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CHIMNEY PARK GARAGES

CONDOMINIUM DECLARATION

November 3rd, 2022

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Carly Koppes, Clerk and Recorder, Weld County, CO



**CONDOMINIUM DECLARATION
FOR
CHIMNEY PARK GARAGES**

THIS CONDOMINIUM DECLARATION FOR CHIMNEY PARK GARAGES is made as of November 3rd, 2022, by Chestnut Street Holdings, LLC, a Colorado limited liability company ("**Declarant**").

RECITALS

This Condominium Declaration is made with respect to the following facts:

(A) In accordance with the provisions of the Colorado Common Interest Ownership Act, C.R.S. § 38-33.3-101, *et seq.* ("**CCIOA**"), Declarant (as defined in Section 1.1), desires to establish the "Property" (as defined in Section 1.1) as a condominium project consisting of condominium units designated for separate ownership and common elements designated for ownership in common by the owners of those condominium units.

(B) Declarant hereby subjects the Property to the terms and conditions of this Condominium Declaration and agrees, for itself and its successors-in-title to the Property, to be bound by the terms and conditions of this Condominium Declaration.

DECLARATION

NOW, THEREFORE, Declarant declares as follows:

**ARTICLE 1
DEFINITIONS AND EXHIBITS**

1.1 Definitions. The following initially-capitalized terms have the respective meanings set forth below:

"**Aggrieved Owner**" is defined in Section 4.11(a).

"**Architect**" means the architect for the initial design of the Condominium Project.

"**Area**" is defined in Section 16.3.

"**Assessments**" is defined in Section 9.4.

"**Award**" is defined in Section 7.5(c).

"**Board**" means the Board of Directors of the Condominium Association.

"**Bound Party**" is defined in Section 7.3.

Benefit Expenses, Reimbursable Expenses, the costs of any Restoration Deficit, Voluntary Capital Expenses, or any other cost or expense which, pursuant to this Condominium Declaration, may be separately assessed (*i.e.*, in addition to General Assessments for Common Expenses) against any Unit.

“Common Utilities and Systems” means, collectively, the components of the Condominium Project’s electrical system, building security systems, storm water systems, if any, including, without limitation, wiring, conduits, panels, controls, fixtures, pipes, sensors, monitors, alarms, controls, shafts, chutes, flues, chases, or conduits to the extent they contain or are used in connection with the operation of any of the foregoing.

“Community Impacts” is defined in Section 16.1(a).

“Condominium Association” means the Chimney Park Garages Condominium Association, Inc., a Colorado nonprofit corporation, formed or to be formed under the Nonprofit Act pursuant to Section 6.1.

“Condominium Declaration” means this Condominium Declaration for Chimney Park Garages, as it may be amended or supplemented from time to time.

“Condominium Documents” means, collectively, this Condominium Declaration, the Bylaws, the Rules, and the Responsible Governance Policies.

“Condominium Project” means the condominium, as defined in Section 103(9) of CCIOA, created by this Condominium Declaration and consisting of the Property.

“Declarant” means Chestnut Street Holdings, LLC, a Delaware limited liability company (“CSH”), or any Person designated as a successor to the rights and obligations under this Condominium Declaration by CSH (or the then-current Declarant), in whole or in part, in a written instrument signed by CSH (or the then-current Declarant) and Recorded. Notwithstanding the foregoing, Special Declarant Rights may be transferred only in accordance with Section 304 of CCIOA.

“Declarant Control Period” means the period of time beginning on the date this Condominium Declaration is Recorded and ending on the first to occur of (a) 60 days after 75% of the maximum number of Units that may be created pursuant to Section 2.3 have been conveyed to Owners other than Declarant; (b) two years after the last conveyance of a Unit by Declarant in the ordinary course of business; (c) two years after any right to add new Units is last exercised by Declarant; or (d) the date on which Declarant, in its sole discretion, voluntarily terminates the Declarant Control Period pursuant to a Recorded statement of termination; provided, however, that in this last event, Declarant may require that, for the balance of what would have been the Declarant Control Period had Declarant not terminated the same, certain actions of the Board, as described in a Recorded instrument executed by Declarant, be approved by Declarant before they become effective. During the Declarant Control Period, Declarant shall have the right to appoint and remove the Directors and the Officers of the Board to the extent permitted by CCIOA.

“Defaulting Owner” is defined in Section 4.11(b).

“**Default Notice**” is defined in Section 4.11(c).

“**Delinquency Costs**” is defined in Section 9.4.

“**Director**” means a member of the Board.

“**Development Period**” means the period of time during which Declarant is entitled to exercise Special Declarant Rights, except the right to appoint and remove any Director or Officer of the Board. The Development Period shall commence upon the Recording of this Condominium Declaration and shall terminate upon the occurrence of the earlier of: (a) the date on which Declarant executes and records an instrument by which Declarant voluntarily relinquishes all Special Declarant Rights, or (b) eighteen (18) months following the Recording of this Condominium Declaration.

“**Development Rights**” means the rights reserved by Declarant pursuant to Section 2.10.

“**Easements**” means all easements that burden or benefit the Condominium Project or a portion of it, including: (i) easements established or granted under this Condominium Declaration and the Master Declaration; (ii) easements which first burdened or benefited the Property before the Recording of this Condominium Declaration; and (iii) easements which first burden or benefit the Property after this Condominium Declaration is Recorded.

“**Fiscal Year**” means the fiscal accounting and reporting period of the Condominium Association as set forth in the Bylaws.

“**Garage Door**” is defined in Section 2.8.

“**General Assessments**” is defined in Section 9.1.

“**General Benefit Expense**” is defined in Section 9.2(a).

“**General Common Elements**” means all Common Elements that are not Limited Common Elements. A portion of the General Common Elements may be referred to as a “**General Common Element**.” Some General Common Elements are designated in Section 2.7, and some General Common Elements are designated on the Map by the abbreviation “GCE”.

“**General Contractor**” means the general contractor for the initial construction of the Condominium Project.

“**Indemnity Claims**” is defined in Section 4.10.

“**Limited Benefit Expense**” is defined in Section 9.2(b).

“**Limited Common Elements**” means the portions of the Common Elements allocated to the exclusive use of one or more, but not all, of the Units. A portion of the Limited Common Elements may be referred to as a “**Limited Common Element**.” Limited Common Elements may be specifically designated in this Condominium Declaration and may be designated on the Map by the abbreviation “LCE.”



“Manager” means the property manager for the Condominium Project, as applicable.

“Map” means the Condominium Map for Chimney Park Garages, which was Recorded on the same date as this Condominium Declaration and is made a part of this Condominium Declaration, as such Map may be amended or supplemented in accordance with this Condominium Declaration.

“Master Association” means the property owners association known as the Chimney Park Owners Association, Inc. Pursuant to the Master Declaration, the Owners under this Condominium Declaration are also members of the Master Association.

“Master Association Documents” means, collectively, the Master Declaration, as well as the bylaws, rules and regulations and responsible governance policies, if any, of the Master Association.

“Master Community” means the common interest community, as defined by CCIOA, created by the Master Declaration, which is commonly known as Townhomes at Chimney Park and is located near the intersection of Weld County Rd. 19 and E. Chestnut Street, Windsor, Colorado.

“Master Declaration” means the Declaration of Covenants, Condition, and Restrictions for the Townhomes at Chimney Park, Recorded on May 31, 2019 at Reception No. 4493508, as the same has been or may amended or supplemented from time to time, including without limitation, by the Second Amendment to Master Declaration.

“Molds” is defined in Article 8.

“Mortgage” means an unpaid or outstanding mortgage, deed of trust, deed to secure debt or any other form of security interest encumbering a Unit.

“Multiple Party Claims” is defined in Section 7.5(f).

“New Owner” is defined in Section 17.3.

“Nonprofit Act” means the Colorado Revised Nonprofit Corporation Act, as amended from time to time.

“Notice” is defined in Section 7.5(a).

“Officer” means an officer of the Condominium Association that is elected by the Board as provided in the Bylaws.

“Ordinances” is defined in Section 16.5.

“Other Properties” is defined in Section 16.5.

“Owner” means a Person or Persons, including Declarant, owning a Unit from time to time. The term Owner includes a contract vendee under an installment land contract, but does not

include the vendor under such a contract or a Security Holder (unless and until a Security Holder becomes an owner of a Unit).

“Owner Roster” means a list of names and addresses of all Owners maintained in the records of the Condominium Association, as provided in the Bylaws.

“Party” or **“Parties”** is defined in Section 7.5(a).

“Permittee” means a Person, other than an Owner, rightfully present on or in rightful possession of a Unit or Common Element, or a portion of a Unit or Common Element, including, without limitation, (i) a tenant of an Owner or the Condominium Association; or (ii) an agent, employee, customer, contractor, licensee, guest or invitee of an Owner, or the Condominium Association.

“Person” means a natural person, corporation, partnership, limited liability company, trust or other entity, or any combination of them.

“Post Mediation Costs” is defined in Section 7.5(d).

“Property” means the Real Property and all improvements located thereon, including the Building.

“Real Property” means, collectively, the land comprised of the real property located in the Town, legally described on the attached Exhibit A and all associated airspace. All portions of the Real Property (including associated airspace outside the Units) not located in and included within a Unit or a Limited Common Element constitute a General Common Element. For valuation purposes, each Unit is allocated a portion of the value of the portion of the Real Property that is a General Common Element equal to its Common Allocation.

“Records” means the real property records maintained by the Clerk and Recorder of the City; to **“Record”** or **“Recording”** means to file or filing for recording in the Records; and **“of Record”** or **“Recorded”** means recorded in the Records.

“Reimbursable Expenses” is defined in Section 9.2(c).

“Reserve Fund” is defined in Section 6.7(a)(ii).

“Respondent” is defined in Section 7.5(a).

“Responsible Governance Policies” means the policies and procedures that the Condominium Association adopts from time to time pursuant to Section 4.9 and include the Responsible Governance Policies of Chimney Park Garages Condominium Association, Inc.

“Restoration Deficit” is defined in Section 9.2(d).

“Rules” means the policies, procedures, rules and regulations that the Condominium Association adopts from time to time pursuant to Section 4.9 and include the Rules and Regulations for Chimney Park Garages Condominium Association, Inc.

“**Second Amendment to Master Declaration**” means that certain Second Amendment to Declaration of Covenants, Conditions and Restrictions for the Townhomes at Chimney Park, Recorded on 11-3-2022, 2022 at Reception No. 4865222, pursuant to which Declarant is authorized to subject the Property to a condominium regime through the recordation of this Condominium Declaration and the Map.

“**Security for an Obligation**” means the vendor’s interest in an installment land contract, the mortgagee’s interest in a mortgage, the beneficiary’s interest in a deed of trust, the purchaser’s interest under a sheriff’s certificate of sale during the period of redemption, or the holder’s or beneficiary’s interest in a lien.

“**Security Holder**” means any Person owning or holding a Security for an Obligation encumbering a Unit, including without limitation, the holder, from time to time, of a Mortgage on any Unit as shown by the Records.

“**Settlement Demand**” is defined in Section 7.5(b).

“**Settlement Offer**” is defined in Section 7.5(b).

“**Special Assessments**” is defined in Section 9.2.

“**Special Declarant Rights**” means the rights reserved by Declarant in Section 2.10.

“**Taking**” is defined in Section 13.1.

“**Termination Agreement**” is defined in Section 14.1.

“**Termination Allocation**” means, with respect to each Unit, the percentage obtained by dividing (a) the amount that would be distributed to the Unit Owner upon the termination of the Condominium Project in accordance with the applicable provisions of section 218 of CCIOA, by (b) the amount that would be distributed to all Unit Owners upon the termination of the Condominium Project in accordance with the applicable provisions of section 218 of CCIOA.

“**Termination of Mediation**” is defined in Section 7.5(b).

“**Termination of Negotiations**” is defined in Section 7.5(b).

“**Unit**” means a physical portion of the Condominium Project designated for separate ownership, the boundaries of which are described in Section 2.5 of this Condominium Declaration and depicted on the Map, together with an undivided interest in the Common Elements. The Condominium Project includes twenty-one (21) units: Unit 1 through Unit 21, inclusive.

“**Voluntary Capital Expenses**” is defined in Section 9.2(e).

“**Working Capital Fund**” is defined in Section 9.3.

1.2 Exhibits. The Exhibits listed below are attached to and incorporated in this Condominium Declaration:

- Exhibit A — The Real Property
Exhibit B — Common Allocations and Votes
Exhibit C — Other Recorded Easements and Licenses Affecting the Property

ARTICLE 2
CREATION OF THE CONDOMINIUM PROJECT; UNITS, COMMON ELEMENTS
AND ALLOCATIONS

2.1 Creation. Declarant declares that, upon the Recording of this Condominium Declaration executed pursuant to CCIOA, the Property will be a “condominium” within the meaning of section 103(9) of CCIOA and, thus, constitutes the Condominium Project. The name of the Condominium Project is “Chimney Park Garages, a Condominium” and the Condominium Project is located in the Town of Windsor, County of Weld, State of Colorado. Each Unit, Owner, Permittee and Security Holder is subject to all provisions of this Condominium Declaration and those provisions are covenants running with the land or equitable servitudes, as the case may be, and bind every Person having any interest in the Condominium Project and inure to the benefit of every Owner.

2.2 Division of Property. Declarant, pursuant to CCIOA, hereby divides the Property into the Units (identified by name on Exhibit B and depicted on the Map) and the Common Elements and designates the Units for separate ownership and the Common Elements for common ownership solely by the Owners.

2.3 Number of Units; No subdivision. The Condominium Project consists of twenty-one (21) Units, which Units shall have an undivided interest in the Common Elements appurtenant thereto in accordance with their Common Allocations. The maximum number of Units that may be created in the Condominium Project is twenty-one (21) Units. No Units may be subdivided.

2.4 Description of Units. Contracts to convey, instruments of conveyance of Units, and every other instrument affecting title to a Unit shall be in substantially the following form with such omissions, insertions, recitals of fact, or other provisions as may be required by the circumstances or appropriate to conform to the requirements of any governmental authority, practice or usage or requirement of law with respect thereto:

Unit _____, Chimney Park Garages, according to the Condominium Map for Chimney Park Garages recorded on _____, 2022, at Reception No. _____ in the office of the Clerk and Recorder of Weld County, Colorado, and described in the Condominium Declaration for Chimney Park Garages recorded on _____, 2022, at Reception No. _____ in the office of the Clerk and Recorder of Weld County, Colorado.

2.5 Conveyance Deemed to Include an Undivided Interest in Common Elements. Every instrument of conveyance, security interest, or other instrument affecting the title to a Unit which legally describes the Unit substantially in the manner set forth above shall be construed to include the Unit, together with the undivided interest in the Common Elements appurtenant to such Unit, as allocated on Exhibit B, and together with all fixtures and improvements contained in such Unit, and to incorporate all the rights incident to ownership of a Unit and all the limitations of ownership



as described in the covenants, conditions, restrictions, easements, reservations, rights-of-way, and other provisions contained in this Condominium Declaration, including the easement of enjoyment to use the Common Elements.

2.6 Designation of Unit Boundaries.

(a) Horizontal Boundaries. The horizontal boundaries of the Units are generally described below and are graphically depicted on the Map. The upper horizontal boundary of each Unit is depicted on the Map and is generally described as consisting of the underside of the unfinished interior surface of the roof above the Unit, and the lower horizontal boundary is depicted on the Map and is generally described as consisting of the unfinished interior surface of the floor below the Unit. In the event of a conflict between the location of any horizontal boundary as shown on the Map and as described in this Section 2.6(a), then the horizontal boundary as shown on the Map will control.

(b) Vertical Boundaries. The vertical boundaries of the Units are generally described below and are graphically depicted on the Map. For each vertical Unit boundary (i) located adjacent to a permanent outer wall of the Building, the vertical Unit boundary is the unfinished interior surface of such outer wall; and (ii) located adjacent to a wall that separates the Unit from another Unit, the vertical Unit boundary is the unfinished interior surface of the wall separating such Units (and the wall itself is a Common Element). In the event of a conflict between the location of any vertical boundary as shown on the Map and as described in this Section 2.6(b), then the vertical boundary as shown on the Map will control.

(c) Penetrations and Projections. Where a Unit boundary is penetrated by an opening (e.g., a flue, chase, window or door) or interrupted by a column or other projections necessary to the Building, the boundary at such penetration or projection is the surface which would result from the extension of the nearest adjacent surface comprising the boundary that is penetrated or interrupted by the penetration or projection.

(d) Improvements in Unit. All spaces, interior partitions and finishes and other fixtures and improvements within the boundaries of any Unit (except any of the same that are Common Elements as provided in Section 2.7) are a part of the Unit. All Common Elements located within the boundaries of a Unit (for example, structural beams and columns for a Building and Common Utilities and Systems) are not part of the Unit.

2.7 General Common Elements. The General Common Elements consist of the Common Elements designated "GCE" on the Map and, without limitation, the following:

(a) Foundations and Roofing. Except as may be specifically provided in this Condominium Declaration, the concrete slabs and footings, foundations, and the roof of each Building, regardless of whether they are located wholly or partially within the boundaries of a Unit.

(b) Building Enclosure System. All aspects of the exterior enclosure system and facades of the Building, including, without limitation, glazing, insulation, and the exterior walls and partitions containing and supporting those components, and all soffits, fascias, parapets, flashing, siding and roofing.

(a) Declarant hereby reserves the following Special Declarant Rights, which Special Declarant Rights are appurtenant to, benefit, and burden, all of the Property that is subject to this Condominium Declaration:

(i) the right to maintain sales offices, management offices, and models on the Units owned by Declarant or on the Common Elements;

(ii) the right to maintain signs and advertising in the Condominium Project to advertise the Condominium Project or other communities developed or managed by, or affiliated with the Declarant;

(iii) the right to enter into, establish, execute, amend, and otherwise deal with contracts and agreements for the use, lease, repair, maintenance, or regulation of facilities and Common Elements that may or may not be a part of the Condominium Project;

(iv) the right to change the name of the Condominium Project;

(v) the right to appoint or remove any Officer or any Director of the Condominium Association during the Declarant Control Period;

(vi) the right to amend or supplement this Condominium Declaration, the Map, or any other Association Document without the consent of any Owner in connection with the exercise of any Development Right or to comply with the requirements of CCIOA;

(vii) the right to exercise any additional reserved right created by any other provision of this Condominium Declaration; and

(viii) the right to exercise any development rights set forth in Section 2.10(b) below and any "development rights" described under Section 103(14) of CCIOA (collectively, the "**Development Rights**").

(b) Additional Development Rights Reserved by Declarant. Declarant hereby reserves the following additional Development Rights, which Development Rights are appurtenant to, benefit, and burden all of the Property that is now or hereafter subject to this Condominium Declaration:

(i) The right to use, and to permit others to use, easements through the Common Elements as may be reasonably necessary. Declarant and its assignees have such an easement through the Common Elements as may be reasonably necessary or convenient for Declarant (or acting through its Permittees) to exercise its reserved rights in or assigned under this Condominium Declaration, including all Special Declarant Rights and Development Rights. Declarant also has a reserved easement for access and utilities to any properties which Declarant may have the right to add, even if not added to the Condominium Project. Such easements include the right to construct underground utility lines, pipes, wires, ducts, conduits, and other facilities across the Property. Declarant may use the Easements described in Article 3 that are expressly reserved to Declarant for so long as those Easements remain in effect.

(ii) The right to complete any one or more of the following improvements or alterations at the sole cost and expense of Declarant: (A) complete or make any improvements indicated on the Map; (B) remodel or refurbish any one or more of the Common Elements; (C) install security equipment, such as cameras, monitors and video recorders, on or about the Property; (D) install utility lines, running through Common Elements or in any or all of the Units, as may be necessary or desirable to provide additional utility services in some or all of the Units; or (E) construct or install lighting in or on any of the Common Elements.

(c) Exercise of Development Rights. Declarant or its assignees may exercise any Development Rights on all or any portion of the Property in whatever order determined. Declarant or its assignees shall not be obligated to exercise any Development Rights. In exercising its Development Rights, Declarant shall use commercially reasonable efforts to minimize, to the extent reasonably possible, any interference with the use and enjoyment of the Units by their Owners and their Permittees, including any tenants.

(d) Amend Declaration. In addition to the other amendments to this Condominium Declaration which Declarant may expressly make pursuant to the provisions of this Condominium Declaration, during the Development Period, Declarant may amend this Condominium Declaration (including the Map) in any manner authorized by CCIOA to the extent not otherwise limited in this Condominium Declaration or the Bylaws.

(e) Term of Reservation of Reserved Rights. All rights reserved herein by Declarant for the benefit of Declarant shall expire in accordance with the provisions reserving the right in question, or if no such expiration is identified, then such right shall expire at the expiration of the Development Period. Any such unexpired rights may be transferred by Declarant to any person by an instrument executed by Declarant and its transferee, describing the rights transferred and Recorded in compliance with Section 304 of CCIOA.

ARTICLE 3 **EASEMENTS**

3.1 Easements Benefiting Owners. Declarant hereby establishes the following Easements for the Owners, all of which are subject to the other Easements and provisions contained in this Condominium Declaration. Each Owner has a non-exclusive Easement over and through the General Common Elements and the Limited Common Elements allocated to the Owner's Unit as reasonably necessary for ingress and egress to such Owner's Unit and any Limited Common Elements allocated to such Owner's Unit. Each Owner has a non-exclusive Easement to use the General Common Elements, subject to the terms and conditions of this Condominium Declaration and the Rules. To the extent that any Unit is allocated the exclusive use of a particular Limited Common Element pursuant to this Condominium Declaration and/or the Map, the Owner of that Unit has an Easement for the exclusive use and enjoyment of that Limited Common Element, subject to the terms and conditions of this Condominium Declaration and the Rules and the rights of the Condominium Association. Any Owner may allow its Permittees to exercise its Easement rights pursuant to this Section 3.1.

3.2 Easements Benefiting Association. Declarant hereby establishes the following Easements for the Condominium Association, all of which are subject to the other Easements and provisions contained in this Condominium Declaration. The Condominium Association has nonexclusive Easements over and across the Common Elements, and over and across other portions of the Condominium Project, to gain access to the Common Elements and the Units, as reasonably necessary or convenient for the Condominium Association, acting through its Permittees, to exercise its rights and perform its obligations under this Condominium Declaration, including, without limitation, its rights and obligations to enforce this Condominium Declaration and the Rules, and to operate, manage, control, maintain, repair and replace the Common Elements. Except in the case of emergency situations concerning threatened injury or damage to persons or property, the Condominium Association will not enter into any Unit pursuant to the Easement established under this Section 3.2 without giving reasonable advance notice to and minimizing interference with the occupant thereof, and the Persons responding to such emergency situations shall promptly repair any damage to the Unit which may be caused by such Person in exercising such rights.

3.3 Easement for Enclosure and Structural Support. Declarant hereby establishes a non-exclusive Easement for the benefit of each Unit and the Condominium Association, over, across, through, on and in all portions of the Condominium Project, including all Units and Common Elements, as reasonably necessary for structural, subjacent and lateral support.

3.4 Easements for Common Elements within Units. Declarant hereby establishes a non-exclusive Easement for the benefit of each Unit and the Condominium Association over, across and through each Unit for the presence of all Common Elements located within the boundaries of that Unit that are not designated as Common Elements on the Map (for example, Common Utilities and Systems).

3.5 Easements for Encroachments. If, as a result of the construction, reconstruction, shifting, settlement, restoration, rehabilitation, alteration or improvement of the Condominium Project or any portion of it, any Common Element encroaches upon any part of a Unit, or any part of a Unit encroaches upon any Common Element or upon any part of the other Unit, an Easement exists and Declarant hereby establishes such Easement for the continued existence and maintenance of the encroachment. The Easement will continue for so long as the encroachment exists and will burden the Unit or Common Element encroached upon and benefit the encroaching Unit or Common Element. No Easement exists for any encroachment that is materially detrimental to or interferes with the reasonable use and enjoyment of the Common Element or Unit burdened by the encroachment.

3.6 Easements to Repair, Maintain, Restore and Reconstruct. Easements exist as necessary or convenient to gain access and perform the authorized or required work to the portions of the Condominium Project requiring repair, maintenance, restoration or reconstruction, with Persons, materials and equipment to the extent and for the periods reasonably necessary to enable the Persons to perform the authorized or required work. The Easements created under this Section 3.6 burden those portions of the Condominium Project through which they run and benefit both the Persons authorized or required to perform the authorized or required work and those portions of the Condominium Project requiring the repair, maintenance, restoration or reconstruction. Except in the case of emergency situations concerning threatened damage to persons or property, no

Person will enter into a Unit pursuant to the Easement established under this Section 3.6 without giving reasonable advance notice to and minimizing interference with the occupant thereof, and the Persons performing the authorized or required work shall promptly repair any damage to the Unit which may be caused by such Person in exercising such rights.

3.7 Easements for Utilities. An Easement exists over, across and through each Unit and the Common Elements for the benefit of each Unit and Common Element for the use, operation, maintenance, repair and replacement of all the Common Utilities and Systems that serve or are allocated to the benefited Unit or Common Element and run through the burdened Unit or Common Element(s).

3.8 Right of Entry. Declarant reserves for the Condominium Association an Easement for the right, but not the obligation, to enter upon any Unit: (a) for emergency, security and safety reasons; and (b) to inspect the Unit for the purpose of ensuring compliance with this Condominium Declaration, the Bylaws and the Rules. Such right may be exercised by any Director or Officer, the Manager and the Condominium Association's agents and employees and, for emergency, security and safety purposes, all Building security personnel, police, fire and ambulance personnel and other similar emergency personnel in the performance of their duties. This right of entry will include the right of the Condominium Association to enter upon any Unit to cure any condition that may increase the possibility of a fire or other hazard in the event an Owner fails or refuses to cure such condition within a reasonable time after requested by the Condominium Association, provided that the Condominium Association will not enter the Unit pursuant to the Easement granted under this Section 3.8 without giving reasonable advance notice to and minimizing interference with the occupant thereof, and the Persons exercising such rights shall promptly repair any damage to the Unit which may be caused by such Person in exercising such rights.

3.9 Master Declaration Easements. The Master Declaration creates additional Easements that burden the Condominium Project that survive any termination of the Condominium Project, including without limitation, those easements described in Article VI of the Master Declaration.

3.10 Association's Right to Grant Easements. Notwithstanding anything to the contrary in this Condominium Declaration, the Condominium Association, acting through the Board and without the approval of the Owners, may grant Easements over the Common Elements for installation and maintenance of utilities and for other purposes that benefit the Units or the Common Elements.

3.11 Easements Run with Property. All Easements existing pursuant to this Article 3 of this Condominium Declaration are appurtenant to and run with the Property and will be perpetually in full force and effect so long as the Condominium Project exists and inure to the benefit of and are binding upon Declarant, the Condominium Association, Owners, Permittees, Security Holders and any other Persons having any interest in the Condominium Project or any part of it. The Units will be conveyed and encumbered subject to all Easements set forth in this Article 3 whether or not specifically mentioned in the conveyance or encumbrance. Notwithstanding the foregoing, each Owner, in its discretion, may limit its Permittees' rights of use and access to the portions of the Condominium Project to which that Owner has use rights pursuant to this Condominium Declaration, including the use and benefit of the Easements included in Article 3 and any Limited Common Elements allocated to the Owner's Unit.



3.12 Other Recorded Easements and Licenses Affecting the Property. The Recorded Easements and licenses which were created prior to the date of this Condominium Declaration, and affecting the Property are identified on Exhibit C. In addition to the matters identified on Exhibit C, the Easements created by the Map, the Master Declaration and this Condominium Declaration affect the Property. Declarant reserves the non-exclusive right and power to grant, during the Development Period, such additional specific easements over any portion of the Property owned by Declarant and the Common Elements as may be necessary, in the sole discretion of Declarant, to the orderly development of any portion of the Property.

ARTICLE 4

COVENANTS, CONDITIONS AND RESTRICTIONS

4.1 Administration. The Condominium Project will be administered in accordance with the provisions of CCIOA, this Condominium Declaration and the Bylaws. All Common Elements are subject to the Condominium Association's authority to supervise, operate, manage, control, maintain, repair and replace them, except to the extent maintenance or other responsibility for such Common Element is allocated to an Owner under this Condominium Declaration.

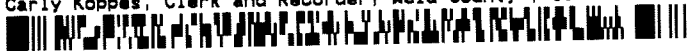
4.2 Compliance. Each Owner, Permittee and Security Holder and all Persons claiming under them will take and hold their right, title and interest in any Unit subject to all of the covenants and conditions of CCIOA, this Condominium Declaration, the Bylaws, the Master Declaration and the bylaws of the Master Association. Each Owner, Permittee and Security Holder will comply with all applicable provisions of the Condominium Documents and the Master Association Documents, as those documents may be amended from time to time. Each Owner, Permittee and Security Holder will comply with all applicable provisions of CCIOA.

4.3 Permitted Uses. Subject to the other provisions of this Article 4, the Units may be occupied and used only for vehicle and garage storage in accordance with applicable laws and subject to the limitations provided in this Condominium Declaration and the Master Declaration, as the same may be terminated in accordance with its terms or amended from time to time.

4.4 Prohibited Uses Generally. No use shall be permitted within the Condominium Project that is inconsistent with the operation of a first-class project of similar configuration located in the greater Denver, Colorado metropolitan area. Uses other than the permitted uses listed in this Article 4 are prohibited. In addition to other uses prohibited by this Article 4, the following uses are prohibited:

(a) Insurance Risks. No Unit may be used for any use which would constitute an unusual fire hazard, would result in jeopardizing any insurance maintained by the Condominium Association or the Master Association on any part of the Condominium Project or the Master Community or would result in any increase in the premium for that insurance; *provided, however*, that the Board may approve the use if adequate safeguards are undertaken at the Owner's expense and any increase in insurance premiums is allocated to, and paid by, the Owner as a Reimbursable Expense pursuant to Section 9.2(c).

(b) Nuisance. No Unit or Common Element may be used for any use constituting a public or private nuisance or which causes undue odor, noise, vibration or glare.



(c) Violation of Law. No portion of the Condominium Project may be used for any use which violates any law, statute, ordinance, rule, regulation or order of any governmental authority having jurisdiction over the Condominium Project, including, without limitation, any of them that regulate or concern hazardous or toxic waste, substances or materials.

(d) Residential Uses Prohibited. No portion of the Condominium Project may be used for residential purposes. Camping and overnight stays are expressly prohibited, including, without limitation, temporary or permanent lodging within a Unit or residing in any recreational vehicle, camper, trailer, or any other vehicle parked within a Unit.

(e) Commercial Business Uses Prohibited. No commercial business use shall be conducted within any Unit, and no person shall enter upon such a Unit for the purpose of engaging in such uses or for the purpose of receiving products or services arising out of such usage. The foregoing shall not prohibit storage of items within the Units or commercial ownership of a Unit so long as such use does not involve regular visits to the Property by any customers or prospective customers, does not materially increase the use of the Common Elements and is in compliance with all applicable laws.

(f) Other Prohibited Uses. Each Owner shall not allow any use of its Unit which will cause the value or utility of any part of the Unit or any Building to diminish or which will endanger, disturb, or interfere with any other tenant or use of the Common Elements, in the operation of any Building. Owners shall not use or permit the use of any Unit or any Building, or any part thereof, in a manner that is unlawful, diminishes the appearance or aesthetic quality of any Unit or any Building or causes damage to any Unit or any Building. No welding activities may occur within any Unit or any Building.

4.5 Exterior of Building. No Owner or their respective Permittees may install or otherwise affix anything to the exterior of the Building, including, without limitation, any wiring, antennae, furnace, vents, machines, air conditioning units or similar items except as may be permitted by the Rules.

4.6 Signs. No signage that is visible from outside of any Building and no exterior signage on any Unit or other portions of the Condominium Project will be allowed except to the extent that such signage is approved by the "Design Review Committee" under the Master Declaration.

4.7 Refuse Removal. Owners shall remove all rubbish, garbage and debris from their Units on a regular basis and no trash may be allowed to accumulate anywhere within the Condominium Project. All trash, garbage and other debris generated on and awaiting removal from the Condominium Project may be kept in sanitary containers located on the interior of the Units only and at all times in accordance with the Rules.

4.8 Obstruction of Common Elements. Nothing may be stored in or on the General Common Elements, except in storage areas that may be designated by the Board from time to time; provided, however, that Declarant may store construction materials used in connection with the construction activities described in Section 2.10 in or on the Common Elements.

4.9 Rules and Responsible Governance Policies. In addition to the restrictions, conditions and covenants in this Article 4 concerning the use of the Condominium Project, the Board from time

to time may promulgate and amend reasonable Rules and Responsible Governance Policies not in conflict with CCIOA, this Condominium Declaration, the Bylaws or the Master Association Documents. To the extent not covered elsewhere in this Condominium Declaration or the Bylaws, the Responsible Governance Policies will include policies as specified in section 209.5 of CCIOA.

4.10 Indemnity. Subject to Section 11.4, each Owner will be liable to and will protect, defend, indemnify and hold harmless the Condominium Association and the other Owners from and against any and all damages, claims, demands, liens (including, without limitation, mechanics' and materialmen's liens and claims), losses, costs and expenses (including, without limitation, reasonable attorneys' fees, court costs and other expenses of litigation) and liabilities of any kind or nature whatsoever (collectively referred to as "**Indemnity Claims**") suffered or incurred by, or threatened or asserted against, the Condominium Association or the other Owner as a result of or in connection with (a) the willful misconduct, negligence of, or breach of CCIOA or any Condominium Documents by the indemnifying Owner or its Permittees; (b) any repair, restoration, replacement, alteration or other construction, demolition, installation or removal work on or about the Condominium Project contracted for, or performed by, the indemnifying Owner or its Permittees; (c) the operation, use, ownership or maintenance of the indemnifying Owner's Unit by the indemnifying Owner or its Permittees, or (d) the exercise by such Owner of any self-help rights provided in this Condominium Declaration. Notwithstanding the foregoing, no Person will be entitled to indemnification from an Owner pursuant to this Section 4.10 for an Indemnity Claim to the extent it arises from willful misconduct or negligence of such Person. The indemnifying Owner will pay for all Indemnity Claims suffered or incurred by the Condominium Association for which the indemnifying Owner is responsible promptly upon receipt of a demand for payment from the Condominium Association. The amount of the Indemnity Claims will constitute Special Assessments against the indemnifying Owner's Unit. If the indemnifying Owner fails to make such payment within 30 days after receipt of the Condominium Association's demand for it, the Condominium Association may take whatever lawful action it deems necessary to collect the payment including, without limitation, foreclosing its lien or instituting an action at law or in equity. Nothing in this Condominium Declaration relieves any Permittee from liability for its own acts or omissions. Nothing contained in this Section 4.10 will be construed to provide for any indemnification which violates applicable laws, voids any or all of the provisions of this Section 4.10 or negates, abridges, eliminates or otherwise reduces any other indemnification or right which the Condominium Association or the Owners have by law.

4.11 Enforcement.

(a) General Scheme. The Condominium Documents constitute a general scheme benefiting each Unit and the Property as a whole and may be enforced by Declarant, the Condominium Association or an aggrieved Owner (an "**Aggrieved Owner**"). A violation of any of the provisions of this Condominium Declaration causes irreparable damage to the Property. Therefore, subject to the terms and conditions of this Section 4.11 and except as otherwise expressly provided elsewhere in this Condominium Declaration, Declarant, the Condominium Association and any Aggrieved Owner may prosecute a proceeding at law or in equity against any Person violating or attempting to violate the provisions of the Condominium Documents including, without limitation, an action for a temporary restraining order, preliminary injunction and permanent injunction; provided that before an Aggrieved Owner may prosecute a proceeding at law or in equity against the Condominium Association, the Aggrieved Owner shall first provide

notice of the alleged violation to the Condominium Association and the Condominium Association shall have a reasonable opportunity to cure such alleged violation in accordance with CCIOA and the Condominium Documents.

(b) Enforcement Costs and Penalties. Any Person attempting to enforce a provision of the Condominium Documents including, without limitation, attempting to collect delinquent Assessments, regardless of whether a suit is initiated, may recover reasonable attorneys' fees and other legal costs incurred in successfully enforcing the provision to the extent provided in section 123 of CCIOA. The Condominium Association or an Owner who is successful in defending such a claim raised against it is also entitled to reasonable attorneys' fees and other legal costs it incurs in successfully defending such a claim to the extent provided in section 123 of CCIOA. In addition, if an Owner fails to comply with any of the Condominium Documents, the Condominium Association may impose monetary penalties and other appropriate measures; provided, however, that before imposing any of those measures (other than late charges, interest and reasonable collection costs relating to delinquent payments), the defaulting Owner (the **"Defaulting Owner"**) is provided prior notice of the claimed default and an opportunity to be heard by the Board and cure such delinquency prior to the imposition of the disciplinary measure in accordance with the provisions of the Bylaws and the Responsible Governance Policies.

(c) Notification of Association Before Owner Enforcement Action. In accordance with and furtherance of section 124 of CCIOA, before an Aggrieved Owner may prosecute any proceeding at law or in equity enforcing the provisions of this Condominium Declaration or seeking other relief relating to a violation or attempted violation of the provisions of this Condominium Declaration, the Aggrieved Owner will first give written notice to the Board specifying the violation or attempted violation of the provisions of this Condominium Declaration, the facts and circumstances surrounding the violation, and the name of the Person alleged to have violated or attempted to violate the provisions of this Condominium Declaration (a **"Default Notice"**). Subject to Section 6.5(d), the Condominium Association may initiate a proceeding at law or in equity to enforce the provisions of this Condominium Declaration, to prevent a violation or to obtain damages for damage to the Common Elements resulting from the violation, or may otherwise enforce the provisions of this Condominium Declaration. Subject to Sections 7.1 through 7.6, the Aggrieved Owner may prosecute a proceeding at law or in equity as provided in Section 4.11(a) if (i) the violation or attempted violation results or would result in immediate physical damage to the Owner's Unit; or (ii) the Condominium Association fails to enforce or cause enforcement of the violated provisions of this Condominium Declaration within 30 days after the Board receives the Aggrieved Owner's Default Notice or within any longer period (but not to exceed 60 days after the Board receives the Aggrieved Owner's Default Notice) reasonably required by the Condominium Association to enforce this Condominium Declaration (provided the Condominium Association is diligently proceeding to enforce this Condominium Declaration during such longer period).

(d) No Waiver. In no event will the Condominium Association's or Declarant's failure to enforce any covenant, restriction or rule provided for in the Condominium Documents constitute a waiver of the Condominium Association's or Declarant's right to later enforce such provision or any other covenant, restriction or rule.



ARTICLE 5

OPERATION, MAINTENANCE AND REPAIR

5.1 Association's Duties. Subject to the provisions of Article 12 and Article 13, the Condominium Association has the following rights and responsibilities with respect to the operation, maintenance and repair of the Condominium Project:

(a) Maintenance of Common Elements. Except to the extent otherwise provided in Sections 4.1 and 5.2, the Condominium Association will maintain, repair, replace and restore all Common Elements, and the costs to do so will be included in the Common Expenses, except to the extent paid by insurance or condemnation proceeds or by the Owners pursuant to Sections 4.10, 9.2(a), 9.2(b), or 9.2(c). Without limiting the foregoing, the Condominium Association will maintain, repair and replace the Garage Doors at all times in accordance with the maintenance standard set forth in Section 5.3 below and such that the Garage Doors are uniform in appearance and function, the costs of which will be paid by the Owner of the Unit to which each such Garage Door is allocated in accordance with Section 9.2(b).

(b) Election to Perform Owners' Duties. The Condominium Association may elect to maintain, repair, replace or restore any Unit or Limited Common Element, or portion of either of them, that an Owner is required to maintain, repair, replace or restore pursuant to this Condominium Declaration if: (i) the Owner has failed, for more than 30 days after notice from the Condominium Association, to maintain, repair, replace or restore its Unit, Limited Common Element or other portion of the Condominium Project as required under this Condominium Declaration; and (ii) the failure adversely affects the appearance of the Unit, Limited Common Element or other portion of the Condominium Project when viewed from any area outside the Unit or Limited Common Element, or impairs the structural integrity or building systems of any portion of the Property, or has an adverse effect on the use of another Unit, Common Element or Easement for its permitted and intended use. If, however, the required maintenance, repair, replacement or restoration cannot be cured because of its nature or scope within the 30-day period, the Condominium Association may not perform the repair, maintenance, replacement or restoration so long as such Owner commences performance of its obligations within the 30-day period and diligently completes it. The Owner must pay all costs incurred by the Condominium Association in accordance with this Section 5.1(b) upon receiving the Condominium Association's demand for payment. If the Owner fails to make the payment within 30 days of receiving a demand for it, the Condominium Association may take whatever lawful action it deems necessary to collect the payment including, without limitation, foreclosing its lien or instituting an action at law or in equity.

5.2 Owners' Duties. Subject to the provisions of Article 12 and Article 13, each Owner will at its expense: (a) maintain at all times in good and clean condition, and perform all required repairs, replacements or restorations of its Unit; (b) clean and maintain the finishes of, and make cosmetic repairs to, the interior surface of any wall comprising a General Common Element located within its Unit; (c) perform its responsibilities in a manner that does not unreasonably disturb the other Owner or its Permittees; and (d) promptly report to the Condominium Association any defect or need for repairs for which the Condominium Association is responsible.

5.3 Maintenance Standard. For the benefit of each of the Owners, each Owner and the Condominium Association will perform their respective maintenance and repair obligations under this Article 5 and elsewhere in the Declaration (a) in a manner consistent with a first-class project of similar configuration located in the greater Denver, Colorado metropolitan area and in a manner that does not unreasonably disturb the Owners or their respective Permittees, (b) to a level of quality and performance equivalent to the quality and performance as the Condominium Project was originally constructed or installed, ordinary wear and tear excepted, and (c) to the extent current repairs are necessary in order to avoid damaging the Units or the Common Elements;. Nothing in this Condominium Declaration may be interpreted to prohibit the Condominium Association or an Owner from engaging a third-party, such as a Manager, to perform some or all of its obligations under this Article 5, provided that neither the Condominium Association nor the Owner will be relieved of its obligations under this Article 5. Any contracts or agreements between the Condominium Association and any third-parties for the performance of the Condominium Association's duties and obligations under Section 5.1 must be on commercially reasonable terms and in accordance with current market rates for comparable goods or services.

ARTICLE 6 THE CONDOMINIUM ASSOCIATION AND BOARD

6.1 Formation of the Condominium Association; Membership. The Condominium Association will be formed no later than the date the first Unit is conveyed to an Owner other than Declarant.

6.2 Membership. Each Owner is a member of the Condominium Association as soon and for so long as it is an Owner. Following a termination of the Condominium Project, the members of the Condominium Association will consist of all Owners entitled to share in the distribution of proceeds of a sale of the Property. Membership in the Condominium Association automatically terminates when a Person ceases to be an Owner, whether through sale, intestate succession, testamentary disposition, foreclosure or otherwise, and the New Owner (as defined in Section 17.3 below) automatically succeeds to that membership in the Condominium Association. The Condominium Association will recognize a new member upon presentation by a New Owner of satisfactory evidence of the sale, transfer, succession, disposition, foreclosure or other transfer of the Unit to which the membership is appurtenant. Membership in the Condominium Association may not be transferred, pledged or alienated in any way, except to the New Owner upon conveyance of a Unit. Any prohibited transfer is void and will not be recognized by the Condominium Association.

6.3 Voting Rights. The Person entitled to cast the vote allocated to each Unit on behalf of the Owner of the Unit shall be set forth in the Bylaws. Owners may exercise such voting rights subject to and in accordance with the provisions below and those of the Bylaws. The Owners shall be entitled to vote on the matters affecting the Condominium Project and the Condominium Association to the extent required by this Condominium Declaration or CCIOA to be submitted to the vote of the Owners.

6.4 Board of Directors. Notwithstanding anything contained in the Bylaws to the contrary, the Board shall be composed of three Directors.

6.5 Powers. The Condominium Association will serve as the governing body for the Condominium Project and has the responsibilities set forth in this Condominium Declaration and the Bylaws. The Condominium Association may take any of the following actions, but will not be obligated to take such actions except as otherwise provided for in the Declaration or the Bylaws:

(a) Adopt and amend the Bylaws, the Rules, and the Responsible Governance Policies; *provided, however*, that the Bylaws, the Rules, and the Responsible Governance Policies will not be inconsistent with this Condominium Declaration or CCIOA;

(b) Adopt and amend budgets for revenues, expenditures and reserves, assess and collect any Assessments and any other amounts due from Owners or others to the Condominium Association;

(c) Hire and terminate managing agents and other employees, agents and independent contractors and enter into contracts for professional management of the Condominium Project and the Condominium Association, and to carry out and perform all or any part of the functions, powers, duties and services which the Board may lawfully delegate;

(d) Subject to Article 7 below, institute, defend or intervene in litigation or administrative proceedings or seek injunctive relief for violations of the Condominium Documents in its own name on matters affecting the Condominium Project, provided that the Condominium Association shall have no power to institute or intervene in any construction defect action (as defined in CCIOA § 303.5(1)(b)(I)) in its own name or on behalf of one or more Owners;

(e) Make contracts and incur liabilities;

(f) Borrow funds to cover Association expenditures and pledge Association assets as security therefor; *provided, however*, that Common Elements may be subjected to a security interest only pursuant to Section 17.2;

(g) Regulate the use, operation, maintenance, repair, replacement and modification of the Common Elements;

(h) Cause additional improvements to be made as a part of the Common Elements;

(i) Acquire, hold, encumber and convey in its own name any right, title or interest to real or personal property; *provided, however*, that Common Elements may be conveyed or subjected to a security interest only pursuant to Section 17.2;

(j) Grant easements, leases, licenses, and concessions through or over the Common Elements;

(k) Impose and receive any payments, fees or charges for any services provided to Owners and for the use, rental or operation of the Common Elements, other than Limited Common Elements described in § 202(1)(b) and § 202(1)(d) of CCIOA;

(l) Impose interest and late charges for late payment of Assessments, recover reasonable attorneys' fees and other legal costs for collection of Assessments and other actions to

enforce the power of the Condominium Association, regardless of whether or not suit was initiated, and, after notice and an opportunity to be heard, levy reasonable fines for violations of any Condominium Documents only in accordance with CCIOA and the Responsible Governance Policies of the Condominium Association;

(m) Impose reasonable charges for the preparation and Recording of amendments to this Condominium Declaration;

(n) Provide for the indemnification of its Officers and Directors and maintain directors' and officers' liability insurance;

(o) Assign its right to future income, including the right to receive Assessments so long as the Condominium Association will continue to have sufficient revenue to meet its maintenance obligations under this Condominium Declaration;

(p) Exercise any other powers conferred by this Condominium Declaration or the Bylaws;

(q) Except as may be limited by this Condominium Declaration or the Bylaws, exercise all other powers that may be exercised in the State of Colorado by legal entities of the same type as the Condominium Association; and

(r) Except as may be limited by this Condominium Declaration or the Bylaws, exercise any other powers necessary and proper for the governance and operation of the Condominium Association.

6.6 Bylaws. The Condominium Association may adopt Bylaws for the regulation and management of the Condominium Association, provided that the provisions of the Bylaws will not be inconsistent with the provisions of this Condominium Declaration or CCIOA. The Bylaws also may include, without limitation, provisions regarding the voting rights of the Owners, the manner of electing and required qualifications of Directors and the appointment or election of Officers.

6.7 Budget.

(a) Preparation of Budget. The Board will cause a proposed budget for the Condominium Association to be prepared and adopted annually, not less than 30 days prior to the beginning of each Fiscal Year of the Condominium Association (except that, for the first Fiscal Year of the Condominium Association, the Board may adopt the estimated budget prepared by or on behalf of Declarant). The proposed budget will include all of the following:

(i) The estimated revenue and expenses of the Condominium Association for the subject Fiscal Year, in reasonable detail as to the various categories of revenue and expense;

(ii) The current cash balance in the Condominium Association's reserve fund (the "**Reserve Fund**") for the major repair or replacement of Common Elements, the Condominium Association's equipment, furniture and other personal property and for contingencies (including, without limitation, the amount of the deductible under the

Condominium Association's property insurance policy), which fund will be established, maintained and invested by the Board in its reasonable judgment and subject to the requirements of Section 303(2.5) of CCIOA (provided that the establishment of the Reserve Fund and the deposit of Association funds into the Reserve Fund shall require, in each case, the unanimous vote of the Board);

(iii) An estimate of the amount of working capital that will be necessary to cover the cost of expenses, unforeseen expenditures or to purchase additional equipment and services;

(iv) An estimate of the amount required to be spent during the subject Fiscal Year from the Reserve Fund for the major repair or replacement of Common Elements or the Condominium Association's equipment or other personal property; and

(v) A statement of the amount required to be added to the Reserve Fund during the subject Fiscal Year to cover anticipated withdrawals and adequately address contingencies and anticipated needs in future Fiscal Years.

(b) Ratification of Budget. Within 90 days after the Board adopts any proposed budget for the Condominium Association, but in any event prior to the start of the Fiscal Year for which the budget has been prepared, the Board will mail, by ordinary first-class mail, or otherwise deliver, such as by email or posting the proposed budget on the Condominium Association's website, a summary of the proposed budget, to all Owners and will set a date for a meeting of the Owners to consider ratification of the proposed budget. Such meeting will occur within a reasonable time after mailing or other delivery of the summary. The Board will give notice to the Owners of such meeting as provided for in the Bylaws. The budget proposed by the Board does not require approval of the Owners and will be deemed approved by the Owners in the absence of a veto by the Owners at such noticed meeting by a majority of all Owners, whether or not a quorum is present. In the event that the proposed budget is vetoed, the periodic budget last proposed by the Board and not vetoed by the Owners will continue in effect until such time as a subsequent budget proposed by the Board is not vetoed by the Owners. For the first Fiscal Year of the Condominium Association, the Board may adopt the estimated budget for the Condominium Association prepared by or on behalf of Declarant and assess General Assessments pursuant to Section 9.1(a) of this Condominium Declaration based on it if the Board submits such budget to the Owners for ratification in accordance with this Section 6.7(b) within 90 days after adopting it.

6.8 Association Subject to Master Association and Master Declaration. As more particularly set forth in the Second Amendment to Master Declaration, the recordation of this Condominium Declaration and the Map constitutes an exercise by Declarant of its reserved development rights under the Master Declaration. It is specifically understood that this Condominium Declaration is subject and subordinate to the Master Declaration, such that all provisions of the Master Declaration shall be controlling to the extent that they may conflict with this Condominium Declaration. The entire Property is and remains subject to the Master Declaration. All assessments due under the Master Declaration from the Owners of Units under this Condominium Declaration shall be included in the Association's budget, and collected as part of the Assessments, and then remitted to the Master Association. The maintenance obligations of the Condominium Association with respect to the Common Elements (including the Limited Common Elements) may, at the

election of the Master Association and with the Condominium Association's prior written consent, be performed by the Master Association. Any such delegation made pursuant to this Section 6.8 shall be in the form of a Recorded written agreement signed on behalf of the Condominium Association and the Master Association. Such written agreement shall: (i) refer to this Condominium Declaration and the Master Declaration by name and give the Recording information for both of them; (ii) specifically identify the power(s) and/or obligation(s) being delegated to the Master Association and the duration of such delegation(s); (iii) acknowledge the Master Association's consent to such delegation(s) and assumption of the power(s) and/or obligation(s) so delegated; (iv) identify any conditions or limitations placed on such delegation(s) and the manner by which such delegation(s) may be terminated; and (v) contain any provisions required by CCIOA or the Master Declaration. Such written agreement may contain any other provisions that are consistent with the terms of this Condominium Declaration, the Master Declaration and CCIOA.

ARTICLE 7 **CONSTRUCTION DEFECTS, DISPUTES, DISPUTE RESOLUTION AND** **LITIGATION**

7.1 Construction Defects; Testing.

(a) Each Owner is entitled to be kept informed by the Board with respect to the its activities and actions regarding alleged construction defects within the Condominium Project, including any instances in which any component of the Common Elements or the Owner's Unit is alleged not to conform in all material respects with the applicable building codes, manufacturer's specifications or the requirements of the construction and related drawings and specifications for the Condominium Project.

(b) The Condominium Association will not undertake or authorize any testing, including, without limitation, investigative testing, destructive testing or invasive testing of any kind for defects in construction of any Unit or Common Element without first determining, based upon the presence of some readily observable evidence or condition, that a defect may exist. In making such a determination the Board will rely on the opinions and/or the conclusions of a qualified expert (e.g., a structural engineer); even in the event such evidence or conditions exist, the Condominium Association will not be obligated to authorize or undertake such testing. Notwithstanding the foregoing, the Condominium Association shall have no right or standing to undertake or authorize any testing or investigations of any kind or initiate or pursue any Claim related to any design or construction defects within any area of the Property other than the Common Elements. No Owner shall assign any of its rights to institute or pursue any Claim related to any design or construction defects within the Property to any other Owner, Permittee or the Condominium Association.

(c) In determining whether to authorize such testing, the Board will be governed by the following considerations:

(i) Whether the Condominium Association's position is strong enough to justify taking any other or further action;

(ii) Whether, although a technical violation may exist or may have occurred, it is of such a material nature as to be objectionable to a reasonable Person or to justify expending the Condominium Association's resources; and

(iii) Whether it is in the Condominium Association's best interests, based upon hardship, expense, inconvenience or other reasonable criteria, to pursue the matter further.

(d) Notwithstanding the foregoing, under no circumstances will the Condominium Association authorize such testing as is contemplated under this Section 7.1 unless the nature of the suspected defect is such that:

(i) It poses a significant risk to life, health, safety or personal property; and

(ii) It materially threatens or affects the structural integrity, functionality, or performance of the Property (or a portion thereof) for its intended use.

(e) In the event the Board undertakes or authorizes testing for construction defects, then prior to any testing taking place, Declarant, the General Contractor, the Architect, and others responsible for the design and/or construction as specified by this Condominium Declaration will be entitled to notice of the alleged defect, access to the area of the alleged defect, and an opportunity to inspect the area. Declarant, the general contractor for the initial construction of the Condominium Project, the General Contractor, the Architect, and others responsible for the design and/or construction as specified by Declarant will also be entitled to be present during any testing and may record (via videotape, audio tape, still photographs, or any other recording method) all testing conducted and all alleged defects found.

(f) After complying with this Section 7.1, the Board will have the right, but not the obligation, to proceed with a Claim as provided for in Section 7.3. In determining whether to proceed with such a Claim, the Board will be governed by the same standards as set forth in Section 7.6 below.

7.2 Consensus for Condominium Association Litigation. Except as provided in this Section 7.2, the Condominium Association will not commence a judicial or administrative proceeding regarding any matter, including, without limitation, any proceeding required under Section 7.5 below, without: (a) the written approval of Owners, and not by way of proxy voting, to which at least a majority of the votes in the Condominium Association are allocated or such lesser percentage as may be mandated by section 303.5 of CCIOA, as the same may be amended from time to time; and (b) the affirmative vote of Declarant so long as Declarant owns any Unit. This Section 7.2 will not apply, however, to: (i) actions brought by the Condominium Association to enforce the terms of this Condominium Declaration, the Bylaws, the Rules or the Responsible Governance Policies (including, without limitation, the foreclosure of liens); (ii) the imposition and collection of Assessments; (iii) proceedings involving challenges to ad valorem taxation; or (iv) counterclaims brought by the Condominium Association in proceedings instituted against it. In addition to the foregoing requirements, with respect to any judicial or administrative proceeding that arises out of an alleged defect of any Common Element or Unit, the following provisions shall apply:

(a) Declarant and others responsible for the design and/or construction, including the General Contractor and the Architect, will have the right to be heard by the Owners and to access and inspect any portion of the Common Elements or the Units, including any improvement as to which a defect is alleged. In addition, the Condominium Association or the Owner will notify Declarant, the General Contractor and the Architect prior to retaining any other expert as an expert witness or for other litigation purposes.

(b) The Condominium Association must comply with the requirements of Section 38-33.3-305.5, C.R.S., prior to initiating any judicial or administrative action pertaining to alleged design or construction defects. In addition to such requirements, at least 60 days prior to seeking the approval of Owners to proceed with the judicial or administrative proceeding and with respect to alleged design or construction defects, in furtherance of the requirements of Section 7.1(a), the Board shall send written notice to each Owner disclosing, in addition to any specific disclosures under Section 38-33.3-303.5, C.R.S., all of the following information, which notice shall be signed by the President of the Condominium Association:

- (i) the nature of the legal action and the relief sought;
- (ii) the amount of expenses and fees the Condominium Association anticipates will be incurred, directly and indirectly, in prosecuting the action;
- (iii) the anticipated amount of attorneys' fees, consultant fees, expert witness fees and court costs, whether incurred by the Condominium Association directly or for which it may be liable if it is not the prevailing party in the action or if it does not proceed with the action;
- (iv) the estimated impact on the value of each Unit, whether or not it is the subject of the action, both during the action and after its resolution;
- (v) the estimated impact on the marketability of each Unit, whether or not it is the subject of the action, including any impact on the ability to refinance the Unit during and after the action;
- (vi) the manner in which the Condominium Association proposes to fund the cost of the action, including any proposed special assessments or the use of any reserves, whether it is the prevailing party in the action or not, and whether it determines to abandon the action prior to conclusion;
- (vii) the anticipated duration of the action and the likelihood of success; and
- (viii) whether Declarant, the General Contractor or the Architect, or any other party responsible for the design and/or construction, has offered to make any repairs or give a cash settlement and, if so, the details of such offer.

7.3 Alternative Method for Resolving Disputes. In accordance with and in furtherance of Section 124 of CCIOA, Declarant; the Condominium Association, its officers, directors and committee members; any Owner; all Persons subject to this Condominium Declaration; and any Person not otherwise subject to this Condominium Declaration who agrees to submit to this

Section 7.3 (each such entity being referred to as a “**Bound Party**”) agree to encourage the amicable resolution of disputes, without the emotional and financial costs of litigation. Accordingly, each Bound Party covenants and agrees to submit claims, grievances or disputes described in Section 7.4 of this Condominium Declaration (each, a “**Claim**”), to the procedures set forth in Section 7.5 of this Condominium Declaration.

7.4 Claims. Unless specifically exempted below, all Claims arising out of or relating to (a) the interpretation, application or enforcement of this Condominium Declaration, (b) the rights, obligations and duties of any Bound Party under this Condominium Declaration, and (c) any alleged defect in the design, engineering or construction of the Unit or the Common Element, will be subject to the provisions of Section 7.5 of this Condominium Declaration. Notwithstanding the above, unless all parties thereto otherwise agree, the following are not Claims and will not be subject to the provisions of Section 7.5 of this Condominium Declaration:

(a) Any suit by the Condominium Association against any Bound Party to enforce the provisions of Article 9 of this Condominium Declaration (Assessments);

(b) Any suit by the Condominium Association or Declarant to obtain a temporary restraining order or injunction (or equivalent emergency equitable relief) and such other ancillary relief as the court may deem necessary in order to maintain the status quo and preserve the Condominium Association’s ability to act under and enforce the provisions of Article 4 (Covenants, Conditions and Restrictions); and

(c) Any suit between or among Owners, to the extent such suit asserts a Claim which would constitute a cause of action independent of this Condominium Declaration.

Notwithstanding the foregoing, with the consent of all parties thereto, any of the above may be submitted to the alternative dispute resolution procedures set forth in Section 7.5.

7.5 Mandatory Procedures.

(a) Notice. Any Bound Party having a Claim (“**Claimant**”) against any other Bound Party (“**Respondent**”) (Claimant and Respondent are hereinafter referred to individually as a “**Party**” or collectively as the “**Parties**”) will notify each Respondent in writing (the “**Notice**”), stating plainly and concisely (i) the nature of the Claim, including the Persons involved and Respondent’s role in the Claim; (ii) the legal basis of the Claim (i.e., the specific authority out of which the Claim arises); (iii) the proposed remedy; and (iv) the fact that Claimant will meet with Respondent to discuss in good faith ways to resolve the Claim. The Notice must be accompanied by copies of all maintenance records relating to the portions of the Condominium Project that are the subject of the Claim. Failure to maintain maintenance records or the absence of maintenance records will create a rebuttable presumption that no maintenance was performed. Failure to provide such records (or a statement that none exist) will render the Notice ineffective.

(b) Negotiation and Mediation.

(i) The Parties will make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation. If requested in writing,

Condominium Association and any Owner will be deemed to have waived their right to receive any damages in a dispute other than actual damages, which waived damages include, without limitation, attorneys' fees (except as specifically provided under Section 123 of CCIOA), special damages, consequential damages, and punitive or exemplary damages. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, AS MAY BE IN EFFECT FROM TIME TO TIME, BY ACQUIRING A UNIT AND AS A MEMBER OF THE CONDOMINIUM ASSOCIATION, EACH OWNER KNOWINGLY AND WILLINGLY ACKNOWLEDGES AND AGREES THAT SUCH OWNER AND THE CONDOMINIUM ASSOCIATION HAVE WAIVED AND WILL BE DEEMED TO HAVE WAIVED, IN CONNECTION WITH THE ARBITRATION OF ANY DISPUTE UNDER SECTION 7.5(c), THE RIGHT TO ANY AWARD OF CONSEQUENTIAL, INDIRECT, SPECIAL, PUNITIVE, INCIDENTAL, OR OTHER NON-COMPENSATORY DAMAGES OR SIMILAR DAMAGES, INCLUDING ALL DAMAGES FOR EMOTIONAL DISTRESS, WHETHER FORESEEABLE OR UNFORESEEABLE AND REGARDLESS OF WHETHER SUCH DAMAGES ARE BASED ON (BUT NOT LIMITED TO) CLAIMS ARISING OUT OF BREACH OR FAILURE OF EXPRESS OR IMPLIED WARRANTY OR CONDITION, BREACH OF CONTRACT, VIOLATION OF BUILDING CODES (LOCAL, STATE OR FEDERAL), CONSTRUCTION DEFECTS (INCLUDING SOILS RELATED ISSUES), MISREPRESENTATION OR NEGLIGENCE OR OTHERWISE.

(f) Multiple Party Claims. Any and all multiple party Claims ("Multiple Party Claims") party Claims not consolidated or administered as a class action pursuant to the following sentence will be subject to, and will be arbitrated individually. Only with the written request of all Parties involved, but not otherwise, the arbitrator may consolidate in a single arbitration proceeding any Multiple Party Claims that are substantially identical.

(g) Enforcement of Resolution. If the Parties agree to a resolution of any Claim through negotiation or mediation in accordance with Section 7.5(d) above and any Party thereafter fails to abide by the terms of such agreement, or if any Party fails to comply with an Award, then any other Party may file suit or initiate administrative proceedings to enforce such agreement or Award without the need to again comply with the procedures set forth in this Section 7.5. In such event, the Party taking action to enforce an agreement or Award will be entitled to recover from the non-complying Party (or if more than one non-complying Party, from all such Parties pro rata) all costs incurred in enforcing such agreement or Award, including, without limitation, attorneys' fees and court costs to the extent specifically provided under Section 123 of CCIOA.

(h) Waiver of Jury Trial. BY AGREEING TO ARBITRATE CLAIMS, ALL BOUND PARTIES GIVE UP ANY RIGHT THAT PARTY MAY HAVE TO A JURY TRIAL, AS WELL AS OTHER RIGHTS THAT THE BOUND PARTY WOULD HAVE IN A COURT THAT ARE NOT AVAILABLE OR ARE MORE LIMITED IN ARBITRATION, SUCH AS THE RIGHT TO APPEAL. IF FOR ANY REASON, THE REQUIREMENT TO SUBMIT A CLAIM TO ARBITRATION PURSUANT TO THIS Article 7 IS HELD BY A COURT OF COMPETENT JURISDICTION TO BE UNENFORCEABLE, THEN TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY SUCH ACTION WILL BE HEARD AND DECIDED BY A JUDGE AND NOT A JURY, AND THE OWNERS AND THE CONDOMINIUM ASSOCIATION WAIVE ANY RIGHT TO A TRIAL BY JURY IN SUCH MATTER.

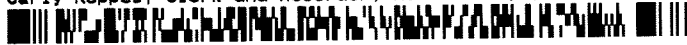
(i) Other Rights. If any provisions of this Article 7 conflict with any applicable laws of the State of Colorado that provide non-waivable legal rights, including without limitation, the Colorado Construction Defect Action Reform Act, Section 38-33.3-303.5, C.R.S., or the Colorado Consumer Protection Act, the non-waivable terms of such law shall control. If any provisions of this Article 7 are interpreted by any court or arbitrator to be void or invalid under Section 13-21-111.5, C.R.S., such provision shall be interpreted so as to give maximum effect of such provision's intent, as limited by Section 13-21-111.5, C.R.S.

(j) No Lis Pendens. If a claim, dispute or other controversy involves Declarant or the Condominium Association, no party shall record a memorandum or notice of *lis pendens* or similar instrument that would encumber or create a lien on real property owned by either the Declarant or the Condominium Association, and any recording of the same shall be null and void and of no force or effect. Should any Party commence litigation or any other action against any other Party or record a memorandum, *lis pendens* or other instrument as described above in violation of the terms of this Section, the court shall dismiss such litigation or action with prejudice, authorize the recording of a termination of the instrument of record and such Party shall be awarded damages and reimbursement of the costs and expenses, including attorneys' fees, incurred by such Party seeking dismissal of such litigation or action and termination.

(k) Liability for Failure to Maintain an Action Against Declarant. No director or officer of the Condominium Association shall be liable to any person for failure to institute or maintain or bring to conclusion a cause of action, mediation or arbitration for a Claim if the following criteria are satisfied: (i) the director or officer was acting within the scope of his or her duties; (ii) the director or officer was acting in good faith; and (iii) the act or omission was not willful, wanton or grossly negligent.

(l) Utilization of Funds Resulting from the Cause of Action. In the event the Condominium Association receives funds as a result of any settlement, mediation, arbitration or judgment based upon a cause of action, after payment of fees and costs incurred in connection with the prosecution of such action, the Condominium Association shall: (i) deposit the proceeds in a special, interest-bearing account; and (ii) utilize the proceeds only for the purpose of performing remedial or repair work on the conditions which were the subject of the Claim or otherwise for purposes of remedying the Claim.

7.6 Legal Proceedings. Subject to the provisions of Sections 7.1 through 7.5 of this Condominium Declaration and subject to the limitation provided in Section 6.5(d), the Condominium Association will have the right, but not the obligation, to institute legal proceedings to enforce all rights under this Condominium Declaration, the Bylaws, the Responsible Governance Policies and the Rules. The decision to institute legal proceedings by seeking the approvals required pursuant to Section 7.2 of this Condominium Declaration will be in the sole discretion of the Board and will be governed by the considerations detailed in this Article 7. Failure to commence such legal proceedings will not constitute a waiver of any such rights. ANY LIMITATIONS ON DAMAGES AND ALL WAIVERS OF LIABILITY AND RIGHTS TO AWARDS OF DAMAGES SET FORTH IN ANY SECTION OF THIS CONDOMINIUM DECLARATION WITH RESPECT TO OWNERS, INCLUDING, WITHOUT LIMITATION, SECTIONS 7.5(c), 7.5(e) AND 7.5(f), WILL APPLY WITH EQUAL FORCE AND EFFECT WITH RESPECT TO THE CONDOMINIUM ASSOCIATION IN ANY LEGAL



PROCEEDINGS INSTITUTED BY THE CONDOMINIUM ASSOCIATION UNDER THIS SECTION 7.6. THE PROVISIONS OF SECTIONS 7.1 THROUGH 7.6 WILL BE BINDING UPON THE OWNERS AND THE CONDOMINIUM ASSOCIATION TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, AS MAY BE IN EFFECT FROM TIME TO TIME.

7.7 Enforcement of Condominium Documents.

(a) Sanctions and Self-Help. Except as provided in Section 5.1(b), after notice and an opportunity to be heard as provided in the Bylaws, the Condominium Association, acting through the Board or any authorized agent, may: (i) impose sanctions (including, without limitation, reasonable monetary fines and suspension of the Owner's right to vote in Condominium Association matters) for violations of this Condominium Declaration or any of the remaining Condominium Documents; (ii) exercise self-help to cure any violations of this Condominium Declaration or any of the remaining Condominium Documents that an Owner of Permittee fails or refuses to cure; and (iii) suspend any services it provides to any Owner who is more than fifteen (15) days delinquent in paying any Assessment or other charge due to the Condominium Association. All of the remedies set forth in the Condominium Documents will be cumulative of each other and any other remedies available at law or in equity. If the Condominium Association prevails in any action to enforce the provisions of the Condominium Documents, it will be entitled to recover all costs, including, without limitation, attorneys' fees and court costs to the extent specifically provided under Section 123 of CCIOA, reasonably incurred by it in such action.

(b) No Waiver. In no event will the Condominium Association's failure to enforce any covenant, restriction or rule provided for in this Condominium Declaration, the Bylaws, or the Rules constitute a waiver of the Condominium Association's right to later enforce such provision or any other covenant, restriction or rule

7.8 Intended Beneficiaries; Amendment of this Article. Declarant, General Contractor and the Architect are intended third party beneficiaries of this Article 7 and are entitled to enforce its terms. This Article 7 shall not be amended unless such amendment is approved by Owners of Units to which at least sixty seven percent (67%) of the total votes in the Condominium Association are allocated, plus, for a period of 10 years following the expiration of the Development Period, the affirmative vote of Declarant. Any amendment made without the requisite Declarant consent shall be null and void and shall have no effect. BY TAKING TITLE TO A UNIT, EACH OWNER ACKNOWLEDGES AND AGREES THAT THE TERMS OF THIS Article 7 ARE A SIGNIFICANT INDUCEMENT TO THE DECLARANT'S AND ITS AFFILIATES' WILLINGNESS TO DEVELOP AND SELL THE UNITS AND THAT, IN THE ABSENCE OF THE PROVISIONS CONTAINED IN THIS Article 7, DECLARANT WOULD HAVE BEEN UNABLE AND UNWILLING TO DEVELOP AND SELL THE UNITS FOR THE PRICES PAID BY THE ORIGINAL PURCHASERS.

ARTICLE 8
MOLD DISCLOSURE

Molds, mildew, fungi, bacteria and microbiologic organisms (collectively, "Molds") are present in soil, air and elsewhere in the environment. Molds can proliferate in various



environments, including, among others, within walls and partitions. Certain parties have expressed concerns about the possible adverse effects on human health from exposure to Molds. Due to various reasons, including the varying sensitivities of different individuals to various types of Molds and other contaminants, as of the date of this Condominium Declaration there currently exist no state or federal standards regarding acceptable levels of exposure to Molds. According to the Consumer Product Safety Commission and the American Lung Association, some diseases or illnesses have been linked with biological pollutants in the indoor environment, including some forms of Molds. However, it is believed that many of these conditions may also have causes unrelated to the indoor environment. Therefore, as of the date of this Condominium Declaration it is unknown how many potential health problems relate primarily or exclusively to indoor air quality or Molds. By acquiring a Unit, each Owner acknowledges and agrees that Declarant is not qualified and has not undertaken to evaluate all aspects of this very complex issue. EACH OWNER ACKNOWLEDGES THAT DECLARANT MAKES NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, CONCERNING, THE PAST, CURRENT OR FUTURE, PRESENCE OR ABSENCE OF MOLDS IN OR IN THE VICINITY OF SUCH OWNER'S UNIT, ANY GENERAL COMMON ELEMENTS, OR ANY LIMITED COMMON ELEMENTS ALLOCATED TO THE UNIT OR IN ANY OTHER PORTION OF THE CONDOMINIUM PROJECT. Declarant recommends that each Owner, at the Owner's expense, conduct its own investigation and consult with such experts as such Owner deems appropriate regarding the occurrence and effects of Molds, the potential sensitivity or special risk individuals who will occupy or use such Owner's Unit or any Limited Common Elements allocated to the Unit may have with respect to Molds, and methods to reduce or limit Molds within the Unit or any Limited Common Elements allocated to the Unit.

ARTICLE 9

ASSESSMENTS

9.1 General Assessments. Each Unit is subject to assessments for the Unit's Common Allocations of all applicable Common Expenses (the "**General Assessments**"). General Assessments will commence not later than 60 days after the conveyance of the first Unit to an Owner other than Declarant. General Assessments will be calculated, paid, adjusted and reconciled in accordance with the following provisions:

(a) Budget and Payment. The Board will assess General Assessments against each Unit based on the budget adopted by the Board and not vetoed by the Owners pursuant to Section 6.7. Each Owner is obligated to pay the Condominium Association the General Assessments made against such Owner's Unit, and the payment will be due in equal monthly installments on or before the first day of each month of each Fiscal Year or in another reasonable manner designated by the Board. The Board's failure to fix the General Assessments prior to the commencement of any Fiscal Year will not be deemed a waiver or modification of any of the provisions of this Condominium Declaration or a release of any Owner from its obligation to pay the General Assessments or any installment of them for that Fiscal Year, and the General Assessments fixed for the preceding Fiscal Year will continue until the Board fixes the new General Assessments and the monthly installments for such new General Assessments shall be appropriately adjusted based on the number of months remaining in the Fiscal Year for which such new General Assessments apply.

(b) Adjustment. If, during any Fiscal Year, the Board determines that the estimated expenses or revenues of the Condominium Association, as set forth in the budget upon which the General Assessments were based, are in error for any reason (including, without limitation, nonpayment by an Owner of its General Assessments), then, to the extent the Board estimates that payments of General Assessments during the balance of the Fiscal Year will be inadequate or more than required to meet the Condominium Association's obligations intended to be covered by such General Assessments, the Board may amend the budget and increase or decrease the General Assessments for the balance of such Fiscal Year by giving not less than 30 days' prior notice to all of the Owners.

(c) Reconciliation. As soon as reasonably practicable after the end of each Fiscal Year, the Board will reconcile the actual costs and expenses incurred by the Condominium Association during that Fiscal Year against the General Assessments that the Condominium Association received and intended to cover the costs and expenses. To the extent that an Owner has paid more than its proper share of the costs and expenses, the Board may either: (i) refund the overpayment to the Owner; (ii) credit the overpayment against the Owner's General Assessments for the next Fiscal Year; or (iii) deposit the overpayment into the Reserve Fund if overpayments were received from the Owners in proportion to each Owner's Common Allocations. To the extent an Owner has underpaid its share of the costs and expenses, the Board may either: (A) demand in writing that the Owner pay the amount of the underpayment of General Assessments to the Condominium Association within a time period specified by the Board, but not less than 30 days after the Board gives its demand to the Owner; or (B) include the underpayment in the Owner's General Assessments for the next Fiscal Year.

9.2 Special Assessments. The Condominium Association may levy from time to time one or more special assessments ("**Special Assessments**") for the purpose of defraying in whole or in part the cost of any construction, restoration, unexpected repair or replacement of a capital improvement or for carrying out the other responsibilities of the Condominium Association in accordance with this Condominium Declaration. Each Special Assessment will be allocated among the Units in accordance with the provisions of Sections 9.2(a) through 9.2(e). Each Owner will pay all Special Assessments assessed against the Owner's Unit. Special Assessments will be paid at the time(s) and in the manner (for example, by lump sum payment or in installments) reasonably determined by the Board. The Board may require that Special Assessments be paid before the subject services or materials are provided.

(a) General Benefit Expenses. If the Condominium Association incurs any costs or expenses that benefit all Units ("**General Benefit Expenses**"), then the Board, in its discretion, will assess the General Benefit Expenses as a Special Assessment against each Unit in amount equal to the General Benefit Expense times such Unit's Common Allocation. The Board may assess Special Assessments for General Benefit Expenses without the approval of the Owners.

(b) Limited Benefit Expenses. If the Condominium Association incurs any cost or expense that solely benefits one or more Units and not all Units (a "**Limited Benefit Expense**"), then the Board, in its reasonable discretion, will assess the Limited Benefit Expense as a Special Assessment solely against the Unit(s) benefited. The Board may assess Special Assessments for Limited Benefit Expenses without the approval of the Owners.

at the closing of the Owner's purchase of its Unit. Amounts contributed to the Working Capital Fund do not constitute advance payments of General Assessments and are nonrefundable to the Owners.

9.4 Payment of Assessments. Each Owner will pay all General Assessments and Special Assessments (collectively, "**Assessments**") assessed against such Owner's Unit by the Board in accordance with the terms of this Condominium Declaration and the Responsible Governance Policies. Each Assessment is a separate, distinct and personal debt and obligation of the Owner against whose Unit the Assessment is assessed. All Assessments are payable in full without offset for any reason whatsoever. Each Owner's obligation to pay Assessments is entirely independent of any obligation of the Condominium Association to the Owner or of Declarant or any other Owner to that Owner. Any Assessment or installment of an Assessment not paid within the period specified in the Responsible Governance Policies after it becomes due is delinquent. Upon an Owner becoming delinquent, the Condominium Association may recover all of the following (collectively, the "**Delinquency Costs**"): (a) interest from the date due at the rate established from time to time by the Board (but not to exceed the lesser of 15% per year or the maximum rate under applicable law); (b) late charges and other monetary penalties imposed by the Condominium Association pursuant to any Condominium Documents and CCIOA; and (c) all collection and enforcement costs, including reasonable attorneys' fees, incurred by the Condominium Association and in accordance with CCIOA. Subject to the right to cure provided in section 6.1(b) of the Responsible Governance Policies, in addition to any and all charges and interest imposed under the Condominium Documents, the Condominium Association may impose a late charge on a monthly basis, in the amount specified in the Responsible Governance Policies, for each Owner who fails to timely pay his/her monthly installment of any Assessment within 15 days of the due date. The Board may accelerate and call due all unpaid installments of the Assessments on any delinquent account. Such acceleration shall result in the entire unpaid Assessment being due to the Condominium Association immediately. In the event notice of acceleration is given to a delinquent Owner, such Owner shall also be charged any costs of enforcement incurred by the Condominium Association in giving notice of such acceleration.

9.5 Enforcement of Assessments. The amount of any delinquent Assessments (including any installments the due dates of which are accelerated by the Board pursuant to the Responsible Governance Policies) and associated Delinquency Costs may be enforced against the Owner liable for them in any of the following ways (to the extent permitted by law or regulation):

(a) Suit. The Condominium Association may bring a suit or suits at law to enforce the Owner's obligation to pay a delinquent Assessment (including any installments the due dates of which are accelerated by the Board pursuant to Article 3 of the Responsible Governance Policies) and associated Delinquency Costs. Each action will be brought in the name of the Condominium Association. Any judgment rendered in the action in favor of the Condominium Association will include a sum for reasonable attorneys' fees and costs incurred by the Condominium Association in bringing the action against the Defaulting Owner. Upon full satisfaction of the judgment, the Condominium Association, by one of its Officers, will execute and deliver to the judgment debtor an appropriate satisfaction of the judgment.

(b) Lien and Foreclosure. Each Assessment (including any installments whose due dates are accelerated by the Board pursuant to Article 3 of the Responsible Governance Policies)

and associated Delinquency Costs constitute a lien, under Section 316 of CCIOA, on the Units or Unit against which it is assessed from the date due. If an Assessment is delinquent, if the Condominium Association gives a notice concerning the delinquency, and if the delinquent Assessment is not paid in full by the due date specified in the notice, the Condominium Association may foreclose the lien securing the Assessment, any installments whose due dates are accelerated by the Board pursuant to Article 3 of the Responsible Governance Policies, and any associated Delinquency Costs in accordance with the laws of the State of Colorado. For clarity, no Aggrieved Owner electing to exercise any rights under this Condominium Declaration or otherwise provided by any of the Condominium Documents or applicable law shall have any right to assert or claim any lien on the Unit of a Defaulting Owner unless and until the Aggrieved Owner exercising such self-help rights is recognized under applicable law as a judgment creditor of the Defaulting Owner entitled to a lien against the real property assets of the Defaulting Owner.

(c) Eligible Directors. The Directors elected by an Owner who is not delinquent or in default with respect to the payment of Assessments that are due and payable shall have the authority to cause the Condominium Association, acting through the Condominium Association's Officers or the Manager, to exercise the Condominium Association's remedies under this Section 9.5 with respect to a Defaulting Owner or the Defaulting Owner's Unit.

9.6 Disputes and Records. Each Owner or such Owner's authorized representative may inspect and audit the books and records of the Condominium Association during business hours upon reasonable prior notice. If an Owner disputes the amount of any Assessment against its Unit and is unable to resolve the issue through an inspection of the Condominium Association's books and records, the Owner will pay in a timely manner the full amount of the disputed Assessment until, if ever, it is finally determined that the amount is incorrect (in which case the Condominium Association will promptly refund any overpayment). If the Owner fails to pay the disputed Assessment while the dispute is pending, the Condominium Association may immediately pursue any of its remedies for the failure (including, without limitation, suit against the Owner and foreclosure of its lien against the Owner's Unit) and the pendency of the dispute resolution proceeding is not a bar or defense to any actions by the Condominium Association.

9.7 Owners not Exempt from Liability. No Owner is exempt from liability for payment of Assessments by waiver of the use or enjoyment of any of the Common Elements, by abandonment of its Unit, or otherwise.

ARTICLE 10 **ALTERATIONS**

10.1 No Alterations of Units or Common Elements.

(a) No Owner or Owner's Permittee shall be permitted to construct any alterations or improvements to its Unit (each an "**Alteration**"), except for minor, cosmetic improvements, or as approved in writing by the Board. No Owner or Owner's Permittee may construct anything upon, remove anything from, or alter any of the Common Elements, or paint, decorate or landscape any portion of the Common Elements. No Owner or Owner's Permittee may do anything which impairs or negatively affects (i) the structural stability or building systems of the Condominium

Project; (ii) any Easement or right granted pursuant to this Condominium Declaration; (iii) any Common Element; or (iv) the fire-separation capability of any perimeter wall, ceiling or floor in its Unit.

(b) The Condominium Association may construct an alteration or improvement to a Common Element (a “**Common Alteration**”) if (i) the Common Alteration does not permanently impair the structural stability or building systems of or lessen the support of any portion of the Condominium Project (*provided, however*, that any impairment will not be deemed permanent if it is susceptible of being cured and will be cured by the proposed Common Alteration); (ii) the Common Alteration does not have a materially adverse effect, either during construction or upon completion, upon the use of any Unit or Limited Common Element for its permitted purposes (unless the Owner of the affected Unit consents in writing to the Common Alteration); and (iii) the cost of the Common Alteration constitutes a Common Expense and a budget that includes such cost is ratified by the Owners pursuant to Section 6.7, or the cost of the Common Alteration constitutes a Voluntary Capital Expense and a Special Assessment is approved pursuant to Section 9.2(e).

10.2 Alterations by Declaration. Nothing in this Article 10 restricts or prohibits Declarant from making any alteration or improvement that Declarant has reserve the right to make pursuant to Section 2.10, and the provisions of this of this Article 10 do not apply to any such alteration or improvement made by Declarant pursuant to Section 2.10.

ARTICLE 11 **INSURANCE**

11.1 Association’s Insurance. The Condominium Association has the following responsibilities with respect to insurance and, except as otherwise expressly provided in this Condominium Declaration, the cost of all insurance maintained by the Condominium Association under this Section 11.1 will be included in the Common Expenses.

(a) Property Insurance. Except to the extent such insurance is maintained by the Master Association, the Condominium Association will obtain and maintain property insurance for broad form covered causes of loss and against other risks, and containing such other provisions as the Board reasonably determines from time to time. At a minimum, the Condominium Association’s insurance must insure against all risks of direct physical loss for 100% of the full replacement cost (at the time the insurance is purchased and at each renewal date, but subject to commercially reasonable deductibles, if applicable) of (i) the Units, but not the finished interior surfaces of the walls, floors and ceilings of the Units; (ii) the Common Elements; and (iii) any personal property of the Condominium Association situated in the Common Elements or used in the operation or maintenance of the Common Elements, but excluding an Owner’s personal property (or the personal property of the Owner’s Permittees). The Condominium Association’s insurance may exclude land, excavations, foundations and other items normally excluded from property policies and may provide for a deductible in an amount not to exceed a reasonable and prudent amount as determined by the Board. The Condominium Association’s property insurance will be maintained in the name of the Condominium Association, for the use and benefit of the Condominium Association and each Owner, who must be named as an additional insured with respect to liability arising out of the Owner’s interest in the Common Elements or membership in

the Condominium Association. To the extent reasonably available such property insurance also will (A) contain no provisions by which the insurer may impose a so-called "co-insurance" penalty; (B) permit a waiver of claims by the Condominium Association, and provide for a waiver of subrogation rights by the insurer as to claims, against the Condominium Association's Directors, Officers, employees and agents, each Owner, the Owner's Permittees, the members of the Owner's household, and Declarant; (C) be written as a primary policy, not contributing with and not supplemental to any coverage that any Owner carries; (D) provide that, notwithstanding any provision that gives the insurer an option to restore damage in lieu of making a cash settlement, the option may not be exercised if the Owners elect not to restore the damage in accordance with the provisions of this Condominium Declaration or CCIOA; (E) provide that no act or omission by any Owner, unless acting within the scope of the Owner's authority on behalf of the Condominium Association, voids the policy or is a condition to recovery under the policy; (F) provide that it may not be canceled, modified or not renewed without 30 days' prior notice to the Condominium Association and all additional insureds named in the policy; provided, however, in the event of non-payment of premiums, the required notice shall be 10 days prior to cancellation; and (G) include "building ordinance or law" and "mechanical breakdown" endorsements. If, as a result of any improvements or alterations made to or concerning a Unit by an Owner, the premium for the Condominium Association's property insurance policy is increased to an amount exceeding what the premium would have been if the Owner had not made the improvements or alterations, the Board may assess the amount of the increase in premium against the Owner's Unit as a Reimbursable Expense pursuant to Section 9.2(c).

(b) Liability Insurance. The Condominium Association will obtain and maintain comprehensive liability insurance for claims and liabilities arising in connection with the ownership, existence, use, or management of the Common Elements, for the benefit of the Condominium Association and the Board, the Manager, and their respective officers, directors, agents and employees, and the Declarant in its capacity as an Owner and member of the Board, in amounts and with coverage as determined from time to time by the Board. Each Owner shall be named as an additional insured with respect to liability arising out of the Owner's interest in the Common Elements or membership in the Condominium Association. Such liability insurance will have a per occurrence limit of not less than \$5,000,000 and, to the extent available on reasonable terms, will (i) be on a commercial general liability form; (ii) contain a "severability of interest" or "cross-liability" endorsement which precludes the insurer from denying the claim of any named or additional insured due to the negligent acts, errors or omissions of any other named or additional insured; (iii) contain a waiver of subrogation rights by the insurer as to claims against the Condominium Association's Directors, Officers, employees and agents, each Owner, the Owner's Permittees, the members of the Owner's household, and Declarant; (iv) be written as a primary policy, not contributing with and not supplemental to any coverage that an Owner may carry; (v) provide that no act or omission by an Owner, unless acting within the scope of such Owner's authority on behalf of the Condominium Association, voids the policy or is a condition to recovery under the policy; (vi) insure all of the named and additional insured parties against liability for negligence resulting in death, bodily injury or property damage arising out of or in connection with the operation, use, ownership or maintenance of the Common Elements; and (vii) provide that it may not be canceled, nor may coverage be reduced, without 30 days' prior notice to the Condominium Association and all additional insureds named in the policy. The liability insurance required to be maintained under this Section 11.1(b) will not include coverage for any liability arising out of the operation, use, ownership or maintenance of any Unit.

(c) Worker's Compensation and Employer's Liability. To the extent required by applicable law, the Condominium Association will obtain and maintain worker's compensation and employer's liability insurance.

(d) Directors' and Officers' Insurance. The Condominium Association will obtain and maintain Directors' and Officers' liability coverage in the amount it determines from time to time.

(e) Fidelity Insurance. The Condominium Association will obtain and maintain fidelity insurance covering losses resulting from dishonest or fraudulent acts committed by the Directors, Officers, Manager, trustees, employees or agents who manage the funds collected and held for the benefit of the Condominium Association. The policy will name the Condominium Association as the insured (or obligee) and include a provision requiring at least 30 days' written notice to the Condominium Association before any cancellation, material modification or non-renewal of the policy, and provide coverage in an amount equal to at least three months' General Assessments against all Units, based on the General Assessments most recently approved by the Board. If the Condominium Association engages a managing agent that handles funds of the Condominium Association, the managing agent must also maintain fidelity insurance satisfying the foregoing requirements of this Section 11.1(e) and CCIOA and provide evidence of the coverage to the Board.

(f) Other Insurance. In addition to the insurance required by Sections 11.1(a) through 11.1(e) above, the Condominium Association will obtain and maintain any other insurance required by law and the Condominium Association may obtain and maintain other insurance as the Board, from time to time, deems appropriate to protect the Condominium Association or the Owners. The Board shall also obtain such additional insurance as may be reasonably requested by an Owner, provided that such Owner pays for all costs of such additional insurance as a Reimbursable Expense.

(g) Other General Requirements. All policies of insurance required to be maintained by the Condominium Association under this Condominium Declaration or CCIOA will be placed with insurers licensed in the State of Colorado. The carrier will be required to provide to the Board at the inception of each policy and on each anniversary date, a summary that includes a description of the type of policy, the coverage and limits of coverage, the amount of annual premium and the policy renewal dates. If obtainable without additional expense, the carrier, licensed insurance broker or agent will certify that the policy complies with and satisfies the requirements of the appropriate section of this Condominium Declaration. If the insurance described in Sections 11.1(a) and 11.1(b) is not reasonably available, or if any policy of such insurance is canceled or not renewed and the Condominium Association does not obtain a replacement policy for it, the Condominium Association promptly will give notice of the fact to the Owners.

11.2 Owners' Insurance. Each Owner has the following responsibilities with respect to insurance:

(a) Property Insurance. Each Owner must maintain, at its sole cost and expense, property insurance upon the improvements and betterments (if any) located in its Unit from time to time. At a minimum, such property insurance must insure against all risks of direct physical loss for 100% of the full replacement cost (subject to commercially reasonable deductibles) of such

improvements and betterments, if applicable. Each Owner may also maintain, at its option and its sole cost and expense, property insurance upon the personal property located in its Unit from time to time. All such property insurance will (i) permit a waiver of claims by the Owner and its Permittees, and provide for a waiver of subrogation rights by the insurer as to claims against the Condominium Association, its Directors, Officers, employees and agents; (ii) be written as a primary policy, not contributing with and not supplemental to any coverage that the Condominium Association carries; and (iii) provide that, notwithstanding any provision that gives the insurer an option to restore damage in lieu of making a cash settlement, the option may not be exercised if the Owners elect not to restore the damage in accordance with the provisions of this Condominium Declaration and CCIOA. All insurance carried under this Section 11.2(a) will provide that it may not be cancelled, nor may coverage be reduced, without 30 days' prior written notice to the Condominium Association.

(b) Liability Insurance. Each Owner will maintain at its expense bodily injury and property damage liability insurance for the benefit of the Owner and any additional insured it names, in amounts and with coverage as are from time to time customarily maintained by prudent owners of similar property; *provided, however*, that such liability insurance must: (i) have a per occurrence limit of not less than \$5,000,000; (ii) be written as a primary policy, not contributing with and supplemental to any coverage that the Condominium Association or the other Owner carries; (iii) insure all of the named and additional insured parties against liability for negligence resulting in death, bodily injury or property damage arising out of or in connection with the operation, use, ownership or maintenance of the Owner's Unit; (iv) contain a waiver of subrogation rights by the insurer as to claims against the Condominium Association and its Directors, Officers, employees and agents, the other Owner, the other Owner's Permittees, and Declarant, and (v) name the Condominium Association as an additional insured.

(c) All insurance carried under Sections 11.2(a) and (b) will provide that it may not be canceled, modified or not renewed without 30 days' prior notice to the Condominium Association (provided, however, that in the event of non-payment of premiums, the required notice shall be 10 days prior to cancellation).

(d) Other Insurance. Each Owner may obtain additional insurance, at its own expense, covering condominium assessment, loss of rents, personal liability and any other coverage obtainable, to the extent and in the amount the Owner deems necessary to protect its interests. Any such insurance must contain waivers pursuant to Section 11.4 and must provide that it is without contribution as against the insurance maintained by the Condominium Association.

11.3 Other Requirements. All policies of insurance required by this Article 11 will be written by companies rated at least A/VII by A.M. Best Insurance Service and licensed in the State of Colorado. Each Owner must provide to the Condominium Association at the closing of the acquisition of its Unit and within 10 days prior to expiration of any coverage, certificate(s) of insurance evidencing the insurance required to be carried under Sections 11.2(a) and 11.2(b). The Condominium Association will provide each Owner certificates of insurance evidencing the insurance required to be carried by the Condominium Association under Sections 11.1(a) and 11.1(b) and naming each Owner as an additional insured under such policies.



11.4 Waiver of Claims. The Condominium Association waives all claims, and will make no claim against an Owner, the Owner's Permittees, or the Declarant, and each Owner waives all claims, and will make no claim against the Condominium Association, its Directors, Officers, employees or agents, or the other Owner, the other Owner's Permittees, or Declarant, for any loss, damage, injury or liability to the extent that the loss, damage, injury or liability is covered by any insurance policy that is maintained in accordance with the requirements of this Condominium Declaration (or would have been covered by any insurance policy that is required under this Condominium Declaration but is not so maintained) (a) by or for the benefit of the waiving Person (assuming in the case of property insurance policies that such insurance policy is maintained on a 100% replacement cost basis); and (b) provide for a waiver of subrogation rights by the insurer. For purposes of this Section 11.4, the deductible or self-insured retention amount under any property insurance policy required to be, or in fact, maintained by a waiving Person is deemed to be covered by the policy so that, in addition to waiving claims for amounts in excess of the deductible or self-insured retention (up to the covered limits, or deemed covered limits, of the policy), the waiving Person waives all claims for amounts within the deductible or self-insured retention.

11.5 Proceeds. The Condominium Association has no claim to and each Owner may receive all proceeds of any insurance policy maintained by such Owner. The Board is solely responsible for adjustment of any losses under insurance policies maintained by the Condominium Association and is hereby irrevocably appointed the agent of each of the Owners, Security Holders and other Persons having an interest in the Condominium Project for purposes of adjusting all claims arising under insurance policies maintained by the Condominium Association and executing and delivering releases when claims are paid. The Condominium Association will receive all proceeds of any insurance policy maintained by the Condominium Association, except other insured parties under liability insurance policies will be entitled to proceeds arising out of their insured losses. The Condominium Association will hold any proceeds of any property insurance it maintains in trust for the Owners and Security Holders, as their interests may appear. The Board will disburse the proceeds of any property insurance relating to damage to any Unit or Common Element in accordance with Section 12.2.

ARTICLE 12

CASUALTY

12.1 Units and Common Elements: Restoration Decision.

(a) If any portion of the Condominium Project that the Condominium Association is required to insure under this Condominium Declaration is damaged or destroyed by fire or other casualty (a "**Casualty**"), the provisions of this Article 12 apply. Promptly after any Casualty occurs, the Board will obtain at least two bids from licensed contractors for the full and lawful repair and restoration of any damaged portion of the Condominium Project that the Condominium Association is required to insure under this Condominium Declaration. Upon receiving the bids and after sufficient discussions with the adjuster for the Condominium Association's insurer, the Board will notify the Owners of the amounts of the bids, the probable amount of insurance proceeds and other funds (such as funds in the Reserve Account) that are available for restoration, and whether, based on that information, the Board believes a Restoration Deficit will result if the portions of the Condominium Project that the Condominium Association is required to insure

under this Condominium Declaration are fully restored. Unless the Owners unanimously vote not to restore the damaged portions of the Condominium Project, the Condominium Association will promptly restore the portions of the Condominium Project that the Condominium Association is required to insure, except as otherwise provided in section 313(9)(a) of CCIOA.

(b) If any damaged portions of the Condominium Project that the Condominium Association is required to insure under this Condominium Declaration will be restored, the Board will promptly enter into construction contracts and proceed with the restoration work. The Board may assess a Special Assessment pursuant to Section 9.2(d) to the extent necessary to cover any Restoration Deficit.

(c) If any damaged portions of the Condominium Project that the Condominium Association is required to insure under this Condominium Declaration will not be restored and the Condominium Project is terminated pursuant to Article 14, the Condominium Association will perform limited restoration of such portions of the Condominium Project as necessary to return them to a safe, lawful and saleable condition. If any damaged portions of the Condominium Project that the Condominium Association is required to insure under this Condominium Declaration will not be restored and the Condominium Project is not terminated pursuant to Article 14, the Condominium Association will perform the limited restoration and Record an appropriate amendment to this Condominium Declaration, if any, approved by the requisite number of Owners pursuant to Article 15.

12.2 Disposition of Insurance Proceeds. All proceeds of property insurance received by or disbursed to the Condominium Association in connection with a Casualty will be applied first to the full or limited restoration of the damaged portions of the Condominium Project that the Condominium Association is required to insure under this Condominium Declaration, as provided in Section 12.1, and then, if any insurance proceeds remain after the full or limited restoration, the excess proceeds will be paid to the Owners, subject to the rights of their Security Holders, as follows:

(a) If all damaged portions of the Condominium Project that the Condominium Association is required to insure under this Condominium Declaration will not be restored and the Condominium Project is terminated pursuant to Article 14, then each Owner will be paid the Termination Allocation of the excess proceeds applicable to such Owner's Unit, if any, pursuant to Section 14.3;

(b) If any damaged Limited Common Elements (excluding any improvements or betterments installed by an Owner within any Limited Common Element allocated to the Owner's Unit) will not be restored and the Condominium Project is not terminated pursuant to Article 14, (i) any of such excess proceeds attributable to any Limited Common Elements that are not restored will be distributed to the Owners of the Units to which the use of those Limited Common Elements are allocated, and (ii) the remainder of the excess proceeds, if any, will be distributed to the Owners, in proportion to Common Allocation of each Owner's Unit, and Security Holders, as their interests may appear; or

(c) If all damaged portions of the Condominium Project that the Condominium Association is required to insure under this Condominium Declaration will be restored, the excess



proceeds, if any, will be distributed to the Owners in proportion to the Common Allocation of each Owner's Unit.

12.3 Manner of Restoration. The restoration of any Unit or Common Element under Section 12.1 is subject to the following requirements:

(a) Plans. Except in the case of a limited restoration in accordance with Section 12.1(c), and subject to the requirements of applicable laws, the restoration will be completed in accordance with the as-built plans and specifications of the Unit or Common Element immediately prior to the damage. Any deviation from the as-built plans and specifications is deemed an Alteration and is subject to the terms and provisions of this Condominium Declaration and the Master Declaration.

(b) Requirements. The Condominium Association will:

(i) Obtain all necessary permits and governmental authorizations for the restoration;

(ii) Comply with all applicable zoning and building codes and other applicable laws, ordinances and restrictive covenants;

(iii) Perform the restoration in a diligent, good and workmanlike manner, free and clear of all mechanics' and materialmen's liens and other claims;

(iv) During the construction process, to the extent required by good construction practices, keep the area affected thereby in a safe, neat and clean condition;

(v) Minimize any impact from the construction process on other Units or Common Elements or other portions of the Condominium Project; and

(vi) Perform any restoration or construction work, or cause such work to be performed, in a manner that does not interfere unreasonably with or delay the work of any other contractors then working anywhere on the Condominium Project.

(c) Coordination by Association. The Condominium Association has full authority and responsibility to coordinate the manner of completion and scheduling of any restoration under this Section 12.3 to ensure the completion of the restoration in an efficient manner. Each Owner will cooperate and cause its contractors and agents to cooperate in the Condominium Association's coordination of any restoration. As used in this Section 12.3, a "restoration" will include any repair, replacement, restoration, reconstruction, construction or demolition required as a result of any damage or destruction.

12.4 No Abatement. Each Unit will continue to be subject to Assessments following any damage to or destruction of any portion of the Condominium Project, without abatement or modification as a result of the damage or destruction.

ARTICLE 13

CONDEMNATION

13.1 Taking of Units. If all or a part of a Unit or the use of, but not title to, any Limited Common Element allocated to the Unit, is taken by the exercise of the power of eminent domain or is conveyed in lieu of such exercise (each, a **"Taking"**), the Owner of the Unit is solely responsible for negotiating with the condemning authority concerning the award for the Taking and may receive the award after the liens of all Security Holders on the affected Unit are satisfied or otherwise discharged. If only part of a Unit is acquired by a Taking, the Owner of the Unit is responsible for restoring the Unit as necessary to return the Unit to a safe and lawful condition that does not adversely affect the use or enjoyment of the other Unit or Common Elements or detract from the general character or appearance of the Condominium Project. The plans and specifications for the restoration are subject to the Board's prior approval. The restoration will be completed in accordance with the approved plans and specifications and the provisions of Article 12. If a condemning authority acquires by a Taking all or a part of a Unit in such a manner that the Unit is no longer subject to this Condominium Declaration, then the Condominium Association will consider and pass, pursuant to Article 15, an amendment to this Condominium Declaration revising the Common Allocations of the remaining Unit, and, if necessary, the allocation of any Limited Common Element previously allocated to each Unit that is no longer subject to this Condominium Declaration.

13.2 Taking of Common Elements. A **"Common Element Taking"** means any Taking by which a condemning authority acquires title to any Common Element. The Board is solely responsible for negotiating, and may negotiate with the condemning authority on behalf of the Owners concerning, the amount of the award for any Common Element Taking, and the Board's acceptance of an award is binding on the Owners. If a Common Element Taking occurs, the Condominium Association is responsible for restoring the remaining Common Elements as necessary to return them to a safe and lawful condition that does not adversely affect the use or enjoyment of the Units or other Common Elements or detract from the general character or appearance of the Condominium Project. If the net award (*i.e.*, net of costs of collection) received by the Condominium Association from any Common Element Taking exceeds the amount actually incurred by it in connection with any required restoration of the Common Elements, the Condominium Association will pay or credit each Owner with the Termination Allocation of the excess condemnation award applicable to such Owner's Unit, as if the award resulted from a sale of the Condominium Project pursuant to Section 14.2 on the earlier of the date that title or the date that possession is transferred to the condemning authority in connection with the Common Element Taking. If the net amount of the award so received is insufficient to effect such restoration, the Board may assess a Special Assessment to cover the Restoration Deficit in accordance with Section 9.2(d). If a condemning authority acquires by a Taking all or a part of one or more Units in such a manner that such Unit(s) is or are no longer subject to this Condominium Declaration, then the Condominium Association will consider and pass, pursuant to Article 15, an amendment to this Condominium Declaration revising the Common Allocation of each of the remaining Units, and, if necessary, the allocation of any Limited Common Element previously allocated to the Unit(s) that is or are no longer subject to this Condominium Declaration.

14.3 Proceeds. The Condominium Association will distribute the net proceeds of the sale of the Condominium Project to the Unit Owners and Security Holders, as their interests may appear, in accordance with the applicable provisions of section 218 of CCIOA.

ARTICLE 15 **AMENDMENT**

15.1 Required Vote.

(a) Declarant, without the vote or consent of the Board or the Owners, may amend this Condominium Declaration or the Map to correct clerical, typographical or technical errors.

(b) Amendments to Article 7 of this Condominium Declaration may be made only in accordance with the requirements set forth in Section 7.8.

(c) Amendments to this Condominium Declaration contemplated by Section 13.2 may be made by the Board on behalf of the Condominium Association and do not require the approval of the Owners. Amendments to this Condominium Declaration contemplated by Section 2.10(b)(ii) may be made by Declarant and do not require the approval of the Owners.

(d) Any amendment to this Condominium Declaration which conflicts with or is less restrictive than any existing provision of the Master Declaration requires the written approval of the Master Association in each case. This Condominium Declaration may be amended to be more restrictive than the Master Declaration without the need for written approval from the Master Association.

(e) Except as otherwise expressly permitted under this Condominium Declaration and CCIOA, any amendment to this Condominium Declaration that increases the Special Declarant Rights, increases the maximum number of Units, or changes the boundaries of any Unit or the allocated interests of any Unit, requires the vote or agreement of the Owners of Units to which at least 50% of the votes in the Condominium Association are allocated, including 50% of the votes allocated to Units not owned by Declarant.

(f) Except as otherwise expressly permitted under CCIOA, any amendment to this Condominium Declaration that changes the uses to which any Unit is restricted requires the vote or agreement of the Owners of Units to which at least 50% of the votes in the Condominium Association are allocated.

(g) Any amendment to this Condominium Declaration that changes a specific clause or provision prescribing a certain percentage of affirmative votes or written consents for action to be taken under that clause or provision, requires the affirmative vote or written consent of those Owners of Units to which at least that percentage (as prescribed in that clause or provision) of the votes in the Condominium Association are allocated.

(h) Any amendment to this Condominium Declaration made during the Development Period affecting a right that Declarant may exercise during that period requires the written approval of Declarant in each case.

(i) Except as provided in Sections 15.1(a) through 15.1(g), and subject to Section 15.1(h), this Condominium Declaration (including the Map) may be amended by the affirmative vote or written consent of the Owners of Units to which more than 50% of the votes in the Condominium Association are allocated.

15.2 Amending Documents. Except for any amendment that by the terms of this Condominium Declaration may be and is duly executed, acknowledged and Recorded by or on behalf of the Board, an amendment to this Condominium Declaration is effective only when all of the following events occur:

(a) Approved Writing. The amendment is reduced to a writing that is approved (by affirmative vote or written consent) by the Owners of Ownership Units to which at least the applicable required percentage of votes in the Condominium Association are allocated.

(b) Certificate by Association. A written certificate, executed and acknowledged by the president or any other authorized Officer of the Condominium Association, is attached to the written amendment which states that the amendment was approved by the applicable required percentage of votes in the Condominium Association pursuant to Section 15.1.

(c) Recording. The approved written amendment described in Section 15.2(a) and the certificate described in Section 15.2(b) are Recorded.

(d) Presumption of Validity. After an amendment to this Condominium Declaration is Recorded, a presumption exists that all votes and approvals regarding the amendment were duly obtained and satisfy the requirements of this Condominium Declaration. The presumption may be rebutted by an action commenced within one year from the date the amendment is Recorded; in the absence of an action commenced within the one-year period, the presumption is deemed conclusive.

ARTICLE 16

OWNER'S ACKNOWLEDGMENTS AND WAIVERS

16.1 Owner's Acknowledgments.

(a) Community Impacts. The Property is located in a setting that may subject Owners, their Permittees, or the Property in general to unpredictable levels of political opposition to any non-residential use of the Property (collectively, the "**Community Impacts**"). Without limiting the generality of the foregoing, each Owner, by acquiring a Unit, acknowledges that the Property is located within a master development primarily comprised of residential townhome properties and that, as a result, nearby property owners may oppose certain uses of the Units or the Property or may attempt to further regulate or limit the use of the Units and the Property.

(b) Waiver and Release. By taking title to, owning, holding, using or occupying the Property or any portion thereof, each Owner, Permittee and the Condominium Association acknowledges the Community Impacts. Each Owner, Permittee and the Condominium Association, by taking title to, owning, holding, using or occupying the Property or any portion thereof, forever waives and releases any actions or claims such party or its successors and assigns

may have against Declarant and its successors and assigns, parents, subsidiaries, affiliates, officers, directors, members, investors, contractors, agents and employees, which in any way arise out of the Community Impacts.

16.2 Development Impacts. Declarant hereby discloses the following matters affecting the Property related to certain development impacts and, by taking title to, owning, holding, using or occupying the Property or any portion thereof, each Owner, Permittee and the Condominium Association shall be deemed to have acknowledged and agreed to the following matters:

(a) Cannabis Disclosure. Adult use of marijuana, the licensed cultivation of marijuana plants and the sale of marijuana products have been legalized in Colorado. The consumption and cultivation of marijuana are known to cause pungent odors that may be offensive or cause discomfort to some persons and may interfere with the use and enjoyment of the Units and/or Common Elements. The building and the Units within it “breathe” and are not sealed such that air, including odors, is prevented from entering or leaving the building and/or a Unit. The Condominium Association cannot control use or cultivation of marijuana in all areas that may impact the Owner’s or Permittee’s use of a Unit. Each Owner, Permittee and the Condominium Association, by taking title to, owning, holding, using or occupying the Property or any portion thereof, forever waives and releases any actions or claims such party or its successors and assigns may have against Declarant, General Contractor, and their successors and assigns and each of their respective parents, subsidiaries, affiliates, officers, directors, members, investors, contractors, agents and employees, which in any way arise out of the existence or occurrence of any cannabis related impacts.

(b) Noise Between Units. Each Owner, Permittee and the Condominium Association, by taking title to, owning, holding, using or occupying the Property or any portion thereof acknowledges and understands that the Units are adjacent to one or more other Units and Common Elements such as walkways, sidewalks, garage exhaust fans, and driveways, and that noise from these other Units and the Common Elements, as well as other sources, will be transmitted into the Owner’s or Permittee’s Unit, and that noise from the Owner’s or Permittee’s Unit will be transmitted into other Units and the Common Elements. Each Owner, Permittee and the Condominium Association, by taking title to, owning, holding, using or occupying the Property or any portion thereof, acknowledges and agrees that the Units are not soundproof and forever waives and releases any actions or claims such party or its successors and assigns may have against Declarant, General Contractor, and their successors and assigns and each of their respective parents, subsidiaries, affiliates, officers, directors, members, investors, contractors, agents and employees, which in any way arise out of the existence or occurrence of any noise related impacts.

16.3 Unit Size. There are many different ways to measure the square footage of a Unit and the Common Elements, such as measurements from the outside, inside or mid-point of perimeter walls. Statements of approximate dimensions, floor areas, ceiling heights or volumes (collectively, the “Area”) of a Unit or Common Element may be made in construction drawings, marketing materials or other items reviewed by an Owner, Permittee or the Condominium Association. Those statements of Area are based on measurements that in some instances are measured to the mid-point or outside of the perimeter walls of a Unit or Common Element, as opposed to the actual boundary of a Unit or Common Element, as defined in the planned community documents. This results in the Area of a Unit or Common Element stated in documents related to the Condominium

Association being lower than the Area of a Unit or Common Element as stated in the construction drawings, marketing materials or other items that an Owner, Permittee or the Condominium Association may have reviewed. BY TAKING TITLE TO A UNIT, EACH OWNER EXPRESSLY ACKNOWLEDGES AND AGREES THAT THE CONSTRUCTION DRAWINGS AND MARKETING MATERIALS FOR THE UNIT REFLECT THAT THE AREA OF THE UNIT IS POSSIBLY LARGER AND INCLUDES MORE SQUARE FOOTAGE THAN WHAT IS REFLECTED IN ASSOCIATION RELATED DOCUMENTS. BY TAKING TITLE TO A UNIT, EACH OWNER FURTHER ACKNOWLEDGES AND AGREES THAT (A) DECLARANT HEREBY DISCLAIMS ANY AND ALL REPRESENTATIONS, WARRANTIES, OBLIGATIONS OR LIABILITIES CONCERNING THE AREA OF A UNIT AND THE COMMON ELEMENTS, (B) THAT DECLARANT AND ITS AFFILIATES AND THE GENERAL CONTRACTOR, AND EACH OF THEIR WILL NOT HAVE ANY OBLIGATION OR LIABILITY FOR DISCREPANCIES RELATED TO THE AREA OF A UNIT OR THE COMMON ELEMENTS, AND (C) IT WAIVES ALL CLAIMS RELATED TO THE SAME.

16.4 Security. NEITHER THE CONDOMINIUM ASSOCIATION NOR DECLARANT NOR THEIR RESPECTIVE AFFILIATES WILL IN ANY WAY BE CONSIDERED INSURERS OR GUARANTORS OF SECURITY WITHIN THE CONDOMINIUM PROJECT, AND NEITHER THE CONDOMINIUM ASSOCIATION NOR DECLARANT NOR THEIR RESPECTIVE AFFILIATES, WILL BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY, INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN, OR ACTS OF THIRD PARTIES. ALL OWNERS, TENANTS, GUESTS, AND INVITEES OF ANY OWNER, AS APPLICABLE, ACKNOWLEDGE THAT THE CONDOMINIUM ASSOCIATION, THE BOARD, THE CONDOMINIUM ASSOCIATION'S OFFICERS, DECLARANT AND THEIR RESPECTIVE AFFILIATES, ARE NOT INSURERS AND THAT EACH OWNER, TENANT, GUEST, AND INVITEE ASSUMES ALL RISK OF LOSS OR DAMAGE TO PERSONS, TO UNITS, AND TO THE CONTENTS OF UNITS, AND FURTHER ACKNOWLEDGE THAT DECLARANT, ITS AFFILIATES, THE BOARD AND THE CONDOMINIUM ASSOCIATION'S OFFICERS HAVE MADE NO REPRESENTATIONS OR WARRANTIES, NOR HAS ANY OWNER, TENANT, GUEST, OR INVITEE RELIED UPON ANY REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, RELATIVE TO ANY SECURITY MEASURES RECOMMENDED OR UNDERTAKEN.

16.5 Other Properties. Each Owner, Permittee, and the Condominium Association, by taking title to, owning, holding, using or occupying the Property or any portion thereof, acknowledges that other properties are located adjacent to and in the general vicinity of the Property (the "**Other Properties**") and that the Other Properties may be developed pursuant to the land uses permitted by the City's zoning ordinances, as well as any other governmental rules, regulations, or policies in effect now or in the future which are applicable to the Other Properties (collectively, the "**Ordinances**"). Neither Declarant nor Declarant's employees, contractors, agents, officers, directors and affiliates make any representations concerning the planned uses of the Other Properties. Each Owner, Permittee and the Condominium Association, by taking title to, owning, holding, using or occupying the Property or any portion thereof, further acknowledge that the zoning for the Property and the Other Properties is established and governed by the Ordinances.

Any amendment of those Ordinances requires approval of the City. Each Owner, Permittee and the Condominium Association, by taking title to, owning, holding, using or occupying the Property or any portion thereof, acknowledge that it has not relied upon any statements or representations regarding the Property or the Other Properties, including, without limitation, any representations made by Declarant or any agents, contractors or employees of Declarant or any real estate agency or any agent, except for those statements and representations expressly set forth in this Declaration and the Ordinances.

16.6 Drainage and Soils Condition.

(a) Acknowledgment. THE SOILS WITHIN COLORADO CONSIST OF BOTH EXPANSIVE SOILS AND LOW-DENSITY SOILS WHICH MAY ADVERSELY AFFECT THE INTEGRITY OF A UNIT OR A COMMON ELEMENT IF SUCH UNIT OR COMMON ELEMENT IS NOT PROPERLY MAINTAINED. EXPANSIVE SOILS CONTAIN CLAY MINERALS WHICH HAVE THE CHARACTERISTIC OF CHANGING VOLUME WITH THE ADDITION OR SUBTRACTION OF MOISTURE, THEREBY RESULTING IN SWELLING AND/OR SHRINKING SOILS. THE ADDITION OF MOISTURE TO LOW-DENSITY SOILS CAUSES A RE-ALIGNMENT OF SOIL GRAINS, THEREBY RESULTING IN CONSOLIDATION AND/OR COLLAPSE OF THE SOILS.

(b) Waiver of Liability of Declarant. BY TAKING TITLE TO A UNIT, EACH OWNER ACKNOWLEDGES AND AGREES THAT EXCEPT AS OTHERWISE SET FORTH IN THE PURCHASE AGREEMENT SUCH OWNER HAS WAIVED AND WILL BE DEEMED TO HAVE WAIVED THE RIGHT TO ANY AWARD OF DAMAGES AGAINST DECLARANT AND ITS MANAGERS, MEMBERS, EMPLOYEES OR AGENTS FOR ANY LOSS OR DAMAGE TO ANY PORTION OF THE UNIT OR THE COMMON ELEMENTS CAUSED BY, RESULTING FROM OR IN ANY WAY CONNECTED WITH SOIL CONDITIONS ON OR UNDER ANY COMMON ELEMENTS, INCLUDING SPECIFICALLY THE PRESENCE OF EXPANSIVE SOILS AND RADON GAS.

16.7 Inspection by Others; Waiver of Post Inspection Liability. It is hereby expressly understood and agreed by Declarant and by each Owner upon acquiring a Unit that Declarant relies upon governmental inspectors and other qualified subcontractors and tradesmen to inspect the construction of the Units and the Common Elements in order to verify compliance with construction plans and with any and all building code requirements applicable to commercial construction. Declarant and each Owner further expressly understand and agree that, with respect to the Units and the Common Elements, upon compliance with the inspections required by the local building department and the issuance of a certificate of occupancy by the responsible governmental agency, Declarant will be deemed to have used its best efforts to construct such Units and Common Elements in substantial compliance with the construction plans and all applicable building code requirements. EXCEPT AS OTHERWISE MAY BE PROVIDED IN A PURCHASE AND SALE OR OTHER AGREEMENT BETWEEN DECLARANT AND AN OWNER, EACH OWNER, BY ACQUIRING A UNIT, HEREBY KNOWINGLY AND WILLINGLY WAIVES AS AGAINST DECLARANT AND ITS AFFILIATES ANY AND ALL DEMANDS, CLAIMS, ACTIONS AND CAUSES OF ACTION, AND ALL LIABILITY, LOSSES, DAMAGES, COSTS OR EXPENSES THAT HAVE BEEN OR MAY BE INCURRED IN ASSOCIATION THEREWITH, INCLUDING, WITHOUT LIMITATION, ATTORNEYS'

FEES AND EXEMPLARY DAMAGES, WHICH ARISE FROM OR ARE RELATED TO ANY NONCOMPLIANCE OF THE UNITS OR THE COMMON ELEMENTS WITH CONSTRUCTION PLANS OR BUILDING CODE REQUIREMENTS, WHICH NONCOMPLIANCE IS NEITHER SUBSTANTIAL NOR MATERIAL IN NATURE AND WHICH NONCOMPLIANCE IS DISCOVERED AFTER THE ISSUANCE OF A CERTIFICATE OF OCCUPANCY FOR, RESPECTIVELY, SUCH UNITS OR COMMON ELEMENTS; AND ANY SUCH NONCOMPLIANCE WILL BE DEEMED UNINTENTIONAL WITH RESPECT TO DECLARANT. TO THE EXTENT THAT ANY SUBSTANTIAL OR MATERIAL NONCOMPLIANCE WITH APPLICABLE BUILDING CODES OR WITH THE CONSTRUCTION PLANS IS DISCOVERED WITH REGARD TO A UNIT OR THE COMMON ELEMENTS, THE PROVISIONS OF Article 5 WILL GOVERN SUCH MATTER. This Section 16.7 shall not be construed to limit or affect in any way the obligations and liabilities of (a) General Contractor, or (b) Architect.

16.8 Conflicts with Applicable Law. IN THE EVENT THAT ANY PROVISION IN THIS Article 16 CONFLICTS WITH ANY APPLICABLE FEDERAL OR COLORADO STATUTES WHICH PROVIDE NON-WAIVABLE LEGAL RIGHTS, INCLUDING, WITHOUT LIMITATION, THE COLORADO CONSTRUCTION DEFECT ACTION REFORM ACT OR THE COLORADO CONSUMER PROTECTION ACT, THEN THE NON-WAIVABLE TERMS OF SUCH STATUTE SHALL CONTROL.

ARTICLE 17

CONVEYANCING AND ENCUMBRANCING

17.1 Units. Any conveyance of a Unit includes the undivided interest in the Common Elements allocated to the Unit under this Condominium Declaration, regardless of whether the undivided interest is specifically described in the conveyance. A description of any Unit that sets forth: (a) the identifying name or number of the Unit; (b) the name of the Condominium Project and the date of Recording and the Recording data of this Condominium Declaration in the Records; (c) the name of the Master Community and the date of Recording and the Recording data of the Master Declaration in the Records; and (d) the county in which the Condominium Project is located is, if included in an otherwise proper instrument, sufficient for all purposes to sell, convey, transfer, encumber or otherwise affect not only the Unit but also the undivided interest in the Common Elements allocated to that Unit, any rights to use any Limited Common Elements allocated to such Unit, and all Easements, rights and other benefits allocated or appurtenant to such Unit as provided in this Condominium Declaration. A Person who becomes an Owner will promptly notify the Condominium Association of its ownership of a Unit. An Owner may encumber its Unit as it sees fit, subject to the provisions of this Condominium Declaration. Any conveyance, encumbrance, judicial sale or other transfer, voluntary or involuntary, of an individual interest in the Common Elements will be void unless the Unit to which that interest is allocated is also transferred.

17.2 Common Elements. Except as otherwise provided in Article 14 with respect to the termination of the Condominium Project, the Common Elements or portions of them may be conveyed or subjected to a lien or security interest by the Condominium Association in accordance with section 312 of CCIOA, with the written approval of Owners of Units to which are allocated 100% of the votes in the Condominium Association, provided that the Owner of a Unit to which any Limited Common Element is allocated must consent to the conveyance or encumbrance of

such Limited Common Element. The conveyance or encumbrance does not affect the priority or validity of pre-existing encumbrances. Any net proceeds of the sale of a Common Element pursuant to this Section 17.2 will be distributed to the Owners in accordance with Article 13, as if the proceeds are an award paid as a result of the condemnation of the Common Element.

17.3 Transferee Liability. If any Unit is voluntarily or involuntarily transferred to any Person, the transferee of the Unit (the “**New Owner**”) is liable for all Assessments or Assessment installments against the Unit beginning as of the time of transfer; *provided, however*, that the New Owner’s Unit is subject to the Condominium Association’s lien for any unpaid Assessments as of the date of the transfer pursuant to this Condominium Declaration. Without releasing the transferor from any liability for any unpaid Assessments, any unpaid portion of an Assessment is part of the Common Expenses and collectible from the Owners liable for Common Expenses, including a New Owner or a Security Holder acquiring a Unit through foreclosure of Mortgage, subject to the provisions of Section 316 of CCIOA.

17.4 Estoppel Certificates. Within 20 days after receiving a written request from any Owner, Security Holder or a designee of either of them, delivered personally or by certified mail, first-class postage prepaid, return receipt requested, to the Condominium Association’s principal office, the Condominium Association will furnish to the requesting party, by personal delivery or by certified mail, first-class postage prepaid, return receipt requested, an estoppel certificate executed by an Officer of the Condominium Association and addressed to the requesting party, stating any then unpaid Assessments due from the requesting Owner or the Owner of the Unit encumbered by the requesting Security Holder’s Security for an Obligation, or stating that there are no unpaid Assessments due from such Owner, as the case may be. An estoppel certificate furnished by the Condominium Association pursuant to this Section 17.4 is binding on the Condominium Association, the Board and every Owner. Such Owner’s Unit will not be subject to a lien for any unpaid Assessments against the Unit to the extent that (a) the lien arises before the date of the certificate and the amount of the lien exceeds any unpaid amounts stated in the certificate; or (b) if the Condominium Association does not furnish an estoppel certificate pursuant to this Section 17.4, the unpaid Assessments are due as of the date of the request. The Condominium Association may charge the Owner for which such an estoppel certificate is furnished, and the Owner will pay a reasonable fee for the preparation of the estoppel certificate in an amount determined by the Board from time to time.

ARTICLE 18

GENERAL PROVISIONS

18.1 Conflicts with CCIOA; Severability. The Condominium Project and this Condominium Declaration will not be subject to the provisions of any amendment to or replacement of CCIOA which becomes effective after the date of Recording of this Condominium Declaration, unless the provisions of the amendment or replacement are expressly made binding upon existing condominiums. However, the Condominium Association may elect to subject the Condominium Project to any amendment to or replacement of CCIOA by the affirmative vote of 67% of the Owners. If any of the terms, conditions, provisions, sections or clauses of this Condominium Declaration conflict with any provision of CCIOA, the provisions of CCIOA control unless CCIOA permits this Condominium Declaration to override CCIOA, in which event this Condominium Declaration controls. The invalidity of any covenant, restriction, condition,

limitation or provision of this Condominium Declaration or the application of any of them to any person or circumstance will not impair or affect in any manner the validity, enforceability or effect of the rest of this Condominium Declaration, or the application of any covenant, restriction, condition, limitation or provision to any other person or circumstances.

18.2 Interpretation of Declaration. The provisions of this Condominium Declaration will be liberally construed to give effect to its purpose of creating a uniform plan for the ownership and operation of a first-class mixed-use Condominium Project. Whenever appropriate, singular terms may be read as plural, plural terms may be read as singular, and the neuter gender may be read as the feminine or masculine gender. The titles, headings and captions used throughout this Condominium Declaration are for convenience only and may not be used to construe this Condominium Declaration or any part of it.

18.3 Notices. Except for notices concerning meetings of the Condominium Association or the Board, which will be given in the manner provided in the Bylaws, any notices required or permitted under this Condominium Declaration or the Bylaws to be given to an Owner, the Condominium Association, the Board or any Security Holder will be sent by certified mail, first-class postage prepaid, return receipt requested, to the intended recipient at, in the case of notices to an Owner, the address of such Owner at its Unit or the Owner's permanent address listed on the Owner Roster, as provided to the Condominium Association by the Owner pursuant to Section 7.3 of the Bylaws; in the case of notices to the Condominium Association or the Board, the address of the Condominium Association's principal office; or in the case of notices to a Security Holder, the address most recently given to the Condominium Association by notice from such Person. All notices are deemed given and received three business days after mailed as provided for above. The Condominium Association, any Owner or Security Holder may change its address for purposes of notice by notice to the Condominium Association in accordance with this Section 18.3. The Condominium Association or the Board may change its address for purposes of notice by notice to the Owners in accordance with this Section 18.3. Any such change of address is effective five days after the required notice is given.

18.4 Partition. The Common Elements are not subject to partition. Any purported conveyance, encumbrance, judicial sale or other voluntary or involuntary transfer of an undivided interest in the Common Elements made separately from the Unit to which that interest is allocated is void. Nothing in this Section 18.4 prevents the sale or encumbrance of all or a portion of the Common Elements in accordance with Section 17.2.

18.5 Assignment of Special Declarant Rights. Declarant may assign any or all of the Special Declarant Rights in accordance with Section 304 of CCIOA.

18.6 Taxation of Units. Upon Recording this Condominium Declaration, Declarant will deliver a copy of it to the assessor of the County of Weld in accordance with section 105(2) of CCIOA. Each Unit, together with its Common Allocations of the Common Elements, constitutes a separate parcel for purposes of real estate assessment and taxation. The Common Elements will be assessed against each Unit in accordance with the Unit's Common Allocation and may not be separately assessed or taxed.



IN WITNESS WHEREOF, Declarant has executed this Condominium Declaration.

DECLARANT:

CHESTNUT STREET HOLDINGS, LLC,
a Colorado limited liability company

By:

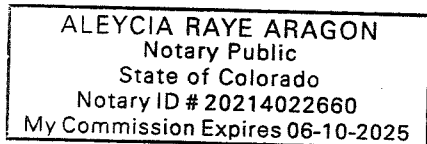
Mike Zapf
Managing Member

STATE OF COLORADO)
) ss:
COUNTY OF Weld)

The foregoing Declaration was acknowledged before me this 31 day of Oct, 2022,
by Mike Zapf, as Managing Member of Chestnut Street Holdings, LLC, a Colorado limited
liability company.

Witness my hand and official seal.

My commission expires: 6-10-25.



Notary Public

EXHIBIT A
THE REAL PROPERTY

TRACTS A, B AND C, CHIMNEY PARK SUBDIVISION, FIFTH FILING, TOWN OF WINDSOR, COUNTY OF WELD, STATE OF COLORADO, ACCORDING TO PLAT RECORDED ON FEBRUARY 1, 2019 AT RECEPTION NO. 4463910 AND AFFIDAVIT OF CORRECTION RECORDED MAY 15, 2019 AT RECEPTION NO. 4489405, COUNTY OF WELD, STATE OF COLORADO.


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Carly Koppes, Clerk and Recorder, Weld County, CO




EXHIBIT B
COMMON ALLOCATIONS AND VOTES

Unit	Common Allocation ¹	Votes
Unit 1	4.762%	1
Unit 2	4.762%	1
Unit 3	4.762%	1
Unit 4	4.762%	1
Unit 5	4.762%	1
Unit 6	4.762%	1
Unit 7	4.762%	1
Unit 8	4.762%	1
Unit 9	4.762%	1
Unit 10	4.762%	1
Unit 11	4.762%	1
Unit 12	4.762%	1
Unit 13	4.762%	1
Unit 14	4.762%	1
Unit 15	4.762%	1
Unit 16	4.762%	1
Unit 17	4.762%	1
Unit 18	4.762%	1
Unit 19	4.762%	1
Unit 20	4.762%	1
Unit 21	4.762%	1
TOTAL	100%	21

¹ Each Common Allocation is rounded to the nearest hundredth of a percent.

EXHIBIT C
OTHER RECORDED EASEMENTS AND
LICENSES AFFECTING THE PROPERTY

1. Easements, conditions, covenants, restrictions, reservations and notes on the Plat of Chimney Park 1st Filing recorded November 24, 1986 under Reception No. 2078254.
2. Easements, conditions, covenants, restrictions, reservations and notes on the Plat of Chimney Park Subdivision, Third Filing Recorded July 26, 2005 under Reception No. 3306160.
3. Easements, conditions, covenants, restrictions, reservations and notes on the Plat of Chimney Park Subdivision, Fourth Filing Recorded August 9, 2018 under Reception No. 4422241.
4. Easements, conditions, covenants, restrictions, reservations and notes on the Plat of Chimney Park Subdivision, Fourth Filing recorded February 1, 2019 under Reception No. 4463910 and Affidavit of Correction recorded May 15, 2018 at Reception No. 4489405.
5. Oil and Gas Lease recorded November 17, 2014 under Reception No. 4062002.
6. Restrictive Covenants recorded May 31, 2019 under Reception No. 4493508 and Amendment recorded January 14, 2021 under Reception No. 4671226.

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Carly Koppes, Clerk and Recorder, Weld County, CO

