

**CONDOMINIUM DECLARATION  
FOR  
RIGDEN CORNERS CONDOMINIUMS  
(A Common Interest Community)**

THIS DECLARATION is made and entered into this 19<sup>th</sup> day of March, 2007, by FORT COLLINS HABITAT FOR HUMANITY, INC., a Colorado nonprofit corporation ("the Declarant").

**RECITALS**

A. The Declarant is the owner of that certain real property located in the County of Larimer, State of Colorado legally described on Exhibit A attached hereto and incorporated herein by reference ("the Real Estate").

B. The Declarant desires to create condominium ownership of the Real Estate pursuant to the Condominium Ownership Act (C.R.S. § 38-33-101, et seq.) and the Colorado Common Interest Ownership Act (C.R.S. § 38-33.3-101, et seq.), as they may be amended from time to time ("the Acts"), in which portions of the Real Estate will be designated for separate ownership and the remainder of which will be for common ownership solely by the Owners of the separate ownership interests.

C. The Declarant has caused to be incorporated under the laws of the State of Colorado RIGDEN CORNERS CONDOMINIUM ASSOCIATION, a nonprofit corporation, for the purpose of exercising the functions herein set forth.

**ARTICLE I. SUBMISSION OF REAL ESTATE**

The Declarant hereby publishes and declares that the Real Estate shall be and is hereby submitted to condominium ownership and shall be held, sold, conveyed, transferred, leased, subleased, and occupied subject to the following easements, covenants, conditions, and restrictions which shall run with the Real Estate and shall be binding upon and inure to the benefit of all parties having any right, title, or interest in the Real Estate or any portion thereof, their heirs, personal representatives, successors, and assigns. Additionally, Declarant hereby submits the Real Estate to the provisions of the Acts. In the event either Act is repealed, the repealed Act on the effective date of this Declaration shall remain applicable.

**ARTICLE II. DEFINITIONS**

Section 1: "Allocated Interests" shall mean and refer to the Common Expense Liability and votes in the Association.

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144N W. ASOY #7  
Ft. Collins, CO 80504

Section 2: "Approval" or "Consent" shall mean securing the prior written approval or consent as required herein before doing, making, or suffering that for which such approval or consent is required.

Section 3: "Association" or "Unit Owners' Association" shall mean and refer to a unit owners' association organized and existing under Section 38-33.3-301 of CIOA.

Section 4: "Board of Directors" shall mean and refer to the Board of Directors of the Association. "Board of Directors" shall have the same meaning as "Executive Board" as defined in CIOA.

Section 6: "Building(s)" shall mean and refer to the building(s) presently existing on the Real Estate.

Section 7: "Bylaws" shall mean and refer to any instruments, however denominated, which are adopted by the Association for the regulation and management of the Association, including amendments to those instruments.

Section 8: "CIOA" shall mean and refer to the Colorado Common Interest Ownership Act (C.R.S. Section 38-33.3-101, et seq.) as presently adopted and as may be subsequently amended.

Section 9: "Common Elements" shall mean and refer to all portions of the Common Interest Community other than the Units.

Section 10: "Common Expense Liability" shall mean and refer to the liability for Common Expenses allocated to each Unit pursuant to this Declaration.

Section 11: "Common Expenses" shall mean and refer to expenditures made or liabilities incurred by or on behalf of the Association, together with any allocations to reserves; including, but not limited to, costs of maintaining, repairing, replacing and improving the Common Elements; dues and assessments of the Master Association; water and sewer charges; insurance; costs of maintaining the landscaping; trash collection; and snow removal.

Section 12: "Common Interest Community" shall mean and refer to the Real Estate and all improvements constructed thereon.

Section 13: "Declarant" shall mean and refer to any Person or group of Persons acting in concert who, as a part of a common promotional plan, offers to dispose of to a Purchaser such Declarant's interest in a Unit not previously disposed of to a Purchaser.

Section 14: "Declaration" shall mean and refer to this Declaration, including any amendments hereto and also including, but not limited to, plats and maps of the Real Estate recorded in the Clerk and Recorder's office of Larimer County, Colorado.

Section 15: "Dispose" or "Disposition" shall mean and refer to a voluntary transfer of any legal or equitable interest in a Unit, but the term does not include the transfer or release of a security interest.

Section 16: "Documents" shall mean and refer to this Declaration, the Plat, and the Articles of Incorporation, Bylaws, and Rules and Regulations of the Association, as supplemented or amended from time to time.

Section 17: "Garage Units" shall mean and refer to the Condominium Units designated on the Plat as Unit A (garage) through Unit F (garage).

Section 18: "Identifying Number" shall mean and refer to a symbol or address that identifies only one (1) Unit in the Common Interest Community.

Section 19: "Insurer" shall mean and refer to any governmental agency or authority that insures or guarantees a Mortgage which has provided actual written notice of such interest to the Association. Recording of a mortgage, deed of trust, or other security interest in the office of the Clerk and Recorder of Larimer County, Colorado shall not be considered actual written notice to the Association of a security interest.

Section 20: "Limited Common Elements" shall mean and refer to a portion of the Common Elements allocated by this Declaration or by the operation of C.R.S. § 38-33.3-202(1)(b) or (1)(d) for the exclusive use of one or more Units but fewer than all of the Units. By example and not limitation, patios and fenced areas designated "LCE" on the plat; shutters, awnings, window boxes, doorsteps, stoops, porches, balconies and decks; exterior heating, ventilating, or air conditioning units, and all exterior doors and windows or other fixtures designated to serve a single Condominium Unit but located outside of the boundaries of such Unit shall be Limited Common Elements appurtenant to the Unit served.

Section 21: "Master Association" shall mean and refer to the Rigden Farm Master Association.

Section 22: "Mortgagee" shall mean and refer to any Person who has a security interest in a Unit which has provided actual written notice of such interest to the Association. Recording of a mortgage, deed of trust, or other security interest in the office of the Clerk and Recorder of Larimer County, Colorado shall not be considered actual written notice to the Association of a security interest.

Section 23: "Notice" shall mean and refer to any notice required or desired to be given pursuant to the Documents. Unless otherwise provided in the Documents, all notices shall be in writing and may be personally delivered; mailed, certified mail, return receipt requested, sent by telephone facsimile with a hard copy sent by regular mail; sent by a nationally recognized, receipted overnight delivery service, including, by example and not limitation, United Parcel Service, Federal Express, or Airborne Express; or sent by electronic mail. Any such notice shall be deemed given when personally delivered; if mailed, three (3) delivery days after deposit in the United States mail, postage prepaid; if sent by telephone facsimile or electronic mail, on the day sent if sent on a business day during normal business hours of the recipient or on the next business day if sent at any other time; or if sent by overnight delivery service, one (1) business day after deposit in the custody of the delivery service. The addresses and telephone numbers for the mailing, transmitting, or delivering of notices shall be as set forth in the books and records of the Association. Notices of a change of address shall be given in the same manner as all other notices as hereinabove provided. If a notice is to be given to more than one Owner, the notice shall be given to all Owners at the same time and in the same manner.

Section 24: "Occupant" shall mean any Person occupying a Unit as his or her permanent residence.

Section 25: "Person" shall mean and refer to a natural person, a corporation, a partnership, a limited liability company, an association, a trust, or any other entity or combination thereof.

Section 26: "Plat" or "Map" shall mean and refer to the Plat or Map of the Real Estate recorded in the office of the Clerk and Recorder of Larimer County, Colorado, and all recorded amendments thereto.

Section 27: "Purchaser" shall mean and refer to a Person, other than a Declarant, who, by means of a transfer, acquires a legal or equitable interest in a Unit, other than:

- (a) A leasehold interest in a Unit of less than forty (40) years, including renewal options, with the period of the leasehold interest, including renewal options, being measured from the date the initial term commences; or
- (b) A Security Interest.

Section 28: "Real Estate" shall mean and refer to the Real Estate described on Exhibit "A" attached hereto, including structures, fixtures, and other improvements and interests that, by custom, usage, or law, pass with a conveyance of land, though not described in the contract of sale or instrument of conveyance.

Section 29: "Residential Unit" shall mean and refer to all of the Condominium Units except the Garage Units.

Section 30: "Rules and Regulations" shall mean and refer to any instruments, however denominated, which are adopted by the Association for the regulation and management of the Common Interest Community, including any amendment to those instruments.

Section 31: "Security Interest" shall mean and refer to an interest in real property created by contract or conveyance which secures payment or performance of an obligation. The term includes a lien created by a mortgage, deed of trust, trust deed, security deed, contract for deed, land sales contract, lease intended as security, assignment of lease or rents intended as security, pledge of an ownership interest in an association, and any other consensual lien or title retention contract intended as security for an obligation. "First Security Interest" shall mean and refer to a Security Interest in a Unit prior to all other Security Interests except the Security Interest for real property taxes and assessments made by Larimer County, Colorado, or other governmental authority having jurisdiction over the Common Interest Community. The recording of any document or instrument in the office of the Clerk and Recorder of Larimer County, Colorado, shall not be considered notice to the Association of any Security Interest created by the recording of such document or instrument.

Section 32: "Unit" shall mean and refer to a physical portion of the Common Interest Community which is designated for separate ownership or occupancy and the boundaries of which are contained within the windows, doors, unfinished perimeter walls, floors, and ceiling of each Unit as described in or determined from the Plat. All lath, furring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, finished flooring, and any other materials constituting any part of the finished surfaces of the perimeter walls, floors, and ceilings, shall be considered part of the Unit. If any chute, flue, duct, wire, conduit, bearing wall, bearing column, or any fixtures lie partially within or partially outside of the designated boundaries of a Unit, any portion thereof serving only that Unit, shall be a Limited Common Element appurtenant to such Unit and any portion thereof serving more than one Unit or serving any portion of the Common Elements shall be a part of the Common Elements.

Section 33: "Unit Owner" shall mean and refer to the Person who owns a Unit but does not include a Person having an interest in a Unit solely as security for an obligation. The Declarant is the Owner of any Unit created in the Declaration until that Unit is conveyed to another Person.

### ARTICLE III. COMMON INTEREST COMMUNITY

Section 1: Name. The name of the Common Interest Community is RIGDEN CORNERS CONDOMINIUMS.

Section 2: Association. The name of the Association is RIGDEN CORNERS CONDOMINIUM ASSOCIATION.

Section 3: Condominium. The Common Interest Community is a condominium.

Section 4: County. The name of every county in which any part of the Common Interest Community is situated is Larimer County, Colorado.

Section 5: Legal Description. A legal description of the Real Estate included in the Common Interest Community is set forth on Exhibit "A", attached hereto and incorporated herein by reference.

Section 6: Maximum Number of Units. The maximum number of Residential Units that the Declarant reserves the right to create within the Common Interest Community is fourteen (14), and the maximum number of Garage Units the Declarant reserves the right to create within the Common Interest Community is fourteen (14).

Section 7: Boundaries of Units. The boundaries of each Unit are located as shown on the Plat and are more particularly described in the definition of a "Unit" as set forth in Article II, Section 29 of this Declaration.

Section 8: Identification of Units. The identification number of each Unit is shown on the Plat.

Section 9: Subdivision of Units. A Unit may not be subdivided into two (2) or more Units.

Section 10: Allocated Interests. The undivided interest in the Common Elements and Common Expense Liability for each Unit are set forth on Exhibit "B" attached hereto and incorporated herein by reference. The Owner of each Residential Unit (regardless of size or value) shall have one (1) vote in the Association. No votes shall be assigned to Garage Units.

Section 11: Recording Data. All easements and licenses to which the Common Interest Community is presently subject are described on the Plat. In addition, the Common Interest Community may be subject to other easements or licenses granted by the Declarant pursuant to the terms of this Declaration.

Section 12: Limited Common Elements. The Limited Common Elements are described and designated as such on the Plat and in the definition of "Limited Common Elements" set forth in Article II, Section 19 of this Declaration.

Section 13: General Common Elements. The General Common Elements are described on the Plat. No General Common Elements may be conveyed to any person or entity other than the Condominium Unit Owners. No General Common Elements may be allocated subsequently as Limited Common Elements.

Section 14: Division of Real Estate Into Condominium Units. The Real Estate, including the improvements thereon, is hereby divided into six (6) Residential Units and six (6) Garage Units. Each such Unit shall consist of a separately designated Unit as herein defined and as indicated on the Plat and the undivided interest in and to the Common Elements appurtenant to such Units as set forth on Exhibit "B" attached hereto and incorporated herein by reference. Each Unit, the appurtenant undivided interest in the Common Elements, as well as all other appurtenances, rights, and burdens shall together comprise one Condominium Unit.

Section 15: Description of Unit. A Unit may be legally described as follows:

Condominium Unit \_\_\_\_\_, together with Condominium Unit \_\_\_\_\_ (garage), RIGDEN CORNERS CONDOMINIUMS, Phase \_\_\_\_\_, according to the Declaration recorded February \_\_\_\_\_, 2007, at Reception No. \_\_\_\_\_, and the Condominium Map recorded February \_\_\_\_\_, 2007, at Reception No. \_\_\_\_\_ of the Larimer County, Colorado, records.

Such description shall be sufficient for all purposes to sell, convey, transfer, encumber, or otherwise affect not only the Unit but also the Limited Common Elements and the undivided interest in the General Common Elements appurtenant to said Unit and all other appurtenant property rights and shall incorporate all of the rights and burdens incident to ownership of a Unit and all of the limitations thereon as described in this Declaration. Each such description shall be construed to include a nonexclusive easement for ingress and egress to and from a Unit and the use of all General Common Elements appurtenant to such Unit. Reference to the Map and Declaration in any instrument shall be deemed to include any supplements or amendments thereto.

#### **ARTICLE IV. ASSOCIATION**

Section 1: Authority. The business and affairs of the Common Interest Community shall be managed by the Association. The Association shall be governed by its Bylaws as amended from time to time.

Section 2: Powers. The Association shall have all of the powers, authority, and duties necessary to manage the business and affairs of the Common Interest Community.

Section 3: Powers of the Board of Directors. The Board of Directors may act in all instances on behalf of the Association. The Board of Directors shall have, subject to the limitations contained in this Declaration and the Act, the powers and duties necessary for the administration of the affairs of the Association and of the Common Interest Community, which shall include, but not be limited to, the following:

- (a) Adopt and amend Bylaws.
- (b) Adopt and amend Rules and Regulations.
- (c) Adopt and amend budgets for revenues, expenditures, and reserves.
- (d) Collect Common Expense assessments from Owners.
- (e) Hire and discharge Managers.
- (f) Hire and discharge independent contractors, employees, and agents, other than Managers.
- (g) Institute, defend, or intervene in litigation or administrative proceedings or seek injunctive relief for violation of the Documents in the Association's name, on behalf of the Association, or two (2) or more Owners on any matters affecting the Common Interest Community.
- (h) Make contracts and incur liabilities.
- (i) Acquire, hold, encumber and convey in the Association's name, any right, title, or interest to real estate or personal property.
- (j) Impose a reasonable charge for late payment of assessments and levy a reasonable fine for violation of the Documents.
- (k) Impose a reasonable charge for the preparation and recordation of supplements or amendments to this Declaration and for statements of unpaid assessments.
- (l) Provide for the indemnification of the Association's officers and the Board of Directors and maintain directors' and officers' liability insurance.



- (m) Assign the Association's right to future income, including the right to receive Common Expense assessments, but only upon the affirmative vote of the Owners of Units to which at least fifty-one percent (51%) of the votes of Owners present in person or by proxy, at a meeting called for that purpose at which a quorum is present.
- (n) Exercise any other powers conferred by the Documents.

Section 4: Budget. Within thirty (30) days after adoption of any proposed budget for the Association, the Board of Directors shall mail, by ordinary first class mail, or otherwise deliver, a summary of the budget to all Members and shall set a date for a meeting of the Members to consider ratification of the budget not less than fourteen (14) nor more than sixty (60) days after mailing or other delivery of the summary. Unless at that meeting a majority of all Members reject the budget, the budget is ratified whether or not a quorum is present. In the event the proposed budget is rejected, the periodic budget last ratified by the Members shall be continued until such time as the Members ratify a subsequent budget proposed by the Board of Directors.

Section 5: Duties of Board of Directors: The Board of Directors shall:

- (a) Maintain accounting records using generally accepted accounting principles; and
- (b) Adopt policies, procedures and rules and regulations concerning:
  - (i) Collection of unpaid assessments;
  - (ii) Handling of conflicts of interest involving Board members;
  - (iii) Conduct of meetings, which may refer to applicable provisions of the Nonprofit Corporation Code or other recognized rules and principles;
  - (iv) Enforcement of covenants and rules, including notice and hearing procedures and the schedule of fines;
  - (v) Inspection and copying of Association records by Owners;
  - (vi) Investment of reserve funds; and
  - (vii) Procedures for the adoption and amendment of policies, procedures and rules and regulations.

Section 6: Information.

(a) Within ninety (90) days after assuming control from the Declarant pursuant to Section 38-33.3-303(5) of the Act, and within ninety (90) days after the end of each fiscal year thereafter, the Association shall make the following information available to Owners upon reasonable notice:

- (1) The date on which the Association's fiscal year commences;
- (2) The Association's operating budget for the current fiscal year;
- (3) A list of the Association's current assessments, including both regular and special assessments;
- (4) The Association's annual financial statements, including any amounts held in reserve for the fiscal year immediately preceding the current annual disclosure;
- (5) The results of its most recently available financial audit or review;
- (6) A list of all Association insurance policies including, but not limited to, property, general liability, Association director and officer professional liability, and fidelity policies. Such list shall include the company names, policy limits, policy deductibles, additional named insureds, and expiration dates of the policies listed;
- (7) All of the Association's Bylaws, Articles of Incorporation, and Rules and Regulations;
- (8) The minutes of the Executive Board and Member meetings for the fiscal year immediately preceding the current annual disclosure; and
- (9) The Association's responsible governance policies.

(b) Within ninety (90) days after assuming control from the Declarant and within ninety (90) days after change in the Association's address, designated agent or management company, the Association shall make available to Owners the following information:

- (1) The name of the Association;
- (2) The name of the Association's designated agent or management company, if any;

- (3) A valid physical address and telephone number for both the Association and the designated agent or management company, if any;
- (4) The name of the common interest community;
- (5) The initial date of the recording of the Declaration; and
- (6) The reception number or book and page for this Declaration.

(c) The foregoing disclosures shall be accomplished by any one of the following means: posting on an internet web page with accompanying notice of the web address via first class mail or e-mail; the maintenance of a literature table or binder at the Association's principal place of business; mail; or personal delivery. The cost of such distribution shall be accounted for as a Common Expense.

#### **ARTICLE V. ASSESSMENT FOR COMMON EXPENSES**

Section 1: Personal Obligation of Owners for Common Expenses. The Declarant, for each Unit owned, hereby covenants, and each Owner of any Unit by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association Common Expense Assessments imposed by the Association. Such Assessments, including fees, charges, late charges, attorney's fees, fines, and interest, charged by the Association shall be the personal obligation of the Unit Owner at the time the Assessment or other charges became due. The personal obligation to pay any past-due sums due the Association shall not pass to a successor in title unless expressly assumed by such successor.

Section 2: Amount of Assessment. The amount of the Assessment for the estimated Common Expenses which shall be paid by the Owner of each Unit shall be determined by multiplying the total estimated Common Expenses by the percentage share of Common Expenses for each Unit as set forth on Exhibit "B".

Section 3: Date of Commencement of Annual Assessments; Due Dates. The annual Assessments provided for herein shall commence as to all Units on the first day of the month following the conveyance of a Unit by the Declarant to a Purchaser. The first annual Assessment shall be adjusted according to the number of months remaining in the calendar year. Written notice of the annual Assessment shall be sent to every Owner subject thereto. The Board of Directors may, at its discretion, permit annual assessments to be payable in equal monthly or quarterly installments.

#### **ARTICLE VI. LIEN FOR NONPAYMENT OF COMMON EXPENSES**

All Assessments, charges, and fees of the Association shall be a continuing lien upon the Unit against which each Assessment is made. A lien under this Section is prior to all other liens and encumbrances on a Unit, except: (1) liens and encumbrances recorded before the recordation of this Declaration; (2) to the extent provided in CIOA, a First Security Interest on the Unit recorded before the date on which the Common Expense Assessment sought to be enforced became delinquent; and (3) liens for real estate taxes and other governmental assessments or charges against the Unit. This Section does not prohibit an action to recover sums for which this Section creates a lien or prohibit the Association from taking a deed in lieu of foreclosure. Sale or transfer of any Unit shall not affect the Association's lien.

Any Assessment, charge, or fee provided for in this Declaration or any monthly or other installment thereof which is not fully paid within ten (10) days after the date due shall bear interest at a rate determined by the Board of Directors. In addition, the Board of Directors may assess a late charge thereon. Any Owner who fails to pay any Assessment, charge, or fee of the Association shall also be obligated to pay to the Association, on demand, all costs and expenses incurred by the Association, including reasonable attorney's fees, in attempting to collect the delinquent amount. The total amount due to the Association, including unpaid Assessments, fees, charges, fines, interest, late payment penalties, costs, and attorney's fees, shall constitute a lien on the defaulting Owner's Unit. The Association may bring an action, at law or in equity, or both, against any Owner personally obligated to pay any amount due to the Association or any monthly or other installment thereof and may also proceed to foreclose its lien against such Owner's Unit. An action at law or in equity by the Association against a delinquent Owner to recover a money judgment for unpaid amounts due to the Association or monthly or other installments thereof may be commenced and pursued by the Association without foreclosing or in any way waiving the Association's lien.

#### **ARTICLE VII. MORTGAGEE PROTECTION**

Section 1: Introduction. This Article establishes certain standards and covenants which are for the benefit of the holders, insurers, and guarantors of certain Security Interests. This Article is supplemental to, and not in substitution for, any other provisions of the Declaration, but in the case of conflict, this Article shall control.

Section 2: Notice of Actions. The Association shall give prompt written notice to each Mortgagee and Insurer (as such terms are defined in Article II of the Declaration) and each Unit Owner hereby consents to and authorizes such notice:

- (a) Any condemnation loss or any casualty loss which affects a material portion of the Common Interest Community or any Unit in which there is a First Security Interest held, insured, or guaranteed by such Mortgagee or Insurer, as applicable.
- (b) Any delinquency in the payment of Common Expense Assessments owed by a Unit Owner whose Unit is subject to a First Security Interest held, insured, or guaranteed by such Mortgagee or Insurer, as applicable, which remains uncured for a period of sixty (60) days.
- (c) Any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association.
- (d) Any proposed action which would require the consent of a percentage of Mortgagees as specified in Section 3 of this Article VII.
- (e) Any judgment rendered against the Association in excess of \$10,000 which is not satisfied within any applicable stay of execution on such judgment.

Section 3: Consent and Notice Required.

- (a) Document Changes. Notwithstanding any lower requirement permitted by this Declaration, no amendment of any provision of this Declaration pertaining to the matters hereinafter listed by the Association or Unit Owners shall be effective without notice to all Mortgagees and Insurers, and the vote of two-thirds or more of the total votes of all Unit Owners (or any greater Unit Owner vote required in this Declaration or CIOA) and until approved by more than fifty percent (50%) of the Mortgagees (as such term is defined in Article II of the Declaration) or any greater Mortgagee approval required by this Declaration:
  - (1) Voting rights.
  - (2) Assessments, assessment liens, or priority of assessment liens.
  - (3) Reserves for maintenance, repair, and replacement of Common Elements.
  - (4) Responsibility for maintenance and repairs.
  - (5) Reallocation of interests in the Common Elements.

- (6) Redefinitions of boundaries of Units, except that when boundaries of only adjoining Units are involved, then only those Unit Owners and the Mortgagees holding Security Interests in such Unit or Units must approve such action.
  - (7) Convertibility of Units into Common Elements or Common Elements into Units.
  - (8) Expansion or contraction of the Common Interest Community or the addition, annexation, or withdrawal of property to or from the Common Interest Community, except as permitted by Article XX of the Declaration.
  - (9) Insurance or fidelity bonds.
  - (10) Imposition of any restrictions on a Unit Owner's right to sell or transfer his Unit.
  - (11) A decision by the Association to establish self-management when professional management had been required previously by any Mortgagee.
  - (12) Restoration or repair of the Common Elements after a hazard damage or partial condemnation in a manner other than that specified in the Declaration.
  - (13) Termination of the Common Interest Community after occurrence of substantial destruction or condemnation of the Common Elements.
  - (14) Any provision that expressly benefits mortgage holders, insurers, or guarantors.
- (b) Actions. Notwithstanding any lower requirement permitted by the Documents, the Association may not take any of the following actions without notice to all Mortgagees and Insurers (as such terms are defined in Article II of the Declaration) and approval of more than sixty-seven percent (67%) of the Owners and fifty percent (50%) (or the indicated percentage) of the Mortgagees:
- (1) Convey or encumber the Common Elements or any portion thereof without approval by eighty percent (80%) of the

Mortgagees. (The granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Elements by the Common Interest Community will not be deemed a transfer within the meaning of this clause.)

- (2) The termination of the Common Interest Community for reasons other than substantial destruction or condemnation of the Common Elements without approval by sixty-seven percent (67%) of the Mortgagees.
  - (3) The alteration of any partition or creation of any aperture between adjoining Units (when Unit boundaries are not otherwise being affected), in which case, only the Owners of Units affected and Mortgagees of those Units need approve the action.
  - (4) The granting of any easements or leases through or over the Common Elements; excluding, however, any utility, cable service, road, or other easements serving or necessary to serve the Common Interest Community and also excluding any leases for no more than three (3) years.
  - (5) The establishment of self-management when professional management had been required previously by a Mortgagee.
  - (6) Restoration or repair of the Common Elements after a hazard damage or partial condemnation in a manner other than specified in the Declaration.
  - (7) The merger of the Common Interest Community with any other common interest community except as permitted by Article XIX of the Declaration.
  - (8) The assignment of the future income of the Association, including its right to receive Common Expense Assessments.
  - (9) Any action taken not to repair or replace the Common Elements.
- (c) Voting. Each Mortgagee or Insurer that has given actual written notice to the Association of its Security Interest (as such terms are defined in Article II of the Declaration) shall have one (1) vote for

each Unit against which such Mortgagee or Insurer has a Security Interest on any matter submitted to Mortgagees and Insurers for a vote pursuant to this Article VII. The failure of a Mortgagee or Insurer to respond within thirty (30) days after notice is given by the Association requesting approval of an addition or amendment to the Declaration shall conclusively constitute approval of the addition or amendment.

Section 4: Inspection of Books. The Association shall maintain current copies of the Declaration, Bylaws, Rules and Regulations, books and records, and financial statements. The Association shall permit any Mortgagee or Insurer to inspect the books and records of the Association during normal business hours.

Section 5: Financial Statements. The Association shall provide any Mortgagee or Insurer that submits a written request a copy of an annual financial statement within ninety (90) days following the end of each fiscal year of the Association. Such financial statement shall be audited by an independent certified public accountant if any Mortgagee or Insurer requests it, in which case the Mortgagee or Insurer shall bear the cost of the audit.

Section 6: Enforcement. The provisions of this Article are solely for the benefit of Mortgagees and Insurers and their successors and may be enforced only by one or more of them by any available means at law or in equity.

Section 7: Attendance at Meetings. Any representative of a Mortgagee or Insurer may attend and address any meeting which an Owner may attend.

Section 8: Appointment of Trustee. In the event of damage, destruction, or condemnation of all or a portion of the Common Elements, any Mortgagee may require that such proceeds be payable to a trustee. Such trustee may be required to be a corporate trustee licensed by the State of Colorado. Unless otherwise required, the members of the Board of Directors, acting by majority vote through the president, may act as trustee.

#### **ARTICLE VIII. RESTRICTION ON USE**

Section 1: Improvements on Exterior of Units. No exterior additions to, exterior alterations of, or exterior decoration of the Building(s), a Unit or the Common Elements shall be made unless approved in writing by the Board of Directors.

Section 2: Violation of Laws. Nothing shall be done or kept in any Unit or in or on the Common Elements, or any part thereof, which would be in violation of any statute, rule, ordinance, regulation, zoning resolution, permit, or other imposed requirement of any federal, state, or local governmental authority having jurisdiction over the Real Estate.



Section 3: Damage to Common Elements. No damage to the Common Elements, or any part thereof, shall be committed by an Owner or any agent, employee, guest, or invitee of an Owner, and each Owner shall indemnify, hold harmless and reimburse the Association and all other Owners from and against all loss, cost, expense and liability arising out of, as a result of, or in connection with any and all damage caused by such Owner, his agents, employees, guests, or invitees.

Section 4: Nuisance. No noxious or offensive activity shall be conducted within any Unit or on the Common Elements which unreasonably interferes with the then existing use of any other Unit. No activity shall be conducted within any Unit or upon the Common Elements which is or might be unsafe, unsightly, unhealthy, or hazardous to any person. Without limiting the generality of the foregoing, nothing shall be kept or stored within or upon the Common Elements, including areas which are designated as Limited Common Elements, and nothing shall be placed on or in the windows or doors of the Units which create an unsightly appearance from the exterior of such Units.

Section 5: Restriction on Use. All Units except the Garage Units shall be used solely for residential purposes. The Garage Units shall be used only as garages for the storage of motor vehicles and other personal property. The Garage Units may not be used for residential purposes. A Garage Unit may be owned only by the Owner of a Residential Unit. A Garage Unit may not be sold, transferred, conveyed, leased, subleased, licensed, used or occupied by any person or entity who is not also the Owner or lessee of a Residential Unit. So long as a Residential Unit is being used for residential purposes, it may also be used for a home occupation as that term is defined by applicable zoning and other land use regulations.

Subject to the following restrictions and limitations:

- (a) The existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from the exterior of the Unit;
- (b) the business activity complies with all applicable zoning and other governmental rules and regulations;
- (c) no employees or persons, except for the Owner; members of the owner's immediate family; and any tenant, work for the business within the Unit;
- (d) the business activity does not involve regular visits to the Unit by clients, customers, suppliers or other business invitees, and does not involve door-to-door solicitation of other residents within the Common Interest Community;

- (e) the business activity does not involve processing, storing, or shipping significant quantities of materials to or from the Unit; and
- (f) the business activity is consistent with the residential character of the Common Interest Community, does not constitute a nuisance or hazard, or offensive activity, or threaten the security or safety of other residents within the Common Interest Community.

The term "business" used in this Section, shall be construed to have its ordinary, general, accepted meaning and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis involving the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether such activity is engaged in full or part-time, whether such activity is intended to generate a profit, or whether a license is required. Notwithstanding the foregoing, daycare and childcare facilities, licensed or unlicensed, shall not be permitted unless approved in advance by the Board of Directors.

Section 6: Pets. A maximum of two pet dogs and/or cats may be kept in any one Condominium Unit. (Two pet dogs, two pet cats, or one pet dog and one pet cat.) Fish, birds, hamsters, gerbils, and reptiles may be kept in a Condominium Unit so long as they are kept within an enclosed area, such as an aquarium or bird cage. Snakes shall not be permitted within any Condominium Unit. No animal shall be kept, bred, or maintained within a Condominium Unit for commercial purposes. The offspring of an adult dog or adult cat may be kept within a Condominium Unit until they reach the age of six months. Dogs and cats shall be leashed at all times when outside of a Condominium Unit. The violation of any applicable municipal ordinance pertaining to dogs and cats including, but not limited to, City of Fort Collins ordinances pertaining to vicious animals, shall constitute a violation of this Declaration. Habitually barking dogs that annoy or disturb the occupants of neighboring Condominium Units shall be considered a nuisance and may not be kept within any Condominium Unit. The owner of a Condominium Unit in which a dog is being kept shall maintain general liability insurance in the minimum amount of Three Hundred Thousand Dollars (\$300,000) and shall provide a copy of the insurance policy to the Association. Ownership of the pet dog shall be included within the general liability insurance coverage obtained by the Owner.

Section 7: Signs. No signs shall be installed or permitted to remain on the exterior of any Unit or on the interior of a Unit if such sign is visible from the exterior of the Unit unless such sign is approved in writing in advance by the Board of Directors. No sign shall be installed on the Common Elements without the prior, written approval of the Board of Directors. One (1) for sale or for rent sign may be placed in the window of a Condominium Unit to be visible from the exterior of the Unit. The sign shall not exceed the size customarily used by real estate agents in connection with the sale of residential dwellings.

Section 8: Antennae and Satellite Dishes. No antennae or satellite dishes shall be installed on the roof of any Building, the exterior of any Unit, or the Common Elements without the prior, written approval of the Board of Directors.

Section 9: Porches and Patios. Porches and patios may not be enclosed without the prior, written consent of the Board of Directors. Porches and patios may not be used for storage. No clothesline, antennae, or satellite dishes may be constructed, installed, or permitted to remain either temporarily or permanently on any porch or patio. Only furniture commonly and customarily considered outdoor patio furniture may be used and may remain on a porch or patio. Potted plants may also be kept on the porch or patio. Yard ornaments shall not be permitted to remain on a porch or patio either temporarily or permanently, without the prior, written approval of the Board of Directors. Porches and patios may not be used as overnight accommodations. No porch or patio shall be used in any manner which would interfere with the quiet use and enjoyment of other Units within the Common Interest Community.

Section 10: Vehicles. Boats, campers, snowmobiles, all-terrain vehicles, trailers, machines, equipment, tractors, semi-tractors, tractor trailers, trucks (except standard pickup trucks) and inoperative automobiles shall not be stored, parked, or permitted to remain on the common elements (except within a Garage Unit). For purposes of this provision, any disassembled or partially disassembled car or other vehicle or any car or other vehicle which has not been moved under its own power for more than seven (7) consecutive days or ten (10) days out of any calendar month shall be considered an inoperative automobile. If a Unit Owner intends to be absent from his or her Unit for more than one (1) week, the Board of Directors may grant permission to the Unit Owner to store his or her vehicle on the Common Elements for a period of time in excess of seven (7) days so long as the vehicle is operable when the period of time commences. The Owner of a Condominium Unit containing 800 square feet or less shall have the right to park not more than one (1) vehicle on the Common Elements per Unit. The Owner of any Condominium Unit containing three bedrooms or more shall have the right to park not more than three (3) vehicles on the Common Elements per Unit. The Owners of all other Condominium Units shall have the right to park not more than two (2) vehicles on the Common Elements per Unit.

Section 11: Window Coverings. Window coverings shall be blinds or vertical shades in colors of white or almond made of vinyl, aluminum, fabric, or painted wood. A white or almond drapery or drapery liner that does not permit color to show through, shall also be permitted. All other exterior window coverings visible from the exterior of any Unit, must have the prior, written approval of the Board of Directors.

Section 12: Limitations. Notwithstanding any provision in this Declaration, the Bylaws, or the Rules and Regulations of the Association to the contrary, the Association shall not prohibit any of the following:

(a) The display of the American flag in a window of the Owner's Unit, if the American flag is displayed in a manner consistent with the Federal Flag Code (4 USC § 4-10). The Association may adopt reasonable rules regarding the placement and manner of display of the American flag.

(b) The display of a service flag bearing a star denoting the service of the Owner or an Occupant or a member of the Owner's or Occupant's family in the active or reserve military service of the United States during a time of war or armed conflict, on the inside of a window or door of the Owner's Unit. The Association may adopt reasonable rules regarding the size and manner of display of service flags; except that the maximum dimensions allowed shall be not less than 9 inches by 16 inches.

(c) The display of a political sign by an Owner or Occupant in a window of that Owner's Unit; except that the Association may prohibit the display of political signs earlier than 45 days before the day of an election and later than 7 days after an election day. "Political sign" means a sign that carries a message intended to influence the outcome and election, including supporting or opposing the election of a candidate, the recall of a public official, or the passage of a ballot issue.

(d) The parking of a motor vehicle by an Owner or Occupant on the parking area in the Common Interest Community if the vehicle is required to be available at designated periods at the Owner's or Occupant's Unit as a condition of the Owner's or Occupant's employment and all of the following criteria are met:

(i) the vehicle has a gross vehicle weight rating of 10,000 pounds or less;

(ii) the Occupant is a bona fide member of a volunteer fire department or is employed by a primary provider of emergency firefighting, law enforcement, ambulance, or emergency medical services;

(iii) the vehicle bears an official emblem or other visible designation of the emergency service provider; and

(iv) parking of the vehicle can be accomplished without obstructing emergency access or interfering with the reasonable needs of other Owners to use the parking areas within the Common Interest Community.

## ARTICLE IX. EASEMENTS

Section 1: Encroachments. A valid easement shall exist for the following encroachments and for the maintenance of the same: (a) in the event that any portion of the Common Elements encroaches upon any Unit or Units; or (b) in the event that any portion of a Unit encroaches upon any other Unit or Units or upon any portion of the Common Elements; or (c) in the event any encroachment shall occur in the future as a result of settling of a Building, alteration or repair to the Common Elements, or repair or restoration of a Building or a Unit after damage by fire or other casualty or condemnation or eminent domain proceedings. In the event that any one or more of the Units or a Building or other improvements comprising part of the Common Elements are partially or totally destroyed and are then rebuilt or reconstructed in substantially the same location, and as a result of such rebuilding, any portion thereof shall encroach as provided in the preceding sentence, a valid easement for such encroachment shall exist. Such encroachments and easements shall not be considered or determined to be encumbrances, either on the Common Elements or on the Units, for purposes of marketability of title or other purposes. In interpreting any and all provisions of the Declaration, subsequent Unit deeds to, and/or mortgages of Units, the actual location of a Unit shall be deemed conclusively to be the property intended to be conveyed, reserved, or encumbered, notwithstanding any minor deviations, either horizontally, vertically, or laterally from the locations of such Units indicated on the Plat.

Section 2: Blanket Easement. There is hereby created a blanket easement upon, across, over, and under the Common Elements for ingress and egress to and from each Unit from public streets adjacent to the Common Interest Community and for installing, replacing, repairing, and maintaining all Common Elements, including the Building(s), and all utilities such as water, sewer, gas, telephone, electricity, and television. By virtue of this easement, it shall be expressly permissible for the providing of electrical, telephone and/or television wires, circuits, and conduits on, above, across, and under the roof and exterior walls of the Units. No sewer lines, electrical lines, water lines, or other utilities may be installed or relocated on the Real Estate, except as initially programmed and approved by the Declarant or as subsequently approved by the Board of Directors. The Association, its officers, agents, employees, and assigns, shall have the right to make such use of the Common Elements as may be reasonably necessary or appropriate to perform the duties and functions which it is obligated or permitted to perform pursuant to this Declaration.

Section 3: Emergency Easement. An easement for ingress and egress is hereby granted to all police, sheriff, fire protection, ambulance, and other similar emergency agencies or persons to enter upon the Real Estate in the performance of their duties.

**ARTICLE X. TERMINATION OF MECHANIC'S LIEN RIGHTS  
AND INDEMNIFICATION**

No labor performed or materials furnished and incorporated in a Unit with the consent of or at the request of the Unit Owner, his or her agents, contractors, or subcontractors, shall be the basis for filing a lien against the Unit of any other Owner not expressly consenting to or requesting the same or against the Common Elements. Each Owner shall indemnify and hold harmless each of the other Owners and the Association from and against all liability arising from the claim of any lien against the Unit of any other Owner or against the Common Elements for construction performed or for labor, materials, services, or other products incorporated in the Owner's Unit at such Owner's request. Notwithstanding the foregoing, any Mortgagee of a Unit who shall become the Owner of such Unit pursuant to a lawful foreclosure sale or the taking of a deed in lieu of foreclosure shall not be under any obligation to indemnify and hold harmless any other Owner or the Association against liability for claims arising prior to the date such Mortgagee becomes an Owner.

**ARTICLE XI. RESERVATION FOR ACCESS, MAINTENANCE,  
REPAIR, AND EMERGENCIES**

Section 1: Access to Units. The Association shall have the irrevocable right to be exercised by the Association's Board of Directors, officers, custodian, managing agent, employees, and contractors, to have access to each Unit from time to time during reasonable hours as may be necessary for the maintenance, repair, or replacement of any of the Common Elements therein or accessible therefrom or at any hour for making emergency repairs, maintenance, or inspection therein necessary to prevent damage to the Common Elements or to another Unit.

Section 2: Damage to Unit. Damage to the interior or any part of a Unit resulting from the maintenance, repair, emergency repair, or replacement of any of the Common Elements or as a result of emergency repairs within another Unit at the insistence of the Association shall be a Common Expense; provided, however, that if the damage is caused by negligent or tortuous acts of a Unit Owner, his or her agents, employees, invitees, or tenants, then such Unit Owner shall be responsible and liable for all of such repair and the cost thereof shall become said Owner's obligation, which shall be timely paid. Said obligation shall be an Assessment against said Unit Owner and his or her Unit and shall be subject to the provisions for collection elsewhere herein provided. All damaged improvements shall be restored substantially to the extent reasonably practical to the same condition in which they existed prior to the damage. All maintenance, repairs, and replacement of the Common Elements, whether located inside or outside of the Units, shall be the Common Expense of all of the Owners (unless necessitated by the negligence, misuse, or tortuous act of a Unit Owner, in which case such expense shall be charged to such Owner). However, the Association shall not be obligated to seek redress for damages

caused by a negligent Owner, and this covenant shall not abrogate the insurance provisions of this Declaration.

**ARTICLE XII. MAINTENANCE AND SERVICE RESPONSIBILITY**

Section 1: Owner.

- (a) For maintenance purposes, an Owner shall be deemed to own the windows and doors; the interior nonsupporting walls, floors, and ceilings of the Unit; the materials such as, but not limited to, plaster, gypsum drywall, paneling, wallpaper, paint, wall and floor tile and flooring, and other materials which make up the finished surfaces of the perimeter walls, ceiling, and floors within the Unit.
- (b) An Owner shall maintain and keep in repair the interior of his or her own Unit, including the plumbing, heating, air-conditioning, and electrical pipes, wires, conduits, systems, and fixtures ("Utilities") located within his or her Unit, to the extent current repair shall be necessary in order to avoid damaging other Units or the Common Elements. All fixtures, equipment, and Utilities installed within the Unit and serving such Unit, commencing at a point the fixtures, equipment, and Utilities enter the Unit, shall be maintained and kept in repair by the Owner thereof. An Owner, however, shall not be deemed to own the utility pipes, wires, conduits, or systems running through his or her Unit which serve one or more other Units (except as a tenant in common with the other Owners), which Utilities are General Common Elements. Such Utilities shall not be disturbed or relocated by an Owner without the prior written consent and approval of the Board of Directors. An Owner shall do no act nor any work that will impair the structural soundness or integrity of the Building in which the Unit is located or impair the proper functioning of the Utilities, heating, air-conditioning, electrical, or plumbing systems or impair any easement.
- (c) Without limiting the generality of the foregoing, the duties and responsibilities for maintenance by the Owner and the Association are set forth on Exhibit D, attached hereto and incorporated herein by reference.

Section 2: Association. The Association shall have the duty of maintaining and repairing all of the Common Elements. The cost of said maintenance and repair shall be a Common Expense of all of the Owners (unless necessitated by the negligence, misuse, or tortuous act of a Unit Owner, in which case such expense shall be charged to such Owner);

except the cost of maintenance and repair of Limited Common Elements, which shall be assessed only against the Unit and the Owner of the Unit to which the Limited Common Elements are appurtenant.

**ARTICLE XIII. COMPLIANCE WITH PROVISIONS OF DOCUMENTS**

Section 1: Compliance. Each Owner shall comply strictly with the provisions of the Documents and the decisions and resolutions adopted pursuant thereto as the same may be lawfully made and amended and/or modified from time to time. Failure to comply with any of the same shall be grounds for an action to recover sums due; for damages or injunctive relief, or both; and for reimbursement of all attorney's fees incurred in connection therewith, which action shall be maintainable by the Board of Directors or managing agent in the name of the Association on behalf of the Owners or, in a proper case, by an aggrieved Owner.

Section 2: Notice of Violation. In the event an alleged violation of the Documents is brought to the attention of the Board of Directors, the Board of Directors shall give written notice of violation to the Owner describing with reasonable particularity the alleged violation of the documents and granting the Owner a reasonable period of time but not less than fifteen (15) days within which to correct the violation. Notice of violation shall be given as provided in Article II, Section 21 of this Declaration.

Section 3: Hearing. If an Owner disputes a notice of violation, the Owner may request a hearing before the Board of Directors. A request for hearing shall be made in writing and shall be given to the Board of Directors within ten (10) days after the notice of violation was given by the Board of Directors to the Owner. Request for a hearing shall be given to the President of the Association in the manner provided in Article II, Section 21 of this Declaration. Upon receipt of the request for hearing, the Board of Directors shall set a time, date, and location of the hearing, which date shall be not less than fifteen (15) nor more than sixty (60) days following the date that the request for a hearing was given to the Board of Directors. Notice of the time, date, and location of the hearing shall be given to the Owner in the same manner as the notice of violation. The Owner shall have the right to be present at the hearing, to be represented by an attorney (provided that the Board of Directors is given not less than five [5] days prior, written notice of the Owner's intent to be represented by an attorney at the hearing) and to present such evidence as may be relevant to the alleged violation. If at the conclusion of the hearing the Board of Directors determines that the violation exists, the Board of Directors shall issue a written decision within ten (10) days after conclusion of the hearing setting forth the name of the Owner, the Condominium Unit owned, the specific provision or provisions of the documents being violated, and a reasonably detailed description of the violation ("the Written Decision"). The Written Decision shall be given to the Owner in the same manner as the notice of violation.



Section 4: Penalties. The Board of Directors may levy reasonable fines for violation of the Documents, may impose charges for late payment of assessments, and in the event of any litigation the Court shall award the prevailing party all costs and reasonable attorney's fees incurred in enforcing the Documents.

#### **ARTICLE XIV. REVOCATION OR AMENDMENT OF DECLARATION**

Except as otherwise provided in Article XVII hereinafter, this Declaration shall not be revoked unless all the Owners and all Mortgagees consent and agree to such revocation by instrument duly recorded. Subject to the provision of CIOA with respect to amendment of the Declaration, this Declaration shall not be amended unless the Owners representing two-thirds or more of the votes in the Association consent and agree to such amendment by instrument duly recorded; provided, however, that the undivided interest in the Common Elements appurtenant to each Unit, as expressed in the Declaration, shall have a permanent character and shall not be altered without the consent of all of the Unit Owners as expressed in an amended Declaration duly recorded.

#### **ARTICLE XV. ADDITIONS, ALTERATIONS, AND IMPROVEMENTS TO GENERAL COMMON ELEMENTS**

Except for regularly scheduled maintenance, repair or replacement of the Common Elements, including by example and not limitation, roofing and painting of the Buildings, and as permitted by Article XX hereinafter, there shall be no capital additions, alterations, or improvements of or to the General Common Elements by the Association requiring an expenditure in any calendar year in excess of an amount equal to twenty-five percent (25%) of the Association's then-current annual budget without prior approval of the Owners of two-thirds or more of the votes of the Owners present in person or by proxy at a meeting called for such purpose at which a quorum is present, except in the event of an emergency. The limitations set forth above shall not apply to any expenditures made by the Association for maintenance and repair of the Common Elements or for repair in the event of damage, destruction, or condemnation as provided in Articles XVII and XVIII hereinafter.

#### **ARTICLE XVI. INSURANCE**

Section 1: To be Obtained by the Association. The Association shall obtain and maintain at all times, to the extent obtainable at reasonable cost, policies involving standard premium rates established by the Colorado Insurance Commissioner and written with companies licensed to do business in Colorado and having a Best's Insurance Report rating of A & XV or better covering the risks set forth below. The Association shall not obtain any policy where: (i) under the terms of the insurance company's charter, bylaws, or policy, contributions or assessments may be made against a Mortgagee or Mortgagee's designee; or (ii) by the terms of the carrier's charter, bylaws, or policy, loss payments are contingent upon action by the company's board of directors, policyholders, or members; or (iii) the

policy includes any limiting clauses (other than insurance conditions) which could prevent Mortgagees or Owners from collecting insurance proceeds. The types of coverage to be obtained and risks to be covered are as follows:

- (a) Fire Insurance. The Association shall maintain fire insurance with extended coverage and standard all-risk endorsements, which endorsements shall include endorsements for vandalism and malicious mischief. Such policy shall also include an agreed amount endorsement and, if available, an inflation guard endorsement. If requested by a first Mortgagee or an insurer or guarantor of a first mortgage, such policy shall also include construction code endorsements such as demolition cost endorsement, a contingent liability from operation of building laws endorsement, and an increased cost of construction endorsement. Said casualty insurance shall insure any property, the nature of which is a Common Element, including all of the Units, any fixtures, equipment, or other property within the Units which are to be financed by a first Mortgagee, regardless of whether or not such property is a part of the Common Elements, together with all service equipment contained therein, in an amount equal to the full replacement value without deduction for depreciation. All policies shall contain a standard noncontributory mortgage clause in favor of each Mortgagee of a Unit which shall provide that the loss, if any, thereunder shall be payable to the Association for the use and benefit of the Owners and Mortgagees as their interests may appear. The Association shall hold any proceeds of insurance in trust for the use and benefit of the Owners and Mortgagees as their interests may appear. All Unit Owners and all Mortgagees, if any, shall be beneficiaries of the policy in the same proportion as each Owner's appurtenant undivided interest in the Common Elements as set forth on Exhibit "B" attached hereto.
  
- (b) Liability Insurance. The Association shall maintain public liability and property damage insurance in such limits as the Board of Directors may from time to time determine but not in an amount less than One Million Dollars (\$1,000,000) per injury, per person, per occurrence, and umbrella liability limits of One Million Dollars (\$1,000,000) per occurrence covering all claims for bodily injury or property damage. Coverage shall include, without limitation, liability for personal injuries, operation of automobiles on behalf of the Association, and activities in connection with the ownership, operation, maintenance, and other use of the Common Elements. Said policy shall also contain a "severability of interest" endorsement. Coverage under such policy shall include, without limitation, legal

liability of the insureds for property damage, bodily injuries, and death of persons in connection with the operation, maintenance, or use of the Common Elements and legal liability arising out of lawsuits related to employment contracts of the Association. If required by a first Mortgagee or an insurer or guarantor of a first mortgage, such insurance shall also include protection against such other risks as are customarily covered with respect to condominiums similar in construction, location, and use.

- (c) Worker's Compensation Insurance. The Association shall maintain worker's compensation and employer's liability insurance and all other similar insurance with respect to employees of the Association in the amounts and in the forms now or hereafter required by law.
- (d) Officers' and Directors' Insurance. To the extent such insurance can be obtained at reasonable cost, the Association shall maintain blanket fidelity bonds for all officers, directors, and employees of the Association and all other persons handling or responsible for funds of or administered by the Association. If the managing agent has the responsibility for handling or administering funds of the Association, the managing agent shall be required to maintain fidelity bond coverage for its officers, employees, and agents handling or responsible for funds of or administered on behalf of the Association. Such fidelity bonds shall name the Association as an obligee and shall not be less than \$50,000. Such bonds shall contain waivers by the issuers thereof of all defenses based upon the exclusion of persons serving without compensation from the definition of employees or similar terms or expressions. The premiums on all bonds required hereunder, except those maintained by the managing agent, shall be paid by the Association as a Common Expense.
- (e) Other Insurance. The Association may obtain "all-in" insurance coverage and may obtain insurance against such other risks of a similar or dissimilar nature as shall be deemed appropriate, including plate or other glass insurance and insurance covering any personal property of the Association located on the Common Elements.

Section 2: Requirements of Insurance. All policies of insurance, to the extent obtainable, shall contain waivers of subrogation and waivers of any defense based on invalidity arising from any acts of a Unit Owner and shall provide that such policies may not be cancelled or modified without at least thirty (30) days' prior written notice to all of the insureds, including the Association and all Mortgagees. If requested, duplicate originals of all policies and renewals thereof, together with proof of payment of premiums, shall be

delivered to all Mortgagees at least thirty (30) days prior to expiration of the then current policies. The insurance shall be carried in blanket form naming the Association as the insured, as attorney-in-fact for all of the Unit Owners, which policy or policies shall identify the interest of each Unit Owner (Owner's name and Unit number designation) and first Mortgagee. Further, the Association shall require the insurance company or companies providing the insurance coverage described herein to provide to each Owner and Mortgagee a certificate of insurance in regard to such Owner's individual Unit.

Section 3: Attorney-in-Fact. Notwithstanding any of the foregoing provisions and requirements relating to property or liability insurance, there may be named as an insured, on behalf of the Association, an authorized representative who shall have the exclusive authority to negotiate losses under any policy providing such property or liability insurance and to perform such other functions as are necessary to accomplish such purpose. All of the Owners hereby irrevocably constitute the Association as their true and lawful attorney-in-fact in their name, place, and stead for the purpose of purchasing and maintaining such insurance, including the collection and appropriate disposition of the proceeds thereof, the negotiation of losses, the execution of all documents, and the performance of all other acts necessary to accomplish such purpose.

Section 4: To be Obtained by Unit Owners. Insurance coverage on furnishings or other property belonging to an Owner and public liability coverage shall be the sole and direct responsibility of the Unit Owner thereof, and the Board of Directors, Association, and/or the managing agent of the Association shall have no responsibility therefor.

Section 5: Notice to Mortgagees. In the event that there shall be any damage or destruction to, loss of, or taking of a Unit which exceeds Five Thousand Dollars (\$5,000) or any damage or destruction to, loss of, or taking of the Common Elements which exceeds Twenty-Five Thousand Dollars (\$25,000), notice of such damage, loss, or taking shall be given by the Association to each first Mortgagee of said Unit within ten (10) days after the occurrence of such event.

Section 6: Prohibition of Certain Activities. Nothing shall be done or kept in any Unit or upon the Common Elements or any part thereof, which would result in the cancellation of the insurance maintained by the Association, or increase the rate of the insurance maintained by the Association without the prior, written consent of the Board of Directors. Hazardous materials of any kind shall not be allowed within any Unit or upon the Common Elements.

#### **ARTICLE XVII. DESTRUCTION, DAMAGE, OR OBSOLESCENCE**

Section 1: Association as Attorney-in-Fact. This Declaration does hereby make mandatory the irrevocable appointment of an attorney-in-fact to deal with the Common Interest Community in the event of its destruction, damage, obsolescence, or condemnation,

including the repair, replacement, and improvement of any Unit or Common Elements which has been so destroyed, damaged, condemned, or become obsolete. Title to any Unit is declared and expressly made subject to the terms and conditions hereof, and acceptance by any grantee of a deed or other instrument of conveyance from the Declarant or from any Owner or grantor shall constitute appointment of the attorney-in-fact herein provided. All of the Owners irrevocably constitute and appoint the Association as their true and lawful attorney-in-fact in their name, place, and stead, for the purpose of dealing with the Common Interest Community upon its damage, destruction, obsolescence, or condemnation as is hereinafter provided. As attorney-in-fact, the Association, by its president and secretary or other duly authorized officers and agents, shall have full and complete authorization, right, and power to make, execute, and deliver any contract, deed, or other instrument with respect to the interest of a Unit Owner which is necessary and appropriate to exercise the powers herein granted. In the event that the Association is dissolved or becomes defunct, a meeting of the Unit Owners shall be held within thirty (30) days of either such event. At such meeting, a new attorney-in-fact shall be appointed to deal with the Common Interest Community upon its destruction, damage, obsolescence, or condemnation. Said appointment must be approved by the Owners representing more than fifty percent (50%) of the votes in the Association. Repair and reconstruction of the improvements as used in the succeeding paragraphs means restoring the improvements to substantially the same condition in which they existed prior to the damage, with each Unit and the General and Limited Common Elements having substantially the same vertical and horizontal boundaries as before, and all improvements being reconstructed or repaired in conformance with the Common Interest Community's original architectural plan and scheme. The proceeds of any insurance collected shall be available to the Association for the purposes of repair, restoration, reconstruction, or replacement unless the Owners and first Mortgagees agree not to rebuild in accordance with the provisions hereinafter set forth.

Section 2: Insurance Proceeds Sufficient for Restoration. In the event of damage or destruction due to fire or other disaster, the insurance proceeds, if sufficient to reconstruct the improvements, shall be applied by the Association as attorney-in-fact to such reconstruction, and the improvements shall be promptly repaired and reconstructed. The Association shall have full authority, right, and power as attorney-in-fact to cause the repair and restoration of the improvements. Assessments for Common Expenses shall not be abated during the period of insurance adjustments and repair and reconstruction.

Section 3: Insurance Proceeds Insufficient for Restoration (Less Than 70 Percent). If the insurance proceeds are insufficient to repair and reconstruct the improvements and if such damage is not more than seventy percent (70%) of the total replacement cost of all of the Units not including land, such damage or destruction shall be promptly repaired and reconstructed by the Association as attorney-in-fact using the proceeds of insurance and the proceeds of a special assessment to be made against all of the Owners and their Units. Such special assessment shall be a Common Expense and made prorata according to each Owner's percentage share of Common Expenses and shall be due and payable within thirty

(30) days after written notice thereof or as otherwise approved by the Board of Directors. The Association shall have full authority, right, and power as attorney-in-fact to cause the repair, replacement, or restoration of the improvements using all of the insurance proceeds for such purpose, notwithstanding the failure of an Owner to pay the assessment. The assessment provided for herein shall be a debt of each Owner and a lien on his or her Unit. In addition thereto, the Association as attorney-in-fact shall have the absolute right and power to sell the Unit of any Owner refusing or failing to pay such deficiency assessment within the time provided, and if not so paid, the Association shall cause to be recorded a notice that the Unit of the delinquent Owner shall be sold by the Association as attorney-in-fact pursuant to the provisions of this section. Assessments for Common Expenses shall not be abated during the period of insurance adjustment and repair and reconstruction. The delinquent Owner shall be required to pay to the Association the costs and expenses incurred in filing the notice, interest at the rate of eighteen percent (18%) per annum on the amount of the assessment, and all reasonable attorney's fees. The proceeds derived from the sale of such Unit shall be used and disbursed by the Association as attorney-in-fact in the following order: (a) for payment of the balance of the lien of any first mortgage; (b) for payment of taxes and special assessment liens in favor of any assessing entity and the customary expenses of sale; (c) for payment of unpaid Common Expenses and all costs, expenses, and fees incurred by the Association; (d) for payment of junior liens and encumbrances in the order of and to the extent of their priority; and (e) the balance remaining, if any, shall be paid to the Unit Owner.

Section 4: Insurance Proceeds Insufficient for Restoration (More Than 70 Percent).

If the insurance proceeds are insufficient to repair and reconstruct the improvements and if such damage is more than seventy percent (70%) of the total replacement cost of all of the Units not including land, such damage or destruction shall be promptly repaired and reconstructed by the Association as attorney-in-fact using the proceeds of insurance and the proceeds of a special assessment to be made against all of the Owners and their Units; provided, however, that Owners representing two-thirds or more of the votes in the Association may agree not to repair or reconstruct the improvements. In such event, the Association shall record a notice setting forth such fact or facts, and upon the recording of such notice by the Association, the entire Common Interest Community shall be sold by the Association as attorney-in-fact pursuant to the terms of this section, free and clear of the provisions contained in this Declaration, the Plat, Articles of Incorporation, and Bylaws. Assessments for Common Expenses shall not be abated during the period prior to sale. The insurance settlement proceeds shall be divided by the Association according to each Owner's interest in the Common Elements, and such divided proceeds shall be paid into separate accounts, each account representing one of the Units. Each account shall be in the name of the Association and shall be further identified by the Unit designation and name of the Owner. From each separate account, the Association as attorney-in-fact shall use and disburse the total account toward the partial or full payment of the lien of any first Mortgagee encumbering the Unit represented by such separate account. Thereafter, each account shall be supplemented by the apportioned amount of the proceeds obtained from the

sale of the entire Common Interest Community. Such apportionment shall be based upon each Unit Owner's interest in the Common Elements. The total funds of each account shall be used and disbursed, without contribution, from one account to another by the Association as attorney-in-fact for the same purposes and in the same order as provided in Section 3 hereinabove. In the event that the damage is to be repaired or reconstruction is to be made, then the provisions of Section 3 hereinabove shall apply.

Section 5: Obsolescence (Renew/Reconstruct). Owners holding seventy-five percent (75%) or more of the votes in the Association may agree that the Common Elements are obsolete and adopt a plan for the renewal and reconstruction. If a plan for the renewal or reconstruction is adopted, notice of such plan shall be recorded and the expense of renewal and reconstruction shall be payable by all of the Owners as a Common Expense, whether or not they have previously consented to the plan of renewal and reconstruction. The Association as attorney-in-fact shall have the absolute right and power to sell the Unit of any Owner refusing or failing to pay such assessment within the time provided, and if not so paid, the Association shall cause to be recorded a notice that the Unit of the delinquent Owner shall be sold by the Association. The delinquent Owner shall be required to pay to the Association the costs and expenses for filing the notices, interest at the rate of eighteen percent (18%) per annum, and all reasonable attorney's fees. The proceeds derived from the sale of such Unit shall be used and disbursed by the Association as attorney-in-fact for the same purposes and in the same order as is provided in Section 3 hereinabove. Nothing contained in the foregoing shall be construed to prevent or prohibit the Association acting through the Board of Directors to renovate or renew the Common Elements as part of scheduled or ongoing maintenance and repair.

Section 6: Obsolescence (Sell). Owners, other than the Declarant, holding seventy-five percent (75%) or more of the votes in the Association may agree that the Units are obsolete and should be sold. In such instance, the Association shall record a notice setting forth such fact or facts, and upon the recording of such notice of the Association, the entire Common Interest Community shall be sold by the Association as attorney-in-fact, free and clear of the provisions contained in this Declaration, the Plat, the Articles of Incorporation, and the Bylaws. The sale proceeds shall be apportioned among the Owners on the basis of each Owner's interest in the Common Elements, and such apportioned proceeds shall be paid into separate accounts, each account representing one of the Units. Each account shall be in the name of the Association and shall be further identified by the Unit designation and name of the Owner. From each separate account, the Association as attorney-in-fact shall use and disburse the total account, without contribution from one account to another, for the same purposes and in the same order as provided in Section 3 hereinabove.

#### **ARTICLE XVIII. CONDEMNATION**

If at any time during the continuance of the condominium ownership pursuant to this Declaration, all or any part of the Common Interest Community shall be taken or

condemned by any public authority or sold or otherwise disposed of in lieu of or in avoidance thereof, the following provisions shall apply:

Section 1: Proceeds. All compensation, damages, or other proceeds therefrom ("the Condemnation Award") shall be payable to the Association. The Association shall represent the Owners in the condemnation proceedings or in the negotiation, settlements, and agreements with the condemning authority for acquisition of the Common Elements or any part thereof by the condemning authority. All of the Owners hereby irrevocably constitute and appoint the Association as their true and lawful attorney-in-fact, in their name, place, and stead, for the purpose of dealing with the Common Interest Community upon such condemnation as hereinabove set forth. In the event of a taking or acquisition of part or all of the Common Elements by a condemning authority, the Condemnation Award shall be payable to the Association to be held in trust for the Owners and the first Mortgagees as their interests may appear.

Section 2: Complete Taking.

- (a) In the event the entire Common Interest Community is taken or condemned or is sold or otherwise disposed of in lieu of or avoidance thereof, the condominium ownership pursuant to this Declaration shall terminate. The Condemnation Award shall be apportioned among the Owners on the same basis as each Unit Owner's interest in the Common Elements; provided, however, that if a standard different from the value of the Common Interest Community as a whole is employed as the measure of the Condemnation Award in the negotiation, judicial decree, or otherwise, then in determining such shares, the same standard shall be employed to the extent it is relevant and applicable.
- (b) On the basis of the principle set forth in the last preceding paragraph, the Association shall, as soon as practicable, determine the share of the Condemnation Award to which each Owner is entitled. Such shares shall be paid into separate accounts and disbursed as soon as practicable in the same manner provided in Article XVII, Section 3, hereinabove.

Section 3: Partial Taking. In the event less than the entire Common Interest Community is taken or condemned or is sold or otherwise disposed of in lieu of or in avoidance thereof, the condominium ownership hereunder shall not terminate. Each Owner shall be entitled to a share of the Condemnation Award as determined in this section. As soon as practicable, the Association shall reasonably and in good faith allocate the Condemnation Award between compensation, damages, or other proceeds and shall apportion the amounts so allocated among the Owners as follows: (a) the total amount



allocated to taking of or injury to the Common Elements shall be apportioned among the Owners on the basis of each Owner's interest respectively in the Common Elements; (b) the total amount allocated to severance damages shall be apportioned to those Units which were not taken or condemned; (c) the respective amounts allocated to the taking of or injury to a particular Unit and to the improvements an Owner has made within his or her own Unit shall be apportioned to the particular Unit involved; and (d) the total amount allocated to consequential damages and any other takings or injuries shall be apportioned as the Association determines to be equitable in the circumstances. If the allocation of the Condemnation Award is already established in negotiations, judicial decree, or otherwise, then in allocating the Condemnation Award, the Association shall employ such allocation to the extent it is relevant and applicable. Distribution of apportioned proceeds shall be disbursed as soon as practicable in the same manner provided in Article XVII, Section 3, hereinabove.

Section 4: Reorganization. In the event a partial taking results in the taking of a complete Unit, the Owner thereof shall automatically cease to be a member of the Association; shall cease to hold any right, title, or interest in the remaining Common Elements; and shall execute any and all documents necessary to accomplish the same. Thereafter, the Association shall reallocate the ownership, voting rights, and assessment ratio in accordance with this Declaration at its inception and shall submit such reallocation to the Owners of remaining Units for amendment to this Declaration as provided in Article XIV hereinabove.

Section 5: Reconstruction and Repair. Any reconstruction and repair necessitated by condemnation shall be governed by the procedures specified in Article XVII hereinabove.

#### **ARTICLE XIX. SPECIAL DECLARANT RIGHTS AND ADDITIONAL RESERVED RIGHTS**

1. Special Declarant Rights. Subject to the limitations set forth in CIOA, Declarant hereby reserves the right for a period of twenty (20) years after this Declaration is recorded in the office of the Clerk and Recorder of Larimer County, Colorado, to perform the acts and exercise the rights hereinafter specified ("the Special Declarant Rights"). Declarant's Special Declarant Rights include the following:

- (a) Completion of Improvements. The right to complete improvements indicated on the Plat.
- (b) Easements. The right to use easements and rights of way within the Common Interest Community for the purpose of making improvements within the Common Interest Community.

- (c) Control of Association and Board. The right to appoint or remove any officer of the Association or any member of the Board of Directors.

2. Additional Reserved Rights. In addition to the Special Declarant Rights set forth in Section 1 above, the Declarant also reserves the following additional rights ("the Additional Reserved Rights"). Declarant's Additional Reserved Rights include the following:

- (a) Dedications. The right to establish, from time to time, by dedication or otherwise, access, utility, and other easements over, across, and upon the Common Elements for purposes including, but not limited to, streets, paths, walkways, drainage, recreation areas, and utilities and to create other reservations, exceptions, and exclusions over, across, and upon the Common Elements for the benefit of and to serve the Unit Owners and the Association.
- (b) Use Agreements. The right to enter into, establish, execute, amend, and otherwise deal with contracts and agreements for the use, lease, maintenance, improvement, or regulation of Common Elements.
- (c) Designation of Parking Spaces. The right to designate specific parking spaces as Limited Common Elements appurtenant to specific Residential Units. Such designation shall be made by the recording of a supplement to the Plat which shall indicate the specific Residential Unit to which a specific parking space is appurtenant. Except for the recording of a supplement to the Plat, no amendment or supplement to this Declaration shall be necessary to designate specific parking spaces as Limited Common Elements appurtenant to specific Residential Units.

## **ARTICLE XX. RESERVATION OF EXPANSION AND DEVELOPMENT RIGHTS**

1. Expansion Rights. Declarant expressly reserves the right to subject to the provisions of this Declaration all or any part of the real property described on Exhibit "C" attached hereto and incorporated herein by reference ("the Development Property"). The consent of the existing Unit Owners or Mortgagees shall not be required for any such expansion, and Declarant may proceed with such expansion without limitation, at its sole and absolute discretion.

2. Withdrawal Rights. If all or any part of the Development Property is submitted to this Declaration, Declarant expressly reserves the right to withdraw all or any portion

of the Development Property from the Common Interest Community by recording a document evidencing such withdrawal in the office of the Clerk and Recorder of Larimer County, Colorado. The Real Estate withdrawn from the Common Interest Community shall be subject to such easements, if any, as are reasonably necessary for access to or operation of the Common Interest Community. Declarant shall prepare and record in the office of the Clerk and Recorder of Larimer County, Colorado, such documents as may be reasonably necessary to evidence such easements.

3. Amendment of the Declaration. If Declarant elects to submit the Development Property, or any part thereof, to this Declaration, Declarant shall record an amendment to the Declaration containing a legal description of the Development Property, or portion thereof to be submitted to this Declaration, and reallocating the Allocated Interests so that the Allocated Interests appurtenant to each Unit will be apportioned according to the total number of Units submitted to the Declaration. The Allocated Interests appurtenant to each Unit in the Common Interest Community, as expanded, shall be a fraction, the numerator of which shall be the number of square feet within each Unit and the denominator of which shall be the total number of square feet within all Units in the Common Interest Community, as expanded. The amendment may contain additional covenants, conditions, and restrictions applicable only to the Units and/or Common Elements contained within the Development Property added to the Real Estate by such amendment.

4. Plat. Declarant shall, contemporaneously with the amendment of this Declaration, file a Plat showing the Development Property or portion thereof to be submitted to this Declaration and the Units and Common Elements created within the Development Property or portion thereof to be submitted to this Declaration.

5. Interpretation. Recording of amendments to this Declaration pursuant to this Article XX in the office of the Clerk and Recorder of Larimer County, Colorado, shall automatically (a) vest in each existing Unit Owner the reallocated Allocated Interests appurtenant to each Owner's Unit; and (b) vest in each existing Mortgagee a perfected Security Interest in the reallocated Allocated Interests appurtenant to the encumbered Unit. Upon the recording of an amendment to this Declaration, the definitions in this Declaration shall automatically be extended to encompass and to refer to the Real Estate as expanded. The Development Property, or any part thereof, shall be added to and become a part of the Real Estate for all purposes. All conveyances of Units after such expansion shall be effective to transfer rights in all Common Elements as expanded, whether or not reference is made to any amendment to this Declaration, subject to any restrictions on the use of the Common Elements as set forth in the amendment to this Declaration adding the Development Property, or any part thereof, to the Real Estate. Reference to this Declaration in any instrument shall be deemed to include all amendments to this Declaration without specific reference thereto.

6. Maximum Number of Units. The maximum number of Units in the Common Interest Community, as expanded, shall not exceed the number set forth in Article III,

Section 6, above. Declarant shall not be obligated to expand the Common Interest Community beyond the number of Units initially submitted to this Declaration.

7. Construction Easement. Declarant expressly reserves the right to perform construction work, store materials on Common Elements, and the future right to control such work and the right of access thereto until its completion. All work may be performed by Declarant without the Consent or Approval of any Unit Owner or Mortgagee. Declarant has such an easement through the Common Elements as may be reasonably necessary for the purpose of discharging Declarant's obligations and exercising Declarant's reserved rights in this Declaration. Such easement includes the right to construct underground utility lines, pipes, wires, ducts, conduits, and other facilities across the Real Estate for the purpose of furnishing utility and other services to the Development Property. Declarant's reserved construction easement includes the right to grant easements to public, quasi-public, or cooperative utility companies and to convey improvements within those easements.

8. Reciprocal Easements. If all or any part of the Development Property is submitted to but subsequently withdrawn from the Common Interest Community ("the Withdrawn Property"): (a) the Unit Owner(s) of the Withdrawn Property shall have such easements as are reasonably necessary or desirable, if any, for access, utility service, repair maintenance, and emergencies over and across the Common Interest Community; and (b) the Unit Owner(s) in the Common Interest Community shall have such easements as are reasonably necessary or desirable, if any, for access, utility service, repair, maintenance, and emergencies over and across the Withdrawn Property. Declarant shall prepare and record in the office of the Clerk and Recorder of Larimer County, Colorado, such documents as are reasonably necessary to evidence such easements. Such recorded easement(s) shall specify that the Unit Owners of the Withdrawn Property and the Unit Owners of the Common Interest Community shall be obligated to pay a proportionate share of the cost of the operation and maintenance of any easement(s) on the other's property upon such reasonable basis as the Declarant shall establish in the easement(s). Preparation and recordation by Declarant of an easement pursuant to this section shall conclusively determine the existence, location, and extent of the reciprocal easements that are necessary or desirable as contemplated by this section.

9. Termination and Expansion of Development Rights. The expansion and development rights reserved to Declarant, for itself and its successors and assigns, shall expire twenty (20) years from the date of recording this Declaration in the office of the Clerk and Recorder of Larimer County, Colorado, unless the expansion and development rights are (a) extended as allowed by law or (b) reinstated or extended by the Association, subject to such terms, conditions, and limitations as the Board of Directors may impose on the subsequent exercise of the expansion and development rights by Declarant.

10. Transfer of Rights. Any expansion, development, or, withdrawal right created or reserved under this Article to or for the benefit of Declarant as well as the Special Declarant Rights and Additional Reserved Rights created or reserved to or for the Declarant under Article XIX of this Declaration may be transferred to any Person by an instrument describing the rights transferred and recorded in the office of the Clerk and Recorder of Larimer County, Colorado. Such instrument shall be executed by the transferor Declarant and the transferee.

#### ARTICLE XXI. GENERAL PROVISIONS

Section 1: Enforcement. Enforcement of this Declaration shall be by appropriate proceedings at law or in equity against those persons or entities violating or attempting to violate any covenant, condition, or restriction herein contained. Such civil action shall be for the purpose of removing a violation, restraining a future violation, for recovery of damages for any violation, or for such other and further relief as may be available. Such civil action may be prosecuted by an Owner, by the Architectural Control Committee, or by the Association. In the event it becomes necessary to commence a civil action to enforce or defend this Declaration, the court shall award to the prevailing party in such civil action, in addition to such damages as the Court may deem just and proper, an amount equal to the costs, reasonable attorney's fees, and costs of collection incurred by the prevailing party in connection with such civil action. The failure to enforce or to cause the abatement of any violation of this Declaration shall not preclude or prevent the enforcement thereof or of a further or continued violation, whether such violation shall be of the same or of a different provision of this Declaration. For any failure to comply with the provisions of any of the documents, the Association, any Owner, or any class of Owners adversely affected by the failure to comply may seek reimbursement for collection costs and reasonable attorneys' fees and costs incurred as a result of such failure to comply, without the necessity of commencing a civil action. Notwithstanding any other provision of this Declaration, in connection with any claim in which an Owner is alleged to have violated a provision of the documents and in which the court finds that the Owner prevailed because the Owner did not commit the alleged violation:

(a) the court shall award the Owner reasonable attorneys' fees and costs incurred in asserting or defending the claim; and

(b) the court shall not award costs or attorneys' fees to the Association. In addition, the Association shall not allocate to the Owner's account any of the Association's costs or attorneys' fees incurred in asserting or defending the claim.

Section 2: Duration. This Declaration shall run with the land, shall be binding upon all persons owning Units and any persons hereafter acquiring said Units, and shall be in effect in perpetuity unless amended or terminated as provided herein.

Section 3: Amendment. Except as otherwise provided in this Declaration, this Declaration may be altered or amended at any time by the affirmative vote of the then record Owners of sixty-seven percent (67%) or more of the Lots; provided, however, that provisions of this Declaration granting access to each Lot from a public street, road, or highway may not be amended without the consent of all Owners and all Mortgagees, and provisions of this Declaration pertaining to the maintenance of the Common Elements, including the Streets may not be amended without the consent of Larimer County. To the extent this Declaration requires first Mortgagees to approve or consent to any amendment to this Declaration, the Association may send a dated, written notice and a copy of any proposed amendment by certified mail to each first Mortgagee at its most recent address as shown on the recorded deed of trust or recorded assignment thereof. In addition, the Association may cause the dated notice, together with information on how to obtain a copy of the proposed amendment, to be printed in full at least twice, on separate occasions at least one week apart, in a newspaper of general circulation in Larimer County. A first Mortgagee that does not deliver to the Association a negative response within sixty (60) days after the date of the notice shall be deemed to have approved the proposed amendment.

Section 4: Management of the Common Areas. The Association may obtain and pay for the services of a managing agent to manage its affairs, or any part thereof, to the extent it deems advisable, as well as such other personnel as the Association shall determine to be necessary or desirable for the proper management, operation, and maintenance of the Common Elements; provided, however, that any contract in regard to the hiring or employing of such a managing agent or other personnel shall not be for a term in excess of three (3) years and shall provide that the same shall terminate on sixty (60) days' written notice, with or without cause, and without payment of any termination fee.

Section 5: Conflict. In the event of any conflict between the terms and provisions of the Acts and the terms and provisions of this Declaration, the terms and provisions of the Acts shall control. In the event of any conflict between the terms and provisions of this Declaration and the terms and provisions of the Articles of Incorporation, Bylaws, or Rules and Regulations of the Association, the terms and provisions of this Declaration shall control.

Section 6: Time. In computing any period of time prescribed or allowed by this Declaration, the date of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included unless it is a Saturday, a Sunday, or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, a Sunday, or a legal holiday. For purposes of this Declaration, a day shall end at 6 p.m.

Section 7: Telephone and Television Service. The Declarant may enter into one or more written contracts with Qwest Communications, Inc. and Ecostar Satellite T.V. to provide telephone and television service to each of the Condominium Units. The Declarant

shall assign all such Contracts to the Association, and the Association shall assume the Contracts and all obligations of the Declarant thereunder, and shall indemnify and hold harmless the Declarant from and against any and all loss, cost, and expense including reasonable attorney's fees arising out of, as a result of, or in connection with, the failure of the Association to perform the Declarant's obligations under such agreements.

IN WITNESS WHEREOF, the Declarant has caused this Declaration to be executed as of the day and year first above written.

FORT COLLINS HABITAT FOR  
HUMANITY, INC., a Colorado nonprofit  
corporation

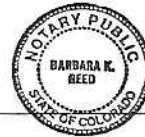
By: Glen R. Goff  
Name: Glen R. Goff  
Title: Treasurer

STATE OF COLORADO )  
                                  ) ss.  
COUNTY OF LARIMER )

The foregoing instrument was acknowledged before me this 19<sup>th</sup> day of March, 2007, by Glen R. Goff as Treasurer of FORT COLLINS HABITAT FOR HUMANITY, INC., a Colorado nonprofit corporation.

Witness my hand and official seal.  
My commission expires: 11-9-08

Barbara K. Reed  
Notary Public



**EXHIBIT "A"**

**Legal Description of Real Estate**

Lot M2, Rigden Farm Filing Six as recorded on May 28, 2004, at Reception Number 2004-0051421 in the records of the Larimer County Clerk and Recorder (LCCR) being part of Section Twenty-Nine (29), Township Seven North (T.7N.), Range Sixty-Eight West (R.68W.) of the Sixth Principal Meridian (6<sup>th</sup> P.M.), City of Fort Collins, County of Larimer, State of Colorado.

Said described parcel of land contains 21,561 square feet, more or less ( $\pm$ ) and is subject to any rights-of-way or other easements as granted or reserved by instruments of record or as now existing on said described parcel of land.



**EXHIBIT "B"**

**Table of Interests**

Unit	Basement	1 <sup>st</sup> Floor	2 <sup>nd</sup> Floor	Garage	L.C.E.	Total	Percentage
A	914	929	523	479	179	3,024	21.47%
B	590	596	639	478	181	2,484	17.63%
C	590	597	639	459	177	2,462	17.48%
D	917	965	199	443	153	2,677	19.00%
E		1,166		474	78	1,718	12.20%
F		1,163		478	80	1,721	12.22%
						14,086	100.00%

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**EXHIBIT "C"**

**Legal Description of Development Property**

Lot M6 and M7, Rigden Farm Filing Six as recorded on May 28, 2004, at Reception Number 2004-0051421 in the records of the Larimer County Clerk and Recorder (LCCR) being part of Section Twenty-Nine (29), Township Seven North (T.7N.), Range Sixty-Eight West (R.68W.) of the Sixth Principal Meridian (6<sup>th</sup> P.M.), City of Fort Collins, County of Larimer, State of Colorado.