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**COMMON INTEREST COMMUNITY DECLARATION
OF
HIGHLANDS AT VALLEJO CONDOMINIUMS**

**3233 VALLEJO, LLC
DECLARANT**

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DECLARATION OF
HIGHLANDS AT VALLEJO
CONDOMINIUMS
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**DECLARATION OF
HIGHLANDS AT VALLEJO CONDOMINIUMS**

THIS DECLARATION OF HIGHLANDS AT VALLEJO CONDOMINIUMS (the 'Declaration' is made as of August 19, 1999, by 3233 Vallejo, LCC., (the "Declarant"), owner of the property.

RECITALS

A. Declarant is owner of that certain real property located in the City and County of Denver, Colorado, more particularly described on the attached Exhibit A (the "Property").

B. Declarant desires to create a common interest community pursuant to the Colorado Common Interest Ownership Act as set forth in Colorado Revised Statute Section 38-33.3-101 et. seq. (the "Act") out of the Property, the name of which is Highlands at Vallejo Condominiums.

ARTICLE 1

DECLARATION AND SUBMISSION

Section 1.1 Declaration. Declarant hereby declares that the Property shall be held, sold and conveyed subject to the following covenants, restrictions and easements which shall run with the land and be binding on all parties and heirs, successors and assigns of parties having any right, title or interest in all or any part of the Property. Additionally, Declarant hereby submits the Property to the provisions of the Act.

ARTICLE 2

DEFINITIONS

The following words when used in the Declaration or any Supplemental Declaration shall have the following meanings:

Section 2.1 "Agency" means and shall collectively refer to, the Federal National Mortgage Association (FNMA), the Government Mortgage Association (GNMA), the Federal Home Loan Mortgage Corporation (FHLMC), the Department of Housing and Urban

Development (HUD), the Department of Veteran's Affairs (formerly the Veterans Administration (VA), the Colorado Housing and Finance Authority (CHFA) or any other governmental or quasi-governmental agency or any other public, quasi-public or private entity which performs (or may perform in the future) functions similar to those currently performed by any of such entities.

Section 2.2 "Allocated Interests" means the undivided interest in the Common Elements, the Common Expense Liability and the Votes in the Association. The interests allocated to each Unit have been calculated by the following formulas:

2.2a Undivided Interest in the Common Elements. The percentage of the undivided interest in the Common Elements allocated to each Unit is based on the proportion of the total square footage of floor area in each Unit to the total square footage of the floor area in all of the Units, as calculated by a Surveyor, and as shown in the attached Exhibit B.

2.2b Liability for the Common Expenses. The percentage of liability for Common Expenses allocated to each Unit is based on the proportion of the total square footage of floor area in each Unit to the total square footage of the floor area in all of the Units, as calculated by a Surveyor, and as shown in the attached Exhibit B. Notwithstanding such allocation, certain Common Expenses may be apportioned to particular Units under Articles 6 or 10 of this Declaration.

2.2c Votes. Each Owner of a Unit in the Project shall be a member of the Association and each Unit shall be entitled to one vote to be exercised by the Owner or Owners thereof.

Section 2.3 "Articles" means the Articles of Incorporation for Highlands at Vallejo Homeowner's Association, Inc., a Colorado Non-Profit Corporation, currently on file with the Colorado Secretary of State and any amendments that may be made to those Articles from time to time.

Section 2.4 "Annual Assessment" means the Assessment levied pursuant to an annual budget.

Section 2.5 "Assessments" means the Annual, Special and Default Assessments levied pursuant to Article 10 below. Assessments are also referred to as a Common Expense Liability as defined under the Act.

Section 2.6 "Association" means the Highlands at Vallejo Homeowner's Association, Inc., a Colorado Non-Profit Corporation, and its successors and assigns.

Section 2.7 "Association Documents" means this Declaration, the Articles of Incorporation, the Bylaws, the Map, the Design Guidelines, and any procedures, rules, regulations or policies adopted under such documents by the Association.

Section 2.8 "Bylaws" means the Bylaws adopted by the Association, as amended from time to time.

Section 2.9 "Clerk and Recorder" means the office of the Clerk and Recorder of the City and County of Denver, Colorado.

Section 2.10 "Common Element" means all portions of the Project except the Units. The Common Elements are owned by the Owners in undivided interest according to the Allocated Interest set forth in Section 2.2a above and consist of Common Elements and Limited Common Elements.

2.10a "Common Elements" means all tangible physical properties of this Project except Limited Common Elements and the Units.

2.10b "Limited Common Elements" means those parts of the Common Elements which are either limited to, or reserved in the Declaration or, on the Map, or by action of the Association, for the exclusive use of an Owner of a Unit, or, are limited to, and reserved for, the common use of more than one but fewer than all Owners, including, without limitation, Parking Spaces. The Limited Common Element Parking Spaces are allocated to the Units as set forth in Exhibit C, attached hereto and by this reference made a part hereof. The Limited Common Elements are subject to reallocation between or among the Units as provided for in §38-33.3-208 of the Act, without amendment to this Declaration.

Section 2.11 "Common Expenses" means (I) all expenses expressly declared to be Common Expenses by this Declaration or the bylaws of the Association; (ii) all other expenses of administering, servicing, conserving, managing, maintaining, repairing or replacing the Common Elements; (iii) insurance premiums for the insurance carried under Article 9; and (iv) all expenses lawfully determined to be Common Expenses by the Executive Board.

Section 2.12 "County" means the City and County of Denver, Colorado.

Section 2.13 "Declaration" means this Declaration and the Map, and amendments and supplements to the foregoing.

Section 2.14 "Executive Board" means the governing body of the Association.

Section 2.15 "First Mortgage" means any Mortgage the priority of which is not subject to any monetary lien or encumbrance except liens for taxes or other liens that are given priority by statute.

Section 2.16 "First Mortgages" means any person named as a Mortgagee in any First Mortgage.

Section 2.17 "Manager" means a person or entity engaged by the Association to perform certain duties, powers or functions of the Association, as the Executive Board may authorize from time to time.

Section 2.18 "Map" means the Condominium Map of the Project recorded with the Clerk and Recorder, depicting a plan and the elevations of all or part of the Property subject to this Declaration and any supplements and amendments thereto.

Section 2.19 "Member" means any person or entity that hold membership in the Association.

Section 2.20 "Mortgage" means any mortgage, deed of trust or other document pledging any Unit or interest therein as security for payment of debt or obligation.

Section 2.21 "Mortgages" means any person named as mortgagee or beneficiary in any Mortgage, or any successor to the interest of any such person under such Mortgage.

Section 2.22 "Owner" means the owner of record, whether one or more persons or entities, of fee simple title to any Unit. "Owner" also includes the purchaser under a contract for deed covering a Unit with a current right of possession and interest in the Unit.

Section 2.23 "Owner's Agent" means members of the Unit Owner's family, or the Unit Owner's agent, employee, invitee, licensee or tenant.

Section 2.24 "Project" means the common interest community created by this Declaration and as shown on the Map consisting of the Property, the Units and the Common Elements.

Section 2.25 "Unit" means, with respect to enclosed units intended for dwelling, one individual airspace which is contained within the perimeter windows, doors and unfinished surfaces enclosing the air ceilings and floors of the Units as shown on the Map, together with the appurtenant interest in the Common Elements and the appurtenant use of Limited Common Elements.

Section 2.26 "Successor Declarant" means any person or entity to whom Declarant assigns any or all of its rights, obligations or interest as Declarant, as evidenced by an assignment or deed of record executed by both Declarant and the transferee or assignee and recorded with the Clerk and Recorder.

Section 2.27 "Supplemental Declaration" means an instrument which amends this Declaration. A "Supplemental Declaration" may also be called an "Amendment to the Declaration of Highlands at Vallejo Condominiums".

Section 2.28 "Supplemental Map" means a supplemental Map of the Project which depicts any change in the Project through a Supplemental Declaration. A "Supplemental Map" may also be called an "Amendment to the Map of Highlands at Vallejo Condominiums".

Section 2.29 "Trustee". The Trustee is the entity which may be designated by the Executive Board as the Trustee for the receipt, administration and disbursement of funds derived from insured losses, condemnation awards, special assessments for uninsured losses, and other sources as defined in the Bylaws. If no Trustee has been designated, the Trustee will be the Executive Board acting by majority vote.

Each capitalized term not otherwise defined in the Declaration or in the Map shall have the same meanings specified or used in the Act.

ARTICLE 3

NAME AND DIVISION INTO UNITS

Section 3.1 Name. The name of the Project is Highlands at Vallejo Condominiums. The Project is a Condominium pursuant to the Act.

Section 3.2 Association. The name of the Association is Highlands at Vallejo Homeowner's Association, Inc. Declarant has caused the Association to be incorporated as a non-profit corporation under the laws of the State of Colorado

Section 3.3 Number of Units. The number of Units in the Project is 12.

Section 3.4 Identification of Units. The identification number of each Unit is shown on the Map.

Section 3.5 Description and Use of Units:

3.5a Each dwelling Unit, the appurtenant interest in the Common Elements and the appurtenant use of Limited Common Elements, shall comprise one Unit, shall be inseparable and may be transferred, lease, devised or encumbered only as one Unit.

3.5b Any contract of sale, deed, lease, Mortgage, will or other instrument affecting a dwelling Unit may describe it by its Unit number as follows:

Unit No. _____, Highlands at Vallejo Condominiums, together with the right of the use of Limited Common Element Parking Space LCE P-_____, as defined in the Declaration and Map of Highlands at Vallejo Condominiums as recorded in the records of the City and County of Denver, State of Colorado, on October 1, 1999, at Reception Nos. 99-60172655 and 99-60172654, respectively.

3.5c Each Owner shall be entitled to the exclusive ownership and possession of his Unit. Each dwelling Unit shall be used and occupied only as a residence. Except for owner parking spaces or visitor parking spaces, if any, no vehicle may be parked on or within the Project at any time.

3.5d Subject to the provisions of Section 4.10, an Owner shall have the right to lease his Unit in its entirety upon such terms and conditions as the Owner may deem advisable: provided, however, that (i) no leases shall be made for less than a six-month period; (ii) all leases shall be in writing and shall provide that the lease is subject to the terms of this Declaration and Bylaws, (iii) a Unit may be leased only for the uses provided herein, and (iv) any failure of a lessee to comply with the terms of this Declaration or any other Association Documents shall be a default under the lease enforceable by the Association as a third party beneficiary, whether or not the lease contains such a provision.

3.5e No household pet or animal shall be allowed in or about the Project, including Common Elements, at any time without adequate supervision by a Unit Owner. Owners will be held responsible for any litter, waste, mess or damage created by their pets in the Common Elements or Limited Common Elements and for any offensive or prolonged noises created by their pets.

ARTICLE 4

MEMBERSHIP AND VOTING RIGHTS: Association OPERATIONS

Section 4.1 The Association. Every Owner of a Unit shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of a Unit.

Section 4.2 Transfer of Membership. An Owner shall not transfer, pledge or alienate his membership in the Association in any way, except upon the sale or encumbrance of his Unit and then only to the purchaser or Mortgagee of his Unit. The Association shall not create a right of first refusal on any Unit and Unit Owners may transfer ownership of their Units free from any such right.

Section 4.3 Membership. The Association shall have one (1) class of membership consisting of all Owners, including the Declarant, so long as Declarant continues to own an interest in any Unit. Except as otherwise provided for in this Declaration, each Member shall be entitled to vote in Association matters as set forth in Section 2.2c above. Each Owner, including Declarant, while Declarant owns any Unit, is subject to all rights and duties assigned to Owners under the Association Documents.

Section 4.4 Board of Directors. The affairs of the Association shall be managed by a Board of Directors which shall consist of the number of members which is set forth in the Association's Articles of Incorporation, as amended, and/or its By-Laws, as amended. From the date of the formation of the Association until termination of Declarant's control as provided for below, the Declarant shall have the right to appoint and remove all members of the Board of Directors and all officers of the Association. The period of Declarant's control of the Association shall terminate upon the first to occur of: sixty (60) days after conveyance of 75% of the Units in the Project to Owners other than Declarant; two (2) years after the last conveyance of a Unit by Declarant in the ordinary course of business; or, three (3) years after the first sale of a Unit to an Owner other than Declarant. Declarant may voluntarily relinquish such power, as evidenced by a notice executed by Declarant and recorded with the Clerk and Recorder, but, in such event, during the period Declarant would otherwise be entitled to appoint and remove directors and officers, any actions of the Board must be approved by Declarant before they become effective. Under the Act, not later than sixty (60) days after conveyance of 25% of the Units to Owners other than Declarant, at least one member and not less than 25% of the members

of the Board of Directors will be elected by Owners other than the Declarant. Not later than sixty (60) days after conveyance of 50% of the Units to Owners other than Declarant, not less than 33 1/3% of the members of the Board of Directors will be elected by Owners other than the Declarant. Not later than the termination of the period of Declarant's control as provided for above, the Owners (including Declarant) shall elect the Board of Directors of at least three (3) members, at least a majority of whom must be Owners other than Declarant or designated representatives of Owners other than Declarant and the Board of Directors shall elect the officers, with such Board members and officer taking office upon termination of the period of Declarant's control.

Section 4.5 **Books and Records.** The Association shall make available for inspection, upon request during normal business hours or under other reasonable circumstances, to Owners and to First Mortgagees, current copies of the Association Documents and the books, records and financial statements of the Association prepared pursuant to the Bylaws. The Association may charge a reasonable fee for copying such materials. The Association shall maintain such books and records as may be required under the Act.

Section 4.6 **Manager.** The Association may employ or contract for the services of a Manager to whom the Executive Board may delegate certain power, functions or duties of the Association, as provided in the Bylaws of the Association. The manager shall not have the authority to make expenditures except as directed by the Executive Board.

Section 4.7 **Rights of Action.** The Association on behalf of itself and any aggrieved Unit Owner shall be granted a right of action against any and all Unit Owners for failure to comply with the provisions of the Association Documents, or with decisions of the Executive Board and pursuant to authority granted to the Association in the Association Documents. The Unit Owners shall have a right of action against the Association for failure to comply with the provisions of the Association Documents, or with decisions of the Executive Board made pursuant to authority granted to the Association in the Association Documents. In any action covered by this section, the Association or any Unit Owner shall have the right, but, not the obligation, to enforce the Association Documents by any proceeding at law or in equity, or, as set forth in the Association Documents, or by mediation, or binding arbitration, if the parties so agree. The prevailing party in any arbitration or judicial proceedings shall be entitled to reimbursement from the non-prevailing party or parties, for all reasonable costs and expenses, including attorneys' fees in connection with such arbitration or judicial relief. Failure by

the Association or by any Owner to enforce compliance with any provision of the Association Documents shall not be deemed a waiver of the right to enforce any provision thereafter.

Section 4.8 Implied Rights and Obligations. The Association may exercise any right or privilege expressly granted to the Association in the Association Documents, by the Act and by the Colorado Non-profit Corporation Act.

Section 4.9 Notice. Any notice to an Owner of matters affecting the Project by the Association or another Owner shall be sufficiently given if in writing and delivered personally, by courier, or, private service of delivery, or the third business day after deposit in the mails by registered or certified mail, return receipt requested, at the address of record for real property tax assessment notices with respect to that Owner's Unit.

Section 4.10 Owner Use and Occupancy Regulation. The Association shall have, and may exercise, the right to control an Owner's use and occupancy of their respective Unit in order to assure Unit Owners of eligibility of the Project for any Agency. In this regard, the Association may adopt rules and regulations with respect to rental of Units to non-Owners. Any Owner wishing to lease a Unit shall be subject to this percentage occupancy requirement and must first apply for authorization from the Association for any non-Owner residential use. Allowance of a Unit Owner to rent a Unit shall be on a first-come, first-serve basis and the Association shall have the authority to permit or deny the use or leasing of any Unit within the Project, subject to then-current federal mortgage eligibility requirements.

ARTICLE 5

POWERS OF THE EXECUTIVE BOARD OF THE ASSOCIATION

Section 5.1 Powers of the Board. Except as provided in the Bylaws and the Act, the Executive Board may act in all instances on behalf of the Association, to:

5.1a Adopt and amend bylaws and rules and regulations;

5.1b Adopt and amend budgets for revenues, expenditures and reserves and collect Assessments;

5.1c Hire and terminate managing agents and other employees, agents and independent contractors;

5.1d Institute, defend or intervene in litigation or administrative proceedings in its own name on behalf of itself or two or more Unit Owners on matters affecting the Project;

5.1e Make contracts and incur liabilities, except that any contract providing for the services of Declarant may not exceed three years and must provide for termination by either party without cause and without payment of termination fee on ninety days or less written notice;

5.1f Regulate the use, maintenance, repair, replacement and modification of Common Elements, including, without limitation, allocating the use of storage spaces to the Units and regulating the use of the owner parking spaces and visitor parking spaces, if any;

5.1g Cause additional improvements to be made as a part of the Common Elements;

5.1h Acquire, hold, encumber and convey in the name of the Association any right, title or interest to real or personal property, except that Common Elements may be conveyed or subjected to a security interest only if (a) Members entitled to cast at least eighty percent (80%) of the votes agree to that action, (b) the provisions of Article 17 are followed with respect to approval of First Mortgagees, and, (c) if all Owners of Units to which any Limited Common Element is allocated agree to convey that Limited Common Element or subject it to a security interest;

5.1i Grant easements, leases, licenses and concessions through or over the Common Elements;

5.1j Impose and receive any payments, fees or charges for the use, rental or operation of the Common Elements;

5.1k Impose charges for late payment of Assessments, recover reasonable attorneys' fees and other legal costs for collection of Assessments and other actions to enforce the power of the Association, regardless of whether or not suit was initiated, and after notice and opportunity to be heard, levy reasonable fines for violations of the Association Documents;

5.1l Impose reasonable charges for the preparation and recordation of amendments to the Declaration or statements of unpaid Assessments;

5.1m Provide for the indemnification of its officers and Executive Board and maintain directors' and officers' liability insurance;

5.1n Assign its right to future income, including the right to receive Assessments;

5.1o Exercise any other powers conferred by the Declaration or Association Bylaws;

5.1p Exercise all other powers that may be exercised in this state by legal entities of the same type as the Association; and

5.1q Exercise any other powers necessary and proper for the governance and operation of the Association.

ARTICLE 6

MECHANICS' LIENS

Section 6.1 No Liability. If any Owner shall cause any material to be furnished to his Unit or any labor to be performed therein or thereon, no Owner of any other Unit, nor the Association, shall under any circumstances be liable for the payment of any expenses incurred, or, for the value of any work done or material furnished. All such work shall be at the expense of the Owner causing it to be done, and such Owner shall be solely responsible to contractors, laborers, materialmen and other persons furnishing labor or materials to his Unit.

Section 6.2 Indemnification. If, because of any act or omission of any Owner, any mechanic's or other lien or order for the payment of money shall be filed against the Common Elements or against any other Owner's Unit or an Owner or the Association (whether or not such lien or order is valid or enforceable as such), the Owner whose act or omission forms the basis for such lien or order shall at his own cost and expense cause the same to be canceled and discharged of record or bonded by a surety company reasonably acceptable to the Association, or to such other Owner or Owners, within twenty (20) days after the date of filing thereof, and further shall indemnify and save all the other Owners and the Association harmless from and against any and all costs, expenses,

claims, losses or damages including, without limitation, reasonable attorneys' fees resulting therefrom.

Section 6.3 Association Action. Labor performed or materials furnished for the Common Elements if duly authorized by the Association in accordance with this Declaration or the Bylaws, shall be the basis for the filing of a lien pursuant to law against the Common Elements. Any such lien shall be limited to the Common Elements and no lien may be effected against an individual Unit or Units.

ARTICLE 7

EASEMENTS

Section 7.1 Recorded Easements. The Property shall be subject to all easements as shown on any Map or Plat, those of record, those provided in the Act (including easements for encroachment set forth in Section 38.33.3-214 of the Act and an easement for maintenance of any such encroachment), and otherwise as set forth in this Article.

Section 7.2 Declarant's Rights Incident to Construction. Declarant, for itself and its successors and assigns, the Association and/or for Owners hereby reserves an easement for construction, utilities, drainage, ingress and egress over, in, upon, under and across the Common Elements, together with the right to store materials on the Common Elements, to build and maintain temporary walls, and to make such other use of the Common Elements as may be reasonably necessary or incident to any construction of the Units, or improvements on the Property or other real property owned by Declarant, or other properties abutting and contiguous to the Property; provide, however, that no such rights shall be exercised by Declarant in a way which unreasonably interferes with the occupancy, use, enjoyment or access to the Project by the Owners.

Section 7.3 Utility Easements. There is hereby created a blanket easement upon, across, over, in and under the Property for the benefit of the Common Elements and the Units and the structures and improvements situated on the Property for ingress and egress, installation, replacing, repairing and maintain all utilities, including, but, not limited to, water, sewer, gas, telephone, cable tv and electricity, including, without limitation, an Easement over, upon and across Unit 11 for access to the Boiler Room at such time, and so often, as is reasonably necessary. Said blanket easement includes future utility services not presently available to the Units which may reasonable be required or are desirable in

the future. By virtue of such easements, it shall be expressly permissible for the companies providing utilities to erect and maintain the necessary equipment on any of the Units and to affix and maintain the necessary equipment on any of the Units and to affix and maintain electrical and/or telephone and/or cable wires, circuits, conduits and pipes on, above, across and under the roofs and exterior walls of any Improvements constructed on the Property, all in a manner customary for such companies in the area surrounding the Property, subject to approval by the Association as to locations.

Section 7.4 Reservation of Easements Exceptions and Exclusions. The Association is hereby granted the right to establish from time to time, by amendment to the Declaration, by Resolution of the Executive Board, or otherwise, utility and other easements, permits or licenses over the Common Elements for the best interest of all the Owners and the Association. Each Owner is hereby granted a perpetual, non-exclusive right of over and across the Common Elements to allow for ingress to, and egress from, the Owner's Unit, Limited Common Elements appurtenant to that Owner's Unit which right shall be appurtenant to the Owner's Unit, and which right shall be subject to limited and reasonable restriction on the use of Common Elements set forth in writing by the Association, such as for closure for repairs and maintenance.

Section 7.5 Emergency Access Easement. A general easement is hereby granted to all police, sheriff, fire protection, ambulance and other similar emergency agencies or persons to enter upon the Property in the proper performance of their duties.

Section 7.6 Support Easement. Each Unit is subject to a blanket easement for support and a blanket easement for the maintenance of structures or improvements presently situated, or to be built in the future, on the Property or any Expansion Property.

ARTICLE 8

MAINTENANCE

Section 8.1 Maintenance by Owners. Each Owner shall maintain and keep in repair the interior of his Unit, including the fixtures thereof to the extent current repair shall be necessary in order to avoid damaging other Unit Owners, and the surfaces of the Limited Common Elements appurtenant to the Unit. All fixtures and equipment installed within the Unit commencing at a point where the utilities enter the Unit shall be maintained and kept in repair by

the Owner of such Unit. An Owner shall do no act or any work that will impair the structural soundness or integrity of the Common Elements or impair any easement. Each Owner shall be responsible for the maintenance of the interior non-supporting walls of his Unit and the surface of the perimeter walls, ceilings and floors within the Unit, including the surface materials thereon, such as plaster, drywall, paneling, wallpaper, paint, tile and carpeting, as well as the windows and screens. The Association reserves the right to grant the maintenance responsibility to the Unit Owner of certain areas of each Unit and of other Limited Common Elements, and the Unit Owner is obligated to accept said maintenance responsibility, provided said assignment is done in a uniform and nondiscriminatory manner.

Section 8.2 **Owner's Failure to Maintain or Repair.** In the event that a Unit (including the allocated Limited Common Elements) is not properly maintained and repaired and if the maintenance responsibility for the un-maintained portion of the Unit lies with the Owner of the Unit, or in the event that the Unit is damaged or destroyed by an event of casualty and the Owner does not take reasonable measures to diligently pursue the repair and reconstruction of those portions of the damaged or destroyed Unit for which the Owner is responsible to substantially the same condition in which they existed prior to the damage or destruction, then the Association, after notice to the Owner and with the approval of the Executive Board (after a determination by the Executive Board that the condition of such Unit negatively impacts other Owners or the value of other units within the Project) shall have the right to enter into the Unit to perform such work as is reasonably required to restore the Unit to a condition of good order and repair. All cost incurred by the Association in connection with such restoration shall be reimbursed to the Association by the Owner of the Unit, upon demand. All unreimbursed costs shall be a lien upon the Unit until reimbursement is made. The lien may be enforced in the same manner as a lien for an unpaid Assessment levied in accordance with Article 10 of this Declaration.

Section 8.3 **Maintenance by Association.** The Association shall be responsible for the maintenance and repair of the Common Elements, whether located inside or outside of Units (except as set forth in Section 8.1 above and unless necessitated by damage cause by negligence, misuse or tortious act of a Unit Owner or Owner's Agent as set forth in Section 8.4 below), which shall be the Common Expense of all Owners. This maintenance shall include, but shall not be limited to, upkeep, repair and replacement, subject to any insurance then in effect, of all landscaping and walls which Owner is not required to maintain as set forth in Section 8.1, gates, signage, irrigation systems, sidewalks, driveways and improvements,

if any (which shall include without limitation snow removal services unless performed by another private or public organization formed for such purposes), located in or upon the Common Elements. In the event the Association does not maintain or repair the Common Elements, Declarant shall have the right, but, not the obligation, to do so at the expense of the Association.

Section 8.4 **Association Maintenance as Common Expense.** The cost of maintenance and repair by the Association shall be a Common Expense of all of the Owners, to be shared by each Unit Owner according to the Allocated Interest thereof as set forth on Exhibit B. 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 instance of the Association shall also be Common Expense of all of the Owners. However, if such damage is caused by negligent or tortious acts of a Unit Owner or Owner's Agent, then such Unit Owner shall be responsible and liable for all of such damage and the cost thereof, to the extent that Owner or Owner's Agent's negligence caused such damage, which must be timely paid.

Section 8.5 **Easement for Maintenance.** Each Owner and the Association shall have the irrevocable right, to be exercised by the Manager, the Executive Board or officers or employees of the Association, to have access to each Unit from time to time during reasonable hours as may be necessary for 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 another Unit. In the event insurance proceeds under Article 9 are payable to an Owner, but, the maintenance responsibility to which such proceeds relate is the Association's, the Association shall complete any such repair or replacement at the Owner's expense.

Section 8.6 **Limited Common Element Damage.** In the event of damage or destruction of a Limited Common Element from any cause other than the negligence or tortious acts of an Owner or Owner's Agent, the then Owner of the Unit to which the Limited Common Element is appurtenant shall bear the expense of repairing or rebuilding the Limited Common Element to its previous condition. To the extent that such damage or destruction is due to another Owner's, or an Owner's Agent's negligence or intentional act, then said Owner and/or Owner's Agent shall be liable for the cost of repair or replacement.

Section 8.7 **Association Power.** The Association shall have the right and power to prohibit storage or other activities deemed

unsafe, unsightly, unreasonably noisy or otherwise offensive to the senses perceptible from another Unit or the Common Elements. No Owner shall make any addition or other alteration to any portion of the Common Elements, no matter how minor, without the express written consent of the Executive Board.

ARTICLE 9

INSURANCE

Section 9.1 General Insurance Provisions. The Association shall acquire and pay for, out of the Assessments levied under Article 10 below, the following insurance policies carried with reputable insurance companies authorized to do business in Colorado:

9.1a Hazard Insurance Coverage. Insurance for fire, with extended coverage, vandalism, malicious mischief, all-risk, replacement cost, agreed amount (if the policy includes co-insurance), special condominium, building ordinance and inflation guard endorsements attached, in amounts determined by the Executive Board to represent no less than the full then current insurable replacement cost of the buildings located on the Property, including all of the Units and Common Elements, including all fixtures, interior and perimeter walls, floors, and ceilings, doors, windows and other element or materials comprising a part of the Units and including any fixtures, equipment or other property within the Units which are to be financed by a Mortgage to be purchased by an Agency including FNMA and FHLMC, and excluding any betterments and improvements made by Unit Owners and building excavations and foundations. Maximum deductible amounts for such policy shall be determined by the Executive Board, provided, however, that if an Agency requires specific deductibles, the Executive Board shall follow such Agency's requirements. In the event the Project has central heating or cooling or contains a steam boiler, coverage for loss or damage resulting from steam boiler and machinery equipment accidents in an amount equal to the lesser of \$2,000,000 or the insurable value of the buildings housing the boiler or machinery shall also be obtained. The Association shall obtain insurance covering the original specifications of each Unit. Each Unit Owner shall be responsible for obtaining additional or supplemental insurance covering any additions, alterations or improvements to their Unit which increase the replacement value of the Unit. In the event that satisfactory arrangement is not made for additional insurance by the Unit Owner, the Unit Owner shall be responsible for any deficiency in any resulting insurance loss recovery and the Association shall not be

obligated to apply any insurance proceeds to restore the affected Unit to a condition better than the condition existing prior to the making of such additions, alterations or improvements. Any additional premiums attributable to the original specifications of a Unit for which the insurance is increased as herein provided may be the subject of a lien for non payment as provided in Section 10.7 hereof in the event the Association pays such premium for a Unit Owner. Such hazard insurance policy must be written by an insurance carrier that has (a) a "B" or better general policyholder rating or a "6" or better financial performance index rating in Best's Insurance Reports, or (b) an "A" or better general policyholder's rating and a financial size category of "VIII" or better in Best's Insurance Reports International Edition.

9.1b **Comprehensive Liability.** Comprehensive general public liability and property damage insurance for the Project in such amounts as the Executive Board deems desirable provided that such coverage shall be for at least \$1,000,000 for bodily injury, including deaths and property damage arising out of a single occurrence insuring the Association, the Executive Board, the Manager or managing agent, or both, if any, and their respective agents and employees, and the Unit Owners from liability in connection with the operation, maintenance and use of Common Elements and must include a "severability of interest" clause or specific endorsement. Such coverage shall also include legal liability coverage arising out of contracts of the Association and such other risks as are customarily covered with respect to condominiums similar to the Project in the Denver metropolitan area including automobile liability insurance if appropriate. The Executive Board shall not enter into employment contracts or independent contractor contracts of any kind unless the contracting party provides evidence (such as a Certificate of Insurance) to the Executive Board that such party has current and satisfactory insurance, including workers compensation insurance, commercial general liability insurance and automobile insurance on all of which the Association is named as an additional insured. The insurance policies may be carried in blanket policy form naming the Association as the insured, for the use and benefit of, and as attorney-in-fact for, the Unit Owners. Each Unit Owner shall be an insured person under the policy with respect to liability arising out of such Unit Owner's interest in the Common Elements or membership in the Association. Each Mortgagee and its successors or assigns shall be beneficiary of the policy in the percentages of Common Expenses for the Unit which the Mortgage encumbers. The insurance company shall waive its rights of subrogation under the insurance policy against any Unit Owner or member of the Unit Owner's household. No act or omission by any Unit Owner, unless acting within the scope of such Unit Owner's authority on behalf of the Association, shall void the insurance policy or be a condition

to recovery under the insurance policy. If, at the time of loss under an insurance policy described above there is other insurance in the name of the Unit Owner covering the same risk covered by the policy, the Association's policy shall provide primary insurance.

Insurance coverage on the furnishings and other items of personal property belonging to an Owner and any additions and alterations to a Unit which increase the Unit's replacement value above that of the original specifications for the Unit (unless financed by a Mortgage to be purchased by FNMA or FHLMC), casualty and public liability insurance coverage for each Unit and the Limited Common Elements associated therewith and workman's compensation insurance covering work within each Unit or on the Limited Common Elements associated therewith shall be the responsibility of the Owner of the Unit.

Section 9.2 Certificates of Insurance; Cancellation. Certificates of insurance shall be issued to each Owner and Mortgagee upon request. All policies required to be carried under this Article 9 shall provide a standard non-contributory mortgagee clause in favor of each First Mortgagee of a Unit and shall provide that such policy cannot be canceled by the insurance company without at least thirty (30) days prior written notice to each Owner and each First Mortgagee whose address is shown in the records maintained pursuant to the Association's Documents. If the insurance described in Article 9 is not reasonably available, or, if any policy of such insurance is canceled, the Board of Directors shall cause notice of that fact to be hand delivered or sent prepaid by United States mail to all Owners and to all First Mortgagees.

Section 9.3 Insurance Proceeds. Any loss covered by the property insurance policy described in Section 9.1 must be adjusted with the Association, but the insurance proceeds for that loss shall be payable to any insurance trustee designated for that purpose, or otherwise to the Association, and not to any holder of a security interest. The insurance trustee or the Association shall hold any insurance proceeds in trust for the Owners and Mortgagees as their interest may appear. Subject to the provisions of Section 9.5 below, the proceeds must be disbursed first for the repair or restoration of the damaged property, and the Association, Owners and Mortgagees are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the damaged property has been completely repaired or restored or the regime created by this Declaration is terminated.

Section 9.4 Insurer Obligation. An insurer that has issued an insurance policy for the insurance described in Section 9.1 and

9.7 or its agent shall issue certificates or memorandum of insurance to the Association and, upon request, to any Owner or Mortgagee. Unless otherwise provided by statute, the insurer issuing the policy may not cancel or refuse to renew it until thirty (30) days after notice of the proposed cancellation or non-renewal has been mailed to the Association and to each Owner and Mortgagee to whom a certificate or memorandum of insurance has been issued at their respective last-known addresses, and to any servicer of a Mortgage for Federal National Mortgage Association.

Section 9.5 Repair and Replacement. Any portion of the Common Elements for which insurance is required under this Article which is damaged or destroyed must be repaired or replaced promptly by the Association unless:

9.5a The common interest community created by this Declaration is terminated, in which case the approval must first be obtained of sixty-seven percent (67%) of all Unit Owners;

9.5b Repair or replacement would be illegal under any state or local statute or ordinance governing health or safety;

9.5c There is a vote not to rebuild by (a) eighty percent (80%) of the Owners entitled to vote and (b) every Owner of a Unit and/or an appurtenant Limited Common Element that will not be rebuilt; or

9.5d Prior to the conveyance of any Unit to a person other than Declarant, the Mortgagee holding a Mortgage on the damaged portion of the Common Elements rightfully demands all or a substantial part of the insurance proceeds.

The cost of repair or replacement of Common Elements in excess of insurance proceeds and reserves is a Common Expense. If all the Common Elements are not repaired or replaced, the insurance proceeds attributable to the damaged Common Elements must be used to restore the damaged area to a condition compatible with the remainder of the Project, and except to the extent that other persons will be distributees', the insurance proceeds must be distributed to all the Owners or Mortgagees, as their interest may appear in proportion to each Unit's Common Expenses Allocated Interest.

Section 9.6 Common Expense. Premiums for insurance that the Association acquires and other expenses connected with acquiring such insurance are Common Expenses, provided, however, that if the Association's fire and extended coverage insurance covers fixtures, equipment or other property within some but not

all of the Units (as required by any Agency including FNMA or FHLMC), or other insurance attributable to some but not all of the Units (such as boiler insurance), the Association reserves the right to charge the Owners of such Units for which the Association provides additional insurance coverage, an amount equal to the premium attributable to such additional insurance coverage.

Section 9.7 Fidelity Insurance. Fidelity insurance or fidelity bonds must be maintained by the Association to protect against dishonest acts on the part of its officers, directors, trustees any employees and on the part of all others, including any manger hired by the Association, who handle or are responsible for handling the funds belonging to or administered by the Association in an amount not less than the greater of (a) twenty-five thousand dollars (\$25,000) or, (b) the estimated maximum of funds, including reserve funds, in the custody of the Association or management agent as the case may be, at any given time during the term of each policy as calculated from the current budget of the Association, but, in no event less than a sum equal to three (3) months' aggregate assessments plus reserve funds. In addition, if responsibility for handling funds is delegated to a Manager, such insurance or bonds must be obtained by or for the Manager and its officers, employees and agents, as applicable. Such fidelity insurance or bonds shall name the Association as the insured and shall contain waivers of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees," or similar terms or expressions.

Section 9.8 Workers' Compensation Insurance. The Executive Board shall obtain workers' compensation or similar insurance with respect to its employees, if applicable, in the amounts and forms as may now, or hereafter, be required by law.

Section 9.9 Other Insurance. The Association shall maintain flood insurance if any part of the Project is located within a Special Flood Hazard Area on a Flood Insurance Rate Map, equal to the lesser of 100% of the insurable value of the Project, or the maximum coverage available under the appropriate National Flood Insurance Program. The Association shall also maintain insurance to the extent reasonably available and in such amounts as the Executive Board may deem appropriate on behalf of the Executive Board against any liability asserted against a Member of the Executive Board or incurred by him in his capacity of or arising out of his status as a Member of the Executive Board. The Executive Board may obtain insurance against such other risks of a similar or dissimilar nature as it shall deem appropriate with respect to the Association's responsibilities and duties or as requested by any Agency.

ARTICLE 10

ASSESSMENTS

Section 10.1 Obligation. Each Owner, including Declarant while an Owner of any Unit, is obligated to pay to the Association (1) the Annual Assessments; (2) Special Assessments; and (3) Default Assessments.

Section 10.2 Budget. Within thirty (30) days after the adoption of any proposed budget for the Association, the Executive Board shall mail, by ordinary first-class mail, or otherwise deliver, a summary of the budget to all the Owners and shall set a date for a meeting of the Owners 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 Owners reject the budget, the budget will be deemed to be ratified, whether or not a quorum is present. In the event that the proposed budget is rejected, the periodic budget last ratified by the Owners must be continued until such time as the Owners ratify a subsequent budget proposed by the Executive Board. The Executive Board shall adopt a budget for the Project and shall submit the budget to a vote of the Owners as provided herein no less frequently than annually. The Executive Board shall levy and assess the Annual Assessments in accordance with the annual budget.

Section 10.3 Annual Assessments. Annual Assessments made for Common Expenses shall be based upon the estimated cash requirements as the Executive Board shall from time to time determine to be paid by all of the Owners, subject to Section 10.2 above. Estimated Common Expenses shall include, but shall not be limited to, the cost of routine maintenance and operation of the Common Elements, expenses of management and insurance premiums for insurance coverage as deemed desirable or necessary by the Association, landscaping of the Common Elements, care of grounds within the Common Elements, routine repairs and renovations within the Common Elements, wages, common water and utility charges for the Common Elements, legal and accounting fees, management fees, expenses and liabilities incurred by the Association under, or by reason of, this Declaration, payment of any default remaining from a previous assessment period, and creation of a reasonable and adequate contingency or other reserve or surplus fund for insurance deductibles and general, routine maintenance, repairs and replacement of improvements within the Common Elements on a periodic basis, as needed.

Annual Assessments shall be payable in monthly installments on a prorated basis in advance and shall be due on the first day of each month. The omission or failure of the Association to fix the Annual Assessments for any assessment period shall not be deemed a waiver, modification or release of the Owners from their obligation to pay the same. The Association shall have the right, but not the obligation, to make prorated refunds of an Annual Assessments in excess of the actual expenses incurred in any fiscal year.

Section 10.4 Apportionment of Annual Assessments. The Common Expenses shall be allocated among the Units on the basis of the Allocated Interest for Common Expenses in effect on the date of assessment, provided, however, that the Association reserves the right to allocate all expenses relating to fewer than all of the Units (such as those expenses attributable to Limited Common Elements and insurance premiums described in Section 9.6) to the Owners of those affected Units only. Prior to the recording of this Declaration, the Declarant has been solely maintaining the Property. Notwithstanding any other term or provision of this Article, the Declarant may, but is not required to, pay the assessments chargeable against any Unit which the Declarant owns, from the time the assessments first become payable until such time as the Declarant sells any such Unit, by continuing to pay expenses, which otherwise would be paid by the Association and included as part of the assessments levied against said Units. The Declarant may do so as long as the amount which the Declarant pays toward such expenses in any month equals or exceeds the total amount of assessments which would otherwise have been paid by the Declarant to the Association. If the Declarant chooses this alternative method of paying the assessments due by it to the Association at the time that the Declarant turns over the control of the Board to the Owners, it shall provide an accounting of such payments.

Section 10.5 Special Assessments. In addition to the Annual Assessments, the Association may levy in any fiscal year one or more Special Assessments, payable over such a period as the Association may determine, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of improvements within the Common Elements or for any other expense incurred or to be incurred as provided in this Declaration. This Section 10.5 shall not be construed as an independent source of authority for the Association to incur expenses, but, shall be construed to prescribe the manner of assessing expenses authorized by other sections of this Declaration. Any amounts assessed pursuant to this section shall be assessed to Owners according to their Allocated Interest for Common Expenses, subject to the right of the Association to assess

only against the Owners of affected Units any extraordinary maintenance, repair or restoration work on fewer than all of the Units shall be borne by the Owners of those affected Units only, and any extraordinary insurance costs incurred as a result of the value of a particular Owner's Unit or the actions of a particular Owner or Owner's Agents shall be borne by the Owner. Notice in writing of the amount of such Special Assessments and the time for payment of the Special Assessments shall be given promptly to the Owner, and no payment shall be due less than ten (10) days after such notice shall have been given.

Section 10.6 Default Assessments. All monetary fines assessed against an Owner pursuant to the Association Documents, or any expense of the Association which is the obligation of an Owner, or which is incurred by the Association on behalf of the Owner pursuant to the Association Documents, shall be a Default Assessment and shall become a lien against such Owner's Unit which may be foreclosed or otherwise collected as provided in this Declaration. Notice of the amount and due date of such Default Assessment shall be sent to the Owner subject to such Assessment at least ten (10) days prior to the due date.

Section 10.7 Effect of Nonpayment; Assessment Lien. Any Assessment installment, whether pertaining to any Annual, Special or Default Assessment, which is not paid on or before five (5) days after its due date shall be delinquent. If an Assessment installment becomes delinquent, the Association, in its sole discretion, may take any or all of the following actions:

(I) Assess a late charge for each delinquency in such amount as the Association deems appropriate;

(ii) Assess an interest charge from the due date at the yearly rate of six (6) points above the prime rate charged by the Association's bank, or such other lawful rate as the Executive Board may establish, not exceeding twenty-one percent (21%) per year;

(iii) Suspend the voting rights of the Owner during any period of delinquency;

(iv) Accelerate all remaining Assessment installments so that unpaid Assessments for the remainder of the fiscal year shall be due and payable at once;

(v) Bring an action at law against any Owner personally obligated to pay the delinquent Assessments; and

(vi) Proceed with foreclosure as set forth in more detail below.

Assessments chargeable to any Unit shall constitute a lien on such Unit. The Association may institute foreclosure proceedings against the defaulting Owner's Unit in the manner for foreclosing a mortgage on real property under the laws of the State of Colorado. In the event of any such foreclosure, the Owner shall be liable for the amount of unpaid Assessments, any penalties and interest thereon, the cost and expenses of such proceedings, the cost and expenses for filing the notice of the claim and lien, and all reasonable attorney's fees incurred in connection with the enforcement of the lien. The Owner shall be required to pay the Association the monthly assessment installments for the Unit during the period of any foreclosure. The Association shall have the power to bid on a Unit at foreclosure sale and to acquire and hold, lease, mortgage and convey the same.

Section 10.8 Personal Obligation. Each Assessment against a Unit is the personal obligation of the person who owned the Unit at the time the Assessment became due and shall not pass to successors in title unless they agree to assume the obligation. No Owner may exempt himself from liability for the Assessments by abandonment of his Unit or by waiver of the use or enjoyment of all or any part of the Common Elements. Suit to recover a money judgment for unpaid Assessments, any penalties and interest thereon, the cost and expenses of such proceedings, and all reasonable attorney's fees in connection therewith shall be maintainable without foreclosing or waiving the Assessment lien provided in this Declaration.

Section 10.9 Payment by Mortgagees. Any Mortgagee holding a lien on a Unit may pay any unpaid Assessment payable with respect to such unit, together with any and all costs and expenses incurred with respect to the lien, and upon such payment that Mortgagee shall have a lien on the Unit for the amounts paid with the same priority as the lien of the Mortgage.

Section 10.10 Statement of Status of Assessment Payment. Upon payment of a reasonable fee set from time to time by the Executive Board, and upon fourteen (14) days' written request to the Association's registered agent by personal delivery or certified mail, first-class postage prepaid, return receipt, any Owner, assignee of an Owner, Agency, Mortgagee, prospective Mortgagee or prospective purchaser of a Unit shall be furnished with a written statement setting forth the amount of the unpaid Assessments, if any, with respect to such Unit. Unless such statement shall be issued by personal delivery or by certified mail, first class postage prepaid, return receipt requested, to the

inquiring party, in which event the date of posting shall be deemed the date of delivery, within fourteen (14) days after receipt of the request, the Association shall have no right to assert a lien upon the Unit over the inquiring party's interest for unpaid Assessment which were due as of the date of the request.

Section 10.11 Capitalization of the Association. The Declarant shall require the first Owner of each Unit, other than Declarant, to make a non-refundable payment to the Association in the amount equal to two-twelfths (2/12) of the estimated Annual Assessment for Common Expenses for each Unit. Said Working Capital Fund shall be collected and transferred to the Association at the time of closing of the sale by Declarant of each Unit, as aforesaid, and shall be maintained for the use and benefit of the Association. Upon the transfer of a Unit, an Owner shall be entitled to a credit from its transferee for any unused portion of its allocated interest in the aforesaid Working Capital Fund. The working capital fund may be used by the Association for emergencies, insurance deductibles in the event of casualty or other loss, capital expenditures for repair or replacement of Common Expenses, and such other expenses which do not occur on a regular or on-going basis, as may be determined by a majority of the Executive Board. The initial capital account shall be established upon the conveyance of the first Unit by Declarant to a third-party purchaser. The working capital account must be maintained by the Association in a segregated account and may not be used by the Declarant to defray any of its expenses, reserve contributions, or construction costs, nor, to make up any budget deficits during the period of Declarant control.

Section 10.12 Maintenance Accounts; Accounting. If the Association delegates powers of the Executive Board or its officers relating to collection, deposit, transfer or disbursement of Association funds to other persons or to a manager, then such other persons or manager must (a) maintain all funds and accounts of the Association separate from the funds and accounts of other associations managed by the other person or manager, (b) maintain all reserve and working capital accounts of the Association separate from the operational accounts of the Association, (c) provide to the Association no less than once per quarter an accounting for the previous quarter, and (d) provide to the Association an annual accounting and financial statement of Association funds prepared by the manager, a public accountant or a certified public accountant.

ARTICLE 11

DAMAGE OR DESTRUCTION

Section 11.1 The Role of the Executive Board. Except as provided in Section 9.5, in the event of damage or destruction of all or part of any Common Elements, improvement, or other property covered by insurance written in the name of the Association under Article 9, the Executive Board shall arrange for and supervise the prompt repair and restoration of the damaged property (the property insured by the Association pursuant to Article 9 is sometimes referred to as the "Association-Insured Property".)

Section 11.2 Estimate of Damages or Destruction. As soon as practicable after an event causing damage to, or destruction of, any part of the Association-Insured Property, the Executive Board shall, unless such damage or destruction shall be minor, obtain an estimate, or estimates, that it deems reliable of the cost of repair and reconstruction. "Repair and reconstruction" as used in this Article shall mean restoring the damaged or destroyed improvements to substantially the same condition in which they existed prior to the damage or destruction unless the approval is obtained of fifty-one percent (51%) of First Mortgagees of Units subject to First Mortgages (which percentage is measured by votes allocated to such Units). Such costs may also include professional fees and premiums for such bonds as the Executive Board, or the insurance trustee, if any, determines to be necessary.

Section 11.3 Repair and Reconstruction. As soon as practical after the damage occurs and any required estimates have been obtained, the Association shall diligently pursue to complete the repair and reconstruction of the damaged or destroyed Association-Insured Property. As attorney-in-fact for the Owners, the Association may take any and all necessary or appropriate actions to effect repair and reconstruction of any damage to the Association-Insured Property, and no consent or other action by any Owner shall be necessary. Assessments of the Association shall not be abated during the period of insurance adjustments and repair and reconstruction.

Section 11.4 Funds for Repair and Reconstruction. The proceeds received by the Association from any hazard insurance carried by the Association shall be used for the purpose of repair, replacement and reconstruction of the Association-Insured Property for the benefit of Owners and Mortgagees.

If the proceeds of the Association's insurance are insufficient to pay the estimated or actual cost of such repair, replacement or reconstruction, or if upon completion of such work the insurance proceeds for the payment of such work are insufficient, the Association may, pursuant to Section 11.6, if permitted under the Act, levy, assess and collect in advance from the Owners, without the necessity of a special vote of the Owners, a Special Assessment sufficient to provide funds to pay such estimated or actual costs of repair and reconstruction. Further levies may be made in like manner if the amounts collected prove insufficient to complete the repair, replacement or reconstruction.

Section 11.5 Disbursement of Funds for Repair and Reconstruction. The insurance proceeds held by the Association and the amounts received from the Special Assessments provided for above, constitute a fund for the payment of the costs of repair and reconstruction after casualty. It shall be deemed that the first money disbursed in payment for the costs of repair and reconstruction shall be made from insurance proceeds, and the balance from the Special Assessments. If there is a balance remaining after payment of all costs of such repair and reconstruction, such balance shall be distributed to the Owners in proportion to the contributions each Owner made as Special Assessments, then in proportion to the relative value of each Unit which shall be based on the square footage of the Unit and in accordance with the Units' Percentage Share of Common Expenses, first to the Mortgagees and then to the Owners, as their interests appear.

ARTICLE 12

CONDEMNATION

Section 12.1 Rights of Owners. Whenever all or any part of the Common Elements is conveyed in lieu of taking under threat of condemnation by the Executive Board acting as attorney-in-fact for all Owners under instructions from any authority having the power of condemnation or eminent domain, each Owner shall be entitled to notice of the taking or conveying. The Association shall act as attorney-in-fact for all Owners in the proceedings incident to the condemnation proceeding, unless otherwise prohibited by law.

Section 12.2 Partial Condemnation: Distribution of Award: Reconstruction. The award made for such taking shall be payable to the Association for the benefit of the Owners and Mortgagees, and,

unless otherwise required under the Act, the award shall be disbursed as follows:

If the taking involves a portion of the Common Elements on which improvements have been constructed, then, unless within sixty (60) days after such taking, Declarant and Owners who represent at least sixty-seven percent (67%) of the votes of all of the Owners shall otherwise agree, the Association shall restore or replace such improvements so taken on the remaining land included in the Common Elements to the extent lands are available for such restoration or replacement in accordance with plans approved by the Executive Board. If such improvements are to be repaired or restored, the provisions in Article 11 above regarding the disbursement of funds in respect to casualty damage or destruction which is to be repaired shall apply. If the taking does not involve any improvements on the Common Elements, or if there is a decision made not to repair or restore, or if there are not funds remaining after any such restoration or replacement is completed, then such award or net funds shall be distributed among the Units according to the relative value of each Unit which shall be based on the square footage of the Unit and in accordance with each Unit's Allocated Interest of Percentage Share of Common Elements, first to the Mortgagees and then to the Owners, as their interest appear.

Section 12.3 Complete Condemnation. If all of the Property is taken, condemned, sold or otherwise disposed of in lieu of, or in avoidance of condemnation, then the regime created by the Declaration shall terminate, provided that approval must first be obtained of sixty-seven percent (67%) of First Mortgagees of Units subject to First Mortgagees (which percentage is measured by votes allocated to such Units), and the portion of the condemnation award attributable to the Common Elements shall be distributed as provided in Section 11.5 above.

ARTICLE 13

ASSOCIATION AS ATTORNEY-IN-FACT

Each Owner hereby irrevocably appoints the Association as the Owners true and lawful attorney-in-fact for the purposes of (a) granting easements pursuant to Article 7, (b) purchasing and maintaining insurance pursuant to Article 9, including the collection and appropriate disposition of the proceeds thereof, the negotiation and settlement of losses and execution of releases of liability, the execution of all documents, and the performance of all other acts necessary to purchase and maintain insurance as well

as dealing with any improvements covered by insurance written in the name of the Association pursuant to Article 9 upon their damage or destruction as provided in Article 11, or (c) negotiating and dealing with any authority having the power of condemnation or eminent domain relating to a complete or partial taking as provide in Article 12, above. Acceptance by a grantee of a deed or other instrument of conveyance or any other instrument conveying any portion of the Property shall constitute appointment of the Association as the grantee's attorney-in-fact, and the Association shall have full authorization, right and power to make, execute and deliver any contract, assignment, deed, waiver or other instrument with respect to the interest of any Owner which may be necessary to exercise the powers granted to the Association as attorney-in-fact.

ARTICLE 14

SPECIAL DECLARANT RIGHTS

Section 14.1 Special Declarant Rights. The Declarant reserves the following Special Declarant Rights, to the maximum extent permitted by law, which may be exercised, where applicable, anywhere within the Common Interest Community: (a) to maintain signs advertising the Common Interest Community and models; (b) to use easements through the Common Elements and Units for the purpose of making Improvements within the Common Interest Community and to market the Units; and, (c) to appoint or remove an officer of the Association or an Executive Board member during a period of Declarant control subject to the provisions of Section 4.4 of this Declaration.

Section 14.2 Models, Sales Offices and Management Offices. As long as the Declarant is a Unit Owner, the Declarant, its duly authorized agents, representatives and employees may maintain any Unit owned by the Declarant or any portion of the Common Elements as a model Unit, sales office or management office. In addition, during periods of construction, Declarant may maintain a construction trailer on the Common Elements.

Section 14.3 Construction: Declarant's Easement. The Declarant reserves the right to perform warranty work, repairs, and construction work in Units and Common Elements, to store materials in secure areas, and to control and have the right of access to work and repairs until completion. All work may be performed by the Declarant without the consent or approval of the Executive Board. The Declarant has an easement through the Common Elements as may be reasonably necessary for the purpose of discharging the Declarant's obligations or exercising Special Declarant Rights,

whether arising under the Act or reserved in this Declaration. This easement includes the right to convey access, utility and drainage easements to the City and County of Denver, municipalities, special districts or the State of Colorado.

Section 14.4 Signs and Marketing. The Declarant reserves the right to post and maintain signs and displays in Units owned by Declarant and in the Common Elements in order to promote sales of Units. Declarant also reserves the right to conduct general sales activities in a manner which will not unreasonably disturb the rights of Unit Owners.

Section 14.5 Declarant's Property. The Declarant reserves the right to retain all its property and equipment used in the sales, management, construction and maintenance of the Property, whether or not they have become fixtures.

Section 14.6 Limitations on Special Declarant Rights. Unless terminated earlier by an amendment to this Declaration executed by the Declarant, any Special Declarant Right may be exercised by the Declarant until the earlier of the following, as long as the Declarant (a) is obligated under any warranty or obligation; (b) holds a Development Right to create additional Units or Common Elements; (c) owns any Unit; (d) owns any Security Interest in any Units; or (e) ten (10) years have elapsed after recording of this Declaration. Earlier termination of certain rights may occur by statute.

Section 14.7 Interference with Special Declarant Rights. Neither the Association nor any Unit Owner may take any action or adopt any Rule that will interfere with or diminish any Special Declarant Right without the prior written consent of the Declarant.

ARTICLE 15

ARCHITECTURAL CONTROL AND DESIGN REVIEW

Section 15.1 Common Elements. No alteration or additions to the Common Elements of any kind (including, without limitation, change in color, texture, street number, signage, doors or windows) shall be made unless first approved in writing by the Executive Board. The Executive Board shall exercise reasonable judgment to the end that all modifications to the Common Elements conform to and harmonize with existing surroundings and structures. The Executive Board has the absolute right to deny any requested changes which the Executive Board reasonably determines do not

conform to, and harmonize with, existing surroundings and structures. All construction activities shall be planned and carried out with a minimum of disruption, unsightliness and noise.

Section 15.2 **Architectural Review Committee.** Upon the vote of a majority of the Executive Board, the Executive Board may, but is not required to, establish an Architectural Review Committee (the "Committee") which shall be responsible for the establishment and administration of Design Guidelines (the "Design Guidelines") to carry out the purposes and intent of this Declaration and shall provide advice to the Executive Board on such matters as the Executive Board may request.

Section 15.3 **Membership.** The Committee shall consist of individuals appointed by and responsible to the Executive Board. During the period of Declarant Control, as set forth in Section 4.4 of this Declaration, the number of members shall be determined by the Executive Board and such members need not be Owners. After the period of Declarant Control has passed, the Committee shall consist of three (3) members at least (1) of whom shall be an Owner. Members of the Committee shall be appointed to serve for a period of time established by the Executive Board, but, in no event, for a period of less than one year. The Committee is authorized, upon approval of the Executive Board, to seek the advice of design professionals or other professionals if the need should arise. Should a Committee member, die, retire, become incapacitated, or in the event of a temporary absence of a member, a successor may be appointed by the Executive Board. The Committee may be comprised of members of the Executive Board.

Section 15.4 **Design Guidelines.** The Committee shall adopt, establish, and publish from time to time Design Guideline for the Project and such Design Guidelines shall be an Association Document, the terms of which shall be complied with by all Owners. The Design Guidelines shall not be inconsistent with this Declaration, but shall more specifically define and describe the design standards for the Project including, but not limited to, items such as color, texture, structure, size, design, appearance, landscaping and site improvement standards. The Design Guidelines may be modified or amended from time to time by unanimous approval of the Executive Board and shall be made available to all Owners and their representatives for review. Further, the Committee may recommend, and the Executive Board, in its sole discretion, may excuse compliance with such requirements as are not necessary or appropriate in specific situations and may permit compliance with different or alternative requirements. Compliance with the Project's design review process and design standards is not a substitute for compliance with City or County building, zoning, and

subdivision regulations and each Owner is responsible for obtaining all approvals, licenses, and permits as may be required prior to commencing construction. In the event of a conflict between the terms of this Declaration and the Design Guidelines, the terms of this Declaration shall control.

Section 15.5 Requirement for Approval. No improvements shall be constructed, erected, placed, altered, maintained or permitted on any part of the Project, nor shall any construction or excavation whatsoever be commenced or materials, equipment or construction vehicles be placed on any part of the Project until plans and specifications with respect thereto satisfactory to the Committee showing the proposed improvements, site location of such improvements, complete building plans and material specifications, and all exterior elevations, materials and colors, landscaping, grading, drainage, erosion control, easements and utilities, and such other information as may be requested by the Committee or Executive Board have been submitted to and approved in writing by the Executive Board. All improvements shall be constructed only in accordance with approved plans. If the Executive Board has not responded to an Owner's request for approval within sixty (60) days of the submission by Owner of all information requested by the Committee and the Executive Board, then such Owner's request shall be deemed approved by the Executive Board. Improvements and alterations which are completely within an existing Unit may be undertaken without such approval.

The Association, upon the unanimous approval by the Executive Board, and after reasonable notice to the offender and to the Owner, may remove any improvements constructed, reconstructed, refinished, altered, or maintained in violation of Association Documents, and the Owner of the improvements shall immediately reimburse the Association for all expenses incurred in connection with such removal.

Section 15.6 Criteria for Approval. The Committee shall recommend approval and the Executive Board shall approve any proposed improvement only if it deems in its reasonable sole discretion that the improvements in the location indicated will not be detrimental to the appearance of the surrounding areas of the Project as a whole; that the appearance of the proposed improvement will be in harmony with the surrounding areas of the Project; and that the upkeep and maintenance of the proposed improvement will not become a burden on the Association. Specific factors considered in approving plans include, among other things, conformity and harmony of exterior design, colors and materials with neighboring structures, relation of the proposed improvements to the natural topography, adequacy of drainage, erosion control,

grade and finished ground elevation of the structure to that of neighboring structures and natural features of the property, and conformity of the plans and specifications to the purpose and general plan and intent of this Declaration. The Executive Board may condition its approval of any proposed improvement upon the making of such reasonable changes therein as the Committee or Executive Board may deem appropriate.

ARTICLE 16

MORTGAGEE'S RIGHTS

Section 16.1 Introduction. This Article establishes certain standards and covenants which are for the benefit of the holders, insurers and guarantors of First Mortgages. This Article is supplemental to, not a substitution for, any other provisions of the Association Documents, but, in the case of conflict, this Article shall control.

Section 16.2 Percentage of Eligible Mortgagees. Wherever in this Declaration the approval or consent of a specified percentage of First Mortgagees is required, it shall mean that the approval or consent of First Mortgagees holding security interests in Units which in the aggregate have allocated to them that specific percentage of votes as compared to the total votes allocated to all Units in the Association then subject to security interests held by all First Mortgagees.

Section 16.3 Notice of Actions. The Association shall give prompt written notice to each First Mortgagee of:

16.3a 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 mortgage held or guaranteed by that First Mortgagee;

16.3b any delinquency in the payment of Assessments owed by a Unit Owner which remains uncured for a period of sixty (60) days and whose Unit is subject to a mortgage held or guaranteed by that First Mortgagee;

16.3c any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association;

16.3d any proposed action which would require the consent of a specified percentage of First Mortgagees as specified in Section 16.4 of the Declaration; and

16.3e any judgment rendered against the Association.

Section 16.4 Consent and Notice Required.

16.4a Notwithstanding any requirement permitted by this Declaration or the Act, no amendment of any material provision of the Declaration by the Association or Unit Owners described in this Section may be effective without notice to all First Mortgagees, as required by Section 16.3 above, without the vote of at least sixty-seven percent (67%) of the Unit Owners (or any greater Unit Owner vote required in this Declaration or the Act) and without approval by at least fifty-one percent (51%) of the First Mortgagees (or any greater First Mortgagee approval required by this Declaration). The foregoing approval requirements do not apply to amendments effected by the exercise of any Development Right. A change to any of the following would be considered material:

(I) voting rights;

(ii) increases in Common Expense

Assessments that raise the previously assessed amount by more than twenty-five percent (25%);

(iii) assessment liens or the priority thereof;

(iv) reductions in reserves for maintenance, repair and replacement of Common Elements;

(v) responsibility for maintenance and repairs;

(vi) reallocation of interests in the Common Elements, except that when Limited Common Elements are reallocated by agreement between Unit Owners, only those Unit Owners and only the First Mortgagees holding security interests in those Units need approve the action;

(vii) redefinitions of boundaries of Units, except that when boundaries of adjoining Units are involved, or a Unit is being subdivided, then only those Unit Owners and First Mortgagees holding security interests in the Unit or Units need approve the action;

(viii) convertibility of Units into Common Elements or Common Elements into Units;

(ix) expansion or contraction of the Common Interest Community, or the addition, annexation or withdrawal of property to or from the Common Interest Community;

(x) insurance or fidelity bond requirements;

(xi) imposition of restrictions on the leasing of Units;

(xii) imposition of any restrictions on Unit Owners' right to sell or transfer their Units;

(xiii) a decision by the Association to establish self-management when professional management had been required previously by the Association Documents or any First Mortgagee;

(xiv) restoration or repair of the project after hazard damage or partial condemnation in a manner other than that specified in the Association Documents;

(xv) termination of the Common Interest Community after occurrence of substantial destruction or condemnation; and

(xvi) any provision that expressly benefits mortgage holders, insurers or guarantors.

16.4b Notwithstanding any lower requirement permitted by this Declaration or the Act, the Association may not take any of the following actions, other than rights reserved to the Declarant as Special Declarant Rights, without notice to all First Mortgagees, as required by Section 16.3 above, and approval of at least fifty-one percent (51%) (or the indicated percentage, if higher) of the Eligible Mortgagees:

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

(ii) the termination of the Common Interest Community for reasons other than substantial destruction or

condemnation, for which sixty-seven percent (67%) of the Votes of First Mortgagees is required;

(iii) the alteration of any partition or creation of any aperture between adjoining Units (when Unit boundaries are not otherwise being affected), for which only the owners of Units affected and First Mortgagees of those Units need approve the action;

(iv) the granting of any easements, leases, licenses or concessions through or over the Common Elements (excluding, however, any utility easements serving, or to serve, the Common Interest Community and also excluding any leases, licenses or concessions lasting for no more than one (1) year);

(v) the restoration or repair of the Property after hazard damage or a partial condemnation in a manner other than specified in the Association Documents;

(vi) the merger of the Common Interest Community with any other common interest community;

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

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

16.4c The Association may not change the period for collection of regularly budgeted Assessments to other than monthly collection without the consent of all First Mortgagees. This shall not effect the right of the Association to accelerate assessments due in any calendar year from an owner who is at least ten (10) days delinquent in the payment of monthly assessments.

16.4d The failure of an First Mortgagee to respond within thirty (30) days to any written request for approval of an addition or amendment to an Association Document wherever First Mortgagee approval is required, when such request is delivered by certified or registered mail, return receipt requested, shall constitute an implied approval of the addition or amendment.

Section 16.5 Inspection of Books. The Association must maintain current copies of the Declaration, Bylaws, Rules, books, records and financial statements. The Association shall permit any First Mortgagee to inspect the books and records of the Association during normal business hours. The Association shall also make

available to prospective purchasers current copies of the Association Documents and the most recent annual audited financial statement, if such is prepared. "Available" for purposes of this Article shall mean available for inspection upon request, during normal business hours or under other reasonable circumstances.

Section 16.6 Financial Statements. The Association shall provide any First Mortgagee who submits a written request with a copy of an annual financial statement. It shall be provided within ninety (90) days following the end of each fiscal year of the Association. This financial statement shall be audited or reviewed by an independent certified public accountant if any First Mortgagee requests it, in which case, the First Mortgagee shall bear the cost of the audit or review.

Section 16.7 Enforcement. The provisions of this Article are for the benefit of First Mortgagees and their successors and may be enforced by any of them by any available means, at law or in equity.

Section 16.8 Attendance at Meetings. Any representative of a First Mortgagee may attend and address any meeting which a Unit Owner may attend.

Section 16.9 Appointment of Trustee. In the event of damage or destruction under Article 11 or condemnation under Article 12 of all or a portion of the Common Interest Community, any First Mortgagee may require that such proceeds be payable to a Trustee established pursuant to Section 2.29 of this Declaration. Proceeds will then be distributed according to law. Unless otherwise required, the Members of the Executive Board, acting by majority vote, may act as Trustee.

ARTICLE 17

DURATION OF COVENANTS AND AMENDMENT

Section 17.1 Term. The covenants and restrictions of this Declaration shall run with and bind the Property in perpetuity, subject to the termination provisions of the Act.

Section 17.2 Amendments. Subject to Section 16.4 above, this Declaration and the Map may be amended only by vote or agreement of Unit Owners of Units to which at least sixty-seven percent (67%) percent of the votes in the Association are

allocated. The procedure for amendment must follow the procedures set for in Section 38-33.3-217 of the Act.

17.2a An action to challenge the validity of an amendment adopted by the Association pursuant to this Article may not be brought more than one (1) year after the amendment is recorded.

17.2b Each amendment to the Declaration or Map must be recorded with the Clerk and Recorder and the amendment is effective only upon recording.

17.2c Except to the extent expressly permitted or required by other provisions of the Act or this Declaration, an amendment may not create or increase Special Declarant Rights, increase the maximum number of Units, change the boundaries of a Unit, the Allocated Interests of a Unit or the uses to which a Unit is permitted, except by unanimous consent of the Unit Owners.

17.2d An amendment to the Declaration required by the Act, or as provided for in accordance with the provisions hereof, to be recorded by the Association, which has been adopted in accordance with this Declaration and the Act, must be prepared, executed, recorded and certified on behalf of the Association by an officer of the Association designated for that purpose or, in the absence of designation, by the President of the Association.

17.2e Provisions in this Declaration creating Special Declarant Rights may not be amended without the consent of the Declarant.

17.2f Amendments to the Declaration are subject to the consent requirements of Article 16.

17.2g To the extent allowed by the Act, Declarant hereby reserves, and is granted the right and power to record, without the approval or consent of any Owner, First Mortgagee, or any other person or entity, special amendments to this Declaration or the other Association Documents, at any time prior to conveyance of the last Unit by Declarant to the first Owner thereof (other than Declarant) or five (5) years from the date that this Declaration is recorded, whichever occurs first, in order to comply with any requirements of any of the Agencies or to induce any of the Agencies to make, purchase, sell, insure, or guarantee one or more First Mortgages.

17.2h To the extent allowed by the Act, Declarant hereby reserves and is granted the right and power to record,

without the approval or consent of any Owner, First Mortgagee, or any other person or entity, technical amendments to this Declaration or the other Association Documents, at any time prior to conveyance of the last Unit by Declarant to the first Owner thereof (other than Declarant) or five (5) years from the date that this Declaration is recorded, whichever occurs first, for the purpose of correcting spelling, grammar, dates, typographical errors, or as may otherwise be necessary to clarify the meaning of any provisions of the Association Documents.

ARTICLE 18

LIMIT ON TIMESHARING

No owner of any Unit shall offer or sell any interest in such Unit under a "timesharing" or "interval ownership" plan, or any similar plan.

ARTICLE 19

GENERAL PROVISIONS

Section 19.1 Restriction on Declarant Powers. Notwithstanding anything to the contrary herein, no rights or powers reserved to Declarant hereunder shall exceed the time limitations or permissible extent of such rights or powers as restricted under the Act. Any provisions in this Declaration in conflict with the requirements of the Act shall not be deemed to invalidate such provisions as a whole, but, shall be adjusted as is necessary to comply with the Act.

Section 19.2 Enforcement. Except as otherwise provided in this Declaration, the Executive Board, Declarant or any Owner shall have the right to enforce, by proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Executive Board of the Association, Declarant or by any Owner to enforce any covenant or restriction contained in this Declaration shall in no event be deemed a waiver of the right to do so thereafter.

Section 19.3 Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 19.4 Conflicts Between Documents. In case of conflict between this Declaration and the Articles and the Bylaws of the Association, this Declaration shall control. In case of conflict between the Articles and the Bylaws, the Articles shall control.

Section 19.5 Captions. The captions contained in the Association Documents are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of the Association Documents or the intent of any provision thereof.

Section 19.6 Gender. The use of the masculine gender refers to the feminine gender, and vice versa, and the use of the singular includes the plural, and vice versa, whenever the context of the Association Documents so require.

Section 19.7 Waiver. No provision contained in the Association Documents is abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

Section 19.8 Invalidity. The invalidity of any provision of the Association Documents does not impair or affect in any manner the validity, enforceability or effect of the remainder, and if a provision is invalid, all of the other provisions of the Association Documents shall continue in full force and effect.

Section 19.9 Effect of Provisions of Declaration. Each provisions of this Declaration and each agreement, promise, covenant or undertaking to comply with, or to be bound by, the provisions of this Declaration which is contained herein shall: (1) be deemed incorporated into each deed or other instrument by which any right, title or interest in any Unit, or any part thereof, is granted, devised or conveyed, whether or not set forth or referred to in such deed or instrument; and (2) by virtue of acceptance of any right, title or interest in any Unit, or any part thereof, by and Owner, such Owner shall be deemed to have accepted, ratified, adopted and declared said agreements, promises, covenants and undertakings as personal covenants of such Owner and such Owner's heir, legal representatives, successors and assigns to, with and for the benefit of the Association.

Section 19.10 Compliance With Declaration and Other Association Documents. Each Owner and the Association shall comply strictly with, and each Owner shall cause his Guests to comply strictly with, all of the provisions of this Declaration and the other Association Documents and the decisions and resolutions of

the Association adopted pursuant thereto, as the same may be amended from time to time. The Association or any aggrieved Owner may take judicial action against any other Owner or the Association to enforce compliance with the Association Documents, or to recover damages for violation thereof, or injunctive relief or both, with the prevailing party to be awarded their reasonable attorney's fees and costs and expenses with respect thereto from the non-prevailing party, including costs of collection, where applicable.

Section 19.11 **Enforcement.** The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereinafter imposed by the provisions of the Association Documents. Failure by the Association or by any Owner to enforce any covenant or restriction herein covered shall in no event be deemed a waiver of the right to do so thereafter.

Section 19.12 **FHA/VA Approval.** If the Declarant has obtained approval of The Hillside Condominiums Project for F.H.A and/or V.A. funding, as long as the Declarant is still in control of the Executive Board as provided for by the Declaration, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration: Annexation of additional properties, dedication of Common Elements, dissolution and amendment of this Declaration of Covenants, Conditions and Restrictions.

Section 19.13 **Arbitration.** Except with regard to the Association's right to collect unpaid Assessments and other charges and to file and foreclose on a Lien for such unpaid Assessments and other charges, any other dispute arising hereunder shall be resolved in accordance with the rules of the American Arbitration Association. The Arbitrator shall have the power to enter an award which provides for any of the remedies contained herein. The prevailing Party shall be entitled to recovery of their attorney fees and costs from the other Party, who shall also be responsible for payment of all costs associated with such arbitration. In the event that it becomes necessary for the Party who prevailed at the arbitration to enforce said award by its filing in a court of law, then the arbitration award shall be amended to include said Party's attorney fees and costs, incurred with regard to such action.

DECLARANT:

3233 VALLEJO, LLC
A Colorado Limited Liability Company

BY: *Peg Ingram*
Peg Ingram, Managing Member

STATE OF COLORADO)
) ss.
CITY & COUNTY OF DENVER)

The foregoing instrument was acknowledged before me this 19th day of August, 1999, by Peg Ingram, as the Managing Member of 3233 Vallejo, LLC, a Colorado Limited Liability Company.

Witness my hand and official seal.



Judy Cheek
Notary Public

My commission expires: 6-7-2000

UNION BANK AND TRUST

BY: *Matt Osbourne*
Matt Osbourne, Vice President

STATE OF COLORADO)
) ss.
City & County of Denver)

The foregoing instrument was acknowledged before me this 27th day of August, 1999 by Matt Osbourne, Vice President of Union Bank and Trust.



Witness my hand and official seal.
My commission expires: 6-7-2000 42

Judy Cheek
Notary Public

EXHIBIT A
DESCRIPTION OF PROPERTY

Lots 7, 8, 9, 38 & 39, Block 5, Wilson's Resubdivision of Part
of H, Witter's North Denver Addition, City and County of Denver,
State of Colorado.

**EXHIBIT B
ALLOCATION OF INTERESTS**

UNIT NUMBER:	ALLOCATION
Unit 1A	6.40%
Unit 1B	9.38%
Unit 1C	7.52%
Unit 1D	7.32%
Unit 2A	9.10%
Unit 2B	8.84%
Unit 2C	7.74%
Unit 2D	9.74%
Unit 3A	9.31%
Unit 3B	8.68%
Unit 3C	6.17%
Unit 3D	9.80%

**EXHIBIT C
PARKING ASSIGNMENT**

Unit 1A	P-7
Unit 1B	P-9
Unit 1C	P-11
Unit 1D	P-12
Unit 2A	P-4
Unit 2B	P-10
Unit 2C	P-5
Unit 2D	P-6
Unit 3A	P-1
Unit 3B	P-2
Unit 3C	P-8
Unit 3D	P-3
Guest	P-13
Guest	P-14