

**AMENDED AND RESTATED CONDOMINIUM DECLARATION
FOR
SIMBA RUN CONDOMINIUM**

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**AMENDED AND RESTATED CONDOMINIUM DECLARATION
FOR
SIMBA RUN CONDOMINIUM**

This Amended and Restated Condominium Declaration for Simba Run Condominium ("Declaration") is effective upon recording.

RECITALS

A. The Condominium Declaration for Simba Run Condominium was recorded on January 18, 1983, at Reception No. 248491, *et seq.*, Eagle County Clerk and Recorder and has been amended by those amendments and supplements recorded at the Eagle County Clerk and Recorder, as follows:

Recording Date	Reception No.
March 7, 2007	200706035
September 13, 2011	201116864

and any others of record (collectively referred to hereinafter as the "Original Declaration").

B. Article 12.5 of the Original Declaration, as amended, provides that the Original Declaration may be amended by an instrument in writing signed and acknowledged by record Owners holding seventy-five percent (75%) of the total vote in the Association. However, pursuant to C.R.S. Section 38-33.3-217, any Owner approval requirement over 67% is declared void as contrary to public policy. Accordingly, the Original Declaration may be amended with the agreement of 67% of the Owners.

C. This Declaration does not alter the undivided interest of the Units and does not terminate the Condominiumization of the Property.

D. The purposes of the amendments in this Amended and Restated Declaration include, but are not limited to the following:

- to update the Original Declaration to comply with current state law;
- to clarify the allocation of maintenance responsibilities and insurance between the Association and the Owners;
- to delete declarant rights and responsibilities that are no longer applicable;
- to change restrictions in the Community;
- to update provisions so as to allow the Association to efficiently operate the Community and deal with Community concerns; and
- to add provisions that provide tools for the Association to effectively solve problems and enforce the Declaration, Bylaws, and Rules and Regulations;
- to permit Owners to veto proposed special assessments.

E. Owners holding at least 67% of the total Association vote desire to amend the Original Declaration, have approved this Amended and Restated Declaration in writing, and have determined this Declaration to be reasonable and not burdensome.

The Original Declaration, as amended, is replaced by this Declaration provided that this does not replace the legal description in the Original Declaration and any supplements or annexations.

ARTICLE 1. NAME

Section 1.1 Name and Type. The type of common interest community is a condominium community. The condominium community's name is Simba Run Condominium. The Association's name is Simba Run Condominium Association.

Section 1.2 Purpose. One of the Association's goals is to preserve the value and desirability of the Community and the Units and to further the interests of the Community's residents and the Association's Members.

ARTICLE 2. DEFINITIONS

Section 2.1 General. Terms used in these Governing Documents must be interpreted as defined below. To the extent not defined herein such terms shall have their normal, generally accepted meanings or the meanings given in the Colorado Common Interest Ownership Act or the Colorado Revised Nonprofit Corporation Act.

(a) Act means the Colorado Common Interest Ownership Act, C.R.S. § 38-33.3-101, et seq., as may be amended from time to time, to the extent it applies to communities created prior to July 1, 1992.

(b) Association means Simba Run Condominium Association, a Colorado nonprofit corporation, and its successors. Unless a particular power is expressly reserved to the Owners, all powers of the Association will be exercised by, and the business and affairs of the Association will be conducted and managed by the Board of Directors.

(c) Board or Board of Directors means the body responsible for management and operation of the Association. The term has the same meaning as executive board as defined in the Act.

(d) Bylaws mean the Bylaws of the Association.

(e) Common Elements. Excluding Units, Common Elements mean those portions of the property subject to this Declaration and Map which are co-owned by the Owners as tenants-in-common.

(f) Common Expenses mean the expenses and liabilities incurred or anticipated to be incurred by the Association including, but not limited to, those expenses incurred for maintaining, repairing, replacing, and operating the General and Limited Common Elements, as provided herein, and for fulfilling any of the Association's obligations.

(g) Community means all that property as more particularly described in Exhibit "A" attached hereto and incorporated herein by reference. If there is any discrepancy between the description of the property in the Original Declaration, as amended, and Exhibit "A," the description in the Original Declaration will control.

(h) Declaration means this Amended and Restated Declaration, as may be amended and supplemented from time to time.

(i) Director(s) or Board member(s) means one or more persons serving on the Board of Directors.

(j) General Common Elements means all those portions of the property, subject to this Declaration and Map, which are co-owned by the Owners as tenants-in-common and are not reserved for the exclusive use of those entitled to occupy one or more, but less than all Units.

(k) Governing Documents mean this Declaration and all exhibits hereto, the Association's Articles of Incorporation, Bylaws, Map, Rules and Regulations, and Policies and Procedures, all as may be supplemented or amended from time to time.

(l) Limited Common Elements means portions of the property, subject to this Declaration and Map, which are co-owned by the Owners as tenants-in-common, reserved for the exclusive use of those entitled to occupy one or more, but less than all, Units, as more particularly set forth in this Declaration.

(m) Map means the condominium map for the Community as recorded, which map is a part of this Declaration.

(n) Mortgage means any mortgage, deed to secure debt, deed of trust, or other transfer or conveyance for the purpose of securing the performance of an obligation including, but not limited to, a transfer or conveyance of fee title for such purpose.

(o) Mortgage Holder means the holder of any Mortgage.

(p) Occupant means any Person, other than an Owner, under contract to lease a Unit for fewer than 180 consecutive days.

(q) Owner or Unit Owner means the record titleholder of a Unit within the Community, but does not include a Mortgage Holder.

(r) Person means any individual, corporation, limited liability company, firm, association, partnership, trust, or other legal entity.

(s) Policies and Procedures mean any instrument, however denominated, as a part of any of the Governing Documents, and/or separately adopted by the Association, as required under the Act as responsible governance policies, and other policies as may be adopted by the Association. The definition of Policies and Procedures may include Rules and Regulations.

(t) Resident means any Person, other than an Owner, under contract to lease a Unit for 180 consecutive days or more.

(u) Rules and Regulations mean any instrument, however denominated, adopted by the Association, as allowed for under this Declaration and the Act, for the regulation and management of the Community and/or Units, including any amendments or revisions.

(v) Unit means that portion of the Community intended for individual ownership and use as more particularly described in this Declaration and includes the undivided ownership in the Common Elements assigned to the Unit by this Declaration.

ARTICLE 3. LOCATION, UNIT BOUNDARIES, COMMON AND LIMITED COMMON ELEMENTS AND EASEMENTS

Section 3.1 Location. The Community subject to this Declaration and the Act is located in Eagle County, Colorado, and as more particularly provided in the Original Declaration and in Exhibit "A" to this Declaration.

Section 3.2 Units and Boundaries. The Community consists of Units, General Common Elements and Limited Common Elements and each Unit's allocated interest in the Common Elements. Each Unit is conveyed as a separately designated and legally described Unit subject to the Act and the Governing Documents. Each Unit includes that part of the structure, which lies within the following boundaries:

(a) **Residential Unit Boundaries.**

(i) **Vertical Boundaries.** Each Unit's vertical boundaries are the vertical planes formed by the unfinished interior surfaces of the perimeter walls.

(ii) **Horizontal Boundaries.** The Unit's horizontal boundaries are the unfinished interior surfaces of the floors and ceilings.

(iii) **Additional Information to Interpret Unit Boundaries.** All lath, furring, wallboard, plasterboard, plaster, paneling, tiles, surface texture, 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. Each Unit includes the spaces and improvements lying within the boundaries of the Unit, including windows, window frames, doors, and door frames.

(b) **Existing Physical Boundaries.** In interpreting deeds and the Map, the existing physical boundaries of a Unit as originally constructed or of a Unit reconstructed in substantial accordance with the original Map thereof are conclusively presumed to be its boundaries rather than the metes and bounds expressed in any deed or the Map, regardless of settling or lateral movement of the building in which the Unit was located, and regardless of minor variances between the boundaries shown on the Map or in a deed and those of the Unit.

Section 3.3 Common Elements. The Common Elements will remain undivided. No person has any right, power, or authority to bring an action in partition or to divide the Common Elements and any attempt to partition or divide the Common Elements shall be void, *ab initio*.

(a) **Limited Common Elements.** The Limited Common Elements include certain portions of the Common Elements shown on the Map which are assigned to, accessible from, associated with or adjoin a particular Unit, such as balconies, ground-level decks, storage lockers, and ski lockers, and are reserved for the exclusive use of the Owner of such Unit. Limited Common Elements so reserved shall be identified on the Condominium Map or designated as such in this Declaration. No references to any such Limited Common Elements need be made in any lease, assignment of lease, sublease, deed of trust, mortgage, contract, deed or other instrument affecting the Condominium. Any chute, flue, pipe, duct, wire, conduit, bearing wall, bearing column or other fixture which lies partially within and partially outside the boundaries of a Unit, the portion serving only the Unit is a Limited Common Element allocated solely to that Unit, and any portion serving more than one Unit is a Limited Common Element to those Units. Any portion serving only the Common Elements is part of the General Common Elements.

Section 3.4 Assignment and Reassignment of Limited Common Elements.

A Common Element not previously assigned as a Limited Common Element may be so assigned and a Limited Common Element may be reassigned by the Association, without the need for a vote of the Owners, upon written application to the Association by the Owner or Owners for whose exclusive use the Common Element is requested or whose use of the Limited Common Element previously assigned is directly affected. The application shall include the proposed form for an amendment to the Declaration as may be necessary to show the reallocation of Limited Common Elements between or among Units, a

deposit against attorneys' fees and costs which the Association will incur in reviewing and effectuating the application in an amount reasonably estimated by the Board, and such other information as may be reasonably requested by the Board. No reallocation shall be effective without the approval of the Board. Following approval of the application, the Association will prepare and execute an amendment to the Declaration assigning the Common Element as a Limited Common Element or reassigning the Limited Common Element, which amendment will be executed by the Owner or Owners making the application. To the extent a shortfall exists between the deposit amount and attorneys' fees and costs actually incurred, the difference may be assessed against the applicants as a Specific Unit Assessment. An Owner may not assign use of a garage space or parking space to any Person other than a Person leasing the associated Unit.

Section 3.5 Easements for Use and Enjoyment. Owners have a right and non-exclusive easement of ingress and egress, and use and enjoyment in and to the Common Elements, which are appurtenant to and pass with the title to the Unit, subject to the following provisions:

- (a) the Owners' rights to the exclusive use of the Limited Common Elements assigned to their respective Units;
- (b) the Association's right to have access to the Units and Limited Common Elements assigned to a Unit to discharge its rights and obligations, under the Governing Documents, including without limitation, the Association's maintenance responsibility;
- (c) The Association's right to suspend an Owner, Occupant, and/or Occupant's rights to use the recreational facilities for any period during which any assessment or charge against his Unit remains unpaid and for a reasonable period of time (not to exceed 60 days or for the duration of the violation) for an infraction of the Declaration, Bylaws, or Rules and Regulations;
- (d) the Association's right to grant easements, leases and licenses across the Common Elements, including the right to license parking spaces;
- (e) the Association's right to dedicate or transfer all or any portion of the Common Elements subject to approval of Owners holding 67% of the total Association vote; and
- (f) the Association's right to change the use of portions of the Common Elements or to close portions of the Common Elements, provided that permanent closure of any recreational facilities will require the affirmative vote of a majority of Members who would be eligible to vote.

Any Owner may delegate his rights of use and enjoyment in and to the Common Elements and facilities located thereon to the members of his family, or other Residents, Occupants, and guests. If the Unit is leased, the Owner will be deemed to have delegated these rights to the Residents or Occupants of his Unit.

Section 3.6 Easement for Entry. Each Owner will afford to the Association and other Owners, and to their agents or employees, access through the Owner's Unit reasonably necessary to allow the Association or other Owners to fulfill their respective maintenance, repair, and replacement obligations. If the Association or other Owners inflict damage to a Unit through which access is taken, the Association or other Owners shall be responsible for such damage. Nothing may be installed on any door which prevents, inhibits, precludes, or otherwise hinders the Association's ability to access a Unit, as may be permitted by this section, including, but not limited to, the installation of private locks.

Section 3.7 Support. Every portion of a Unit and all Common Elements contributing to the support of an abutting Unit are burdened with a non-exclusive easement of support for the benefit of the abutting Unit.

Section 3.8 **Utilities.** To the extent that any utility line, pipe, wire, or conduit serving any Unit(s) or the Common Elements lies wholly or partially within the boundaries of another Unit or the Common Elements, the other Unit(s) or the Common Elements are burdened with a non-exclusive easement for the use, maintenance, repair and replacement of the utility line, pipe, wire, or conduit, the non-exclusive easement to be in favor of the Unit(s) or Common Elements served by the same and of the Association. The foregoing shall in no instance be interpreted to permit an Owner to modify any existing utility line, pipe, wire, or conduit outside of an Owner's Unit boundary without first obtaining prior written approval from the Board of Directors.

ARTICLE 4. ASSOCIATION MEMBERSHIP AND ALLOCATION OF INTERESTS

Section 4.1 **Membership.** Every Person who is a record Owner of a fee interest in any Unit subject to this Declaration is a Member of the Association. Membership is appurtenant to and may not be separated from ownership of any Unit. Ownership of a Unit is the sole qualification for membership. No Owner, whether one or more Persons, will have more than one membership per Unit owned. Membership is not intended to include Persons who hold an interest merely as security for the performance of an obligation, but the giving of a security interest will not terminate the Owner's membership.

Section 4.2 **Allocated Interests.**

(a) **Voting.** The Owner or collective Owners of a Unit is entitled to one vote weighted in accordance with the Unit's percentage interest in the Common Elements as shown on Exhibit "B". When more than one Person holds an ownership interest in any Unit, the vote for the Unit will be exercised as those Owners determine among themselves, otherwise the Unit's vote will be suspended if more than one Person seeks to exercise it.

(b) **Common Expenses.** Except as provided elsewhere in the Governing Documents, the amount of all Common Expenses will be assessed in accordance with the percentage interest in the Common Elements as set forth in Exhibit "B".

(c) **Interests in the Common Elements.** The percentage of ownership interest in the Common Elements is divided between the Units as shown on Exhibit "B."

ARTICLE 5. ASSESSMENTS

Section 5.1 **Purpose of Assessment.** The Association has the power to levy assessments. The assessments for Common Expenses are used to fulfill the Association's obligations pursuant to this Declaration and to promote the common benefit and enjoyment of the Owners, Occupants, and Residents in the Community as may be more specifically defined and authorized from time to time by the Association.

Section 5.2 **Personal Obligation For Assessments.** Each Owner is deemed to covenant and agrees to pay to the Association: (a) annual assessments or charges; (b) special assessments; and (c) specific unit assessments which are established pursuant to the terms of this Declaration. These amounts are the personal obligation of the Person who was the Owner of the Unit at the time when the assessment fell due. The personal obligation to pay any past due sums to the Association will not pass to a successor in title unless expressly assumed by him.

Section 5.3 **Lien.** All assessments, together with charges, interest, costs, and reasonable attorney's fees actually incurred (including post-judgment attorney fees, costs, and expenses), up to the maximum amount permitted by law, will be a charge on the Unit and a continuing lien upon the Unit against which each assessment is made. The Association has the authority to record a notice of lien in

the Eagle County, Colorado real property records evidencing the lien created under this Declaration. The Association's lien under this article is not subject to the provision of any homestead exemption as allowed under state or federal law. The lien has the priority as set forth in the Act.

Section 5.4 Payment of Assessments. Assessments will be paid in the manner and on the dates as may be fixed by the Association. No Owner may exempt themselves from liability for or otherwise withhold payment of assessments for any reason whatsoever, including, but not limited to, nonuse of the Common Elements, the Association's failure to provide services or perform its obligations required hereunder, or inconvenience or discomfort arising from the Association's performance of its duties.

Section 5.5 Specific Unit Assessments. The Association has the power to levy specific unit assessments against Units pursuant to this section, limited to the following circumstances:

(a) Any expense or liability incurred by the Association as a result of the willful, negligent, or wrongful act of an Owner, Occupant, Resident, family member, guest, or invitee, or as a result of any breach by any of these parties of any of the provisions of the Governing Documents, may be an assessment against the Unit.,

(b) Any expense associated with the maintenance, repair, reallocation, or replacement of a Limited Common Element may be assessed against the Unit(s) to which that Limited Common Element is assigned, equally or in any other equitable proportion as determined by the Association.

(c) Any expense benefiting fewer than all of the Units may be assessed equitably against those Units benefited according to the benefit received. Except as provided in subsection (a) above, expenses incurred for the maintenance, repair or replacement of the Common Elements (but not the Limited Common Elements) will not be assessed as specific unit assessment.

Section 5.6 Delinquent Assessments. All assessments and related charges not paid on or before the due date will be delinquent, and the Owner will be in default.

(a) If the annual assessment, any part or installment thereof or any other fine, special assessment or charge is not paid in full within **thirty** days of the due date, or any later date as may be set forth in the Association's collection policy:

(i) a late charge in an amount set forth in the Association's collection policy may be imposed without further notice or warning to the delinquent Owner;

(ii) interest at the rate set forth in the Association's collection policy, not to exceed the maximum amount permitted by Colorado law, may be imposed without further notice or warning to the delinquent Owner; and

(iii) upon 30 days written notice to the Owner, the Association may accelerate and declare immediately due all of that Owner's unpaid installments. Except as otherwise provided by law, upon acceleration, that Owner loses the privilege of paying any and all assessments and charges in installments for that fiscal year, unless the privilege is otherwise reinstated in the Association's sole discretion.

(b) If assessments, fines or other charges, or any part thereof, remain unpaid more than **thirty** days after the assessment payments first become delinquent, the Owner, Occupant, and/or Resident's right to vote and right to use the recreational facilities will be suspended after notice until all amounts owed are paid in full, and the Association may institute suit to collect all amounts due pursuant

to the provisions of the Declaration, the Bylaws, and Colorado law, including reasonable attorney's fees actually incurred. Enforcement under this section is not dependent upon or related to other restrictions and/or other actions.

(c) If partial payment of assessments or other charges are made, the amount received will be applied as specified in the Association's collection policy.

(d) Further, the Association may bring an action at law or in equity, or both, against any Owner personally obligated to pay the overdue assessments or related charges, or monthly or other installments thereof, and may also proceed to foreclose its lien against the Owner's Unit. If the Association elects to pursue foreclosure, an Owner shall be entitled to cure the outstanding debt by paying the outstanding balance less any amounts that would not have been due in the absence of acceleration, if applicable, pursuant to C.R.S. 38-38-104(b). An action at law or in equity by the Association against an Owner to recover a money judgment for unpaid assessments or related charges, 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 against the Unit.

(e) The Association's foreclosure or attempted foreclosure of its lien will not be deemed to preclude the Association from thereafter again foreclosing or attempting to foreclose its lien for any subsequent assessment or related charges, or monthly or other installments thereof, which are not fully paid when due. The Association has the power and right to bid on or purchase any Unit at foreclosure or other legal sale, and to acquire and hold, lease, mortgage, convey, or otherwise deal with the same. If a foreclosure action is filed to foreclose any assessment lien, and an Owner abandons or leaves vacant his Unit, the Association may take possession and rent said Unit or apply for the appointment of a receiver for the Unit without prior notice to the Owner. The rights of the Association are 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 provided under the Act.

Section 5.7 Special Assessments. In addition to the annual assessment provided for above, the Association may, at any time and in addition to any other rights it may have, propose a special assessment against all Owners in accordance with the meeting and notice procedures. Any special assessment will become effective unless disapproved at a duly called Association meeting by a majority vote of the total Association membership; provided, however, if a quorum is not obtained at the meeting, the special assessment will become effective. Assessments for repair or reconstruction of casualty damage to or destruction of all or part of the Community are addressed in the Insurance section of this Declaration and are not special assessments.

Section 5.8 Statement of Account. Upon request, the Association will furnish to an Owner or the Owner's designee or to a holder of a security interest or the Holder's designee a statement setting forth the amount of unpaid assessments then levied against the Unit in which the Owner, designee, or holder of a security interest has an interest. The Association will deliver the statement personally or by certified mail, first class postage prepaid, return receipt requested to the inquiring party within 14 calendar days after the Association's registered agent receives the request by personal delivery or by certified mail, first class postage prepaid, return receipt requested. The information contained in the statement, when signed by the Association's treasurer or managing agent, if any, will bind the Association, the Board, and every Owner as to the Person(s) to whom the statement is issued and who rely on it in good faith. The Association may establish a reasonable fee relating to the statement, which may incorporate any fees imposed by a managing agent.

Section 5.9 Surplus Funds and Common Profits. Surplus funds from whatever source will be applied to the payment of Common Expenses. Any funds remaining after application will, at the Association's option, be: (a) added to the Association's capital reserve account; (b) distributed to the Owners; or (c) credited to the next assessment chargeable to the Owners in proportion to the liability for Common Expenses attributable to each Unit.

Section 5.10 Borrowing. The Association has the power to borrow money as deemed necessary and advisable at the discretion of the Board of Directors. If the Association is required to pledge Association property as collateral for a loan, the Board of Directors must first obtain the prior approval by a majority of Owners present in person, or by proxy, at a duly called meeting.

ARTICLE 6. MAINTENANCE RESPONSIBILITY

Section 6.1 By the Owner. Each Owner is obligated to maintain, keep in good repair, in a sanitary and pest-free condition all portions of his Unit, except any portion of a Unit which is expressly made the Association's maintenance obligation as set forth in this Declaration including, but not limited to, those items set forth below. Each Owner's maintenance responsibility includes the responsibility to maintain, repair, replace, or improve the following:

(a) the materials making up the finished surfaces of the walls, floors and ceilings, including, but not limited to plaster, drywall, paneling, wallpaper, paint, wall and floor tile, carpet and flooring (but not including the sub-flooring in the lowermost floor of the Unit);

(b) all doors, doorways, door frames, and hardware that are part of the entry system of the Unit (except that decoration, painting or staining of the exterior surface of entry doors and door frames are subject to prior written approval of the Association);

(c) all pipes, lines, ducts, conduits, or other apparatus which serve only the Unit, whether located within or outside the boundaries of the Unit;

(d) any fireplace (including the chimney, flue and firebox, but excluding chimney caps) that serves only the Unit;

(e) all communications, television, telephone, cable and electrical lines, receptacles and boxes serving only the Unit, whether located within or outside the boundaries of the Unit

(f) ground-level deck surfaces, finishings, and railings appurtenant to Unit, but not structural integrity of the deck;

(g) balcony surfaces, finishings, and railings appurtenant to Unit, but not structural integrity of the balcony;

(h) any light fixtures and light bulbs in the balcony or ground-level deck;

(i) any portion of the heating and air conditioning systems including the air conditioning compressor and fan coil exclusively serving the Unit, whether located within or outside the boundaries of the Unit; and

(j) any improvements to the Unit and/or the Common Elements made by the Owner or the Owner's predecessor. Every Owner is responsible to determine what improvements have been made to the Unit and/or associated Common Elements by any predecessor-in-interest.

Section 6.2 Additional Owner Responsibilities. In addition, each Owner will have the responsibility:

(a) to keep in a neat, clean, and sanitary condition any Limited Common Elements serving his Unit, including, without limitation, keeping the balcony or ground-level deck appurtenant to the Unit free and clear of snow, ice, and any accumulation of water or other debris;

(b) to perform his responsibility in a manner so as not to unreasonably disturb other Persons in other Units;

(c) to promptly report to the Association or its agent any defect or need for repairs for which the Association is responsible;

(d) to pay for the cost of repairing, replacing, or cleaning up any component of the Community which, although the responsibility of the Association or another Owner, is necessitated by reason of the willful, negligent or wrongful act of the Owner, Occupant, Resident, or a family member, guest or invitee of the Owner, Occupant or Resident, with the cost thereof to be added to and become part of the Owner's assessment obligation; and

(e) to repair incidental damage to another Unit or the Common Elements, resulting from performance of work that is the Owner's responsibility. Such repair and subsequent cleaning will be performed based upon a reasonableness standard.

Subject to the maintenance responsibilities herein provided, any maintenance or repair performed on or to the Common Elements by an Owner, Occupant or Resident which is the Association's responsibility (including, but not limited to landscaping of Common Elements) will be performed at the Owner's, Occupant's or Resident's sole expense and the Owner, Occupant or Resident will not be entitled to reimbursement from the Association even if the Association accepts the maintenance or repair.

Section 6.3 By the Association. Except as provided above, the Association will maintain, replace, and improve all Common Elements, including any Limited Common Elements, but excluding any improvements made to a Limited Common Element by the Owner or the Owner's predecessor. This responsibility will include:

- (a) structural integrity of the buildings, including foundations;
- (b) structural integrity of balconies and ground-level decks;
- (c) siding on the exterior of the buildings;
- (d) roofs, roof decking, roof trusses, gutters and downspouts;
- (e) painting or staining of the exterior window frames and balcony railings;
- (f) all pipes, lines, ducts, conduits or other apparatus serving more than one Unit;

and

(g) all communications, television, telephone, cable and electrical lines, receptacles and boxes serving more than one Unit.

(h) all exterior glass surfaces including cleaning the exterior of all glass surfaces;

(i) windows, window frames (including periodic painting or staining of the exterior window frames), casings and locks (including caulking of windows) and screens;

(j) Equipment, lines, cables, or other apparatus related to services made available by the Association to all Owners including, but not limited to, cable television services.

The foregoing maintenance will be performed consistent with the community-wide standard.

If the Association has actual knowledge that maintenance, repair or replacement is required of an item which is the Owner's responsibility, the Association shall provide notice to the Owner of the same. The foregoing shall not be interpreted as imposing any affirmative obligations upon the Association to perform inspections to detect such issues.

If, during the course of performing its maintenance responsibilities, the Association discovers that maintenance, repair or replacement is required of an item which is the Owner's responsibility, and the maintenance, repair or replacement must be performed for the Association to properly complete its maintenance project, then the Association may perform the work on behalf of the Owner and at the Owner's sole expense, without prior notice to the Owner, the maintenance repair or replacement being deemed an emergency situation.

If the Association determines that the need for maintenance or repair of the Common Elements is caused through the willful or negligent act of any Owner, Occupant or Resident or his family, guests, lessees, or invitees, then the Association may assess the cost of the maintenance, repair, or replacement against the Owner's, Occupant's or Resident's Unit, which also will become the Owner's personal obligation, a lien against the Unit, and will be collected as provided in this Declaration for the collection of assessments.

The cost of any maintenance, repair, or replacement undertaken by the Association which benefits fewer than all Units or Owners may be assessed to said benefited Owner(s) pursuant to Section 5.5 above.

Section 6.4 Liability for Damage. The Association will repair incidental damage to any Unit resulting from performance of work that is the Association's responsibility. As finish levels can have varying degrees, the repairs will be complete only to the extent of being "paint-ready." The repair and subsequent cleaning will be performed based on a reasonableness standard. In performing its responsibilities hereunder, the Association will have the authority to delegate any of its duties to Persons, firms or corporations it chooses.

The Association will not be liable for injury or damage to Person or property caused by the Common Elements or by any Owner, 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, 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. Notice shall not be deemed given regarding a specific leak or flow from any portion of the Common Elements unless provided to the contact as set forth by the Board of Directors from time to time which may, but is not required, to be a designated e-mail address for the submission of such notices. The Association will not be liable to any Owner, or any Owner's Resident, Occupant, guest or family for any damage or injury caused in whole or in part by the Association's failure to discharge its responsibilities under this article where the damage or injury is not a foreseeable, natural result of the Association's failure to discharge its responsibilities. No diminution or abatement of assessments will 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 Association's responsibility, 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 6.5 Additional Association Maintenance.

(a) At the Association's sole expense, without need for a membership vote, and without the consent of any affected Owner, the Association, on behalf of the Owner can relocate any portion of the air conditioning, heating, plumbing, ventilating, exhaust or electrical system serving a particular Unit, provided that after relocation, the system serving the Unit functions at least as well and at no greater cost to the Owner as existed prior to the relocation.

(b) The Association has the right, with the approval of 67% of those Members voting in person or by proxy at a meeting called for such purpose, to assume additional maintenance, repair, or replacement responsibilities on any limited basis it determines, as a Common Expense. By way of example, with the requisite approval the Association may undertake a Community-wide window replacement without assuming the future responsibility for window maintenance, repair, and replacement.

Section 6.6 Owner Maintenance Related to Insurance Purchased by the Association.

(a) To decrease the possibility of fire or other damage in the Community, reduce the insurance premium paid by the Association for any insurance coverage, or otherwise assist the Association in procuring or maintaining insurance coverage, the Association, by resolution, may require all or any Owner(s) to do any act or perform any work involving portions of the Community which are the Owner's maintenance responsibility. This authority includes any measures the Association may reasonably require so long as the cost of the work does not exceed three times the monthly assessment of the Unit in any 12-month period.

(b) The Association's rights under this section are in addition to, and not in limitation of, any other rights the Association may have. If any Owner does not comply with any requirement made by the Association pursuant to this section, the Association, upon 15 days written notice (during which period the Owner may perform the required act or work without further liability), may perform the required act or work at the Owner's sole cost. The cost will be added to and become a part of the assessment to which the Owner is subject and will be the personal obligation of the Owner and a lien against the Unit and will be collected as provided in this Declaration for the collection of assessments.

(c) The Association has all rights necessary to implement the requirements mandated by the Association pursuant to this section, including, but not limited to, a right of entry during reasonable hours and after reasonable notice to the Owner, Occupant or Resident of the Unit, except that access may be had at any time without notice in an emergency situation.

Section 6.7 Radon. The U.S. Environmental Protection Agency ("EPA") states that exposure to elevated levels of radon gas can be injurious. Any test to measure the level of radon gas can only show the level at a particular time under the circumstances occurring at the time of testing. Owners may wish to test for the presence of radon gas and to purchase or install devices that may be recommended by qualified radon specialists. If the devices require exterior modifications to the Unit, prior written consent in accordance with the terms of this Declaration is required. Each Owner agrees to hold the Association harmless from any claim or liability with respect to radon gas and related matters. Each Owner agrees further that the duty to mitigate elevated radon levels, should the same exist, is the Owner's alone and the Association has no obligation or responsibility to undertake steps to mitigate elevated radon.

Section 6.8 Failure to Maintain. If the Association determines that any Owner has failed or refused to discharge properly his obligation with regard to the maintenance, repair, or replacement of items for which he is responsible hereunder, then it may 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 sole cost and expense. The notice will set forth with reasonable particularity the maintenance, repair, or replacement deemed necessary by the Association.

Unless the Association determines that an emergency exists, the Owner will have ten days within which to complete maintenance or repair, or if the maintenance or repair is not capable of completion within this time period, to commence replacement or repair within ten days and complete the replacement or repair within the timeframe specified by the Board of Directors. If the Association determines that: (a) an emergency exists, or (b) that an Owner has not complied with the demand given by the Association, then the Association may perform the maintenance, repair, or replacement at the Owner's sole cost and expense, and the costs will be added to and become a part of the assessment to which the Owner is

subject, will become the personal obligation of the Owner and a lien against the Unit, and will be collected as provided in this Declaration for the collection of assessments.

ARTICLE 7. COVENANTS AND USE RESTRICTIONS

Section 7.1 Owner Responsibility for Compliance. Each Owner is responsible for ensuring that the Owner's family, guests, Occupants and Residents comply with all provisions of the Governing Documents. Each Owner, Occupant and Resident will always endeavor to observe and promote the cooperative purposes for which the Association was established. In addition to any rights the Association may have against the Owner's family, guests, Occupants or Residents as a result of the Person's violation of the Governing Documents, the Association may take action under this Declaration against the Owner as if the Owner committed the violation in conjunction with the Owner's family, guests, Occupants or Residents.

Section 7.2 Use of Units.

(a) **Residential /Business Use.** Each Unit will be used for residential purposes only. Unless otherwise expressly authorized by the Act and subject to its terms, no trade or business of any kind may be conducted in or from a Unit or any part of the Community, except that the Owner, residing in the Unit, or Resident may conduct ancillary business activities within the Unit so long as the business activity:

(i) is not apparent or detectable by sight, sound, or smell from outside of the Unit;

(ii) does not involve visitation of the Unit by employees, clients, customers, suppliers or other business invitees in greater volume than would normally be expected for guest visitation to a residential Unit without business activity;

(iii) is legal and conforms to all zoning requirements for the Community;

(iv) does not increase traffic in the Community in excess of what would normally be expected for residential Units in the Community without business activity (other than by a reasonable number of deliveries by couriers, express mail carriers, parcel delivery services and other similar delivery services);

(v) does not increase the insurance premium paid by the Association or otherwise negatively affect the Association's ability to obtain insurance coverage;

(vi) is consistent with the Community's residential character, and does not constitute a nuisance or a hazardous or offensive use, or threaten the security or safety of Owners, Occupants or other Residents, as determined by the Association; and

(vii) does not result in a materially greater use of Common Element facilities or Association services.

The terms "business" and "trade," as used in this section, have their ordinary, generally accepted meanings, and include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to Persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (i) the activity is engaged in full or part-time; (ii) the activity is intended to or does generate a profit; or (iii) a license is required for the activity.

(b) Prohibition on Creation of or Conversion of Units to Employee Housing Units. No Unit may be made or restricted as an Employee Housing Unit as defined or referred to in the Town Code of the Town of Vail. Any attempted creation of an Employee Housing Unit, any attempted conversion of an existing Unit into an Employee Housing Unit or any attempted limitation on use of a Unit solely for the housing of employees working within the Town of Vail or the County of Eagle, Colorado, by means of deed restriction, covenant or other method, shall be null and void *ab initio*. The Association expressly precludes deed restricted Units within the meaning of the Employee Housing Unit Deed Restriction Exchange Program of the Town of Vail (§12-13-5, Town Code for the Town of Vail and any amendment or replacement thereof), such that no Unit in the Condominium Project shall be deemed to qualify to be an exchange Employee Housing Unit.

Section 7.3 Leasing. Each Owner has the right to lease or allow occupancy of a Unit upon terms and conditions the Owner deems advisable, subject to restrictions of this Declaration, any other restrictions of record, and the following:

(a) "Leasing" or "Renting" for the purposes of this Declaration is defined as regular occupancy of a Unit by any Person other than the Owner and the Owner's household members, with or without consideration. Leasing does not include occupancy by an Owner's parent, child, grandchild, spouse, or domestic partner. For the purposes of this Declaration, occupancy by not more than one roommate of an Owner who occupies the Unit as his primary residence does not constitute leasing under this Declaration. Owners who intend to lease their Unit shall notify the Association of the same.

(b) Leases will be for, or of, the entire Unit. There will be no subleasing of Units or assignment of leases without prior written Association approval.

(c) Each Owner who leases his Unit will provide the Association, upon request, a copy of the current lease (rental amount may be redacted) and tenant information, including the names of all Occupants or Residents, and vehicle descriptions, including license plate numbers.

(d) All Owners who reside at a place other than the Unit will provide to the Association an address, email address, and phone number(s) where the Owner can be reached in the case of emergency or other Association business. The Owner is solely responsible to keep this information current.

(e) If a Unit is leased or occupied in violation of this section or if the Owner, Occupant or Resident violates the Governing Documents, the Association will be authorized, in addition to all other available remedies, to levy fines against the Occupant, Resident and/or Owner, and to suspend all voting and/or recreational facilities use privileges of the Owner, until compliance is obtained and fines paid.

(f) In addition to, but consistent with, this section, the Association may adopt additional rules and regulations governing leasing which shall become obligations of the Owner and any tenant of an Owner's Unit and which rules may include, but not be limited to, the authority to impose charges upon Owners leasing their Units to defray costs incurred by the Association as a result of leasing activities as determined by the Board of Directors. All such rules and regulations shall be imposed and enforced in a non-discriminatory manner, uniformly against all Owners leasing their Units.

(g) Following notice provided not less than ten days in advance and an opportunity to be heard, the Board of Directors may prohibit any company, program, entity, or person from providing leasing services to Owners within the Community if, in the Board's discretion, said company, program, entity, or person's provision of leasing services has become detrimental to the Community. The determination of the Board of Directors prohibiting any company, program, entity, or person from

providing leasing services to Owners within the Community may be overturned by a vote of a majority of the voting interest in the Association.

Section 7.4 Restrictions on Exterior Building Changes, Structural Alterations, Improvements, Penetrations, and Cut-Outs. No Owner may make any change to the building's exterior or make structural alterations to any Unit or to any portion of the Common Elements or Limited Common Elements without the Association's prior written approval as provided for in this Declaration. This restriction extends to and includes a restriction on penetrations or cutouts into Common Elements walls, Limited Common Elements, or other portions of the Community.

Section 7.5 Use of Common Elements. There will be no obstruction of the Common Elements, nor will anything be kept, parked, or stored on or removed from any part of the Common Elements without the Association's prior written consent, except as specifically provided for in the Governing Documents. The Association will not be liable to the Owner or his Occupants, Residents, guests, family members and invitees, for loss or damage, by theft or otherwise, of any property which may be stored in or upon any of the Common Elements.

Section 7.6 Compliance with Laws and Insurance Requirements. Nothing may be done or kept in the Community, or any part thereof, that would increase the rate of insurance on the Community or any Unit or part thereof, which would be in violation of any statute, rule, ordinance, regulation, permit, or other validly imposed requirements of any governmental body, or which would increase the Common Expenses.

Section 7.7 Prohibition of Nuisance. The Units in the Community are built in close proximity to one another, resulting in the sharing of common walls, floors and ceilings. As a result, noise and vibration may be detectable between Units or between Units and the Common Elements. Therefore, an Owner, Occupant or Resident may not conduct activities within a Unit or use a Unit in a manner that unreasonably interferes with or causes unreasonable disruption to another Owner's, Occupant's or Resident's use and quiet enjoyment of the Unit.

Noxious, destructive, offensive, or unsanitary activity may not be carried on within the Community. No Owner, Occupant or Resident may use or allow the use of the Unit or any portion of the Community at any time, in any way, which may endanger persons or property, unreasonably annoy, disturb or cause embarrassment or discomfort to other Owners, Occupants or Residents, or constitute a nuisance.

The intention of this provision is to grant the Association and aggrieved Owners, Occupants and Residents a right of redress for actions, activities or conduct which unreasonably disturbs or impairs the peaceful and safe enjoyment by Owners, Occupants and Residents. Nothing in this section will be construed to affect the rights of an aggrieved Owner, Occupant or Resident to proceed individually against a violator hereof for relief from interference with his property or personal rights, and the Board may, in its discretion, require aggrieved individuals to seek redress personally for interference with their rights before the Association intervenes and commences enforcement action hereunder. No claim for any loss, damage or otherwise will exist by an aggrieved Owner, Occupant or Resident against the Association for failure to enforce the provisions hereof if the aggrieved Owner, Occupant or Resident has not personally pursued all available remedies against the violator for redress provided under Colorado law.

Section 7.8 No Damage or Waste. No Owner, Occupant, Resident, or agent of either may do any work which would jeopardize the soundness or safety of any structure within the Community or would impair any easement or other interest in the Community, without prior written consent of all Association Members and their first Mortgage Holders.

Each Owner, Occupant and Resident will indemnify and hold the Association and the other Owners harmless against all loss to the Association or other Owners resulting from any such damage or waste

caused by the Owner, Occupant or Resident, or the Owner's, Occupant's or Resident's guest, family member or invitee.

Section 7.9 Pets.

(a) All pets must be registered with the Association in a manner provided by the Board of Directors and as may be more fully set forth in the Rules and Regulations.

(b) Owners and Residents may keep generally recognized household pets.

(c) Occupants are not permitted to keep a pet.

(d) The Association may adopt additional Rules and Regulations to supplement this section. Notwithstanding the foregoing, the Association shall permit the keeping of bona fide service animal(s) upon request and presentation of all corroborating information as required by law.

(e) No Owner, Occupant or Resident may keep, breed, or maintain any pet for any commercial purpose. No structure for the care, housing, or confinement of any pet may be constructed or maintained on any part of the Common Elements, including Limited Common Elements. Dogs must be kept physically leashed and be under the physical control of a responsible Person at all times while on the Common Elements. Feces left by pets upon the Common Elements, Limited Common Elements, or in Units, including the pet owner's Unit, must be removed promptly by the pet Owner or other Person responsible for the pet.

(f) Following notice provided not less than ten days in advance and an opportunity for a hearing, the Association may require that any pet which, in its opinion, endangers the health of any Owner or Resident or creates a nuisance or unreasonable disturbance, be permanently removed from the Community.

(g) Whoever keeps or maintains any pet within the Community is deemed to have agreed to indemnify and hold the Association, its directors, officers, and agents free and harmless from any loss, claim or liability of any kind or character whatever arising by reason of keeping or maintaining the pet within the Community.

Section 7.10 Vehicles and Parking.

(a) General. Parking is subject to the Rules and Regulations adopted by the Board. The parking facility and all parking spaces contained therein shall be deemed Common Elements. The Association shall assign parking spaces to Owners in the collective best interest of all Owners as determined by the Board of Directors; provided, however, that in no event shall less than one parking space be assigned to each Unit.

(b) Prohibited Vehicles. Boats, trailers, jet-skis, snowmobiles and trailers for same, oversized trailers, hauling trailers, panel trucks, buses, vans (excluding vans used by handicapped persons, mini-vans or sport utility vehicles used as passenger vehicles), recreational vehicles (as defined in the Rules and Regulations), commercial vehicles (as defined in the Rules and Regulations) are prohibited. Any other vehicles, not heretofore described, which do not fit entirely within the dimensions of a parking space are prohibited. Emergency vehicles, as defined in the Act, are permitted in the Community. Notwithstanding the above, otherwise prohibited vehicles are allowed temporarily on the Common Elements during normal business hours for the purpose of serving any Unit or the Common Elements; provided, however, no such vehicle may remain on the Common Elements overnight or for any other purpose unless prior written consent of the Board is first obtained.

No unlicensed vehicles may be parked on the Common Elements. No stored or abandoned or inoperable vehicles of any kind may be stored or parked on the Common Elements. An "abandoned or inoperable vehicle" is defined as any passenger car, truck, motorcycle, boat, trailer, camper house trailer, self-contained motorized recreational vehicle, or other similar vehicle, which for a period of two days or longer, does not have an operable propulsion system installed therein, has one or more flat tires or has another condition preventing the regular and normal operation and movement of the vehicle. An Owner who does not lease their Unit may keep a vehicle stored in that Owner's designated parking space without limitation. Owners who lease their Units must notify the Association if they, or a guest, will be present at the property and if such notification does not occur the designated parking space for said Unit(s) may be utilized as additional guest parking.

(c) **Enforcement.** If any vehicle is parked on any portion of the Community in violation of this section or in violation of the Rules and Regulations, the Board or agent of the Association may place a notice on the vehicle specifying the nature of the violation and stating that after 24 hours the vehicle may be towed or booted. The notice will include the name and telephone number of the person or entity that will do the towing and the name and telephone number of a person to contact regarding the alleged violation. If 24 hours after such notice is placed on the vehicle the violation continues, or occurs again within six months of such notice, the Board or agent of the Association may have the vehicle towed in accordance with the notice, without further notice to the vehicle owner or user.

If a vehicle located in the Community is blocking another vehicle or access to another Owner's parking space, is obstructing the flow of traffic, is parked on any grassy area, is parked in a designated handicapped space without the proper state-issued identification, or otherwise creates a hazardous condition, no notice will be required and the vehicle may be towed immediately in accordance with the governmental regulations.

If a vehicle is towed in accordance with this section, neither the Association nor any director, officer or agent of the Association will be liable to any Person for any claim of damage as a result of the towing. 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.

Section 7.11 Vehicle Repair. Other than changing a flat tire or jump starting a vehicle, maintenance, repair, rebuilding, dismantling, repainting, or any kind of servicing of vehicles may not be performed or conducted in the Community.

Section 7.12 Heating of Units in Colder Months. To prevent water pipes from breaking during colder months of the year resulting in damage to the Community, increased Common Expenses, and increased insurance premiums or cancellation of insurance policies due to numerous damage claims, the thermostats within the Units must be maintained with the heat in an "on" position and at a minimum temperature setting of 55° Fahrenheit (except during power failures or periods when heating equipment is being repaired) whenever the temperature is forecasted to or does reach 32° Fahrenheit or below. Owners, Occupants, and Residents must take all reasonable steps on a timely basis to keep heating equipment, including, but not limited to, the thermostat, in good working order and repair. At any time during the colder months when the heating equipment is not working properly, the Owner, Occupant or Resident must immediately inform the Association of the equipment's failure and of the time needed to repair the equipment. An Owner's failure to maintain the minimum temperatures outlined in this section, subject to the exceptions above, may result in a fine in an amount reasonably determined by the Board to be appropriate but not to exceed \$500 in addition to any other remedies of the Association. Each such instance of an Owner's failure to maintain minimum temperatures shall be considered a separate violation.

Section 7.13 Signs. Except as may be provided for in this Declaration or as may be required by state law or legal proceedings, no signs, flags, advertising posters, political placards or billboards of any kind may be erected, placed, or permitted to remain in the Community without the Association's prior

written consent or as provided for in the Rules and Regulations. The Association has the right to erect reasonable and appropriate signs on its behalf.

Section 7.14 Trash and Garbage. All rubbish, trash, and garbage must be regularly removed from the Unit and will not be allowed to accumulate therein. Garbage or trash must not be placed on the Common Elements or Limited Common Elements outside the Unit, temporarily or otherwise, except in trash containers. Trash and garbage must be disposed of in appropriate sealed bags and either placed in the trash containers designated by the Association for collection or removed from the Community.

Section 7.15 Unsightly or Unkempt Conditions. Activities which cause disorderly, unsightly, or unkempt conditions must not be pursued or undertaken on any part of the Common Elements.

Section 7.16 Antennas and Satellite Dishes. Satellite dishes, antennae or other devices for the transmission or reception of television signals, radio signals or any form of electromagnetic wave or radiation will not be erected, used or maintained by Owners, Occupants, or Residents on any portion of the Common Elements, including the Limited Common Elements except those for which the Association is prohibited by federal law from restricting or prohibiting. However, the Association has the right to erect, construct, and maintain these devices on the General Common Elements.

Section 7.17 Grilling. The use of outdoor grills in any portion of the Community is governed by applicable state laws, local ordinances having jurisdiction over the Community, and by the Association's Rules and Regulations.

Section 7.18 Personal Property on Common Elements. Personal property (other than vehicles as otherwise permitted in this Declaration) may not be stored, kept, or allowed to remain for more than 24 hours upon any portion of the Common Elements, other than on a Limited Common Element, without prior written Association permission. If the Association determines that a violation exists, then, after two days written notice is placed on the personal property and/or on the front door of the property owner's Unit, if known, the Association may remove and either discard or store the personal property in a location which the Association or its agent may determine. Neither the Association nor its agent has any obligation to return, replace, or reimburse the owner of the property. The notice will include the name and telephone number of the person or entity who will remove the property and the name and telephone number of a person to contact regarding the alleged violation.

The Association, in its discretion, may determine that an emergency situation exists and may exercise its removal rights hereunder without prior notice to the property owner. In this case, the Board will give the property owner, if known, notice of the removal of the property and the location of the property within three days after the property is removed.

Neither the Association nor its directors, officers or agent will be liable to an Owner, Occupant or Resident, 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 or for any claim of damage resulting from the removal activity in accordance with this section. The Association may elect to impose fines or use other available remedies, rather than exercise its authority to remove property hereunder.

Section 7.19 Rules and Regulations. The Association may adopt, amend, and repeal Rules and Regulations concerning and governing the Units, Common Elements, and Limited Common Elements in furtherance of the provisions of this Declaration.

ARTICLE 8. ARCHITECTURAL CONTROLS

Section 8.1 Architectural Covenants. Except as otherwise provided herein, by the Rules and Regulations, Remodel Guidelines, or by law, no Owner, Occupant, Resident, or any other Person may, without first obtaining the Association's written approval:

- (a) make any changes which may affect the structural integrity of any building or affect the utilities, plumbing facilities, or areas for which the Association has maintenance responsibility as more fully described in this article;
- (b) make any encroachment onto the Common Elements or Limited Common Elements or another Unit; or
- (c) make any exterior change, alteration, or construction (including painting and landscaping).

Section 8.2 Alteration of Units. Subject to the provisions of the Act and this Declaration, alterations to the interiors of Units, relocation of the boundaries between adjoining Units, and subdivision of Units are subject to the following restrictions:

(a) Alterations to the Interiors of the Units.

(i) Changes Affecting Common Elements and Load Bearing Portions of Units. All Owners desiring to make any interior modifications or alterations to a Unit affecting the Common Elements or structure or load bearing portions of a Unit must make application to the Association as described in this article in order for the Association to make the determination of whether its approval is required. No Owner, Occupant or Resident may make any alteration within a Unit which involves connecting to Common Element pipes, lines, conduits and/or other apparatus for access to common utilities without prior written Association approval. No Owner, Occupant or Resident will make any interior modifications to or place an excessive load on any structural or load bearing portions of a Unit without first obtaining the prior written Association approval. When an application relates to or requires modification of structural or load bearing elements, approval will not be granted unless the Owner has presented to the Association a report or drawing prepared by a licensed structural engineer showing that compensating measures will be taken to ensure the structural integrity of the Unit and the Community. Provision of the aforementioned report does not guarantee approval of the proposed modification of structural or load bearing elements and the decision to approve or deny at all times remains in the discretion of the Association. All building code requirements must be complied with and necessary permits and approvals secured for any modifications.

(b) Combining Units. Owners may, with prior written approval from the Association, after acquiring an adjoining Unit, remove or alter any intervening partition or create apertures or doorways therein, even if the partition in whole or in part is a Common Element provided the alterations and modifications can and do not impair the structural integrity, electrical systems, mechanical systems, utilities or lessen the support of any portion of the Community. If at any point an Owner of a combined Unit desires to sell one of the constituent adjoining Units separately, the Owner, after obtaining written approval of the Association, shall be responsible for restoring the Units to the pre-combined state prior to sale and for complying with all applicable governmental regulations including, without limitation, fire and building codes.

(i) Agreement May Be Required. The Association may require the Owner's written agreement (in the form approved by the Association) providing for any or all of the following:

- (A) for the Owner to be responsible, now and/or in the future, for any structural deficiencies or problems, electrical deficiencies or problems, mechanical structural integrity, electrical systems, utility or mechanical deficiencies or problems or problems associated with a lessening

of support of any portion of the Community, or for violations of any of the provisions of this Section, all as may reasonably be determined by the Association;

(B) for the Owner to be responsible for ongoing maintenance, repair, replacement and improvement of any or all of the proposed additions/modifications of the Owner. The Association may require Owners to be responsible for all or some of the maintenance, repair, replacement and improvement of the proposed modifications;

(C) for the Owner's payment of the fees and costs of the Association, together with a deposit against fees and costs which the Association will incur in reviewing and effectuating the application, including any amendments to the governing documents to clarify allocations of voting power, common assessment liability, and/or percentage interest in the Common Elements for the combined unit, in an amount reasonably estimated by the Association, in advance of any billing for costs and expenses of the Association;

(D) for reasonable advance notice by the Owner for the work to be performed, from the Owner or from the Owner's contractor; and

(E) the satisfaction of all conditions as may be reasonably imposed by the Association.

(c) Relocation of Boundaries. There will be no relocation of boundaries between Units.

(d) Subdivision of Units. No Unit will be subdivided into a smaller Unit or Units.

Section 8.3 Architectural Standards. Interpretation, application, and enforcement of the architectural standards may vary as members of the Board change. The standard for approval of improvements includes, but is limited to: (a) aesthetic consideration; (b) materials to be used; (c) compliance with the community-wide standard; this Declaration, or the design guidelines which may be adopted by the Association, if any; (d) harmony with the external design of the existing building, Units and structures, and the location in relation to surrounding structures and topography; (e) visibility and location of the proposed modification in the Community; and (f) any other matter the Board deems to be relevant or appropriate.

Section 8.4 Authority of Association to Engage Consultants. The Association has the authority to select and engage professional consultants to assist in reviewing applications and/or to inspect any of the work performed. The costs of any consultants are to be paid by the submitting Owner whether or not the application is approved. Prior to incurring consultant costs, the Association will notify the Owner of its belief that review and/or inspections by consultations are necessary. The Owner will then have the right to withdraw the submission. The Association may require payment of costs prior to approval.

Section 8.5 Encroachments onto Common Elements. The Association may provide written consent to allow Owners to make encroachments onto the Common Elements, as it deems acceptable. Any unauthorized exterior change, alteration, or construction (including landscaping) upon the Common Elements is at the Owner's sole cost and expense. The Association may require that any unapproved change, alteration, or construction be removed or that it remain on the Common Elements or Limited Common Elements without reimbursement to the Owner, Occupant or Resident for any expense he may have incurred in making the change, alteration, or construction.

Section 8.6 Conditions of Approval. As a condition of approval for a requested architectural change, modification, addition, or alteration, an Owner, on behalf of himself and his

successors-in-interest, assumes all responsibilities for maintenance, repair, replacement and insurance of the change, modification, addition, or alteration, unless the Association otherwise agrees in writing. As a further condition of approval, an Owner may be required to execute an agreement setting forth the conditions of approval to be recorded in the records of the Eagle County real property records.

Section 8.7 Required Action by the Association. The Association shall act reasonably in determining whether an application will be approved or denied. The Association is the sole arbiter of the application and may withhold approval for any reason, including purely aesthetic considerations, provided the Association's decision may not be arbitrary or capricious. Applications for approval of architectural modifications must be in writing and provide any information as the Association reasonably requires. Following confirmation from the Association that an application has been received, if the Association fails to approve or to disapprove the application within 45 days after the application and all required supplemental information have been submitted, then the application shall be deemed denied. If an Owner resubmits a substantially identical application following a denial due to nonresponse from the Association, if the Association fails to approve or disapprove the re-application within 45 days after the re-application and all required supplemental information have been submitted, then the re-application shall be deemed approved.

Section 8.8 Commencement and Completion of Construction. All changes, modifications and improvements approved by the Association must be commenced within six months from the date of approval unless the Association otherwise agrees. If not commenced within this time, then approval will be deemed revoked, unless the Association gives a written extension for commencing the work. All work approved by the Association must be completed in its entirety within 90 days from the date of commencement, unless the Association otherwise agrees in writing. All approved changes, modifications, and improvements must be completed in their entirety.

Section 8.9 Limitation of Liability. Neither the Association nor its directors, officers, committee members or agents will bear any responsibility for the design, quality, structural integrity or soundness of approved construction or modifications, nor for compliance with building codes, zoning regulations, and other governmental requirements. The Association, its directors, officers, committee members, and agents are not liable for any injury, damages, or loss arising out of the manner, design, or quality of approved construction on or to modifications to any Unit. No lawsuit, action, or claim may be brought against any of the foregoing for any injury, damage, or loss.

Section 8.10 No Waiver of Future Approvals. The Association's approval of any proposals, plans and specifications for any work done or proposed, or in connection with any other matter requiring the Association's approval, is not a waiver of any right to withhold approval as to any similar proposals, plans, and specifications.

Section 8.11 Enforcement. The Association is entitled to stop any construction that does not conform to the approved plans or specifications. The Association is further entitled to stop any construction if the Owner fails to submit plans and specifications and/or obtain written approval prior to commencing construction. The Association may require any Owner to remove any improvement or modification, whether partial or completed, and restore the property to its prior condition, if the Owner fails to obtain prior written approval or constructs in a manner that does not conform to the approved plans or specifications. These remedies are in addition to all other remedies available, including the authority to levy a fine.

ARTICLE 9. INSURANCE

Section 9.1 Association's Property Insurance. The Association shall obtain and maintain at all times, as a Common Expense, property insurance as required in this Declaration. The Association shall use reasonable efforts to secure a blanket hazard insurance policy providing "special form" coverage in an amount equal to full replacement cost, before application of deductibles. If "special form"

coverage is not reasonably available at reasonable cost, the Association will obtain, at a minimum, broad form covered causes of loss, in like amounts.

The Association's insurance will cover the Common Elements. As to the Units, the Association's insurance policy will be a bare walls policy that will rebuild the building structures. The Association's insurance policy will exclude the finished surfaces of perimeter and partition walls, floors, and ceilings within the Unit (i.e., paint, wallpaper, paneling, other wall coverings and window coverings, tile, carpet and any floor covering). The Association's policy will also exclude appliances and improvements and betterments made by Owners. The Association has the right to increase the level of coverage under its policy from the standard outlined in this Section by written Board resolution. If the level of coverage is changed, the Association will make such information available to all Owners by posting the information on the Association's website, if any or by other written correspondence to the Owners.

All property insurance purchased by the Association will run to the benefit of the Association, the Board of Directors, officers, all agents and employees of the Association, the Owners and their respective Mortgage Holders, and all other Persons entitled to occupy any Unit as their interests may appear.

All insurance coverage for the Association will be written in the name of the Association as first named insured and each of the Owners as additional insureds. The Association will periodically review the insurance to determine if the policy in force is adequate to meet its needs.

Section 9.2 Other Association Insurance. In addition to the insurance required above, the Association will obtain as a Common Expense:

- (a) Workers' compensation insurance if and to the extent necessary to meet the requirements of law;
- (b) General liability insurance in amounts no less than \$1,000,000.00, and directors' and officers' liability insurance in such amounts as the Board may determine. The general liability insurance will contain a cross liability endorsement;
- (c) Fidelity insurance, if reasonably available, covering officers, directors, employees, and other persons who handle or are responsible for handling Association funds in an amount as required by law, or if no such requirements, consistent with the Board of Directors' best business judgment; and
- (d) Other insurance as the Board of Directors may determine to be necessary or desirable.

Section 9.3 Standards for Association Policies.

- (a) The Association will use reasonable efforts to obtain policies that provide the following:
 - (i) each Owner is an insured person under the policy with respect to liability arising out of the Owner's interest in the Common Elements or membership in the Association;
 - (ii) the insurer's waiver of subrogation of claims against directors, officers, the managing agent, the individual Owners and their respective household members;
 - (iii) no act or omission by any Owner not under the Association's control will void the policy or be a condition to recovery under the policy;

(iv) ordinance or law coverage, demolition cost coverage and increased cost of construction coverage;

(v) any "other insurance" clause contained in the master policy will expressly exclude individual Owners' policies from its operation;

(vi) the master policy may not be canceled, substantially modified, or subjected to non-renewal without at least 30 days prior notice in writing to the Association and all Mortgage Holders of Units, to the extent the Mortgage Holder has provided a notice address to the Association, except in instances of nonpayment of premiums, which will require at least ten days prior written notice;

(vii) all insurance policies of the Association are primary and non-contributing over other insurance in the Owner's name;

(viii) an inflation guard endorsement.

(b) All insurance policies will be written with a company licensed to do business in Colorado. The company will provide insurance certificates to each Owner and Mortgage Holder upon request. The Association's Board of Directors has the exclusive authority to adjust losses under the Association's policies. However, no Mortgage Holder having an interest in any losses may be prohibited from participating in the settlement negotiations, if any.

(c) The Association's insurance is not required to include liability insurance for individual Owners for liability arising within the Unit.

Section 9.4 Insurance Deductibles. Unless otherwise specified in written guidelines or a written Board resolution, any required deductible on the Association's policy will be a maintenance expense to be paid by the person(s) who would be responsible for the repair or maintenance of the loss in the absence of insurance. If the loss affects more than one Unit or a Unit and the Common Elements, the Board may equitably apportion the cost of the deductible among the parties suffering loss in proportion to the total cost of repair. However, if the insurance policy provides that the deductible will apply to each Unit separately or to each occurrence, each Owner will be responsible for paying the deductible pertaining to his Unit, if any. If any Owner(s) fails to pay the deductible when required under this Section, then the Association may pay the deductible and assess the cost to the Owner pursuant to Article 5 of this Declaration.

Section 9.5 Owners' Insurance: Every Owner is obligated to obtain and maintain at all times insurance covering those portions of the Unit to the extent not insured by the Association's policies, including, but not limited to, finished surfaces (of walls, floors and ceilings), flooring, cabinetry, fixtures, and appliances, betterments and improvements. Each Owner is also responsible for insuring all improvements to the Unit or to the Limited Common Elements or Common Elements added by the Owner or the Owner's predecessors-in-title. Each Unit Owner is also responsible for obtaining insurance covering his personal property and coverage for liability arising within the Unit and on or within the Limited Common Elements. The Association has no liability for an Owner's failure to maintain required insurance. Upon request, the Owner will furnish a copy of such insurance policies to the Association.

Section 9.6 Owner's Right to Review Association Insurance Policies. The Association will make a copy of its insurance policies available for review by Owners to assess their personal insurance needs. Each Owner has the right to obtain additional coverage at his own expense.

Section 9.7 Source and Allocation of Proceeds. If the Association's insurance proceeds are not sufficient to defray the costs of reconstruction and repair (due to failure of the Association to

maintain coverage as provided in this Declaration, or due to the insurance policy's deductible) the additional cost will be a Common Expense. If there are surplus funds after repair and reconstruction is completed, those funds will be common funds of the Association to be used as directed by the Association. If the Association has identified an Owner or Owners responsible for causing the damage and in the event that the proceeds of insurance are not sufficient to defray the costs of reconstruction and repair, as determined by the Association, then the additional costs will be assessed against the Owner(s) identified as responsible for the damage. If, for any other reason or if no responsible Owners are identified, the proceeds of insurance are not sufficient to defray the costs of reconstruction and repair, as determined by the Association, the additional costs will be assessed against the Owners of the Unit(s) damaged in proportion to the damage to the Units or against all Owners, in the case of insufficient funds to cover damage to the Common Elements. These assessments are not considered a special assessment as provided in this Declaration.

Section 9.8 Repair and Reconstruction Requirements. In the event of damage to or destruction of all or any part of the Community as a result of fire or other casualty, the Association will arrange for and supervise the prompt repair and restoration of the structure unless Owners holding at least 67% of the total Association vote, including the Owner(s) of any damaged Unit(s) and Mortgage Holders that represent at least 51% of the votes of Units that are subject to mortgages held by Mortgage Holders, vote not to proceed with the reconstruction and repair of the structure. In the event of substantial damage or destruction, each first Mortgage Holder will be entitled to written notice of the damage, and nothing in these documents will be construed to afford a priority to any Owner with respect to the distribution of proceeds to any such Unit.

Section 9.9 Construction Fund. The net insurance proceeds collected on account of a casualty and the funds collected by the Association from assessments against Owners on account of the casualty will constitute a construction fund. The Association will disburse the funds to pay the cost of reconstruction and repair in appropriate progress payments to the contractor(s), supplier(s), and personnel performing the work or supplying materials or services.

ARTICLE 10. MORTGAGE HOLDER'S RIGHTS

Section 10.1 Abandonment or Termination. Unless first Mortgage Holders representing at least 51% of the votes of the Units subject to a first Mortgage and Owners holding at least 67% of the total Association vote give their consent, the Association or the membership will not by act or omission seek to abandon or terminate the Community (except in the case of substantial destruction, as governed by this Declaration).

Section 10.2 Liability for Assessments. Where the Mortgage Holder of a first Mortgage of record, or other purchaser of a Unit obtains title pursuant to judicial or non-judicial foreclosure of the Mortgage, it shall be liable, and the Unit will be subject to a lien, for the share of the Common Expenses or assessments by the Association chargeable to the Unit which became due prior to acquisition of title as provided in the Act. The acquirer is responsible for all charges accruing subsequent to the passage of title, including, but not limited to, all charges for the month in which title is passed. Any unpaid share of Common Expenses or assessments is deemed to be Common Expenses collectible from Owners of all the Units, including the acquirer, its successors, and assigns.

Section 10.3 Notice to Mortgage Holders. Upon written request to the Association, identifying the name and address of the holder and the Unit number or address, any first Mortgage Holder will be entitled to timely written notice of:

(a) any condemnation loss or any casualty loss which affects a material portion of the Community or any Unit on which there is a first Mortgage held by the Mortgage Holder;

(b) any delinquency in the payment of assessments or charges owed by an Owner of a Unit subject to a first Mortgage held by the Mortgage Holder which remains unsatisfied for a period of 60 days, and any default in the performance by an individual Owner of any other obligation under the Governing Documents which is not cured within 60 days;

(c) any lapse, cancellation, or material modification of any insurance policy maintained by the Association; or

(d) any proposed action which would require the consent of a specified percentage of Mortgage Holders, as specified herein.

Section 10.4 No Priority. No provision of this Declaration or of the Bylaws gives or will be construed as giving any Owner or other party priority over any rights of the first Mortgage Holder in the case of distribution to an Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Elements.

Section 10.5 Notice to Association. Upon request, each Owner is obligated to furnish to the Association the name and address of any first Mortgage Holder encumbering the Owner's Unit.

Section 10.6 Failure of Mortgage Holder to Respond. Any Mortgage Holder who receives a written request from the Association to respond to any action is deemed to have approved the action if the Association does not receive a written response from the Mortgage Holder within 60 days of the date of the Association's request, provided the request is delivered to the Mortgage Holder by certified or registered mail, return receipt requested.

Section 10.7 Construction of this Article. Nothing contained in this article will be construed to reduce the percentage vote that must otherwise be obtained under the Governing Documents or Colorado law for any of the actions set forth in this article.

ARTICLE 11. AUTHORITY AND ENFORCEMENT

Section 11.1 Compliance With and Enforcement of Governing Documents.

(a) **Compliance Required.** Every Owner, Occupant, and Resident will comply with the applicable provisions of the Governing Documents. Any aggrieved Owner has the right to take action to enforce the terms of the Governing Documents against another Owner, Occupant or Resident.

(b) **Association Remedies.** The Association may enforce all applicable provisions of the Governing Documents and may impose sanctions for their violation. Sanctions may include, without limitation:

(i) imposing reasonable monetary fines, after notice and opportunity for a hearing, which fine will be a lien upon the violator's Unit;

(ii) suspending the right to vote;

(iii) suspending the Owner, Occupant, and/or Resident's rights to use the recreational facilities (as well as the rights of the Owner's family, guests, Occupants, and Residents to use the recreational facilities;

(iv) exercising self-help or action to abate any violation of the Governing Documents in a non-emergency situation, subject to any requirements as may be set forth in this Declaration, including those related to maintenance, repair or replacement;

(v) requiring an Owner, at the Owner's expense, to remove any structure or improvement in the Unit or the Common Elements in violation of the Governing Documents and to restore the Unit or Common Elements to its previous condition and, upon the Owner's failure to do so, the Association has the right to enter the Unit or Common Elements, remove the violation and restore the Unit or Common Elements to substantially the same condition as previously existed and any action is not deemed a trespass;

(vi) recording in the real property records a notice of violation identifying any uncured violation of the Governing Documents; and

(vii) other remedies provided for in this Declaration or by applicable law.

(c) Emergencies and Legal Action. In addition, the Association may take the following enforcement procedures to seek compliance with the Governing Documents:

(i) exercise self-help in any emergency situation (specifically including, but not limited to, towing vehicles that are in violation of any parking Rules and Regulations); and/or

(ii) institute any civil action to enjoin any violation or to recover monetary damages or both.

(d) Remedies Are Cumulative. All remedies set forth in the Governing Documents are cumulative of any remedies available at law or in equity.

(e) Costs Incurred by Association. If the Association exercises any of its rights pursuant to this section, all costs will be assessed against the violating Owner, Occupant or Resident and will be a lien against the Unit.

(f) Attorney Fees. In any civil action to enforce or defend the provisions of the Association's Declaration, Bylaws, Articles of Incorporation, Rules and Regulations, or policies, a court must award reasonable attorney fees, costs, and/or costs of collection to the prevailing party, which will be collected as an assessment.

Section 11.2 Failure to Enforce. The Association has the discretion to pursue enforcement action in any particular case, except that the Association may not be arbitrary and capricious. The Association's failure to enforce any provision of the Governing Documents is not deemed a waiver of its right to do so thereafter. No claim or right of action exists against the Association for failure of enforcement where: (a) the Association determines that its position is not strong enough to justify taking enforcement action; (b) a particular violation is not of such a material nature as to be objectionable to a reasonable person or justify the expense and resources to pursue; or (c) the Owner or party requesting enforcement possesses an independent right to bring an enforcement action at law or in equity and has failed to do so.

ARTICLE 12. AMENDMENTS

Section 12.1 Amendment by Owners. This Declaration may be amended by the affirmative vote, written agreement, or any combination of affirmative vote and written agreement of the Owners holding at least 67% of the total Association vote.

If a proposed amendment will be considered at a Member meeting, notice of the meeting will state the general subject matter of the proposed amendment. No amendment will be effective until certified by the Association's president and secretary that necessary vote in favor of the amendment has been obtained and until the certification and amendment have been recorded in the Eagle County real property records.

Section 12.2 Mortgage Holder Approval for Material Amendments. In addition to the above, amendments to this Declaration of a material adverse nature to first Mortgage Holders must be approved by first Mortgage Holders who represent at least 51% of the votes of Units that are subject to first Mortgages held by first Mortgage Holders. Approval of any proposed amendment by a first Mortgage Holder is deemed implied and consented to if the first Mortgage Holder fails to submit a response to any written proposal for an amendment as provided in this Declaration within 60 days of provision of notice of the proposed amendment to the Mortgage Holder.

Section 12.3 Amendments by Board of Directors. The Board of Directors, without the necessity of a vote by the Owners, may amend this Declaration to correct any scrivener's errors, to comply with any applicable local, state or federal law, and/or to bring the Community into compliance with applicable rules and regulations of the Federal National Mortgage Association ("Fannie Mae"), Federal Home Loan Mortgage Corporation ("Freddie Mac"), the Department of Housing and Urban Development ("HUD"), or the Veterans Administration ("VA") or any successor governmental agencies pursuant to federal law.

Section 12.4 Validity. Any action to challenge an amendment's validity must be brought within one year of the recording date of the amendment.

ARTICLE 13. INDEMNIFICATION

Section 13.1 Obligation to Indemnify.

(a) The Association will indemnify any person who was or is a party, or is threatened to be made a party, to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative; by reason of the fact that the person is or was a director, officer or committee member of the Association; provided the person is or was serving at the Association's request in such capacity; and provided that the person: (i) acted in good faith, and; (ii) in a manner that the person reasonably believed to be in the Association's best interests, (iii) with respect to any claimed criminal action or proceeding, had no reasonable cause to believe the conduct was criminally unlawful, and (iv) did not violate any duty of loyalty required by law. The determination of any action, suit, or proceeding by judgment, order, settlement or conviction, or upon a plea of nolo contendere or its equivalent, will not of itself create a presumption that the person did not act in good faith and in a manner reasonably believed to be in the Association's best interests and, with respect to any criminal action or proceeding, had reasonable cause to believe the conduct was criminally unlawful.

(b) Notwithstanding anything in subsection (a) above, unless a court of competent jurisdiction determines that, in view of all circumstances of the case, the person is fairly and reasonably entitled to expenses, if not a covered claim on the Association's professional liability insurance, no indemnification will be made: (i) in connection with a proceeding by or in the right of the Association in which the person has been adjudged to be liable to the Association; or (ii) in connection with any other proceeding charging that the person received an improper personal benefit, whether or not involving action in an official capacity, where the person has been adjudged liable on the basis the person received an improper personal benefit.

(c) To the extent that the person has been wholly successful on the merits in defense of any action, suit or proceeding as described above, the person will be indemnified against actual and reasonable expenses (including expert witness fees, reasonable attorney fees and costs) incurred in connection with the action, suit, or proceeding.

Section 13.2 Determination Required on Indemnification. The Board of Directors will determine whether the person requesting indemnification has met the applicable standard of conduct set forth above. The determination will be made by the Board of Directors by a majority vote of a quorum

consisting of those members of the Board who are not parties to the action, suit or proceeding. If the Board cannot make the determination or if the Board so directs, a determination may be made, at the discretion of the Board, by: (a) independent legal counsel selected by a majority of the full Board, or (b) by the voting Members, but voting Members who are also at the same time seeking indemnification may not vote on the determination.

Section 13.3 Payment in Advance of Final Disposition. If a claim is not covered by the Association's professional liability insurance, the Association will pay for or reimburse the reasonable expenses as described above in advance of final disposition of the action, suit or proceeding if the person requesting indemnification provides the Board of Directors with a written affirmation of that person's good faith belief that he or she has met the standard of conduct described above, and a written statement that the person will repay the advance if it is ultimately determined that he did not meet the standard of conduct described above.

Section 13.4 No Limitation of Indemnification Rights. The indemnification provided in this article will not be deemed exclusive of or a limitation upon any rights granted pursuant to the Governing Documents, the Act, and the Colorado Revised Nonprofit Act, as those statutes may be amended from time to time.

Section 13.5 Directors' and Officers' Insurance. The Association must purchase and maintain insurance on behalf of any person who is or was a member of the Board of Directors, the manager, committee members, or anyone acting at the direction of the Board, covering defense and liability expenses arising out of any action, suit, or proceeding asserted against the person by virtue of the person's actions on behalf of the Association or at the direction of the Board, whether or not the Association would have the power to indemnify the person against liability under provisions of this Article.

ARTICLE 14. GENERAL PROVISIONS

Section 14.1 Security. The Association may, but is not required to, from time to time, provide measures, or take actions which directly or indirectly improve security in the Community. However, each Owner, for himself and his Occupants, Residents, guests, tenants, licensees, and invitees, acknowledges and agrees that the Association is not a provider of security and the Association does not have a duty to provide security in the Community. Furthermore, the Association does not guarantee that non-Owners, non-Occupants and non-Residents will not gain access to the Community and commit criminal acts in the Community nor does the Association guarantee that criminal acts in the Community will not be committed by other Owners, Occupants, or Residents. Each Owner is responsible to protect his person and property and all responsibility to provide security lies solely with each Owner. The Association is not liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of measures undertaken.

Section 14.2 Implied Rights. The Association may exercise any right or privilege given to it expressly by this Declaration, the Bylaws, the Articles of Incorporation, any use restriction or rule, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it or reasonably necessary to effectuate any of its rights or privileges.

Section 14.3 Interpretation. The provisions of this Declaration will be liberally construed to effectuate their purposes of providing a uniform plan for the Community and of promoting and effectuating the fundamental concepts set forth in the recitals of this Declaration. This Declaration will be construed and governed under the laws of the State of Colorado. When "includes" or "including" is used herein, the same is intended to be, and shall be interpreted as, illustrative and not an exhaustive list.

Section 14.4 Electronic Records, Notices, and Signatures. Notwithstanding any other portion of this Declaration, records, signatures, and notices will not be denied validity or effectiveness

hereunder solely on the grounds that they are transmitted, stored, made, or presented electronically. The relevant provisions of the Bylaws will govern the giving of all notices required by this Declaration.

Section 14.5 Duration. The covenants and restrictions of this Declaration run with and bind the Community perpetually unless otherwise terminated as provided in C.R.S. § 38-33.3-218.

Section 14.6 Severability. Invalidation of any one of these covenants or restrictions by judgment or court order or otherwise will in no way affect the application of the provision to other circumstances or affect any other provision(s), which will remain in full force and effect.

Section 14.7 Public in General. The rights and burdens created in this Declaration do not, are not intended to, and will not be construed to create any rights and burdens in or for the benefit of the general public.

Section 14.8 Conflicts. In case of any conflict between this Declaration and the Articles of Incorporation or Bylaws of the Association, this Declaration shall control. In case of any conflict between the Articles of Incorporation and the Bylaws of the Association, the Articles of Incorporation shall control.

Section 14.9 Captions. All captions and titles used in this Declaration are intended solely for convenience of reference and do not enlarge, limit or otherwise affect that which is set forth in any paragraph, section, or article.

Section 14.10 Singular Includes the Plural, Gender. Unless the context otherwise requires, the singular includes the plural, and the plural includes the singular, and each gender referral is deemed to include the masculine, feminine and neuter.

IN WITNESS WHEREOF, the undersigned officer of Simba Run Condominium Association, hereby certifies that this Amended and Restated Declaration was duly adopted by the Members of the Association or that the District Court of Eagle County has entered an order approving this Amended and Restated Declaration.

This 5th day of January, 2026

SIMBA RUN CONDOMINIUM ASSOCIATION

By: Thomas C. Newkirk

STATE OF COLORADO) ss.
COUNTY OF EAGLE)

The foregoing Declaration was acknowledged before me by Thomas C. Newkirk, as the Secretary of Simba Run Condominium Association, a Colorado nonprofit corporation, on behalf of the non-profit corporation, on this 05th day of January, 2026.

[Signature]
Notary Public

My commission expires: 01/16/2029

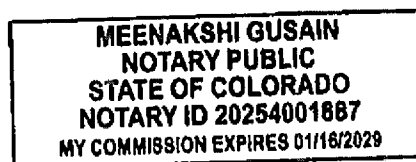


EXHIBIT A

Legal Description of Condominium

That part of the Plat of Simba Run, which was recorded November 12, 1980 in Book 312 at Page 763, County of Eagle, State of Colorado, described as follows:

Beginning at a point on the southerly right-of-way of Lion's Ridge Loop which is the northerly corner of said Simba Run; thence the following two courses along said southerly right-of-way: (1) S 73° 04' 48" W 196.57 feet; (2) 219.47 feet along the arc of a curve to the left having a radius of 428.02 feet; a central angle of 20° 22' 46", and a chord which bears S 58° 23' 25" W 217.08 feet; thence S 76° 46' 15" E 35.00 feet; thence S 13° 13' 45" W 145.15 feet; thence S 24° 44' 57" E 134.22 feet to the northerly right-of-way of Interstate Highway No. 70; thence the following two courses along said right-of-way: (1) N 52° 50' 29" E 87.27 feet; (2) 345.48 feet along the arc of a curve to the right having a radius of 5,900.00 feet, a central angle of 03° 21' 1", and a chord which bears N 54° 31' 06" E 345.43 feet to the most southerly corner of Vail Run Community, the condominium map for which is recorded in book 249 at Page 533 of the records of the Eagle County, Colorado, Clerk and Recorder; thence the following three courses along the westerly boundary of said Vail Run Community: (1) N 11° 06' 17" E 109.32 feet; (2) N 77° 09' 31" W 126.91 feet; (3) N 16° 42' 18" E 191.22 feet to the point of beginning, containing 143,800 square feet or 3.301 acres, more or less.

AND

That part of Simba Run, a subdivision recorded in the office of the Eagle County, Colorado, Clerk and Recorder (Clerk's Records) in Book 312 at Page 763, Town of Vail, Colorado, described as follows:

Beginning at a point on the northerly right-of-way line of Interstate Highway No. 70, whence the most southerly corner of said Simba Run bears S 52° 50' 29" W 113.08 feet distant; thence N 03° 33' 01" E 160.79 feet; thence N 12° 50' 33" E 144.72 feet; thence N 17° 56' 03" E 181.17 feet; thence N 21° 51' 28" E 69.90 feet to the southerly right-of-way line 35.49 feet along the arc of a curve to the right having a radius of 428.02 feet; a central angle of 04° 45' 02", and a chord which bears N 41° 9' 32" E 35.48 feet to a corner on the westerly boundary of Simba Run Condominium, the map of which is recorded in Book 352 at Page 155 of the Clerk's Records, thence the following five courses along said westerly boundary: (1) S 76° 46' 15" E 42.10 feet; (2) S 13° 13' 45" W 123.30 feet; (3) S 76° 46' 15" E 35.00 feet; (4) S 13° 13' 45" W 145.15 feet; (5) S 24° 44' 57" E 134.22 feet to the northerly right-of-way line of Interstate Highway No. 70; thence along said right-of-way line S 52° 50' 29" W 272.50 feet to the point of beginning, containing 62,620 square feet or 1.438 acres, more or less.

"A"

EXHIBIT B

<u>UNIT NUMBER</u>	<u>ALLOCATED INTEREST</u>
1102	1.07
1104	1.07
1106	1.15
1200	1.25
1202	1.25
1201	0.60
1204	1.25
1205	1.10
1206	1.07
1207	1.07
1208	1.07
1209	1.15
1210	1.07
1212	1.07
1214	1.07
1300	1.30
1401	1.07
1402	1.07
1403	1.10
1404	1.07
1405	1.07
1406	1.07
1407	1.00
1408	1.07
1409	1.07
1410	1.07
1411	1.10
1412	1.07
1413	1.07
1414	1.07
1415	1.10
1416	1.07
1417	1.07
1419	1.10
1421	1.40
1423	1.07
1425	1.10
1427	1.07
1429	1.10
1501	1.07
1502	1.07
1503	1.07
1504	1.07
1505	1.07
1506	1.07
1507	1.07

"B"

1508	1.07
1509	1.07
1510	1.07
1511	1.07
1512	1.07
1513	1.07
1514	1.07
1515	1.07
1517	1.07
1519	1.07
1521	1.07
1523	1.07
1525	1.07
1527	1.07
2201	1.10
2202	1.07
2203	1.10
2204	1.07
2205	0.73
2206	1.07
2207	0.60
2208	1.25
2301	1.07
2302	1.07
2303	1.07
2304	1.07
2305	1.07
2306	1.07
2307	1.07
2308	1.07
2309	1.07
2310	1.07
2311	1.07
2313	1.07
2315	1.07
2317	1.07
2401	0.60
2402	0.60
2501	1.07
2502	1.07
2503	1.07
2504	1.07
2505	1.07
2506	1.07
2507	1.07
2508	1.07
2509	1.07
2511	1.07