

***AMENDED AND RESTATED
CONDOMINIUM DECLARATION
FOR
THE TOWERS AT CHEESMAN PARK***

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**AMENDED AND RESTATED
CONDOMINIUM DECLARATION
FOR
THE TOWERS AT CHEESMAN PARK**

THIS AMENDED AND RESTATED DECLARATION is made on the date hereinafter set forth by The Towers at Cheesman Park Condominium Association, Inc., a Colorado nonprofit corporation.

RECITALS:

A. Declarant, 1433 Williams, LLC, a Colorado limited liability company, recorded that certain Condominium Declaration for The Towers at Cheesman Park Condominiums on August 20, 1999 at Reception No. 9900147267, in the Office of the Clerk and Recorder for the City and County of Denver, State of Colorado ("Original Declaration") subjecting the real estate described therein to the terms and conditions set forth in the Original Declaration;

B. The Owners and the Association desire to amend and restate all provisions of the Original Declaration, as amended and supplemented, by virtue of this Amended and Restated Declaration for The Towers at Cheesman Park ("Declaration"), and intend, upon the recording of this Declaration, that all prior recorded declarations, amendments and supplements thereto be superseded and replaced by this Declaration; and

C. Owners representing at least sixty-seven percent (67%) of the Members and fifty-one percent (51%) of the first mortgagees have approved this Declaration, or alternatively, a court order entered by the District Court for the City and County of Denver, Colorado pursuant to C.R.S. §38-33.3-217(7), has been entered approving this Declaration.

NOW, THEREFORE, the Original Declaration is replaced and amended and restated as follows:

**ARTICLE 1
DEFINED TERMS**

Section 1.1 Defined Terms. Each capitalized term in this Declaration or in the Map shall have the meaning specified or as used in the Act, unless otherwise defined in this Declaration:

(a) "Act" shall mean the Colorado Common Interest Ownership Act, C.R.S. §38-33.3-101 *et. seq.*, as it may be amended.

(b) "Assessment" or "Common Expense Assessment" shall include all common expense assessments, insurance assessments, utility assessments, and any other expense levied to Unit pursuant to this Declaration or the Act, including interest, late fees, attorney fees, fines, and costs.

(c) "Association" shall mean The Towers at Cheesman Park Condominium Association, Inc., a Colorado nonprofit corporation, and its successors.

(d) "Board" or "Board of Directors" shall mean the body, regardless of name, designated in the Governing Documents to act on behalf of the Association.

(e) "Common Elements" shall mean the Property within this Community other than the Units, which portion of the Property shall be co-owned by the Owners and as may be designated on the Map and in this Declaration. Common Elements shall consist of general common elements and limited common elements. The Common Elements shall be owned, as tenants in common, by the Owners of the separate Units, each owner of a Unit having an undivided interest in the Common Elements.

(f) "Common Expense Assessment" shall mean any funds required to be paid by each Owner as determined in this Declaration.

(g) "Community" shall mean the Community of The Towers at Cheesman Park, also known as The Towers at Cheesman Park Condominiums, which Community is a Condominium Community as defined in the Act and which Community is also a Common Interest Community as defined in the Act.

(h) "Eligible Holder" shall mean a holder, insurer or guarantor of a first lien security interest who has delivered a written request to the Association containing its name, address, the legal description and the address of the Unit upon which it holds a security interest.

(i) "Governing Documents" shall mean this Declaration, the Map, the Articles of Incorporation, the Bylaws, and any Rules and Regulations of the Association, as all of the foregoing may be amended from time to time.

(j) "Improvement(s)" shall mean structures installed within or upon a Unit.

(k) "Limited Common Elements" shall mean those portions of the Common Elements, if any, which are limited to and reserved for the exclusive use of one or more, but fewer than all of the Owners, including certain balconies, storage areas and parking spaces.

(l) "Map" shall mean the recorded Condominium Map of The Towers at Cheesman Park, which is an engineering survey (and any supplements and amendments thereto) of the Community depicting and locating thereon the location of the buildings, the Units, the Common Elements, the floors and elevations, and all of the land and improvements thereon as the Map may be amended or supplemented from time to time, which Map is incorporated herein and made a part of this Declaration by reference.

(m) "Member" shall mean any Owner. The terms "Member" and "Owner" may be used interchangeably.

(n) "Owner" shall mean the owner of record title, whether one or more persons or entities to any Unit which is a part of the Property, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

(o) "Property" shall mean the property described in the Original Declaration together with all easements, rights, and appurtenances thereto and the buildings and Improvements erected or to be erected thereon.

(p) "Rules and Regulations" shall mean any instruments, however denominated, which are adopted by the Association for the regulation and management of the Community, including any amendment to those instruments.

(q) "Unit" shall mean a physical portion of the Community, designated for separate ownership, shown as a Unit on the recorded Map for the Community, the boundaries of which are defined in the Map and in this Declaration.

ARTICLE 2

NAMES/DESCRIPTION OF REAL ESTATE

Section 2.1 Name and Type. The type of Common Interest Community is a condominium community. The name of the Community is "The Towers at Cheesman Park" and is also known as "The Towers at Cheesman Park Condominiums." The name of the Association is "The Towers at Cheesman Park Condominium Association, Inc."

Section 2.2 Subject Property. The Community is located in the City and County of Denver, State of Colorado. The Property subject to this Declaration is described in the Original Declaration and in the Map. The Community may be subject to other easements or licenses granted pursuant to this Declaration, or granted by authority reserved in any recorded document or established in the Act.

Section 2.3 Utility, Map and Map Easements. Easements for utilities and other purposes over and across the Units and Common Elements may be as shown upon a recorded plat or the Map of the Community, and as may be established pursuant to the provisions of this Declaration, or granted by authority reserved in any recorded document.

Section 2.4 Easements for the Board of Directors and Unit Owners. Each Unit shall be subject to an easement in favor of the Board of Directors (including its agents, employees and contractors) and to each Owner to allow for their performance of obligations in this Declaration. On exercising this easement right, the party exercising the right shall be responsible for any resulting damages. Non-emergency repairs shall be made only during regular business hours on business days after at least twenty-four (24) hours notice to the occupants of a Unit wherein repairs are to be made. Each Owner shall provide the Association with a copy of the key to the Unit to allow for access pursuant to this easement.

Section 2.5 Emergency Easements. A nonexclusive easement for ingress and egress is hereby granted to all police, sheriff, fire protection, ambulance, and other similar emergency agencies or persons, now or hereafter servicing the Community, to enter upon any part of the Community in the performance of their duties.

Section 2.6 Easement for Encroachments. If any part of the Common Elements encroaches or shall hereafter encroach upon a Unit, an easement for the existence of such encroachment and for the maintenance of the same shall and does exist. If any part of a Unit encroaches or shall hereafter encroach upon the Common Elements, or upon another Unit, the Owner of that Unit shall and does have an easement for the existence of such encroachment and for the maintenance of same. The easement shall extend for whatever period of time the encroachment exists. Such easements for encroachments shall not be considered to be encumbrances either on the Common Elements or on a Unit. The actual location of a Unit shall be deemed conclusively to be the property intended to be conveyed, reserved or encumbered notwithstanding any minor deviations, either horizontally, vertically or laterally from the location of such Unit indicated on the Map.

Section 2.7 Owners' Easements of Enjoyment. Every Owner shall have a right and easement of ingress and egress and enjoyment in, to, and over the Common Elements and such easement shall be appurtenant to and shall pass with the title to every Unit, subject to the following provisions:

- (a) the right of the Association to limit the number of guests of Owners;
- (b) the right of the Association to adopt Rules and Regulations governing the use of the Common Elements;

(c) the right of the Association, upon approval of at least sixty-seven percent (67%) of the Owners, to mortgage the Common Elements as security for that purpose, provided, that the rights of such mortgage shall be subordinate to the rights of the homeowners;

(d) the right, power and authority of the Association to grant any easement, right-of-way, license, lease, dedication, transfer or conveyance or grant of any similar interest affecting the Common Elements, provided that any transfer or conveyance of the Common Elements shall be subject to the prior approval of two-thirds (2/3) of the Owners, as allowed for in the Act;

(e) the right of the Association to suspend the voting rights and, after notice and the opportunity for a hearing, the right to use of any Common Element and recreational facilities, for a period not to exceed sixty (60) days or during any period of violation of any other provision of the Governing Documents, whichever is greater; and

(f) the right of the Association to close or limit access to the Common Elements for maintenance, repair, replacement, and improvement.

Section 2.8 Delegation of Use. Any Owner may delegate his right of enjoyment to the Common Elements and facilities to Owner's family, tenants, invitees, lessees, and guests, subject to Rules and Regulations.

ARTICLE 3

THE ASSOCIATION

Section 3.1 Membership. Every person who is an Owner shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Unit. Ownership of a Unit shall be the sole qualification for membership. Each Unit shall be entitled to one (1) vote. Fractional and cumulative voting are prohibited.

Section 3.2 General Purposes and Powers of the Association. The Association, through its Board of Directors, shall perform functions and manage the Community as provided in this Declaration so as to protect the value and desirability of the Community and the Units and to further the interests of the residents, occupants, tenants and guests of the Community and Members of the Association. All Owners and any purchaser of a Unit shall be deemed to have assented to, ratified and approved such designation and management. The Association shall have all power necessary or desirable to effectuate such purposes.

Section 3.3 Authority of the Association. The business affairs of the Community shall be managed by the Association. The Association shall be governed by the Act, this Declaration, the Map, its Articles of Incorporation and Bylaws, and any Rules and Regulations adopted by the Board of Directors. The Board of Directors may, by written resolution, delegate authority to a manager or managing agent for the Association, provided no such delegation shall relieve the Board of final responsibility.

Section 3.4 Specific Powers. The Association shall have the powers, authority and duties as necessary and proper to manage the business and affairs of the Community. The Association shall have all of the powers, authority and duties permitted or set forth in the Act, as applicable. The Association shall have the power to assign its right to future income, including the right to assign its right to receive Common Expense Assessments, but only upon the affirmative vote of a majority of the Unit Owners present at a meeting called for that purpose.

Section 3.5 Allocated Interests. The ownership interest, Common Expense liability and votes in the Association allocated to each Unit are set as follows:

- (a) the percentage of ownership of the Common Elements, based on square footage, as set forth in *Exhibit A*;
- (b) the percentage of liability for Common Expenses, based on square footage, as set forth in *Exhibit A*; and
- (c) the number of votes in the Association, equally.

Section 3.6 Indemnification. To the full extent permitted by law, each officer and director of the Association shall be and hereby are indemnified by the Owners and the Association against all expenses and liabilities including attorneys' fees, reasonably incurred by or imposed upon them in any proceeding to which they may be a party, or in which they may become involved, by reason of being or having been an officer or director of the Association, or any settlements thereof, whether or not they are an officer or director of the Association at the time such expenses are incurred; except in such cases wherein such officer or director is adjudged guilty of breaching his or her duty of care (as set forth in the Act) in the performance of his duties.

ARTICLE 4

UNITS, COMMON ELEMENTS AND LIMITED COMMON ELEMENTS

Section 4.1 Number of Units. The number of Units included in the Community is ninety-nine (99).

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Section 4.2 Identification of Units/Unit Descriptions. The identification of each Unit is shown on the Map. Every contract for sale, deed, lease, security interest, will or other legal instrument shall legally describe a Unit by its identifying Unit number, followed by the name of the Community, with reference to the Map and the Declaration. An illustrative description is as follows:

Condominium Unit ____, The Towers at Cheesman Park
Condominiums, according to the Declaration recorded _____
, ____, at Reception No. _____ and the Condominium Map
recorded in Book ____, Page ____ of the records of the Clerk and
Recorder, the City and County of Denver, State of Colorado.

Reference to the Declaration and Map in any instrument shall be deemed to include any supplement(s) or amendment(s) to the Declaration and Map, without specific references thereto.

Section 4.3 Unit Boundaries.

(a) Boundaries. The following are designated as boundaries of each Unit, as defined below and as depicted on the Map:

(i) The unfinished interior surfaces of the perimeter walls. All lath, furring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, finished flooring and any other materials constituting the finished surfaces are part of the Unit and all other portions of the floors, walls and ceilings are part of the Common Elements. Where found on the walls and ceilings, the interior surfaces of built-in fireplaces with their flues in the closed position shall be boundaries of the Unit.

(ii) Unfinished interior surfaces of floors, or the lowermost floors, if it is a Unit containing more than one level;

(iii) Unfinished interior surfaces of ceilings, or the uppermost ceilings, if it is a Unit containing more than one level;

(iv) The windows and window frames, doors and door frames of the Unit.

Each Unit includes the spaces and Improvements lying within the boundaries described above, including windows, window frames, doors and door frames, and as depicted on the Map.

Section 4.4 Limited Common Elements. Each Owner is responsible for maintaining Limited Common Elements appurtenant to that Owner's Unit in a clean, orderly, and sanitary condition. In the event a Common Expense is associated with the maintenance, repair or replacement of a Limited Common Element, those Common Expenses may be assessed equally against the Units to which the Limited Common Element is assigned. The following portions of the Common Elements are Limited Common Elements assigned to the Units as stated:

(a) If a chute, flue, pipe, duct, wire, conduit, bearing wall, bearing column or other fixture lies partially within and partially outside the designated boundaries of a Unit, the portion serving only the Unit is a Limited Common Element, allocated solely to the Unit, the use of which is limited to that Unit and any portion serving more than one Unit is a Limited Common Element to those Units and any portion serving only the Common Elements is a part of the Common Elements.

(b) Any balconies, patios, decks, porch, exterior doors, attics, basements, parking spaces, storage lockers, crawl spaces, windows or other fixtures designed to serve a single Unit, located outside the boundaries of the Unit, are Limited Common Elements allocated exclusively to the Unit and their use is limited to that Unit.

Section 4.5 Mechanic's Liens. No labor performed and/or materials furnished for use and incorporated into any Unit with the consent or at the request of the Owner thereof, his agent, contractor, or subcontractor, shall be the basis for the filing of a lien against a Unit of any other Owner not expressly consenting to or requesting the same, or against any interest in the Common Elements. Each Owner shall indemnify and hold harmless each of the other Owners and the Association from and against any liability or loss arising from the claim of any mechanic's lien against the Unit of any other Owner, the Common Elements, or any part thereof, for labor performed and/or materials furnished in work on the first Owner's Unit. The Association may pay any sums necessary to eliminate any lien filed against Units not benefitting from the labor and/or materials furnished and the Common Elements on behalf of the other Owners and all sums paid shall be an Individual Assessment against the Owner or Owners for whom the labor and/or materials were furnished.

ARTICLE 5 MAINTENANCE RESPONSIBILITY

Section 5.1 Association Maintenance. The Board of Directors of the Association shall determine the specifications, scope, extent, nature and parameters of the Association's maintenance responsibilities. The Association shall be responsible for: the improvement, maintenance, upkeep, reconstruction and replacement of the Common Elements, excluding the Limited Common Elements, unless otherwise provided in Section 5.2 below; the improvement, maintenance, repair, upkeep, reconstruction, replacement and operation of the main water and sewer lines which serve more than one Unit and any pipes, lines, ducts and conduits in the Common Elements or that are outside the Unit boundaries; the provision of common water, heat and sewer, if any; trash removal; and snow clearing. The Association shall also be responsible

for periodic painting and/or staining of exterior window frames and entry doors, and door frames.

Subject to the maintenance responsibilities herein provided, any maintenance or repair performed on or to the Common Elements by an Owner or occupant which is the responsibility of the Association hereunder shall be performed at the sole expense of such Owner or occupant, and the Owner or occupant shall not be entitled to reimbursement from the Association even if the Association accepts the maintenance or repair.

The Association shall repair incidental damage to any Unit resulting from performance of work which is the responsibility of the Association. As finish levels can have varying degrees, such repairs will be complete only to the extent of being "paint-ready." Such repair and subsequent cleaning shall be performed based on a reasonableness standard. In performing its responsibilities hereunder, the Association shall have the authority to delegate to such persons, firms or corporations of its choice, such duties as are approved by the Board of Directors. The Association shall not be liable for injury or damage to person or property caused by the elements or by the Owner of any Unit, or any other person, or resulting from any utility, rain, snow or ice which may leak or flow from any portion of the Common Elements or from any pipe, drain, conduit, appliance or equipment which the Association is responsible to maintain hereunder, except for injuries or damages arising after the Owner of a Unit has put the Association on notice of a specific leak or flow from any portion of the Common Elements and the Association has failed to exercise due care to correct the leak or flow within a reasonable time thereafter. The Association shall not be liable to the Owner of any Unit or such Owner's occupant, guest, or family, for loss or damage, by theft or otherwise, of any property which may be stored in or upon any of the Common Elements. The Association shall not be liable to any Owner, or any Owner's occupant, guest or family for any damage or injury in whole or in part by the Association's failure to discharge its responsibilities under this Section where such damage or injury is not a foreseeable, natural result of the Association's failure to discharge its responsibilities. No diminution or abatement of Assessments shall be claimed or allowed by reason of any alleged failure of the Association to take some action or perform some function required to be taken or performed by the Association under this Declaration, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or from any action taken by the Association to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority.

Section 5.2 Owner's Maintenance Responsibility. Except as otherwise provided in Section 5.1 above, each Owner shall have the obligation to maintain, repair and replace all portions of the Owner's Unit and the Limited Common Elements appurtenant thereto. Such maintenance shall include, but not be limited to the following:

- (a) all glass surfaces, windows, window frames (except for periodic painting and/or staining of the exterior window frames), casings and locks (provided, however, no changes that affect the exterior appearance of the windows may be made unless prior written approval is obtained from the Association);
- (b) all doors, doorways, door frames, hardware and locks and door chimes that are part of the entry system of the Unit (except for periodic painting and/or staining of the exterior portion of the door to the Unit);
- (c) any fireplace serving the Unit and all components of the fireplace, including the chimney box, flue and chimney cap, if any;
- (d) any skylight serving the Unit;
- (e) any portion of the heating and air conditioning system, including the air conditioning compressor and the fan coil serving the Unit;
- (f) any pipes, lines, ducts, conduits or other apparatus which serve only the Unit, from the point where the utilities enter the Unit (including all electricity, water, sewer, or air conditioning pipes, lines, ducts, conduits); all utility meters or other apparatus serving only the Unit located within the boundaries of the Unit; and communications, television, telephone and electrical lines, receptacles and boxes serving any Unit located within the boundaries of the Unit;
- (g) any Association approved additions or alterations made by the Owner to the Units or Limited Common Elements.

Each Owner shall maintain in a neat and clean condition the following: the fireplace within the Unit, the deck, yard, porch, balcony and/or patio area adjoining any/or leading to a Unit.

Owner shall have the responsibility to:

- (a) perform his or her responsibility in such manner so as not to unreasonably disturb other persons in Units;
- (b) promptly report to the Association or its agent any defect or need for repairs, for which the Association is responsible; and
- (c) pay for the cost of repairing, replacing or cleaning up any item which is the responsibility of the Unit Owner but which responsibility such Owner fails or refuses to discharge (which the Association shall have the right, but not the obligation, to do), or to pay for the cost of repairing, replacing or cleaning up any item which, although the responsibility of the Association, is necessitated by reason of the willful or negligent act

of the Unit Owner, his or her family, tenants, guests, with the cost thereof to be added to and become part of the Unit Owner's next chargeable Assessment.

Section 5.3 Window Replacement. Notwithstanding the responsibility of the Owners for windows, as part of a building renovation project, the Association may replace all Unit windows in the Community, subject to the approval of a majority of the Owners present and voting in person or by proxy at a duly called meeting, notice of which shall state the purpose of the meeting. Any expense associated with such window replacement shall be a common expense of the Association allocated among the Units based on the number of windows in each Unit replaced and the cost of such replacement.

Section 5.4 Failure to Maintain. If the Board of Directors determines that any Owner has failed or refused to discharge properly his or her obligation with regard to the maintenance, repair, or replacement of items of which he or she is responsible hereunder, then, the Association shall give the Owner written notice of the Owner's failure or refusal and of the Association's right to provide necessary maintenance, repair, or replacement at the Owner's cost and expense. The notice shall set forth with reasonable particularity the maintenance, repair, or replacement deemed necessary by the Board of Directors.

Unless the Board of Directors determines that an emergency exists, the Owner shall have ten (10) days within which to complete maintenance or repair, or if the maintenance or repair is not capable of completion within such time period, to commence replacement or repair within ten (10) days. If the Board determines that: (i) an emergency exists or (ii) that an Owner has not complied with the demand given by the Association as herein provided; then the Association may provide any such maintenance, repair, or replacement at the Owner's sole cost and expense, and such costs shall be added to and become a part of the Assessment to which such Owner is subject, shall become and be a lien against the Unit, and shall be collected as provided herein for the collection of Assessments.

If the Board determines that the need for maintenance or repair is a Common Expense and is caused through the willful or negligent act of any Owner, or occupant or their family, guests, lessees, or invitees, then the Association may assess the cost of any such maintenance, repair, or replacement against the Owner's or occupant's Unit, shall become a lien against the Unit, and shall be collected as provided herein for the collection of Assessments.

ARTICLE 6

COVENANT FOR COMMON EXPENSE ASSESSMENTS

Section 6.1 Creation of Association Lien and Personal Obligation to Pay Common Expense Assessments. Each Unit, and each Unit Owner, by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to pay to the Association annual Common Expense Assessments, insurance Assessments (assessed in proportion to risk); utility Assessments (assessed in proportion to usage), and such other Assessments as imposed by the Association. Such Assessments,

including fees, charges, late charges, attorney fees, fines and interest charged by the Association shall be the personal obligation of the Unit Owner of such Unit at the time when the Assessment or other charges became or fell due. The annual Common Expense Assessments and such other Assessments as imposed by the Association, including fees, charges, late charges, attorney fees, fines and interest charged by the Association, shall be a charge on each Unit and shall be a continuing lien upon the Unit against which each such Assessment or charge is made. If any Assessment is payable in installments, the full amount of the Assessment is a lien from the time the first installment becomes due. The personal obligation to pay any past due sums due the Association shall not pass to a successor in title unless expressly assumed by them. No Unit Owner may become exempt from liability for payment of the Common Expense Assessments by waiver of the use or enjoyment of the Common Elements or by abandonment of the Unit against which the Common Expense Assessments are made. All Assessments shall be payable in the amounts specified in the levy thereof, and no offsets or reduction thereof shall be permitted by any reason including, without limitation, any claim that the Association or the Board of Directors is not properly exercising its duties and powers under this Declaration.

Section 6.2 Apportionment of Common Expenses. Except as provided in this Declaration, all Common Expense Assessments shall be assessed against all Units in accordance with the formula for liability for the Common Expenses as set forth in this Declaration. Common Expense Assessments are currently allocated among the Unit Owners based on square footage as set forth in *Exhibit A*.

Section 6.3 Annual Assessment. The Common Expense Assessment may be made on an annual basis against all Units and shall be based upon the Association's advance budget of the cash requirements needed by it to provide for the administration and performance of its duties during such assessment year. The budget shall be submitted to the Unit Owners for ratification pursuant to Section 303(4) of the Act and as set forth in the Bylaws, as the Bylaws may be amended from time to time. The budget may be vetoed by votes of Owners representing a majority of the votes in the Association. Common Expense Assessments shall be due and payable in monthly, quarterly, or annual installments, or in any other manner, as determined by the Board of Directors. The omission or failure of the Board of Directors to levy the Assessment for any period shall not be deemed a waiver, modification or a release of the Unit Owners from their obligation to pay.

Section 6.4 Special Assessments. In addition to other authorized assessments, the Association may levy Special Assessments from time to time to cover unbudgeted expenses or expenses in excess of those budgeted, including, without limitation, the costs of any construction, restoration, or unbudgeted repairs or replacements of capital improvements that are not covered by the general reserve fund. Except as provided for herein, no Special Assessment proposed by the Association shall be levied until it is ratified by the Owners of the Units that will be subject to such Special Assessment. A proposed Special Assessment will be ratified unless Owners representing more than a majority of the votes allocated to the Units that will be subject to the special Assessment vote, either in person or by proxy, to reject the Special Assessment at a meeting called for such purpose. Special Assessments may be payable in

installments extending beyond the fiscal year in which the Special Assessment is approved. The Board shall have the right to require that Special Assessments be paid in advance of the provision of the subject services or materials.

Section 6.5 Individual Assessments. The Association shall have the right to add to any Owner's Assessment as provided in this Article those amounts expended by the Association for the benefit of any individual Unit and the Owner thereof, including, but not limited to: fines; improvement, repair, replacement and maintenance specific to a Unit; improvement, repair, replacement and maintenance caused by the negligent or willful acts of any Owner, his guests, employees, licensees, lessees or invitees; and all other expenditures or charges which the Board, in its sole discretion, chooses to allocate to a Unit and which are readily determined to be allocable to a particular Unit. If any extraordinary maintenance, repair or restoration work to areas which the Association maintains is required on fewer than all of the Units the costs thereof may, at the discretion of the Board, be borne by the Owners of those affected Units only.

Section 6.6 Default Assessments. All monetary fines assessed against an Owner pursuant to the Governing 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 Governing 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 6.7 Effect of Non-Payment of Assessments. Any Assessment, charge or fee provided for in this Declaration, or any monthly or other installment thereof, which is not fully paid within ten (10) days after the due date thereof, as established by the Board of Directors, shall bear interest at the rate established by the Board of Directors, on a per annum basis from the due date, and the Association may assess a reasonable late charge thereon as determined by the Board of Directors. Failure to make payment within sixty (60) days of the due date thereof shall cause the total amount of such Unit Owner's Common Expense Assessment for the remainder of that fiscal year to become immediately due and payable at the option of the Board. Further, the Association may bring an action at law or in equity, or both, against any Unit Owner personally obligated to pay such overdue Assessments, charges or fees, or monthly or other installments thereof, and may also proceed to foreclose its lien against such Unit Owner's Unit. An action at law or in equity by the Association against a Unit Owner to recover a money judgment for unpaid Assessments, charges or fees, or monthly or other installments thereof, may be commenced and pursued by the Association without foreclosing, or in any way waiving, the Association's lien therefor. Foreclosure or attempted foreclosure by the Association of its lien shall not be deemed to estop or otherwise preclude the Association from thereafter again foreclosing or attempting to foreclose its lien for any subsequent Assessment, charges or fees, or monthly or other installments thereof, which are not fully paid when due. The Association shall have the power and right to bid on or purchase any Unit at foreclosure or other legal sale, and to acquire and hold, lease, mortgage, vote the Association votes appurtenant to ownership thereof, convey or otherwise deal with the same. If a foreclosure action is filed to foreclose any

Assessment lien, and a Unit Owner abandons or leaves vacant his or her Unit, the Board may take possession and rent said Unit or apply for the appointment of a receiver for the Unit without prior notice to the Unit Owner. The rights of the Association shall be expressly subordinate to the rights of any holder of a first lien security interest as set forth in its deed of trust or mortgage (including any assignment of rents), to the extent permitted under the Act.

Section 6.8 Lien Priority. The lien of the Association under this Section is prior to all other liens and encumbrances on a Unit except: (1) liens and encumbrances recorded before the recordation of the Declaration; (2) a first lien security interest on the Unit (except as allowed by the Act with regard to the limited lien priority allowed to the Association); and (3) liens for real estate taxes and other governmental assessments or charges against the Unit. This Section does not affect the priority of mechanics' or materialmen's liens. The lien of the Association under this Article is not subject to the provision of any homestead exemption as allowed under state or federal law. Sale or transfer of any Unit shall not affect the lien for said Assessments or charges except that sale or transfer of any Unit pursuant to foreclosure of any first lien security interest, or any proceeding in lieu thereof, including deed in lieu of foreclosure, or cancellation or forfeiture shall only extinguish the lien of Assessment charges as provided by applicable state law. No such sale, transfer, foreclosure, or any proceeding in lieu thereof, including deed in lieu of foreclosure, nor cancellation or forfeiture shall relieve any Unit from continuing liability for any Assessment charges thereafter becoming due, nor from the lien thereof.

Section 6.9 Owner's Negligence or Misconduct. In the event that the need for maintenance, repair, or replacement of the Common Elements, or any portion thereof, is caused through or by the negligent or willful act or omission or misconduct of an Owner, or the Owner's agents, employees, guests, customers, or invitees, including, but not limited to, damage from water overflowing from a tub, hot water heater leaks, or water damage from a washing machine, dishwasher or hose, then the expenses, costs, and fees incurred by the Association for such maintenance, repair, or replacement shall be a personal obligation of such Owner. If such expenses costs and fees incurred by the Association are not repaid to the Association within seven (7) days after the Association shall have given notice to the Owner of such expenses, costs, and fees, then the failure to so repay shall be a default by the Owner under the provisions of this Declaration. Such expenses, costs, and fees shall automatically become a default Assessment determined and levied against such Unit, and the Association may proceed in accordance with the applicable provisions of this Article.

ARTICLE 7

RESTRICTIONS ON USE, ALIENATION AND OCCUPANCY

All Real Estate within the Community shall be held, used and enjoyed subject to the following limitations and restrictions. The strict application of the following limitations and restrictions in any specific case may be modified or waived, in whole or in part, by the Board of Directors or by an appropriate committee (subject to review by the Board of Directors) if such strict application would be unreasonable or unduly harsh under the circumstances. Any such

modification or waiver must be in writing or must be contained in written guidelines or rules.

Section 7.1 Use/Occupancy. All Units within the Community shall be used only for those uses and/or purposes as allowed by the local zoning, control and regulation. Occupancies may also be subject to any Rules and Regulations adopted by the Association. Units shall not be used for any purpose other than as a residential dwelling. Commercial and business uses with any adverse external effect on the nature, perception, operation or ambiance of the Community as a first class residential Community, as reasonably determined by the Board, are prohibited unless approved by the Association and allowed pursuant to restrictions of record and by local zoning ordinances and regulations.

Section 7.2 Leasing and Occupancy. Any Owner shall have the right to lease or allow occupancy of a Unit upon such terms and conditions as the Owner may deem advisable, subject to the restrictions of this Declaration, subject to restrictions of record and subject to the following:

(a) Short term occupancies and rentals (of less than six (6) months) of Units shall be prohibited, without prior written permission from the Board of Directors.

(b) Any lease or rental agreement shall be in writing and shall provide that the lease or rental agreement is subject to the terms of this Declaration, the Bylaws of the Association, the Articles of Incorporation and the Rules and Regulations of the Association. Owners are required to provide tenants with copies of the current Declaration, Articles of Incorporation, Bylaws and any Rules and Regulations of the Association. A copy of the lease or rental agreement shall be provided to the Association, care of any manager of the Association or an officer, upon request.

(c) All occupancies, leases and rental agreements of Units shall state that the failure of the tenant, lessee, renter or their guests to comply with the terms of the Declaration or Bylaws of the Association, Articles of Incorporation or the Rules and Regulations of the Association shall constitute a default of the occupancy, lease or rental agreement and of this Declaration and such default shall be enforceable by either the Association or the landlord, or by both of them.

(d) All occupancies of Units shall be subject to the right of the Association to remove and/or evict the occupant for failure to comply with the terms of the Declaration, the Bylaws of the Association, the Articles of Incorporation or the Rules and Regulations of the Association. If the Association requests that the Owner evict the Owner's tenant based on the terms of this Declaration, and the Owner fails to commence such action within thirty (30) days of the date of the Association's notice, the Association may commence eviction proceedings. Upon failure by the Owner to comply with the Association's request to evict, the Owner hereby delegates and assigns to the Association, acting through the Board, the power and authority to evict the lessee as attorney-in-fact on behalf of and for the benefit of the Owner. If the Association evicts

the lessee, any costs, including, but not limited to, reasonable attorneys' fees actually incurred and court costs associated with the eviction shall be an Assessment and lien against the Unit.

(e) Leases shall be for or of the entire Unit.

The Association shall have the authority to adopt Rules and Regulations regarding leasing, including the implementation of this restriction, and for implementation of other restrictions in the Declaration and as allowed by law.

Section 7.3 Unit Maintenance. Unit Owners are responsible for the maintenance, repair and replacement of the properties located within their Unit boundaries. Each Unit at all times shall be kept in a clean, sightly, and wholesome condition. No trash, litter, junk boxes, containers, bottles, cans, implements, machinery, lumber or other building materials shall be permitted to remain exposed upon or within any Unit so that the same are visible from any neighboring Unit, or any street. The Association and its agents, after thirty (30) days notice to the owner, shall have the authority to enter, replace, maintain, repair and clean-up Units which do not conform to the provisions of this Section, and to charge and collect from the Unit Owners thereof all reasonable costs related thereto as an Assessment hereunder.

Section 7.4 Use of Patios and Balconies. No shade, awning, window guard or any temporary article shall be hung from or placed outside the window or outside the Unit, including patios and balconies, except as allowed for in the Rules and Regulations. Balconies, patios and decks shall not be used for the storage or maintenance of motorcycles, exercise equipment, household or commercial appliances, bedding, animal shelters, household furniture, cartons or boxes, mechanical or electrical equipment, tools, building materials or clothing.

Section 7.5 Restrictions on Animals and Pets. Pets, including cats, dogs, birds, reptiles, or other household animals, hereinafter for brevity termed "animal," may be kept, maintained or harbored in a Unit, *if* the animal is not obnoxious or vicious to other Owners or occupants, as determined by the Board of Directors. In that case, the Unit Owner or person having control of the animal shall be given a written notice to correct the problem. If not corrected, that Unit Owner, upon a second written notice, will be required to remove the animal from the Community. The written notices provided for herein shall be issued by the authorized representative of the Association or, if there is no authorized representative then by one or more of the members of the Board of Directors of the Association. Animals may not be kept for any commercial purposes. Animals are not permitted in the recreational areas. When on other Common Elements, animals must be on a leash and under the control of the Owner of the animal. Unit Owners shall hold the Association harmless from any claim resulting from any action of their animals. The Board of Directors shall have the authority to adopt Rules and Regulations restricting size and weight of animals within the Community.

Section 7.6 Antennae. Subject to federal statutes or regulations governing condominium communities, no exterior television or other antennae, microwave dish, satellite dish, satellite antenna, satellite earth station or similar device of any type shall be erected, installed or maintained on the Common Elements of the Community. Any exterior television or other antennae, microwave dish, satellite dish, satellite earth station or similar device of any type erected, installed or maintained by an Owner is still subject to reasonable and valid safety restrictions, and reasonable restrictions as to location preferences and screening of the device from view by neighboring Units. All costs associated with the installation or maintenance of any exterior television or other antennae, microwave dish, satellite dish, satellite earth station or similar device of any type by an Owner, including costs of repair, replacement, improvement and maintenance of the structure to which such exterior television or other antennae, microwave dish, satellite dish, satellite earth station or similar device of any type is affixed, erected and/or installed upon, shall be the sole responsibility of that Owner.

Section 7.7 Nuisances. No nuisance shall be permitted within the Community, nor any use, activity or practice which is the source of unreasonable annoyance or embarrassment to, or which unreasonably offends or disturbs, any Unit Owner or which may unreasonably interfere with the peaceful enjoyment or possession of the proper use of a Unit or Common Element, or any portion of the Community by Unit Owners. Further, no improper, offensive or unlawful use shall be permitted within the Community or any portion thereof. All valid laws, ordinances and regulations of all governmental bodies having jurisdiction over the Community or a portion thereof shall be observed.

Section 7.8 Vehicular Parking, Storage, and Repairs.

(a) Vehicular parking upon the Common Elements and Limited Common Elements shall be regulated by the Board of Directors.

(b) All parking areas shall be designated as individual Limited Common Element spaces appurtenant to certain designated Units. No Owner shall park in any parking space other than the parking space designated to his or her Unit. Owners shall not allow any guest, tenant or invitee to park in any parking space other than the designated parking space for such Owner's Unit. All designated parking spaces are restricted to use for parking vehicles.

(c) The following vehicles may not be parked or stored within the Community, unless authorized in writing by the Board of Directors of the Association: oversized vehicles, trailers, camping trailers, boat trailers, hauling trailers, boats or other motorcraft and accessories thereto, self-contained motorized recreational vehicles, trucks over three-fourth (3/4) ton or other oversized types of vehicles or equipment as prohibited by rule or regulation. Any such oversized vehicle may be parked as a temporary expedience (for up to four hours) for loading, delivery of goods or services, or emergency. Overnight parking of these vehicles is prohibited. This restriction shall not apply to trucks or other commercial vehicles temporarily located within the Community

which are necessary for construction or for the maintenance of the Common Elements, Units, or any Improvement located thereon.

(d) No abandoned or inoperable automobiles or vehicles of any kind shall be stored or parked within the Community. An "abandoned or inoperable vehicle" shall be defined by Colorado statutes governing inoperable or abandoned vehicles on public streets, or as defined by rule or regulation adopted by the Board of Directors of the Association. In the event that the Association shall determine that a vehicle is an abandoned or inoperable vehicle, then a written notice describing said vehicle shall be personally delivered to the Unit Owner thereof or shall be conspicuously placed upon the vehicle. If the abandoned or inoperable vehicle is not removed within seventy-two (72) hours after providing such notice, the Association shall have the right to remove the vehicle, and the owner thereof shall be solely responsible for all towing and storage charges.

(e) No activity such as, but not limited to, maintenance, repair, rebuilding, dismantling, repainting, or servicing of any kind of vehicle, trailer or boat, may be performed or conducted in the Community, except as permitted by the Association's Rules and Regulations.

(f) Parking in fire lanes (as designated by the Association or as designated by local government or a local fire protection authority) shall not be permitted.

(g) If any vehicle is parked on any portion of the Community in violation of this Section or in violation of the Association's Rules and Regulations, the Board may place a notice on the vehicle specifying the nature of the violation and stating that after seventy-two (72) hours the vehicle may be towed or booted. The notice shall include the name and telephone number of a person to contact regarding the alleged violation. A notice also shall be conspicuously placed at the Community stating the name and telephone number of the person or entity which will do the towing and/or booting hereunder. If seventy-two (72) hours after such notice is placed on the vehicle the violation continues or thereafter occurs again within six (6) months of such notice, the vehicle may be towed or booted in accordance with the notice, without further notice to the vehicle owner or user.

If a vehicle is parked in a fire lane, is blocking another vehicle or access to another Owner's or occupant's Unit or dwelling, is parked in a Limited Common Element parking space not designated to the parked vehicle Owner's Unit, is obstructing the flow of traffic, is parked on any grassy area, is parked in a space which has been assigned as exclusively serving another Unit, or otherwise creates a hazardous condition, no notice shall be required and the vehicle may be towed immediately at the direction of the Association or any Owner requesting the same.

If a vehicle is towed or booted in accordance with this subparagraph, neither the Association nor any officer or agent of the Association shall be liable to any person for towing and storage costs or for any claim of damage as a result of the towing or booting activity. The Association's right to tow or boot is in addition to, and not in limitation of all other rights of the Association, including the right to assess fines. Notwithstanding anything to the contrary herein, the Board may elect to impose fines or use other available sanctions, rather than exercise its authority to tow or boot.

Section 7.9 Use of Common Elements. There shall be no obstruction of the Common Elements, nor shall anything be kept or stored on any part of the Common Elements without the prior written approval of the Association. Nothing shall be altered on, constructed in, or removed from the Common Elements without the prior written approval of the Association.

Section 7.10 No Annoying Lights, Sounds or Odors. No light shall be emitted from any portion of the Community which is unreasonably bright or causes unreasonable glare, and no sound or odor shall be emitted from any portion of the Community which would reasonably be found by others to be noxious or offensive. No exterior spot lights, searchlights, speakers, horns, whistles, bells or other light or sound devices shall be located or used on any portion of the Community except with the prior written approval of the Board of Directors.

Section 7.11 Compliance with Insurance Requirements. Except as may be approved in writing by the Board of Directors, nothing shall be done or kept on the Community which may result in a material increase in the rates of insurance or would result in the cancellation of any insurance maintained by the Association.

Section 7.12 No Unsightliness. All unsightly conditions, structures, facilities, equipment, objects and conditions shall be enclosed within an approved structure.

Section 7.13 Restrictions on Clothesline and Storage. No clotheslines, drying areas, service yards, shops, equipment, storage or storage areas shall be installed, allowed, kept, maintained or permitted in the Community unless the same, in each instance, is expressly permitted in writing by the Managing Agent or if there is no Managing Agent, then by the Board of Directors of the Association. Where such written permission is granted, such permission is revocable if the item or condition becomes obnoxious to other Owners, in which event the Unit Owner or person having the item or condition complained of shall be given a written notice to correct the problem or, if not corrected, the Unit Owner, upon written notice, will be required to remove the item/condition from their Unit and from the Community. The written notices provided for herein shall be issued by the Managing Agent as the authorized representative of the Association or, if there is no Managing Agent, then by one (1) or more of the members of the Board of Directors of the Association. Unit Owners shall deem to hold the Association harmless from any claim resulting from any clotheslines, drying areas or yards, service yards, shops, equipment, storage or storage areas maintained on their Unit.

Section 7.14 Restriction on Signs and Advertising Devices. Except as provided herein, no sign, poster, billboard, advertising device or display of any kind shall be erected or maintained anywhere within the Community except such sign or signs as may be approved in writing by the Board of Directors. One professionally lettered "For Sale" or "For Rent" sign not to exceed three feet (3') by two feet (2') may be displayed inside a window of a Unit.

Section 7.15 No Restrictions on Mortgaging of a Unit. There are no restrictions on the right of the Unit Owners to mortgage or otherwise encumber their Unit. There is no requirement for the use of a specific lending institution or particular type of lender.

Section 7.16 Restrictions on Structural Alterations and Exterior Improvements. No structural alterations to any Unit or any Common or Limited Common Elements shall be done by any Owner, without the prior written approval of the Association. No Improvement to the exterior of a building which includes a Unit or to the Common Elements or to any landscaping shall be constructed, erected, placed or installed within the Community unless complete plans and specifications thereto shall have been first submitted to and approved in writing by the Board of Directors.

Section 7.17 Combining Units. Any Owner may physically combine the area or space of one Unit with the area or space of one or more adjoining Units, both of which Units are owned by such Owner, with the written consent of the Board of Directors (hereinafter referred to as a "Combined Unit"). For the duration of any such combination, any walls, floors or other structural separations between the Units so combined or any space which would be occupied by such structural separations but for the combination of such Unit, shall be deemed to be Limited Common Elements, provided, however, that such walls, floors or other structural separations of such space shall automatically revert to their original status if the Combined Units thereafter become subject to separate ownership. Upon any combination of Units as provided for herein, the Owners of the Combined Units shall have the same number of votes as the number of Units so combined (as if the Units had not been combined) and shall be personally obligated for each of the separate Assessment obligations of all such Combined Units.

Section 7.18 Map Restrictions. The restrictions, if any, included on the Map for the Real Estate are incorporated herein by this reference.

Section 7.19 Rules and Regulations. In furtherance of the provisions of this Declaration, and the general plan, Rules and Regulations concerning and governing the Community or any portion thereof may be adopted, amended, or repealed from time-to-time by the Board of Directors, or its successors and assigns. The Board of Directors may establish and enforce penalties for the infraction thereof.

Section 7.20 Garbage Collection. Each Owner shall dispose of the garbage collected within his or her Unit into containers as set forth in the Rules and Regulations.

Section 7.21 Compliance with Governing Documents. Each owner shall comply strictly with the provisions of this Declaration, the Articles of Incorporation, Bylaws, and the Rules and Regulations of the Association, as amended.

ARTICLE 8

INSURANCE/CONDEMNATION

Section 8.1 Insurance to be Carried by the Association. The Association shall obtain and maintain in full force and effect, to the extent reasonably available and at all times, the insurance coverage set forth herein and as set forth in the Act, which insurance coverage shall be provided by financially responsible and able companies duly authorized to do business in the State of Colorado.

Section 8.2 Hazard Insurance on the Units and Common Elements. The Association shall obtain adequate hazard insurance covering loss, damage or destruction by fire or other casualty to the Improvements, installed or made to Units and to the Common Elements and the other property of the Association, for the full replacement value without deduction for depreciation. The Association shall not be obligated to cover betterments and Improvements made by Owners. If coverage purchased by the Association includes Improvements and betterments installed by Unit Owners, the cost thereof may be assessed to each Unit in proportion to risk. All blanket hazard insurance policies shall contain a standard non-contributory mortgage clause in favor of each holder of first lien security interests, and their successors and assigns, which shall provide that the loss, if any thereunder, shall be payable to the Association for the use and benefit of such holders of first lien security interests, and their successors and assigns, as their interests may appear of record in the records of the office of the Clerk and Recorder of the City and County of Denver, State of Colorado.

Section 8.3 Liability Insurance. The Association shall obtain an adequate policy of public liability and property damage liability insurance covering the Common Elements, in such limits as the Board may determine from time to time, but not in any amount less than One Million Dollars (\$1,000,000.00) per injury, per person, and per occurrence, and in all cases covering all claims for bodily injury or property damage. Coverage shall include, without limitation, liability for personal injuries, operation of automobiles on behalf of the Association, and activities in connection with the ownership, operation, maintenance and other uses of the Community. All liability insurance shall name the Association as the insured.

Section 8.4 Fidelity Insurance. The Association shall obtain adequate fidelity coverage or fidelity bonds to protect against dishonest acts on the parts of its officers, directors, trustees and employees and on the part of all others who handle or are responsible for handling the funds of the Association, including persons who serve the Association with or without compensation. The fidelity coverage or bonds should be in an amount sufficient to cover the maximum funds that will be in the control of the Association, its officers, directors, trustees and employees.

Section 8.5 Worker's Compensation and Employer's Liability Insurance. The Association shall obtain worker's compensation and employer's liability insurance and all other similar insurance with respect to its employees in the amounts and forms as may now or hereafter be required by law.

Section 8.6 Officers' and Directors' Personal Liability Insurance. The Association may obtain officers' and directors' personal liability insurance to protect the officers, directors, committee members and any person acting at the discretion of the Board from personal liability in relation to their duties and responsibilities in acting on behalf of the Association.

Section 8.7 Other Insurance. The Association may obtain insurance against such other risks, as it shall deem appropriate with respect to the Association responsibilities and duties.

Section 8.8 Miscellaneous Terms Governing Insurance Carried by the Association. The Association shall maintain, to the extent reasonably available, insurance policies with the following terms or provisions:

(a) All policies of insurance shall contain waivers of subrogation and waivers of any defense based on invalidity arising from any acts of a Unit Owner and shall provide that such policies may not be canceled or modified without at least thirty (30) days' prior written notice to all of the Unit Owners, holders of first lien security interests and the Association.

(b) If requested, duplicate originals of all policies and renewals thereof, together with proof of payments of premiums, shall be delivered to all Eligible Holders at least ten (10) days prior to the expiration of the then-current policies.

(c) All liability insurance shall include the Association, the Board, the manager or managing agent, if any, the officers of the Association, holders of first lien security interests, their successors and assigns and Unit Owners as insureds.

(d) In no event shall any casualty insurance policy contain a co-insurance clause.

(e) Unit Owners may carry and are advised to carry other insurance on the Improvements and personal property in their Unit for their benefit and at their expenses, provided that the liability of the carriers issuing insurance obtained by the Association shall not be affected or diminished by reason of any such insurance carried by Unit Owners and provided, further, that the policies of insurance carried by the Association shall be primary, even if a Unit Owner has other insurance that covers the same loss or losses as covered by policies of the Association. In this regard, the Association's insurance coverage, as specified hereunder, does not obviate the need for Unit Owners to obtain insurance for their own benefit.

(f) All policies of insurance shall provide that the insurance thereunder shall be invalidated or suspended only in respect to the interest of any particular Unit Owner guilty of a breach of warranty, act, omission, negligence or non-compliance of any provision of such policy, including payment of the insurance premium applicable to the Unit Owner's interest, or who permits or fails to prevent the happening of any event, whether occurring before or after a loss, which under the provisions of such policy would otherwise invalidate or suspend the entire policy, but the insurance under any such policy, as to the interests of all other insured Unit Owners not guilty of any such act or omission, shall not be invalidated or suspended and shall remain in full force and effect.

Section 8.9 Insurance Premium. Except as assessed in proportion to risk, insurance premiums for the above provided insurance shall be a Common Expense to be included as a part of the annual Assessments levied by the Association.

Section 8.10 Managing Agent Insurance. The manager or managing agent, if any, shall be adequately insured for the benefit of the Association and shall maintain and submit evidence of such coverage to the Association. The Association may indemnify its managing agent, except for that agent's intentional acts or omissions or negligence outside the scope of their duties and obligations to the Association, or outside of direction from or of the Association.

Section 8.11 Annual Insurance Review. The Board shall review the insurance carried by and on behalf of the Association at least annually, for the purpose of determining the amount of insurance required.

Section 8.12 Adjustments by the Association. Any loss covered by an insurance policy described above shall be adjusted by the Association, and the insurance proceeds for that loss shall be payable to the Association and not to any holder of a first lien security interest. The Association shall hold any insurance proceeds in trust for the Association, Unit Owners and holders of first lien security interests as their interests may appear. Proceeds must be distributed first for the repair or restoration of the damaged property. The Unit Owners and holders of first lien security interest are not entitled to receive payment of any portion of the proceeds. The Association, through the Board of Directors, may determine how a surplus of proceeds, if any, shall be utilized.

Section 8.13 Duty to Repair. Any portion of the Community for which insurance is required under this Article which is damaged or destroyed must be repaired or replaced promptly by the Association or Unit Owner.

Section 8.14 Condemnation and Hazard Insurance Allocations and Distributions. In the event of a distribution of condemnation proceeds or hazard insurance proceeds to the Unit Owners, the distribution shall be as the parties with interests and rights are determined or allocated by record and pursuant to the Act.

Section 8.15 Responsibility for Payment of Deductible Amount. Whether the Board, in its discretion, chooses to submit a claim under the Association insurance policies or not, the payment of the deductible amount for claims which the Association is responsible for insuring shall be as follows:

(a) The Association shall pay or absorb the deductible amount for any work, repairs or reconstruction for damage to Common Elements unless the damage is caused by the negligent or willful act or omission of an Owner, his family, guests, or invitees, in which case the Association shall seek reimbursement of the deductible amount as an Assessment in compliance with and under the terms of this Declaration..

(b) Any loss falling within the deductible portion of the Association policies to property for which Owners have repair and maintenance responsibility shall be paid or absorbed by the Owners of the Units involved in the same proportion as each Owner's claim bears to the total amount of insurance proceeds paid for the occurrence.

Section 8.16 Insurance Assessments. If the proceeds of insurance are not sufficient to defray the costs of reconstruction and repair due to deductibles allocated to the Association or failure of the Association to maintain coverage to defray costs of repair and reconstruction which in the absence of insurance would be the maintenance responsibility of the Association, the deductible or additional cost shall be a Common Expense. This Assessment shall not be considered a Special Assessment as discussed in this Declaration and shall not require any vote of the Owners.

Section 8.17 Payment of Claims to Delinquent Owners. Notwithstanding anything to the contrary herein, in the event of an insured loss under the Association's master hazard insurance policy for which the Association receives from the insurer payment for a loss sustained by an Owner who is delinquent in the payment of Assessments owed to the Association under this Declaration, then the Association may retain and apply such proceeds to the delinquency. Any surplus remaining after application of the proceeds to any delinquency shall be paid by the Association to the affected Owner.

ARTICLE 9

SPECIAL RIGHTS OF HOLDERS OF FIRST LIEN SECURITY INTERESTS

Section 9.1 General Provisions. The provisions of this Article are for the benefit of holders, insurers, or guarantors of holders of first lien security interests recorded within the Community. To the extent applicable, necessary or proper, the provisions of this Article apply to both this Declaration and to the Articles and Bylaws of the Association. A holder, insurer or guarantor of a first lien security interest who has delivered a written request to the Association containing its name, address, the legal description and the address of the Unit upon which it holds a security interest shall be considered an "Eligible Holder." Eligible insurers and

guarantors of a first lien security interest shall have the same rights as Eligible Holder.

Section 9.2 Special Rights. Eligible Holders shall be entitled to: (a) timely written notice from the Association of any default by a mortgagor of a Unit in the performance of the mortgagor's obligations under this Declaration, the Articles of Incorporation, the Bylaws or the Rules and Regulations, which default is not cured within sixty (60) days after the Association learns of such default; (b) examine the books and records of the Association during normal business hours; (c) receive a copy of financial statements of the Association, including any annual audited financial statement; (d) receive written notice of all meetings of the Members of the Association; (e) designate a representative to attend any such meetings; (f) written notice of any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association; (g) written notice of abandonment or termination of the Association of the plan contemplated under this Declaration; (h) thirty (30) days' written notice prior to the effective date of any proposed, material amendment to this Declaration, the Articles of Incorporation, or the Bylaws; (i) thirty (30) days' written notice prior to the effective date of termination of professional management of the Association or the Common Elements, when professional management had been required previously under the legal documents for the Community or by an Eligible Holder; and (j) immediate written notice as soon as the Association receives notice or otherwise learns of any damage to the Common Elements or to the Unit on which the Eligible Holder holds a security interest, if the cost of reconstruction exceeds Twenty Thousand Dollars (\$20,000.00) and as soon as the Association receives notice or otherwise learns of any condemnation or eminent domain proceedings or other proposed acquisition with respect to any portion of the Common Elements or any Units.

Section 9.3 Special Approvals. Unless at least fifty-one percent (51%) of the Eligible Holders of first lien security interests (based on one (1) vote for each mortgage owned) of Units in the Association and requisite Unit Owners have given their written approval, neither the Association nor any Member shall (a) by act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the Common Elements or any Improvements thereon which are owned, directly or indirectly, by the Association (except that the granting of access easements, utility easements, drainage easements and water facilities easements or easements for other public purposes consistent with the intended use of such Real Estate by the Association shall not be deemed within the meaning of this provision); (b) change the method of determining the obligations, Assessments or other charges which may be levied against Members or the method of allocating distributions of hazard insurance policy proceeds or condemnation awards; (c) by act or omission change, waive or abandon any scheme or regulation, or enforcement thereof, pertaining to architectural approval of improvement of Units, including the architectural design of the exterior appearance of Units, or the upkeep of the Common Elements; (d) fail to maintain the casualty, fire and extended coverage insurance as elsewhere provided in this Declaration; (e) use hazard insurance proceeds for losses other than the repair, replacement or reconstruction of the Improvements which were damaged or destroyed; (f) take action to terminate the legal status of the Community after substantial destruction or condemnation occurs; (g) amend any material provision of this Declaration; and (h) establish self-management by the Association when professional management has previously been required by the legal documents for the

Community or by an Eligible Holder. An amendment shall not be deemed material if it is for the purpose of correcting technical errors, or for clarification only. If an Eligible Holder of a first lien security interest receives written request for approval of the proposed act, omission, change or amendment by certified or registered mail, with a return receipt requested, and does not deliver or post to the requesting party a negative response within thirty (30) days, it shall be deemed to have approved such request.

Section 9.4 Right to Pay Taxes and Insurance Premiums. Any holder of a first lien security interest shall be entitled to pay any taxes or other charges which are in default and which may or have become a lien against a Unit or any of the Common Elements and may pay any overdue premiums on hazard insurance policies or secure new hazard insurance coverage for the Common Elements or Units.

ARTICLE 10

GENERAL PROVISIONS

Section 10.1 Compliance and Enforcement.

(a) Every Owner and occupant of a Unit shall comply with the Governing Documents, and each Owner shall have the right to enforce the covenants and restrictions, as set forth in this Declaration.

(b) The Association, acting through the Board, may enforce all applicable provisions of this Declaration, and may impose sanctions for violation of the Governing Documents. Such sanctions may include, without limitation:

(i) imposing reasonable monetary fines, after notice and opportunity for a hearing, which fine shall constitute a lien upon the violator's Unit. (In the event that any occupant, guest, or invitee of a Unit violates the Governing Documents and a fine is imposed, at the Board's discretion, the fine may first be assessed against the violator; provided, however, if the fine is assessed against the violator and is not paid by the violator within the time period set by the Board, the Owner shall pay the fine upon notice from the Board and the opportunity for a hearing have been provided);

(ii) suspending the right to vote;

(iii) exercising self-help (including, but not limited to, performing such maintenance responsibilities which are the Owner's responsibility under this Declaration and assessing all costs incurred by the Association against the Unit and the Owner as an Assessment) or taking action to abate any violation of the Governing Documents;

(iv) requiring an Owner, at the Owner's expense, to remove any structure or Improvement on such Owner's Unit in violation of the Governing Documents and to restore the Unit to its previous condition and, upon failure of the Owner to do so, the Board or its designee shall have the right to enter the property, remove the violation and restore the property to substantially the same condition as previously existed, at the Owner's expense, and any such action shall not be deemed a trespass;

(v) without liability to any person, the Association precluding any contractor, subcontractor, agent, employee, or other invitee of an Owner who fails to comply with the terms and provisions of this Declaration from continuing or performing any further activities in the Community;

(vi) levying specific Assessments to cover costs incurred by the Association to bring a Unit into compliance with the Governing Documents; and

(vii) bringing suit at law or in equity to enjoin any violation or to recover monetary damages or both.

(c) In addition to any other enforcement rights, if an Owner fails to properly perform his or her maintenance responsibility, or otherwise fails to comply with the Governing Documents, the Association may record a notice of violation against the Owner and the Unit.

(d) All remedies set forth in the Governing Documents shall be cumulative of any remedies available at law or in equity. In any action to enforce the Governing Documents, the prevailing party shall be entitled to recover all costs, including, without limitation, attorneys fees and court costs, reasonably incurred in such action.

(e) The decision of the Association to pursue enforcement action in any particular case shall be left to the Board's discretion, subject to the duty to exercise judgment and be reasonable, as provided for in this Declaration, and further restricted in that the Board shall not be arbitrary or capricious in taking enforcement action. A decision of the Association not to pursue enforcement action shall not be construed as a waiver of the Association's right to enforce such provisions at a later time under other circumstances or preclude the Association from enforcing any other covenant, restriction or rule.

Section 10.2 Severability. Each of the provisions of this Declaration shall be deemed independent and severable. If any provision of this Declaration or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of this Declaration which can be given effect without the invalid provisions or applications.

Section 10.3 Term of Declaration. The covenants and restrictions of this Declaration shall run with and bind the land in perpetuity.

Section 10.4 Amendment of Declaration by Unit Owners. Except as otherwise provided in this Declaration, any provision, covenant, condition, restriction or equitable servitude contained in this Declaration may be amended, revised, removed or repealed, and new provisions, covenants, conditions, restrictions or equitable servitudes may be added, at any time and from time to time upon approval of sixty-seven percent (67%) of the votes in the Association, and with the written consent of the Association. Notice of any meeting at which a proposed amendment will be considered shall state the fact of consideration and the subject matter of the proposed amendment. The amendment or repeal shall be effective upon the recordation in the office of the Clerk and Recorder of the City and County of Denver, State of Colorado of a certificate setting forth the amendment in full and certifying that the amendment has been approved as set forth above, and containing the written consent and approval of the Association.

Section 10.5 Amendment of Declaration by the Association. The Association shall have the authority to amend, revise, remove, repeal or add any provision to this Declaration, without Owner or mortgagee approval, in order to conform with any applicable state, city or federal law, and/or to bring the Declaration into compliance with applicable rules and regulations of the Federal National Mortgage Association ("Fannie Mae"), the Department of Housing and Urban Development ("HUD") and the Veterans Administration ("VA") pursuant to federal law.

Section 10.6 Captions. All captions and titles used in this Declaration are intended solely for convenience of reference and shall not enlarge, limit or otherwise affect that which is set forth in any paragraph, section or article hereof.

Section 10.7 Interpretation. The provisions of this Declaration shall be liberally construed to effectuate their purposes of creating a uniform plan for promoting and effectuating the fundamental concepts as set forth in the recitals of this Declaration. This Declaration shall be construed and governed under the laws of the State of Colorado.

Section 10.8 Singular Includes the Plural. Unless the context otherwise requires, the singular shall include the plural, and the plural shall include the singular, and each gender referral shall be deemed to include the masculine, feminine and neuter.

Section 10.9 Conflict of Provisions. In case of conflict between this Declaration and the Articles of Incorporation or the Bylaws, this Declaration shall control. In the case of conflict between the Articles of Incorporation and Bylaws, the Articles of Incorporation shall control.

Section 10.10 Education and Training. As a Common Expense, the Association may provide education and training opportunities for Owners, residents and occupants, including providing funding and permitting facilities use for such purposes. The Association may provide education and training activities as a tool for fostering Owner, resident and occupant awareness of governance, operations and concerns of the Community and of the Association. Appropriate educational topics include dispute or conflict resolution, issues involving the Governing Documents, and education or topics benefitting or contributing to operation or governance of the Community. The Association may also fund and support education and training for officers and Directors.

Section 10.11 Challenge to this Amendment. All challenges to the validity of this amendment must be made within one (1) year after the date of recording of this document.

IN WITNESS WHEREOF, the undersigned, being the president and the treasurer of The Towers at Cheesman Park Condominium Association, Inc., hereby certify that the Association has obtained written approval of this Amended and Restated Declaration from sixty-seven percent (67%) of the Members within The Towers at Cheesman Park Community and fifty-one percent (51%) of the first mortgagees, as evidenced by written instruments filed with the records of the Association, or alternatively, has obtained court approval of this Declaration pursuant to the provisions of the Act, Section 217(7).

**THE TOWERS AT CHEESMAN PARK
CONDOMINIUM ASSOCIATION, INC.,
a Colorado nonprofit corporation**

By: _____
President

ATTEST:

By: _____
Secretary

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing Declaration was acknowledged before me on this _____ day of _____, _____, by _____ as President of The Towers at Cheesman Park Condominium Association, Inc. a Colorado nonprofit corporation.

Witness my hand and official seal.

My commission expires: _____

Notary Public

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing Declaration was acknowledged before me on this _____ day of _____, _____, by _____ as Secretary of The Towers at Cheesman Park Condominium Association, Inc., a Colorado nonprofit corporation.

Witness my hand and official seal.

My commission expires: _____

Notary Public

EXHIBIT A

ALLOCATED INTERESTS

<u>Unit</u>	<u>Percentage Interest in Common Elements and Percentage of Liability for Common Expenses</u>
100	0.98%
101	0.98%
102	0.60%
200	0.98%
201	1.05%
202	1.05%
203	0.98%
204	0.98%
205	1.05%
206	1.05%
207	0.98%
300	0.98%
301	1.05%
302	1.05%
303	0.98%
304	0.98%
305	1.05%
306	1.05%
307	0.98%
400	0.98%
401	1.05%

<u>Unit</u>	<u>Percentage Interest in Common Elements and Percentage of Liability for Common Expenses</u>
402	1.05%
403	0.98%
404	0.98%
405	1.05%
406	1.05%
407	0.98%
500	0.98%
501	1.05%
502	1.05%
503	0.98%
504	0.98%
505	1.05%
506	1.05%
507	0.98%
600	0.98%
601	1.05%
602	1.05%
603	0.98%
604	0.98%
605	1.05%
606	1.05%
607	0.98%
700	0.98%
701	1.05%

<u>Unit</u>	<u>Percentage Interest in Common Elements and Percentage of Liability for Common Expenses</u>
702	1.05%
703	0.98%
704	0.98%
705	1.05%
706	1.05%
707	0.98%
800	0.98%
801	1.05%
802	1.05%
803	0.98%
804	0.98%
805	1.05%
806	1.05%
807	0.98%
900	0.98%
901	1.05%
902	1.05%
903	0.98%
904	0.98%
905	1.05%
906	1.05%
907	0.98%
1000	0.98%
1001	1.05%

<u>Unit</u>	<u>Percentage Interest in Common Elements and Percentage of Liability for Common Expenses</u>
1002	1.05%
1003	0.98%
1004	0.98%
1005	1.05%
1006	1.05%
1007	0.98%
1100	0.98%
1101	1.05%
1102	1.05%
1103	0.98%
1104	0.98%
1105	1.05%
1106	1.05%
1107	0.98%
1200	0.98%
1201	1.05%
1202	1.05%
1203	0.98%
1204	0.98%
1205	1.05%
1206	1.05%
1207	0.98%
PH 1	0.98%
PH 2	1.05%

<u>Unit</u>	<u>Percentage Interest in Common Elements and Percentage of Liability for Common Expenses</u>
PH 3	1.05%
PH 4	0.98%
PH 5	0.98%
PH 6	1.05%
PH 7	1.05%
PH 8	0.98%
Total: 99	100.00%