

USE OF UNITS

Section 9.01 Occupancy of Units. Each Owner shall be entitled to the exclusive ownership and possession of his Unit in accordance with all applicable governmental ordinances, rules, regulations, and zoning requirements, provided, however, each Unit shall be occupied and used only as and for those commercial uses authorized and permitted by governmental ordinances, rules and regulations and zoning requirements in effect on the date of recordation hereof, and as may be amended from time to time. No Unit shall be occupied for residential living or sleeping purposes.

Section 9.02 Leasing of Units. The Owners may lease or rent one or more of their Units for any purpose or use permitted under this Declaration subject to the provisions of Section 13.08.

Section 9.03 Declarant's Use. Declarant or its nominee or agents may use any Unit owned by Declarant as a construction facility/office, a sales model or as a sales office.

Section 9.04 Association Ownership. The Association shall have the right, but not the obligation, to purchase, own or lease any Unit as an office for a manager, building superintendent and/or engineer, and the Association may also maintain offices within the Common Elements.

ARTICLE 10 EASEMENTS

Section 10.01 Association Access and Use Easement. The Association shall have a non-exclusive right and easement to make such use of and to enter into or upon the Common Elements, the Limited Common Elements and the Units as may be necessary or appropriate for the performance of the duties and functions which it is obligated or permitted to perform under this Declaration. Some of the Common Elements are or may be located within a Unit or may be conveniently accessible only through a Unit. The Association shall have an easement for access through each Unit and to all Common Elements, from time to time, during such reasonable hours as may be necessary, for the maintenance, repair or replacement of any of the Common Elements located therein or accessible there through. Non-emergency repairs shall be made only during regular business hours after at least twenty-four (24) hours notice to the occupants of the Unit wherein such repairs are to be made or access required, unless such occupants have no objection to earlier entry. In emergencies, the occupants of an affected Unit shall be given such notice as is reasonably possible. The cost of repairing damage to 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 be a Common Expense. No diminution or abatement of any Common Expense Assessments shall be claimed or allowed for inconvenience or discomfort arising from the making of repairs or improvements, or from action taken to comply with any law, ordinance or order of any governmental authority. The damaged improvements shall be restored to substantially the same condition in which they existed prior to the damage. Notwithstanding the foregoing, if any such damage is the result of the carelessness or negligence of any Owner, then such Owner shall indemnify and reimburse the Association for the costs and expenses of repairing such damage.

Section 10.02 Owner's Access, Support and Utility Easements. Each Owner shall have a non-exclusive easement for access to his Unit from the streets adjacent to the Project and the driveways in the Project, over and on the halls, corridors, stairs, walks, bridges, and exterior access and other easements which are part of the Common Elements. Each Owner shall have a non-exclusive easement in, on and over the Common Elements, including the perimeter and bearing walls of or within each and every Unit and the Common Elements within the Units of other Owners for subjacent and lateral support of its Unit and other Common Elements; for water, sewer, gas, electricity, telephone and television service.

Section 10.03 General Utility Easements. The utility easements over and across the Units and the Property shall be those easements as may be established pursuant to the provisions of this Declaration, the Map, the Act and/or those of record. There is hereby created a blanket easement upon, across, over and under the Property and the Units for installing, replacing, repairing and maintaining all utilities, including, but not limited to, water, sewer, gas, telephone, electricity and cable television facilities. By virtue of this easement it shall be expressly permissible for the utility companies or governmental entities supplying such utility service to erect and maintain the necessary equipment on the Property and to affix, repair and maintain water and sewer pipes, gas, electric and telephone wires, circuits, conduits and meters. In addition, the Association, the Board, its agents, Managing Agent and employees shall have a non-exclusive easement to traverse, cross and utilize any portion of the easements created or recognized in this Declaration to perform any of its functions as described in this Declaration. All such previously existing easements are hereby reaffirmed and ratified.

Section 10.04 Easements for Encroachments. If any part of the Common Elements (including without limitation, pipes, conduits, wires, ducts, vents, flues and the like for transmission of water, air, smoke, electricity, sewage, natural gas and telephone and television signals) shall encroach upon or be located within a Unit, an easement therefor and for the maintenance thereof shall and does exist. If any part of a Unit encroaches or shall hereafter encroach upon the Common Elements, an easement for such encroachment and for the maintenance thereof shall and does exist. Such encroachments shall not be considered to be encumbrances either on the Common Elements or on any Unit, for purposes of marketability of title or otherwise. Encroachments referred to herein include, but are not limited to, encroachments caused by error in the original construction or remodeling of the Buildings, by error in the Map, by settling, rising or shifting of the earth or by changes in position caused by repair or reconstruction of the Project or any part thereof.

Section 10.05 Easement for Public Safety and Municipal Services.

(a) A non-exclusive easement for ingress and egress is hereby granted to all public police, sheriff, fire protection, ambulance and other similar emergency agencies or persons, and to any private security service, now or hereafter servicing the Project, to enter upon all Common Elements and Units located in the Project and upon the Property in the legal performance of their official duties.

(b) An easement is hereby granted to the Association to enter upon, across, over, in and

under any portion of a Unit or the Common Elements for the purpose of improving, changing, correcting or otherwise modifying the drainage of surface water from the Property.

Section 10.06 Easements Deemed Appurtenant. The easements, uses and rights thereto as provided for in this Declaration shall be deemed to be appurtenant to all of the Units and all instruments of conveyance and other instruments affecting title to a Unit shall be deemed to grant and reserve said easements, uses and rights without specific reference thereto.

ARTICLE 11 ALTERATION OF UNITS; MAINTENANCE

Section 11.01 Owners' Maintenance Responsibilities. For purposes of maintenance, repair, alteration and remodeling, an Owner shall be deemed to own and shall have the right and obligation to maintain, repair, alter and remodel the finished surfaces of the interior walls, ceilings and floors, the materials (such as, but not limited to, plaster, gypsum dry wall, paneling, wallpaper, paint, wall and floor tile, carpeting and other flooring, but not including the sub-flooring) within his Unit and the doors and windows. No Owner shall, however, make any changes or alterations of any type or kind to any Common Elements. An Owner shall not be deemed to own utility lines, pipes, wires, conduits or systems within his Unit which serve any other Unit, except as a tenant in common with the other Owners. All Owners shall maintain and keep in good repair and in a clean, safe, attractive and slightly condition, the interior of their Units, including the fixtures, doors and windows thereof and the improvements affixed thereto and such other items and areas as may be required by the Bylaws and Rules and Regulations. All fixtures, appliances and equipment installed within a Unit shall be maintained and kept in good repair by the Owner thereof. If any Owner fails to carry out or neglects the responsibilities set forth in this Section, the Association may fulfill the same and charge such Owner therefor, which payment shall be enforced in the manner of Common Expense Assessments pursuant to Article 5. Any expense incurred by an Owner or by the Association in the performance of duties under this Section shall be borne solely by such Owner.

Section 11.02 Prohibited Alterations.

(a) No Owner shall undertake any act, or fail to do an act, nor any work which would violate any zoning or building ordinance or which would impair the structural soundness or safety of the Buildings, any Unit or Common Element, reduce the value of the Project or impair any easement or hereditament which may affect the Common Elements or any other Unit, nor shall any Owner without the approval of the Association enclose, by means of screening or otherwise, any balcony, yard, or deck which is accessible from, associated with and which adjoins a Unit.

(b) No Owner, without the prior written approval of the Association, shall make alterations to the exterior portions of its Unit or on the roof, or to the Buildings or landscaping, nor

shall an Owner remove any additions, improvements or fixtures from the Buildings.

(c) No Owner shall be permitted, unless prior written consent is obtained from the Association, to alter or renovate the interior of any Building or Unit if such alteration or renovation would weaken or impair the structural strength of the Building or Unit, or lessen the value of said Building or Unit. As used herein "alterations" shall include, but not be limited to, alterations to structural, heating and air conditioning, mechanical, electrical, and plumbing systems. Any unauthorized alteration may be restrained by injunction.

Section 11.03 Permitted Alterations. In addition to and in conformance with the foregoing Sections, an Owner may alter, remove or add partitions which are not load-bearing and which are located entirely within the walls, ceilings and floors forming and constituting the perimeter boundaries of its Unit, without the prior written consent of the Association; provided, however, that same would not disrupt or impair any utility service to other Units or any Common Elements.

All such alterations shall conform with and meet applicable governmental building and safety codes, and it is the responsibility of the Unit Owner to assure construction conformance with such codes.

Section 11.04 Mechanic's Lien Restriction. After completion of construction of the Unit improvements by Declarant, no labor performed or materials furnished and incorporated in a common wall with the consent of or at the request of the Owner thereof or his agent, or his contractor or subcontractor, shall be the basis for the filing of a lien against the abutting Unit sharing such common wall where the Owner of such abutting Unit has not expressly consented to or requested the same. Each Owner sharing a common wall shall indemnify and hold harmless each of the Owners of the abutting Unit sharing such common wall from and against all liability arising from the claim of any lien against such abutting Unit for construction performed, or for labor, materials, services or products incorporated in the Owner's Unit. The provisions herein contained are subject to the rights of the Association as set forth in this Declaration. Notwithstanding the foregoing, any First Mortgagee of a Unit who shall become the Owner of such Unit pursuant to a lawful foreclosure sale or the taking of a deed in lieu of foreclosure shall not be under any obligation to indemnify and hold harmless any Owners of the abutting Units against liability for claims arising prior to the date such First Mortgagee becomes an Owner, but shall be under such obligation for any claims thereafter. At the written request of any Owner the Association shall enforce such indemnity by collecting from the Owner of the Unit on which the labor was performed and materials furnished the amount necessary to discharge any such lien, including all costs incidental thereto, and obtaining discharge of the lien. Such collection shall be made by Common Expense Assessment pursuant to Article 5.

ARTICLE 12
INSURANCE

Section 12.01 Association. The Association shall obtain and maintain at all times policies of insurance written by insurance companies licensed to do business in Colorado with an acceptable rating, with premiums being paid as a Common Expense. Insurance coverage, consistent with local, state and federal insurance laws, shall be provided for as follows:

(a) **Hazard Insurance.** A "master" or "blanket" type of insurance policy insuring against loss or damage by fire and all other hazards that are normally covered by the standard extended coverage endorsement, and all other perils customarily covered for similar types of projects, including those covered by the standard "all risk" endorsement or a policy that includes the "broad form" covered causes of loss. Said insurance shall insure the entire Project and all Common Elements, including fixtures, building service equipment, and common personal property and supplies belonging to the Association. All such insurance coverage shall cover one hundred percent (100%) of the insurable replacement cost of the Project Improvements, including the individual Units. Coverage does not need to include real estate, foundations, excavations, or other items usually excluded from insurance coverage. Such policies shall show the Association as the named insured, with the "loss payable" clause showing the Association as a trustee for each Unit Owner and each First Mortgagee, and shall contain a standard mortgage clause in favor of each First Mortgagee, with any loss payable thereunder to be paid to the Association for the use and benefit of such First Mortgagees, as their interests may appear. In addition, the following may be included in any such insurance policy:

- (1) Inflation Guard Endorsement, when it can be obtained;
- (2) Building Ordinance or Law Endorsement, providing for contingent liability from the operation of building laws, demolition costs, and increased costs of reconstruction;
- (3) Steam Boiler and Machinery Coverage Endorsement, if the Project has central heating or cooling, providing for the insurer's minimum liability per accident to at least equal the lesser of \$2 million or the insurable value of the Building(s) housing the boiler or machinery; or, in lieu thereof, the Association may purchase separate stand-alone boiler and machinery coverage;
- (4) Provision for recognition of any Insurance Trust Agreement;
- (5) Waiver of the right of subrogation against Unit Owners;
- (6) Provision that insurance will not be prejudiced by any acts or omissions of individual Unit Owners that are not under the control of the Association;
- (7) Provision that the policy will be primary, even if a Unit Owner has other

insurance that covers the same loss;

(8) Provision requiring the insurer to notify the Association and each First Mortgagee in writing at least ten (10) days before it cancels or substantially changes its coverage; and

(9) Unless a higher maximum amount is required by Colorado law, the maximum deductible amount for policies covering the Common Elements shall be the lesser of \$10,000.00 or one percent (1%) of the policy face amount; provided, however, for losses related to individual Units covered by a blanket policy for the Project, the deductible related to the individual Unit shall be the higher of \$1,000.00 or one percent (1%) of the replacement cost of the Unit. Funds to cover these deductible amounts shall be included in the Working Capital Fund maintained by the Association.

(b) Flood Insurance. If the Project is located in an area identified by the Secretary of Housing and Urban Development as a Special Flood Hazard Area and the sale of flood insurance has been made available under the National Flood Insurance Act of 1968, a blanket policy of flood insurance on the Project, including any machinery or equipment which is part of the Building in an amount equal to the lesser of the maximum coverage available under the appropriate National Flood Insurance Administration Program, or the full insurable value of the property so insured.

(c) Liability Insurance. A commercial general liability insurance policy for the entire Project, including all Common Elements, public ways, and any other areas under the Association's supervision, providing coverage for bodily injury and property damage that results from the operation, maintenance or use of the Project's Common Elements, with coverage in the minimum amount of \$1 million for bodily injury and property damage for any single occurrence. If such policy does not include "severability of interest" in its terms, there shall be a specific endorsement to preclude the insurer's denial of a Unit Owner's claim because of negligent acts of the Association or of other Unit Owners. The policy shall provide for at least ten (10) days written notice to the Association and each First Mortgagee before the insurer can cancel or substantially modify it.

(d) Worker's Compensation. If the Association has employees, worker's compensation and employer's liability insurance and all other similar insurance with respect to such employees of the Association, in at least the minimum amounts and on the terms now or hereafter required by law.

(e) Other Risks. Such other risks of a similar or dissimilar nature as the Board shall deem appropriate with respect to the Project, including, but not limited to, fidelity insurance and insurance for plate or other glass.

(f) Company Rating. For purposes of this Section 12.01 the term "acceptable rating" shall mean a "B" or better general policyholder's rating or a "6" or better financial performance index rating in Best's Insurance Reports, an "A" or better general policyholder's rating and a financial size category of "VIII" or better in Best's Insurance Reports - International Edition; an "A" or better rating in

Demotech's Hazard Insurance Financial Stability Ratings; a "BBBq" qualified solvency rating or a "BBB" or better claims-paying ability rating in Standard and Poor's Insurer Solvency Review; or a "BBB" or better claims-paying ability rating in Standard and Poor's International Confidential Rating Service.

Section 12.02 Insurance Appraisals. Prior to obtaining any policy of casualty insurance or renewal thereof after the Owner Control Date, the Board may obtain an annual appraisal from a duly qualified real estate or insurance appraiser, which appraiser shall estimate the full replacement cost of the entire Project for the purpose of determining the amount of the insurance to be carried. The limits of such casualty insurance shall be adjusted annually in accordance with currently determined full replacement cost.

Section 12.03 Owners' Insurance. Owners may carry any insurance for their benefit and at their expense, provided that the insurance of the Association shall not be affected or diminished by reason of any such additional insurance carried by Owners.

Section 12.04 No Impairment of Insurance. No Person shall do anything or cause anything to be kept in or on the Project which might result in an increase in the premiums for or cause the cancellation of insurance covering the Project.

ARTICLE 13 RESTRICTIONS

Section 13.01 Laws. No Person shall do anything or keep anything in or on the Project or use or occupy any Unit in such a way which would be immoral, improper, offensive or in violation of any statute, rule, ordinance, regulation, permit or other requirement of any governmental body.

Section 13.02 Noxious, Offensive, Hazardous or Annoying Activities. No noxious or offensive activity shall be carried on upon any part of the Project nor shall anything be done or placed on or in any part of the Project or any Unit or use or occupy any Unit in such a way which is or may become a nuisance or cause embarrassment, disturbance of annoyance to others. No activity shall be conducted on any part of the Project and no improvements shall be made or constructed on any part of the Project which are or might be unsafe or hazardous to any person or property. No sound shall be emitted on any part of the Project which is unreasonably loud or annoying. No odor shall be emitted on any part of the Project which is noxious or offensive to others.

Section 13.03 Unsightliness. No unsightliness or waste shall be permitted on or in any part of the Project. No Person shall keep or store anything on or in any of the Common Elements, nor shall any Person hang, erect, affix or place anything upon any of the Common Elements and nothing whatsoever shall be placed on or in windows or doors of Units or in open view upon or within a Common Element which creates an unsightly appearance, in the sole discretion of the Board.

Section 13.04 Animals. Animals, livestock, reptiles or birds may be excluded from the

Project or regulated pursuant and subject to all governmental animal ordinances and laws and subject to Rules and Regulations as may be promulgated by the Association in regard thereto, provided however, that in no case may animals be kept on any part of the Project for any commercial purpose. Each Owner shall be responsible for any damage caused by its and its Guest's animals and shall be obligated to clean up after its and its Guest's animals on the Project. No animals shall be allowed to remain tied or chained to any balconies, patios, decks or other parts of the Project and any such animal so tied or chained may be removed by the Association or its agents.

Section 13.05 Signs. With the exception of the Declarant's directional, promotional and advertising signs, no sign or advertising devices of any nature shall be erected or maintained on any part of the Project without the prior written consent of the Association.

Section 13.06 Rules and Regulations. No Person shall violate the Rules and Regulations regularly adopted from time to time by the Association in accordance with its Bylaws, whether relating to the use of Units, the use of the Common Elements or adopted for the purpose of implementing the restrictions of each Section of this Article 13. Each Unit Owner by acceptance of the Deed in conveyance hereby irrevocably designates the Association as its attorney-in-fact with respect to the implementation and interpretation of the Rules and Regulations.

Section 13.07 Owner-Caused Damages. If, due to the act or neglect of an Owner or such Owner's Guests, loss or damage shall be caused to any person or property, including Common Elements or any Unit, such Owner shall be liable and responsible therefor, except to the extent such damage or loss is covered by insurance obtained by the Association and the carrier of the insurance has waived its rights of subrogation against such Owner.

Section 13.08 Leasing of a Unit. A Unit Owner may lease its Unit under the following conditions:

- (a) such leases and occupancy shall be in accordance with the occupancy restrictions of Section 9.01;
- (b) such leases shall be in writing;
- (c) such lease shall provide that the terms thereof and the lessee's occupancy of the Unit shall be subject in all respects to the provisions of this Declaration, the Articles, Bylaws and Rules and Regulations of the Association and that any failure by the lessee to comply therewith shall constitute a default under such lease; and
- (d) within ten (10) days after the execution of such lease, the Owner shall deliver a copy of the same to the Association.

Section 13.09 Parking, Parking Restrictions and Vehicles. Parking spaces, except for those designated for handicapped use, shall be Limited Common Elements allocated to specific Units in

accordance with the Condominium Map and for the exclusive use of the designated Unit. Notwithstanding the foregoing, all parking spaces shall otherwise be subject to reasonable regulation and control by the Association. All parking areas shall be resurfaced by the Association, from time to time so as to provide unobstructed, all-weather surfaces. Each parking space provided may be designated by lines painted on the paved surfaces. In addition to the foregoing restriction, the Association, acting through the Board, may establish reasonable Rules and Regulations governing use of the driveway and parking areas in the Common Elements and Limited Common Elements. Except completely inside and enclosed within an Owner's Unit: (a) No Owner, Guest of an Owner, agents, patrons, customers, clients and invitees shall park any vehicle on the Common Elements except wholly within a single parking area designated therefore; (b) No inoperable vehicle shall be stored on the Common Elements; (c) No Owner shall conduct or permit to be conducted major repairs or restorations of any vehicle of whatever kind upon the Common Elements; (d) Boats, recreational vehicles and other similar crafts or vehicles shall not be kept, stored, parked or maintained upon the Common Elements; and (e) No damaged or unsightly vehicles shall be kept, stored, parked or maintained upon the Common Elements. No parking, storage or use is permitted on the Future Development Area without the prior written agreement of the Declarant.

Section 13.10 Zoning Compliance. Units shall not be used for any purposes contrary to or in violation of any pertinent zoning ordinance. It is intended that Units be used for permitted and authorized commercial and industrial purposes only.

Section 13.11 Determination of Violation. Any determination as to whether or not a particular activity or condition constitutes a violation of the provisions of any Section of this Article 13 shall be within the sole unrestricted discretion of the Board and shall be final.

Section 13.12 Exterior Windows and Doors. No windows or doors of any Units located in the exterior walls of the Buildings shall be altered in any way or repainted by any person, nor shall any person cause any window air conditioner or other device or article to protrude outside the sash of any such window.

Section 13.13 Disrepair. No Owner shall suffer or permit any portion of its Unit which is required to be maintained by such Owner to fall into disrepair so as to create, in the opinion of the Association, a dangerous, unsafe, unsightly, or unattractive condition. The Association, upon thirty (30) days' prior written notice to such Owner, and after opportunity for a hearing as shall be provided for in the Bylaws, or without notice and hearing in case of emergency, shall have the right, but not the duty, to enter such Owner's Unit and correct such condition, and such Owner shall promptly reimburse the Association for all costs and expenses including reasonable attorneys' fees, incurred by the Association. Such costs shall be a separate assessment and shall create a lien enforceable in the same manner as provided in this Declaration for liens and for the nonpayment of Common Expense Assessments. In the event any portion of a Unit which is required to be maintained by the Association falls into disrepair so as to create a dangerous, unsafe, unsightly, or unattractive condition, the Owner of such Unit shall promptly notify the Association of the need for maintenance and repair.

ARTICLE 14
DAMAGE, DESTRUCTION; OBSOLESCENCE

Section 14.01 Association as Attorney-In-Fact. Title to each Unit is hereby declared to be expressly subject to the terms and conditions of this Section, and acceptance by any Owner of a conveyance of a Unit from Declarant or from another Owner shall constitute such Owner's appointment of the Association as its attorney-in-fact as herein provided. All of the Owners irrevocably constitute and appoint the Association, in their names, places and steads as attorney-in-fact for the purpose of dealing with the Project upon its damage, destruction, obsolescence, or condemnation as hereinafter provided. As such attorney-in-fact, the Association shall have full and complete authority, right and power to make, execute and deliver any contract, deed or other instrument with respect to the interest of an Owner which is necessary and appropriate to exercise the powers herein granted. The terms "reconstruction" and "reconstruct," as used in the following Sections, mean the restoration of damaged improvements to substantially the same condition which existed prior to such damage, with each Unit and the Common Elements having substantially the same vertical boundaries as before. Except as is otherwise herein provided, the proceeds of any casualty insurance payable by reason of damage to or destruction of the Project shall be paid to the Association. Common Expense Assessment installments shall not be abated during any period of reconstruction.

Section 14.02 Repairable Damage. In the event of damage to or destruction of the Project to the extent of not more than sixty-seven percent (67%) of the total replacement cost thereof, excluding land, due to any insured casualty, the insurance proceeds, if sufficient to reconstruct, shall be applied by the Association, as attorney-in-fact, to effect reconstruction.

Section 14.03 Special Assessment. If insurance proceeds are insufficient to effect reconstruction and if such damage does not exceed sixty-seven percent (67%) of the total replacement cost of the Project, excluding land, the Association shall promptly reconstruct, using such proceeds of insurance, reserve and/or working capital funds and the proceeds of a special assessment to the extent necessary to pay the balance of the cost of reconstruction or to replenish reserve and/or working capital funds so depleted. Such special assessment shall be due and payable thirty (30) days after written notice thereof to the Owners and enforced as a Common Expense Assessment pursuant to Article 5.

Section 14.04 Sale of Project. If the Project is destroyed or if damage thereto, or condemnation thereof, exceeds sixty-seven percent (67%) of the total replacement cost thereof, excluding land, within ninety (90) days thereafter, any plan adopted for the sale of the Project must be approved by the Owners having sixty-seven percent (67%) or more of the Percentage Interests, which plan must have the approval of at least fifty-one percent (51%) of the Eligible Mortgagees (based upon one vote for each First Mortgage held); and if a plan for the sale of the Project is so approved the Association shall forthwith record a notice setting forth such fact or facts and, upon the recording of such notice, the entire Project shall be sold by the Association, as attorney-in-fact for all of the Owners, free and clear of the provisions contained in this Declaration, the Map, the Articles and the Bylaws. All insurance and sale proceeds shall be collected by the Association and shall be apportioned among the

Owners on the basis of each Owner's Percentage Interest and placed into separate accounts, each such account representing and identified with a specific Owner and its respective Unit. The total funds of each such account shall be used and disbursed to or on behalf of the Owner, with respect to each Unit, without contribution from one account to another, in the following order:

- (a) in payment of accrued taxes and governmental special assessments;
- (b) in payment of the balance secured by any First Mortgage;
- (c) in payment of unpaid Association Common Expense Assessment installments;
- (d) in payment of junior Mortgages and encumbrances in the order of and to the extent of their priority, and
- (e) the balance remaining, if any, shall be paid to the former Owner of the Unit to which such account pertains.

The provisions contained in this Section shall not prejudice or impair the protection given to any First Mortgagee under a mortgage endorsement.

Section 14.05 Reconstruction of Project. If the Project is destroyed or damaged to the extent of more than sixty-seven percent (67%) of the total replacement cost thereof, excluding land, and if the Owners having sixty-seven percent (67%) or more of the Percentage Interests adopt a written plan for reconstruction, within ninety (90) days thereafter, which plan must have the approval of at least fifty-one percent (51%) of all Eligible Mortgagees (based upon one vote for each First Mortgage held), all of the Owners and Eligible Mortgagees shall be bound by the provisions of such plan. The Association shall have the right and power to use, in accordance with such plan, all proceeds of insurance received as a consequence of such destruction or damage any funds held as reserve funds or working capital funds and/or the proceeds of a special assessment, if necessary, to pay the balance of the cost of reconstruction. Any special assessment made in connection with such plan shall be due and payable as provided by the terms of such plan, but not sooner than thirty days after written notice thereof to the Owners.

Section 14.06 Other Mortgagees; Implied Mortgagee Consent. The consent of any Mortgagee other than Eligible Mortgagees shall not be required as a condition to the implementation of any provision of this Article 14.

ARTICLE 15 CONDEMNATION

Section 15.01 Consequences of Condemnation. If all or any part of the Project shall be taken by condemnation or under threat thereof, the provisions of this Article 15 shall apply.

Section 15.02 Proceeds. All compensation, damages or other proceeds from any such taking, the sum of which is hereinafter called the "Award", shall be payable to the Association as attorney-in-fact for the Owners and Mortgagees.

Section 15.03 Complete Taking. In the event the entire Project is so taken, condominium ownership pursuant to this Declaration shall terminate as of the date of possession of any part of the Project is taken by the condemning authority and the Award shall be apportioned and disbursed by the Association in the manner prescribed in Section 15.04 of this Declaration, except to the extent any portion of the Award may be specifically allocated to personal property, fixtures and improvements in and upon individual Units placed thereon and therein by the Unit Owners, such allocation shall be appropriately apportioned to such Unit separately.

Section 15.04 Partial Taking. In the event less than the entire Project is so taken, each Owner shall be entitled to a share of the Award determined hereunder. As soon as practicable after receipt of the Award, the Association shall, utilizing reasonable good faith judgment, apportion and disburse the Award among the Owners as follows: (a) the total amount attributable to the taking of or damage to the Common Elements shall be apportioned among the Owners in proportion to their respective Percentage Interests; (b) the total amount attributable to severance damages shall be apportioned among the Owners of the Units which were not taken; (c) the amount attributable to the taking of or damage to a particular Unit and improvements made by the Owner thereof or personal property within such Unit, shall be apportioned to such Owner; and (d) the amount attributable to consequential damages and any other taking or damage shall be apportioned as the Association determines to be equitable in the circumstances. All disbursements of the Award made pursuant to this Section shall be made by checks payable jointly to the Owners and their respective First Mortgagees.

Section 15.05 Reallocation of Percentage Interests. In the event a partial taking results in the taking of an entire Unit, the Owner thereof automatically shall cease to be a member of the Association and such Owner's interest in the Common Elements shall thereupon terminate and the Association, as attorney-in-fact for such Owner, may take such action and execute such documents as are necessary to reflect such termination; provided, however, for purposes of Section 15.04, such Owner shall be deemed to continue to own such Unit. Thereafter, the Association shall promptly reallocate the Percentage Interests according to the principles set forth in Article 8 and shall record a notice of such reallocation in the office of the Clerk and Recorder of the County of Eagle, Colorado, after which the Percentage Interests of the remaining Owners shall be as stated in said notice.

ARTICLE 16 AMENDMENT; TERMINATION

Section 16.01 Material Amendments. Any material provision of this Declaration may be amended or material additional provisions may be added to this Declaration by the recording of a written instrument or instruments recorded in the office of the Clerk and Recorder, Eagle County, Colorado specifying the amendment or addition, executed by a duly authorized officer of the Association approved by sixty-seven percent (67%) or more of the voting interests of the Units. A

change to any of the provisions governing the following are to be considered as "material":

- (a) voting rights;
- (b) increases in Common Expense Assessments that raise the previously assessed amount by more than twenty-five percent (25%);
- (c) Assessment Liens or the priority thereof;
- (d) reductions in reserves for maintenance, repair and replacement of Common Elements;
- (e) responsibility for maintenance and repairs;
- (f) reallocation of interests in the Common Elements, or rights to their use;
- (g) redefinition of any Unit boundaries;
- (h) convertibility of Units into Common Elements or vice versa;
- (i) expansion or contraction of the Project, or the addition, annexation, or withdrawal of property to or from the Project;
- (j) hazard or fidelity insurance requirements;
- (k) imposition of any restrictions on the leasing of Units;
- (l) imposition of any restrictions on a Unit Owner's right to sell or transfer its Unit;
- (m) restoration or repair of the Project (after damage or partial condemnation) in a manner other than as specified; or
- (n) any provisions that expressly benefit mortgage holders, insurers or guarantors.

Any non-material amendment to the Declaration may be enacted with the approval and consent of fifty-one percent (51%) or more of the voting interest of the Units, and shall be evidenced by an instrument specifying the amendment, duly recorded in the office of the Clerk and Recorder, Eagle County, Colorado

Section 16.02 Termination. This Declaration and condominium ownership of the Project may be terminated and revoked in case of termination for reasons other than substantial destruction or condemnation by the recording of a written instrument to that effect, executed by the Owners, as shown by the records in the office of the Clerk and Recorder of the County of Eagle, Colorado, on the thirtieth (30th) day prior to such recording, of sixty-seven percent (67%) or more of the voting

interests of the Units and by sixty-seven percent (67%) or more of Eligible Mortgages (based upon one vote for each First Mortgage held).

Section 16.03 Other Mortgagees. The consent of any Mortgagee, other than Eligible Mortgagees, shall not be required as a condition to implementation of any provision of this Article 16.

Section 16.04 Declarant Amendments. Notwithstanding anything herein to the contrary, if Declarant shall determine that any amendments to this Declaration or any amendments to the Articles, the Map or Bylaws shall be necessary, prior to the Owner Control Date, in order to clarify any apparently conflicting provision or to correct any mistakes or errors, Declarant shall have and hereby specifically reserves the right and power to make and execute any such amendment without obtaining the approval of any Owners or Mortgagees. In furtherance of the foregoing, a power coupled with an interest is hereby reserved to Declarant to make or consent to such amendment on behalf of all Owners and Mortgagees. The recording of each deed and Mortgage affecting a Unit shall be deemed to be a grant and acknowledgement of and a consent to the reservation of the power of Declarant to make, execute and record such amendments. Any such amendment shall be made on or before the Owner Control Date. Declarant shall, at least ten (10) days prior to the effective date of any such amendment, notify all Eligible Mortgagees thereof.

ARTICLE 17

DEVELOPMENT RIGHTS; SPECIAL DECLARANT RIGHTS

Section 17.01 Special Declarant Rights. The Declarant reserves the following Development Rights and other Special Declarant Rights for the maximum time limit allowed by law:

(a) the right to complete or make improvements indicated on the Map or such other improvements as Declarant deems appropriate in its sole discretion, including without limitation to construct Buildings, Units, Common Elements, Limited Common Elements, and/or other improvements, including without limitation storage or parking spaces, areas, structures or yards, on the Future Development Area and to cause and designate such improvements as additional Units, Buildings, Common Elements and Limited Common Elements of the Project and to prepare, execute and record an amendment or amendments to this Declaration and/or the Map for that purpose, including to reallocate the Percentage Interest of the Owners among all Units;

(b) the right to maintain such facilities as, in the sole opinion of Declarant, may be reasonably required, convenient or incidental to the construction, sale or rental of Units, including, without limitation, sales offices, management offices, construction offices and models; storage areas, construction yards and signs; lighting; parking areas and temporary parking facilities in or on the Common Elements, but only until the last Declarant-owned Unit is conveyed or transferred;

(c) the right to use, and to permit others to use, easements through the Common Elements and Units as may be reasonably necessary and during reasonable hours and upon reasonable notice during periods of construction for the purpose of any required refurbishment, construction,

maintenance or repair and for the purpose of discharging the Declarant's obligations under the Act and this Declaration;

(d) the right to appoint or remove any officer of the Association or any Board Member during the period of Declarant Control consistent with the Act; and

(e) the right to lease all or any portion of the Future Development, including for purposes of parking and/or storage.

Section 17.02 Development Rights. Declarant reserves Development Rights to create new Building(s), Units and Common Elements in and on the Project, including without limitation to construct Building(s), Units, Common Elements, Limited Common Elements and/or other improvements on the Future Development Area and to cause and designate such improvements as additional Units, Buildings, Common Elements and Limited Common Elements of the Project and to prepare, execute and record an amendment or amendments to this Declaration and/or the Map for that purpose, including to reallocate the Percentage Interest of the Owners among all Units.

Section 17.03 Limitations. Unless sooner terminated by a recorded instrument signed by the Declarant, any Development Right or Special Declarant Right may be exercised by the Declarant for the period maximum time allowed by law of time specified in the Act, or as otherwise provided for in this Declaration.

ARTICLE 18 MISCELLANEOUS

Section 18.01 Duration of Declaration. All of the provisions contained in this Declaration shall continue and remain in full force and effect until this Declaration and condominium ownership of the Project are terminated or revoked.

Section 18.02 Supplemental to Law. The provisions of this Declaration shall be in addition and supplemental to the Act, and to all other applicable provisions of law.

Section 18.03 Numbers and Genders. Whenever used herein, unless the context shall otherwise provide, the singular shall include the plural, the plural shall include the singular, and the use of any gender shall include all genders.

Section 18.04 Notices. Unless an Owner shall notify the Association by registered or certified mail of a different address, any notice required or permitted to be given by the Association under this Declaration to any Owner or any other written communication to any Owner may be hand delivered or mailed to such Owner, postage prepaid, first class U.S. Mail, registered or certified, to the address of the Unit shown upon the Association's records as owned by such Owner. If more than one Owner owns a Unit, any notice or other written instrument may be addressed to all of such Owners and may be delivered or mailed in one envelope in accordance with the foregoing. Any notice or other

written instrument given to any person by the Association in accordance herewith, shall be deemed to be given on the date mailed.

Section 18.05 Successors and Assigns. This Declaration shall be binding upon and shall inure to the benefit of the Declarant, the Association and each Owner and their heirs, personal representatives, successors and assigns, respectively.

Section 18.06 Subordination. The holders of deeds of trust signing this Declaration subordinate their liens to the liens and provisions of this Declaration and consent to its terms.

Section 18.07 Severability. The invalidity or unenforceability of any provision of this Declaration shall not affect the validity of enforceability of any other provision or any valid and enforceable part of a provision of this Declaration.

Section 18.08 Captions. The captions and headings in this Declaration are for convenience only and shall not be considered in construing any provision of this Declaration.

Section 18.09 No Waiver. Failure to enforce any provision of this Declaration shall not operate as a waiver of any such provision or of any other provision of this Declaration.

IN WITNESS WHEREOF, Declarant has executed this Declaration as of the 24th day of March, 2005.

Fly-N-Eagle Lot 6, LLC,
a Colorado limited liability company

By: Donald Koenke
Donald Koenke, Manager

STATE OF COLORADO)
)ss.
COUNTY OF EAGLE)

The foregoing Declaration was acknowledged before me this 24th day of March, 2005, by Donald Koenke, Manager of Fly-N-Eagle Lot 6, LLC, a Colorado limited liability company.

Witness my hand and official seal.

My commission expires: 4/26/2007.



Barbara J. Johnson
Notary Public

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FLY-N-EAGLE CENTRE, LOT 6

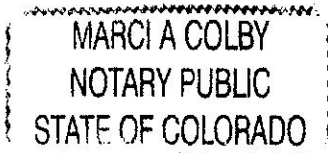
CONSENT OF PRIOR LIENHOLDER

THE UNDERSIGNED, lienholder respecting the Property described in the Declaration of Fly-N-Eagle Centre, Lot 6, consents to the filing and recording of this Declaration and the creation of condominium ownership with respect to such Property, provided no provisions in the Declaration relating to Mortgagees shall be construed to impair the rights of the undersigned.

Alpine Bank

By: *Rachel Overlease*
Its: Vice President

STATE OF COLORADO)
)ss.
COUNTY OF EAGLE)



The foregoing Consent of Prior Lienholder was acknowledged before me this 24th day of March, 2005, by Rachel Overlease, as the Vice President of Alpine Bank.

Witness my hand and official seal.

My commission expires: 01/07/08

Marci A Colby
Notary Public

EXHIBIT A

To
Declaration
of
Covenants, Conditions and Restrictions for
Fly-N-Eagle Centre, Lot 6

Unit	Percentage Interest in the Common Elements	Approximate Square Footage	Number of Votes
A-1	8%	944	8
A-2	5.5%	638	5.5
A-3	8%	944	8
A-4	11.3%	1,320	11.3
A-5	11.3%	1,320	11.3
A-6	11.3%	1,320	11.3
A-7	11.3%	1,320	11.3
A-8	11%	1,295	11
A-9	11%	1,295	11
A-10	11.3%	1,316	11.3
TOTAL	100%	11,712	100