

AMENDED AND RESTATED
CONDOMINIUM DECLARATION
FOR
BLAZING SADDLES CENTER

Name of Common Interest Community:

Blazing Saddles Center

Type of Common Interest Community:

Condominium

Name of the Association:

Blazing Saddles Center Association

Upon recording return to:

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AMENDED AND RESTATED CONDOMINIUM DECLARATION FOR
BLAZING SADDLES CENTER

THIS AMENDED AND RESTATED CONDOMINIUM DECLARATION FOR
BLAZING SADDLES CENTER (the "Declaration") is made as of _____, 201__, by
the undersigned Owners.

RECITALS

A. The Condominium Declaration for Blazing Saddles Center ("Original Declaration") was recorded on January 3, 1978 at Reception No. 172131 in the office of the Clerk and Recorder of Summit County, Colorado, and encumbers the real property described as Lot 40, in Four Seasons of Breckenridge Village, Filing No. 2, Summit County, Colorado (the "Property").

B. The undersigned are Owners to whom 67% or more of the votes in the Association are allocated.

C. The undersigned Owners desire to amend and restate in its entirety the Original Declaration.

ARTICLE 1
DECLARATION AND SUBMISSION

Section 1.1 Declaration. The undersigned Owners hereby adopt this Amended and Restated Condominium Declaration for Blazing Saddles Center ("Declaration"), and declare that the Property shall be held, sold and conveyed subject to the terms, conditions, covenants, restrictions and easements contained in this Declaration, which shall run with the land and be binding on all parties and the heirs, successors and assigns of parties having any right, title or interest in all or any part of the Property. The Original Declaration is superseded in its entirety by this Declaration.

ARTICLE 2
DEFINITIONS

The following words when used in this Declaration shall have the following meanings:

Section 2.1 "Agency" means any agency or corporation such as Housing and Urban Development (HUD), Department of Veteran's Affairs ("VA"), Federal National Mortgage Association ("Fannie Mae") or Federal Home Loan Mortgage Corporation ("Freddie Mac") that purchases, insures or guarantees residential mortgages.

Section 2.2 “Allocated Interests” means: (a) the undivided interest in the Common Elements allocated to each Unit; (b) the Common Expense liability allocated to each Unit; and (c) the votes in the Association allocated to each Unit. The formulas for the Allocated Interests are as follows:

2.2.1 Undivided Interest in the Common Elements. The undivided interest in the Common Elements are determined by the percentage equivalent to a fraction, the numerator of which shall be the area of a Unit, and the denominator of which shall be the area of all Units in the Project. Each Unit’s undivided interest in the Common Elements is set forth in Exhibit A.

2.2.2 Common Expense Liability. Unless otherwise specified in this Declaration, each Unit’s share of the General Common Expense liability is determined by the percentage equivalent to a fraction, the numerator of which shall be the area of the Unit, and the denominator of which shall be the area of all Units in the Project. Unless otherwise specified in this Declaration, each Commercial Unit’s share of the Commercial Unit Common Expense liability is determined by the percentage equivalent to a fraction, the numerator of which shall be the area of the Commercial Unit, and the denominator of which shall be the area of all Commercial Units. Unless otherwise specified in this Declaration, each Residential Unit’s share of the Residential Unit Common Expense liability is determined by the percentage equivalent to a fraction, the numerator of which shall be the area of the Residential Unit, and the denominator of which shall be the area of all Residential Units. Each Unit’s share of the General Common Expense liability, Commercial Unit Common Expense liability or Residential Unit Common Expense liability is set forth in Exhibit A.

2.2.3 Votes. The total number of votes of all Members shall be 10,000. Subject to the remaining provisions of this Declaration, each Member shall be entitled to cast one vote at all meetings of Members for each .01 per cent of interest in the General Common Elements appurtenant to such member’s Unit. No Member who is not in Good Standing with the Association shall be entitled to vote on any matter. The number of votes allocated each Unit is set forth in Exhibit A.

Section 2.3 “Annual Assessment” means the Assessment levied pursuant to the annual Common Expense budget adopted as provided in Section 11.2.

Section 2.4 “Articles” mean the Articles of Incorporation for Blazing Saddles Center Association, a Colorado nonprofit corporation, currently on file with the Colorado Secretary of State, and any amendments that may be made to those Articles from time to time.

Section 2.5 “Assessments” means the Annual, Special and Default Assessments levied pursuant to Article 11 below. Assessments are also referred to as a common expense liability as defined under the Act.

Section 2.6 “Association” means Blazing Saddles Center Association, a Colorado nonprofit corporation.

Section 2.7 “Association Documents” means this Declaration, the Articles, the Bylaws, the Map, any design guidelines, and any Rules adopted under such documents by the Association.

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

Section 2.9 “Clerk and Recorder” means the office of the Clerk and Recorder in the County of Summit, Colorado.

Section 2.10 “Commercial Unit” means those of the Units established herein, as well as those Units that may be created, which shall be used and occupied for commercial, retail, office or other allowed purposes.

Section 2.11 “Common Element” means all portions of the Project except the Units. The Common Elements are owned by the Owners in undivided interests according to the Allocated Interests set forth in Section 2.2.1 above and consist of General Common Elements and Limited Common Elements.

2.11.1 “General Common Elements” means all tangible physical properties of this Project and real property for which the Association has an obligation to maintain, except Limited Common Elements and the Units. Without limiting the foregoing, General Common Elements includes all easements encumbering Property or for the benefit of all Units in the Project, and all parts of the structures or any facilities, improvements and fixtures which may be within a Unit which are or may be necessary or convenient to the support, existence, use, occupation, operation, maintenance, repair or safety of the structures or any part thereof or any other Unit. The General Common Elements shall include, without limitation, the following:

- a. all of the land within the Project;
- b. all foundations, columns, girders, beams and supports of the structures making up the Units;
- c. the exterior walls of the structures making up the Units; the main or bearing walls within the structures making up the Units; the main or bearing subflooring and the roofs of the structures making up the Units; except as provided in Section 2.11.2 below, hallways, corridors, lobbies, stairways, stair wells, and all portions of the walls, floors or ceilings that are not part of the Unit as described in Section 2.30 below;

d. the sidewalks, walkways, parking areas, driveways, roadways, paths, landscaping, grass, shrubbery, trees, plants, gardens and related facilities on the Property;

e. except as otherwise specifically provided herein, all utility service and maintenance rooms, fixtures, apparatus, installations and central facilities for power, light, gas, telephone, television, hot water, cold water, heating, sewer, telecommunications, or similar utility service or maintenance purposes, including furnaces, equipment, pumps, tanks, motors, fans, storm drainage structures, compressors, ducts and in general, all apparatus, installations, and facilities, all of which serve more than one Unit and are not located within a Unit; and

f. in general, all other parts of the Project necessary in common use or convenient to its existence, maintenance and safety, including any parcels of real property and improvements and fixtures located thereon that are owned by a third party other than the Association, but in which the Association has rights of use or possession pursuant to this Declaration or a lease, license, easement or other agreement.

2.11.2 “Limited Common Elements” means those parts of the Common Elements which are either limited to or reserved in this Declaration or on the Map for the exclusive use of one or more Units but fewer than all of the Units. Without limiting the generality of the foregoing, Limited Common Elements include, without limitation, exterior windows and window frames and doors and door frames located at the boundaries of Units, entries, doorsteps, stoops, utility systems, mechanical and electrical systems, exhaust and ventilation systems, and other areas and improvements that are designed to serve one or more, but less than all individual Units (but not including any such systems that are for the benefit of the Project as a whole, such as heating systems that are designed to prevent frozen water lines and other plumbing components), any portion of a chute, flue, duct, pipe, drain, wire, conduit, bearing wall, bearing column, or other fixture which lies completely or partially within a Unit, and/or completely or partially outside the designated boundaries of a Unit which serves only that Unit. Notwithstanding any contrary designation on the Map, the following Limited Common Elements shall be appurtenant to the Residential Units: stairways and stairwells leading to the Residential Units; second and third floor hallways; entrance doors to the stairways and all door locks and hardware on such doors; and windows at the end of the second and third floor hallways. To the extent that the foregoing itemization of Limited Common Elements is contrary to any designation on the Map, the provisions of this Declaration shall supersede such contrary designations on the Map.

Section 2.12 “Common Expenses” means expenditures made or liabilities incurred by or on behalf of the Association, together with allocations to reserves, including but not limited to: (i) all expenses expressly declared to be common expenses by this Declaration or the Bylaws of the Association; (ii) all other expenses of administering, servicing, conserving, managing, maintaining, repairing or replacing the Common Elements; (iii) expenses incurred for the benefit of more than one Owner; and (iv) all expenses lawfully determined to be Common Expenses by

the Executive Board. The Common Expenses shall specifically include, without limitation, maintenance and repair of the Common Elements, fire alarm and fire sprinkler system expenses, sewer-service, water-service, electric-service, and natural gas services not billed directly to the Unit Owner or Permitted User by the utility, snow removal, trash removal, management fees, bank fees and clerical expenses, insurance premiums and deductibles not allocated to specific Units, legal and accounting expenses, and postage and payment coupon books. The Common Expenses shall consist of General Common Expenses, Commercial Unit Common Expenses and Residential Unit Common Expenses.

2.12.1 General Common Expenses are those Common Expenses of all Units, or which are incurred for the benefit of all Units or their Owners.

2.12.2 Commercial Unit Common Expenses are those Common Expenses of the Commercial Units, or which are incurred for the benefit of Commercial Units or their Owners.

2.12.3 Residential Unit Common Expenses are those Common Expenses of the Residential Units, or which are incurred for the benefit of Residential Units or their Owners.

Section 2.13 “County” means the County of Summit, Colorado.

Section 2.14 “Declaration” means this Declaration and the Map, and amendments and supplements to the foregoing.

Section 2.15 “Eligible Mortgagee” means a First Mortgagee who has notified the Association, in writing, of its name and address and that it holds a First Mortgage on a Unit. The notice must include the address of the Unit on which it has a First Mortgage. The notice shall include a request that the First Mortgagee be given the notices and other rights described in Articles 16 and 17.

Section 2.16 “Executive Board” means the governing body of the Association.

Section 2.17 “First Mortgage” means a Mortgage, the priority of which is not subject to any monetary lien or encumbrance except liens for taxes or other liens that are given priority by statute.

Section 2.18 “First Mortgagee” means any person named as a Mortgagee in any First Mortgage, or any successor to the interest of any such person under such Mortgage.

Section 2.19 “Good Standing” means that an Owner is no more than thirty (30) days late in the payment any Annual, Special or Default Assessments, and who has none of his, her or its membership privileges suspended.

Section 2.20 “Manager” means a person or entity engaged by the Association to perform certain duties, powers or functions of the Association, as the Executive Board may authorize from time to time.

Section 2.21 “Map” means the condominium map of the Project recorded with the Clerk and Recorder on January 3, 1978, at Reception No. 172132, depicting a plan and elevation schedule of all or a part of the Property subject to this Declaration and any supplements and amendments thereto. The Map and any amendments or supplements thereto are hereby incorporated herein by reference as if set forth in their entirety.

Section 2.22 “Member” means any person or entity that holds membership in the Association.

Section 2.23 “Mortgage” means any mortgage, deed of trust or other document pledging any Unit or interest therein as security for payment of a debt or obligation.

Section 2.24 “Mortgagee” means any person named as a mortgagee or beneficiary in any Mortgage or any successor to the interest of any such person under such Mortgage.

Section 2.25 “Owner” means the owner of record, whether one or more persons or entities, of fee simple title to any Unit, and “Owner” also includes the purchaser under a contract for deed covering a Unit with a current right of possession and interest in the Unit.

Section 2.26 “Permitted User” means a member of the Owner’s family, or the Owner’s agent, employee, invitee, or licensee or tenant, or the agent, employee, invitee or licensee or tenant of the Unit Owner’s tenant.

Section 2.27 “Project” means the common interest community created by this Declaration and as shown on the Map consisting of the Property, the Units and the Common Elements and known as Blazing Saddles Center in Breckenridge, Colorado.

Section 2.28 “Residential Unit” means those Units established herein which shall be used and occupied solely for residential purposes.

Section 2.29 “Rules” means the rules, regulations, procedures, policies and guidelines adopted or amended from time to time by the Executive Board.

Section 2.30 “Unit” means the fee simple interest and title in and to an individual airspace which is contained within the perimeter windows, doors and unfinished perimeter walls, unfinished floors and unfinished ceilings as shown on the Map, together with the appurtenant interest in the Common Elements. All spaces, interior partitions, and other fixtures and improvements within the boundaries of a Unit and all lath, furring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, finished flooring and any other materials constituting any part of the interior finished surfaces thereof are a part of the Units. The Unit shall include

any heating and refrigerating elements or related equipment, utility lines and outlets, electrical and plumbing fixtures, pipes and all other related equipment required to provide heating, air conditioning, hot and cold water, electrical or other utility services to the Unit and located within the unfinished walls, ceilings, and floors. The term shall include both Commercial Unit and Residential Unit. For purposes of this definition of Unit, the terms set forth below shall have the meanings ascribed:

2.32.1 “Unfinished Perimeter Wall” means the studs, supports and other wooden, metal or similar structural materials which constitute the interior face of a wall of a Unit, but not including any lath, furring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, or other materials.

2.32.2 “Unfinished Ceiling” means the beams, joists and wooden or other structural materials which constitute the ceiling of a Unit, but not including any lath, furring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, or other materials.

2.32.3 “Unfinished Floor” means the beams, floor joists, floor deck material and concrete which constitute the floor of a Unit, but not including any finished flooring or other materials.

ARTICLE 3 NAME, DIVISION INTO UNITS

Section 3.1 Name. The name of the Project is Blazing Saddles Center. The Project is a Condominium.

Section 3.2 Association. The name of the Association is Blazing Saddles Center Association.

Section 3.3 Number of Units. The Project contains 28 Residential Units and 6 Commercial Units for a total of 34 Units in the Project.

Section 3.4 Identification of Units. Each Unit is shown on the Map and each Unit is identified as a Residential Unit or Commercial Unit on Exhibit A.

Section 3.5 Description of Units.

3.5.1 Each Unit, the appurtenant interest in the Common Elements and the appurtenant use of Limited Common Elements, shall comprise one Unit, shall be inseparable and may be transferred, leased, devised or encumbered only as one Unit. Any attempted transfer of the appurtenant interest in the Common Elements or Limited Common Elements shall be void unless the Unit to which that interest is allocated is also transferred.

3.5.2 Any contract of sale, deed, lease, Mortgage, will or other instrument affecting a Unit may describe it by its Residential Unit number or Commercial Unit letter as designated on the Map, Blazing Saddles Center, Summit County Colorado, followed by reference to this Declaration and the Map, as they may be amended from time to time.

ARTICLE 4
RESTRICTIONS ON USE OF UNITS; COMBINING AND RESUBDIVIDING

Section 4.1 Use and Occupancy Regulation, General. All of the Units shall be held, conveyed, used, improved, occupied, owned, resided upon and secured, subject to the following provisions, conditions, limitations, restrictions, agreements and covenants, as well as those contained elsewhere in this Declaration. These restrictions are general in nature and the Executive Board shall have the power to adopt, amend, repeal and enforce more specific and restrictive design and architectural guidelines and Rules as the Executive Board deems to be reasonable and necessary to carry out the intent of this Declaration. Each Owner shall be entitled to the exclusive ownership and possession of his Unit, subject to the rights of the Executive Board as specified herein.

Section 4.2 Residential Units and Home Operated Businesses. Each Residential Unit shall be used and occupied only as a residence for dwelling or lodging purposes. A Residential Unit may be used for home operated businesses, so long as such business is (i) allowed by zoning resolutions; (ii) is not apparent or detectable by signage, sight, sound, smell or vibration from the exterior of the Unit, (iii) does not increase traffic or parking within the Project; and (iv) does not increase the insurance obligation or premium of the Association. Uses described as “day care” or “child care” facilities (whether licensed or unlicensed) are expressly prohibited in the Residential Units.

Section 4.3 Commercial Units. Each Commercial Unit shall be used and occupied only as allowed by the Town of Breckenridge zoning resolutions. Without limiting the foregoing sentence, no Commercial Unit shall be used as an establishment that provides for the retailing of goods or providing of services for adult entertainment, drug paraphernalia, or marijuana growing, dispensary, or sales.

Section 4.4 Separate Parcels and Taxation. Each Unit shall be deemed to be a parcel and shall be subject to separate assessment and taxation for all types of taxes authorized by law, including ad valorem levies and special assessments. No part of the Project other than Units shall be deemed a parcel. The lien for taxes assessed to any Unit shall be confined to such Unit. No forfeiture or sale of any Unit for delinquent taxes, assessments or other governmental charges shall divest or in any other way affect the title to any other Unit.

Section 4.5 Rental Restrictions. Subject to the remaining provisions of this Section 4.5, an Owner shall have the right to lease his Residential Unit upon such terms and conditions as the Owner may deem advisable; provided, however, that (i) Owners leasing their Units for a

period of more than thirty (30) days shall notify the Executive Board in writing of such lease; (ii) all leases shall be subject to the terms of the Association Documents; (iii) a copy of the Association's Rules shall be provided to the lessee with the lease; (iv) the Owner of the Unit shall be responsible for all actions of the lessee; (v) only the named lessee under a lease of a Residential Unit shall be entitled to reside in the leased Residential Unit; (vi) no Residential Unit may be sublet, nor the lease assigned to any third party; and (vii) any failure of a lessee to comply with the terms of this Declaration or any other Association Documents shall be a default under the lease enforceable by the Association directly against the Owner, or directly against the lessee as a third party beneficiary, whether or not the lease contains such a provision. Notwithstanding the foregoing provisions of this Section 4.5, the Association shall have no obligation to enforce the provisions of this Section 4.5 against the lessee directly, but may require the Owner of the Residential Unit to take enforcement action, and, in any event, the Association shall have no liability for failure to take action against either the lessee or the Residential Unit Owner. As used herein, the term lease shall mean any agreement or arrangement for occupancy of the Unit by persons other than the Owner, and lessee shall mean such occupant.

Section 4.6 Right to Adopt Rules Regulating Units and Common Elements. Each Owner and Permitted User may use the Limited Common Elements allocated to his or her Unit and the Common Elements in accordance with the purpose for which they are intended, without hindering or encroaching upon the lawful rights of the other Owners. The Executive Board may adopt and amend Rules governing or restricting the use of the Units, Limited Common Elements and the Common Elements. Each Owner and Permitted User, by the Owner's acceptance of a deed or other instrument of conveyance or assignment to his or her Unit, agrees to be bound by any such adopted Rules. No Owner or Permitted User shall create, cause, or further, an obstruction of the Common Elements or Limited Common Elements, nor shall anything be placed or stored on any part of the Common Elements or Limited Common Elements, without prior written consent of the Executive Board. Nothing shall be altered, constructed on, or removed from the Common Elements or Limited Common Elements except upon the prior written consent of the Executive Board.

Section 4.7 Occupancy Restrictions. The following occupancy restrictions apply to all Units and to the Common Elements:

4.7.1 No improper, offensive or unlawful use may be made of the Property. Owners and Permitted Users shall comply with and conform to all applicable laws and regulations of the United States, the State of Colorado and all other governmental ordinances, rules and regulations; violations thereof shall be a breach of this Declaration, subject to enforcement by the Association. No Unit shall be used for any purpose not permitted by the zoning ordinances of the Town of Breckenridge, this Declaration, or not in compliance with any local, state or federal law, statute or other ordinance, regulation or rule.

4.7.2 No portion of the Property may be used for the manufacture, storage or disposal of hazardous materials other than in reasonable quantities typically used for purposes of cleaning, maintenance and repair.

4.7.3 No portion of the Property may be used for the growing, sale or dispensing of marijuana or any controlled substance.

4.7.4 No portion of the Property may be used for any activity that requires excessive water or electricity beyond average residential uses.

4.7.5 No noxious, offensive, dangerous or unsafe activity shall be conducted in or on any Unit or the Common Elements, nor shall anything be done, either willfully or negligently, which may be or become an unreasonable annoyance or nuisance to the other Owners or Permitted Users. No Owner or Permitted User shall make or permit any disturbing noises nor do or permit anything to be done by others that will unreasonably interfere with the rights, comforts or convenience of other Owners or Permitted Users. Determination of whether an activity violates this covenant shall be at the discretion of the Executive Board or a committee appointed by the Executive Board, and shall be subject to Rules and regulations adopted by the Executive Board.

4.7.6 Except as may be approved in writing by the Executive Board, nothing shall be done or kept which may result in a material increase in the rates of insurance or would result in the cancellation of any insurance maintained by the Association.

4.7.7 The right to keep animals as household pets may be restricted by Rules adopted by the Board. No reptiles, poisonous, dangerous or vicious animals shall be allowed at any time. No household pet or animal shall be allowed at any time in violation of the Town of Breckenridge ordinances. Owners will be held responsible for any litter, waste, mess or damage created by their pets in the General Common Elements or Limited Common Elements and for any offensive or prolonged noises created by their pets. Animals may not be kept for any commercial purposes. The right to keep animals as household pets shall be coupled with the responsibility to pay for any damage caused by such animals, and any damages and any costs incurred by the Association in connection with the enforcement of the Association's rights shall be subject to all of the Association's rights with respect to the collection and enforcement of assessments as provided in this Declaration.

4.7.8 If, due to the act or neglect of an Owner or Permitted Users, loss or damage shall occur or be caused to any person or property other than the Owner's Unit, such Owner or Permitted User shall be jointly and severally liable and responsible for the payment of same. If the Owner fails to take action to correct any such loss or damage, the Association shall have the right to do so at the expense of such Owner. The amount of such loss or damages and any costs incurred by the Association in connection with the enforcement of the Association's rights shall be subject to all of the Association's rights

with respect to the collection and enforcement of assessments as provided in this Declaration.

4.7.9 Parking on the Common Elements is for authorized customer and permit parking only. No abandoned or inoperable vehicle of any kind, or equipment or other property (other than operable vehicles as permitted herein) shall be stored or parked on any of the Common Elements. An “abandoned or inoperable vehicle” shall be defined as any vehicle which is not capable of being driven under its own propulsion, or does not have current registration, or license plates or other identifying marks have been removed from the vehicle, or the vehicle exhibits other characteristics of abandonment or inoperability, such as, but not limited to, flattened tires, broken windows, or excessive fluid leakage. No motor homes, boats, trailers, campers, oversized vehicles or equipment shall be stored or parked anywhere within the Project. The Executive Board shall have the authority to adopt and amend Rules further addressing allowed and disallowed parking. The Executive Board shall have the right to tow, remove or store a vehicle, equipment or other property in violation of this section, the expense of which shall be levied against the owner of the vehicle or other property as a Default Assessment

4.7.10 No activity such as, but not limited to, maintenance, repair, rebuilding, dismantling, repainting or servicing of any kind of vehicle, trailer or boat or other property, may be performed or conducted on the Project. The foregoing restriction shall not be deemed to prevent washing and polishing of any motor vehicle, motor-driven cycle, or other vehicle, together with those activities normally incident and necessary to such washing and polishing within the Project.

4.7.11 No signs of any nature shall be placed or permitted within the Project except as permitted by the Town of Breckenridge ordinances, and except political signs permitted under Colorado law.

4.7.12 All trash, garbage or other refuse shall be kept in containers provided by the Association for such purpose, in the area designated for such purpose. The Association shall provide for regular trash removal as a Common Expense. All Owners shall comply with the Town of Breckenridge trash disposal and recycling ordinances and regulations. Each Unit at all times shall be kept in a clean, sightly and wholesome condition. The Executive Board may require any Owner to arrange and pay for trash removal of excessive amounts of trash, garbage or other refuse.

4.7.13 All satellite dishes and devices or facilities to transmit or receive electronic signals, radio or television waves are prohibited outside a Unit or a Limited Common Element which is not under the exclusive use and control of an Owner unless first approved by the Executive Board in conformance with applicable federal law. The Association does not warrant the availability or quality of reception service to Owners. Any Owner granted the right to install the equipment provided for herein will be responsible for any incremental cost of maintenance, repair or replacement of the roof components and any other affected components of the structure relating to or caused by the installations.

4.7.14 Residential Units shall have window coverings in compliance with Rules adopted by the Executive Board.

4.7.15 Limited Common Elements appurtenant to Units may not be used as storage areas and no clothesline or clothes drying shall be installed or allowed, kept, maintained or permitted on the Limited Common Elements.

4.7.16 Notwithstanding any other provision herein to the contrary, no modification to the floor of a Unit is permitted, including any attachment (whether permanent or temporary), penetration, or piercing the surface of the floor. Further, no hard surface floor covering may be installed, altered or replaced without the prior approval of the Executive Board.

4.7.17 No window mounted air conditioning units, fans, or other window-mounted appliances may be installed.

4.7.18 In addition to the restrictions on use and occupancy set forth above, the Association shall have and may exercise the right to control Owners' use and occupancy of their respective Units in any reasonable and lawful manner approved by the Executive Board.

Section 4.8 Combining and Resubdividing Units.

4.8.1 Subject to the provisions of subsection 4.8.3, the Owner or Owners of one or more Units shall have the right to: (a) physically combine the entire space within one Unit with the entire space within one or more adjoining Units; or (b) combine a part of or combination of parts of the space of one Unit with a part of or combination of parts of the space within one or more adjoining Units. Upon the combination of any Units, the Unit resulting from such combination shall be allocated the undivided interest, or a part thereof, of the predecessor Unit(s) in and to the Allocated Interests.

4.8.2 Subject to the provisions of subsection 4.8.3, the Owner or Owners of Units shall have the right to: (a) resubdivide the space within a Unit to its original configuration prior to any combination of Units permitted hereunder; or (b) resubdivide

the space, or a part of the space, within a Unit to create additional Units. Upon the resubdivision of any Unit in accordance with the terms and conditions contained herein, the Units resulting from such resubdivision shall have Allocated Interests according to the provisions of Section 2.2 hereof, except in no event shall the number of votes allocated to such Units exceed the total number of votes allocated to such Units prior to subdivision or resubdivision.

4.8.3 In order to combine or resubdivide any Units as provided in Sections 4.8.1 and 4.8.2 above, the Owners of such Units shall submit an application to the Executive Board, which shall include: (a) evidence that the proposed combination or subdivision of one or more Units complies with all building codes, fire codes, zoning codes, and other applicable ordinances adopted and enforced by the Town of Breckenridge; (b) the proposed reallocation of the Allocated Interests; (c) the proposed form for amendment to this Declaration, including the Map, as may be necessary to show the Unit(s) which are combined or created by the combination or resubdivision and their dimensions and identifying numbers; (d) proposed changes to the exterior of the Unit(s), if any; (e) a deposit for attorneys' fees and costs which the Association may incur in reviewing and effectuating the combination or resubdivision, in an amount reasonably estimated by the Executive Board; and (f) such other information requested by the Executive Board. All costs and fees of combining or subdividing or resubdividing any Units, including all costs and fees incurred by the Association in reviewing the request (including any attorneys' or other consultants' fees), shall be borne by the applicant.

The Executive Board shall be entitled to deny any request for combination or resubdivision of Units on the basis that: (a) the combination or resubdivision adversely impacts the exterior appearance of the Units; (b) the combination or resubdivision adversely impacts the maintenance or insurance responsibilities of the Association; or (c) for any other reason whereby the combination or resubdivision adversely impacts the Association or other Owners.

Section 4.9 No Partition, Subdivision or Combination. Except as expressly provided in subsections 4.8.1, 4.8.2 and 4.8.3 above, no portion of the Project shall be subject to an action for partition or division and no Units shall be subdivided, resubdivided or combined.

ARTICLE 5

MEMBERSHIP AND VOTING RIGHTS: ASSOCIATION OPERATIONS

Section 5.1 The Association. Every Owner of a Unit shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of a Unit.

Section 5.2 Transfer of Membership. An Owner shall not transfer, pledge or alienate his membership in the Association in any way, except upon the sale or encumbrance of his Unit and then only to the purchaser or Mortgagee of his Unit. The Association shall not create a right of first refusal on any Unit and Owners may transfer ownership of their Units free from any such right.

Section 5.3 Membership; Voting Rights. The Association shall have one (1) class of membership consisting of all Owners. Except as otherwise provided for in this Declaration, each Member shall be entitled to vote in matters affecting the Association. No Owner who is not in Good Standing with the Association shall be entitled to vote on any matter. All Owners in Good Standing shall be entitled to vote in accordance with the provisions of this Section 5.3 herein.

Section 5.4 Executive Board. The Executive Board shall consist of a minimum of three (3) Directors and a maximum of eight (8) Directors, a maximum of five (5) of which shall be elected from the Residential Unit Owners, and a maximum of three (3) of which shall be elected from the Commercial Unit Owners. The actual number of Directors may be changed from time to time within the specified range by the Members or by the Executive Board. Election of Directors shall be in accordance with the Bylaws. Qualifications and terms of Directors shall be as provided in the Bylaws. Except for absences for good cause approved in advance by the Association's President, all Directors shall be required to attend the Association's annual meeting. A Director shall be a natural person who is at least eighteen years of age and must be a Member or a partner, trustee, officer, director or twenty-five percent (25%) shareholder of an organizational Member.

Section 5.5 Books and Records. The Association shall make available for inspection, upon request, during normal business hours or under other reasonable circumstances, to Owners and to Mortgagees, current copies of the Association Documents and the books, records and financial statements of the Association prepared pursuant to the Bylaws, and as required by the Colorado Common Interest Ownership Act (the "Act") and the Colorado Revised Nonprofit Corporation Act (the "Nonprofit Act"). The Association may charge a reasonable fee for copying such materials not to exceed the actual cost per page. The Association shall maintain such books and records as may be required under the Act and as required by the Nonprofit Act.

Section 5.6 Manager. The Association may employ or contract for the services of a Manager to whom the Executive Board may delegate certain powers, functions or duties of the Association.

Section 5.7 Implied Rights and Obligations. The Association may exercise any right or privilege expressly granted to the Association in the Association Documents, by the Act and by the Nonprofit Act, or as otherwise allowed by Colorado law, whether expressed herein or not.

ARTICLE 6
DUTIES AND POWERS OF THE ASSOCIATION AND EXECUTIVE BOARD

Section 6.1 Duties and Powers of the Association. The Association has been formed to further the common interests of the Members. The Association, acting through the Executive Board or persons to whom the Executive Board has delegated such powers, shall have the duties and powers hereinafter set forth and, in general, the power to do anything that may be necessary or desirable to further the common interests of the Members, to maintain, improve and enhance the Common Elements, and to maintain, improve and enhance the health, safety, value, attractiveness and desirability of the Project. Without in any way limiting the general scope of the foregoing, the Association shall have the following specific duties and powers:

6.1.1 Duty to Manage and Care for Common Elements. The Association shall regulate the use of, manage, operate, care for, maintain, repair and replace all Common Elements and keep the same in a safe, attractive and desirable condition for the use and enjoyment of the Members.

6.1.2 Duty to Pay Taxes and Assessments. The Association shall pay all taxes and assessments, if any, levied upon the Common Elements and all other taxes and assessments payable by the Association. The Association shall have the right to contest any such taxes or assessments provided that the Association shall contest the same by appropriate legal proceedings which shall have the effect of preventing the collection of the tax or assessment and the sale or foreclosure of any lien for such tax or assessment, and provided that the Association shall keep and hold sufficient funds to pay and discharge the taxes and assessments, together with any interest and penalties which may accrue with respect thereto, if the contest of such taxes is unsuccessful.

6.1.3 Duty to Maintain Insurance. The Association shall obtain and keep in full force and effect at all times insurance coverage in accordance with Article 10 of this Declaration.

6.1.4 Duty as to Budgets. The Association shall determine Common Expenses and adopt and amend budgets for revenues, expenditures and reserves and collect Assessments as elsewhere provided in this Declaration.

6.1.5 Duty to Levy and Collect Assessments. The Association shall levy and collect Assessments as elsewhere provided in this Declaration.

6.1.6 Duty to Keep Records. The Association shall keep current copies of this Declaration, the Articles of Incorporation, the Bylaws, the rules and regulations, and the books, records and financial statements of the Association available upon reasonable notice to the Executive Board during normal business hours for inspection, and for copying at the Association's actual cost, by Owners and First Mortgagees.

6.1.7 Duty to Maintain Register of Addresses and Notify of Address Change.

The Association shall maintain a register of addresses which contains the address of each Owner and other non-confidential contact information provided by the Owner, and each Eligible Mortgagee. The initial address for each Owner in the register of addresses shall be the address for such Owner provided by such Owner to the Association, or, if no such address is provided, the address of the Unit of such Owner. The initial address for an Eligible Mortgagee shall be the address provided by the Eligible Mortgagee to the Association pursuant to Section 2.15. Any Owner may change its address in the register of addresses by giving notice to the Association of a new address in accordance with Section 19.1, and the Association shall update the register of addresses in accordance with any such notice. The Association shall provide the address for each Owner as listed in the register of addresses to any Member who requests such information and certifies to the Association in writing a proper purpose for obtaining and using such information. The Association shall have no liability to any person (including any Owner and any Eligible Mortgagee) for providing the address as listed in the register of addresses, regardless of whether such address is correct or whether any director, officer, employee or agent of the Association has knowledge, actual or imputed, that the address in the register of addresses is not correct.

6.1.8 Power to Adopt Bylaws and Rules, Regulations, Restrictions and Policies.

The Association may adopt, amend, repeal and enforce Bylaws and such Rules as may be deemed necessary or desirable with respect to the interpretation and implementation of this Declaration, the operation of the Association, the use and enjoyment of Units or the use of any other property within the Project, and otherwise for the benefit of the Project and the Owners. Any such Rules shall be reasonable and uniformly applied. Written notice of the adoption, amendment or repeal of any Rules shall be posted at the Association office, and copies of the currently effective Rules shall be made available to each Member upon request and payment of the copying cost. Each Member shall comply with such Rules and shall see that Permitted Users of such Member comply with the Rules. Rules shall have the same force and effect as if they were set forth in and were part of this Declaration. In the event of conflict between the Rules and the provisions of this Declaration, the provisions of this Declaration shall prevail.

6.1.9 Power to Enforce Association Documents. The Association shall have the power to enforce the provisions of the Association Documents, and shall take such action as the Executive Board deems necessary or desirable to cause compliance by each Member and Permitted Users. Without limiting the generality of the foregoing, the Association shall have the power to impose charges for late payment of Assessments, recover reasonable attorney fees and other legal costs for collection of Assessments and other actions to enforce the power of the Association, regardless of whether or not suit was initiated; after notice and opportunity to be heard, levy reasonable fines for violations of the Association Documents and impose other sanctions, including suspension of voting privileges; cause utility and other services to a Unit to be suspended; and exercise self-help to correct a violation.

6.1.10 Power to Make Contracts and Incur Liabilities. The Association shall have the power to make contracts and incur liabilities.

6.1.11 Power to Grant Easements, Leases, Licenses and Concessions. The Association shall have the power to grant easements, leases, licenses and concessions through or over the Common Elements.

6.1.12 Power to Employ Managers. The Association shall have the power to retain and pay for the services of a Manager, other employees, agents and independent contractors to undertake any of the management or functions for which the Association has responsibility under this Declaration to the extent deemed advisable from time to time by the Executive Board, and may delegate any of its duties, powers or functions to the Manager, other employees, agents or independent contractors. Any contract or agreement with a Manager shall be terminable by the Association without cause and without payment of a termination fee on no more than ninety (90) days prior written notice. No such contract or agreement shall be for a term of more than one (1) year but may be subject to renewal for succeeding terms of no more than one year each. Notwithstanding any delegation to a Manager, employee, agent or independent contractor of any duties, powers or functions of the Association, the Association and its Executive Board shall remain ultimately responsible for the performance and exercise of such duties, powers and functions.

6.1.13 Power to Engage Employees, Agents and Consultants. The Association shall have the power to hire and discharge employees and agents and to retain and pay for such legal and accounting services as may be necessary or desirable in connection with the performance of any duties or the exercise of any powers of the Association under this Declaration.

6.1.14 Power to Commence and Maintain Legal Actions. Subject to the provisions of Article 18, the Association shall have the power to commence and maintain, defend or intervene in litigation, arbitration and administrative proceedings in its own name on behalf of itself or two or more Owners regarding such issues and against such parties as may be deemed appropriate by the Executive Board and as may be permitted under the Act. In determining whether to commence or maintain legal actions, the Executive Board shall exercise its reasonable judgment, considering, without limitation, the likelihood of success, the impact, if any which such action may have upon the market values of the Units, the cost of pursuing the action including attorneys' fees and expert fees, the resources of the Association and whether a special assessment or depletion of reserves will be required in connection therewith or as a result thereof.

6.1.15 Power to Modify and Improve Common Elements. The Association shall have the power to modify the Common Elements and cause additional improvements to be made as a part of the Common Elements.

6.1.16 Power to Impose Fees and Charges. The Association shall have the power to impose and receive any payments, fees or charges for the use, rental or operation of the Common Elements, and the Association shall have the power to impose reasonable charges for the preparation and recordation of amendments to the Declaration or to assess a late charge on unpaid Assessments.

6.1.17 Power to Provide Special Services for Members. The Association shall have the power to provide services to a Member or group of Members. Any service or services to a Member or group of Members shall be provided pursuant to an agreement in writing, which shall provide for payment to the Association by such Member or group of Members of the costs and expense which the Association incurs in providing such services, including a fair share of the overhead expenses of the Association, and shall contain provisions assuring that the obligation to pay for such services shall be binding upon any heirs, personal representatives, successors and assigns of the Member or group of Members, and that the payment for such services shall be secured by a lien on the Units of the Member or group of Members and may be collected in the same manner as an Assessment, or, if the written agreement so provides, in installments as part of the Assessments.

6.1.18 Power to Borrow Money and Mortgage Property. The Association shall have the power to borrow money and assign its future income, including its right to receive Assessments upon resolution of the Executive Board. Further, the Association shall have the power to encumber, in the name of the Association, any right, title or interest in real or personal property, except that Common Elements may be conveyed in fee or subjected to a security interest only if (a) Members to whom at least sixty-seven percent (67%) of the votes are allocated agree to that action and (b) if all Owners of Units to which any Limited Common Element is appurtenant agree in order to convey that Limited Common Element or subject it to a security interest.

6.1.19 Power to Indemnify. The Association shall have the power to provide for the indemnification of its officers and Executive Board.

6.1.20 General Corporate Powers. The Association shall have all of the ordinary powers and rights of a Colorado nonprofit corporation formed under the Act as it applies to common interest communities formed before July 1, 1992, and the Nonprofit Act. The Association shall also have the power to do and perform any and all acts which may be necessary or desirable for the governance and operation of the Association.

Section 6.2 Powers of the Executive Board. Except for such rights as are expressly reserved to the Members herein or in the Bylaws, the Executive Board shall have the power to, and may act in all instances on behalf of the Association.

ARTICLE 7
MECHANIC'S LIENS

Section 7.1 No Liability. If any Owner shall cause any material to be furnished to his Unit or any labor to be performed therein or thereon, no Owner of any other Unit, nor the Association, shall under any circumstances be liable for the payment of any expense incurred or for the value of any work done or material furnished nor shall any other Unit or the Common Elements be subject to a lien for such material furnished or labor performed. All such work shall be at the expense of the Owner causing it to be done, and such Owner shall be solely responsible to contractors, laborers, materialmen and other persons furnishing labor or materials to his Unit.

Section 7.2 Indemnification. If, because of any act or omission of any Owner, any mechanics or other lien or order for the payment of money shall be filed against the Common Elements or against any other Owner's Unit or an Owner or the Association (whether or not such lien or order is valid or enforceable as such), the Owner whose act or omission forms the basis for such lien or order shall at his own cost and expense cause the same to be cancelled and discharged of record or bonded by a surety company reasonably acceptable to the Association, or to such other Owner or Owners, within twenty (20) days after the date of filing thereof, and further shall indemnify and save all the other Owners and the Association harmless from and against any and all costs, claims, losses or damages including, without limitation, reasonable attorneys' fees resulting therefrom.

Section 7.3 Association Action. Labor performed or materials furnished for the Common Elements, if duly authorized by the Association in accordance with this Declaration or the Bylaws, shall be the basis for the filing of a lien pursuant to law against the Common Elements. Any such lien shall be limited to the Common Elements and no lien may be effected against an individual Unit or Units.

ARTICLE 8
EASEMENTS

Section 8.1 Recorded Easements. The Property shall be subject to all easements set forth herein, those shown on the Map or any plat on which the Property is depicted, those of record, and otherwise as set forth in this Article.

Section 8.2 Easement for Encroachments. If any portion of the General Common Elements now encroaches upon any Unit, or if any Unit now encroaches upon any other Unit or upon any portion of the General Common Elements as a result of the construction of such General Common Elements or Unit, or if any such encroachment occurs hereafter as a result of settling or shifting, a valid easement for the encroachment and for maintenance of the improvements in the encroachment shall exist for so long as the encroachment exists. The easement granted in this Section does not relieve a Unit Owner of liability in case of willful misconduct.

Section 8.3 Utility Easements. There is hereby created a blanket easement upon, across, over, in and under the Property for the benefit of the Common Elements and the Units and the structures and improvements situated on the Property for ingress and egress, installation, replacing, repairing and maintaining all utilities, including, but not limited to, water, sewer, gas, telephone, cable television and electricity. Said blanket easement includes future utility services not presently available to the Units which may reasonably be required in the future. By virtue of this easement, it shall be expressly permissible for the companies providing utilities to erect and maintain the necessary equipment on any of the Units and to affix and maintain electrical and/or telephone wires, circuits, conduits and pipes on, above, across and under the roofs and exterior wells of the improvements, all in a manner customary for such companies in the area surrounding the Property, subject to approval by the Association as to location and restoration of the Common Elements and Units upon installation or removal.

Section 8.4 Reservation of Easements, Exceptions and Exclusions. The Association is hereby granted the right to establish from time to time, by declaration or otherwise, utility and other easements, permits or licenses over the Common Elements for the best interest of all the Owners and the Association. Each Owner is hereby granted a perpetual non-exclusive right of ingress to and egress from the Owner's Unit over and across the General Common and Limited Common Elements appurtenant to that Owner's Unit, which right shall be appurtenant to the Owner's Unit, and which right shall be subject to limited and reasonable restrictions on the use of Common Elements set forth in writing by the Association, such as for closure for repairs and maintenance.

Section 8.5 Emergency Access. A general easement is hereby granted to all police, sheriff, fire protection, ambulance and other similar emergency agencies or persons to enter upon the Property, including all Units and all Common Elements in the proper performance of their duties.

Section 8.6 Maintenance and Repair Access. Some of the Common Elements are or may be located within a Unit, or are accessible only through a Unit. All Owners shall permit a right of entry to the Executive Board, or any other person authorized by the Executive Board, whether the Owner is present or not, for access through each Unit to all Common Elements, from time to time, as may be necessary for the routine maintenance, repair, or replacement of any of the Common Elements located thereon or accessible therefrom or for making emergency repairs to the Unit or Common Elements necessary to prevent damage to the Common Elements or to another Unit. For routine maintenance and non-emergency repairs, entry shall be made only on a regular business day during regular business hours, after service of at least one day's notice in writing to the Owner. In case of emergency, entry may be made at any time provided that a reasonable effort according to the circumstances is made to give notice of entry. The Board, the Manager, or the Association's agent is granted the authority to use such reasonable force as is necessary to gain entry into the Unit in the event of an emergency, if no other means of entry are available in view of the circumstances.

Section 8.7 Support Easement. Each Unit is subject to a blanket easement for support and a blanket easement for the maintenance of structures or improvements presently situated or to be built in the future on the Property.

ARTICLE 9
MAINTENANCE

Section 9.1 Maintenance by Owners. Each Owner shall maintain, repair, and replace, as necessary: (a) the interior of his Unit, including non-supporting walls and the surface materials such as plasters, drywall, paneling, wallpaper, paint, tile and carpeting of the perimeter walls, ceilings and floors within the Unit, window glass, and exterior doors and windows and window screens of the Unit; (b) fixtures and equipment installed within the Unit, including maintenance or repairs thereto to the extent necessary in order to avoid damaging other Owners; (c) utility service lines serving the Unit to the point where such lines connect with utility lines serving other Units; (d) the Limited Common Elements appurtenant to such Owner's Unit, except that the Association shall be responsible for maintaining, repairing or replacing any Limited Common Elements that serve more than one Unit; and (e) those portions of the Common Elements and the Units, including the Owner's Unit, damaged or destroyed by an event of casualty. An Owner shall do no act or any work that will affect the Common Elements, or impair the structural soundness or integrity of the Common Elements or the Unit or any components of either, or impair any easement. The Executive Board may establish Rules regulating the timing and manner in which repairs are made by Owners. The Association reserves the right, from time to time, and at different times, to delegate the responsibility for maintenance of the improvements (including Common Elements) to the Owners of the Units, and the Owners are obligated to accept said maintenance responsibility, provided said assignment is done in a uniform and nondiscriminatory manner. Further, the Association reserves the right to revoke any permission granted or responsibility delegated herein, from time to time, and at different times, in which event the Association shall be responsible for maintenance as further set forth herein.

Section 9.2 Owner's Failure to Maintain or Repair. In the event that a Unit (including the allocated Limited Common Elements) is not properly maintained and repaired, and if the maintenance responsibility for the unmaintained portion of the Unit lies with the Owner of the Unit, or in the event that the Unit is damaged or destroyed by an event of casualty and the Owner does not take reasonable measures to diligently pursue the repair and reconstruction of those portions of the damaged or destroyed Unit for which the Owner is responsible to substantially the same condition in which they existed prior to the damage or destruction, then the Association, shall have the right to enter upon the Unit to perform such work as is reasonably required to restore the Unit to a condition of good order and repair. All costs incurred by the Association in connection with the restoration shall be reimbursed to the Association by the Owner of the Unit, upon demand. All unreimbursed costs shall be a lien upon the Unit until reimbursement is made. The lien may be enforced in the same manner as a lien for an unpaid Assessment levied in accordance with Article 11 of this Declaration.

Section 9.3 Maintenance by Association. The Association shall be responsible for the maintenance, repair and replacement of (a) the Common Elements; and (b) those Limited Common Elements identified in Section 9.1(d) above, whether located inside or outside of Units (except as set forth in Section 9.1 above and unless necessitated by damage caused by the negligence, misuse or tortious act of an Owner or Permitted User as set forth in Section 9.4 below). The Association may determine from time to time that the exterior windows and doors serving the Units require replacement to protect the Common Elements or create a uniform aesthetic for the Project. In such cases, the Association, after providing notice to Owners and an opportunity for compliance, may undertake the replacement and charge the Owner for all costs incurred. No Owner shall be entitled to diminution or abatement for inconveniences or discomfort arising from the making of repairs or improvements or from action taken to comply with any law, ordinance or order of any governmental authority.

Section 9.4 Association Maintenance as Common Expense. Subject to availability of any insurance proceeds, the cost of maintenance, repair and replacement by the Association shall be a Common Expense. Damage to the interior or any part of a Unit resulting from the maintenance, repair, or replacement of any of the Common Elements or as a result of emergency repairs within another Unit at the instance of the Association shall also be a Common Expense, subject to availability of any insurance proceeds. However, if such damage is caused by negligent or tortious acts of an Owner, or Permitted User, then such Owner shall be responsible and liable for all of such damage and the cost thereof, to the extent that such Owner or Permitted User's negligence or tortious acts caused such damage, which must be timely paid. All unreimbursed costs shall be a lien upon the Unit until reimbursement is made. The lien may be enforced in the same manner as a lien for unpaid Assessments levied in accordance with Article 11 of this Declaration.

Section 9.5 Limited Common Element Damage. In the event of damage or destruction of a Limited Common Element from any cause other than the negligence, misuse or tortious acts of an Owner or Permitted User, the then Owners of the Units to which the Limited Common Element is appurtenant shall equally bear the expense to repair or rebuild the Limited Common Element to its previous condition. The Owner shall bear the cost of such damage or destruction to the extent of such Owner's or Permitted User's negligence.

Section 9.6 No Other Alterations to Common Elements. Except as required herein, no Owner shall make any addition or other alteration to any portion of the Common Elements (whether General and Limited Common Elements), no matter how minor, without the express written consent of the Executive Board, which consent may be conditioned on the Owner entering into a restrictive covenant agreement ~~that makes~~making the Owner responsible for the cost of the alteration and all future maintenance, repair, replacement and insurance of the alterations on such terms that the Executive Board determines appropriate to protect the interests of the Association. Owners of Residential Units or Commercial Units may request permission to make alterations to the Common Elements serving only Residential or Commercial Units and may agree to a Special Assessment pursuant to Section 11.4 of this Declaration for the purpose of funding such alterations through the Association.

ARTICLE 10
INSURANCE

Section 10.1 General Insurance Provisions. The Association shall acquire and pay for, out of the assessments levied under Article 11 below, the following insurance policies carried with reputable insurance companies authorized to do business in Colorado:

10.1.1 Property Insurance Coverage. Insurance for fire, with extended coverage, vandalism, malicious mischief, all-risk, replacement cost, agreed amount (if the policy includes co-insurance), special condominium, building ordinance and inflation guard endorsements attached, including all of the Units and Common Elements, including 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 the Units which are to be financed by a Mortgage to be purchased by an Agency, but excluding furnishings, fixtures and other items of personal property belonging to an Owner, but excluding building excavations and foundations. The amount of insurance shall be not less than the full then current insurable replacement cost of the insured improvements. Maximum deductible amounts for such policy shall be determined by the Executive Board, provided, however, that if an Agency requires specific deductibles, the Executive Board shall follow such Agency's requirements. Notwithstanding the foregoing requirements, should Agency underwriting requirements require other or different property insurance, the Executive Board shall have the authority to obtain such property insurance, and such property insurance shall be deemed to satisfy the requirements of this Section 10.1.1. Each Owner shall be responsible for obtaining additional or supplemental insurance covering any additions, alterations or improvements to his Unit which increase the replacement value of his Unit. In the event that a satisfactory arrangement is not made for additional insurance by the Owner, the Owner shall be responsible for any deficiency in any resulting insurance loss recovery and the Association shall not be obligated to apply any insurance proceeds to restore the affected Unit to a condition better than the condition existing prior to the making of such additions, alterations or improvements. Any additional premiums attributable to the original specifications of a Unit for which the insurance is increased as herein provided may be the subject of a lien for nonpayment as provided in Section 11.6 hereof in the event the Association pays such premium for an Owner. The then current insurable replacement cost of the insured improvements shall be determined by the Executive Board by means of one or more written appraisals made by competent, disinterested appraisers; however, appraisals need not be obtained more frequently than at three year intervals.

10.1.2 Commercial General Liability. Commercial general liability insurance for the Project in such amounts as the Executive Board deems desirable, provided that such coverage shall be for at least \$1,000,000 for bodily injury, including deaths and property damage arising out of a single occurrence insuring the Association, the Executive Board, the Manager or managing agent, or both, if any, and their respective agents and employees, and the Unit Owners from liability in connection with the operation, maintenance and use of Common Elements and must include a “severability of interest” clause or specific endorsement. Such coverage shall also include legal liability arising out of contracts of the Association and such other risks as are customarily covered with respect to condominiums similar to the Project in the Town of Breckenridge including automobile liability insurance if appropriate. The Executive Board shall not enter into employment contracts or independent contractor contracts of any kind unless the contracting party provides evidence (such as a certificate of insurance) to the Executive Board that such party has current and satisfactory insurance, including workers compensation insurance, commercial general liability and automobile insurance on all of which the Association is named as an additional insured.

10.1.3 Requirements of Property Insurance and Commercial General Liability Insurance. The insurance policies required by Sections 10.1.1 and 10.1.2 above may be carried in blanket policy form naming the Association as the insured, for the use and benefit of and as attorney-in-fact for the Owners. Each Owner shall be an insured person under the policy with respect to liability arising out of such Owner’s interest in the Common Elements or membership in the Association. Each Mortgagee and its successors or assigns shall be a beneficiary of the policy in the percentages of Common Expenses for the Unit which the Mortgage encumbers. The insurance company shall waive its rights of subrogation under the insurance policy against any Owner or member of the Owner’s household. No act or omission by any Owner, unless acting within the scope of such Owner’s authority on behalf of the Association, shall void the insurance policy or be a condition to recovery under the insurance policy. If, at the time of a loss under an insurance policy described above there is other insurance in the name of the Owner covering the same risk covered by the policy, the Association’s policy shall provide primary insurance.

10.1.4 Owners’ Insurance. Each Owner of a Unit shall obtain and maintain insurance coverage on the furnishings, fixtures and other items of personal property belonging to an Owner casualty and public liability insurance coverage for each Unit and the Limited Common Elements appurtenant thereto. The Association shall have no liability as a result of any Owner’s failure to obtain insurance, whether the Association knows of such failure or not.

Section 10.2 Certificates of Insurance: Cancellation. Certificates of insurance shall be issued to each Owner and Mortgagee upon request. All policies required to be carried under this Article 10 shall provide a standard non-contributory mortgagee clause in favor of each First Mortgagee of a Unit and shall provide that such policy cannot be canceled by the insurance company without at least thirty (30) days prior written notice to each Owner and each First Mortgagee whose address is shown in the records maintained pursuant to the Association Documents. If the insurance described in this Article 10 is not reasonably available, or if any policy of such insurance is canceled or not renewed without a replacement policy therefor having been obtained, the Association promptly shall cause notice of that fact to be hand delivered or sent prepaid by United States mail to all Owners and to all First Mortgagees.

Section 10.3 Insurance Proceeds. Any loss covered by the property insurance policy described in Section 10.1.1 must be adjusted with the Association, but the insurance proceeds for that loss shall be payable to any trustee designated for that purpose, or otherwise to the Association, and not to any holder of a security interest. The insurance trustee or the Association shall hold any insurance proceeds in trust for the Owners and Mortgagees as their interests may appear. Subject to the provisions of Section 10.4 below, the proceeds must be disbursed first for the repair or restoration of the damaged property, and the Association, Owners and Mortgagees are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the damaged property has been completely repaired or restored or the regime created by this Declaration is terminated.

Section 10.4 Repair and Replacement. Any portion of the Common Elements for which insurance is required under this Article which is damaged or destroyed must be repaired or replaced promptly by the Association unless:

10.4.1 The common interest community created by this Declaration is terminated in which case the approval must first be obtained of Owners to whom sixty-seven percent (67%) of the votes in the Association are allocated;

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

10.4.3 There is a vote not to repair or replace by (a) Owners to whom at least sixty-seven percent (67%) of the votes in the Association are allocated and (b) every Owner of a Unit or assigned Limited Common Element that will not be repaired or replaced.

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

Section 10.5 Fidelity Insurance. Fidelity insurance or fidelity bonds must be maintained by the Association to protect against dishonest acts on the part of its officers, directors, trustees and employees and on the part of all others, including any Manager hired by the Association, who handle or are responsible for handling the funds belonging to or administered by the Association in an amount not less than the greater of (a) fifty thousand dollars (\$50,000) or (b) the estimated maximum amount of funds, including reserve funds, in the custody of the Association or management agent as the case may be, at any given time during the term of each policy as calculated from the current budget of the Association but in no event less than a sum equal to three (3) months' aggregate assessments plus reserve funds. In addition, if responsibility for handling funds is delegated to a Manager, such insurance or bonds must be obtained by or for the Manager and its officers, employees and agents, as applicable. Such fidelity insurance or bonds shall contain waivers of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees," or similar terms or expressions.

Section 10.6 Workers' Compensation Insurance. The Executive Board shall obtain workers' compensation or similar insurance with respect to its employees, if applicable, in the amounts and forms as may now or hereafter be required by law.

Section 10.7 Directors and Officers Liability Insurance. The Association shall also maintain insurance to the extent reasonably available and in such amounts as the Executive Board may deem appropriate on behalf of the Executive Board against any liability asserted against a member of the Executive Board or incurred by him in his capacity of or arising out of his status as a member of the Executive Board.

Section 10.8 Other Insurance. The Association shall maintain flood insurance if any part of the Project is located within a Special Flood Hazard Area on a Flood Insurance Rate Map, equal to the lesser of one hundred percent (100%) of the insurable value of the Project or the maximum coverage available under the appropriate National Flood Insurance Program. The Executive Board may obtain insurance against such other risks of a similar or dissimilar nature, including umbrella or extended coverage insurance, as it shall deem appropriate with respect to the Association's responsibilities and duties or as requested by any Agency.

Section 10.9 Common Expenses. Premiums for insurance that the Association acquires and other expenses connected with acquiring such insurance are Common Expenses, provided, however, that if some of the insurance is attributable to some but not all of the Units, the Association reserves the right to charge the Owners for which the insurance coverage is attributable, an amount equal to the premium attributable to such additional insurance coverage.

Section 10.10 Policies Regarding Claims and Deductibles. The Association may adopt and establish written nondiscriminatory policies and procedures relating to the submittal of claims, responsibility for deductibles, and any other matters of claims adjustment. To the extent the Association settles claims for damages to the Property, it shall have the authority to assess negligent Unit Owners causing such loss or benefiting from such repair or restoration all deductibles paid by the Association. In the event that more than one unit is damaged by a loss, the Association in its reasonable discretion may assess each unit owner a pro rata share of any deductible paid by the Association.

ARTICLE 11 ASSESSMENTS

Section 11.1 Personal Obligation. Each Owner, is obligated to pay to the Association (1) the Annual Assessments; (2) Special Assessments; and (3) Default Assessments, as defined in Section 11.5, below. Each Assessment against a Unit is the personal obligation, jointly and severally, of the Owner(s) at the time the Assessment became due and shall not pass to successors in title unless they agree to assume the obligation. No Owner may exempt himself from liability for the Assessment by abandonment of his Unit or by waiver of the use or enjoyment of all or any part of the Common Elements. Suit to recover a money judgment for unpaid Assessments, any penalties and interest thereon, the cost and expenses of such proceedings, and all reasonable attorneys' fees in connection therewith shall be maintainable without foreclosing or waiving the Assessment lien provided in this Declaration. All Assessments shall be payable in accordance with the levy thereof, and no offsets or deductions thereof shall be permitted for any reason including, without limitation, any claim that the Association or the Executive Board is not properly exercising its duties and powers under the Association Documents.

Section 11.2 Budget. At the first meeting of the Executive Board after the beginning of the Association's fiscal year, the Executive Board shall prepare and adopt an estimated budget for that year. The estimated budget shall include, but shall not be limited to, an estimate of the costs of maintenance and repair of the General Common Elements and Limited Common Elements, the cost of utilities and other services to be provided by the Association, the cost of insurance, proposed capital expenditures, and contributions for reserves. Reserves required for items for which the expense of maintenance, repair, replacement or operation is specially allocated under Section 11.3 below, shall be allocated in the same proportion as such expenses and annual contributions shall at least meet the requirements established in applicable Agency guidelines. The cost of maintenance and repair shall be estimated on the basis of the previous year's costs with adjustments as the Executive Board considers appropriate. The budget shall also include an estimate, based on such other cost estimates, of the annual assessment for each Unit. The Executive Board may adjust the monthly assessment from time to time as may be deemed necessary or advisable in the opinion of the Executive Board.

Section 11.3 Annual Assessments. Annual Assessments made for Common Expenses shall be based upon the adopted budget. The Executive Board shall levy and assess the Annual Assessments to each Owner in accordance with the Allocated Interests in effect on the date of the Annual Assessment, provided, however, that the following expenses shall be specifically allocated as follows:

11.3.1 Expenses for maintaining and repairing, and expenses of replacing, Limited Common Elements appurtenant to the Residential Units, including necessary reserves, shall be allocated to only the Residential Units.

11.3.2 Expenses for maintaining and repairing, and expenses of replacing, Limited Common Elements appurtenant to the Commercial Units, including necessary reserves, shall be allocated to only the Commercial Units.

11.3.3 All expenses related to the maintenance, repair, replacement or operation of the parking lot, including by way of example and not by way of limitation, snow removal, seal coating, repaving, and striping, and including necessary reserves, shall be allocated sixty-three percent (63%) to the Commercial Units and thirty-seven percent (37%) to the Residential Units.

11.3.4 The Executive Board reserves the right to allocate all expenses relating to fewer than all of the Units to the owners of those affected Units only, and to exercise its best judgment in allocating the expense of electric service, natural gas service, and water service to the Units that benefit from such services. Should the Executive Board determine that separate meters or sub-meters should be installed to measure actual usage of electricity, gas or water, allocations shall be made, to the extent possible, in accordance with the measured results.

Annual Assessments shall be payable in advance monthly, or on such other basis as may be determined by the Executive Board, and shall be due on the first day of each period in regular installments. The omission or failure of the Association to fix the Annual Assessments for any assessment period shall not be deemed a waiver, modification or release of the Owners from their obligation to pay the same.

Section 11.4 Special Assessments. In addition to the Annual Assessments, the Executive Board may levy Special Assessments whenever in the opinion of the Executive Board it is necessary or advisable to do so: (i) to meet increased operating or maintenance expenses or costs; (ii) to provide for additional capital expenses; or (iii) because of emergencies; however, if the proposed additional capital expenses are in excess of five percent (5%) of the maximum replacement value of the building, as determined pursuant to the provisions of Section 10.1.1 above, such expenses may be incurred only after approval of Owners of Residential Units to whom at least fifty percent (50%) of the votes in the Residential Units are allocated, and Owners of Commercial Units to whom at least fifty percent (50%) of the votes in the Commercial Units are allocated. Any amounts assessed pursuant to this Section shall be assessed to Owners according to their Allocated Interests for Common Expenses, subject to the right of the Association to assess the Special Assessment only against the Owners of affected Units. Notice in writing of the amount of such Special Assessments and the time for payment of the Special Assessments shall be given promptly to the Owners, and no payment shall be due less thirty (30) days after such notice has been given.

Section 11.5 Default Assessments. All monetary fines and other enforcement costs assessed against an Owner pursuant to the Association Documents, or any expense of the Association which is the obligation of an Owner or which is incurred by the Association on behalf of the Owner pursuant to the Association Documents, including without limitation attorneys' fees incurred by the Association, shall be a Default Assessment and shall become a lien against such Owner's Unit which may be foreclosed or otherwise collected as provided in this Declaration. Notice of the amount and due date of such Default Assessment shall be sent to the Owner subject to such Assessment at least ten (10) days prior to the due date.

Section 11.6 Effect of Nonpayment: Assessment Lien. Any Assessment installment, whether pertaining to any Annual, Special or Default Assessment, which is not paid when due shall be delinquent. If an Assessment installment becomes delinquent, the Association, in its sole discretion, may take any or all of the following actions:

- (i) If the delinquency continues for a period of ten (10) days, assess a late charge for each delinquency in such amount as the Association deems appropriate;
- (ii) Proceed in accordance with the Association's collection policy and assess an interest charge, in arrears, from the due date until paid at the yearly rate of fifteen percent (15%) per year;

- (iii) Suspend the voting rights of the Owner during any period of delinquency;
- (iv) Accelerate all remaining Assessment installments so that unpaid assessments for the remainder of the fiscal year shall be due and payable at once;
- (v) Bring an action at law against any Owner personally obligated to pay the delinquent Assessments;
- (vi) Proceed with foreclosure as set forth in more detail below; and
- (vii) Suspend any of the Owner's membership privileges.

The Association reserves the right to apply all payments received by the Association on account of any Owner first to payment of any legal fees and costs (including attorneys' fees), then to costs and expenses of enforcement and collection, late charges, interest, returned check charges, lien fees, and other costs owing or incurred with respect to such Owner, and any remaining amounts shall be applied to the assessments due with respect to such Owner, so that credit is made to the oldest balance due. Assessments chargeable to any Unit shall constitute a lien on such Unit. Such lien will be subject to the provisions of Colorado Revised Statutes, Section 38-33.3-316. Such lien will be superior to all other liens, except (i) the liens of all taxes, bonds, assessments and other levies which by law should be superior and (ii) the lien or charge of any First Mortgage made in good faith and for value. Notwithstanding the foregoing, the Association's lien for delinquent Assessments will be prior to a First Mortgage to the extent of an amount equal to the Assessments which would have come due, in the absence of acceleration, during the six months immediately preceding institution by either the Association or any First Mortgagee of an action or a nonjudicial foreclosure either to enforce or extinguish the lien. The Association may institute foreclosure proceedings against the defaulting Owner's Unit in the manner for foreclosing a mortgage on real property under the laws of the State of Colorado. In the event of any such foreclosure, the Owner shall be liable for the amount of unpaid Assessments, any penalties and interest thereon, the cost and expenses of such proceedings, the cost and expenses for filing the notice of the claim and lien, and all reasonable attorney's fees incurred in connection with the enforcement of the lien. The Owner shall be required to pay the Association the monthly assessment installments for the Unit during the period of any foreclosure. The Association shall have the power to bid on a Unit at foreclosure sale and to acquire and hold, lease, mortgage and convey the same. The Association's lien shall be superior to any homestead exemption now or hereafter provided by the laws of the State of Colorado or any homestead exemption now or hereafter provided by the laws of the United States. The acceptance of a deed to a Unit subject to this Declaration shall constitute a waiver of the homestead and any other exemption as against said assessment lien provided by Colorado or federal law.

Section 11.7 Statement of Status of Assessment Payment. Upon fourteen (14) days' written request to the Association's registered agent by personal delivery or certified mail, first-class postage prepaid, return receipt, any Owner, designee of Owner, Agency, Mortgagee, prospective Mortgagee or prospective purchaser of a Unit shall be furnished with a written statement setting forth the amount of the unpaid Assessments, if any, with respect to such Unit. Unless such statement shall be issued by personal delivery or by certified mail, first class postage prepaid, return receipt requested to the inquiring party (in which event the date of posting shall be deemed the date of delivery) within fourteen (14) days after receipt of the request, the Association shall have no right to assert a lien upon the Unit for unpaid Assessments which were due as of the date of the request.

Section 11.8 Maintenance Accounts: Accounting. If the Association delegates powers of the Executive Board or its officers relating to collection, deposit, transfer or disbursement of Association funds to other persons or to a Manager, then such other persons or Manager must (a) maintain all funds and accounts of the Association separate from the funds and accounts of other associations managed by the other person or Manager, (b) maintain all reserve accounts of the Association separate from the operational accounts of the Association, and (c) provide to the Association no less than once per quarter an accounting for the previous quarter. In addition, the Association shall obtain an annual accounting and financial statement of Association funds (on either a review or audit basis, at the Association's discretion) and annual tax returns prepared by a certified public accountant.

ARTICLE 12 DAMAGE OR DESTRUCTION

Section 12.1 The Role of the Executive Board. Except as provided in Section 10.4, in the event of damage to or destruction of all or part of any Common Elements improvement, or other property covered by insurance written in the name of the Association under Article 10, the Executive Board shall arrange for and supervise the prompt repair and restoration of the damaged property (the property insured by the Association pursuant to Article 10 is sometimes referred to as the "Association-Insured Property").

Section 12.2 Estimate of Damages or Destruction. As soon as practicable after an event causing damage to or destruction of any part of the Association-Insured Property, the Executive Board shall, unless such damage or destruction shall be minor, obtain an estimate or estimates that it deems reliable and complete of the costs of repair and reconstruction. "Repair and reconstruction" as used in this Article shall mean restoring the damaged or destroyed improvements to substantially the same condition in which they existed prior to the damage or destruction unless the approval is obtained from Owners to whom at least sixty-seven percent (67%) of the ownership interests in the Common Elements are allocated, including every Owner of a Unit or assigned Limited Common Element that will not be repaired or reconstructed. Such costs may also include professional fees and premiums for such bonds as the Executive Board or the insurance trustee, if any, determines to be necessary.

Section 12.3 Repair and Reconstruction. As soon as practical after the damage occurs and any required estimates have been obtained, the Association shall diligently pursue to completion the repair and reconstruction of the damaged or destroyed Association-Insured Property. As attorney-in-fact for the Owners, the Association may take any and all necessary or appropriate action to effect repair and reconstruction of any damage to the Association-Insured Property, and no consent or other action by any Owner shall be necessary. Assessments of the Association shall not be abated during the period of insurance adjustments and repair and reconstruction.

Section 12.4 Funds for Repair and Reconstruction. The proceeds received from any hazard insurance carried by the Association shall be used for the purpose of repair, replacement and reconstruction of the Association-Insured Property for the benefit of Owners and Mortgagees. If the proceeds of the Association's insurance are sufficient to pay the estimated or actual cost of such repair or reconstruction, or if upon completion of such work the insurance proceeds for the payment of such work are insufficient, the Association may, pursuant to Section 11.5, levy, assess and collect in advance from the Owners, without the necessity of a special vote of the Owners, a Special Assessment sufficient to provide funds to pay such estimated or actual costs of repair and reconstruction. Further levies may be made in a like manner if the amounts collected prove insufficient to complete the repair, replacement or reconstruction.

Section 12.5 Disbursement of Funds for Repair and Reconstruction. The insurance proceeds held by and the amounts received from the Special Assessments provided for above, constitute a fund for the payment of the costs of repair and reconstruction after casualty. It shall be deemed that the first money disbursed in payment for the costs of repair and reconstruction shall be made from insurance proceeds, and the balance from the Special Assessments. If there is a balance remaining after payment of all costs of such repair and reconstruction, such balance shall be retained by the Association to offset future expenses of the Association.

ARTICLE 13 CONDEMNATION

Section 13.1 Rights of Owners Whenever all or any part of the Common Elements is taken by power of condemnation or eminent domain or whenever all or any part of the Common Elements is conveyed in lieu of a taking under threat of condemnation by the Executive Board acting as attorney-in-fact for all Owners under instructions from any authority having the power of condemnation or eminent domain, each Owner shall be entitled to notice of the taking or conveying. The Association shall act as attorney-in-fact for all Owners in the proceedings incident to the condemnation proceeding, unless otherwise prohibited by law.

Section 13.2 Partial Condemnation; Distribution of Award: Reconstruction. The award made for such taking shall be payable to the Association for the benefit of the Owners and Mortgagees and, unless otherwise required under the Act, the award shall be disbursed as follows: if the taking involves a portion of the Common Elements, then, unless within sixty (60) days after such taking Owners to whom at least sixty-seven percent (67%) of the votes in the Association are allocated shall otherwise agree, the Association shall restore or replace such improvements so taken on the remaining land included in the Common Elements to the extent lands are available for such restoration or replacement in accordance with plans approved by the Executive Board. If such improvements are to be repaired or restored, the provisions in Article 10 above regarding the disbursement of funds in respect to casualty damage or destruction which is to be repaired shall apply. If the taking does not involve any improvements on the Common Elements, or if there is a decision made not to repair or restore, or if there are net funds remaining after any such restoration or replacement is completed, then such award or net funds shall be distributed as provided in the Nonprofit Act upon liquidation of the Association.

Section 13.3 Complete Condemnation. If all of the Property is taken, condemned, sold or otherwise disposed of in lieu of or in avoidance of condemnation, then the regime created by this Declaration shall terminate, provided that approval must first be obtained of fifty-one percent (51%) of Eligible Mortgagees, and the portion of the condemnation award attributable to the Common Elements shall be distributed as provided in the Nonprofit Act upon liquidation of the Association.

ARTICLE 14 ASSOCIATION AS ATTORNEY-IN-FACT

Each Owner hereby irrevocably appoints the Association as the Owner's true and lawful attorney-in-fact for the purposes of (a) granting easements pursuant to Article 8, (b) purchasing and maintaining insurance pursuant to Article 10, including the collection and appropriate disposition of the proceeds thereof, the negotiation and settlement of losses and execution of releases of liability, the execution of all documents, and the performance of all other acts necessary to purchase and maintain insurance as well as dealing with any improvements covered by insurance written in the name of the Association pursuant to Article 10 upon their damage or destruction as provided in Article 12, (c) negotiating and dealing with any authority having the power of condemnation or eminent domain relating to a complete or partial taking as provided in Article 13, above, or (d) acting in any other capacity on behalf of the Owners when approval by the Owners is required and has been obtained. Acceptance by a grantee of a deed or other instrument of conveyance or any other instrument conveying any portion of the Property shall constitute appointment of the Association as the grantee's attorney-in-fact for the purposes provided for herein, and the Association shall have full authorization, right and power to make, execute and deliver any contract, assignment, deed, waiver or other instrument with respect to the interest of any Owner which may be necessary to exercise the powers granted to the Association as attorney-in-fact.

ARTICLE 15
ALTERATIONS, ADDITIONS OR IMPROVEMENTS TO COMMON ELEMENTS

Section 15.1 Alterations, Additions or Improvements to Common Elements. No alteration, addition or improvement to the Common Elements of any kind (including, without limitation, change in color or texture of exterior surfaces, street numbers, signage, doors or windows), or which in any manner affect the Common Elements (by way of example and not by way of limitation, addition of air conditioning units, spas, fireplaces, skylights, and moving or removing structural walls), shall be made unless first approved in writing by the Executive Board. All alterations, additions or improvements shall comply with any Rules, guidelines or criteria adopted by the Executive Board governing architectural or design considerations, signs, window coverings, lighting or other alterations, additions or improvements. The Executive Board shall respond to any written request for approval of a proposed addition, alteration or improvement within forty-five (45) days after the complete submission of the plans, specifications and other materials and information which the Executive Board may require in conjunction therewith. If the Executive Board fails to approve or disapprove any request within forty-five (45) days after the complete submission of the plans, specifications, materials and other information with respect thereto, the request shall be deemed to have been approved by the Executive Board. In the event the Executive Board approves any such alteration, addition or improvement, it shall exercise reasonable business judgment to the end that any modifications to the Common Elements conform to and harmonize with existing surroundings and structures. The Executive Board has the absolute right to deny any requested changes in its discretion.

Section 15.2 Waiver of Liability. NEITHER THE ASSOCIATION, THE EXECUTIVE BOARD, NOR ANY OFFICERS, EMPLOYEES OR AGENTS SHALL BE RESPONSIBLE OR LIABLE FOR (i) ANY DEFECTS, ERRORS OR OMISSIONS IN ANY PLANS OR SPECIFICATIONS SUBMITTED, REVISED OR APPROVED UNDER THIS ARTICLE 15, (ii) ANY DEFECTS, ERRORS OR OMISSIONS IN CONSTRUCTION PURSUANT TO SUCH PLANS AND SPECIFICATIONS, (iii) ANY MISTAKE IN JUDGMENT, NEGLIGENCE, OR NON-FEASANCE ARISING OUT OF OR IN CONNECTION WITH THE APPROVAL OR DISAPPROVAL OR FAILURE TO APPROVE ANY SUCH PLANS OR SPECIFICATIONS, OR (iv) THE FAILURE TO ENFORCE THE COVENANTS AND RESTRICTIONS CONTAINED IN THIS DECLARATION. A consent or approval issued by the Executive Board under this Article 15 means only that the Executive Board believes that the construction alteration, installation or other work for which the consent or approval was requested complies with the Rules and any design guidelines adopted by the Executive Board. No such consent or approval shall be interpreted to mean that construction, alteration, installation or other work covered thereby (a) complies with laws, rules, regulations, ordinances or other requirements of any governmental or quasi-governmental authority, (b) is free from defects, errors or omissions, or (c) lies within the boundaries of the Unit. No consent or approval issued by the Executive Board shall relieve Owners or other third parties from their obligations to comply with laws, rules, regulations, ordinances and other requirements of governmental or quasi-governmental authorities.

Section 15.3 Governmental Approval. If any application to any governmental authority for a permit to make any such alteration, addition or improvement requires execution by the Association, and provided approval has been given by the Executive Board, then the application shall be executed on behalf of the Association by an authorized officer, without however incurring any liability on the part of the Executive Board, the Association or any of them to any contractor, subcontractor or materialman on account of such alteration, addition or improvement, or to any person having claim for injury to person or damage to property arising therefrom.

Section 15.4 Association Right to Remove Unauthorized Alterations, Additions or Improvements. The Association, after reasonable notice to the Owner of the offending Unit, may remove any alterations, additions or improvements constructed, reconstructed, refinished, altered, or maintained in violation of this Declaration, and the Owner shall immediately reimburse the Association for all expenses incurred in connection with such removal.

ARTICLE 16 MORTGAGEE'S RIGHTS

The following provisions are for the benefit of holders, insurers or guarantors of Eligible Mortgages. To the extent permitted under Colorado law and as applicable, necessary or proper, the provisions of this Article apply to this Declaration and also to the Articles, Bylaws and rules and regulations of the Association.

Section 16.1 Title Taken by First Mortgagee. Any First Mortgagee of record against a Unit who obtains title to the Unit pursuant to remedies exercised in enforcing the Mortgage, including foreclosure of the Mortgage or acceptance of a deed in lieu of foreclosure, will be liable for all Assessments due and payable as of the date title to the Unit (i) is acquired or (ii) could have been acquired under the statutes of Colorado governing foreclosure, whichever is earlier.

Section 16.2 Distribution of Insurance or Condemnation Proceeds. In the event of a distribution of insurance proceeds or condemnation awards allocable among the Units for losses to, or taking of, all or part of the Common Elements, neither the Owner nor any other person shall take priority in receiving the distribution over the right of any First Mortgagee against the Unit.

Section 16.3 Right to Pay Taxes and Charges. First Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against any Common Elements, and may pay overdue premiums on insurance policies, or secure new hazard insurance coverage on the lapse of a policy for such Common Elements, and First Mortgagees making such payments shall be owed immediate reimbursement therefor from the Association.

Section 16.4 Audited Financial Statement. Upon written request from any Agency or Mortgagee which has an interest or prospective interest in any Unit or the Project, and upon payment in advance by such Agency or Mortgagee of the estimated cost as determined by the Board, the Association shall prepare and furnish within ninety (90) days an audited financial statement of the Association for the immediately preceding fiscal year at the expense of such Agency or Mortgagee.

Section 16.5 Notice of Action. Any Eligible Mortgagee and any Agency which holds, insures or guarantees a First Mortgage, upon written request to the Association (which shall include the Agency's name and address and Unit number), will be entitled to timely written notice of:

16.5.1 Any condemnation or casualty loss that affects either a material portion of the Project or the Unit secured by the Mortgage;

16.5.2 Any sixty (60) day delinquency in the payment of Assessments or charges owed by the Owner of any Unit on which the Mortgagee holds the Mortgage;

16.5.3 A lapse, cancellation, or material modification of any insurance policy maintained by the Association; and

16.5.4 Any proposed action that requires the consent of a specified percentage of Eligible Mortgagees.

Section 16.6 Junior Mortgages. The owner of a Unit may create junior Mortgages on the following conditions: (1) that any such junior Mortgages shall always be subordinate to all of the terms, conditions, covenants, restrictions, uses, limitations, obligations, liens for Common Expenses, and other obligations created by this Declaration and the Bylaws; (2) that the Mortgagee under any junior Mortgage shall release, for the purpose of restoration of any improvements upon the mortgaged premises, all of his right, title and interest in and to the proceeds under all insurance policies upon said premises which insurance policies were effected and placed upon the mortgaged premises by the Association. Such release shall be furnished forthwith by a junior Mortgagee upon written request of one or more of the members of the Board. If not given, such release may be executed by the Association, as attorney-in-fact for such junior Mortgagee.

ARTICLE 17 DURATION OF COVENANTS AND AMENDMENT

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

Section 17.2 Amendment. This Declaration, or any provision of it, may be amended at any time by approval of Owners to whom at least sixty-seven percent (67%) of ownership interests in the Common Elements are allocated.

Section 17.3 Mortgagee Consent. The following actions shall be subject to approval of fifty-one percent (51%) of First Mortgagees:

17.3.1 Amendments to this Declaration of a material, adverse nature to First Mortgagees;

17.3.2 Any action to terminate the legal status of the Project after substantial destruction, condemnation or any other reason.

Section 17.4 Execution of Amendment. Any amendment must be executed by the President of the Association and recorded, and approval of such amendment may be shown by attaching a certificate of the Secretary of Association to the recorded instrument certifying the approval of the amendment by a sufficient number of Owners and Eligible Mortgagees, if applicable.

Section 17.5 Implied Mortgagee Approval. If this Declaration or any Association Documents require the approval of any Agency or Mortgagees then, if any Agency or Mortgagee fails to respond to any written notice requesting such approval within sixty (60) days after such Agency or Mortgagee receives the notice requesting approval (or such longer time as may be set forth in the notice), such Agency or Mortgagee shall be deemed to have approved such request, provided that the notice was delivered to the Agency or Mortgagee by certified or registered mail, return receipt requested.

ARTICLE 18 DISPUTE RESOLUTION

Section 18.1. Statement of Clarification. Without modifying or restricting the scope of this Article and as a statement of clarification only, nothing contained in this Article is intended to prevent the parties from attempting to resolve any differences between them through the normal course of business and communications. It is only when the parties are unable to resolve their differences and they wish to proceed further through the assertion of a "Claim" as defined herein, that the Mandatory Dispute Resolution provisions contained in this Article are activated, notwithstanding any provision in this Declaration to the contrary.

Section 18.2. Alternative Method for Resolving Disputes. The Association, its officers and directors, the Manager, if any, all Owners, and any person not otherwise subject to this Declaration but who agrees to submit to this Article (each such entity being referred to as a “Bound Party”), agree to encourage the amicable resolution of disputes involving the Project and all of its improvements without the emotional and financial costs of litigation. Accordingly, each Bound Party covenants and agrees to submit all Claims each may have to the procedures set forth in this Article 18, notwithstanding any provision in this Declaration to the contrary. All Claims shall be initiated by the Claimant within a reasonable time after the Claim has arisen, and in no event shall it be made after the date when institution of legal or equitable proceedings based on such Claim would be barred by the applicable statute of limitations or repose.

Section 18.3. Claims. Except as excluded or exempted by the terms of this Article 18, “Claim” means any claim, grievance, controversy or dispute between one Party and another, regardless of how the same may have arisen or on what it might be based, including without limitation, those arising out of or related to (i) the interpretation, application or enforcement of any of the Documents or the rights, obligations and duties of any Party under any of the Documents; (ii) the design or construction of improvements; (iii) any statements, representations, promises, warranties, or other communications made by or on behalf of any Party.

Section 18.4. Exclusions From Claims. Unless all parties thereto otherwise agree, the following claims, grievances, controversies or disputes shall be excluded from the definition of Claims under Section 18.3 and shall be excluded from the provisions of this Article 18:

18.4.1. An action by the Association relating to the collection or enforcement of the obligation to pay Assessments or other charges set forth in the Association Documents, including foreclosure proceedings;

18.4.2. An action by the Association to obtain a temporary restraining order or preliminary injunction (or equivalent emergency equitable relief) and such other ancillary relief as the court may deem necessary in order to enjoin any immediate threat to persons or property or maintain the *status quo*, and preserve the Association’s ability to enforce provisions of the Association Documents;

18.4.3. Any action between or among Unit Owners, which does not include the Association as a party if such action asserts a claim that would constitute a cause of action independent of the Association Documents;

18.4.4. Any claim of the Association which, if not pursued by the filing of an action, would be deemed barred due to the applicable statute of limitations; and

18.4.5. Any action to enforce a settlement agreement or arbitration award made under the provisions of this Article 18.

Section 18.5. Dispute Resolution Procedures. All Claims shall be resolved using alternative dispute resolution procedures in lieu of litigation in a manner determined by the Rules adopted by the Executive Board.

ARTICLE 19
GENERAL PROVISIONS

Section 19.1 Notice. Any notice to an Owner of matters affecting the Project by the Association or by another Owner shall be sufficiently given and effective if in writing and, if delivered personally by courier or private service delivery on the date of delivery, or if delivered by mail, on the third business day after deposit in the U.S. mail at the address provided to the Association by the Owner, and if none, to the address of record for real property tax assessment notices with respect to that Owner's Unit.

Section 19.2 Enforcement. All of the provisions of this Section 19.2 are subject to the provisions of Article 18 above, and shall only apply to those matters not constituting a Claim under the provisions of Article 18 above. The Association on behalf of itself and any two or more aggrieved Owners, and any Owner, shall be granted a right of action for any matter not constituting a Claim under Article 18 above against any and all Owners for failure to comply with the provisions of the Association Documents, or with decisions of the Executive Board made pursuant to authority granted to the Association in the Association Documents. In any action covered by this Section, the Association or any Owner shall have the right but not the obligation to enforce the Association Documents by any proceeding at law or in equity. The prevailing party in any action shall be entitled to reimbursement from the non-prevailing party or parties, for all costs and expenses, including attorneys' fees in connection with such action. Failure by the Association or by any Owner to enforce compliance with any provision of the Association Documents shall not be deemed a waiver of the right to enforce any provision thereafter. The decision of the Board to pursue enforcement action in any particular case shall be left to the Board's discretion, subject to the business judgment rule, and shall not be arbitrary or capricious in taking enforcement action. Without limiting the generality of the foregoing, the Board may determine that, under the circumstances of a particular case: (i) the Association's position is not strong enough to justify taking any or further action; (ii) the covenant, restriction or rule being enforced is, or is likely to be construed as, inconsistent with applicable law; (iii) although a technical violation may exist or may have occurred, it is not of such a material nature as to be objectionable to a reasonable person or to justify expending the Association's resources; or (iv) that it is not in the Association's best interests, based on hardship, expense or other reasonable criteria, to pursue enforcement action.

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

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

In Witness Whereof the undersigned Owners to whom sixty-seven percent (67%) or more of the votes in the Association are allocated have approved this Amended and Restated Condominium Declaration for Blazing Saddles Center effective on the day and year first set forth above.

APPROVAL OF
AMENDED AND RESTATED
CONDOMINIUM DECLARATION OF BLAZING SADDLES CENTER

The undersigned, being the Owner(s) of the Condominium Unit identified, hereby approves the Amended and Restated Condominium Declaration for Blazing Saddles Center.

Printed Name _____
Date _____
Unit Number _____

Printed Name _____
Date _____

**EXHIBIT A
TO
AMENDED AND RESTATED
CONDOMINIUM DECLARATION OF BLAZING SADDLES CENTER**

See attached