

**AMENDED AND RESTATED**  
**COMMON INTEREST COMMUNITY DECLARATION**  
**OF THE HIDEAWAY TOWNHOUSES SUBDIVISION**  
**A PLANNED COMMUNITY**

A. On April 2, 1997, Peak Properties & Development Corporation (the "Declarant") recorded the Common Interest Community Declaration of the Hideaway Townhouses Subdivision a Planned Community, under Reception No. 536380 of the real property records of Summit County, Colorado (the "Original Declaration.") submitting the Property to the provisions of the Act and declaring that the Property shall be held and conveyed subject to the terms, covenants, restrictions, and conditions set forth in the Original Declaration which ran with the land and was binding on all parties, and heirs, successors and assigns of parties having any right, title or interest in all or any part of the Property.

B. The Declarant, and each of the undersigned being all of the initial owners in fee simple Blocks 1, 2, and 3 of the Hideaway Townhouses Subdivision, County of Summit and State of Colorado, desiring to amend restate the Original Declaration hereby unanimously AMEND AND RESTATE the Original Declaration as follows:

**ARTICLE I**  
**DEFINITIONS**

1.1 Act. The Act is the Colorado Common Interest Ownership Act, #38-33.3-101, et seq., Colorado Revised Statutes, as it may be amended from time to time.

1.2 Allocated Interests. The Allocated Interests are the Common Expense liability and votes in the Association allocated to Units in the Common Interest Community. The Allocated Interests are described in Article VII of this Declaration.

1.3 ARC or Architectural Review Committee. Refers to the committee of the Association created pursuant to Article VIII of this Declaration.

1.4 Association. The Association is Hideaway Townhouses Subdivision Homeowners Association, Inc., a Colorado non-profit corporation. It is hereby designated as the Association of Unit Owners pursuant to C.R.S., #38-33.3-3-1.

1.5 Bylaws. The Bylaws are the Bylaws of the Association, as they may be amended from time to time.

1.6 Common Elements. The Common Elements include but are not limited to Out Lot A as described in the Plat (all of the real estate of the Common Interest Community other than a Unit) and all improvements thereto including but not limited to: private walk ways, private streets, traffic control facilities, storm water, drainage facilities, water quality facilities, perimeter fences, a kiosk, landscaping (excluding landscaping within any Unit) and such easements, if any, as are appurtenant, all of which shall be owned by the Association.

1.7 Common Expenses. The Common expenses are the expenses or financial liabilities for the

operation of the Common Interest Community. Common Expense Assessments are the funds required to be paid by each Unit Owner in payment of such Owner's Common Expense liability. These expenses include:

- (a) expenses of administration, maintenance, reconstruction, improvement, repair or replacement of the Common Elements;
- (b) expenses of utilities not separately metered and billed directly to the Unit Owners;
- (c) expenses declared to be Common Expenses by the Documents or by the Act;
- (d) expenses agreed upon as a Common Expense by the Association; and
- (e) such reasonable reserves as may be established by the Association, whether held in trust or by the Association, for repair, replacement or addition to the Common Elements or any other real or personal property acquired or held by the Association.

In addition, some costs and expenses imposed on the Association, benefiting fewer than all the Units, shall be a Common Expense, but assessed exclusively against those Units benefited.

1.8 Common Interest Community. The Common Interest Community is the real property described in Exhibit A and subject to this Declaration.

1.9 Declarant. Declarant means Peak Properties & Development Corporation, a Colorado corporation or its successors or assigns, as defined in C.R.S., #38-33.3-103(12).

1.10 Declaration. The Declaration is this document, including any amendments.

1.11 Development Rights. Development Rights are the rights reserved by the Declarant under Article VI of this declaration.

1.12 Director. A Director is a member of the Executive Board of the Association.

1.13 Documents. The Documents are this Declaration and the Plat recorded and filed pursuant to the provisions of the Act, the Articles of Incorporation of the Association, the Bylaws of the Association and any Rules that may be adopted by the Directors, as they be amended from time to time. Any exhibit, schedule or certification accompanying a Document is a part of that Document.

1.14 Eligible Insurer. An Eligible Insurer is an insurer or guarantor of a first Security in a Unit. An Eligible Insurer must notify the Association in writing of its name and address and inform the Association that it has insured a first Security Interest in a Unit. It must provide the Association with the Unit number and address of the Unit on which it is the insurer or guarantor of a Security Interest. Such notice shall be deemed to include a request that the Eligible Insurer be given the notices and other rights described in Article XIV.

1.15 Eligible Mortgagee. The Eligible Mortgagee is the holder of a first Security interest in a Unit, when the holder has notified the Association, in writing of its name and address and that it holds a first Security Interest in a Unit. The notice must include the Unit number and address of the Unit on which it has a security interest. This notice shall be deemed to include a request that the Eligible Mortgagee be given the notices and other rights described in Article XIV.

- 1.16 Executive Board. The Executive Board is the Board of Directors of the Association.
- 1.17 Golf Course Facilities. As used herein means the land and facilities of that certain golf course known as the Eagles Nest Golf Course which is adjacent to the Common Interest Community.
- 1.18 Improvements. Improvements are any construction, structures, equipment, fixtures or facilities existing or to be constructed on the Property which is included in the Common Interest Community, including but not limited to: Residences, buildings, trees and shrubbery planted by the Owner, the Declarant or the Association, paving, utility wires, pipes, and light poles.
- 1.19 Lot. If used herein, the term "Lot" shall mean Unit and be synonymous with the term "Unit" as the same is used in the Act. It is Declarant's intent the Lots identified by a number assigned on the Plat shall correspond to and be interchangeable with Units identified by the same number .
- 1.20 Majority or Majority of Unit Owners. The Majority or Majority of Unit Owners means the owners of more than fifty percent (50%) of the votes in the Association.
- 1.21 Manager. A Manager is a person, firm or corporation employed or engaged to perform management services for the Common Interest Community and the Association.
- 1.22 Member. As used herein, the term "Member" is synonymous with the term "Director."
- 1.23 Notice and Comment. Notice and Comment is the right of the Unit Owner to receive notice of an action proposed to be taken by or on behalf of the Association and the right to comment thereon. The procedures for Notice and Comment are set forth in Section 19.1 of this Declaration.
- 1.24 Notice and Hearing. Notice and Hearing is the right of a Unit Owner to receive notice of an action proposed to be taken by or on behalf of the association, and the right to be heard thereon. The procedures for Notice and Hearing and set forth in Section 19.2 if this Declaration.
- 1.25 Person. A Person is an individual, corporation, trust, partnership, limited liability company, association, joint venture, government, government subdivision or agency of other legal or commercial entity, or a combination thereof.
- 1.26 Plat. Plat means the Final Plat of the Hideaway Townhouses, Subdivision signed by the Declarant recorded in the real property records of Summit County, Colorado on April 2, 1997, under Reception No. 536376 as amended by the First Amendment to the Hideaway Townhouses Subdivision, recorded February under Reception No. 55-9333 and as may be further amended from time to time by the addition of up to 26 Lots each in Block 2 and Block 3 of the Hideaway Townhouses Subdivision, County of Summit and State of Colorado.
- 1.27 Property. Property is the land and all Improvements, easements rights and appurtenances presently owned by Declarant which have been submitted to the provisions of the Act by this Declaration, as described in Exhibit A hereto and as further shown on the Plat.
- 1.28 Records. The Records are the real estate records in the Office of the Clerk and Recorder of Summit County, Colorado.

1.29 Residence. A Residence shall be a townhouse for single-family living, constructed on a Unit, including any patio, deck, porch, balcony, yard, yard fence, enclosed garage or parking space within the Unit.

1.30 Rules. The Rules are the regulations for the use of the Common Elements and for their conduct of persons in connection therewith within the Common Interest Community, as may be adopted from time to time by the Executive Board pursuant to this Declaration.

1.31 Security Interest. A Security Interest is an interest in and encumbrance upon real estate or personal property, created by contract or conveyance, which secures payment or performance of an obligation. The term includes a lien created by a mortgage, deed of trust, installment land contract, lease intended as security, assignment of lease or rents intended as security, pledge of an ownership interest in the Association, and any other consensual lien intended as security for an obligation. A nonconsensual lien does not create a Security Interest.

1.32 Special Declarant Rights. Special Declarant Rights are the rights reserved for the benefit of the Declarant under Article VI of this Declaration.

1.33 Subdivision Agreement. Subdivision Agreement means the "Town of Silverthorne, Colorado Site Improvements Agreement for the Hideaway Townhouses Subdivision" made between the Town of Silverthorne, a Colorado municipal corporation, and Declarant to obtain the approval of the Hideaway Townhouses Subdivision.

1.34 Subdivision Plat. The Subdivision Plat has the same meaning as Plat.

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

1.36 Unit. A Unit is a physical portion of the Common Interest Community designated for separate ownership or occupancy, the boundaries of which are defined on the Plat and described in Section 4.2 of this Declaration.

1.37 Unit Owner or Owner. The Unit Owner or Owner is the Declarant or any other Person who owns a Unit. Unit Owner does not include a Person having only a Security Interest or any other interest in a Unit solely as security for an obligation.

ARTICLE II  
NAME AND TYPE OF COMMON INTEREST COMMUNITY  
AND ASSOCIATION

2.1 Name and Type of Common Interest Community. The name of the Common Interest Community is the Hideaway Townhouses Subdivision. The Hideaway Townhouses Subdivision is a planned community.

2.2 Association. The name of the Association is the Hideaway Townhouses Subdivision

ARTICLE III  
DESCRIPTION OF LAND

The entire Common Interest Community is situated in the County of Summit, State of Colorado, and is located on the Property. The Declarant may add additional real estate to the land described in Exhibit A (Block 1 of the Hideaway Townhouses Subdivision) to Common Interest Community, to wit: Block 2, and Block 3 of the Hideaway Townhouses Subdivision, County of Summit State of Colorado, and develop an additional 26 townhouses on each of said additional Blocks.

ARTICLE IV  
UNIT AND BOUNDARY DESCRIPTIONS

4.1 Maximum Number of Units. The initial number of Units in the Common Interest Community is twenty six (26), the Declarant reserves the right to include or to add Blocks 2 and 3 of the Hideaway Townhouses Subdivision, County of Summit and State of Colorado to the Common Interest Community each of which blocks will contains 26 additional Units which when added to the 26 Units in Block 1 of the Hideaway Townhouses Subdivision will result in a maximum of seventy eight (78) Units in the entire Common Interest Community. Nothing contained in this Section shall prohibit the Owner of two or more adjacent Units from combining them or portions thereof, so that the resulting number of Units in the Hideaway Townhouses Subdivision is equal to or less than seventy eight (78) Units.

4.2 Boundaries. Vertical boundaries of each Unit created by the Declaration are shown on the Plat and each Unit is identified with its identifying number. The Units are not defined by horizontal boundaries.

ARTICLE V  
MAINTENANCE OF THE PROPERTY

5.1 Individual Units. It shall be the duty and obligation of each Unit Owner, at such Unit Owner's expense, to beautify and keep clean such Owner's Residence and to keep the exterior portions of the Unit neat, attractive, sightly and in good order and to maintain, repair so much of the exterior of the Residence as is not the responsibility of the Association. If the Owner does not discharge this obligation, then following Notice and Hearing, the Association may arrange to have the work done and assess the Owner for the cost of such work plus twenty-five percent (25%) of such cost for inspection, administrative costs and overhead of the Association and other incidental expenses.

5.2 Duties of Association. The Association shall have the following duties:

(a) Maintenance of Common Elements. The Association shall maintain, repair, replace, beautify and keep neat, attractive, sightly, free from snow and in good order, to the extent that such functions are not expected to be performed by Town of Silverthorne, or by any other political subdivision thereof or by of the State of Colorado, all of the Common Elements. Maintenance of Common Elements shall include but not limited to: the interior streets, driveways, parking spaces, walkways, (although they may be located within Units). In addition, once the Declarant has completed the Common Element improvements on the Property as required under the Subdivision Agreement; the Association shall

thereafter at its expense provide for the continued and perpetual maintenance of such improvements.

(b) Maintenance of Exteriors. In addition to maintenance upon the Common Elements, the Association shall provide exterior maintenance upon each Unit which is subject to assessment hereunder as follows: paint, repair, replacement and care of roofs, gutters, downspouts, exterior building surfaces, trees, shrubs and grass and other exterior improvements except that maintenance of yards located within Lots is limited to irrigation and maintenance of fences shall consist solely of painting the same on a periodic basis. Such exterior maintenance shall not include glass surfaces.

In the event that the need for maintenance or repair of a Unit or improvements thereon is caused through the willful or negligent acts of its Owner, or through the willful or negligent acts of the family, guests, or invitees of the Owner of the Unit needing such maintenance or repair, the cost of such exterior maintenance or repair shall be added to and become a part of the assessment to which such Unit is subject.

(c) Maintenance of Certain Utility Lines / Cable Television. The Association shall maintain repair, and replace certain those certain utility lines (and meters) which are not the responsibility of a utility, government, or private company: which in the case of water, sewer, telephone and electric lines serve more than a single Unit and which are located either within a Common Element or beneath the concrete slab of a Unit; or which in the case of electric, telephone or cable TV lines serve more than a single Unit and are located either within a Common Element or within the attic over a Unit. The Association may contract with a cable television provider to provide cable television to all Units within the Common Interest Community.

The Association may, from time to time, hire and/or contract with third parties to achieve the objectives of this Section 5.2.

5.3 Right of Access. Any Person authorized by the Executive Board shall have the right of access to all portions of the Property outside of the Residence constructed on a Lot and to utilities under the slab or crawl space over which a Residence is built or in the attic over a Residence for the purpose of performing emergency repairs or to do other work reasonably necessary for the proper maintenance of the Common Interest Community as set forth herein, provided that requests for entry are made in advance and that any entry is at a time reasonably convenient to affected Unit Owner. In case of an emergency, no request or notice is required and the right of entry shall be immediate, whether or not the Unit Owner is present at the time.

5.4 Repairs Resulting From Negligence. Each Unit Owner will reimburse the Association for any damages to the Common Elements caused intentionally, negligently or by such Owner's failure properly to maintain, repair or make replacements to the Owner's Unit. If such expense is caused by misconduct, it will be assessed following Notice and Hearing. The Association will be responsible for damage to Units which is caused by the Association intentionally, negligently or by the Association's failure to maintain, repair or make replacements to the Common Elements.

## ARTICLE VI DEVELOPMENT RIGHTS AND OTHER SPECIAL DECLARANT RIGHTS

6.1 Reservation of Development Rights. The Declarant reserves the following Development Rights:

(a) the right to convey to the Association title to the Common Elements subject to such easements and reservations as are shown on the Plat and to such conditions as are contained in the Subdivision Agreement;

(b) the right to construct underground utility lines, pipes, wires, ducts, conduits, and other facilities across all portions of the Property, for the purpose of furnishing utility, drainage and other services to Residences and Improvements to be constructed on the Property;

(c) the right to withdraw and grant easements and licenses to public and quasi-public utility companies or districts and to convey Improvements within the Common Elements in the Common Interest Community, for the purposes mentioned above;

(d) the right for itself and any successor Declarant at any time and from time to time to withdraw from the provisions of this Declaration individual Units and/or Common Elements, provided however that none of the real estate may be withdrawn after any Unit has been conveyed by Declarant to a purchaser; and

(e) the right to add separately or together Blocks 2 and 3 of the Hideaway Townhouses Subdivision, County of Summit and State of Colorado to the Common Interest Community each Block of which may contain up to 26 Units and to combine two or more Units or divide one Unit for the purpose of combining portions of said divided Unit with adjoining Units, thereby in both cases reducing the total number of Units and to amend Exhibit A hereto to reflect such additions and the concomitant revised allocation of Common Expenses in accordance with Section 7.1 below.

6.2 Limitations on Development Rights. The Development Rights reserved in Section 6.1 are limited as follows:

(a) the Development Rights may be exercised at any time, but not more than five (5) years after the recording of the initial Declaration;

(b) all Common Elements created pursuant to the Development Rights will be restricted to use in the same manner and to the same extent as the Common Elements created under this Declaration, as initially recorded; and

(c) no Development Rights may be exercised unless approved pursuant to Section 14.5 of this Declaration.

6.3 Phasing of Development Rights. No assurances are made by the Declarant as to whether the Declarant will exercise its Development Rights. The exercise of Development Rights as to some portions of the Property will not obligate the Declarant to exercise them as to other portions.

6.4 Special Declarant Rights. The Declarant reserves the following Special Declaration Rights, to the maximum extent permitted by law, which may be exercised, where applicable, anywhere within the Common Interest Community:

(a) to make Improvements indicated by the Plat;

(b) to exercise any Development Right reserved in the Declaration;

(c) to maintain sales offices, management offices, models, and signs advertising new Units which shall not be subject to the restrictions of Section 9.2(r);

(d) to use easements through the Common Elements and Units for the purpose of making Improvements within the Common Interest Community; and

(e) to appoint or remove an officer of the Association or an Executive Board Member during a period of Declarant's control, subject to the provisions of Section 6.9 of this Declaration.

6.5 Models, Sales Offices and Management Offices. As long as the Declarant is a Unit Owner, the Declarant, its duly authorized agents, representatives and employees, may construct on any Unit owned by Declarant up to a maximum of five (5) model Units and up to a maximum of five (5) sales offices or management offices. Declarant may locate temporary sales offices on the Common Elements at no expense to the Association and during the period of construction, may maintain a construction trailer on the Common Elements or on each Unit on which Declarant is constructing a Residence, or, at Declarant's option, on a nearby Unit owned by Declarant.

6.6 Construction; Declarant's Easement. The Declarant reserves the right to perform warranty work, repairs and construction work in Units and Common Elements, to store materials in secure areas, and to control and have the right of access to work and repairs until completion. All work may be performed by the Declarant without the consent or approval of the Executive Board. The Declarant has an easement through the Common Elements as may be reasonably necessary for the purpose of discharging the Declarant's obligations or exercising Special Declarant Rights, whether arising under the Act or reserved in this Declaration. This easement includes the right to convey access, utility and drainage easements to public utilities, Summit County, the Town of Silverthorne or the State of Colorado and to convey to the Common Interest Community easements beneath the slabs and through the crawl spaces over which Residences will be built and through the attics over Residences for the construction, use, maintenance, repair and replacement of utilities.

6.7 Signs and Marketing. The Declarant reserves the right to post and maintain signs and displays on any Unit owned by Declarant and in the Common Elements in order to promote sales of Units and Residences. Declarant's signs shall not be subject to the restrictions of Section 9.2(r). Declarant also reserves the right to conduct general sales activities in a manner which will not unreasonably disturb the rights of Unit Owners.

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

6.9 Declarant's Control of the Association.

(a) Subject to Subsection 6.9(b), there shall be a period of Declarant's control of the Association, during which Declarant, or Persons designated by Declarant, may appoint and remove the officers of the Association and Members of the Executive Board. The period of Declarant's control shall terminate no later than the earlier of:

(i) five (5) years from the date of recording of the Declaration;



(ii) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership;

(iii) two (2) years after the last conveyance of a Lot by Declarant in the ordinary course of business; or

Declarant may voluntarily surrender the right to appoint and remove officers of the Association and Members of the Executive Board before termination of the period described above. In that event, the Declarant may require, for the duration of the period of Declarant's control, that specified actions of the Association or Executive Board, as described in a recorded instrument executed by the Declarant, be approved by the Declarant before they become effective.

(b) Not later than sixty (60) days after conveyance of twenty-five percent (25%) of the Units that may be created to Unit Owners other than Declarant, at least one Member and not less than twenty-five percent (25%) of the members of the Executive Board shall be elected by Unit Owners other than the Declarant. Not later than sixty (60) days after conveyance of fifty percent (50%) of the Units that may be created to Unit Owners other than Declarant, not less than thirty-three and one-third percent (33-1/3%) of the Members of the Executive Board shall be elected by unit Owners other than the Declarant.

(c) Not later than the termination of any period of Declarant's control, the Unit Owners shall elect an Executive Board of at least three Members, a majority of whom shall be Unit Owners. The Executive Board shall elect the officers of the Association. The Executive Board Members and officers shall take office upon election.

(d) Notwithstanding any provision of this Declaration or the Bylaws to the contrary, following notice under C.R.S., #38-33.3-308, the Unit Owners, by a vote of sixty-seven percent (67%) of all Unit Owners present and entitled to vote at a meeting of the Unit Owners at which a quorum is present, may remove a Member of the Executive Board with or without cause, other than a Member appointed by the Declarant.

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

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

6.12 Rights of Lenders. Additional limitations on the right of the Declarant to exercise Development Rights may be found in Article XIV of the Declaration.

## ARTICLE VII ALLOCATED INTERESTS

The interest allocated to each Unit has been calculated by the following formula:

7.1 Liability for the Common Expenses. The percentage of Liability for Common Expenses allocated to each Unit is based on one (1) share to each Unit compared with the total shares allocated to all the Units in the Common Interest Community (i.e., at the present 1/26<sup>th</sup>). With the addition of Block 2 of the Hideaway Townhouses Subdivision, County of Summit and State of Colorado, the allocation will be 1/52<sup>nd</sup> and with the addition of Block 3 of said Hideaway Townhouses Subdivision, the allocation shall be 1/78<sup>th</sup>. The Declarant shall have the right to amend Exhibit A to this Amended and Restated Declaration from time to time to reflect said additions and may indicate thereon the allocation to each Unit. Provided, however, that an Owner combines two or more Units as provided herein with the intent of creating one Unit therefrom, such resulting Unit shall continue to be allocated the full percentage originally allocated to the Units so combined. If a Unit is subdivided and added to other Units as provided herein, the interest of such subdivided Unit shall be added proportionally to the Units receiving all or a portion of such subdivided unit. Nothing contained in this Section shall prohibit certain Common Expenses from being apportioned to particular Units under Article V or Article XIV of this Declaration.

7.2 Votes. Each Unit in the Common Interest Community shall have the number of votes allocated to such Unit in the Bylaws. Any specific percentage, portion or fraction of Unit Owners, unless otherwise stated in the Documents, means the specified percentage, portion or fraction of all of the votes as allocated in the Bylaws.

## ARTICLE VIII ARCHITECTURAL REVIEW COMMITTEE

8.1 Creation of Committee. There is hereby created a standing committee of the Association to be known as the Architectural Review Committee or ARC, to be composed of not more than four (4) individuals. Members of the ARC shall be appointed by the Executive Board, to hold office at the will of the Executive Board.

8.2 Purpose of ARC. The purpose of the ARC is to maintain the superior beauty and quality of the Improvements constructed on the Property, and the harmony thereof with the surroundings, and to evaluate the use and suitability of the proposed Improvements and the effect of the same on any adjacent or neighboring properties.

8.3 Approval of Improvements. Except for initial Improvements constructed by Declarant and Improvements made at any time by the Association, all plans and specifications in connection with (a) exterior remodeling, rebuilding, refurbishing or alteration of a Residence, including but without limitation to the exterior appearance, color or texture, patio covers or awnings; (b) any Improvements or alterations to the Unit other than to the Residence, including but not limited to landscaping not initially provided by Declarant, sculpture or art work, driveway, sidewalk, outside deck, grading, excavation, filling or similar disturbance of the surface of the land; and (c) interior window coverings, shall require the prior written approval of the ARC.

8.4 Owner To Submit Plans. Before any Construction work begins, the owner of the Unit shall be responsible for submitting to the ARC complete plans, specifications and color/material/texture samples for the scheduled work and the qualifications of the parties to be performing the scheduled work.

8.5 Action by ARC. The ARC's approval or disapproval as required by this Declaration shall

be in writing. In the event the ARC fails to give its written approval or disapproval within thirty (30) days after complete submission of the required plans and specifications shall be deemed approval by the ARC.

8.6 Construction of Improvements after Approval by ARC. Following approval of proposed Improvements by the ARC, the Unit Owner shall cause the approved Improvements to be made to the Unit in a timely fashion.

8.7 Guidelines, Standards and Procedures. The ARC shall adopt guidelines, standards and procedures for its day to day operations, and the performance of its duties under this Declaration, which guidelines, standards and procedures shall consistently be applied for all matters coming before the ARC.

8.8 Compensation of Members of ARC. The members of the ARC may receive reasonable compensation for services performed, together with reimbursement for actual and reasonable expenses incurred by them in the performance of their duties.

8.9 Non-Liability of ARC Members. None of the ARC, any member thereof or the Executive Board shall be liable to any Owner or to any other person for any loss, damage or injury arising out of or in any way connected with the performance of the ARC's duties under this Declaration. By granting its approval of proposed Improvements, the ARC will not be deemed to have approved or to have made any representation as to the safety, structural soundness or compliance with local building codes or other governmental laws or regulations concerning the proposed Improvements.

#### ARTICLE IX RESTRICTIONS ON USE, ALIENATION AND OCCUPANCY

9.1 Improvements to Unit. Subject to the Special Declarant Rights reserved under Article VI, the following restrictions on construction of Improvements apply to all Units:

(a) Zoning. Zoning laws, ordinances, resolutions, rules and regulations are considered to be a part thereof, and no provision of this Declaration shall be valid or be interpreted to violate any present or future zoning laws, ordinances, resolutions, rules or regulations.

(b) Garage or Private Parking Space. A garage or private parking space shall be required. Carports will be permitted only with approval of the ARC.

(c) Fences. The Association will maintain the perimeter fence if any. No other fences, except yard fences located on or within the Unit boundaries and approved by the ARC, are permitted, except in the case of electric underground fences designed to keep a pet confined within a certain area, subject to prior approval of the ARC.

(d) Wells and Mineral Excavation. No portion of the Property including without limitation any area within a Unit shall be used to explore for or to remove any water, soil, hydrocarbons or other minerals of any kind.

(e) Maintaining of Drainage. There shall be no interference with the established drainage pattern as planned by Declarant for the entire Property.

9.2 Use Restrictions. Subject to the Special Declarant Rights reserved under Article VI, the

following use restrictions apply to all Units and to the Common Elements:

(a) Single-Family Residences. Each Unit is restricted to use as a single family Residence and accessory uses as permitted herein. A single-family Residence is defined as a single housekeeping unit, operating on a nonprofit, noncommercial basis with a common kitchen and dining area. Nothing contained in this Section, however, shall be construed as preventing the renting or leasing of a Unit in its entirety to a single family, in which event a copy of the written lease shall be delivered to the Association.

(b) No Commercial Pursuits. Except for those activities conducted as a part of the marketing and development program of the Declarant, no industry, business, trade, commercial activities or home professional pursuits shall be conducted, maintained or permitted in any part of a Unit, nor shall any Unit be used or rented for transient, hotel, or motel purposes.

(c) Compliance with Laws. No immoral, improper, offensive or unlawful use may be made of the Property; and Unit Owners shall comply with and conform to all applicable laws, ordinances, rules and regulations of the United States, the State of Colorado, the County of Summit and the Town of Silverthorne. The violating Unit Owner shall hold harmless the Association and other Unit Owners from all fines, penalties, costs and prosecutions for any violation or noncompliance.

(d) Offensive Activities. No noxious, offensive, dangerous or unsafe activity shall be carried on upon any portion of the Property, nor shall anything be done, either willfully or negligently or placed thereon which is or may become a nuisance or cause an unreasonable embarrassment, disturbance or annoyance to other Unit Owners or occupants.

(e) Annoying Sounds or Odors. No sound or odor, including those caused by house pets, shall be emitted from any portion of the Property which is noxious or reasonably offensive to or would interfere with the rights, comforts or convenience of other Unit Owners or occupants. Without limiting the generality of the foregoing, no exterior speakers, horns, whistles, bells or other sound devices, other than security devices used exclusively for security purposes, shall be located or used on any Unit except with the prior written approval of the ARC.

(f) No Hazardous Activities. There shall be no activity or Improvement on any portion of the Property which is or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms shall be discharged upon the Property, and no open fires shall be lighted or permitted, except in a contained barbecue unit while attended and in use for cooking purposes or within an interior or exterior fireplace designed to prevent the dispersal of burning embers.

(g) No Unsightliness. All unsightly structures, facilities, equipment, objects and conditions shall be enclosed within a structure, including snow removal equipment and garden or maintenance equipment except when in actual use.

(h) Storage of Vehicles. Other than short-term guests or agents of Owner whose vehicles may be parked for no more than 72 consecutive hours, no vehicles shall be regularly kept on the Unit in any area other than in the garage or in the parking space within the Unit. Garages are restricted to occupancy by the Owner of the Unit for storage and for parking spaces for vehicles. Garage doors shall remain closed when not in use for ingress or egress of vehicles. No boat, camper (on or off supporting vehicles), trailer, tractor, truck, towed trailer unit, motorcycle, disabled, junked or abandoned vehicle, motor

home, mobile home, recreational vehicle or any other vehicle, the primary purpose for which is for recreational, sporting or commercial use, shall be parked or stored in, on or about any Unit or street within the Property, except within the attached garage. Declarant, the Association and the ARC shall have the right to enter unenclosed portions of the Unit to remove and store, at the Owner's expense, vehicles in violation of this Section. The Owner shall be entitled to Notice and Hearing prior to such action.

(i) Vehicle Repairs. No maintenance, service, repair, dismantling or repainting of any type of vehicle, boat, machine or device may be carried on, except within a completely enclosed structure which screens the sight and sound of the activity from the street and from other Units.

(j) Pets. No animals, birds or reptiles of any kind shall be kept in a Unit, except for dogs or cats or other indoor household pets, approved and licensed in writing by the Executive Board or the Manager as compatible with the Common Interest Community. Pets may not be kept for any commercial purposes. Every household pet shall be controlled by its Owner and shall not be allowed off the Owner's Unit except when properly leashed and accompanied by the pet's Owner or his representative. Each Owner of a household pet shall be financially responsible and liable for any damage caused by said household pet. Any pet causing or creating a nuisance or unreasonable disturbance or noise shall be permanently removed from the Property following Notice and Hearing. Owner shall hold the Association harmless from any claim resulting from any action of their pets.

(k) Access to Common Elements. No Owner shall place any structure whatsoever upon or permit any structure to intrude upon or overhang the Common Elements, and no Owner shall engage in any activity which would temporarily or permanently deny free access to any part of the Common elements by all Owners. No use shall ever be made of the Common Elements which would deny ingress or egress by any Owner to such Owner's Unit.

(l) Prohibition Against Discrimination. Anything to the contrary herein notwithstanding, this Declaration shall be construed as omitting restrictions, if any, based on race, color, religion or national origin.

(m) Restrictions on Garbage and Trash. No refuse, garbage, trash, lumber, grass, shrub or tree clippings, plant waste, compost, metal, bulk materials, scrap, refuse or debris of any kind shall be kept, stored or allowed to accumulate on any Unit except within an enclosed structure or area appropriately screened from view, except that any container containing such materials may be placed outside at such times as may be necessary to permit garbage or trash pick-up.

(n) No Temporary Structures or Building Materials. Except during construction, as set forth above, no tin shack, temporary structure or temporary building or building materials shall be placed, stored or maintained upon the Unit.

(o) Compliance with Insurance Requirements. Nothing shall be done or kept on the Property which may result in a material increase in the rates of insurance or would result in the cancellation of insurance maintained by the Association, without the prior approval of the Association.

(p) Further Subdivision of Units. The Owner of a unit shall not further subdivide that Unit. Provided, however, that nothing in this subsection shall prohibit Declarant or an Owner from subdividing a Unit for the sole purpose of annexing all subdivided portions of such Unit or other adjacent Units.

(q) Restoration in the Event of Damage or Destruction. In the event of damage or destruction of any Improvement on a Unit, the Owner thereof shall cause the damage or destroyed Improvement to be restored or replaced to its original condition or such other condition as may be approved in writing by the ARC, or the Owner shall cause the damaged or destroyed Improvement to be demolished and the Unit to be suitably landscaped, subject to the approval of the ARC, so as to present a pleasing and attractive appearance.

(r) Restrictions on Signs and Advertising. Except as permitted in Article VI no sign, poster, billboard, advertising device or display of any kind shall be erected or maintained anywhere within the Property so as to be evident to public view, except for a name plate or sign not exceeding eighteen (18) square inches in area, on the main door to each Unit, and except signs as may be approved in writing by the Association or the ARC. A sign advertising a Unit for sale or for lease may be placed on such Unit; provided, however, that standards relating to dimensions, color, style and location of such signs shall be determined from time to time by the ARC.

9.3 Restrictions on Alienation. The following restrictions shall apply to alienation of a Unit:

(a) Time-Sharing. A Unit may not be conveyed pursuant to a time-sharing plan.

9.4 Damage Caused by Golf Course Facilities. Declarant, fir itself and each Owner of a Unit within the Common Interest Community, hereby acknowledges that the existence of a golf course on the Golf Course Property is highly beneficial and desirable to the Common Interest Community. However, each Owner, by its purchase of a Unit within the Common Interest Community, hereby acknowledges and agrees that portions of the Common Interest Community located adjacent to the Golf Course Property are subject to the risk of damage or injury related to the use, operation or maintenance of the Golf Course Property as a golf course. In accordance with the foregoing, the Association and each Owner of a Unit within the Community Area hereby releases the Association and Declarant, their successors and assigns, from and against any and all liability, loss, damage cost or expense arising from or related to the operation of a golf course on the Golf Course Property, including, but not limited to, any damage or injury caused by: (I) errant golf balls in, on or around the Common Interest Community; (ii) the spraying or use of chemicals or pesticides on connection with the operation and maintenance of the Golf Course Property; and (iii) any noise or other matters that might be construed as a nuisance in connection with the operation and maintenance of the Golf Course Property. The Owners of Units within the Common Interest Community further agree to indemnify and hold the Association and Declarant, their successors and assigns, harmless from and against any and all claims, actions, costs, expenses or liability arising from or related to any damage or injury caused directly or indirectly by golf balls flying, landing, hitting or resting in or around the Common Area by such Owner's respective Units. The obligation to indemnify, defend and hold harmless contained herein shall pass with title to each portion of the Community Area, and once any Owner of a Unit within the Community Area has conveyed title to such Unit, such obligation shall cease as to that Owner for all subsequent occurrences and such obligation shall pass to the new owner.

## ARTICLE X EASEMENTS AND LICENSES

10.1 Existing Easements. All easements or licenses to which the Common Interest Community is presently subject are shown on the Plat except that all Units shall be subject a perpetual easement for the construction, use, maintenance, repair and replacement of water, sewer and or other utilities (including

meters) beneath the slabs over which Residences are built, within the crawl spaces over which Residences are built or through the attics over Residences as may hereinafter be indicated by an additional note and or drawing on the Plat as the same may be subsequently amended hereinafter by the Declarant.

10.2 Granting of Future Easements. The Common Interest Community may be subject to other easements or licenses granted by the Declarant pursuant to its powers under Article VI of this Declaration.

10.3 Owner's Easement Across Common Elements. Every Owner shall have a right and easement for ingress to and egress from such Owner's Unit over and across the Common Elements, which easement shall be appurtenant to and shall pass with the title to every Unit subject to the right of the Declarant and/or the Association to dedicate or transfer all or part of the Common Elements to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Association. No such dedication or transfer by the Association shall be effective unless an instrument signed by eighty percent (80%) of the Unit Owners agreeing to such dedication or transfer has been recorded in the Records.

10.4 Easements Reserved and Restrictions on Drainage Easements. Easements and rights of way are reserved on, over and under the Common Elements and the Units as shown on the Plat, for construction, maintenance, repair, replacement and reconstruction of poles, wires, pipes and conduits for lighting, heating, electricity, gas, telephone, drainage and any other public or quasi-public utility service purposes, and for sewer and pipes of various kinds.

10.5 Consent to Overhang of Roof Eaves. Each Unit Owner consents that the eaves from the roof of the contiguous Unit may overhang a Unit Owner's Lot whenever such overhang is the result of overhanging eaves constructed by the Declarant or is the result of any subsequent construction approved by the ARC unless ARC determines that such overhang is not reasonably necessary to the subject roof shall or that the overhang would unreasonably or unnecessarily interfere with the use and enjoyment of the Lot burdened by the overhang.

10.6 Consent to Subslab, Crawl Space and Attic Easement for Utilities. Each Unit Owner consents to a perpetual easement for utility lines and meters to be constructed, used, maintained, repaired and replaced in beneath the slabs and through the crawl space over which Residences are built and through the attics over Residences.

## ARTICLE XI AMENDMENTS TO DECLARATION

11.1 In General. Except in cases of amendments that may be executed by the Declarant in the exercise of its Development rights or by the Association under Article X of this Declaration and C.R.S., #38-33.3-107, or by certain Unit Owners under C.R.S., #38-33.3-218, and except as limited by Section 11.4 and Article XIV of this Declaration, this Declaration, including the Plat, may be amended only by vote or agreement of Unit Owners of Units to which at least sixty-seven percent (67%) of the votes in the Association are allocated. The procedure for amendment must follow the procedures of C.R.S., #38-33.3-217.

11.2 Limitation of Challenges. An action to challenge the validity of an amendment adopted by the Association pursuant to this Article may not be brought more than one year after the amendment is recorded.





11.3 Recordation of Amendments. Each Amendment to the Declaration must be recorded in the Records, and the amendment is effective only upon recording.

11.4 Unanimous Consent. Except to the extent expressly permitted or required by other provisions of the Act, and amendment may not create or increase Special Declarant Rights, increase the number of Units, change the boundaries of a Unit, the Allocated Interests of a Unit or the uses to which a Unit is restricted, except by unanimous consent of the Unit Owners.

11.5 Execution of Amendments. An amendment to the Declaration required by the Act to be recorded by the Association, which has been adopted in accordance with this Declaration and the Act, must be prepared, executed, recorded and certified on behalf of the Association by an officer of the Association designated for that purpose or, in the absence of designation, by the president of the Association.

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

11.7 Consent of Holders of Security Interests. Amendments to the Declaration are subject to the consent requirements of Article XIV.

## ARTICLE XII AMENDMENTS TO BYLAWS

The Bylaws may be amended only by a vote of sixty-seven percent (67%) of the Members of the Executive Board, following Notice and Comment to all Unit Owners, at any meeting duly called for such purpose. Annexation of additional properties, dedication of Common Elements (except as set forth in the Subdivision Plat), and amendment of the Declaration requires HUD/VA prior approval as long as Declarant controls or has any right to control the Association.

## ARTICLE XIII ENFORCEMENT / TERMINATION

The Executive Board, on behalf of the Association and each Unit Owner is empowered to enforce the covenants set forth herein.

Termination of the Common Interest Community may be accomplished only in accordance with C.R.S., #38-33.3-218.

## ARTICLE XIV MORTGAGEE PROTECTION

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

14.2 Percentage of Eligible Mortgagees. Wherever in this Declaration the approval or consent of a specified percentage of Eligible Mortgagees is required, it shall mean that the approval or consent of Eligible Mortgagees holding Security Interests in Units which in the aggregate have allocated to them that

specified percentage of votes as compared to the total votes allocated to all Units in the Association then subject to Security Interests held by all Eligible Mortgagees.

14.3 Notice of Actions. The Association shall give prompt written notice to each Eligible Mortgagee and Eligible Insurer of:

(a) any condemnation loss or any casualty loss which affects a material portion of the Common Interest Community or any Unit in which there is a first Security Interest held, insured or guaranteed by that Eligible Mortgagee or Eligible Insurer, as applicable;

(b) any delinquency in the payment of Common Expense assessments owed by a Unit Owner which remains uncured for a period of sixty (60) days and whose Unit is subject to a first Security Interest held, insured or guaranteed by that Eligible Mortgagee or Eligible Insurer, as applicable;

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

(d) any proposed action which would require the consent of a specified percentage of Eligible Mortgagees as stated in Section 14.4 of the Declaration; and

(e) any judgment rendered against the Association.

14.4 Consent and Notice Required.

(a) Notwithstanding any requirement permitted by this Declaration or the Act, no amendment of any material provision of the Documents by the Association or Unit Owners described in this Section may be effective without notice to all Eligible Mortgagees and Eligible Insurers, as required by Section 14.3 above, without the vote of at least sixty-seven percent (67%) of the Unit Owners (or any greater Unit Owner vote required in the Declaration of the Act) and without approval by at least fifty-one percent (51%) of the Eligible Mortgagees (or any greater Eligible Mortgagee approval required by this Declaration). The foregoing approval requirements do not apply to amendments effected by the exercise of any Development Right. A change to any of the following would be considered material:

(i) voting rights;

(ii) assessments, assessment liens or priority of assessment liens;

(iii) reserves for maintenance, repair, and replacement of Common Elements;

(iv) responsibility for maintenance and repairs;

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

(vi) insurance or fidelity bonds;

(vii) leasing of Units;

- (viii) imposition of any restrictions on the Unit Owners' right to sell or transfer their Units;
- (ix) a decision by the Association to establish self-management when professional management had been required previously by the Documents or any Eligible Mortgagee;
- (x) restoration or repair of the project after hazard damage or partial condemnation in a manner other than that specified in the Documents;
- (xi) termination of the Common Interest Community after occurrence of substantial destruction or condemnation; and
- (xii) any provision that expressly benefits mortgage holders, insurers or guarantors.

(b) Notwithstanding any lower requirement permitted by this Declaration or the Act, the Association may not take any of the following actions, other than rights reserved to the Declarant as Special Declarant Rights, without notice to all Eligible Mortgagees and Eligible Insurers, as required by Section 14.3 above, and approval of at least fifty-one percent (51%) (or the indicated percentage, if higher) of the Eligible Mortgagee:

- (i) convey or encumber the Common Elements or any portion of the Common Elements, for which an eighty percent (80%) Eligible Mortgagee approval is required (the granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Elements by the Common Interest Community will not be deemed a transfer within the meaning of this clause);
- (ii) the termination of the Common Interest Community for reasons other than substantial destruction or condemnation, for which sixty-seven percent (67%) of the Votes of Eligible Mortgagees is required;
- (iii) the granting of any easements, leases, licenses or concessions through or over the Common Elements (excluding, however, any utility easements serving or to serve the Common Interest Community and also excluding any leases, licenses or concessions lasting for no more than one year);
- (iv) the restoration or repair of the Property after hazard damage or a partial condemnation in a manner other than specified in the Instruments;
- (v) the merger of the Common Interest Community with any other common interest community;
- (vi) the assignment of the future income of the Association, including its right to receive Common Expense Assessments; and
- (vii) any action taken not to repair or replace the Property in the event of substantial destruction of any part of a Unit or the Common Elements.

(c) The Association may not change the period for collection of regularly budgeted Common Expense Assessments to other than monthly collection without the consent of all Eligible Mortgagees.

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

14.5 Development Rights. No Development Rights may be exercised, voluntarily abandoned or terminated by the Declarant unless all persons holding Security Interests in the Development Rights consent to the exercise, abandonment or termination.

14.6 Inspection of Books. The Association must maintain current copies of the Declaration, Bylaws, Rules, books, records and financial statements. The Association shall permit any Eligible Mortgagee or Eligible Insurer, or other first mortgagee of Units, to inspect the books and records of the Association during normal business hours.

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

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

14.9 Attendance at Meetings. Any representative of an eligible Mortgagee or Eligible Insurer may attend and address any meeting which a Unit Owner may attend.

14.10 Appointment of Trustee. In the event of damage or destruction under Article XVIII or condemnation of all or a portion of the Common Interest Community, any Eligible Mortgagee may require that such proceeds be payable to a Trustee established pursuant to Section 1.33 of this Declaration. Proceeds will then be distributed according to law. Unless otherwise required, the Members of the Executive Board, acting by majority vote, may act as Trustee.

## ARTICLE XV ASSESSMENT AND COLLECTION OF COMMON EXPENSES

15.1 Apportionment of Common Expenses. Except as provided in Section 1.7 and Section 15.2, all Common Expenses shall be assessed against all Units in accordance with their percentage interest in the Common Expenses, i.e., initially 1/26th per Unit. This shall include but not be limited to Common Expenses for reasonable maintenance and replacement of the landscaped exterior portions of Units and periodic painting of the exterior walls of the Residences constructed on the Units, notwithstanding the fact that such maintenance and replacement could be viewed as benefiting one particular Unit over another.

15.2 Common Expenses Attributable to Fewer than all Units.

(a) Any Common Expenses for services provided by the Association to an individual Unit at the request of the Unit owner shall be assessed against that Unit.

(b) An assessment to pay a judgment against the Association may be made only against the Units in the Common Interest Community at the time the judgment was entered, in proportion to their Common Expenses liabilities.

(c) If a Common Expense is caused by the misconduct of a Unit Owner, the Association may assess that expense exclusively against that Unit Owner's Unit.

(d) Fees, charges, taxes, impositions, late charges, fines, collection costs and interest charged against a Unit Owner pursuant to the Documents and the Act are enforceable as Common Expense Assessments.

(e) With respect to Common Expenses which are not incurred in connection with Common Elements and which are not for reasonable maintenance or replacement as provided in Section 15.1 and to the extent such expenses benefit less than all of the Units and are attributable to specific benefited Units as for example, the Association's expense of insuring improvements on Units or other property of a Unit Owner (as required by FNMA or FHLMC), may be charged by the Association to the owners of such benefited Units to the extent such charges are in an amount equal to said expense.

### 15.3 Lien.

(a) the Association is hereby granted and shall have a lien on a Unit for a Common Expense Assessment levied against the Unit or fines imposed against its Unit Owner. Fees, charges, late charges, attorney fees, fines and interest charged pursuant to the Act and the Documents are enforceable as assessments under this Section. The amount of the lien shall include all those items set forth in this Section from the time such items become due. If a Common Expense Assessment is payable in installments, each installment is a lien from the time it becomes due, including the due date set by any valid Association acceleration of installment obligations.

(b) A lien under this Section is prior to all other liens and encumbrances on a Unit except: (1) liens and encumbrances recorded before the recordation of the Declaration; (2) a first Security Interest on the Unit recorded before the date on which the Common Expense Assessment sought to be enforced became delinquent; and (3) liens for real estate taxes and other governmental assessments or charges against the Unit. A lien under this Section is also prior to all Security Interests described in Subdivision (2) of this Subsection to the extent that the Common Expense Assessments are based on the periodic budget adopted by the Association pursuant to Section 15.4 of this Article and would have become due in the absence of acceleration, during the six months immediately preceding institution by either the Association or any party holding a lien senior to any part of the Association lien created under this section of an action or a non judicial foreclosure either to enforce or extinguish either the Association's lien or a Security Interest described in Subdivision (2) of this Subsection. This Subsection does not affect the priority of mechanics' or materialmen's lien or the priority of a lien for other assessments made by the Association. By purchasing a Unit, an Owner waives all federal and state homestead or other exemptions with respect to the lien for Common Expense Assessments.

(c) Recording of the Declaration in the Records constitutes record notice and

perfection of the lien. Further recording of a claim of lien for a Common Expense Assessment under this Section is not required.

(d) A lien for an unpaid Common Expense Assessment is extinguished unless proceedings to enforce the lien are instituted within three (3) years after the full amount of the Common Expense assessment becomes due, except that if an Owner of a Unit subject to a lien under this Section files a petition for relief under the United States Bankruptcy Code, the time period for instituting proceedings to enforce the Association's lien shall be tolled until thirty (30) days after the automatic stay of proceedings under Section 362 of the Bankruptcy Code is lifted.

(e) This section does not prohibit an action to recover sums for which Subsection (a) of this Section creates a lien or prohibit the Association from taking a deed in lieu of foreclosure.

(f) A judgment or decree in any action brought under this Section shall include costs and reasonable attorney fees for the prevailing party, which shall be additional Common Expense Assessments.

(g) A judgment or decree in an action brought under this Section is enforceable by execution under Colorado law.

(h) The Association's lien must be foreclosed by the same judicial procedure by which a mortgage on real estate is foreclosed under Colorado law.

(i) In any action by the Association to collect Common Expense Assessments or to foreclose a lien for unpaid Common Expense assessments, the court may appoint a receiver for the Unit who shall collect all sums due from that Unit Owner or a tenant of the Unit Owner prior to or during the pendency of the action. The court may order the receiver to pay any sums held by the receiver to the Association during the pendency of the action to the extent of the Association's Common Expense Assessments, based on a periodic budget adopted by the Association pursuant to Section 15.5 of this Declaration.

(j) If a holder of a first or second Security Interest in a Unit forecloses that Security Interest, the purchaser at the foreclosure sale is not liable for any unpaid Common Expense Assessments against that Unit which became due before the sale, other than the assessments which are prior to that Security Interest under Subsection (b) of this Section of the Declaration. Any unpaid Common Expense Assessments not satisfied from the proceeds of sale become Common Expenses collectible from all the Unit Owners, including the purchaser.

(k) Any payments received by the Association in the discharge of a Unit Owner's obligation may be applied to the oldest balance due.

15.4 **Budget Adoption and Ratification.** Within thirty (30) days after adoption of a proposed budget for the Common Interest Community, the Executive Board shall provide a summary of the budget to each Unit Owner and shall set a date for a meeting of the Unit Owners to consider ratification of the budget. The meeting shall not be less than fourteen (14) nor more than sixty (60) days after mailing of the summary. Unless at that meeting a majority of all Unit Owners rejects the budget, the budget is ratified, whether or not a quorum is present. If the proposed budget is rejected, the periodic budget last ratified by the Unit Owners continues until the Unit Owners ratify a new budget proposed by the Executive Board.

15.5 Ratification of Nonbudgeted Common Expense Assessments. If the Executive Board votes to levy Common Expense Assessments not included in the current budget, other than one enumerated in Section 15.2 of this Declaration, in an amount greater than fifteen percent (15%) of the current annual operating budget, the Executive Board shall submit this Common Expense to the Unit Owners for ratification in the same manner as a budget under Section 15.4.

15.6 Certificate of Payment of Common Expense Assessments. The Association, upon written request, shall furnish a Unit Owner with a written statement setting out the amount of unpaid Common Expense Assessments against the Unit. The statement must be furnished within fourteen (14) calendar days after receipt of the request and is binding on the Association, the Executive Board and each Unit Owner. A reasonable fee, established by the Executive Board, may be charged for such statement.

15.7 Monthly Payment of Common Expenses. All Common Expenses assessed under sections 15.1 and 15.2 of this Declaration shall be due and payable monthly, unless otherwise determined by the Executive Board.

15.8 Acceleration of Common Expense Assessments. In the event of default in which any Unit Owner does not make the payment of any Common Expense Assessment levied against his Unit within ten (10) days of the due date, the Executive Board shall have the right, after Notice and Hearing, to declare all unpaid Common Expense Assessments for the pertinent fiscal year immediately due and payable.

15.9 Commencement of Common Expense Assessments. Common Expense Assessments shall begin on the first day of the month in which conveyance of the first Unit to a Unit Owner other than the Declarant occurs.

15.10 No Waiver of Liability for Common Expenses. No Unit Owner may become exempt from liability for payment of the Common Expense Assessments by waiver of the use or enjoyment of the Common Elements or by abandonment of the Unit against which the Common Expense Assessments are made.

15.11 Personal Liability of Unit Owners. The Unit Owner of a Unit, at the time a Common Expense Assessment or portion of the assessment is due and payable, is personally liable for the Common Expense Assessment. Personal liability for the Common Expense Assessment shall not pass to a successor in title to the Unit unless the successor agrees to assume the obligation.

## ARTICLE XVI RIGHT TO ASSIGN FUTURE INCOME

The Association may assign its future income, including its right to receive Common Expense Assessments, only by the affirmative vote of Unit Owners of Units to which at least 51 percent of the votes in the Association are allocated, at a meeting called for that purpose, and with the Eligible Mortgagee consent described in Article XIV.

## ARTICLE XVII PERSONS AND UNITS SUBJECT TO DOCUMENTS

17.1 Compliance with Documents. All Unit Owners, tenants, mortgagees and occupants of Units shall comply with the Documents. The acceptance of a deed or exercise of any incident of ownership

or entering into a lease or occupancy of a Unit constitutes agreement that the provisions of the Documents are accepted and ratified by that Unit Owner, tenant, mortgagee or occupant. All provisions recorded in the Records are covenants running with the land and shall bind any Persons having at any time any interest or estate in any Unit.

17.2 Adoption of Rules. The Executive Board may adopt Rules regarding the use and occupancy of Units as it affects the Common Elements and the activities of occupants, subject to Notice and Comment.

## ARTICLE XVIII INSURANCE

18.1 Coverage. To the extent reasonably available, the Executive Board shall obtain and maintain insurance coverage as set forth in this Article. If such insurance is not reasonably available, and the Executive Board determines that any insurance described in this Article will not be maintained, the Executive Board shall cause notice of that fact to be hand delivered or sent prepaid by United States Mail to all Unit Owners and Eligible Mortgagees at their respective last known addresses.

### 18.2 Property Insurance Coverage.

(a) Property Insurance will cover:

(i) the project facilities including all buildings on the Property, for example, the Residences and all fixtures, equipment and any Improvements and betterments whether part of a Unit or a Common Element, and such personal property of Unit Owners as is normally insured under building coverage, including but not limited to all fixtures, interior and perimeter walls and floors, partitions, decorated and finished surfaces of interior and perimeter walls, floors, and ceilings, doors, windows and other elements or materials comprising a part of the Units and including any fixtures, equipment or other property within Units which are commonly financed by mortgages including mortgages insured or purchased by the Veterans Administration ("VA"), the Federal Home Loan Mortgage Corporation ("FHLMC") or the Federal National Mortgage Association ("FNMA") (collectively the "Agency"); but excluding land, excavations, portions of foundations below the under-surface of the lowest basement floors, underground pilings, piers, pipes, flues, and drains and other items normally excluded from property policies; provided, however, that each unit Owner shall be responsible for obtaining additional or supplemental insurance covering the Owner's individual additions, alterations or improvements to his Unit which increases the replacement value of his Unit; and

(ii) all personal property owned by the Association.

(b) The Property Insurance will be for an amount not less than the full then current replacement cost of project facilities and actual cash value of the personal property owned by the Association in amounts determined by the Executive Board.



(c) The Executive Board is authorized to obtain appraisals periodically for the purpose of establishing the replacement cost of the project facilities and the actual cash value of the personal property, and the cost of such appraisals shall be a common expense.

(d) Coverage shall at a minimum include: "all-risks" of direct physical loss commonly insured, and building ordinance and shall have a maximum deductible which is the lesser of \$10,000 or one percent of the policy face amount provided however the Executive Board shall comply with such insurance policy requirements as may be from time to time be adopted by the Agency whenever such insurance is reasonably available.

(e) The difference between the total policy deductible and \$250 deductible per Unit damaged shall be paid by the Association as a Common Expense. Of the deductible portion, \$250 per unit Owner affected shall be paid by each of the Unit Owners suffering the loss as an additional Common Expense.

(f) The insurance policies required by this Section shall provide that:

(i) the insurer waives the right to subrogation under the policy against a unit Owner or member of the household of a Unit Owner.

(ii) an act or omission by a Unit Owner, unless acting within the scope of the unit Owners authority on behalf of the Association, will not void the policy or be a condition of recovery under the policy.

(iii) if, at the time of a loss under the policy, there is other insurance in the name of a Unit Owner which covers the same risk covered by the policy, the Association's policy provides primary insurance.

(iv) losses must be adjusted with the Association.

(v) insurance proceeds shall be paid to any insurance trustee designated in the policy for that purpose, and otherwise to the Association, but, in any case, it is to be held in trust for each Unit Owner and the Unit Owner's mortgagee.

(vi) the insurer may not cancel or refuse to renew the policy until thirty (30) days after notice of the proposed cancellation or nonrenewal has been mailed to the Association, to each Unit Owner and to each holder of a Security Interest to whom a certificate or memorandum of insurance has been issued, at their respective last known addresses.

18.3 Liability Insurance. Liability Insurance, including medical payments insurance, will be maintained in an amount determined by the Executive Board, but in no event shall it be less than \$1,000,000. This insurance shall cover all occurrences commonly insured against for death, bodily injury and property damage arising out of or in connection with the use, ownership or maintenance of the Common Elements and the activities of the Association. Insurance policies carried pursuant to this Section shall provide that:

(a) each Unit Owner is an insured person under the policy with respect to liability

arising out of the Unit Owner's membership in the Association;

(b) the insurer waives the right to subrogation under the policy against a Unit Owner or member of the household of a Unit Owner;

(c) an act or omission by a Unit Owner, unless acting within the scope of the Unit Owner's authority on behalf of the Association, will not void the policy or be a condition to recovery under the policy;

(d) if, at the time of a loss under the policy, there is other insurance in the name of a Unit Owner covering the same risk covered by the policy, the policy of the Association provides primary insurance; and

(e) the insurer issuing the policy may not cancel or refuse to renew it until thirty (30) days after notice of the proposed cancellation or non-renewal has been mailed to the Association, each Unit Owner and each holder of a Security Interest to whom a certificate or memorandum of insurance has been issued at their last known addresses.

18.4 Fidelity Bonds. A blanket Fidelity Bond or dishonesty insurance coverage must be maintained by the Executive Board for anyone who either handles or is responsible for funds held or administered by the Association, whether or not they receive compensation for their services. The Bond or insurance shall name the Association as obligee and shall cover the maximum funds that will be in the custody of the Association or the manager at any time while the bond is in force. In no event shall the Bond or coverage be for an amount less than the sum of three (3) months assessments plus reserve funds. The Bond or coverage shall include a provision that calls for ten (10) days written notice to the Association, each holder of a Security Interest in a Unit, each servicer that services a FNMA-owned or FHLMC-owned mortgage on a Unit and the insurance trustee, if any, before the Bond can be canceled or substantially modified for any reason. When either (a) separate bank accounts for working funds and reserves are maintained and monthly checks are sent directly to the Association, (b) a management company maintains separate records and bank accounts for each Association's reserve account, or (c) two Directors must sign any check written on the reserve account, then the Fidelity Bond or coverage may be in an amount equal to three months Common Expense Assessments on all Units.

18.5 Unit Owner Policies. An insurance policy issued to the Association does not preclude Unit Owners from obtaining insurance for their own benefit.

18.6 Workers Compensation Insurance. The Executive Board shall obtain and maintain Worker Compensation Insurance to meet the requirements of the laws of the State of Colorado.

18.7 Directors' and Officers' Liability Insurance. The Executive Board may obtain and maintain directors' and officers' liability insurance covering all of the Directors and Officers of the Association. This insurance will have limits determined by the Executive Board.

18.8 Other Insurance. The Association may carry other insurance which the Executive Board considers appropriate to protect the Association.

18.9 Premiums. Insurance premiums for insurance carried or to be carried by the Association shall be a Common Expense.

ARTICLE XIX  
NOTICE AND COMMENT; NOTICE AND HEARING

19.1 Right to Notice and Comment. Before the Executive Board amends the Bylaws or the Rules, whenever the Documents require that an action be taken after "Notice and Comment," and at any other time the Executive Board determines, the Unit Owners have the right to receive notice of the proposed action and the right to comment orally or in writing. Notice of the proposed action either shall be given to each Unit Owner in writing, delivered personally or by mail to all Unit Owners at such address as appear in the records of the Association, or it shall be published in a newsletter or similar publication which is routinely circulated to all Unit Owners. The notice shall be given not less than five (5) days before the proposed action is to be taken. It shall invite comment to the Executive Board orally or in writing before the scheduled time of the meeting. The right to Notice and Comment does not entitle a Unit Owner to be heard at a formally constituted meeting.

19.2 Right to Notice and Hearing. Whenever the Documents require that an action be taken after "Notice and Hearing," the following procedure shall be observed: The party proposing to take the action (e.g., the Executive Board, a Committee, an Officer, the Manager, etc.) shall give written notice of the proposed action to all Unit Owners or occupants of Units whose interest would be significantly affect by the proposed action. The notice shall include a general statement of the proposed action and the date, time and place of the hearing. At the hearing, the affected person shall have the right, personally or by a representative, to give testimony orally, in writing or both (as specified in the notice), subject to reasonable rules of procedure established by the party conducting the meeting to assure a prompt and orderly resolution of the issues. Any evidence shall be duly considered, but is not binding in making the decision. The affected person shall be notified of the decision in the same manner in which notice of the meeting was given.

19.3 Appeals. Any person having a right to Notice and Hearing shall have the right to appeal to the Executive Board from a decision of persons other than the Executive Board by filing a written notice of appeal with the Executive Board within ten (10) days after being notified of the decision. The Executive Board shall conduct a hearing within thirty (30) days, giving the same notice and observing the same procedures as were required for the original meeting.

ARTICLE XX  
EXECUTIVE BOARD

20.1 Association Records and Minutes of Executive Board Meetings. The Executive Board shall permit any Unit Owner, or holder, insurer or guarantor of first mortgages secured by Units, to inspect the records of the Association and the minutes of Executive Board and committee meetings during normal business hours. The minutes shall be available for inspection within fifteen (15) days after any such meeting.

20.2 Powers and Duties. The Executive Board may act in all instances on behalf of the Association, except as provided in this Declaration, the Bylaws or he Act. The Executive Board shall have, subject to the limitations contained in this Declaration and the Act, the powers necessary for the administration of the affairs of the Association and of the Common Interest Community, which shall include, but not limited to, the following:

- (a) adopt and amend Bylaws, Rules and regulations;
- (b) adopt and amend budgets for revenues, expenditures and reserves;
- (c) collect Common Expense Assessments from Unit Owners;
- (d) hire and discharge managing agents;
- (e) hire and discharge independent contractors, employees and agents, other than managing agents;
- (f) institute, defend or intervene in litigation or administrative proceedings or seek injunctive relief for violation or otherwise enforce the Association's Declaration, Bylaws or Rules in the Association's name, on behalf of the Association or two or more Unit Owners on matters affecting the Common Interest Community;
- (g) make contracts and incur liabilities;
- (h) regulate the use, maintenance, repair, replacement and modification of the Common Elements, and, to the extent set forth herein, the landscaped exterior portions of the Units and the exterior walls of the Residences, including but not limited to enforcing parking restrictions along private streets within the Property, such as those required and imposed by the Town of Silverthorne and/or the Subdivision Plat;
- (i) cause additional Improvements to be made as a part of the Common Elements;
- (j) acquire, hold, encumber and convey, in the Association's name, any right, title or interest to real property or personal property, but Common Elements may be conveyed or subjected to a Security Interest only pursuant to Section 14.4 above and C.R.S. #38-33.3-312;
- (k) grant easements for any period of time, including permanent easements, leases, licenses and concessions through or over the Common Elements, for no more than one year;
- (l) impose and receive a payment, fee or charge for the use, rental or operation of the Common Elements, and for services provided to Unit Owners;
- (m) impose a reasonable charge for late payment of Assessment, and after Notice and Hearing, levy reasonable fines for violations of this declaration, the Bylaws, Rules and Regulations of the Association;
- (n) impose a reasonable charge for the preparation and recordation of amendments to this Declaration and for a statement of unpaid assessments;
- (o) provide, at the option of the Executive Board, for the indemnification of the Association's officers and Executive Board and/or maintain Director's and Officer's liability insurance;
- (p) assign the Association's right to future income, including the right to receive Common Expense Assessments;

- (q) exercise any other powers conferred by this Declaration, the Bylaws or the Act;
- (r) exercise any other power that may be exercised in this state by legal entities of the same type as the Association;
- (s) exercise any other power necessary and proper for the governance and operation of the Association; and
- (t) by resolution, establish permanent and standing committee of Directors to perform any of the above functions under specifically delegated administrative standards, as designated in the resolution establishing the committee. All committees must maintain and publish notice of their actions to Unit Owners and the Executive Board. However, actions taken by a committee may be appealed to the Executive Board by any Unit Owner within forty-five (45) days of publication of the notice. If an appeal is made, the committee action must be ratified, modified or rejected by the Executive Board at its next regular meeting.

20.3 Executive Board Limitations. The Executive Board may not act on behalf of the Association to amend this Declaration, to terminate the Common Interest Community or to elect Members of the Executive Board or determine the qualifications, powers and duties or terms of office of Executive Board Members, but the Executive Board may fill vacancies in its membership for the unexpired portion of any term.

#### ARTICLE XXI OPEN MEETINGS

21.1 Access. All meetings of the Executive Board, at which action is to be taken by vote, will be open to the Unit Owners, except as hereafter provided.

21.2 Notice. Notice of every such meeting will be given not less than twenty-four (24) hours prior to the time set for such meeting, by posting such notice in a conspicuous location in the Common Interest Community, except that such notice will not be required if an emergency situation requires that the meeting be held without delay.

21.3 Executive Sessions. Meetings of the Executive Board may be held in Executive Session, without giving notice and without the requirement that they be open to Unit Owners, in either of the following situations only:

- (a) if no action is taken at the Executive Session requiring the affirmative vote of the Directors; or
- (b) if the action taken at the Executive Session involves personnel, pending litigation, contract negotiations, enforcement actions, matters involving the invasion of privacy of individual Unit Owners, matters which are to remain confidential by request of the affected parties and agreement of the Board or actions taken by unanimous consent of the Board.

ARTICLE XXII  
CONDEMNATION

If part or all of the Common Interest Community is taken by any power having the authority of eminent domain, all compensation and damages for and on account of the taking shall be payable in accordance with C.R.S., #38-33.3-107.

ARTICLE XXIII  
MECHANIC'S LIENS

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

23.2 Indemnification. If, because of any act or omission of any Owner of a Unit, any mechanic's or other lien or order for the payment of money shall be filed against the Common Elements or against any other Owner's Unit, or an Owner of a Unit, or the Association (whether or not such lien or order is valid or enforceable as such), the Owner whose act or omission forms the basis for such lien or order shall at his own cost and expense cause the same to be canceled and discharged of record or bonded by a surety company reasonably acceptable to the Association, or to such other Owner(s), within twenty (20) days after the date of filing thereof, and further shall indemnify and save all other Unit Owners and the Association harmless from and against any and all costs, expenses, claims, losses or damages including, without limitation, reasonable attorney's fees resulting therefrom.

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

ARTICLE XXIV  
MISCELLANEOUS PROVISIONS

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

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

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

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

24.5 Conflict. The Documents are intended to comply with the requirements of the Act. If there is any conflict between the Documents and the provisions of the Act or any other statute, the provisions of the statutes shall control. In the event of any conflict between this Declaration and any other Document, this Declaration shall control.

IN WITNESS WHEREOF, the Declarant has caused this Declaration to be executed as of  
as of the 27th day of May 1997.

DECLARANT:  
By Peak Properties & Development Corporation,  
a Colorado corporation,

OWNER:  
Warren Stickney (as to an undivided  
50 % interest in Blocks 2 and 3 of the  
Hideaway Townhouses Subdivision,  
County of Summit, State of Colorado)

By: [Signature]  
T. Amory Host, President

By [Signature]

OWNER:  
Hideaway Townhouses One, LLC  
a Colorado limited liability company  
as to Block 1, Hideaway Townhouses  
Subdivision, County of Summit, State of  
Colorado  
By Peak Properties & Development Corporation  
as sole Manager

OWNER:  
Carrie L. Schmitz as sole trustee for the  
Marlena C. Schmitz, Marco H. Schmitz,  
Trust (as to an undivided 50% interest  
in Blocks 2 and 3 of the Hideaway  
Townhouses Subdivision, County of  
Summit, State of Colorado)

By: [Signature]  
T. Amory Host, President

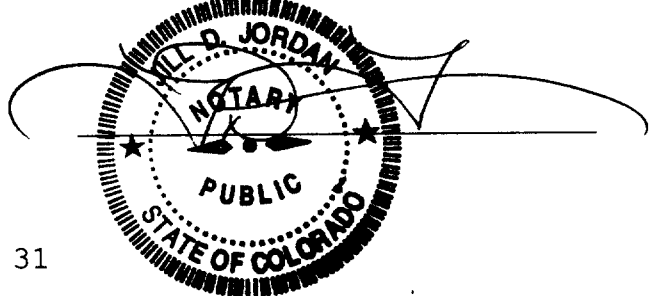
By [Signature]

STATE OF COLORADO    )  
  ) ss.  
COUNTY OF BOULDER    )

The foregoing instrument was acknowledged before me this 23 day of February 1998, by T. Amory Host as President of Peak Properties & Development Corporation, a Colorado corporation as Declarant and as sole Manager of Hideaway Townhouses One, LLC, a Colorado limited liability Company.

Witness my hand and official seal.

My commission expires: 10/13/01.



Notary Public

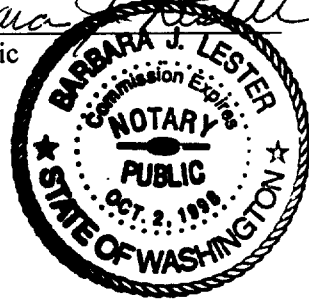
COUNTY OF KING )  
 )ss.  
STATE OF WASHINGTON )

The foregoing instrument was acknowledged before me this 23 day of February 1998 by Warren Stickney.

Witness my hand and official seal.

My commission expires: 10/2/98

*Barbara J. Lester*  
Notary Public



STATE OF COLORADO )  
 )ss.  
COUNTY OF BOULDER )

The foregoing instrument was acknowledged before me this 23 day of February 1998, by Carrie L. Schmitz as sole trustee for the Marlana C. Schmitz, Marco H. Schmitz, Trust

Witness my hand and official seal.

My commission expires: 10/13/01

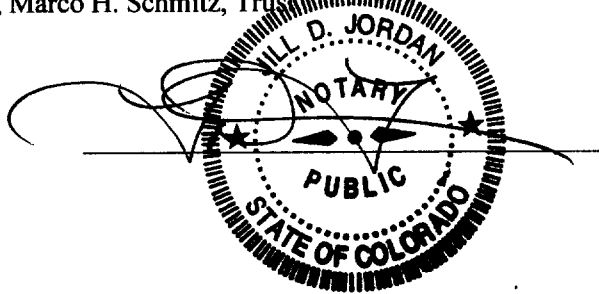




EXHIBIT A  
TO  
THE DECLARATION

[LEGAL DESCRIPTION]

All of that certain real property situate in Block 1 of the Hideaway Townhouses Subdivision in the Town of Silverthorne, County of Summit, and State of Colorado as amended by the First Amendment to the Hideaway Townhouses Subdivision, County of Summit, State of Colorado.

Units 1 through 26 inclusive shall initially be allocated  $1/26^{\text{th}}$  or 3.85% of the Common Expenses.