall be levied against the Owner of the vehicle or equipment as a Default Assessment.

3.4.7 Except as permitted by the Board, no activity such as, but not limited to, maintenance, repair, rebuilding, dismantling, repainting or servicing of any kind of vehicle, trailer or boat, may be performed or conducted on any General or Limited Common Element. The foregoing restriction shall not be deemed to prevent washing and polishing of any motor vehicle, motor-driven cycle, or other vehicle, together with those activities normally incident and necessary to such washing and polishing.

Section 3.5 Leasing Restriction. Subject to the remaining provisions of this Section 3.5, an Owner shall have the right to lease his Unit in its entirety upon such terms and conditions as the Owner may deem advisable; provided, however, that (i) all leases shall be in writing and shall provide that the lease is subject to the terms of the Association Documents and a copy of the Declaration and the Association's rules are provided in the Lessee with the lease; and (ii) a Unit may be leased only for the uses provided herein. In order to assure Residential Unit Owners of eligibility of the Project for any Agency, the Association may adopt rules and regulations with respect to rental of Residential Units to non-Owners.

Section 3.6 Unit 108. As of the effective date of this Declaration, Unit 108 is owned by the Association. For so long as Unit 108 is owned by the Association, Unit 108 shall be used exclusively by the Owners of the Residential Units and their Permitted Users, and all costs of maintaining, repairing, improving and replacing Unit 108 and its contents, furniture, fixtures and equipment shall be a Residential User Group Common Expense.

#### ARTICLE 4 EASEMENTS

Section 4.1 Recorded Easements. The Property shall be subject to all easements as shown on any Map or plat, those of record, and otherwise as set forth in this Article.

Section 4.2 Reservation of Easements, Exceptions and Exclusions . The Association is hereby granted the right to establish from time to time, by declaration or otherwise, utility and other easements, permits or licenses over the Common Elements for the best interest of all the Owners and the Association. Each Owner is hereby granted a perpetual non-exclusive right of ingress to and egress from the Owner's Unit over and across the General and Limited Common Elements appurtenant to that Owner's Unit, which right shall be appurtenant to the Owner's Unit, and which right shall be subject to rules, regulations, restrictions and policies adopted in writing by the Board as provided herein, which may include closure for repairs and maintenance.

Section 4.3 Easements for Encroachments . If any portion of the Common Elements encroaches upon a Unit or Units, a valid easement for the encroachment and for the maintenance of same, so long as it stands, shall and does exist. If any portion of a Unit encroaches upon the Common Elements or upon an adjoining Unit or Units, a valid easement for the encroachment and for the maintenance of same, so long as it stands, shall and does exist. Such encroachments and easements shall not be considered or determined to be encumbrances either on the Common Elements or the Units.

Section 4.4 Utility Easements . There is hereby created a blanket easement upon, across, over, in and under the Property for the benefit of the Common Elements and the Units and the structures and improvements situated on the Property for ingress and egress, installation, replacing, repairing and maintaining all utilities, including, but not limited to, water, sewer, gas, telephone, cable and satellite television, wired or wireless communications, and electricity, except that such easements may not be utilized by the utility providers until after receiving written approval from the Board. The Board may condition its approval on such matters as it deems appropriate, including without limitation, the location, design, alterations to existing structures and impact on the Common Elements and the Property. Said blanket easement includes future utility services not presently available to the Units which may reasonably be required in the future. By virtue of this easement, after receiving approval of the Board, it shall be expressly permissible for the companies providing utilities to erect and maintain the necessary equipment on any of the Common Elements and to affix and maintain electrical and/or communication wires, cable, circuits, conduits and pipes on, above, across and under the roofs and exterior walls of the improvements, all in a manner customary for such companies in the area surrounding the Property, subject to approval by the Board as provided above. Upon exercise of the rights contained in this Section, the utility providers, at their sole cost and expense, shall repair (or replace if necessary) the Property and all improvements thereon to their condition as they existed prior to the utility providers performing any work.

Section 4.5 Emergency Services Easement . A general easement is hereby granted to all police, sheriff, fire protection, ambulance and other similar emergency agencies or persons to enter upon the Property, including all Units and all Common Elements in the proper performance of their duties.

Section 4.6 Easement for Repairs or Maintenance . Some of the Common Elements are or may be located within a Unit. Notwithstanding any other provision of this Declaration to the contrary, an easement is hereby granted to the Board, or any other person authorized by the Board, whether the Owner is present or not, for access through each Unit to all Common

Elements, from time to time, as may be necessary for the routine maintenance, repair, or replacement for any of the Common Elements located therein or thereon or accessible therefrom or for making emergency repairs necessary to prevent damage to the Common Elements or to another Unit. In order to facilitate the aforesaid maintenance, repair and replacement, all Owners shall provide the authorized Managing Agent a key, key code or lockbox code, as applicable, to their respective Unit. For routine maintenance and non-emergency repairs, entry shall be made only on a regular business day during regular business hours, after service of at least seven day's notice in writing to the Owner. Notice for these purposes may be achieved by electronic communication, or posting on the front door of the Unit. In case of emergency, entry shall be made at any time provided that a reasonable effort according to the circumstances is made to give notice of entry. The Board or its agent is granted the authority to use such reasonable force as is necessary to gain entry into the Unit in the event of an emergency, if no other means of entry are available in view of the circumstances. So long as the Owner has provided the authorized Managing Agent a key, key code or lockbox code as set forth above, the Association shall bear the full responsibility and expense of all damages incurred to the Unit and/or Common Elements because of such forcible entry. All damage to the interior or any part of a Unit resulting from the maintenance, repair, emergency repair or replacement of any of the Common Elements, at the instance of the Association, shall be paid for as part of the Annual Assessment by all of the Owners. No Owner shall be entitled to diminution or abatement for inconveniences or discomfort arising from the making of repairs or improvements or from action taken to comply with any law, ordinance or other of any governmental authority. Restoration of the damaged improvements shall be substantially the same as the condition in which they existed prior to damage. Notwithstanding the foregoing, if any such damage is the result of the failure of an Owner to provide the authorized Managing Agent with a key, key code or lockbox code to their respective Unit and/or the negligence of any Owner, then such Owner shall be solely responsible for the costs of such repairing such damage. In the event the Owner fails within a reasonable time upon proper notice to pay the cost of the damages incurred, the Board may pay for said damages and charge the Owner responsible as a Default Assessment.

Section 4.7 Support Easement . Each Unit is subject to a blanket easement for support and a blanket easement for the maintenance of structures or improvements presently situated or to be built in the future on the Property.

## ARTICLE 5 MECHANIC'S LIENS

Section 5.1 Termination of Mechanic's Lien Rights and Indemnification . No labor performed or materials furnished and incorporated in a Unit with the consent or at the request of the Unit Owner or his Permitted User, agent, contractor or subcontractor shall be the basis for filing of a lien against the Unit of any other Unit Owner not expressly consenting to or requesting the same, or against the Common Elements. Each Owner shall indemnify and hold harmless each of the other Owners and the Association from and against all liability arising from the claim of any lien against the Unit of any other Owner or against the Common Elements for construction performed or for labor, materials, services or other products incorporated in or provided to the Owner's Unit at such Owner's or its Permitted User's request. The provisions

herein contained are subject to the rights of the Managing Agent or Board as is set forth in this Declaration.

Section 5.2 Association Action . Labor performed or materials furnished for the Common Elements, if duly authorized by the Association in accordance with this Declaration or the Bylaws, shall be the basis for the filing of a lien pursuant to law against the Common Elements. Any such lien shall be limited to the Common Elements and no lien may be affected against an individual Unit or Units.

## ARTICLE 6 MAINTENANCE

Section 6.1 Deemed Ownership of Building Components . For maintenance purposes, an Owner shall be deemed to own the exterior doors and windows appurtenant to the Unit, interior nonsupporting walls, the materials making up the finished surfaces of the perimeter walls, ceiling and floors within the Unit, such as, but not limited to, plaster, sheet rock, wall paneling, wallpaper, paint, wall and floor tile, carpet and carpet pad and other flooring, but not including the subflooring. The Owner shall not be deemed to own lines, pipes, wires, conduits or systems (which for brevity are referred to as utilities) running through his Unit which serve one or more other Units except as a tenant in common with the other Owners. Such utilities shall not be disturbed or relocated by an Owner without the prior written consent and approval of the Board. An Owner's right to repair, alter and remodel the interior of his Unit shall be coupled with the obligation to replace any finishing or other materials removed with similar or other types or kinds of materials of at least equal quality.

Section 6.2 Maintenance by Owners . Each Owner shall maintain and keep in repair the interior of his own Unit, including the fixtures thereof. All fixtures, equipment and utilities installed within the Unit commencing at a point where the utilities enter the Unit shall be maintained and kept in repair by the Owner thereof. An Owner shall do no act nor any work that will impair the structural soundness or integrity of the building or impair any easement or hereditament. An Owner shall always keep the balcony, deck or patio area adjoining and appurtenant to his Unit in a clean and sanitary condition, and free from snow.

Section 6.3 Owner's Failure to Maintain or Repair . In the event that a Unit (including the allocated Limited Common Elements) is not properly maintained and repaired, and if the maintenance responsibility for the unmaintained portion of the Unit lies with the Owner of the Unit, or in the event that the Unit is damaged or destroyed by an event of casualty and the Owner does not take reasonable measures to diligently pursue the repair and reconstruction of those portions of the damaged or destroyed Unit for which the Owner is responsible to substantially the same condition in which they existed prior to the damage or destruction, then the Association shall have the right, to be exercised by the Managing Agent, to enter upon the Unit to perform such work as is reasonably required to restore the Unit to a condition of good order and repair, except that no advance approval shall be required in the event of an emergency. All costs incurred by the Association in connection with the restoration shall be reimbursed to the Association by the Owner of the Unit, upon demand. All unreimbursed costs shall be a Default

Assessment and a lien upon the Unit until reimbursement is made. The lien may be enforced in the same manner as a lien for an unpaid Assessment levied in accordance with Article 10 of this Declaration.

Section 6.4 Maintenance by Association . The Association shall be responsible for the maintenance, repair and replacement of the Common Elements (except as set forth in Section 6.2 above and unless necessitated by damage caused by the negligence, misuse or tortuous act or omission of a Unit Owner or Permitted User as set forth in Section 6.5 below), including damage or destruction of a Limited Common Element from any cause other than the negligence or tortuous acts or omissions of an Owner or Permitted User.

Section 6.5 Association Maintenance as Common Expense . Subject to availability of any insurance proceeds, the cost of maintenance, repair and replacement by the Association shall be a Common Expense, as allocated by the Board as either a General Common Expense or a User Group Common Expense. Damage to the interior or any part of a Unit resulting from the maintenance, repair, or replacement of any of the Common Elements or as a result of emergency repairs within another Unit at the instance of the Association shall also be a Common Expense, as allocated by the Board as either a General Common Expense or a User Group Common Expense. However, if such damage is caused by negligent or tortuous acts or omissions of a Unit Owner, or Permitted User, then such Unit Owner shall be responsible and liable for all of such damage and the cost thereof, to the extent that the Owner or Permitted User's negligence or tortuous act or omission caused such damage, which must be timely paid. All unreimbursed costs shall be a Default Assessment and lien upon the Unit until reimbursement is made. The lien may be enforced in the same manner as a lien for an unpaid Assessment levied in accordance with Article 10 of this Declaration.

Section 6.6 Association Power . In performing maintenance, making repairs or replacements as required herein, no Owner shall make any addition or other alteration to any portion of the Common Elements, no matter how minor, without the express written consent of the Board.

## ARTICLE 7

### MEMBERSHIP AND VOTING RIGHTS: ASSOCIATION OPERATIONS

Section 7.1 The Association . Every Owner of a Unit shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of a Unit.

Section 7.2 Transfer of Membership . An Owner shall not transfer, pledge or alienate his membership in the Association in any way, except upon the sale of his Unit and then only to the purchaser of his Unit.

Section 7.3 Membership: Voting Rights . Except as provided in this Section 7.3, the Association shall have one class of membership consisting of all Owners. An Owner, except for the Association, shall be entitled to one vote for each Unit owned. There shall be no vote for any

Units owned by the Association, including without limitation Unit 108, for as long as such Unit is owned by the Association. If more than one person or entity is the Owner of an interest in the Unit, the votes allocated to such Unit shall be exercised as such Owners shall determine between themselves, provided that in no event shall more than the voting Allocated Interests be cast with respect to any Unit. If the Owners of such Unit are unable to agree on how to exercise their votes by the time that a vote on an issue is due, they shall be passed over and their right to vote on such issue shall be lost. Except as otherwise provided for in this Declaration, each Member shall be entitled to vote in all matters affecting the Association. Only Owners within a specific User Group shall be entitled to vote to reject a User Group budget in accordance with Section 9.2.

Section 7.4 Managing Agent . The Association may delegate by written agreement any of its duties, powers, and functions to any person or firm to act as Managing Agent at an agreed compensation.

## ARTICLE 8 THE BOARD OF DIRECTORS OF THE ASSOCIATION

Section 8.1 Board of Directors . All members of the Board shall be Members of the Association, or in the event that a Member is an entity other than a natural person, such member of the Board shall be an authorized representative of such entity Member.

Section 8.2 Powers of the Board . Except for those matters expressly reserved to the Members as provided in the Association Documents, the Board may act in all instances on behalf of the Association. The Association, acting through the Board, shall have all powers and authority necessary or desirable to manage the business and affairs of the Project, and as permitted or set forth in the Act, including without limitation, to:

- 8.2.1 Adopt and amend bylaws and rules, regulations and policies;
- 8.2.2 Determine General Common Expenses and User Group Common Expenses, and adopt and amend budgets (including General Common Expense budgets and User Group budgets) for revenues, expenditures and reserves and levy and collect Assessments;
- 8.2.3 Hire and terminate Managing Agents and other employees, agents and independent contractors;
- 8.2.4 Institute, defend or intervene in litigation or administrative proceedings in its own name on behalf of itself or two or more Unit Owners on matters affecting the Property;
- 8.2.5 Make contracts and incur liabilities;
- 8.2.6 Regulate the use, maintenance, repair, replacement and modification of Common Elements;

8.2.7 Cause additional improvements to be made as a part of the Common Elements;

8.2.8 Acquire, hold, encumber and convey in the name of the Association any right, title or interest in real or personal property, except that Common Elements may be conveyed (except for conveyances as provided in Section 2.4) or subjected to a security interest only if (a) Owners of Two-Thirds in Interest in the Association agree to that action, (b) the provisions of Articles 16 and 17 are followed with respect to notice to First Mortgagees, and (c) if all Owners of Units to which any Limited Common Element is allocated agree in order to convey that Limited Common Element or subject it to a security interest, and amend the Map if necessary to reflect such conveyances;

8.2.9 Grant easements, leases, licenses and concessions through or over the Common Elements, including to an Owner;

8.2.10 Impose and receive any payments, fees or charges for the use, rental or operation of the General Common Elements;

8.2.11 Impose charges (including without limitation, late charges and default interest) for late payment of Assessments, recover reasonable attorney fees and other legal costs for collection of Assessments and other actions to enforce the power of the Association, regardless of whether or not suit was initiated, and after notice and opportunity to be heard, levy reasonable fines for violations of provisions of the Association Documents or otherwise suspend other membership privileges (except that notice and opportunity to be heard shall not be required before suspension of membership privileges for failure to pay Assessments within thirty (30) days after they become due);

8.2.12 Impose reasonable charges for the preparation and recordation of amendments to the Declaration or statements of unpaid Assessments;

8.2.13 Provide for the indemnification of its officers and Board and maintain directors' and officers' liability insurance;

8.2.14 Assign or pledge its right to future income, including the right to receive Assessments;

8.2.15 From time to time, assign and re-assign use of parking areas to Owners, in the Board's sole discretion;

8.2.16 Borrow money, and execute and deliver instruments and pledge collateral therefore;

8.2.17 Exercise any other powers conferred by the Declaration or Association Bylaws;

8.2.18 Exercise all other powers that may be exercised in this state by legal entities of the same type as the Association, including without limitation, those powers specified by the Act and the Colorado Revised Nonprofit Corporation Act; and

8.2.19 Exercise any other powers necessary and proper for the governance and operation of the Association.

Section 8.3 User Group Committees . The Board may in its discretion appoint a committee for each User Group, consisting of Owners from the respective User Groups. Each such committee shall have such authority as may be specified by the Board, which may include, without limitation; (a) recommendations to the Board, for its approval, of the maintenance work that should be performed for the User Group, including a schedule of when such work should be performed; (b) recommendations for User Group Common Expenses, or recommendation for, or preparation of the User Group annual budget; and (c) any other matters relating to the User Group. Notwithstanding the recommendations of the committees, the Board shall make all decisions, and act in all instances, on behalf of each User Group. If for any reason the Board is unwilling or unable to appoint a User Group committee, after diligent attempts to do so, the Board shall be responsible for considering and adopting the User Group budget described in Section 9.2 hereof for such User Group.

## ARTICLE 9 ASSESSMENTS

Section 9.1 Personal Obligation . Each Owner is obligated to pay to the Association (1) the Annual Assessments; (2) Special Assessments; and (3) Default Assessments. Each Assessment against a Unit is the personal obligation, jointly and severally, of the Owner(s) of such Unit at the earlier of the time the Assessment was levied or became due and shall not pass to successors in title unless they agree to assume the obligation. No Owner may exempt himself from liability for the Assessment by abandonment of his Unit or by waiver of the use or enjoyment of all or any part of the Common Elements. **Assessments shall be due quarterly in advance on the first day of the quarter, or on such other schedule as is determined by the Board.** The Managing Agent or Board shall prepare and deliver or mail to each Owner a periodic statement for the Assessments due. Suit to recover a money judgment for unpaid Assessments, any penalties and interest thereon, the cost and expenses of such proceedings, and all reasonable attorney fees in connection therewith shall be maintainable without foreclosing or waiving the Assessment lien provided in this Declaration. All Assessments shall be payable in accordance with the levy thereof, and no offsets or deductions thereof shall be permitted for any reason including, without limitation, any claim that the Association or the Board is not properly exercising its duties and powers under the Association Documents.

Section 9.2 Budget . The Board shall, in advance, prepare and adopt a proposed General Common Expense budget and a User Group budget for each User Group, if appropriate, at least thirty (30) days before expiration of the fiscal year based on estimated Common Expenses. Within thirty (30) days after the adoption of the proposed budgets, the Board shall mail, by ordinary first class mail, or otherwise deliver, a summary of the General Common

Expense budget to all the Owners, and a summary of each User Group budget to each Owner within such User Group, and shall set a date for a meeting of the Owners to consider ratification of the budgets not less than fourteen (14) nor more than sixty (60) days after mailing or other delivery of the summaries. Unless at that meeting Two-Thirds in Interest of Owners within a User Group, whether present in person or by proxy, reject the User Group budget, the User Group budget is ratified, whether or not a quorum of User Group Members is present. Unless at that meeting Two-Thirds in Interest of Owners within the Association, whether present in person or by proxy, reject the General Common Expense budget, the General Common Expense budget is ratified, whether or not a quorum of all Members is present. In the event that a proposed General Common Expense budget or a proposed User Group budget is rejected, the periodic budget last ratified by the Owners (whether General Common Expense budget or User Group budget, as applicable) must be continued until such time as the Owners ratify a subsequent budget proposed by the Board (whether General Common Expense budget or User Group budget, as applicable).

Section 9.3 Basic for Assessment and Budget . The budgets shall be based upon such sum as the Board determines is necessary to provide for the payment of all estimated expenses growing out of or connected with the maintenance and operation of the Units and of the General Common Elements, which sum shall include, but shall not be limited to, expenses of management, operation, taxes and Special Assessments until separately assessed, premiums for fire insurance with extended coverage and vandalism and malicious mischief with endorsements attached issued in the amount of the maximum replacement value of all of the Units (including all fixtures; interior walls and partitions; decorated and finished surfaces of perimeter walls, floors and ceilings; doors, windows and other elements or materials comprising a part of the Units); casualty and public liability and other insurance premiums; communication systems; landscaping and care of grounds; common lighting and heating; repairs and renovations; trash collections; snow removal; wages; water charges, legal and accounting fees; management fees; expenses and liabilities incurred by the Managing Agent or Board under or by reason of this Declaration; for any deficit remaining from a previous period; the creation of a reasonable contingency or other reserve or surplus fund as well as other costs and expenses relating to the General Common Elements.

Section 9.4 Annual Assessments . An Owner's Annual Assessment shall be determined based on the adopted and ratified General Common Expense budget and applicable User Group Common Expense budget if any. The Board shall levy and assess the Annual Assessments to each Owner in accordance with the Allocated Interests in effect on the date of the Annual Assessment, provided, however, that Assessments for insurance premiums may be based upon that proportion of the total premium(s) that the insurance carried on a Unit bears to total coverage. **The Limited Common Elements shall be maintained as General Common Elements, and owners having exclusive use thereof shall not be subject to any special charges or Assessments except as otherwise provided on the next sentence. Notwithstanding the foregoing, the costs of maintaining, repairing and replacing Limited Common Elements that are also Commercial or Residential Limited Common Elements shall be assessed against and borne by the respective User Group.** The Board reserves the right to allocate some or all expenses relating to fewer than all of the Units or User Groups to the owners of those affected Units or that affected User Group only. **Annual Assessments shall be payable in advance quarterly or on such**

other basis as may be determined by the Board, and shall be due on the first day of each period in regular installments on a prorated basis. The omission or failure of the Association to fix the Annual assessments for any assessment shall not be deemed a waiver, modification or release of the Owners from their obligation to pay the same.

#### Section 9.5 Special Assessments .

9.5.1 In addition to the Annual Assessments, subject to the provisions of this subsection 9.5.1 and subsection 9.5.2 below, the Board may levy in any one or more fiscal year, one or more Special Assessments, payable over such a period as the Association may determine, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction except as provided under subsection 9.5.2 below, expected or unexpected repair or replacement of improvements within the Common Elements or for any other expense incurred or to be incurred as provided in this Declaration. Any amounts assessed pursuant to this Section shall be assessed to Owners according to their Allocated Interest for General Common Expenses, subject to the right of the Board to assess the Special Assessment only against the Owners of affected Units, or Owners within a User Group. Notice in writing of the amount of such Special Assessments and the time for payment of the special assessments shall be given promptly to the Owners, and no payment shall be due less thirty (30) days after such notice shall have been given.

9.5.2 In addition to the Annual Assessments and the Special Assessments provided for in subsection 9.5.1 above, subject to the provisions of this subsection, the Board may levy one or more Special Assessments, payable over such a period as the Association may determine, for the purpose of allocating the cost of construction or reconstruction for expansion or improvement of the Common Elements and the Units. Notwithstanding the allocations provided for in subsection 9.5.1 above, the Board may in its discretion assess the Special Assessments permitted under this subsection not to Owners according to their Allocated Interests for General Common Expenses, but rather, according to a percentage determined by the Board that bears a relationship to the benefit gained by an Owner attributable to the improvement or expansion.

A Special Assessment to be levied against all Owners or a User Group under this Section 9.5 in excess of \$100,000.00 shall only be assessed after approval of Two-Thirds in Interests of all Owners in the Association, or of all Owners in the User Group, as appropriate.

Section 9.6 Default Assessments . All monetary fines and other enforcement costs assessed against an Owner pursuant to the Association Documents, or any expense of the Association which is the obligation of an Owner or which is incurred by the Association on behalf of the Owner pursuant to the Association Documents, including without limitation attorneys fees incurred by the Association, shall be a Default Assessment and shall become a lien against such Owner's Unit which may be foreclosed or otherwise collected as provided in this Declaration. Notice of the amount and due date of such Default Assessment shall be sent to the Owner subject to such Assessment at least five (5) days prior to the due date.

Section 9.7 Effect of Nonpayment: Assessment Lien . Any assessment installment, whether pertaining to any Annual, Special or Default Assessment, which is not paid when due shall be delinquent. If an Assessment installment becomes delinquent, the Association, in its sole discretion, may take any or all actions including without limitation the following:

- (i) If the delinquency continues for a period of fifteen (15) days, assess a late charge for each delinquency in such amount as the Board deems appropriate;
- (ii) If the delinquency continues for a period of thirty (30) days, assess an interest charge, in arrears and compounded annually, from the due date at a yearly rate to be determined by the Board, but not to exceed the yearly rate of 18% per year, or the maximum rate allowed by Colorado law, whichever is lesser;
- (iii) Suspend the voting rights of the Owner during any period of delinquency;
- (iv) Accelerate all remaining assessment installments so that unpaid assessments shall be due and payable at once;
- (v) Bring an action at law against any Owner personally obligated to pay the delinquent assessments;
- (vi) Proceed with foreclosure as set forth in more detail below; and
- (vii) Suspend any of the Owner's membership privileges, including the right to use the Project's facilities.

#### ARTICLES 10 LIEN FOR ASSESSMENTS

Section 10.1 Lien . Assessments chargeable to any Unit shall constitute a lien on such Unit. If an Assessment is payable in installments, each installment is a lien from the time it becomes due, including the due date set by any valid acceleration of installment obligations. A lien under this Section is prior to all other liens and encumbrances on a Unit except: (1) liens and encumbrances recorded before the recordation of the Original Declaration; (2) a First Mortgage recorded before the date on which the Assessment sought to be enforced became delinquent; and (3) liens for real estate taxes and other governmental assessments or charges against the Unit. Notwithstanding the foregoing, the Association's lien for delinquent Assessments will be prior to a First Mortgage to the extent of an amount equal to the Assessments which would have come due, in the absence of acceleration, during the six months immediately preceding institution of an action to enforce the lien, or any greater amount permitted by the Act or by law. The provisions of this Section do not affect the priority of mechanics' or materialmen's liens or the priority of a lien for other assessments made by the Association. A lien under this Section is not subject to the provision of C.R.S. 38-41-201 or 15-11-201. The Association's lien on a Unit for any assessment shall be superior to any homestead

exemption now or hereafter provided by the laws of the State of Colorado or any exemption now or hereafter provided by the laws of the United States.

Section 10.2 No Requirement to Record Lien . Recording of this Declaration constitutes record notice and perfection of the lien. Further recording of a claim of lien for an Assessment is not required. However, the Board, Managing Agent, or other authorized agent or attorney of the Association may prepare and record in the office of the Clerk and Recorder of Summit County, Colorado a written notice setting forth the amount of the unpaid indebtedness, the name of the Owner of the Unit, and a description of the Unit. If a notice of lien is filed, the costs and expenses thereof shall be added to the Assessment for the Unit against which it is filed and collected as part and parcel thereof. If a filed notice of lien is released, the costs and expenses thereof shall be added to the assessment for the Unit against which it is filed and collected as part and parcel thereof.

Section 10.3 Enforcement of Lien . A lien for an unpaid Assessment is extinguished unless proceedings to enforce the lien are instituted within six (6) years after the full amount of the Assessment becomes due. A judgment or decree in any action brought under this Section shall entitle the Association to costs and reasonable attorney fees, which shall be additional Assessments. The Association's lien may be foreclosed by the same procedure by which a mortgage on real estate is foreclosed. In the event of any such foreclosure, the Owner shall be liable for the amount of unpaid Assessments, any penalties and interest thereon, the cost and expenses of such proceedings, the cost and expenses for filing the notice of the claim and lien, and all reasonable attorney's fees incurred in connection with the enforcement of the lien. The Owner shall be required to pay the Association the regular assessment installments for the Unit during the period of any foreclosure. The Board shall have the power to bid at the foreclosure sale, and if title is obtained, hold lease, mortgage, and encumber or convey the same in the name of the Association.

Section 10.4 Receivership . In any action by the Association to collect Assessments or to foreclose a lien for unpaid Assessments, the Court may appoint a receiver for the Owner to collect all sums alleged to be due from that Owner prior to or during the pendency of the action. The court may order the receiver to pay any sums held by the receiver to the Association during the pendency of the action to the extent of the Association's Assessments.

Section 10.5 Payment by Mortgagee . Any Mortgagee holding a lien on a Unit may pay any unpaid amount payable with respect to such Unit, together with any and all costs and expenses incurred with respect to the lien and upon such payment that Mortgagee shall have a lien on the Unit for the amounts paid with the same priority as the lien of the Mortgage.

Section 10.6 Statement of Status of Assessment Payment . Upon payment of a reasonable fee set from time to time by the Board and upon fourteen (14) days' written request to the Association's registered agent by personal delivery or certified mail, first-class postage prepaid, return receipt, any Owner, designee of Owner, Agency, Mortgagee, prospective Mortgagee or prospective purchaser of a Unit shall be furnished with a written statement setting forth the amount of the unpaid Assessments, if any, with respect to such Unit.

ARTICLE 11  
INSURANCE

Section 11.1 General Insurance Provisions . The Association shall acquire and pay for, out of the Assessments levied under Article 9 above, the following insurance policies carried with reputable insurance companies authorized to do business in Colorado:

11.1.1 Hazard Insurance . Insurance for fire, with extended coverage, vandalism, malicious mischief, all-risk, replacement cost, agreed amount (if the policy includes co-insurance), special condominium, building ordinance and inflation guard endorsements attached, in amounts determined by the Board to represent not less than the full then current insurable replacement cost of the buildings located on the Property including all of the Units and Common Elements, including all fixtures, interior and perimeter walls and floors, partitions, decorated and finished surfaces of interior and perimeter walls, floors, and ceilings, doors, windows and other elements or materials comprising a part of the Units and including any fixtures, equipment or other property within the Units which are to be or may be financed by a Mortgage to be purchased by an Agency, and excluding any betterments and improvements made by Unit Owners and building excavations and foundations. At the discretion of the Board, such insurance may be obtained for each User Group, or, if available at a reasonable cost, for the Property as a whole. Maximum deductible amounts for such policies shall be determined by the Board, provided, however, that if an Agency requires specific deductibles, the Board shall follow such Agency's requirements. In the event the Property has central heating or cooling or contains a steam boiler, coverage for loss or damage resulting from steam boiler and machinery equipment accidents in an amount equal to the lower of \$2,000,000 or the insurable value of the buildings housing the boiler or machinery shall also be obtained.

11.1.2 Comprehensive Liability . Comprehensive general public liability and property damage insurance for the Property in such amounts as the Board deems desirable, provided that such coverage shall be for at least \$2,000,000 for bodily injury, including death and property damage arising out of a single occurrence insuring the Association, the Board, or the Managing Agent and their respective agents and employees, and the Unit Owners from liability in connection with the operation, maintenance and use of Common Elements and must include a "severability of interest" clause or specific endorsement. Such coverage shall also include legal liability arising out of contracts of the Association and such other risks as are customarily covered including automobile liability insurance if appropriate. The Board or the Managing Agent shall not enter into employment contracts or independent contractor contracts of any kind unless the contracting party provides evidence (such as a Certificate of Insurance) to the Board that such party has current and satisfactory insurance, including workers compensation insurance, commercial general liability and automobile insurance on all of which the Association is named as an additional insured.

11.1.3 Requirements of Hazard Insurance and Comprehensive Liability Insurance: The insurance policies required by Sections 11.1.1 and 11.1.2 above may be carried in blanket policy form naming the Association as the insured, for the use and benefit of and as attorney-in-fact for the Unit Owners. Each Unit Owner shall be an insured person under the

policy with respect to liability arising out of such Unit Owner's interest in the Common Elements or membership in the Association. Each Mortgagee and its successors or assigns shall be a beneficiary of the policy in the percentages of Common Expenses for the Unit which the Mortgagee encumbers. The insurance company shall waive its rights of subrogation under the insurance policy against any Unit Owner or member of the Unit Owner's household. No act or omission by any Unit Owner, unless acting within the scope of such Unit Owner's authority on behalf of the Association, shall void the insurance policy or be a condition to recovery under the insurance policy. If, at the time of a loss under an insurance policy described above there is other insurance in the name of the Unit Owner covering the same risk covered by the policy, the Association's policy shall provide primary insurance.

Each Owner of a Unit shall obtain and maintain insurance coverage on the furnishings, fixtures and other items of personal property belonging to an Owner and any additions, improvements, betterments and alterations to a Unit which increase the Unit's replacement value above that of the original specifications for the Unit (unless financed by a Mortgage to be purchased by FNMA, or FHLMC), casualty and public liability insurance coverage for each Unit and the Limited Common Elements associated therewith in a minimum amount of \$1,000,000 per occurrence and workman's compensation insurance covering work within each Unit or on the Limited Common Elements associated therewith. In the event an Owner fails to obtain and maintain such insurance, and an uninsured loss occurs which would have otherwise been covered under the insurance required by this paragraph, such Owner shall be liable to the Association for the loss suffered, and the Association shall be entitled to recover such amounts from the Owner in the same manner as any other debts owed to the Association.

Section 11.2 Certificates of Insurance: Cancellation . Certificates of insurance shall be issued to each Owner and Mortgagee upon request. All policies required to be carried under this Article 11 shall provide a standard non-contributory mortgagee clause in favor of each First Mortgagee of a Unit and shall provide that such policy cannot be canceled by the insurance company without at least thirty (30) days prior written notice to each Owner and each First Mortgagee whose address is shown in the records maintained pursuant to the Association's documents. If the insurance described in this Article 11 is not reasonably available, or if any policy of such insurance is canceled 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 to all First Mortgagees.

Section 11.3 Insurance Proceeds . Any loss covered by the property insurance policy described in Section 11.1 must be adjusted with the Association, but the insurance proceeds for that loss shall be payable to any trustee designated for that purpose, or otherwise to the Association, and not to any holder of a security interest. The insurance trustee or the Association shall hold any insurance proceeds in trust for the Owners and Mortgagees as their interests may appear. Subject to the provisions of Section 11.5 below, the proceeds must be disbursed first for the repair or restoration of the damaged property, and the Association, Owners and Mortgagees shall not be entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the damaged property has been completely repaired or restored or the regime created by this Declaration is terminated.

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 Owners causing such loss or Owners benefiting from such repair or restoration all or any equitable portion of the deductibles paid by the Association. In the event that more than one Unit is damaged by loss, the Association in its reasonable discretion may assess each Owner a pro rata share of any deductible paid by the Association.

Section 11.4 Insurer Obligation . An insurer that has issued an insurance policy for the insurance described in Section 11.1 and 11.7 or its agent 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 review it until thirty (30) days after notice of the proposed cancellation or nonrenewal has been mailed to the Association and to each Owner and Mortgagee to whom a certificate or memorandum of insurance has been issued at their respective last known addresses, and to any servicer of a Mortgage for Federal National Mortgage Association.

Section 11.5 Fidelity Insurance . Fidelity insurance or fidelity bonds must be maintained by the Association to protect against dishonest acts on the part of its officers, directors, trustees and employees and on the part of all others, including any Managing Agent hired by the Association, who handle or are responsible for handling the funds belonging to or administered by the Association in an amount not less than the greater of (a) fifty thousand dollars (\$50,000) or (b) the estimated maximum amount of funds, including reserve funds, in the custody of the Association or Managing Agent as the case may be, at any given time during the term of each policy as calculated from the current budget of the Association but in no event less than a sum equal to three (3) months' aggregate assessments plus reserve funds. In addition, if responsibility for handling funds is delegated to a Managing Agent, such insurance or bonds must be obtained by or for the Managing Agent and its officers, employees and agents, as applicable. Such fidelity insurance or bonds shall contain waivers of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees" or similar terms or expressions.

Section 11.6 Workers' Compensation Insurance . The Board shall obtain workers' compensation or similar insurance with respect to its employees, if applicable, in the amounts and forms as may now or hereafter be required by law.

Section 11.7 Directors and Officers Liability Insurance . The Association shall also maintain insurance to the extent reasonably available and in such amounts as the Board may deem appropriate on behalf of the Board against any liability asserted against a Member of the Board or incurred by him in his capacity of or arising out of his status as a Member of the Board.

Section 11.8 Other Insurance . The Association shall maintain flood insurance if any part of the Project is located within a Special Flood Hazard Area on a Flood Insurance Rate Map, equal to the lesser of 100% of the insurable value of the Project or the maximum coverage available under the appropriate National Flood Insurance Program. The Board may obtain

insurance against such other risks of a similar or dissimilar nature, including umbrella or extended coverage insurance, as it shall deem appropriate with respect to the Association's responsibilities and duties or as requested by any Agency.

Section 11.9 Common Expenses . Premiums for insurance that the Association acquires under Section 11.1.1 and 11.1.2 above and other expenses connected with acquiring such insurance may be User Group Common Expenses. Premiums for insurance that the Association acquires under Sections 11.5, 11.6, 11.7 and 11.8 above and other expenses connected with acquiring such insurance are General Common Expenses, provided, however, that if some of the insurance is attributable to some but not all of the Units, the Association reserves the right to charge the User Groups for which the insurance coverage is attributable, an amount equal to the premium attributable to such additional insurance coverage.

Section 11.10 Unit Owner's Insurance . At the discretion of the Board, the Association may obtain, as a User Group Expense, insurance for any additions, alterations or improvements to the Units within each User Group. Should the Board elect to not obtain such insurance, each Unit Owner shall be responsible for obtaining additional or supplemental insurance covering any additions, alterations or improvements to his Unit which increase the replacement value of his Unit. In the event that a satisfactory arrangement is not made for additional insurance by the Unit Owner, the Unit Owner shall be responsible for any deficiency in any resulting insurance loss recovery and the Association shall not be obligated to apply any insurance proceeds to restore the affected Unit to a condition better than the condition existing prior to the making of such additions, alterations or improvements. Any additional premiums attributable to the original specifications of a Unit for which the insurance is increased as herein provided may be the subject of a lien for nonpayment as provided in Article 10 hereof in the event the Association pays such premium for a Unit Owner.

### ARTICLE 13

#### DESTRUCTION, DAMAGE OR OBSOLESCENCE; ASSOCIATION AS ATTORNEY-IN-FACT

Section 13.1 Association as Attorney-in-Fact . This Declaration does hereby make mandatory the irrevocable appointment of the Association as an attorney-in-fact to deal with the Property upon its destruction, for repair, reconstruction or obsolescence and to maintain, repair and improve the Units, buildings and General and Limited Common Elements. Title to any 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 any owner or grantor shall constitute and appoint the Association their true and lawful attorney in their name, place and stead for the purpose of dealing with the Property upon its damage, destruction or obsolescence as is hereinafter provided. As attorney-in-fact the Association, by its President and Secretary or Assistant Secretary or other duly authorized officers or agents, shall have full and complete authorization, right and power to make, execute and deliver any contract, deed or any other instrument with respect to the interest of an Owner which are necessary and appropriate to exercise the powers herein granted. Repair and reconstruction of the improvement as used in this Article 13 means restoring the improvements 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 the damage or destruction. The proceeds of any insurance collected shall be available to the Association for the purpose of repair, restoration, reconstruction or replacements unless the Owners and all First Mortgagees agree not to rebuild in accordance with the provisions set forth hereinafter.

Section 13.2 Damage or Destruction Due to Fire . 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 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 repair and reconstruction.

Section 13.3 Insufficient Insurance Proceeds – Damage Less Than 60% of Total Replacement Cost . If the insurance proceeds are insufficient to repair and reconstruct the improvement(s), and if such damage is not more than sixty per cent (60%) of the total replacement cost of all of the Units in the Property, not including Land, such damage or destruction shall be promptly repaired and reconstructed by the Association, as attorney-in-fact, using the proceeds of insurance and the proceeds of a Special Assessment to be made against all of the Owners and their Units. Such special deficiency assessment shall be assessed without the need to follow the procedure set forth in Section 9.5 above, and shall be a Common Expense and made pro rata according to each owner's Allocated Interest in the General Common Expenses 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 Unit and may be enforce and collected as is provided in this Declaration. In addition thereto, the Association, as attorney-in-fact, shall have the absolute right and power to sell the Unit of any owner refusing or failing to pay such deficiency assessment within the time provided, and if not so paid, the Association shall cause to be recorded a notice that the Unit of the delinquent Owner shall be sold by the Association, as attorney-in-fact, pursuant to the provisions of this Section 13.3. Assessments for Common Expenses shall not be abated during the period of repair and restoration. The delinquent Owner shall be required to pay to the Association the costs and expenses for filing the notices, interest at the rate determined by the Board for payment of delinquent Assessments in the amount of the Assessment and all reasonable attorneys' fees. The proceeds derived from the sale of such Unit shall be used and disbursed by the Association, as attorney-in-fact, in the following order: (a) for payment of taxes and special assessment liens in favor of any assessing entity and the customary expense sale; (b) for payment of the balance of the lien of any First Mortgage; (c) for payment of unpaid Common Expenses and all costs, expenses and fees incurred by the Association; (d) for payment of junior liens and encumbrances in the order of and to the extent of their priority; and (e) the balance remaining, if any, shall be paid to the Unit Owner.

Section 13.4 Insufficient Insurance Proceeds – Damage Greater than 60% of Total Replacement Cost . If the insurance proceeds are insufficient to repair and reconstruct the

damaged improvement(s), and if such damage is more than sixty percent (60%) of the total replacement cost of all of the Units in the Property, not including Land, and if the Owners of a Majority in Interest in the Association do not voluntarily, within one hundred (100) days thereafter, make provisions for reconstruction, which plan must have the approval or consent of fifty one percent (51%) or more of the First Mortgagees of record, then 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 remaining premises shall be sold by the Association pursuant to the provisions of this Section 13.4, as attorney-in-fact for all the Owners, free and clear of the provisions contained in the Association Documents. Assessment for Common Expenses shall not be abated during the period of repair and restoration. The insurance settlement proceeds shall be collected by the Association and such proceeds shall be divided by the Association according to each Owner's Allocated Interest in the General Common Elements, and such divided proceeds shall be paid into separate accounts, each such account representing one of the Units. Each such account shall be in the name of the Association, and shall be further identified by the Unit designated, 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 Mortgage against the Unit represented by such separate account. Thereafter, each such account shall be supplemented by the apportioned amount of the proceeds obtained from the sale of the entire property. Such apportionment shall be based upon each Unit Owner's Allocated Interest in the General Common Elements. The total funds of each account shall be used and disbursed, without contribution from one account to another, by the Association, as attorney-in-fact, for the same purposes and in the same order as is provided in Section 13.3.

Section 13.5 Damage or Destruction – Plan of Reconstruction Adopted . In the event of such damage or destruction under Section 13.4, and if a plan for reconstruction is adopted as therein provided, then all of the Owners shall be bound by the terms and other provisions of such plan. Any Assessment made in connection with such plan shall be a Common Expense and made pro rata according to each Owner's Allocated Interest in the General Common Elements and shall be due and payable as provided by the terms of such plan, but not sooner than thirty (30) days after written notice thereof. The Association shall have full authority, right and power, as attorney-in-fact, to cause the repair or restoration of improvements using all of the insurance proceeds for such purpose notwithstanding the failure of an Owner to pay the Assessment. Assessments for Common Expenses shall not be abated during the period of repair and restoration. The Assessment provided for herein shall be a debt of each Owner and a lien on his Unit and may be enforced and collected as is provided in this Declaration. In addition thereto, the Association, as attorney-in-fact, shall have the absolute right and power to sell the Unit of any Owner refusing or failing to pay such Assessment within the time provided, and if not so paid, the Association shall cause to be recorded a notice that the Unit of the delinquent Owner shall be sold by the Association. The delinquent owner shall be required to pay to the Association the costs and expenses for filing the notices, interest at the rate determined by the Board for payment of delinquent Assessments on the amount of the Assessment and all reasonable attorneys' fees. The proceeds derived from the sale of such Unit shall be used and disbursed by the Association, as attorney-in-fact, for the same purposes and in the same order as is provided in Section 13.3.

Section 13.6 Obsolescence – Plan for Renewal and Reconstruction . The Owners of Two-Thirds in Interest may agree that the General Common Elements are obsolete and adopt a plan for the renewal and reconstruction, which plan has the approval of sixty-six and 67/100 percent (66.67%) or more of the First Mortgagees of record at the time of the adoption of such plan. If a plan for the renewal or reconstruction is adopted, notice of such plan shall be recorded, and the expense of renewal and reconstruction shall be payable by all of the Owners as a Common Expense, whether or not they have previously consented to the plan of renewal and reconstruction. The Association, as attorney-in-fact, shall have the absolute right and power to sell the Unit of any Owner refusing or failing to pay such Assessment within the time provided, and if not so paid, the Association shall cause to be recorded a notice that the Unit of the delinquent Owner shall be sold by the Association. The delinquent Owner shall be required to pay to the Association the costs and expenses for filing the notices, interest at the rate determined by the Board for payment of delinquent Assessments on the amount of the Assessment and all reasonable attorneys' fees. The proceeds derived from the sale of such Unit shall be used and disbursed by the Association, as attorney-in-fact, for the same purposes and in the same order as is provided in Section 13.3.

Section 13.7 Obsolescence – Plan for Sale . The Owners of Two-Thirds in Interest may agree that the Units are obsolete and that the same shall be sold. Such Plan or agreement must have the approval of sixty-six and 67/100 percent (66.67%) or more of the First Mortgagees of record at the time of the adoption of such plan. 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 premises shall be sold by the Association, as attorney-in-fact, for all of the Owners, free and clear of the provisions contained in this Declaration, the Map, the Articles of Incorporation and the By-Laws. The sales proceeds shall be apportioned among the Owners on the basis of each Owner's Allocated Interest in the General Common Elements, and such apportioned proceeds shall be paid into separate accounts, each such account representing one Unit. Each such account shall be in the name of the Association, and shall be further identified by the Unit designation and the name of the Owner. From each separate account the Association, as attorney-in-fact, shall use and disburse the total amount of each such account, without contribution from one account to another, for the same purposes and in the same order, as is provided in Section 13.3.

#### ARTICLE 14

#### ALTERATIONS, ADDITIONS OR IMPROVEMENTS TO COMMON ELEMENTS

Section 14.1 Alterations, Additions or Improvements . No alteration, addition or improvement to the Common Elements or the exterior of a Unit of any kind (including, without limitation, change in color, texture, signage, doors or windows), or which in any manner affect the Common Elements (by way of example and not by way of limitation, air conditioning units, hot tubs, spas, fireplaces, built in cabinetry, skylights, and moving or removing structural walls), shall be made unless first approved in writing by the Board. The Board shall respond to any written request for approval of a proposed addition, alteration or improvement within thirty (30) days after the complete submission of the plans, specifications and other materials and

information which the Board may require in conjunction therewith. If the Board fails to approve or disapprove any request within thirty (30) days after the complete submission of the plans, specifications, materials and other information with respect thereto, the request shall be deemed to have been disapproved by the Board. In the event the Board approves any such alterations, addition or improvement, it shall exercise reasonable business judgment to the end that any modifications to the Common Elements or Unit conform to and harmonize with existing surroundings and structures. The Board has the absolute right to deny any requested changes, provided such denial is not arbitrary or capricious.

Section 14.2 Governmental Approval . If any application to any governmental authority for a permit to make any such alteration, additional or improvement requires execution by the Association, and provided approval has been given by the Board, then the application shall be executed on behalf of the Association by an authorized officer, only, without however incurring any liability on the part of the Board, the Association or any of them to any contractor, subcontractor or materialman on account of such alteration, addition or improvement, or to any person having claim for injury to person or damage to property arising therefrom.

Section 14.3 Architectural Review Committee . The Board shall have the right, without the obligation, to establish an Architectural Review Committee (the "Committee") which shall be responsible for such matters as may be assigned by the Board, which may include, by way of example, and not by way of limitation, the following: establishment and administration of architectural or design guidelines, sign guidelines, window covering guidelines and lighting guidelines; review and recommendations for approval, disapproval or approval with conditions of alterations or additions to Common Elements (whether General or Limited) or Units including combining subdividing and expanding Units pursuant to Section 2.4; and such other matters as the Board may request.

Section 14.4 Association Right to Remove Unauthorized Alterations, Additions or Improvements . The Association upon the majority approval by the Board and after reasonable notice to the Owner of the offending Unit, may remove any alterations, additions or improvements constructed, reconstructed, refinished, altered, or maintained in violation of this Declaration, and the Owner shall immediately reimburse the Association for all expenses incurred in connection with such removal and such expenses shall be a Default Assessment against the Unit.

## ARTICLES 15 OTHER PROPERTY FOR COMMON USE

The Association, as attorney-in-fact for all of the Owners, may acquire and hold, in its own name, for the use and benefit of all of the Unit Owners real property and interests therein, tangible and intangible personal property, and may dispose of the same by sale or otherwise. The beneficial interest in any such property shall be owned by all of the Unit Owner in the same proportion as their respective interest in the General Common Elements, and such interest therein shall not be transferable except with a transfer of a Unit. A transfer of a Unit shall transfer to the transferee ownership of the transferor's beneficial interest in such property without any reference

thereto. Each Owner may use such property in accordance with the purpose for which it is intended without hindering or encroaching upon the lawful rights of the other Owners. The transfer of title to a Unit under foreclosure shall entitle the purchaser to the beneficial interest in such personal property associated with the foreclosed Unit.

## ARTICLE 16 MORTGAGEE'S RIGHTS

The following provisions are for the benefit of holders, insurers or guarantors of First Mortgagees. To the extent permitted under Colorado law and as applicable, necessary or proper, the provisions of this Article apply to this Declaration and also to the Articles, Bylaws and Rules and Regulations of the Association.

Section 16.1 Title Taken by First Mortgagee . Any First Mortgagee of record against a Unit who obtains title to the Unit pursuant to remedies exercised in enforcing the Mortgage, including foreclosure of the Mortgage or acceptance of a deed in lieu of foreclosure, will be liable for all Assessments due and payable as of the date title to the Unit (i) is acquired or (ii) could have been acquired under the statutes of Colorado governing foreclosure, whichever is earlier.

Section 16.2 Distribution of Insurance or Condemnation Proceeds . In the event of a distribution of insurance proceeds or condemnation awards allocable among the Units for losses to, or taking of, all or part of the Common Elements, neither the Owner nor any other person shall take priority in receiving the distribution over the right of any First Mortgagee against the Unit.

Section 16.3 Right to Pay Taxes and Charges . 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 Common Elements, and may pay overdue premiums on insurance policies, or secure new hazard insurance coverage on the lapse of a policy for such Common Elements, and First Mortgagees making such payments shall be owed immediate reimbursement therefore from the Association.

Section 16.4 Audited Financial Statement . Upon written request from any Agency or Mortgagee which has an interest or prospective interest in any Unit or the Project, and upon payment in advance by such Agency or Mortgagee of the estimated cost as determined by the Board, the Association shall prepare and furnish within ninety days an audited financial statement of the Association for the immediately preceding fiscal year at the expense of such Agency or Mortgagee.

Section 16.5 Notice of Action . Any First Mortgagee and any Agency which holds, insures or guarantees a First Mortgage, upon written request to the Association (which shall include the Agency's name and address and Unit number), will be entitled to timely written notice of:

16.5.1 Any condemnation or casualty loss that affects either a material portion of the Project or the Unit secured by the Mortgage;

16.5.2 Any sixty (60) day delinquency in the payment of Assessments or charges owed by the Owner of any Unit on which the Mortgagee holds the Mortgage;

16.5.3 A lapse, cancellation, or material modification of any insurance policy maintained by the Association; and

16.5.4 Any proposed action that requires the consent of a specified percentage of eligible Mortgagees.

Section 16.6 Action by Mortgagee . Except as otherwise provided by law, if this Declaration or any Association Documents require the approval or consent of any Mortgagees then, if any Mortgagee fails to respond or to deliver a negative response to any written proposal for such approval within sixty (60) days after proper notice of the proposal (or such longer time as may be set forth in the notice) is sent to such Mortgagee, such Mortgagee shall be deemed to have approved such proposal provided that the notice was sent to the Mortgagee by certified or registered mail, return receipt requested at its most recent address as shown on the recorded Mortgage or recorded assignment thereof.

Section 16.7 Junior Mortgages . The owner of a Unit may create junior Mortgages on the following conditions: (1) that any such junior Mortgages shall always be subordinate to all of the terms, conditions, covenants, restrictions, uses, limitations, obligations, liens for Common Expenses, and other obligations created by this Declaration and the By-Laws; (2) that the Mortgagee under any junior Mortgage shall release, for the purpose of restoration of any improvements upon the mortgaged premises, all of his right, title and interest in and to the proceeds under all insurance policies upon said premises which insurance policies were effected and placed upon the mortgaged premises by the Association. Such release shall be furnished forthwith by a junior Mortgagee upon written request for one or more of the members of the Board of the Association. If not given, such release may be executed by the Association, as attorney-in-fact for such junior Mortgagee.

## ARTICLE 17 DURATION OF COVENANTS AND AMENDMENT

Section 17.1 Term . The covenants and restrictions of this Declaration shall run with and bind the Land in perpetuity, subject to the termination provisions set forth herein.

Section 17.2 Amendment . Except as provided in Section 17.3, this Declaration, or any provision of it, may be amended at any time by approval of Two-Thirds in Interest of all Owners.

Section 17.3 Amendment for Certain Actions . Notwithstanding anything else contained in this Declaration, and except in case of condemnation or substantial loss to the Units and/or Common Elements, unless at least two-thirds (2/3rds) of First Mortgagees who have

notified the Association as provided herein that the First Mortgagee be given notices and Owners of Two-Thirds in Interests have given their prior approval, the Association may not, except as otherwise provided herein:

17.3.1 By act or omission seek to abandon or terminate the condominium regime hereby;

17.3.2 Reallocate the Allocated Interest or obligation of any Unit in order to levy assessments or changes, allocate distribution of hazard insurance proceeds or condemnation awards, or determine the Percentage Share of Ownership of Common Elements other than as set forth in Article 2;

17.3.3 Partition or subdivide any Unit, except as set forth in Article 2;

17.3.4 Seek to abandon, partition, subdivide, encumber, sell or transfer the Common Elements, except as set forth in Article 2, by act or omission other than the grant of easements for public utilities or other public purposes consistent with the intended use of the Common Elements;

17.3.5 Use hazard insurance proceeds for losses to any part of the Property (whether Units or Common Elements) for other than the repair, replacement or reconstruction of the Project.

Section 17.4 Execution of Amendment . Any amendment must be executed by the President or some other duly authorized officer of the Association and recorded, and approval of such amendment may be shown by a certification of the Secretary or other duly authorized officer of Association certifying the approval of the amendment by a sufficient number of Owners and First Mortgagees, if applicable.

## ARTICLE 18 GENERAL CONDITIONS

Section 18.1 Parking Area . Covered parking spaces located below the buildings, except for those designated for handicapped use, shall be Limited Common Elements allocated to specific Units in accordance with the Condominium Map and for the exclusive use of the designated Unit. All other parking spaces and areas shall be General Common Elements, which the Board may from time to time, assign and reassign all or in part to individual Owners by the Association for exclusive use by the assigned unit Owner, and not by others, except by invitation, or for use, in whole or in part, as general unassigned parking by the Owners and their Permitted Users. Notwithstanding the foregoing, all driveways, parking spaces and areas shall be subject to reasonable regulation and control by the Association. The Association, acting through the Board, may establish reasonable Rules and Regulations governing use of the driveway and any and all parking spaces and areas in and constituting General Common Elements and Limited Common Elements. No Owner, guest of an Owner, agents, and invitees shall park any vehicle on the Property except wholly within a single parking area designated therefore. No inoperable

vehicle shall be stored on the Property. No Owner shall conduct or permit to be conducted major repairs or restorations of any vehicle of whatever kind upon the Property. Boats, recreational vehicles and other similar crafts or vehicles shall not be kept, stored, parked or maintained upon the Property. No damaged or unsightly vehicles shall be kept, stored, parked or maintained upon the Property.

Section 18.2 Registration by Owner of Mailing Address . Each Owner shall, and First Mortgagee if it desires may, register his or its mailing address and/or e-mail address with the Association, and except as may be required by the Association Documents or by law, all notices or demands intended to be served upon an Owner may be sent by first class mail, postage prepaid, to the registered address or via e-mail until such address is changed by a notice of address change sent to the Association. However, if an Owner fails to notify the Association of a registered address, then any notice or demand may be delivered or sent, as aforesaid, to such Owner at the address of such Owner's Unit.

Section 18.3 Compliance with Provisions of Association Documents; Rights of Action . Each Owner shall comply strictly with the provisions of the Association Documents as the same may be lawfully amended from time to time. The Association on behalf of itself and any aggrieved Unit Owner shall be granted a right of action against any and all Unit Owners for failure to comply with the provisions of the Association Documents, or with decisions of the Board made pursuant to authority granted to the Association in the Association Documents. The Association or any Unit Owner shall have the right but not the obligation to enforce the Association Documents by any proceeding at law or in equity, or as set forth in the Association Documents. The prevailing party in any action shall be entitled to reimbursement from the non-prevailing party or parties, of all costs and expenses, including reasonable attorney's fees. Failure by the Association or by any Owner to enforce compliance with any provision of the Association Documents shall not be deemed a waiver of the right to enforce any provision thereafter.

Section 18.4 Severability . If any of the provisions of this Declaration or any paragraph, sentence, clause, phrase or word, or the application thereof in any circumstances be invalidated, such invalidity shall not affect the validity of the remainder of this Declaration, and the application of any such provision, paragraph, sentence, clause, phrase or word in any other circumstances shall not be affected thereby.

Section 18.5 Conflicts Between Documents . In case of conflict between this Declaration and the Articles and the Bylaws of the Association, this Declaration shall control. In case of conflict between the Articles and the Bylaws, the Articles shall control.

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

This Amended and Restated Condominium Declaration for Woodbridge Inn Condominiums shall be effective upon recording in the office of the Clerk and Recorder of Summit, Colorado. Upon recordation, the provisions of this Amended and Restated Condominium Declaration for Woodbridge Inn Condominiums shall supersede in its entirety the Original Declaration.

The Association has caused this Amended and Restated Declaration to be executed by its duly authorized officers this \_\_\_ day of \_\_\_\_\_, 200\_\_.

Woodbridge Inn Condominium Association,  
a Colorado nonprofit corporation

By: \_\_\_\_\_  
President

Attest:

By: \_\_\_\_\_  
Secretary

STATE OF COLORADO )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 200\_\_, by \_\_\_\_\_, as President of Woodbridge Inn Condominium Association.

Witness my hand and official seal.  
My commission expires: \_\_\_\_\_

[SEAL]

\_\_\_\_\_  
Notary Public

STATE OF COLORADO )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 200\_\_, by \_\_\_\_\_, as Secretary of Woodbridge Inn Condominium Association.

Witness my hand and official seal.  
My commission expires: \_\_\_\_\_

[SEAL]

\_\_\_\_\_  
Notary Public

EXHIBIT A

LEGAL DESCRIPTION  
of  
WOODBIDGE INN CONDOMINIUMS

A TRACT OF LAND BEING A PORTION OF THE JUNCTION PLACER, U.S. MINERAL SURVEY NUMBER 13059, LOCATED IN SECTION 34, TOWNSHIP 5 SOUTH, RANGE 78 WEST OF THE SIXTH PRINCIPAL MERIDIAN, TOWN OF FRASCO, SUMMIT COUNTY, COLORADO AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE 6-7 LINE OF SAID JUNCTION PLACER, WHENCE CORNER 6 BEARS N 81°41'00" E 463.59 FEET DISTANT; THENCE N 08°19'00" W A DISTANCE OF 100.57 FEET; THENCE 37.83 FEET ALONG THE ARC OF A CURVE TO THE LEFT, HAVING A CENTRAL ANGLE OF 01°40'32", A RADIUS OF 1844.00 FEET AND A CHORD WHICH BEARS S 80°40'18" W 37.83 FEET DISTANT; THENCE N 08°19'00" W A DISTANCE OF 24.90 FEET; THENCE N 89°04'16" W A DISTANCE OF 137.16 FEET; THENCE 109.64 FEET ALONG THE ARC OF A CURVE TO THE RIGHT, HAVING A CENTRAL ANGLE OF 04°14'06" A RADIUS OF 1501.00 FEET AND A CHORD WHICH BEARS N 86°58'43" W 109.61 FEET DISTANT; THENCE S 27°55'04" W A DISTANCE OF 208.76 FEET TO A POINT ON SAID 6-7 LINE OF THE JUNCTION PLACER; THENCE N 81°41'00" E A DISTANCE OF 494.07 FEET TO THE POINT OF BEGINNING, CONTAINING 49436 SQUARE FEET OR 1.135 ACRES, MORE OR LESS.

COUNTY OF SUMMIT, STATE OF COLORADO

**EXHIBIT B**

**To Amended and Restated Condominium Declaration For Woodbridge Inn Condominiums**

<b><u>Unit Number</u></b>	<b><u>Undivided Interest In Common Elements</u></b>
# 101	.038
# 102	.035
# 103	.035
# 104	.036
# 105	.016
# 106	.016
# 107	.035
# 108	.038
# 201	.038
# 202	.035
# 203	.035
# 204	.036
# 205	.016
# 206	.016
# 207	.035
# 208	.021
# 301	.040
# 302	.035
# 303	.035
# 304	.036
# 305	.016
# 306	.016
# 307	.035
# 111	.135
# 213	.025
# 214	.026
# 215	.035
# 313	.025
# 314	.026
# 315	<u>.035</u>
<b>Total:</b>	<b>100%</b>