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DECLARATION

FOR

ELK RIDGE ESTATES

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DECLARATION FOR ELK RIDGE ESTATES

ELK RIDGE ESTATES, LLC, a Colorado limited liability company (“Declarant”), does hereby submit the real property in the County of Douglas, State of Colorado, described in Exhibit A attached hereto and incorporated herein by this reference, to the provisions of the Colorado Common Interest Ownership Act, C.R.S., § 38-33.3-101, et seq., as it may be amended from time to time (the “Act”) for the purpose of creating Elk Ridge Estates, a planned community, making the improvements shown on the Plat, and maintaining the community in a higher standard than usual, and does hereby DECLARE that the property described in Exhibit A shall be held and conveyed subject to the following terms, covenants, restrictions and conditions:

ARTICLE I DEFINITIONS

1.1 Allocated Interests. The Allocated Interests are the Common Expense liability and votes in the Association allocated to Units in the Common Interest Community. The Allocated Interests are described in Article VII of this Declaration.

1.2 ARC or Architectural Review Committee refers to the committee of the Association created pursuant to Article VIII of this Declaration.

1.3 Association. The Association is Elk Ridge Estates Homeowners Association, Inc., a Colorado nonprofit corporation. It is hereby designated as the Association of Unit Owners pursuant to C.R.S., §38-33.3-301.

1.4 Building Envelope. The Building Envelope for each Unit is that portion of the Project identified for site development as shown on the Plat.

1.5 Bylaws. The Bylaws are the Bylaws of the Association, as they may be amended from time to time.

1.6 Common Elements. The Common Elements are all the real estate of the Common Interest Community other than a Unit, including but not limited to roadways, emergency access, drainage, fire cisterns and any Project signs, all of which shall be owned by the Association.

1.7 Common Expenses or Common Expense Assessments. The Common Expenses are the expenses or financial liabilities for the operation of the Common Interest Community. Common Expense Assessments are the funds required to be paid by each Unit Owner in payment of such Owner’s Common Expense liability. These expenses include:

- (a) expenses of administration, maintenance, construction, improvement, repair or replacement of the Common Elements;
- (b) expenses of utilities not separately metered and billed directly to the Unit Owners;
- (c) expenses declared to be Common Expenses by the Documents or by the Act;

- (d) expenses agreed upon as Common Expenses by the Association; and
- (e) such reasonable reserves as may be established by the Association, whether held in trust or by the Association, for repair, replacement or addition to the Common Elements or any other real or personal property acquired or held by the Association.

In addition, some costs and expenses imposed on the Association, benefitting fewer than all the Units, shall be a Common Expense, but assessed exclusively against those Units benefitted. Nothing contained in this Declaration shall permit Declarant, during the period of Declarant's control of the Association as provided in Section 6.14, to use any Common Expense Assessments for the purpose of construction of capital improvements prior to the conveyance of the first Unit to a Unit Owner other than Declarant.

1.8 Common Interest Community. The Common Interest Community is the real property described in Exhibit A and subject to this Declaration.

1.9 Declarant. The Declarant is Elk Ridge Estates, LLC, a Colorado limited liability company, its successors and assigns.

1.10 Declaration. The Declaration is this Declaration for Elk Ridge Estates, together with any supplement or amendment to this Declaration recorded in the Records.

1.11 Development Rights. Development Rights are the rights set forth in Article VI of this Declaration.

1.12 Director. A Director is a member of the Executive Board of the Association.

1.13 Documents. The Documents are this Declaration, the Plat, the Articles of Incorporation of the Association, the Bylaws and the Rules, as they be amended from time to time, and any procedures, rules, regulations or policies adopted under such documents by the Association. Any exhibit, schedule or certification accompanying a Document is a part of that Document.

1.14 Eligible Insurer. An Eligible Insurer is an insurer or guarantor of a first Security Interest in a Unit. An Eligible Insurer must notify the Association in writing of its name and address and inform the Association that it has insured or guaranteed a first Security Interest in a Unit. It must provide the Association with the Unit number and address of the Unit on which it is the insurer or guarantor of a Security Interest. Such notice shall be deemed to include a request that the Eligible Insurer be given the notices and other rights described in Article XIV.

1.15 Eligible Mortgagee. The Eligible Mortgagee is the holder of a first Security Interest in a Unit when the holder has notified the Association, in writing, of its name and address and that it holds a first Security Interest in a Unit. The notice must include the Unit number and address of the Unit on which it has a security interest. This notice shall be deemed to include a request that the Eligible Mortgagee be given the notices and other rights described in Article XIV.

1.16 Executive Board. The Executive Board is the governing body of the Association.

1.17 Improvements. Improvements are any construction, structures, equipment, fixtures or facilities existing or to be constructed on the Project which is included in the Common Interest Community, including but not limited to: Residences, buildings, water wells, landscaping, paving, dog runs, utility pipes and light poles.

1.18 Majority or Majority of Unit Owners. The Majority or Majority of Unit Owners means the Owners of more than 50 percent of the votes in the Association.

1.19 Manager. A Manager is a Person employed or engaged to perform management services for the Common Interest Community and the Association.

1.20 Member. As used herein, the term "Member" is synonymous with the term "Director".

1.21 Notice and Comment. Notice and Comment is the right of a Unit Owner to receive notice of an action proposed to be taken by or on behalf of the Association, and the right to comment thereon. The procedures for Notice and Comment are set forth in Section 19.1 of this Declaration.

1.22 Notice and Hearing. Notice and Hearing is the right of a Unit Owner to receive notice of an action proposed to be taken by or on behalf of the Association, and the right to be heard thereon. The procedures for Notice and Hearing are set forth in Section 19.2 of this Declaration.

1.23 Person. A Person is an individual, corporation, trust, partnership, limited liability company, association, joint venture, government, government subdivision or agency or other legal or commercial entity, or a combination thereof.

1.24 Plat. Plat means the subdivision plat and/or the Rural Site Plan for the Common Interest Community recorded in the Records, as the same may be thereafter supplemented or amended from time to time.

1.25 Project. Project is the land described in Exhibit A hereto, together with all Improvements, easements, rights and appurtenances thereto and such additional property as may be subsequently added, pursuant to the expansion rights reserved in this Declaration, together with all Improvements, easements, rights and appurtenances thereto. All easements and licenses to which the Project is subject as of the date of this Declaration are set forth in Exhibit B hereto.

1.26 Records. The Records are the real estate records in the office of the Clerk and Recorder of Douglas County, Colorado.

1.27 Residence. A Residence shall be the building for single-family living, constructed on a Unit, including an enclosed garage attached thereto or connected thereto by an arbor or breezeway.

1.28 Rules. The Rules are the rules and regulations adopted from time to time by the Executive Board pursuant to this Declaration.

1.29 Security Interest. A Security Interest is an interest in and encumbrance upon real estate or personal property, created by contract or conveyance, which secured payment or performance of an obligation. The term includes a lien created by a mortgage, deed of trust, installment land contract, lease intended as security, assignment of lease or rents intended as security, pledge of an ownership interest in the Association, and any other consensual lien intended as security for an obligation. A nonconsensual lien does not create a Security Interest.

1.30 Special Declarant Rights. Special Declarant Rights are the rights under Article VI of this Declaration.

1.31 Trustee. The trustee is the Person which may be designated by the Executive Board as the trustee for the receipt, administration and disbursement of funds derived from insured losses, condemnation awards, special assessments for uninsured losses and other sources as defined in the Bylaws. If no Trustee has been designated, the Trustee will be the Executive Board acting by majority vote.

1.32 Unit. A Unit is a physical portion of the Common Interest Community designated for separate ownership or occupancy, shown as a lot on the Plat. A Unit does not include any real property shown as a tract on the Plat and designated on the Plat as open space or a private road tract.

1.33 Unit Owner or Owner. The Unit Owner or Owner is Declarant or any other Person who owns a Unit. Unit Owner does not include a Person having only a Security Interest or any other interest in a Unit solely as security for an obligation. Declarant is the initial owner of each and every Unit created and defined by this Declaration and the Plat.

ARTICLE II NAME AND TYPE OF COMMON INTEREST COMMUNITY AND ASSOCIATION

2.1 Name and Type of Common Interest Community. The name of the Common Interest Community is Elk Ridge Estates. Elk Ridge Estates is a planned community.

2.2 Association. The name of the Association is Elk Ridge Estates Homeowners Association, Inc.

ARTICLE III DESCRIPTION OF LAND

The entire Common Interest Community is situated in the County of Douglas, State of Colorado. The initial Project of the Common Interest Community is described in Exhibit A hereto and presently subject to those easements and licenses set forth in Exhibit B hereto. In addition, the Common Interest Community may be subject to other easements or licenses granted pursuant to the Documents, or granted by authority reserved in any recorded document or established in the Act.

ARTICLE IV UNITS

4.1 Number of Units. The number of Units included in the Common Interest Community at the time the Declaration is recorded is 31. The maximum number of Units which may be included in this Common Interest Community is 31, or, if allowed by the Act, the maximum number of Units allowed by any governmental entity having jurisdiction over the Common Interest Community, pursuant to any development plan for the Common Interest Community or the Expansion Property (as defined below). Nothing contained in this Section shall prohibit the Owner of two or more adjacent Units from combining them or portions thereof, so that the resulting number of Units is equal to or less than 31. Declarant shall not be obligated to expand the Common Interest Community beyond the number of Units initially submitted to this Declaration.

4.2 Unit Boundaries. The boundaries of each Unit are delineated and designated by an identifying number on the Plat.

ARTICLE V MAINTENANCE OF THE PROJECT

5.1 Individual Units. It shall be the duty and obligation of each Unit Owner, at such Unit Owners expense, to beautify and keep neat, attractive, sightly and in good order such Owner's Residence and the exterior portions of the Unit, and to maintain, repair and replace the same. If the Owner does not discharge this obligation then, following Notice and Hearing, the Association may arrange to have the work done and assess the Owner for the cost of such work plus twenty-five percent (25%) of such cost for inspection, administrative costs and overhead of the Association and other incidental expenses.

5.2 Duties of Association. The Association shall perform functions and manage the Common Interest Community, including its business affairs as provided in the Documents, so as to maintain, preserve and protect the value and desirability of the Project and to further the interests of the Unit Owners, including but not limited to, managing, controlling, maintaining, repairing, replacing and improving the Common Elements, preserving and protecting the value and desirability of the Common Elements having regard for issues such as fencing, erosion, weed control and the preservation of wildlife habitats, and directing the annual inspection of the septic systems for the Units. The Association shall have all power necessary or desirable to effectuate such purposes. The Association may, from time to time, hire and/or contract with third parties to achieve the objectives of this Section 5.2. The Association shall establish and maintain, out of the Common Expense Assessments, an adequate reserve account for maintenance, repair or replacement of those Common Elements that must be maintained, repaired or replaced on a periodic basis. All reserve accounts shall be maintained separately from the working capital account(s) of the Association. The Association shall adopt and amend budgets for revenues, expenditures and reserves which will be the basis for collection of Common Expense Assessments from Unit Owners, provided that all budgets shall include a minimum of \$500 for maintenance and reserves related to the storm drainage facilities for the Project.

5.3 Right of Access. Any Person authorized by the Executive Board shall have the right of access to all portions of the Project outside of the Residence constructed on a Unit for the purpose of performing emergency repairs or to do other work reasonably necessary for the proper maintenance of the Common Interest Community as set forth herein, provided that requests for entry are made in advance and that any entry is at a time reasonably convenient to the affected Unit Owner. In case of an emergency, no request or notice is required and the right of entry shall be immediate, whether or not the Unit Owner is present at the time.

5.4 Repairs Resulting From Negligence. Each Unit Owner will reimburse the Association for any damages to the Common Elements caused intentionally, negligently or by such Owner's failure properly to maintain, repair or make replacements to the Owner's Unit. If such expense is caused by misconduct, it will be assessed following Notice and Hearing. The Association will be responsible for damage to Units which is caused by the Association intentionally, negligently or by the Association's failure to maintain, repair or make replacements to the Common Elements.

ARTICLE VI DEVELOPMENT RIGHTS AND OTHER SPECIAL DECLARANT RIGHTS

6.1 Reservation of Development Rights. Declarant reserves the following Development Rights:

(a) the right to add all or any portion of the real property described in Exhibit C (the "Expansion Property") and subject it to the provisions of this Declaration;

(b) the right to construct underground utility lines, pipes, wires, ducts, conduits and other facilities across all portions of the Project, for the purpose of furnishing utility, drainage and other services to Residences and Improvements to be constructed on the Project;

(c) the right to withdraw and grant easements and licenses to public and quasi-public utility companies or districts and to convey Improvements within the Common Elements in the Common Interest Community, for the purposes mentioned above; and

(d) the right to create Units or Common Elements (the "Additional Improvements"), to combine two or more Units or divide one Unit for the purpose of combining portions of said divided Unit with adjoining Units, thereby in both cases reducing the total number of Units, to convert Units into Common Elements, and to convert Common Elements into Units.

6.2 Amendment of Declaration. If Declarant elects to submit the Expansion Property, or any part thereof, or Additional Improvements to this Declaration, or to subdivide or to convert Units or Common Elements at such time as construction of the Improvements on the Expansion Property or the Additional Improvements are substantially complete, Declarant shall record an amendment to this Declaration reallocating the Allocated Interests so that the Allocated Interests appurtenant to each Unit will be apportioned according to the total number of Units submitted to this Declaration. The Allocated Interests appurtenant to each Unit in the Common Interest Community shall be based on formula set forth in Section 7.1. The Amendment to this

Declaration shall contain at a minimum the legal description of the Expansion Property, or a part thereof, or a description of the real estate on which the Additional Improvements being submitted to this Declaration are located and a schedule of the Allocated Interests appurtenant to the Units in the Common Interest Community.

6.3 Supplement to the Plat. Declarant shall, contemporaneously with the amendment of this Declaration, file a supplement to the Plat showing the location of the Additional Improvements constructed on the Expansion Property or the construction, combination, subdivision, conversion or allocation of Units or Common Elements allowed by this Article. The supplement to the Plat shall substantially conform to the requirements contained in this Declaration.

6.4 Interpretation. Recording of amendments to this Declaration and supplement to the Plat in the Records shall automatically:

(a) vest in each existing Unit Owner the reallocated Allocated Interests appurtenant to his Unit; and

(b) vest in each existing holder of a Security Interest a perfected Security Interest in the reallocated Allocated Interests appurtenant to the encumbered Unit.

Upon the recording of an amendment to this Declaration, the definitions used in this Declaration shall automatically be extended to encompass and to refer to the Common Interest Community, as expanded. The Expansion Property, or any part thereof, or the Additional Improvements, shall be added to and become a part of the Project for all purposes. All conveyances of Units after such expansion shall be effective to transfer rights in all Common Elements as expanded, whether or not reference is made to any amendment to this Declaration or supplement to the Plat. Reference to this Declaration and Plat in any instrument shall be deemed to include all amendments to this Declaration and supplements to the Plat without specific reference thereto.

6.5 Construction Easement. Declarant expressly reserves the right to perform warranty work, and repairs and construction work and to store materials in secure areas, in Units and in Common Elements, and the future right to control such work and repairs, and the right of access thereto, until its completion. All work may be performed by Declarant without the consent or approval of any Unit Owner or Eligible Mortgagee or holder of a Security Interest. Declarant has such an easement through the Common Elements as may be reasonably necessary for the purpose of discharging Declarant's obligations and exercising Declarant's reserved rights in this Declaration. Such easement includes the right to construct underground utility lines, pipes, wires, ducts, conduits, and other facilities across the Common Interest Community not designated as reserved for future development in this Declaration or on the Plat for the purpose of furnishing utility and other services to buildings and improvements to be constructed on any of the Common Interest Community reserved for future development. Declarant's reserved construction easement includes the right to grant easements to public utility companies and to convey improvements within those easements anywhere in the Common Elements not occupied by an Improvement containing Units. If Declarant grants any such easements, Exhibit B to this Declaration will be amended to include reference to the recorded easement.

6.6 Reciprocal Easements. If all or part of the Expansion Property is not submitted to this Declaration, or if property is withdrawn from the Common Interest Community (“Withdrawn Property”):

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

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

(c) Declarant shall prepare and record in the Records whatever documents are necessary to evidence such easements and shall amend Exhibit B to this Declaration to include reference to the recorded easement(s). Such recorded easement(s) shall specify that the owner(s) of the Expansion Property and the Withdrawn Property and the Unit Owners in the Common Interest Community shall be obligated to pay a proportionate share of the cost of the operation and maintenance of any easements utilized by either one of them on the other’s property upon such reasonable basis as the Declarant shall establish in the easement(s). Preparation and recordation by Declarant of an easement pursuant to this Section 6.6 shall conclusively determine the existence, location and extent of the reciprocal easements that are necessary or desirable as contemplated by this Section 6.6.

6.7 Interference With Development Rights. Neither the Association nor any Unit Owner may take any action or adopt any rule or regulation that will interfere with or diminish any Development Rights reserved by this Article 6 without the prior written consent of the Declarant.

6.8 Limitations on Development Rights. The Development Rights reserved in Section 6.1 are limited as follows:

(a) the Development Rights may be exercised at any time, but not more than thirty (30) years after the recording of the initial Declaration, unless the Development Rights are reinstated or extended by the Association, subject to whatever terms, conditions, and limitations the Executive Board may impose on the subsequent exercise of the Development Rights by Declarant;

(b) all Common Elements created pursuant to the Development Rights will be restricted to use in the same manner and to the same extent as the Common Elements created under this Declaration, as initially recorded; and

(c) no Development Rights may be exercised unless approved pursuant to Section 14.5 of this Declaration.

Declarant may at any time release and relinquish some or all of the Development Rights with respect to all or any part of the Real Estate subject to such rights by instrument executed by Declarant and effective when recorded in the Records. Upon the expiration or other termination

of the Development Rights, any Real Estate then subject to such rights shall become Common Elements or Units, as applicable.

6.9 Phasing of Development Rights. No assurances are made by Declarant as to whether Declarant will exercise its Development Rights, or the order in which such Development Rights will be exercised. The exercise of Development Rights as to some portions of the Project will not obligate Declarant to exercise them as to other portions.

6.10 Special Declarant Rights. Declarant reserves the following Special Declarant Rights, to the maximum extent permitted by law, which may be exercised, where applicable, anywhere within the Common Interest Community:

- (a) to complete Improvements indicated on the Plat;
- (b) to exercise a Development Right reserved in the Declaration;
- (c) to maintain sales offices, management offices, signs advertising the Common Interest Community and models;
- (d) to use easements through the Common Elements and Units for the purpose of making Improvements within the Common Interest Community;
- (e) to appoint or remove an officer of the Association or an Executive Board Member during a period of Declarant's control, subject to the provisions of Section 6.14 of this Declaration;
- (f) to amend this Declaration in connection with the exercise of any Development Rights; and
- (g) to amend the Plat in connection with the exercise of any Development Rights.

6.11 Models, Sales Offices and Management Offices. As long as Declarant is a Unit Owner, Declarant, its duly authorized agents, representatives and employees, may construct and exhibit on any portion of the Project owned by Declarant, up to a maximum of four (4) model Residences, and substitutions thereof, and up to a maximum of two (2) sales offices or management offices in addition to the model Residences. In addition, during any period of construction, Declarant may maintain a construction trailer on each Unit on which Declarant is constructing a model Residence, or, at Declarant's option, on a nearby Unit owned by Declarant.

6.12 Signs and Marketing. Declarant reserves the right to post and maintain signs and displays on any Unit owned by Declarant and in the Common Elements in order to promote sales of Units. Declarant also reserves the right to conduct general sales activities in a manner which will not unreasonably disturb the rights of Unit Owners.

6.13 Declarant's Property. Declarant reserves the right to retain all its property and equipment used in the sales, management, construction and maintenance of the Project, whether or not they have become fixtures.

6.14 Declarant's Control of the Association.

(a) Subject to Subsection 6.14(b), there shall be a period of Declarant's control of the Association, during which Declarant, or Persons designated by Declarant, may appoint and remove the officers of the Association and Members of the Executive Board. The period of Declarant's control shall terminate no later than the earlier of:

(i) 60 days after conveyance of 75 percent of the Units that may be created in the Common Interest Community to Unit Owners other than Declarant; or

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

(iii) two years after any right to add new Units was last exercised.

Declarant may voluntarily surrender the right to appoint and remove officers of the Association and Members of the Executive Board before termination of the period described above. In that event, Declarant may require, for the duration of the period of Declarant's control, that specified actions of the Association or Executive Board, as described in a recorded instrument executed by Declarant, be approved by Declarant before they become effective.

(b) Not later than 60 days after conveyance of 25 percent of the Units that may be created to Unit Owners other than Declarant, at least one Member and not less than 25 percent of the Members of the Executive Board shall be elected by Unit Owners other than Declarant. Not later than 60 days after conveyance of 50 percent of the Units that may be created to Unit Owners other than Declarant, not less than 33--1/3 percent of the Members of the Executive Board shall be elected by Unit Owners other than Declarant.

(c) Not later than the termination of any period of Declarant's control, the Unit Owners shall elect an Executive Board of at least three Members, a majority of whom shall be Unit Owners other than the Declarant or designated representatives of Unit Owners other than the Declarant. The Executive Board shall elect the officers of the Association. The Executive Board Members and officers shall take office upon election.

(d) Notwithstanding any provision of this Declaration or the Bylaws to the contrary, following notice under C.R.S., §38-33.3-308, the Unit Owners, by a vote of 67 percent of all Unit Owners present and entitled to vote at a meeting of the Unit Owners at which a quorum is present, may remove a Member of the Executive Board with or without cause, other than a Member appointed by Declarant.

(e) Within sixty (60) days after the Unit Owners other than the Declarant elect a majority of the members of the Executive Board, the Declarant shall deliver to the Association all property of the Unit Owners and of the Association held by or controlled by the Declarant, including without limitation the following items:

- (i) the original or a certified copy of the recorded declaration as amended, the Association's Articles of Incorporation, Bylaws, minute books, other books and records, and any Rules which may have been promulgated;
- (ii) an accounting for Association funds and financial statements, from the date the Association received funds and ending on the date the period of Declarant control ends. The financial statements shall be audited by an independent certified public accountant and shall be accompanied by the accountant's letter, expressing either the opinion that the financial statements present fairly the financial position of the Association in conformity with generally accepted accounting principles or a disclaimer of the accountant's ability to attest to the fairness of the presentation of the financial information in conformity with generally accepted accounting principles and the reasons therefor. The expense of the audit shall not be paid for or charged to the Association;
- (iii) the Association funds or control thereof;
- (iv) all of the Declarant's tangible personal property that has been represented by the Declarant to be the property of the Association or all of the Declarant's tangible personal property that is necessary for, and has been used exclusively in, the operation and enjoyment of the Common Elements, and inventories of these properties;
- (v) a copy, for the nonexclusive use by the Association, of any plans and specifications used in the construction of the improvements in the Common Interest Community;
- (vi) all insurance policies then in force, in which the Unit Owners, the Association, or its directors and officers are named as insured persons;
- (vii) copies of any certificates of occupancy that may have been issued with respect to any improvements comprising the Common Interest Community;
- (viii) any other permits issued by governmental bodies applicable to the Common Interest Community and which are currently in force or which were issued within one year prior to the date on which Unit Owners other than the Declarant took control of the Association;
- (ix) written warranties of the contractor, subcontractors, suppliers, and manufacturers that are still effective;
- (x) a roster of Unit Owners and mortgagees and their addresses and telephone numbers, if known, as shown on the Declarant's records;
- (xi) employment contracts in which the Association is a contracting party; and
- (xii) any service contract in which the Association is a contracting party or in which the Association or the Unit Owners have any obligation to pay a fee to the persons performing the services.

6.15 Limitations on Special Declarant Rights. Unless terminated earlier by an amendment to this Declaration executed by Declarant, any Special Declarant Right may be exercised by Declarant so long as Declarant (a) is obligated under any warranty or obligation; (b) holds a Development Right; (c) owns any Unit; (d) owns any Security Interest in any Unit; or (e) thirty (30) years have elapsed after recording of this Declaration. Earlier termination of certain rights may occur by pursuant to requirements of the Act.

6.16 Interference with Special Declarant Rights. Neither the Association nor any Unit Owner may take any action or adopt any Rule that will interfere with or diminish any Special Declarant Right without the prior written consent of Declarant.

6.17 Rights of Lenders. Additional limitations on the right of Declarant to exercise Development Rights may be found in Article XIV of the Declaration.

6.18 Rights Transferable. Any Development Rights or Special Declarant Rights created or reserved under this Article 6 for the benefit of Declarant may be transferred to any person by an instrument describing the rights transferred and recorded in the Records. Such instrument shall be executed by the transferor Declarant and the transferee.

ARTICLE VII ALLOCATED INTERESTS

7.1 Liability for the Common Expenses. The percentage of liability for Common Expenses allocated to each Unit shall be on an equal basis for each Unit in the Common Interest Community. Nothing contained in this Section or Section 7.2 below shall prohibit certain Common Expenses from being apportioned to particular Units under Article V or Article XIV of this Declaration.

7.2 Liability for Common Expenses if Units are Combined or Otherwise Adjusted. If an Owner combines two or more Units as provided herein with the intent of creating one Unit therefrom, such resulting Unit shall continue to be allocated the full percentage originally allocated to the Units so combined. If a Unit is subdivided and added to other Units as provided herein, the interest of such subdivided Unit shall be added proportionally to the Units receiving all or a portion of such subdivided Unit.

7.3 Votes. The number of votes allocated to each Unit shall be on an equal basis for each Unit in the Common Interest Community, each Unit having one vote. Any specific percentage, portion or fraction of Unit Owners, unless otherwise stated in the Documents, means the specified percentage, portion or fraction of all of the votes as allocated herein.

ARTICLE VIII ARCHITECTURAL REVIEW COMMITTEE

8.1 Creation of Committee. There is hereby created a standing committee of the Association to be known as the Architectural Review Committee or ARC, to be composed of not more than three (3) individuals. Members of the ARC shall be appointed by the Executive Board, to hold office at the will of the Executive Board.

8.2 Purpose of ARC. The purpose of the ARC is to assure and maintain the superior beauty and quality of the Improvements constructed on the Project, and the harmony thereof with the surroundings, and to evaluate the use and suitability of the proposed Improvements and the effect of the same on any adjacent or neighboring properties.

8.3 Approval of Improvements. Except for Improvements made at any time by the Association, all plans and specifications in connection with (a) initial construction and/or exterior remodeling, rebuilding, refurbishing or alteration of a Residence, including without limitation the exterior appearance, color or texture, patio covers or awnings; (b) any Improvements or alterations to the Unit other than to the Residence, including but not limited to landscaping, construction of outbuildings, swimming pools, wells, corrals, sculpture or art work, driveway, sidewalk, outside deck, grading, excavation, filling or similar disturbance of the surface of the land, shall require the prior written approval of the ARC.

8.4 Owner to Submit Plans. Before any construction work begins, the Owner of the Unit shall be responsible for submitting to the ARC complete plans, specifications and color/material/texture samples for the scheduled work and the qualifications of the parties to be performing the scheduled work.

8.5 Action by ARC. The ARC's approval or disapproval as required by this Declaration shall be in writing. In the event the ARC fails to give its written approval or disapproval within thirty (30) days after complete submission of the required plans and specifications, the submitted plans and specifications shall be deemed approved by the ARC.

8.6 Construction of Improvements after Approval by ARC. Following approval of proposed Improvements by the ARC, the Unit Owner shall cause the approved Improvements to be made to the Unit in a timely fashion.

8.7 Guidelines, Standards and Procedures. The ARC shall adopt guidelines, standards and procedures for its day to day operations and the performance of its duties under this Declaration, which guidelines, standards and procedures shall be consistently applied for all matters coming before the ARC.

8.8 Compensation of Members of ARC. The members of the ARC may receive reasonable compensation for services performed, together with reimbursement for actual and reasonable expenses incurred by them in the performance of their duties.

8.9 Non-Liability of ARC Members. None of the ARC, any member thereof or the Executive Board shall be liable to any Owner or to any other person for any loss, damage or injury arising out of or in any way connected with the performance of the ARC's duties under this Declaration. By granting its approval of proposed Improvements, the ARC will not be deemed to have approved or to have made any representation as to the safety, structural soundness or compliance with local building codes or other governmental laws or regulations concerning the proposed Improvements.

**ARTICLE IX
RESTRICTIONS ON USE, ALIENATION AND OCCUPANCY**

9.1 Improvements to Units. Subject to the Special Declarant Rights reserved under Article VI, the following restrictions on construction of Improvements apply to all Units:

- (a) Zoning. Zoning laws, ordinances, resolutions, rules and regulations and all provisions of the Plat are considered to be a part hereof, and no provision of this Declaration shall be valid or be interpreted to violate any present or future zoning laws, ordinances, resolutions, rules or regulations.
- (b) Building Envelope. Except for a driveway from the public right-of-way to the Residence, wells, cisterns, underground utilities, septic fields, retaining walls, plant materials, entry features, mailboxes and improvements of a similar nature, no Improvements shall be constructed on any Unit except within the Building Envelope for such Unit.
- (c) Minimum Floor Area. Any Residence erected on a Unit shall have a floor area for the main structure, exclusive of the garage, patios and basements, of not less than 2,500 square feet, of which not less than 1,250 square feet shall be on the ground floor.
- (d) Garage. A garage shall be required and shall be of a size at least large enough to enclose two (2) passenger automobiles. No attached or detached unenclosed carport will be permitted, and not more than one (1) garage structure will be permitted on any Unit. On Units whose size is 4.5 acres or greater the maximum floor area of a garage shall be 3,000 square feet and for Units whose size is less than 4.5 acres the maximum floor area of a garage shall be 1,000 square feet.
- (e) Accessory Buildings. No detached guest house shall be permitted to be constructed on any Units. Accessory buildings including storage sheds, barns and greenhouses shall be permitted with the prior approval of the ARC. The total square footage of all accessory buildings on a Unit shall not exceed 1,000 square feet.
- (f) Construction Type. In order to assure the design continuity of the Project, all Residences and other buildings shall be constructed of wood, stone and/or masonry stucco, and shall be colonial, contemporary or rustic in design style. No A-frame or dome structures will be allowed.
- (g) Exterior Paint Colors. Bright colors may not be used on the exterior of any Residence or out-building. Muted shades of earth tone colors must be used which provide subtle diversity, without emphasizing a specific Residence.
- (h) Height Limits. The maximum ridge height of a Residence and any other attached structure and of any outbuilding shall be 35 feet, calculated and measured in accordance with any and all applicable Douglas County regulations and codes.
- (i) Fences. Fencing shall only be permitted within the approved Building Envelope within a Unit. In general, only approved wooden fences will be permitted by the ARC. No wire fences except for approved dog runs will be allowed. Fences may not exceed 48 inches

in height. The height and construction material for fencing surrounding a dog run within a Unit shall be governed by Section 9.2(j) below.

(j) Water and Waste Water Systems. The provisions of this subparagraph are in addition to any restrictions on water and waste water systems applicable to the Project. Water for the Project shall be provided by means of individual wells, to be constructed and operated in accordance with all local, county and state governmental and quasi-governmental laws, regulations, policies and guidelines. Each Unit Owner shall be responsible for obtaining a well permit from the Office of the State Engineer, for the construction and maintenance of such Unit Owner's well and for the connection of the well to the Unit Owner's Residence in accordance with all such requirements. Each Unit will utilize a non-evaporative individually engineered septic system, to be constructed, inspected and maintained in accordance with all local, county and state governmental and quasi-governmental laws, regulations, policies and guidelines, including but not limited to the Tri-County Health Department's Regulation I-96, Individual Sewage Disposal Systems. An effluent filter and a high water alarm shall be installed in each septic tank at the time such tank is installed on any Unit. No fences, driveways, walkways or landscaping that requires irrigation shall be permitted within the absorption areas/leach fields of the septic system of each Unit. Each Owner shall periodically monitor water consumption and inspect plumbing fixtures for such Owner's Unit. Installation of low flow plumbing fixtures is encouraged, but not required.

(k) Maintaining of Drainage. There shall be no interference with the established drainage pattern as planned by Declarant for the entire Project.

(l) Restriction on Antennae, Pipes and Utility Lines. In addition to any other restrictions the ARC may impose, the ARC shall not approve an antenna, pipe or utility line within a Unit that is visible from the public right-of-way or adjacent Units. A satellite dish may be installed to serve a Residence only in an area of the Unit where it will be unobtrusive, and if it is painted or screened to blend in with the natural environment.

(m) Temporary Sign for Identification Purposes. Prior to commencement of construction of a Residence, the Unit Owner shall post a temporary sign on the driveway of the Unit (or in the approximate location of the driveway if not yet constructed), which sign shall be visible from the closest road, and shall contain the street address of the Unit, and the Unit Owner shall maintain such temporary sign during the period of construction. The size of such temporary sign shall be approved by the ARC, and shall comply with all local governmental requirements. Upon completion of construction of the Residence, the temporary sign shall be replaced immediately by the permanent Unit identifying sign or nameplate.

(n) Landscaping. No landscaping shall be permitted outside of the Building Envelope, except for planting of native species of trees, grasses and plants.

9.2 Use Restrictions. Subject to the Special Declarant Rights reserved under Article VI, the following use restrictions apply to all Units and to the Common Elements:

(a) Single-Family Residence. Each Unit is restricted to use as a single family Residence and accessory uses as permitted herein. A single-family Residence is defined as a

single housekeeping unit, operating on a nonprofit, noncommercial basis with a common kitchen and dining area. No outbuilding or part thereof may be rented or leased separate from the balance of the Unit. No room or rooms in any Residence or parts thereof may be rented or leased and no paying guests shall be quartered in any portion of the Residence, outbuilding or Unit. Nothing contained in this Section, however, shall be construed as preventing the renting or leasing of a Unit in its entirety to a single family pursuant to a written lease, in which event a copy of the written lease shall be delivered to the Association upon signing.

(b) No Commercial Pursuits. Except for those activities conducted as a part of the marketing and development program of Declarant, no industry, business, trade or commercial activities shall be conducted, maintained or permitted in any part of a Unit, nor shall any Unit be used or rented for transient, hotel or motel purposes. To the extent permitted by applicable zoning or use regulations, home occupations which do not cause additional or excessive traffic in the Project or disturbance to other Unit Owners will be permitted, subject to prior approval on a case by case basis by the Executive Board, which approval will not be unreasonably withheld.

(c) Compliance with Laws. No immoral, improper, offensive or unlawful use may be made of the Project; and Unit Owners shall comply with and conform to all applicable laws, ordinances, rules and regulations of the United States, the State of Colorado and the County of Douglas. The violating Unit Owner shall hold harmless the Association and other Unit Owners from all fines, penalties, costs and prosecutions for any violation or noncompliance.

(d) Offensive Activities. No noxious, offensive dangerous or unsafe activity shall be carried on upon any portion of the Project, nor shall anything be done, either willfully or negligently or placed thereon which is or may become a nuisance or cause an unreasonable embarrassment, disturbance or annoyance to other Unit Owners or occupants.

(e) Annoying Sounds or Odors. No sound or odor, including those caused by animals, shall be emitted from any portion of the Project which is noxious or reasonably offensive to or would interfere with the rights, comforts or convenience of other Unit Owners or occupants. Without limiting the generality of the foregoing, no exterior speakers, horns, whistles, bells or other sound devices, other than security devices used exclusively for security purposes, shall be located or used on any Unit except with the prior written approval of the ARC.

(f) No Hazardous Activities. There shall be no activity or Improvement on any portion of the Project which is or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms shall be discharged upon the Project, and no open fires shall be lighted or permitted, except in a contained barbecue unit while attended and in use for cooking purposes or within an interior or exterior fireplace designed to prevent the dispersal of burning embers.

(g) No Unsightliness. All unsightly structures, facilities, equipment, objects and conditions shall be enclosed within a structure, including snow removal equipment and garden or maintenance equipment except when in actual use.

(h) Storage of Vehicles. Other than short-term guests or agents of Owners whose vehicles may be parked outside for no more than 72 consecutive hours, no vehicles shall be regularly kept on the Unit in any area other than in a garage or in an outbuilding. Garages are restricted to occupancy by the Owner of the Unit for storage and for parking spaces for vehicles. Garage doors shall remain closed when not in use for ingress or egress of vehicles. No boat, camper (on or off supporting vehicles), trailer, tractor, truck, towed trailer unit, motorcycle, disabled, junked or abandoned vehicle, motor home, mobile home, recreational vehicle or any other vehicle, the primary purpose of which is for recreational, sporting or commercial use, shall be parked or stored in, on or about any Unit or street within the Project, except within a garage or an outbuilding. Declarant, the Association and the ARC shall have the right to enter unenclosed portions of the Unit to remove and store, at the Owner's expense, vehicles in violation of this Section. The Owner shall be entitled to Notice and Hearing prior to such action.

(i) Vehicle Repairs. No maintenance, service, repair, dismantling or repainting of any type of vehicle, boat, machine or device may be carried on, except within a completely enclosed structure which screens the sight and sound of the activity from the street and from other Units.

(j) ^{hunted animals.} Pets; Animals. Pets and/or animals may not be kept for any commercial purposes, and no wildlife species, especially young or injured animals, may be kept as pets. No farm livestock or horses may be kept on a Unit, ~~except, with the prior permission of the~~ Association, one such animal may be kept in an appropriate barn or shed structure and fed supplied feed rather than grazed on the property in connection with an animal husbandry educational program in which a minor (person under the age of 18) member of an Owner's family is enrolled. Such animal ~~must be confined to the Building Envelope area on any Unit in a pen or corral and shall not be permitted to graze or roam outside the Building Envelope.~~ Dogs, cats and other household pets shall be controlled by their owner at all times, and shall not be allowed off the Owner's Unit except when properly leashed or controlled and accompanied by the animal's Owner or such Owner's representative. If an Owner chooses to build a dog run on a Unit, construction of such dog run shall be subject to prior approval by the ARC, shall have a concrete pad floor and shall be fenced entirely by a 6-foot chain link fence; and the total area thereof shall not exceed 300 square feet. Each owner of such an animal shall be financially responsible and liable for any damage caused by said animal. Any animal causing or creating a nuisance or unreasonable disturbance or noise shall be permanently removed from the Project following Notice and Hearing. Each Owner shall and does hereby hold the Association harmless from any claim resulting from any action of such Owners animal(s) or the animal(s) of such Owners guests.

(k) Access to Common Elements. No Owner shall place any structure whatsoever upon or permit any structure to intrude upon or overhang the Common Elements, and no Owner shall engage in any activity which would temporarily or permanently deny free access to any part of the Common Elements by all Owners. No use shall ever be made of the Common Elements which would deny ingress or egress by any Owner to such Owner's Unit.

(l) Prohibition Against Discrimination. Anything to the contrary herein notwithstanding, this Declaration shall be construed as omitting restrictions, if any, based on race, color, religion or national origin.

(m) Restrictions on Garbage and Trash. No refuse, garbage, trash, lumber, grass, shrub or tree clippings, plant waste, compost, metal, bulk materials, scrap, refuse or debris of any kind shall be kept, stored or allowed to accumulate on any Unit except within an enclosed structure, except that any container containing such materials may be placed outside at such times as may be necessary to permit garbage or trash pick-up. Garbage shall not be set out for removal in containers which can be opened easily by an animal (i.e., boxes or plastic or paper bags).

(n) No Temporary Structures or Building Materials. Except during construction, as set forth above, no tent, shack, temporary structure or temporary building or building materials shall be placed, stored or maintained upon the Unit.

(o) Compliance with Insurance Requirements. Nothing shall be done or kept on the Project which may result in a material increase in the rates of insurance or would result in the cancellation of insurance maintained by the Association, without the prior approval of the Association.

(p) Further Subdivision of Units. The Owner of a Unit shall not further subdivide that Unit. Provided, however, that nothing in this subsection shall prohibit Declarant or an Owner from subdividing a Unit for the sole purpose of annexing all subdivided portions of such Unit to other adjacent Units.

(q) Restoration in the Event of Damage or Destruction. In the event of damage or destruction of any Improvement on a Unit, the Owner thereof shall cause the damaged or destroyed Improvement to be restored or replaced to its original condition or such other condition as may be approved in writing by the ARC, or the Owner shall cause the damaged or destroyed Improvement to be demolished and the Unit to be suitably landscaped, subject to the approval of the ARC, so as to present a pleasing and attractive appearance.

(r) Restrictions on Signs and Advertising. No sign, poster, billboard, advertising device or display of any kind shall be erected or maintained anywhere within the Project so as to be evident to public view, except for a temporary sign identifying the Unit by street address during the initial construction of a Residence, as required by Section 9.1(n) above, a name plate or sign not exceeding eighteen (18) square inches in area at the main entrance to each Unit, and except signs as may be approved in writing by the Association or the ARC. A sign advertising a Unit for sale or for lease may be placed on such Unit; provided, however, that standards relating to dimensions, color, style and location of such signs shall be determined from time to time by the ARC.

9.3 Restrictions on Alienation. A Unit may not be conveyed pursuant to a timesharing plan.

ARTICLE X EASEMENTS AND LICENSES

10.1 Existing Easements. All easements or licenses to which the Common Interest Community is presently subject are as shown on the Plat and as set forth in Exhibit B attached hereto.

10.2 Granting of Future Easements. The Common Interest Community may be subject to other easements or licenses granted by Declarant pursuant to its powers under Article VI of this Declaration.

10.3 Easements Reserved. Easements and rights of way are reserved on, over and under the Common Elements and within portions of the Units, as shown on the Plat, for construction, maintenance, repair, replacement and reconstruction of poles, wires, pipes and conduits for lighting, heating, electricity, gas, telephone, drainage, water, communications and any other public or quasi-public utility service purposes, and for sewer and pipes of various kinds.

ARTICLE XI AMENDMENTS TO DECLARATION

11.1 In General. Except to the extent that this Declaration and the Act permit or require amendments that may be executed by Declarant or the Association, the provisions of this Declaration, including the Plat, may be amended, in whole or in part, from time to time, only by vote or written consent of Unit Owners to which at least 67 percent of the votes in the Association are allocated. Notwithstanding the foregoing, Declarant, acting alone, reserves to itself the right and power to modify and amend this Declaration and/or the Plat to the fullest extent permitted under the Act including, without limitation, to correct clerical, typographical or technical errors, or to comply with the requirements, standards, or guidelines of recognized secondary mortgage markets, the Department of Housing and Urban Development, the Federal Housing Administration, the Veterans Administration, the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association, or the Federal National Mortgage Association.

11.2 Recordation of Amendments. Each amendment to the Declaration must be recorded in the Records, and the amendment is effective only upon recording.

11.3 Unanimous Consent. Subject to the Special Declarant Rights reserved herein, and except to the extent expressly permitted or required by other provisions of the Act, an amendment may not create or increase Special Declarant Rights, increase the number of Units, change the boundaries of a Unit after it is initially created as contemplated herein, the Allocated Interests of a Unit or the uses to which a Unit is restricted, except by unanimous consent of the Unit Owners.

11.4 Execution of Amendments. An amendment to the Declaration required by the Act to be recorded by the Association, which has been adopted in accordance with this Declaration and the Act, must be prepared, executed, recorded and certified on behalf of the Association by an officer of the Association designated for that purpose or, in the absence of designation, by the president of the Association.

ARTICLE XII AMENDMENTS TO BYLAWS

The Bylaws may be amended only by vote of 67 percent of the Members of the Executive Board, following Notice and Comment to all Unit Owners, at any meeting duly called for such purpose.

ARTICLE XIII TERMINATION

Termination of the Common Interest Community may be accomplished only in accordance with the termination provisions of the Act and upon obtaining prior written consent thereto of the Board of County Commissioners of Douglas County, Colorado.

ARTICLE XIV MORTGAGEE PROTECTION

14.1 Introduction. This Article establishes certain standards and covenants which are for the benefit of the holders, insurers and guarantors of certain Security Interests. This Article is supplemental to, not a substitution for, any other provisions of the Documents, but in the case of conflict, this Article shall control.

14.2 Percentage of Eligible Mortgagees. Wherever in this Declaration the approval or consent of a specified percentage of Eligible Mortgagees is required, it shall mean that the approval or consent of Eligible Mortgagees holding Security Interests in Units which in the aggregate have allocated to them that specified percentage of votes as compared to the total votes allocated to all Units in the Association then subject to Security Interests held by all Eligible Mortgagees.

14.3 Notice of Actions. The Association shall give prompt written notice to each Eligible Mortgagee and Eligible Insurer of:

- (a) any condemnation loss or any casualty loss which affects a material portion of the Common Interest Community or any Unit in which there is a first Security Interest held, insured or guaranteed by that Eligible Mortgagee or Eligible Insurer, as applicable;
- (b) any delinquency in the payment of Common Expense assessments owed by a Unit Owner which remains uncured for a period of sixty (60) days and whose Unit is subject to a first Security Interest held, insured or guaranteed by that Eligible Mortgagee or Eligible Insurer, as applicable;
- (c) any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association;
- (d) any proposed action which would require the consent of a specified percentage of Eligible Mortgagees as stated in Section 14.4 of the Declaration; and
- (e) any judgment entered against the Association.

14.4 Consent and Notice Required.

(a) Notwithstanding any requirement permitted by this Declaration or the Act, no amendment of any material provision of the Documents by the Association or Unit Owners described in this Section may be effective without notice to all Eligible Mortgagees and Eligible Insurers, as required by Section 14.3 above, without the vote of at least 67 percent of the Unit Owners (or any greater Unit Owner vote required in this Declaration or the Act) and without approval by at least 51 percent of the Eligible Mortgagees (or any greater Eligible Mortgagee approval required by this Declaration). The foregoing approval requirements do not apply to amendments effected by the exercise of any Development Right. A change to any of the following would be considered material:

- (i) voting rights;
- (ii) assessments, assessment liens or priority of assessment liens;
- (iii) reserves for maintenance, repair and replacement of Common Elements;
- (iv) responsibility for maintenance and repairs;
- (v) expansion or contraction of the Common Interest Community, or the addition, annexation or withdrawal of property to or from the Common Interest Community;
- (vi) insurance or fidelity bonds;
- (vii) leasing of Units;
- (viii) imposition of any restrictions on the Unit Owners' right to sell or transfer their Units;
- (ix) a decision by the Association to establish self-management when professional management had been required previously by the Documents or any Eligible Mortgagee;
- (x) restoration or repair of the project after hazard damage or partial condemnation in a manner other than that specified in the Documents;
- (xi) termination of the Common Interest Community after occurrence of substantial destruction or condemnation; and
- (xii) any provision that expressly benefits mortgage holders, insurers or guarantors.

(b) Notwithstanding any lower requirement permitted by this Declaration or the Act, the Association may not take any of the following actions, other than rights reserved to Declarant as Special Declarant Rights, without notice to all Eligible Mortgagees and Eligible

Insurers, as required by Section 14.3 above, and approval of at least 51 percent (or the indicated percentage, if higher) of the Eligible Mortgagees:

(i) convey or encumber the Common Elements or any portion of the Common Elements, for which an 80 percent Eligible Mortgagee approval is required (the granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Elements by the Common Interest Community will not be deemed a transfer within the meaning of this clause);

(ii) the termination of the Common Interest Community for reasons other than substantial destruction or condemnation, for which 67 percent of the Votes of Eligible Mortgagees is required;

(iii) the granting of any easements, leases, licenses or concessions through or over the Common Elements (excluding, however, any utility easements serving or to serve the Common Interest Community and also excluding any leases, licenses or concessions lasting for no more than one year);

(iv) the restoration or repair of the Project after hazard damage or a partial condemnation in a manner other than specified in the Instruments;

(v) the merger of the Common Interest Community with any other Common Interest Community;

(vi) the assignment of the future income of the Association, including its right to receive Common Expense Assessments; and

(vii) any action taken not to repair or replace the Project in the event of substantial destruction of any part of a Unit or the Common Elements.

(c) The Association may not change the period for collection of regularly budgeted Common Expense Assessments to other than monthly collection without the consent of all Eligible Mortgagees.

(d) The failure of an Eligible Mortgagee or Insurer to respond within 30 days to any written request for approval of an addition or amendment to the Document wherever Eligible Mortgagee or Eligible Insurer approval is required, when such request is delivered by certified or registered mail, return receipt requested, shall constitute an implied approval of the addition or amendment.

14.5 Development Rights. No Development Rights may be exercised, voluntarily abandoned or terminated by Declarant unless all persons holding Security Interests in the Development Rights consent to the exercise, abandonment or termination.

14.6 Inspection of Books. The Association must maintain current copies of the Declaration, Bylaws, Rules, books, records and financial statements. The Association shall permit any Eligible Mortgagee or Eligible Insurer, or other first mortgagee of Units, to inspect the books and records of the Association during normal business hours.

14.7 Financial Statements. The Association shall provide any Eligible Mortgagee or Eligible Insurer who submits a written request with a copy of an annual financial statement. It shall be provided within 90 days following the end of each fiscal year of the Association. This financial statement shall be audited by an independent certified public accountant if any Eligible Mortgagee or Eligible Insurer requests such certification, and the Eligible Mortgagee or Eligible Insurer shall bear the cost of the audit, unless the Association obtains such audited statement in the normal course of its business.

14.8 Enforcement. The provisions of this Article are for the benefit of Eligible Mortgagees and Eligible Insurers and their successors and may be enforced by any of them by any available means, at law or in equity.

14.9 Attendance at Meetings. Any representative of an Eligible Mortgagee or Eligible Insurer may attend and address any meeting which a Unit Owner may attend.

14.10 Appointment of Trustee. In the event of damage or destruction under Article XVIII or condemnation of all or a portion of the Common Interest Community, any Eligible Mortgagee may require that such proceeds be payable to a Trustee. Proceeds will then be distributed according to law. Unless otherwise required, the Members of the Executive Board, acting by majority vote, may act as Trustee.

ARTICLE XV ASSESSMENT AND COLLECTION OF COMMON EXPENSES

15.1 Apportionment of Common Expenses. Except as provided in Section 1.7 and Section 15.2, all Common Expenses shall be assessed against all Units in accordance with their Allocated Interests in the Common Expenses at the time such Common Expenses are assessed. Assessments shall be made no less frequently than annually and shall be based on a budget adopted no less frequently than annually by the Association as provided in Section 15.4. The omission or failure of the Executive Board to levy assessments for any period shall not be deemed a waiver, modification or release of the Owners from their obligation to pay such assessments.

15.2 Common Expenses Attributable to Fewer than All Units.

(a) Any common expense or portion thereof benefitting fewer than all of the Units shall be assessed exclusively against the Units benefitted.

(b) If Common Expense liabilities are reallocated, Common Expense Assessments and any installment thereof not yet due shall be recalculated in accordance with the reallocated common expense liabilities.

(c) Any Common Expense for services provided by the Association to an individual Unit at the request of the Unit Owner shall be assessed against that Unit.

(d) An assessment to pay a judgment against the Association may be made only against the Units in the Common Interest Community at the time the judgment was entered, in proportion to their Allocated Interests.

(e) If a Common Expense is caused by the misconduct of any Unit Owner but less than all of the Unit Owners, the Association may assess that expense exclusively against those offending Unit Owners and their Units.

(f) Fees, charges, taxes, impositions, late charges, fines, collection Costs and interest charged against a Unit Owner pursuant to the Documents and the Act are enforceable as Common Expense Assessments.

15.3 Lien.

(a) The Association is hereby granted and shall have a lien on a Unit for a Common Expense Assessment levied against the Unit or fines imposed against its Unit Owner. Fees, charges, late charges, attorney fees, fines and interest charged pursuant to the Act and the Documents are enforceable as assessments under this Section. The amount of the lien shall include all those items set forth in this Section from the time such items become due. If a Common Expense Assessment is payable in installments, each installment is a lien from the time it becomes due, including the due date set by any valid Association acceleration of installment obligations.

(b) 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 Declaration; (2) a first Security Interest on the Unit recorded before the date on which the Common Expense Assessment sought to be enforced became delinquent; and (3) liens for real estate taxes and other governmental assessments or charges against the Unit. A lien under this Section is also prior to all Security Interests described in Subdivision (2) of this Subsection to the extent that the Common Expense Assessments are based on the periodic budget adopted by the Association pursuant to Section 15.4 of this Article and would have become due in the absence of acceleration, during the six months immediately preceding institution by either the Association or any party holding a lien senior to any part of the Association lien created under this section of an action or a nonjudicial foreclosure either to enforce or extinguish either the Association's lien or a Security Interest described in Subdivision (2) of this Subsection. This Subsection does not affect the priority of mechanics' or materialmen's liens or the priority of a lien for other assessments made by the Association. By purchasing a Unit, an Owner waives all federal and state homestead or other exemptions with respect to the lien for Common Expense Assessments.

(c) Recording of the Declaration in the Records constitutes record notice and perfection of the lien. Further recording of a claim of lien for a Common Expense Assessment under this Section 15.3 is not required.

(d) A lien for an unpaid Common Expense Assessment is extinguished unless proceedings to enforce the lien are instituted within six years after the full amount of the Common Expense Assessment becomes due, except that if an Owner of a Unit subject to a lien under this Section files a petition for relief under the United States Bankruptcy Code, the time period for instituting proceedings to enforce the Association's lien shall be tolled until thirty (30) days after the automatic stay of proceedings under Section 362 of the Bankruptcy Code is lifted.

(e) This Section does not prohibit an action to recover sums for which Section 15.3(a) creates a lien or prohibit the Association from taking a deed in lieu of foreclosure.

(f) A judgment or decree in any action brought under this Section 15.3 shall include costs and reasonable attorney fees for the prevailing party, which shall be additional Common Expense Assessments.

(g) A judgment or decree in an action brought under this Section 15.3 is enforceable by execution under Colorado law.

(h) The Association's lien must be foreclosed by the same judicial procedure by which a mortgage on real estate is foreclosed under Colorado law.

(i) In any action by the Association to collect Common Expense Assessments or to foreclose a lien for unpaid Common Expense Assessments, the court may appoint a receiver for the Unit who shall collect all sums due from that Unit Owner or a tenant of the Unit 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 Common Expense Assessments, based on a periodic budget adopted by the Association pursuant to Section 15.5 of this Declaration.

(j) If a holder of a first or second Security Interest in a Unit forecloses that Security Interest, the purchaser at the foreclosure sale is not liable for any unpaid Common Expense Assessments against that Unit which became due before the sale, other than the assessments which are prior to that Security Interest under Subsection (b) of this Section of the Declaration. Any unpaid Common Expense Assessments not satisfied from the proceeds of sale become Common Expenses collectible from all the Unit Owners, including the purchaser.

(k) Any payments received by the Association in the discharge of a Unit Owner's obligation may be applied to the oldest balance due.

15.4 Budget Adoption and Ratification. Within 30 days after adoption of a proposed budget for the Common Interest Community, the Executive Board shall mail, by ordinary first-class mail, or otherwise deliver a summary of the budget to each Unit Owner and shall set a date for a meeting of the Unit Owners to consider ratification of the budget. The meeting shall be not less than fourteen (14) nor more than sixty (60) days after mailing of the summary. Unless at that meeting a majority of all Unit Owners rejects the budget, the budget is ratified, whether or not a quorum is present. If the proposed budget is rejected, the periodic budget last ratified by the Unit Owners continues until the Unit Owners ratify a new budget proposed by the Executive Board.

15.5 Ratification of Nonbudgeted Common Expense Assessments. If the Executive Board votes to levy Common Expense Assessments not included in the current budget, other than one enumerated in Section 15.2 of this Declaration, in an amount greater than 15 percent of the current annual operating budget, the Executive Board shall submit this Common Expense to the Unit Owners for ratification in the same manner as a budget under Section 15.4. Notwithstanding the foregoing, the Executive Board shall have the authority to levy Common

Expense Assessments not included in the current budget for the purpose of reimbursing Douglas County for any costs incurred by Douglas County in performing any maintenance, repairs or replacements which are the obligation of the Association under the Documents, such Common Expense Assessments shall be due and payable within thirty (30) days after demand, and are exempt from any voting or ratification requirements by the Unit Owners.

15.6 Certificate of Payment of Common Expense Assessments. Upon written request to the Manager or the Association's registered agent, any Owner 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 within 14 calendar days. The statement is binding on the Association, the Executive Board and every Unit Owner. Unless such statement shall be issued by personal delivery or by certified mail, first class postage prepaid, return receipt requested, to the inquiring party (in which event the date of posting shall be deemed the date of delivery) within 14 calendar days, the Association shall have no right to assert a lien upon the Unit or Interval Ownership Interest over the inquiring party's interest for unpaid Assessments which were due as of the date of the request.

15.7 Monthly Payment of Common Expenses. All Common Expenses assessed under Sections 15.1 and 15.2 of this Declaration shall be due and payable monthly, unless otherwise determined by the Executive Board.

15.8 Acceleration of Common Expense Assessments. In the event of default in which any Unit Owner does not make the payment of any Common Expense Assessment levied against his Unit within 10 days of the date due, the Executive Board shall have the right, after Notice and Hearing, to declare all unpaid Common Expense Assessments for the pertinent fiscal year immediately due and payable.

15.9 Commencement of Common Expense Assessments. Until the Association makes a Common Expense Assessment, Declarant shall pay all Common Expenses. Common Expense Assessments shall begin on the first day of the month in which conveyance of the first Unit to a Unit Owner other than Declarant occurs. In the event and from time to time as Declarant exercises the Special Declarant Right to create additional Units, the Common Expense Assessments attributable to any additional Units so created shall begin on the first day of the month in which conveyance to a Unit Owner other than Declarant of the first Unit created by and shown in an amendment to the Plat occurs. Nothing contained herein shall prohibit Declarant from electing to pay all Common Expenses for a certain period of time, in which case no Common Expense Assessments will be incurred or collected during that period.

15.10 No Waiver of Liability for Common Expenses. No Unit Owner may become exempt from liability for payment of the Common Expense Assessments by waiver of the use or enjoyment of the Common Elements or by abandonment of the Unit against which the Common Expense Assessments are made.

15.11 Personal Liability of Unit Owners. The Unit Owner of a Unit, at the time a Common Expense Assessment or portion of the assessment is due and payable, is personally liable for the Common Expense Assessment. Personal liability for the Common Expense

Assessment then owed shall not pass to a successor in title to the Unit unless the successor agrees to assume the obligation.

ARTICLE XVI RIGHT TO ASSIGN FUTURE INCOME

The Association may assign its future income, including its right to receive Common Expense Assessments, only by the affirmative vote of Unit Owners of Units to which at least 67 percent of the votes in the Association are allocated, at a meeting called for that purpose, and with the Eligible Mortgagee consent described in Article XIV.

ARTICLE XVII PERSONS AND UNITS SUBJECT TO DOCUMENTS

17.1 Compliance with Documents. All Unit Owners, tenants, mortgagees and occupants of Units shall comply with the Documents. The acceptance of a deed or exercise of any incident of ownership or entering into a lease or occupancy of a Unit constitutes agreement that the provisions of the Documents are accepted and ratified by that Unit Owner, tenant, mortgagee or occupant. All provisions recorded in the Records are covenants running with the land and shall bind any Persons having at any time any interest or estate in any Unit.

17.2 Adoption of Rules. The Executive Board may adopt Rules regarding the use and occupancy of Units as it affects the Common Elements and the activities of occupants, subject to Notice and Comment.

ARTICLE XVIII INSURANCE

18.1 Coverage. To the extent reasonably available, the Executive Board shall obtain and maintain insurance coverage as set forth in this Article. If such insurance is not reasonably available, and the Executive Board determines that any insurance described in this Article will not be maintained, the Executive Board shall cause notice of that fact to be hand delivered or sent prepaid by United States mail to all Unit Owners and Eligible Mortgagees at their respective last known addresses.

18.2 Property Insurance Coverage. Property insurance will be maintained on the Common Elements, property that must become Common Elements, if any, and all personal property owned by the Association for broad form covered causes of loss; except that the total amount of insurance must be not less than the full insurable replacement cost of the insured property less applicable deductibles at the time the insurance is purchased and at each renewal date, exclusive of land, excavations, foundations, and other items normally excluded from property policies.

18.3 Liability Insurance. Liability insurance, including associated medical payments insurance, will be maintained in an amount determined by the Executive Board, but in no event shall it be less than \$1,000,000. This insurance shall cover all occurrences commonly insured against for death, bodily injury and property damage arising out of or in connection with the ownership, existence, use, or management of the Common Elements and the activities of the

Association. The liability insurance carried hereunder, shall insure the Executive Board, the Association, the Manager, and their respective employees, agents, and all persons acting as agents. Declarant shall be included as an additional insured in such Declarant's capacity as a Unit Owner and Executive Board Member. The Unit Owners shall be included as additional insureds but only for claims and liabilities arising in connection with the ownership, existence, use, or management of the Common Elements. Insurance policies carried pursuant to this Section shall provide that:

(a) each Unit Owner is an insured person under the policy with respect to liability arising out of the Unit Owner's interest in the Common Elements or membership in the Association;

(b) the insurer waives the right to subrogation under the policy against a Unit Owner or member of the household of a Unit Owner;

(c) an act or omission by a Unit Owner, unless acting within the scope of the Unit Owners authority on behalf of the Association, will not void the policy or be a condition to recovery under the policy;

(d) if, at the time of a loss under the policy, there is other insurance in the name of a Unit Owner covering the same risk covered by the policy, the policy of the Association provides primary insurance: and

(e) an insurer that has issued an insurance policy for the insurance policy for the insurance described in Section 18.2 and 18.3 shall issue certificates or memoranda of insurance to the Association and, upon request, to any Unit Owner and any holder of a Security Interest. The insurer issuing the policy may not cancel or refuse to renew it until 30 days after notice of the proposed cancellation or non-renewal has been mailed to the Association, each Unit Owner and each holder of a Security Interest to whom a certificate or memorandum of insurance has been issued at their last known addresses.

18.4 Insurance Proceeds. Any loss covered by the property insurance policy described above must be adjusted with the Association, but the insurance proceeds for that loss shall be payable to any insurance 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 lienholders as their interests may appear. Subject to the provisions of Section 18.7, the proceeds must be disbursed first for the repair or restoration of the damaged property, and the Association, Unit Owners and lienholders are not 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 Common Interest Community is terminated.

18.5 Association Policies. The Association may adopt and establish written nondiscriminatory policies and procedures relating to the submittal of claims, responsibility for deductibles, and any other matters of claims adjustment. To the extent the Association settles claims for damages to real property, it shall have the authority to assess negligent Owners

causing such loss or benefitting from such repair or restoration all or any equitable portion of the deductibles paid by the Association.

18.6 Insurer Obligation. To the extent the following is available, an insurer that has issued an insurance policy for the insurance described in Section 18.2 and 18.3 shall issue certificates or memoranda of insurance to the Association and, upon request, to any Owner. To the extent reasonably available, unless otherwise provided by statute, the insurer issuing the policy may not cancel or refuse to renew it until thirty (30) days after notice of the proposed cancellation or nonrenewal has been mailed to the Association and to each Owner to whom a certificate or memorandum of insurance has been issued at their respective last-known addresses.

18.7 Repair and Replacement. Any portion of the Common Interest Community for which insurance is required under this Article which is damaged or destroyed must be repaired or replaced promptly by the Association unless:

- (a) The Common Interest Community created by this Declaration is terminated;
- (b) Repair or replacement would be illegal under any state or local statute or ordinance governing health or safety;
- (c) Sixty-seven percent of the Owners, including every Owner of a Unit that will not be rebuilt, vote not to rebuild; or
- (d) Prior to the conveyance of any Unit to a person other than Declarant, the party holding a deed of trust or mortgage on the damaged portion of the Common Interest Community rightfully demands all or a substantial part of the insurance proceeds.

The cost of repair or replacement in excess of insurance proceeds and reserves is a Common Expense. If the entire Common Interest Community is not repaired or replaced, the insurance proceeds attributable to the damaged Common Element must be used to restore the damaged area to a condition compatible with the remainder of the Common Interest Community, and except to the extent that other persons will be distributes, the insurance proceeds must be distributed to all the Owners, as their interests may appear in proportion to the Common Expense liabilities of all the Units.

18.8 Fidelity Insurance. If the Association consists of thirty or more Units, the Association shall maintain fidelity insurance on all persons who control or disburse funds of the Association. Coverage shall not be less in the aggregate than two months' current Assessments plus reserves, as calculated from the current budget of the Association. Any person employed as an independent contractor by the Association, including the Manager must obtain and maintain fidelity insurance in like amount for the benefit of the Association unless the Association names such person as an insured employee in the policy of fidelity insurance specified above.

18.9 Unit Owner Policies. An insurance policy issued to the Association does not obviate the need for Unit Owners to obtain insurance for their own benefit.

18.10 Workers Compensation Insurance. The Executive Board shall obtain and maintain Workers Compensation Insurance to meet the requirements of the laws of the State of Colorado.

18.11 Directors' and Officers' Liability insurance. The Executive Board may obtain and maintain directors' and officers' liability insurance covering all of the Directors and officers of the Association. This insurance will have limits determined by the Executive Board.

18.12 Other Insurance. The Association may carry other insurance which the Executive Board considers appropriate to protect the Association.

18.13 Premiums. Insurance premiums for insurance carried or to be carried by the Association shall be a Common Expense.

ARTICLE XIX NOTICE AND COMMENT, NOTICE AND HEARING

19.1 Right to Notice and Comment. Before the Executive Board amends the Bylaws or the Rules, whenever the Documents require that an action be taken after "Notice and Comment," and at any other time the Executive Board determines, the Unit Owners have the right to receive notice of the proposed action and the right to comment orally or in writing. Notice of the proposed action either shall be given to each Unit Owner in writing, delivered personally or by mail to all Unit Owners at such address as appears in the records of the Association, or it shall be published in a newsletter or similar publication which is routinely circulated to all Unit Owners. The notice shall be given not less than five days before the proposed action is to be taken. It shall invite comment to the Executive Board orally or in writing before the scheduled time of the meeting. The right to Notice and Comment does not entitle a Unit Owner to be heard at a formally constituted meeting.

19.2 Right to Notice and Hearing. Whenever the Documents require that an action be taken after "Notice and Hearing," the following procedure shall be observed: The party proposing to take the action (e.g., the Executive Board, a committee, an officer, the Manager, etc.) shall give written notice of the proposed action to all Unit Owners or occupants of Units whose interest would be significantly affected by the proposed action. The notice shall include a general statement of the proposed action and the date, time and place of the hearing. At the hearing, the affected person shall have the right, personally or by a representative, to give testimony orally, in writing or both (as specified in the notice), subject to reasonable rules of procedure established by the party conducting the meeting to assure a prompt and orderly resolution of the issues. Any evidence shall be duly considered, but is not binding in making the decision. The affected person shall be notified of the decision in the same manner in which notice of the meeting was given.

19.3 Appeals. Any person having a right to Notice and Hearing shall have the right to appeal to the Executive Board from a decision of persons other than the Executive Board by filing a written notice of appeal with the Executive Board within 10 days after being notified of the decision. The Executive Board shall conduct a hearing within 30 days, giving the same notice and observing the same procedures as were required for the original meeting.

**ARTICLE XX
EXECUTIVE BOARD**

20.1 Association Records and Minutes of Executive Board Meetings. The Executive Board shall permit any Unit Owner, or holder, insurer or guarantor of first mortgages secured by Units, to inspect the records of the Association and the minutes of the Executive Board and committee meetings during normal business hours. The minutes shall be available for inspection within 15 days after any such meeting.

20.2 Powers and Duties. The Executive Board may act in all instances on behalf of the Association, except as provided in this Declaration, the Bylaws or the Act. The Executive Board shall have, subject to the limitations contained in this Declaration and the Act, the powers necessary for the administration of the affairs of the Association and of the Common Interest Community, which shall include, but not be limited to, the following:

- (a) adopt and amend Bylaws and Rules;
- (b) adopt and amend budgets for revenues, expenditures and reserves;
- (c) collect Common Expense Assessments from Unit Owners;
- (d) hire and discharge managing agents;
- (e) hire and discharge independent contractors, employees and agents, other than managing agents;
- (f) institute, defend or intervene in litigation or administrative proceedings or seek injunctive relief for violation of or otherwise enforce this Declaration, the Bylaws or the Rules in the Association's name, on behalf of the Association or two or more Unit Owners on matters affecting the Common Interest Community;
- (g) make contracts and incur liabilities;
- (h) regulate the use, maintenance, repair, replacement and modification of the Common Elements;
- (i) cause additional Improvements to be made as a part of the Common Elements;
- (j) acquire, hold, encumber and convey, in the Association's name, any right, title or interest to real property or personal property, but Common Elements may be conveyed or subjected to a Security Interest only pursuant to Section 14.4 above and C.R.S., §38-33.3-312;
- (k) grant easements for any period of time, including permanent easements, and leases, licenses and concessions through or over the Common Elements, for no more than one year;

- (l) impose and receive a payment, fee or charge for the use, rental or operation of the Common Elements other than limited Common Elements described in C.R.S. 38-33.3-202(1)(b) and (1) (d), and for services provided to Unit Owners;
- (m) impose a reasonable charge 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 Hearing, levy reasonable fines for violations of this Declaration, the Bylaws and the Rules;
- (n) impose a reasonable charge for the preparation and recordation of amendments to this Declaration and for a statement of unpaid assessments;
- (o) provide, at the option of the Executive Board, for the indemnification of the Association's officers and Executive Board and/or maintain Directors' and officers' liability insurance;
- (p) assign the Association's right to future income, including the right to receive Common Expense Assessments, but only to the extent the Declaration expressly so provides;
- (q) exercise any other duties or powers conferred by this Declaration, the Bylaws or the Act;
- (r) exercise any other power that may be exercised in Colorado by legal entities of the same type as the Association;
- (s) exercise any other power necessary and proper for the governance and operation of the Association; and
- (t) by resolution, establish permanent and standing committees of Directors to perform any of the above functions under specifically delegated administrative standards, as designated in the resolution establishing the committee. All committees must maintain and publish notice of their actions to Unit Owners and the Executive Board. However, actions taken by a committee may be appealed to the Executive Board by any Unit Owner within 45 days of publication of the notice. If an appeal is made, the committee action must be ratified, modified or rejected by the Executive Board at its next regular meeting.

20.3 Executive Board Limitations. The Executive Board may not act on behalf of the Association to amend this Declaration, to terminate the Common Interest Community or to elect Members of the Executive Board or determine the qualifications, powers and duties or terms of office of Executive Board Members, but the Executive Board may fill vacancies in its membership for the unexpired portion of any term.

EXHIBIT A

PROPERTY DESCRIPTION

The land referred to in this Declaration is the land in the State of Colorado, County of Douglas, described as follows:

ALL OF THE SOUTHWEST $\frac{1}{4}$, SECTION 30, TOWNSHIP 7 SOUTH, RANGE 67 WEST;

A PORTION OF THE NORTH $\frac{1}{2}$, NORTHWEST $\frac{1}{4}$, SECTION 31, TOWNSHIP 7 SOUTH, RANGE 67 WEST;

ALL OF THE SOUTH $\frac{1}{2}$, SOUTHEAST $\frac{1}{4}$, SECTION 25, TOWNSHIP 7 SOUTH, RANGE 68 WEST LYING EAST OF STATE HIGHWAY NO. 105; AND

ALL OF THE NORTHEAST $\frac{1}{4}$, SECTION 36, TOWNSHIP 7 SOUTH, RANGE 68 WEST LYING EAST OF STATE HIGHWAY NO. 105,

ALL WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF DOUGLAS, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE CENTER QUARTER CORNER, SAID SECTION 30; THENCE ALONG THE EAST LINE OF THE SOUTHWEST $\frac{1}{4}$, SAID SECTION 30, S00°03'01"E, 2654.38 FEET TO THE SOUTH QUARTER CORNER OF SAID SECTION 30; THENCE S00°03'01"E, 317.72 FEET; THENCE S77°59'00"W, 2632.18 FEET TO A POINT ON THE EAST LINE OF THE NORTHEAST $\frac{1}{4}$, SAID SECTION 36; THENCE ALONG THE EAST LINE OF THE NORTHEAST $\frac{1}{4}$, SAID SECTION 36, S00°25'51"E, 1761.42 FEET TO THE SOUTHEAST CORNER OF THE NORTH $\frac{1}{2}$, SAID SECTION 36; THENCE ALONG THE SOUTH LINE OF THE NORTH $\frac{1}{2}$, SAID SECTION 36, S89°45'18"W, 2247.82 TO THE EASTERLY RIGHT-OF-WAY OF STATE HIGHWAY NO. 105, ALSO KNOWN AS PERRY PARK ROAD (AS DETERMINED BY THE EXISTING CENTERLINE OF PAVED SURFACE);

THENCE ALONG SAID RIGHT-OF-WAY THE FOLLOWING SIX COURSES:

- 1) THENCE N11°52'23"W, 308.03 FEET;
- 2) THENCE 151.05 FEET ALONG A CURVE TO THE RIGHT WHICH HAS A RADIUS OF 6016.35 FEET, A DELTA OF 01°26'18" AND A CHORD WHICH BEARS N14°06'45"W, 151.04 FEET;
- 3) THENCE N13°22'23"W, 2119.10 FEET;
- 4) THENCE 128.59 FEET ALONG A CURVE TO THE RIGHT WHICH HAS A RADIUS OF 1869.86 FEET, A DELTA OF 03°56'25" AN A CHORD WHICH BEARS N11°24'15"W, 128.57 FEET TO A POINT ON THE SOUTH LINE OF THE SOUTHWEST $\frac{1}{4}$, SAID SECTION 25;

5) THENCE CONTINUING 411.56 FEET ON A CURVE TO THE RIGHT WHICH HAS A RADIUS OF 1869.86 FEET, A DELTA OF 12°36'39" AND A CHORD WHICH BEARS N03°07'43"W, 410.73 FEET;

6) THENCE N03°10'37"E, 912.45 FEET TO A POINT ON THE NORTH LINE OF THE SOUTH ½ OF THE SOUTH ½, SAID SECTION 25;

THENCE ALONG THE NORTH LINE OF THE SOUTH ½ OF THE SOUTH ½, SAID SECTION 25, N89°58'42"E, 2812.03 FEET TO THE NORTHEAST CORNER OF THE SOUTH ½ OF THE SOUTH ½, SAID SECTION 25; THENCE ALONG THE WEST LINE OF THE NORTH ½ OF THE SOUTHWEST ¼, SAID SECTION 30 N00°08'30"W, 1319.74 FEET TO THE NORTHWEST CORNER OF THE SOUTHWEST ¼, SAID SECTION 30; THENCE ALONG THE NORTH LINE OF THE SOUTHWEST ¼, SAID SECTION 30, N89°42'00"E, 2585.34 FEET TO THE POINT OF BEGINNING, CONTAINING 18,823,654 SQUARE FEET OR 432.13 ACRES, MORE OR LESS.

EXHIBIT A

ELK RIDGE ESTATES HOMEOWNERS ASSOCIATION INC. PROCEDURES OF THE ARCHITECTURAL REVIEW COMMITTEE

The Architectural Review Committee (ARC) has been formed by the Elk Ridge Homeowners Association and has the task of reviewing and approving of all plans for all improvements to be constructed on each Elk Ridge lot. Owners should refer to the Declaration of Elk Ridge for more detail on the role and powers of the ARC.

The purpose of the ARC is to assure and maintain the superior quality of the improvements constructed on the project and to evaluate the effect of the improvements on any adjacent or neighboring properties. Before any construction work begins owners shall be responsible for submitting complete plans, specifications and color/material/texture samples for the scheduled work and the qualifications of the parties to be performing the work.

The process chosen by the ARC encourages an informal meeting with the spokesperson of the HOA at which any questions about the requirements of a submission can be clarified. Following this meeting the Applicant should submit three (3) sets of reduced size copies of plans (11x14) with all dimensions and notes to be clearly legible. Plans must clearly show:

- 1) Topographic map of the parcel illustrating the location of all buildings and improvements;
- 2) Site plan indicating the boundaries of the parcel, the location of the building envelope, the location of proposed buildings, driveways and parking areas, existing and proposed grading and drainage, easements, utility locations, retaining walls, patios and terraces, well and septic system;
- 3) Exterior elevations, in sufficient detail to indicate the architectural character of the buildings including a description of exterior materials and colors and samples of actual exterior materials to be used;
- 4) Floor plans, indicating the square footage of each floor for all enclosed spaces for each building and the location of mechanical and electrical systems;
- 5) Roof plan indicating the type, pitch, proposed materials and colors and height from finished grade to the highest point on the ridge line, the type and locations of all penetrations and projections and an actual sample of the roofing material to be used;
- 6) Specifications including all exterior wall materials, exterior doors and trim materials, all paint and stain colors to be used, roof and flashing materials, fireplace and flue caps and exterior lighting;
- 7) Landscape plan indicating all vegetation to be removed, measures to be undertaken to prevent erosion during construction and a re-vegetation plan for the lot upon completion of construction
- 8) Lighting plan indicating the type and specifications of all exterior lighting features proposed

Copies of the plans should be sent to the following addresses:

- 1) Mr. Glen Roane, Suite 203, 838 10th Street, Canmore, AB, Canada T1W 2A7
ph 403-609-2484
- 2) Mr. Gerry Cooke, 2221 Big Bear Drive, Sedalia, CO 80135
ph 303-814 6849
- 3) Mr. Mike Steerman, 921 Anaconda Drive, Castle Rock, CO 80108
ph 303-888-7105

Material samples should be delivered to Gerry Cooke. Mr. Cooke has been designated as the principal contact for applicants with the ARC

The ARC will endeavor to review the submissions and provide their verbal comments, approval or disapproval within 15 days of the complete submission of the materials listed above. Following this, the ARC will schedule a second meeting with the applicant at his or her lot at which time the ARC will view the site. Prior to this meeting the applicant should have the site staked to indicate the property lines, building envelope, footprint of all buildings, site access and all existing vegetation to be removed.

Final approval or disapproval by the ARC shall be made in writing within thirty days of the receipt of complete submissions and the on site meeting. If the ARC denies approval the ARC shall state the reason(s) for denial; thereafter, the applicant may revise the plans and resubmit. Should the ARC deny approval after the second submission, the applicant may appeal the decision within ten days to the Executive Board of the Elk Ridge Homeowners Association.

No construction may commence until final written approval of all construction drawings has been granted by the ARC and a building permit has been issued by the Douglas County Building Department. At least 15 days prior to commencement of construction the applicant shall submit to the ARC, at least one set of the final construction drawings to ensure that the construction drawings are in compliance with the final submittal.

EXHIBIT B

EASEMENTS AND LICENSES

1. REAL ESTATE TAXES FOR THE YEAR 2002 AND SUBSEQUENT YEARS NOT YET DUE AND PAYABLE.
2. RIGHT OF PROPRIETOR OF A VEIN OR LODGE TO EXTRACT AND REMOVE HIS ORE THEREFROM SHOULD THE SAME BE FOUND TO PENETRATE OR INTERSECT THE PREMISES AS RESERVED IN UNITED STATES PATENT RECORDED NOVEMBER 4, 1876 IN BOOK H AT PAGE 262, PATENT RECORDED JUNE 1, 1895 IN BOOK P AT PAGE 183, PATENT RECORDED JUNE 1, 1895 IN BOOK P AT PAGE 193, PATENT RECORDED AUGUST 18, 1890 IN BOOK P AT PAGE 423, PATENT ISSUED JUNE 22, 1899 AND SHOWN AS DOCUMENT NO. 16742 BUREAU OF LAND MANAGEMENT RECORDS, AND PATENT ISSUED AUGUST 24, 1891 AND SHOWN AS DOCUMENT NO. 13845 BUREAU OF LAND MANAGEMENT RECORDS.
3. RIGHT OF WAY FOR DITCHES OR CANALS CONSTRUCTED BY THE AUTHORITY OF THE UNITED STATES AS RESERVED IN UNITED STATES PATENT RECORDED NOVEMBER 4, 1876 IN BOOK H AT PAGE 262, PATENT RECORDED JUNE 1, 1895 IN BOOK P AT PAGE 183, PATENT RECORDED AUGUST 18, 1890 IN BOOK P AT PAGE 423, PATENT ISSUED JUNE 22, 1899 AND SHOWN AS DOCUMENT NO. 16742 BUREAU OF LAND MANAGEMENT RECORDS, AND PATENT ISSUED AUGUST 24, 1891 AND SHOWN AS DOCUMENT NO. 13845 BUREAU OF LAND MANAGEMENT RECORDS.
4. ANY BOUNDARY DISCREPANCY DUE TO THE LOCATION OF FENCE LINES AND THE EFFECT OF ANY RIGHT, TITLE OR INTEREST THAT MAY BE CLAIMED DUE TO ANY SAID DISCREPANCY.
5. THE FOLLOWING ITEMS AS SHOWN ON THE ALTA/ACSM SURVEY BY CIVIL DESIGN GROUP, INC. DATED OCTOBER 16, 2001: (I) OVERHEAD POWER LINES AND TELEPHONE LINES WITH NO EASEMENT SHOWN IN CONNECTION THERETO; (II) WELL HOUSE AND WELL AND STOCK TANK AND ANY RIGHT OF OWNERS THEREIN; AND (III) NOTES 10, 11, 12 AND 13 AS SHOWN ON SAID SURVEY.
6. EASEMENTS, RESERVATIONS AND RESTRICTIONS AS SHOWN OR RESERVED ON THE ELK RIDGE ESTATES RURAL SITE PLAN RECORDED _____, 2003 AT RECEPTION NO. _____.
7. TERMS, CONDITIONS AND PROVISIONS OF LIMITED ACCESS AND UTILITY EASEMENT RECORDED _____, 2003 AT RECEPTION NO. _____.

EXHIBIT C

EXPANSION PROPERTY

Any contiguous or nearby property in Douglas County, Colorado, that is acquired by Declarant and suitable to incorporate into the Project, subject to approval by Douglas County in accordance with the Douglas County Zoning Resolution, as amended.

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FIRST AMENDMENT
TO
DECLARATION FOR ELK RIDGE ESTATES

This First Amendment to Declaration for Elk Ridge Estates ("First Amendment") is made as of this 14th day of October, 2004, by Elk Ridge Estates, LLC, a Colorado limited liability company ("Declarant"), as Declarant, whose address is 838-10 Street, Suite 203, Canmore, Alberta T1W 2A7 Canada.

RECITALS

A. Declarant previously caused the Declaration for Elk Ridge Estates (as amended herein and further amended from time to time, the "Declaration") to be recorded on January 28, 2003, at Reception No. 2003011435 in the office of the Clerk and Recorder of Douglas County, Colorado (the "Records"), and a Rural Site Plan to be recorded on January 30, 2003, at Reception No. 2003012671 of the Records. Pursuant to Section 1.24 of the Declaration, the Rural Site Plan is the Plat. Capitalized terms not defined herein have the meanings for them set forth in the Declaration.

B. Declarant desires to amend certain provisions of the Declaration, as more fully set forth herein.

C. Pursuant to the Declaration and the Act, Declarant, as the Unit Owner to which one hundred percent (100%) of the votes in the Association are allocated, may execute this first Amendment and record it in the Records.

NOW, THEREFORE, Declarant hereby amends the Declaration as provided below.

1. Individual Units. The following provision is hereby added after the first sentence of Section 5.1:

In addition, it shall be the duty and obligation of each Unit Owner, at such Unit Owner's expense, (a) to install and maintain appropriate site grading and drainage features on his Unit to prevent adverse impacts on building foundations and to control erosion from storm water runoff, particularly in designated drainage easements, (b) to install and maintain driveway culverts in roadway drainage ditches and/or natural drainage paths on his Unit, and (c) to maintain and/or immediately repair to their original condition (during and after construction), all drainage features and erosion control measures installed by the Declarant on his Unit.

2. Improvements to Units. Subsections 9.1(c) and 9.1(e) are hereby amended and restated in their entirety as follows:

(c) Minimum Floor Area. Any Residence erected on a Unit shall have a floor area for the main structure, exclusive of the garage, patios and basements, of not less than 2,500 square feet, of which not less than 1,250 square feet shall be on the ground floor for

a two-story house and not less than 1,800 square feet shall be on the ground floor, with a finished and permitted walk-out basement of at least 700 square feet, for a one-story house.

(e) Accessory Buildings. No detached guest house shall be permitted to be constructed on any Units. A maximum of three accessory buildings including storage sheds, barns and greenhouses shall be permitted with the prior approval of the ARC. The total square footage of any accessory building on a Unit shall not exceed 3,000 square feet and the total of all accessory buildings on a Unit shall not exceed 7,000 square feet.

3. Easements Reserved. The following provision is hereby added to the end of Section 10.3:

, including but not limited to a perpetual, non-exclusive ten (10) foot wide utility, grading and drainage easement over, across and under certain of the boundary lines of each Unit and the Common Elements, as more particularly described and depicted on the Plat, for the purpose of the following, and without limitation: (a) using, installing, constructing, maintaining, improving, repairing and replacing drainage, water and utility facilities of any kind or nature whatsoever, including but not limited to, storm drainage facilities, fire hydrants and related fire protection devices, sanitary sewer lines, water lines, irrigation lines, systems and facilities, underground electric lines, gas lines, telephone lines, cable television lines, fiber optic lines, and other communication facilities, (b) drainage of water flowing from other lands, (c) water storage and distribution facilities and (d) vehicular access for installation and maintenance of such utilities, together with a perpetual right of ingress and egress to and from such easement. Should any utility or other company furnishing a service covered by this easement request a specific easement by separate recordable document, Declarant or the Executive Board shall have, and are hereby given, the right and authority to grant such easement without conflicting with the terms hereof. All easements reserved under this Section 10.3 shall be reserved by Declarant and granted, conveyed and dedicated, on a non-exclusive basis, to the Association for the benefit of and the common use of the Owners.

4. Additional Easements. The following new Sections 10.4, 10.5, 10.6 are hereby inserted into the Declaration as follows:

10.4 Easement Over Roadways. Every Owner shall have a nonexclusive easement for the use and enjoyment of the roadways of the Project, including those which are identified on the Plat as "Tract B," which shall be appurtenant to and shall pass with the title to every Unit. Such easement is subject to such reasonable regulation on use imposed by the Association.

10.5 Additional Drainage Easements. Declarant grants, conveys and dedicates to the Association for the benefit of and the common use of the Owners a perpetual, non-exclusive fifteen (15) foot wide drainage easement over, across and under those portions of Lot 16 and Lot 27 of the Property, as more particularly described and depicted on the Plat, for the purpose of using, installing, constructing, maintaining, improving, repairing

and replacing drainage facilities of any kind or nature whatsoever, including but not limited to, culverts, ditches and swales, together with a perpetual right of ingress and egress to and from such easement.

10.6 Association Easement. An easement is hereby granted to the Association and any Manager and their respective officers, agents, employees and assigns upon, across, over, in and under the Property and a right to make such use of the Property as may be necessary or appropriate to perform the duties and functions which they are obligated or permitted to perform pursuant to this Declaration.

5. Water Rights and Facilities. A new Article XXIV is hereby added to the Declaration as follows:

**ARTICLE XXIV
GROUNDWATER AUGMENTATION PLAN
AND
JOINT USE OF AUGMENTATION FACILITIES**

24.1 Administration of Augmentation Plan. The Association shall have the power and duty to do all things reasonably necessary to administer the groundwater augmentation plan approved in In the Matter of the Application for Approval of Augmentation Plan of Elk Ridge Estates, LLC, Case No. 04CW159, District Court, Water Division One, State of Colorado ("Augmentation Plan"). To satisfy the requirements of the Augmentation Plan on behalf of the Unit Owners, the Association hereby has the consent of all Unit Owners to withdraw up to fifty-three and one-half (53.5) acre-feet of nontributary Arapahoe aquifer water per year underlying their Units as adjudicated in In the Matter of the Application for Underground Water Rights of Elk Ridge Estates, LLC, Case No. 03CW252, District Court, Water Division One, State of Colorado, and as decreed in the Amended Findings and Ruling of the Referee, and Decree of the Water Court in Concerning the Rights to Nontributary Water of the H. Carlyle Pollock Trust and Quail Ridge Development Co., Case No. 84CW219, District Court, Water Division One, State of Colorado, January 3, 2000. The location and amounts of this water per Unit is as follows: one and one-half (1.5) acre-feet of water underlying each of Units 1-10 and 13-25; four (4) acre-feet of water underlying Units 11 and 12 together; and two and one-half (2.5) acre-feet of water underlying each of Units 26-31 (together the "Augmentation Water"). The Association may only withdraw the Augmentation Water for the purpose of satisfying the requirements of the Augmentation Plan or as otherwise approved by the District Court, Water Division One, State of Colorado ("Water Court"). The Association shall also have the power and duty, and consent of the Unit Owners, to do all things reasonably necessary to protect the source of augmentation water under the Augmentation Plan and the Unit Owners' rights to the Augmentation Water, including but not limited to the Association's initiation or participation in Water Court or other administrative or judicial proceedings. The Association may also apportion, assess and collect the expenses related to its powers and duties under this paragraph as provided in Article XV of this Declaration.

24.2 Failure to Administer Augmentation Plan. In the event the Association fails to administer the approved Augmentation Plan when such administration is needed by one or more

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SECOND AMENDMENT
TO
DECLARATION FOR ELK RIDGE ESTATES



This Second Amendment to Declaration for Elk Ridge Estates ("Second Amendment") is made as of this 11th day of November, 2004, by Elk Ridge Estates, LLC, a Colorado limited liability company ("Declarant"), as Declarant, whose address is 838-10 Street, Suite 203, Canmore, Alberta T1W 2A7 Canada.

RECITALS

A. Declarant previously caused the Declaration for Elk Ridge Estates to be recorded on January 28, 2003, at Reception No. 2003011435 in the office of the Clerk and Recorder of Douglas County, Colorado (the "Records"), as amended by a First Amendment to Declaration for Elk Ridge Estates recorded on October 14, 2004, at Reception No. 2004105889 of the Records ("First Amendment" and collectively, as amended herein and further amended from time to time, the "Declaration"), and a Rural Site Plan to be recorded on January 30, 2003, at Reception No. 2003012671 of the Records. Pursuant to Section 1.24 of the Declaration, the Rural Site Plan is the Plat. Capitalized terms not defined herein have the meanings for them set forth in the Declaration.

B. Declarant desires to amend certain provisions of the Declaration, as more fully set forth herein.

C. Pursuant to the Declaration and the Act, Declarant, as the Unit Owner to which one hundred percent (100%) of the votes in the Association are allocated, may execute this Second Amendment and record it in the Records.

NOW, THEREFORE, Declarant hereby amends the Declaration as provided below.

1. Section 24.1 of the Declaration is hereby deleted in its entirety and replaced with the following:

24.1 Administration of Augmentation Plan. The Association shall have the power and duty to do all things reasonably necessary to administer the groundwater augmentation plan approved in In the Matter of the Application for Approval of Augmentation Plan of Elk Ridge Estates, LLC, Case No. 04CW159, District Court, Water Division One, State of Colorado ("Augmentation Plan"). To satisfy the requirements of the Augmentation Plan on behalf of the Unit Owners, the Association hereby has the consent of all Unit Owners to withdraw up to fifty-two and one-half (52.5) acre-feet of nontributary Arapahoe aquifer water per year underlying their Units as adjudicated in In the Matter of the Application for Underground Water Rights of Elk Ridge Estates, LLC, Case No. 03CW252, District Court, Water Division One, State of Colorado, and as decreed in the Amended Findings and Ruling of the Referee, and Decree of the Water Court in Concerning the Rights to Nontributary Water of the H. Carlyle Pollock Trust and Quail Ridge Development Co., Case No. 84CW219, District Court, Water Division One, State of

Colorado, January 3, 2000. The location and amounts of this water per Unit is as follows: one and one-half (1.5) acre-feet of water underlying each of Units 1-25; and two and one-half (2.5) acre-feet of water underlying each of Units 26-31 (together the "Augmentation Water"). The Association may only withdraw the Augmentation Water for the purpose of satisfying the requirements of the Augmentation Plan or as otherwise approved by the District Court, Water Division One, State of Colorado ("Water Court"). The Association shall also have the power and duty, and consent of the Unit Owners, to do all things reasonably necessary to protect the source of augmentation water under the Augmentation Plan and the Unit Owners' rights to the Augmentation Water, including but not limited to the Association's initiation or participation in Water Court or other administrative or judicial proceedings. The Association may also apportion, assess and collect the expenses related to its powers and duties under this paragraph as provided in Article XV of this Declaration.

2. In the event of any conflict or inconsistency between the provisions of the Declaration, the First Amendment, and this Second Amendment, the provisions of this Second Amendment shall control. A reference to the Declaration in any document or instrument shall be deemed to include the First Amendment and the Second Amendment without any further or specific reference thereto.

[Remainder of the page intentionally left blank]

IN WITNESS WHEREOF, the Declarant has executed this Second Amendment as of the date set forth above.

ELK RIDGE ESTATES, LLC, a Colorado limited liability company

By: Glen D. Roane
Glen D. Roane, Manager

TOWN OF CANMORE)
STATE OF COLORADO)
PROVINCE OF ALBERTA) ss.
COUNTY OF CANADA.)

The foregoing instrument was acknowledged before me on this 12th day of November, 2004, by Glen D. Roane as Manager of Elk Ridge Estates, LLC, a Colorado limited liability company.

WITNESS my hand and official seal.

My commission expires DOES NOT EXPIRE

(SEAL)

John F. Schneider
Notary Public
JOHN F. SCHNEIDER
Barrister & Solicitor
Canmore Legal Services
Suite 2001, 350 Railway Avenue
Canmore, Alberta T1W 3E3
Phone: 403.678.9918 Fax: 403.609.2333