

**AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
SADDLE MOUNTAIN TOWNHOMES
(A Condominium)**

TABLE OF CONTENTS

ARTICLE 1. NAME	1
SECTION 1.1 NAME AND TYPE.....	1
SECTION 1.2 PURPOSE.....	2
ARTICLE 2. DEFINITIONS	2
ARTICLE 3. LOCATION, UNIT BOUNDARIES, COMMON AND LIMITED COMMON ELEMENTS AND EASEMENTS	3
SECTION 3.1 LOCATION	3
SECTION 3.2 UNITS AND BOUNDARIES.....	3
SECTION 3.3 COMMON ELEMENTS	4
SECTION 3.4 LIMITED COMMON ELEMENTS.....	4
SECTION 3.5 ASSIGNMENT AND REASSIGNMENT OF LIMITED COMMON ELEMENTS	4
SECTION 3.6 EASEMENTS FOR USE AND ENJOYMENT.....	4
SECTION 3.7 EASEMENT FOR ENTRY	5
SECTION 3.8 SUPPORT	5
SECTION 3.9 ENCROACHMENTS	5
SECTION 3.10 UTILITIES	5
ARTICLE 4. ASSOCIATION MEMBERSHIP AND ALLOCATION OF INTERESTS	5
SECTION 4.1 MEMBERSHIP	5
SECTION 4.2 ALLOCATED INTERESTS	5
ARTICLE 5. ASSESSMENTS.....	6
SECTION 5.1 PURPOSE OF ASSESSMENT.....	6
SECTION 5.2 PERSONAL OBLIGATION FOR ASSESSMENTS.....	6
SECTION 5.3 LIEN.....	6
SECTION 5.4 PAYMENT OF ASSESSMENTS	6
SECTION 5.5 SPECIFIC UNIT ASSESSMENTS	6
SECTION 5.6 DELINQUENT ASSESSMENTS	7
SECTION 5.7 BUDGET AND ASSESSMENT	8
SECTION 5.8 WORKING FUND	8
SECTION 5.9 STATEMENT OF ACCOUNT	9
SECTION 5.10 SURPLUS FUNDS AND COMMON PROFITS	9
SECTION 5.11 BORROWING	9
ARTICLE 6. MAINTENANCE RESPONSIBILITY	9
SECTION 6.1 BY THE OWNER	9
SECTION 6.2 ADDITIONAL OWNER RESPONSIBILITIES	10
SECTION 6.3 BY THE ASSOCIATION	11
SECTION 6.4 LIABILITY FOR DAMAGE	11
SECTION 6.5 ADDITIONAL ASSOCIATION MAINTENANCE	12
SECTION 6.6 OWNER MAINTENANCE RELATED TO INSURANCE PURCHASED BY THE ASSOCIATION.....	12
SECTION 6.7 MOLD AND/OR MILDEW	12
SECTION 6.8 RADON	12
SECTION 6.9 INSPECTION, MAINTENANCE, REPAIR AND REPLACEMENT OF HIGH-RISK COMPONENTS.....	13
SECTION 6.10 FAILURE TO MAINTAIN.....	13
ARTICLE 7. COVENANTS AND USE RESTRICTIONS	14
SECTION 7.1 OWNER RESPONSIBILITY FOR COMPLIANCE	14
SECTION 7.2 USE OF UNITS	14
SECTION 7.3 LEASING	14
SECTION 7.4 RESTRICTIONS ON EXTERIOR BUILDING CHANGES, STRUCTURAL ALTERATIONS, IMPROVEMENTS, PENETRATIONS AND CUT-OUTS	15

SECTION 7.5	USE OF COMMON ELEMENTS	15
SECTION 7.6	USE OF LIMITED COMMON ELEMENTS AND PATIOS, DECKS OR BALCONIES.....	15
SECTION 7.7	USE OF GARAGES	15
SECTION 7.8	COMPLIANCE WITH LAWS AND INSURANCE REQUIREMENTS	16
SECTION 7.9	PROHIBITION OF NUISANCE	16
SECTION 7.10	EXTERIOR LIGHTING	17
SECTION 7.11	NO DAMAGE OR WASTE	17
SECTION 7.12	PETS	17
SECTION 7.13	VEHICLES AND PARKING	18
SECTION 7.14	VEHICLE REPAIR	19
SECTION 7.15	HEATING OF UNITS IN COLDER MONTHS	19
SECTION 7.16	SIGNS	19
SECTION 7.17	TRASH AND GARBAGE.....	19
SECTION 7.18	UNSIGHTLY OR UNKEMPT CONDITIONS	19
SECTION 7.19	ANTENNAS AND SATELLITE DISHES.....	19
SECTION 7.20	GRILLING	19
SECTION 7.21	PERSONAL PROPERTY ON COMMON ELEMENTS	20
SECTION 7.22	RESTRICTION ON MARIJUANA USE, GROWING AND DISTRIBUTION	20
SECTION 7.23	RULES AND REGULATIONS	20
SECTION 7.24	USE OF THE WORDS SADDLE MOUNTAIN TOWNHOMES, SADDLE MOUNTAIN TOWNHOMES CONDOMINIUMS, AND SADDLE MOUNTAIN RESIDENT'S CLUB, INC.	20
ARTICLE 8.	ARCHITECTURAL CONTROLS.....	20
SECTION 8.1	ARCHITECTURAL COVENANTS	20
SECTION 8.2	ALTERATION OF UNITS	21
SECTION 8.3	ARCHITECTURAL STANDARDS	22
SECTION 8.4	AUTHORITY	22
SECTION 8.5	REQUIRED ACTION BY THE ASSOCIATION.....	22
SECTION 8.6	ENCROACHMENTS ONTO COMMON ELEMENTS	22
SECTION 8.7	CONDITIONS OF APPROVAL	22
SECTION 8.8	LIMITATION OF LIABILITY.....	23
SECTION 8.9	NO WAIVER OF FUTURE APPROVALS.....	23
SECTION 8.10	COMMENCEMENT AND COMPLETION OF CONSTRUCTION.....	23
SECTION 8.11	VARIANCES	23
SECTION 8.12	ENFORCEMENT.....	23
ARTICLE 9.	INSURANCE.....	23
SECTION 9.1	ASSOCIATION'S PROPERTY INSURANCE	23
SECTION 9.2	OTHER ASSOCIATION INSURANCE.....	24
SECTION 9.3	STANDARDS FOR ASSOCIATION POLICIES	24
SECTION 9.4	INSURANCE DEDUCTIBLES.....	25
SECTION 9.5	OWNERS' INSURANCE	25
SECTION 9.6	OWNER'S RIGHT TO REVIEW ASSOCIATION INSURANCE POLICIES	25
SECTION 9.7	SOURCE AND ALLOCATION OF PROCEEDS.....	25
SECTION 9.8	REPAIR AND RECONSTRUCTION REQUIREMENTS.....	26
SECTION 9.9	CONSTRUCTION FUND	26
ARTICLE 10.	MORTGAGE HOLDER'S RIGHTS.....	26
SECTION 10.1	ABANDONMENT OR TERMINATION	26
SECTION 10.2	LIABILITY FOR ASSESSMENTS	26
SECTION 10.3	NOTICE TO MORTGAGE HOLDERS	26
SECTION 10.4	NO PRIORITY.....	26
SECTION 10.5	NOTICE TO ASSOCIATION	27
SECTION 10.6	FAILURE OF MORTGAGE HOLDER TO RESPOND.....	27
SECTION 10.7	CONSTRUCTION OF THIS ARTICLE.....	27

ARTICLE 11.	AUTHORITY AND ENFORCEMENT	27
SECTION 11.1	COMPLIANCE WITH AND ENFORCEMENT OF GOVERNING DOCUMENTS	27
SECTION 11.2	FAILURE TO ENFORCE	28
ARTICLE 12.	AMENDMENTS	28
SECTION 12.1	AMENDMENT BY OWNERS	28
SECTION 12.2	MORTGAGE HOLDER APPROVAL FOR MATERIAL AMENDMENTS	28
SECTION 12.3	AMENDMENTS BY BOARD OF DIRECTORS.....	28
SECTION 12.4	VALIDITY	28
ARTICLE 13.	DECLARANT'S RIGHTS	29
SECTION 13.1	DECLARANT'S RIGHT TO COMPLETE FOUR (4) UNITS	29
SECTION 13.2	DECLARANT'S EASEMENTS OVER COMMON ELEMENTS	29
SECTION 13.3	SPECIAL DECLARANT'S RIGHTS	29
ARTICLE 14.	GENERAL PROVISIONS	30
SECTION 14.1	SECURITY	30
SECTION 14.2	IMPLIED RIGHTS	30
SECTION 14.3	INTERPRETATION	30
SECTION 14.4	ELECTRONIC RECORDS, NOTICES AND SIGNATURES	30
SECTION 14.5	DURATION.....	30
SECTION 14.6	SEVERABILITY	30
SECTION 14.7	CONFLICTS	30
SECTION 14.8	PUBLIC IN GENERAL.....	31
SECTION 14.9	CAPTIONS	31
SECTION 14.10	SINGULAR INCLUDES THE PLURAL	31

EXHIBITS

LEGAL DESCRIPTION	"A"
ALLOCATED INTERESTS.....	"B"

**AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
SADDLE MOUNTAIN TOWNHOMES**

This Amended and Restated Declaration of Covenants, Conditions and Restrictions for Saddle Mountain Townhomes ("Declaration") is made effective upon recording.

RECITALS

A. The Declaration of Covenants, Conditions and Restrictions for Saddle Mountain Townhomes, Ltd. LLLP was recorded on May 18, 2004, at Reception No. 20404319, Archuleta County Clerk and Recorder, as may have been amended (hereinafter referred to as the "Original Declaration").

B. Article 18, Section 18.03 of the Original Declaration provides that the Original Declaration may be amended by an affirmative vote of at least 80% of the votes allocated to all Ownership Unit Interests (as defined in the Original Declaration). Pursuant to C.R.S. Section 38-33.3-217, any owner approval percentage over 67% is declared void as contrary to public policy. Accordingly, the Original Declaration may be amended with the affirmative vote of at least 67% of the votes allocated to all Ownership Unit Interests (as defined in the Original Declaration).

C. This Declaration does not alter the undivided interest of the Units and does not terminate the Condominium. Although the Original Declaration provided for the creation of time shares estates, no Units were ever divided into anything other than a full ownership unit.

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

- to update the Original Declaration to reflect that there are no time share estates;
- to update the Original Declaration to comply with current state law;
- to clarify the allocation of maintenance responsibilities and insurance between the Association and the Owners;
- to ensure that the Declarant has the right to create the remaining four Units;
- to change restrictions in the Community;
- to update provisions so as to allow the Association to efficiently operate the Community and deal with Community concerns; and
- to add provisions that provide tools for the Association to effectively solve problems and enforce the Declaration, Bylaws and Rules and Regulations.

E. Owners holding at least 67% of the votes allocated to all Ownership Unit Interests (as defined in the Original Declaration) desire to amend the Original Declaration, have approved this Amended and Restated Declaration in writing, and have determined this Declaration to be reasonable and not burdensome. In addition, the Declarant has given its written consent to this Amended and Restated Declaration.

The Original Declaration is replaced by the covenants, servitudes, easements and restrictions set forth in this Amended and Restated Declaration.

ARTICLE 1. NAME

Section 1.1 Name and Type. The type of common interest community is a condominium community. The condominium community's name is Saddle Mountain Townhomes. The association's name is Saddle Mountain Resident's Club, Inc.

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

ARTICLE 2. DEFINITIONS

Section 2.1 General. Terms used in these Governing Documents, as defined below, have their normal, generally accepted meanings or the meanings given in the Colorado Common Interest Ownership Act or the Colorado Revised Nonprofit Corporation Act.

(a) Act means the Colorado Common Interest Ownership Act, C.R.S. § 38-33.3-101, et seq., as may be amended from time to time.

(b) Area (in reference to a Unit) means the total number of usable square feet of the Unit as shown on the Map, or if such square footage is not shown on the Map, then the term means the total number of square feet of the Unit as determined by the Board.

(c) Association means Saddle Mountain Resident's Club, Inc., a Colorado nonprofit corporation and its successors. Unless a particular power is expressly reserved to the Owners, all powers of the Association will be exercised by, and the business and affairs of the Association will be conducted and managed by the Board of Directors.

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

(e) Bylaws mean the Bylaws of the Association.

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

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

(h) Community means all that property as more particularly described in Exhibit "A" attached hereto and incorporated herein by reference which is submitted to the provisions of the Act by this Declaration.

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

(j) Declarant means Saddle Mountain Townhomes, Ltd. LLLP.

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

(l) Limited Common Elements mean a portion of the Common Elements reserved for the exclusive use of those entitled to occupy one or more, but less than all, Units, as more particularly set forth in this Declaration.

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

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

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

(p) Owner or Unit Owner shall mean the record titleholder of a Unit within the Community, but shall not include a Mortgage Holder.

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

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

(s) Resident means any Person staying overnight in a Unit for a total of more than 30 days, either consecutive or nonconsecutive, in any calendar year, and shall include tenants.

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

(u) Total Area of all Units means the combined Area of all the Units in the Community, as determined in accordance with Section 2.1(b) above.

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

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

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

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

(a) Residential Unit Boundaries.

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

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

(iii) Additional Information to Interpret Unit Boundaries. All lath, furring, wallboard, plasterboard, plaster, paneling, tiles, surface texture, wallpaper, paint, finished flooring and any other materials constituting the finished surfaces are part of the Unit and all other portions of the floors,

walls and ceilings are part of the Common Elements. Each Unit includes the spaces and improvements lying within the boundaries of the Unit, including windows, window frames, doors and door frames.

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

Section 3.3 Common Elements. The Common Elements will remain undivided, and no Owner or any other Person may bring any action for partition or division of the whole or any part.

Section 3.4 Limited Common Elements. The Limited Common Elements include:

(a) Any portions of the Common Elements depicted on the Map as a Limited Common Element.

(b) Any fireplaces, decks, balconies, porches, patios, stoops, walkways, skylights, exterior doors and windows, window wells, enclosed yards, enclosed courtyards, storage spaces, parking spaces, carports, garages, attics, crawlspaces, furnaces, hot water heaters, air conditioning units and associated lines, and sump pumps serving a Unit are Limited Common Elements of the Unit(s).

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

Section 3.5 Assignment and Reassignment of Limited Common Elements. A Common Element not previously assigned as a Limited Common Element may be so assigned and a Limited Common Element may be reassigned by the Association, without the need for a vote of the Owners, upon written application to the Association by the Owner or Owners for whose exclusive use the Common Element is requested or whose use of the Limited Common Element previously assigned is directly affected. Upon application, the Association will prepare and execute an amendment to the Declaration assigning the Common Element as a Limited Common Element or reassigning the Limited Common Element, which amendment will be executed by the Owner or Owners making the application. An Owner may not lease or convey the parking stalls in the garage separately from the Unit.

Section 3.6 Easements for Use and Enjoyment. Owners and Residents have a right and non-exclusive easement of ingress and egress, and use and enjoyment in and to the Common Elements, which are appurtenant to and pass with the title to the Unit, subject to the following provisions:

(a) the Owners' rights to the exclusive use of the Limited Common Elements assigned to their respective Units;

(b) the Association's right to have access to the Units and Limited Common Elements assigned to a Unit to discharge its rights and obligations, under the Governing Documents, including without limitation, the maintenance responsibility of the Association;

(c) the Association's right to suspend an Owner's rights to use the recreational facilities for any period during which any assessment or charge against his Unit remains unpaid and for a reasonable period of time (not to exceed 60 days or for the duration of the violation) for an infraction of the Declaration, Bylaws, or Rules and Regulations;

(d) the Association's right to grant easements, leases and licenses across the Common Elements;

(e) the Association's right to dedicate or transfer all or any portion of the Common Elements subject to approval of Owners holding 67% of the total Association vote; and

(f) the Association's right to change the use of portions of the Common Elements or to close portions of the Common Elements, provided that permanent closure of any recreational facilities will require the affirmative vote of a majority of Members voting at a properly called Member meeting.

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

Section 3.7 **Easement for Entry.** Each Owner will afford to the Association and other Owners, and to their agents or employees, access through the Owner's Unit reasonably necessary to allow the Association or other Owners to fulfill their respective maintenance, repair and replacement obligations. If damage is inflicted, or a strong likelihood exists that it will be inflicted, on the Common Elements or any Unit through which access is taken, the Owner responsible for the damage, or expense to avoid damage, or the Association if it is responsible, is liable for the cost of prompt repair.

Section 3.8 **Support.** Every portion of a Unit and all Common Elements contributing to the support of an abutting Unit are burdened with a non-exclusive easement of support for the benefit of the abutting Unit.

Section 3.9 **Encroachments.** To the extent that any Unit or Common Element encroaches on any other Unit or Common Element, a valid easement for the encroachment exists. This easement does not relieve an Owner of liability in case of willful misconduct.

Section 3.10 **Utilities.** To the extent that any utility line, pipe, wire, or conduit serving any Unit(s) or the Common Elements lies wholly or partially within the boundaries of another Unit or the Common Elements, the other Unit(s) or the Common Elements are burdened with a non-exclusive easement for the use, maintenance, repair and replacement of the utility line, pipe, wire or conduit, the non-exclusive easement to be in favor of the Unit(s) or Common Elements served by the same and of the Association.

Section 3.11 **Metro District Easement.** There is a general easement to any metropolitan district, including but not limited to the Pagosa Area Water and Sanitation District, or other special district providing services or facilities to the Community to enter upon the Community in the proper performance of its duties.

ARTICLE 4. ASSOCIATION MEMBERSHIP AND ALLOCATION OF INTERESTS

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

Section 4.2 **Allocated Interests.**

(a) **Voting.** The Owner or collective Owners of a Unit is entitled to one equally weighted vote for the Unit. When more than one Person holds an ownership interest in any Unit, the vote

for the Unit will be exercised as those Owners determine among themselves, otherwise the Unit's vote will be suspended if more than one Person seeks to exercise it.

(b) Common Expenses. Except as provided below or elsewhere in the Governing Documents, the amount of all Common Expenses will be assessed equally against each Unit.

(c) Interests in the Common Elements. The percentage of ownership interest in the Common Elements is divided between the Units as shown on Exhibit B. Each Unit's interest in the Common Elements is calculated in accordance with the following formula:

Interest in Common Elements = Area of the Unit/Total Area of all Units x 1 x 100%

ARTICLE 5. ASSESSMENTS

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

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

The obligation for assessments will commence upon the initial issuance of a certificate of occupancy of a Unit, provided that the obligation will not be suspended if the certificate of occupancy is rescinded or revoked for any reason or the Unit is later damaged to the extent that a new certificate of occupancy would be required at a later date. The Association has no obligation to provide any services to a Unit, including but not limited to utilities, maintenance, insurance or snow removal, until the assessment obligation commences. The Owner of such Unit(s) will be solely responsible for all maintenance, insurance, utilities, and other services related to the Unit(s).

Section 5.3 Lien. All assessments, together with charges, interest, costs, and reasonable attorney fees actually incurred (including post-judgment attorney fees, costs and expenses), up to the maximum amount permitted by law, will be a charge on the Unit and a continuing lien upon the Unit against which each assessment is made. The Association has the authority to record a notice of lien in the Archuleta County, Colorado real property records evidencing the lien created under this Declaration. The Association's lien under this article is not subject to the provision of any homestead exemption as allowed under state or federal law. The lien has the priority as set forth in the Act.

Section 5.4 Payment of Assessments. Assessments will be paid in the manner and on the dates as may be fixed by the Association. Unless otherwise provided by resolution, the annual assessments will be paid in equal monthly installments due on the first day of each calendar month. No Owner may exempt himself from liability for or otherwise withhold payment of assessments for any reason whatsoever, including, but not limited to, nonuse of the Common Elements, the Association's failure to provide services or perform its obligations required hereunder, or inconvenience or discomfort arising from the Association's performance of its duties.

Section 5.5 Specific Unit Assessments. The Association has the power to levy specific unit assessments against Units pursuant to this section as it deems appropriate.

(a) Any expense or liability incurred by the Association as a result of the willful, negligent or wrongful act of an Owner, his family, guests or other Residents of the Unit, or any breach by any of these parties of any of the provisions of the Governing Documents, may be an assessment against the Unit, following notice and an opportunity for a hearing.

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

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

(d) Any expense related to utilities, including but not limited to water, sewer, gas and electricity, may be specifically assessed equitably among the Units in proportion to use rather than equally, if use can be reasonably determined or estimated through means such as, but not limited to, separate metering or evaluation by an independent entity with expertise in making these determinations. Notwithstanding anything to the contrary, if the Association provides telephone services, all telephone charges related to the Unit will be assessed to the Unit.

(e) Any expense related to insurance premiums may be assessed against Units in proportion to risk.

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

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

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

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

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

(b) If assessments, fines or other charges, or any part thereof, remain unpaid more than 30 days after the assessment payments first become delinquent, the Owner's right to vote and right to use the recreational facilities will be automatically suspended until all amounts owed are paid in full, and the Association may institute suit to collect all amounts due pursuant to the provisions of the Declaration, the Bylaws, and Colorado law, including reasonable attorney fees actually incurred. Enforcement under this section is not dependent upon or related to other restrictions and/or other actions.

(c) If partial payment of assessments or other charges are made, the amount received may be applied first to post-judgment attorney fees, costs and expenses, then to costs and attorney fees not reduced to a judgment, then to interest, then to late charges, then to fines and other

charges permitted under this Declaration, then to delinquent assessments and then to current assessments.

(d) Further, the Association may bring an action at law or in equity, or both, against any Owner personally obligated to pay the overdue assessments or related charges, or monthly or other installments thereof, and may also proceed to foreclose its lien against the Owner's Unit. An action at law or in equity by the Association against an Owner to recover a money judgment for unpaid assessments or related charges, or monthly or other installments thereof, may be commenced and pursued by the Association without foreclosing, or in any way waiving, the Association's lien therefor.

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

Section 5.7 Budget and Assessment. Prior to the beginning of each fiscal year, the Association will prepare a budget covering the estimated costs of operating the Community during the coming year, including an annual reserve contribution for replacement of improvements that are the Association's responsibility, and establish the annual assessment or installments for the coming year. The Association will cause a summary of the budget to be delivered to each Owner within 90 days after adopting the budget and set a date for a meeting of the Owners to consider the budget, which meeting will occur within a reasonable time after delivery of the budget summary. The budget and the assessment will become effective unless disapproved at a duly called Association meeting by a majority of the total Association vote; provided, however, if a quorum is not obtained at the annual or other meeting called to ratify the budget, the budget will become effective even though a vote to disapprove the budget could not be called at this meeting.

If the membership disapproves the proposed budget or the Association fails for any reason to determine the budget for the succeeding year, then and until a new budget is determined, the budget in effect for the current year will continue for the succeeding year. In such case, the Association may propose a new budget at any time during the year. The approval procedure set forth in this section for budgets will also apply to a new budget proposed by the Association.

The budget will not operate as a limitation on expenditures by the Association, but, rather, the budget is merely an estimate of Common Expenses on which the Association may base the annual assessments.

If the Board deems it necessary or advisable to amend the annual budget that has been ratified by the Owners, the Board may adopt a proposed amendment to the annual budget, deliver a summary of the proposed amendment to all Owners and set a date for a meeting of the Owners to consider the amendment, which meeting will occur within a reasonable time. The proposed amendment to the budget will become effective unless disapproved at a duly called Association meeting by a majority of the total Association vote regardless of whether a quorum is present.

Section 5.8 Working Fund. Upon conveyance of a Unit by the Declarant to the initial Owner, the Owner will deposit at closing with the Association an amount equal to six times the monthly installment of the current annual assessment, which sum may be maintained in a segregated account and used to insure that the Association has adequate funds available to meet unforeseen expenditures or may be used for regular operating expenses or to fund reserves, at the discretion of the Association. The working fund does not relieve an Owner from the obligation to pay the monthly installment of the annual

assessment. Upon sale of the Unit from one Owner to another, the Association will not be obligated to return any funds held in reserve.

Section 5.9 **Statement of Account.** The Association will furnish to an Owner or the Owner's designee or to a holder of a security interest or its designee a statement setting forth the amount of unpaid Assessments then levied against the Unit in which the Owner, designee or holder of a security interest has an interest. The Association will deliver the statement personally or by certified mail, first class postage prepaid, return receipt requested to the inquiring party within 14 calendar days after the Association's registered agent receives the request by personal delivery or by certified mail, first class postage prepaid, return receipt requested. The information contained in the statement, when signed by the treasurer of the Association, or managing agent, if any, will bind the Association, the Board, and every Owner as to the person or persons to whom the statement is issued and who rely on it in good faith. The Association may establish a reasonable fee relating to the statement, which may incorporate any fees imposed by a managing agent.

Section 5.10 **Surplus Funds and Common Profits.** Surplus funds from whatever source will be applied to the payment of Common Expenses. Any funds remaining after application will, at the option of the Association, be: (a) added to the Association's capital reserve account; (b) distributed to the Owners; or (c) credited to the next assessment chargeable to the Owners in proportion to the liability for Common Expenses attributable to each Unit.

Section 5.11 **Borrowing.** The Association has the power to borrow money and assign future income, including the right to assign its right to receive Common Expense assessments, but only upon the affirmative vote of a majority of the Association vote present and exercised, in person or by proxy at a duly constituted meeting called for that purpose, or by ballot in lieu of a meeting as provided for in the Bylaws.

ARTICLE 6. MAINTENANCE RESPONSIBILITY

Section 6.1 **By the Owner.** Each Owner is obligated to maintain and keep in good repair all portions of his Unit, except any portion of a Unit which is expressly made the Association's maintenance obligation as set forth below. Each Owner is also responsible for certain portions of the Common Elements as set forth below. This maintenance responsibility includes the responsibility to maintain, repair, replace or improve the following:

- (a) the materials making up the finished surfaces of the walls, floors and ceilings, including, but not limited to plaster, drywall, paneling, wallpaper, paint, wall and floor tile, carpet and flooring (but not including the sub-flooring in the lowermost floor of the Unit);
- (b) all glass surfaces (including exterior cleaning);
- (c) windows, window frames, and screens;
- (d) doors, doorways, and door frames that are part of the entry system of the Unit;
- (e) all pipes, lines, ducts, conduits, or other apparatus which serve only the Unit, whether located within or outside the boundaries of the Unit (provided that the Association will be responsible for repairs to sewer lines needed due to an act of nature, such as penetration by the roots, and for replacing sewer lines when the Association determines such lines have reached the end of their useful life because of passage of time);
- (f) any fireplace (including the chimney, flue and firebox, but excluding chimney caps which will be an Association responsibility) that serves only the Unit;

- (g) all communications, television, telephone, cable and electrical lines, receptacles and boxes serving only the Unit, whether located within or outside the boundaries of the Unit;
- (h) storage areas appurtenant to Unit;
- (i) sump pump located within or serving the Unit;
- (j) crawlspace appurtenant to Unit;
- (k) attic appurtenant to Unit;
- (l) hot water heaters and associated pipes, lines, ducts, conduits or other apparatus which serve the Unit, whether located within or outside the boundaries of the Unit;
- (m) any light fixtures and light bulbs in the front porch area or the rear patio area or on the balcony;
- (n) any portion of the heating and air conditioning systems including the air conditioning compressor and fan coil serving the Unit, whether located within or outside the boundaries of the Unit; and
- (o) any improvements to the Unit and/or the Common Elements made by the Owner or the Owner's predecessor, including gutters and downspouts (none were installed during the original construction). Every Owner is responsible to determine what improvements have been made to the Unit and/or associated Common Elements by any predecessor-in-interest.

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

- (a) to keep in a neat, clean and sanitary condition any Limited Common Elements serving his Unit, including keeping the patio appurtenant to the Unit free and clear of snow, ice, and any accumulation of water or other debris;
- (b) to perform his responsibility in a manner so as not to unreasonably disturb other persons in other Units;
- (c) to promptly report to the Association or its agent any defect or need for repairs, for which the Association is responsible;
- (d) to pay for the cost of repairing, replacing, or cleaning up any component of the Community which, although the responsibility of the Association or another Owner, is necessitated by reason of the willful or negligent act of the Owner, his family, tenants or guests, with the cost thereof to be added to and become part of the Owner's next chargeable assessment;
- (e) to repair incidental damage to another Unit or the Common Elements, resulting from performance of work that is the Owner's responsibility. Such repair and subsequent cleaning will be performed based upon a reasonableness standard.

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

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

- (a) structural integrity of the buildings, including foundations;
 - (b) siding on the exterior of the buildings;
 - (c) roofs, roof decking and roof trusses;
 - (d) light fixtures and light bulbs attached to the garage exterior;
 - (e) landscaping installed by Association;
 - (f) snow removal from Common Elements, based upon the criteria determined by the Board from time to time;
 - (g) all pipes, lines, ducts, conduits or other apparatus serving more than one Unit;
- and
- (h) all communications, television, telephone, cable and electrical lines, receptacles and boxes serving more than one Unit.

The foregoing maintenance will be performed consistent with the Community-Wide Standard.

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

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

Section 6.4 **Liability for Damage.** The Association will repair incidental damage to any Unit resulting from performance of work that is the Association's responsibility. The repair and subsequent cleaning will be performed based on a reasonableness standard. In performing its responsibilities hereunder, the Association will have the authority to delegate any of its duties to persons, firms or corporations it chooses.

The Association will not be liable for injury or damage to person or property caused by the elements or by any Owner, or any other person, or resulting from any utility, rain, snow or ice which may leak or flow from any portion of the Common Elements or from any pipe, drain, conduit, appliance or equipment which the Association is responsible to maintain, except for injuries or damages arising after the Owner of a Unit has put the Association on notice of a specific leak or flow from any portion of the Common Elements and the Association has failed to exercise due care to correct the leak or flow within a reasonable time thereafter. The Association will not be liable to any Owner, or any Owner's Resident, guest or family for any damage or injury caused in whole or in part by the Association's failure to discharge its responsibilities under this article where the damage or injury is not a foreseeable, natural result of the Association's failure to discharge its responsibilities. No diminution or abatement of

assessments shall be claimed or allowed by reason of any alleged failure of the Association to take some action or perform some function required to be taken or performed by the Association under this Declaration, or for inconvenience or discomfort arising from the making of repairs or improvements which are the Association's responsibility, or from any action taken by the Association to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority.

Section 6.5 Additional Association Maintenance.

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

(b) The Association has the right, with the approval of 67% of those Members voting in person or by proxy at a meeting called for such purpose, to assume additional maintenance, repair or replacement responsibilities on any limited basis it determines, as a Common Expense.

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

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

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

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

Section 6.7 Mold and/or Mildew. Mold and/or mildew can grow in any portion of the Community that is exposed to a regular source of moisture. Therefore, the Association and the Owners agree to: (a) promptly investigate to determine the source of the problem and the extent of the condition upon the discovery of any water leaks; (b) repair any leaks in their respective areas of maintenance responsibility in a good and workmanlike condition; (c) ensure that any building material which has absorbed water or moisture as a result of a water leak and has not been completely dried as part of the repair of the water or moisture damage is removed and replaced; and (d) clean any area where mold and/or mildew appears with industry-accepted product designed to inhibit the growth of mold and/or mildew.

Section 6.8 Radon. The U.S. Environmental Protection Agency ("EPA") states that exposure to elevated levels of radon gas can be injurious. Any test to measure the level of radon gas can only show the level at a particular time under the circumstances occurring at the time of testing. Owners

may wish to test for the presence of radon gas and to purchase or install devices that may be recommended by qualified radon specialists. If the devices require exterior modifications to the Unit, prior written consent in accordance with the terms of this Declaration is required. Each Owner agrees to hold the Association harmless from any claim or liability with respect to radon gas and related matters.

Section 6.9 Inspection, Maintenance, Repair and Replacement of High-Risk Components.

(a) The Association may, from time to time, after notice to all Owners and an opportunity for comment, determine that certain portions of the Units required to be maintained by the Owners, or certain objects or appliances within the Unit, pose a particular risk of damage to other Units and/or the Common Elements if they are not properly inspected, maintained, repaired or replaced. By way of example, but not limitation, these portions, objects or appliances might include smoke detectors, water heaters and washing machine hoses. Those items determined by the Association to pose a particular risk are referred to herein as "High-Risk Components."

(b) At the same time that it designates a High-Risk Component, or at a later time, the Association may require one or more of the following with regard to the High-Risk Component: (i) that it be replaced or repaired at specified intervals, or with reference to manufacturers' warranties, whether or not the individual component is deteriorated or defective; (ii) that it be replaced or repaired with items or components meeting particular standards or specifications established by the Association; (iii) that when it is repaired or replaced, the installation include additional components or installments the Association specifies; (iv) that it be replaced or repaired by contractors having particular licenses, training or professional certification or by contractors approved by the Board; and (v) if the replacement or repair is completed by an Owner, that it be inspected by a person designated by the Association.

(c) The imposition of requirements by the Association in this provision will not relieve an Owner of his obligations regarding High-Risk Components, including, but not limited to, the obligation to perform and pay for all maintenance, repairs and replacement thereof.

(d) If any Owner fails or refuses to maintain, repair or replace a High-Risk Component in accordance with the requirements established by the Association, the Association may, in addition to all other rights and powers granted to it pursuant to the Governing Documents, enter the Unit for the purpose of inspecting, repairing, maintaining, or replacing the High-Risk Component, as the case may be, and charge all costs of doing so back to the Owner as a specific unit assessment.

Section 6.10 Failure to Maintain. If the Association determines that any Owner has failed or refused to discharge properly his obligation with regard to the maintenance, repair, or replacement of items for which he is responsible hereunder, then it may give the Owner written notice of the Owner's failure or refusal and of the Association's right to provide necessary maintenance, repair, or replacement at the Owner's sole cost and expense. The notice will set forth with reasonable particularity the maintenance, repair, or replacement deemed necessary by the Association.

Unless the Association determines that an emergency exists, the Owner will have ten days within which to complete maintenance or repair, or if the maintenance or repair is not capable of completion within this time period, to commence replacement or repair within ten days. If the Association determines that: (a) an emergency exists, or (b) that an Owner has not complied with the demand given by the Association, then the Association may perform the maintenance, repair, or replacement at the Owner's sole cost and expense, and the costs will be added to and become a part of the assessment to which the Owner is subject, will become the personal obligation of the Owner and a lien against the Unit, and will be collected as provided in this Declaration for the collection of assessments.

ARTICLE 7. COVENANTS AND USE RESTRICTIONS

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

Section 7.2 Use of Units.

(a) **Residential /Business Use.** Each Unit will be used for residential purposes only. No trade or business of any kind may be conducted in or from a Unit or any part of the Community, except that the Owner residing in the Unit, or the Resident may conduct ancillary business activities within the Unit so long as the business activity:

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

(ii) does not involve visitation of the Unit by employees, clients, customers, suppliers or other business invitees;

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

(iv) does not increase traffic in the Community in excess of what would normally be expected for residential Units in the Community without business activity;

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

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

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

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

(b) **Occupancy.** If an Owner is a corporation, partnership, trust or other legal entity which is not a natural person, the entity will designate in writing to the Association the name(s) of the natural person(s) who will occupy the Unit. The maximum number of occupants in a Unit is limited to two people per bedroom in a Unit as the bedrooms were originally constructed.

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

(a) Leases will be for or of the entire Unit.

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

(c) All leases or rental agreements will be in writing and will provide that the lease or rental agreement is subject to all terms of the Governing Documents. Owners are required to provide Residents with copies of the current Declaration and any Rules and Regulations.

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

(e) All leases and rental agreements are subject to the Association's right to remove and/or evict the Resident for failure to comply with the terms of the Governing Documents. If the Association requests that the Owner evict the Resident based on the terms of this Declaration, and the Owner fails to commence action within 30 days of the date of the Association's request and notice, the Association may commence eviction proceedings. Upon the Owner's failure to comply with the Association's request to evict, the Owner delegates and assigns to the Association the power and authority to evict the Resident as attorney-in-fact on behalf of and for the benefit of the Owner. If the Association evicts the Resident, any costs, including but not limited to attorney fees actually incurred and court costs associated with the eviction, will be an Assessment and lien against the Unit.

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

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

Section 7.6 Use of Limited Common Elements and Patios, Decks or Balconies. Except as otherwise provided, the use of the Limited Common Elements is restricted exclusively to the Owner of the Unit to which the Limited Common Elements are assigned, and the Owner's Residents, guests, family members and invitees. The Limited Common Elements are reserved for exclusive use, but will not be construed or interpreted to be separate and apart from the Common Elements in general. The restrictions applicable to the Common Elements also apply to the Limited Common Elements.

Objects over 42 inches in height, laundry garments and objects other than potted plants and patio furniture, except as the Association may authorize, will not be placed on a patio, deck or balcony. Objects will not be permitted to hang over or be attached to any fence, railing or wall or otherwise protrude outside the vertical plane formed by the exterior surface of the fence, railing or wall, unless otherwise authorized by the Board.

Section 7.7 Use of Garages. Garages will be used solely for the purpose of storing vehicles and any other personal property belonging to the Owner or Resident. No Owner or Resident may store any explosives, or any flammable, odorous, noxious, corrosive, hazardous or pollutant materials or any other goods in the garage that would cause danger or nuisance to the Community. Garages may not be used for any purposes unlawful or contrary to any ordinance, regulation, fire code, or health code, provided that a Resident may store a reasonable amount of normal household or

landscaping chemicals or materials in the garage. If hazardous substances are stored, used, generated or disposed of in the garage, or if the garage becomes contaminated in any manner for which the Owner or Resident thereof is legally liable, Owner or Resident will indemnify and hold harmless the Association and Board of Directors from any and all claims, damages, fines, judgments, penalties, costs, liabilities or losses and any and all sums paid from settlement of claims, attorney fees, consultant and expert fees, arising as a result of that contamination by Owner or Resident.

Section 7.8 Compliance with Laws and Insurance Requirements. Nothing may be done or kept in the Community, or any part thereof, that would increase the rate of insurance on the Community or any Unit or part thereof, which would be in violation of any statute, rule, ordinance, regulation, permit or other validly imposed requirements of any governmental body, or which would increase the Common Expenses.

Section 7.9 Prohibition of Nuisance. The Units in the Community are built in close proximity to one another, resulting in the sharing of common walls. As a result, noise and vibration may be detectable between Units or between Units and the Common Elements. Therefore, an Owner or Resident may not conduct activities within a Unit or use a Unit in a manner that unreasonably interferes with or causes unreasonable disruption to another Owner's or Resident's use and quiet enjoyment of the Unit.

Noxious, destructive, offensive or unsanitary activity may not be carried on within the Community. No Owner or Resident may use or allow the use of the Unit or any portion of the Community at any time, in any way, which may endanger persons or property, unreasonably annoy, disturb or cause embarrassment or discomfort to other Owners or Residents, or constitute a nuisance. The intention of this provision is to grant the Association and aggrieved Owners and Residents a right of redress for actions, activities or conduct which unreasonably disturbs or impairs the peaceful and safe enjoyment by Owners and Residents.

Nothing in this section will be construed to affect the rights of an aggrieved Owner or Resident to proceed individually against a violator hereof for relief from interference with his property or personal rights, and the Board may, in its discretion, require aggrieved individuals to seek redress personally for interference with their rights before the Association intervenes and commences enforcement action hereunder. No claim for any loss, damage or otherwise will exist by an aggrieved Owner or Resident against the Association for failure to enforce the provisions hereof if the aggrieved Owner or Resident has not personally pursued all available remedies against the violator for redress provided under Colorado law.

Specific unauthorized and unreasonable annoyances or disturbances shall include, but are not limited to, the following:

- (a) fighting, screaming, shouting, excessively loud talking, whistling, or playing of music or television, raucous behavior or insobriety either outside a Unit at any time or within a Unit if the conduct can be heard in another Unit;
- (b) the use of any alarm, equipment, or device, mechanical or otherwise, which creates or produces excessively loud sounds or any vibrations either outside a Unit at any time or within a Unit if such sounds can be heard or vibrations felt in another Unit;
- (c) threatening or intimidating conduct towards any Resident, guest or pet in the Community;
- (d) conduct which creates any danger or risk of injury to others or of damage to property in the Community;

- (e) excessively loud activities either outside a Unit at any time or within a Unit if the conduct can be heard in another Unit;
- (f) conduct which creates any noxious or offensive odor if the odors can be detected in another Unit;
- (g) incessant or excessive pet noises, including dog barking, if the conduct can be heard in another Unit;
- (h) construction or similar activities in a Unit that can be heard in another Unit between the hours of 10:00 p.m. and 7:00 a.m.;
- (i) similar action or activity outside a Unit or which occurs inside a Unit but which interferes with the peaceful use and enjoyment of another Unit or the Common Elements by any other Owner, members of his family, guests, invitees, or Residents; or
- (j) using or allowing the use of the Unit or the Common Elements in any manner which creates noise between the hours of 10:00 p.m. and 7:30 a.m. which can be heard in another Unit that will unreasonably interfere with the rights, comfort or convenience of any other Owner, members of his family, guests, or Residents.

Section 7.10 **Exterior Lighting.** All exterior lights, including lights located in the patio and front porch area and on the garage exterior, will comply with Archuleta County ordinances intended to protect the night time visual environment and to minimize light pollution. Unless local ordinances are more restrictive, only light bulbs of up to 25 watts or its equivalent may be used in exterior light fixtures.

Section 7.11 **No Damage or Waste.** No Owner, Resident or agent of either may do any work which would jeopardize the soundness or safety of any structure within the Community, or would impair any easement or other interest in the Community, without prior written consent of all Association Members and their first Mortgage Holders.

No damage to or waste of the Common Elements, or any part thereof, will be permitted by any Owner or any Resident, guest, family member or invitee of any Owner. Each Owner and Resident will indemnify and hold the Association and the other Owners harmless against all loss to the Association or other Owners resulting from any such damage or waste caused by the Owner or Resident, or the Owner's or Resident's guest, family member or invitee.

Section 7.12 **Pets.**

(a) An Owner may keep a total of two (2) generally recognized household pets (dogs or cats) in the Unit. A reasonable number of household pets weighing less than two pounds each may also be kept within the Unit. No pot-bellied pigs, venomous snakes, or other animals determined in the Association's sole discretion to be dangerous animals may be brought into or kept in the Community at any time. The Association may adopt additional Rules and Regulations to supplement this section.

(b) No Owner or Resident may keep, breed or maintain any pet for any commercial purpose. No structure for the care, housing, or confinement of any pet may be constructed or maintained on any part of the Common Elements, including Limited Common Elements. Dogs must be kept on a leash and be under the physical control of a responsible person at all times while on the Common Elements, provided, however, dogs need not be leashed when within fenced patio or deck areas when attended. Feces left by pets upon the Common Elements, Limited Common Elements, or in Units, including the pet owner's Unit, must be removed promptly by the pet Owner or other person responsible for the pet.

(c) Following notice and an opportunity for a hearing, the Association may require that any pet which, in its opinion, endangers the health of any Owner or Resident or creates a nuisance or unreasonable disturbance, be permanently removed from the Community upon ten days written notice.

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

Section 7.13 Vehicles and Parking.

(a) General. Parking is subject to the Rules and Regulations adopted by the Board. Each Unit has two assigned parking stalls in the garage appurtenant to the Unit. All vehicles are to be parked in the garage. No garage is to be used for storage if doing so prevents its use for parking the number of vehicles it is designed to hold. No Owner or Resident may keep or bring more than two (2) vehicles per Unit within the Community, unless otherwise approved in writing by the Board. Another vehicle may be parked in the shared driveway only if it is parked in a manner that does not interfere with access to both sides of the garage and/or the neighboring Units.

(b) Owners and Residents may not park in guest parking spaces, unless the Board adopts Rules and Regulations allowing limited parking in such spaces.

(c) Prohibited Vehicles. Boats, trailers, jet-skis and trailers for same, oversized trailers, hauling trailers, pickup trucks over 3/4 ton, panel trucks, buses, vans (excluding vans used by handicapped persons, mini-vans or sport utility vehicles used as passenger vehicles), recreational vehicles (as defined in the Rules and Regulations), commercial vehicles (as defined in the Rules and Regulations) are prohibited, unless parked wholly within a garage if they can be enclosed with the garage door closed. Emergency vehicles, as defined in the Act, are permitted in the Community, without written authorization of the Board. Notwithstanding the above, otherwise prohibited vehicles are allowed temporarily on the Common Elements during normal business hours for the purpose of serving any Unit or the Common Elements; provided, however, no such vehicle may remain on the Common Elements overnight or for any other purpose unless prior written consent of the Board is first obtained. Further, recreational vehicles (as defined in the Rules and Regulations) may be temporarily parked overnight for the purpose of loading and unloading, subject to Rules and Regulations imposing restrictions on the frequency, time and location of such activity.

No unlicensed vehicles may be parked on the Common Elements. No stored or abandoned or inoperable vehicles of any kind may be stored or parked on the Common Elements. An "abandoned or inoperable vehicle" is defined as any passenger car, truck, motorcycle, boat, trailer, camper house trailer, self-contained motorized recreational vehicle, or other similar vehicle, which for a period of two days or longer, does not have an operable propulsion system installed therein, has one or more flat tires or has another condition preventing the regular and normal operation and movement of the vehicle. A vehicle will be considered "stored" if it remains in the same location in the Community for 14 consecutive days or longer without prior written Board permission.

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

If a vehicle located in the Community is blocking another vehicle or garage, is obstructing the flow of traffic, is parked on any grassy area, is parked in a designated handicapped space without the proper

state-issued identification, is parked within 30 feet of US Postal Service mailboxes, or otherwise creates a hazardous condition, no notice will be required and the vehicle may be towed immediately in accordance with the governmental regulations.

If a vehicle is towed in accordance with this section, neither the Association nor any director, officer or agent of the Association will be liable to any person for any claim of damage as a result of the towing. Notwithstanding anything to the contrary herein, the Board may elect to impose fines or use other available sanctions, rather than exercise its authority to tow.

Section 7.14 Vehicle Repair. Maintenance, repair, rebuilding, dismantling, repainting, or any kind of servicing of vehicles, trailers or boats may not be performed or conducted in the Community. This restriction shall not be deemed to prevent washing and polishing of any permitted vehicle, together with those activities normally incident and necessary to washing and polishing, in the driveway.

Section 7.15 Heating of Units in Colder Months. To prevent water pipes from breaking during colder months of the year resulting in damage to the Community, increased Common Expenses, and increased insurance premiums or cancellation of insurance policies due to numerous damage claims, the thermostats within the Units must be maintained with the heat in an "on" position and at a minimum temperature setting of 50° Fahrenheit (except during power failures or periods when heating equipment is being repaired) whenever the temperature is forecasted to or does reach 32° Fahrenheit or below. Owners and Residents must take all reasonable steps on a timely basis to keep heating equipment, including, but not limited to, the thermostat, in good working order and repair. At any time during the colder months when the heating equipment is not working properly, the Owner or Resident must immediately inform the Association of the equipment's failure and of the time needed to repair the equipment. The Association may fine any Owner up to three times the monthly assessment of the Unit in addition to any other remedies of the Association.

Section 7.16 Signs. Except as may be provided for in this Declaration, the Rules and Regulations, or as may be required by state law or legal proceedings, no signs, advertising posters, political placards or billboards of any kind may be erected, placed, or permitted to remain in the Community without the Association's prior written consent, except as follows (a) one professionally lettered "For Rent" or "For Sale" sign not to exceed two feet by two feet in size may be displayed from within a Unit actively being offered for sale or for lease; and (b) political signs as allowed by Colorado law. The Association has the right to erect reasonable and appropriate signs on its behalf.

Section 7.17 Trash and Garbage. All rubbish, trash and garbage must be regularly removed from the Unit and will not be allowed to accumulate therein. Garbage or trash must not be placed on the Common Elements or Limited Common Elements outside the Unit, temporarily or otherwise, except in trash cans. Trash cans may be placed on the Common Elements for pick-up not earlier than the day of pick-up and shall be removed by 10:00 p.m. on the day of pick-up.

Section 7.18 Unightly or Unkempt Conditions. Activities which cause disorderly, unsightly, or unkempt conditions, must not be pursued or undertaken on any part of the Common Elements.

Section 7.19 Antennas and Satellite Dishes. Satellite dishes, antennae or other devices for the transmission or reception of television signals, radio signals or any form of electromagnetic wave or radiation will not be erected, used or maintained by Owners or Residents on any portion of the Common Elements, including the Limited Common Elements, except as allowed by federal law. However, the Association has the right to erect, construct and maintain these devices on the General Common Elements.

Section 7.20 Grilling. The use of outdoor grills in any portion of the Community is governed by applicable state laws and local ordinances having jurisdiction over the Community.

Section 7.21 Personal Property on Common Elements. Personal property (other than vehicles as otherwise permitted in this Declaration) may not be stored, kept, or allowed to remain for more than 24 hours upon any portion of the Common Elements, other than on a Limited Common Element, without prior written Association permission. If the Association determines that a violation exists, then, after two days written notice is placed on the personal property and/or on the front door of the property owner's Unit, if known, the Association may remove and either discard or store the personal property in a location which the Association or its agent may determine. Neither the Association nor its agent has any obligation to return, replace or reimburse the owner of the property. The notice will include the name and telephone number of the person or entity who will remove the property and the name and telephone number of a person to contact regarding the alleged violation.

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

Neither the Association nor its directors, officers or agent will be liable to an Owner or Resident, guest, or family, for loss or damage, by theft or otherwise, of any property which may be stored in or upon any of the Common Elements or for any claim of damage resulting from the removal activity in accordance with this Section. The Association may elect to impose fines or use other available remedies, rather than exercise its authority to remove property hereunder.

Section 7.22 Restriction on Marijuana Use, Growing and Distribution. Except for the growth of medical or recreational marijuana for personal use by the Resident as permitted by Colorado law, no Owner, Resident or other Person may use the Unit or any portion of the Unit for the purpose of growing, cultivating or distributing marijuana. No Owner or Resident may grow marijuana, including medical marijuana, for another person who is not a Resident. No Unit may be used for the production or use of hash oil, whether for personal use or distribution. The restrictions in this section may be further clarified by the Board through rules and regulations. Owners will be responsible for any costs or damages resulting from a violation of this section.

Section 7.23 Rules and Regulations. The Association may adopt, amend and repeal Rules and Regulations concerning and governing the Units, Common Elements and Limited Common Elements in furtherance of the provisions of this Declaration.

Section 7.24 Use of the words Saddle Mountain Townhomes, Saddle Mountain Townhomes Condominiums, and Saddle Mountain Resident's Club, Inc.. Owners or Residents will not use the words Saddle Mountain Townhomes, Saddle Mountain Townhomes Condominiums, Saddle Mountain Resident's Club, Inc., or the logo of the Community or Association, if any, or any derivative thereof, use of which is likely to cause confusion, mistake or deception, without the prior written consent of the Association.

ARTICLE 8. ARCHITECTURAL CONTROLS

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

- (a) make any changes which may affect the structural integrity of any building or affect the utilities, as more fully described in this article;
- (b) make any encroachment onto the Common Elements or Limited Common Elements; or

(c) make any exterior change, alteration, or construction (including painting and landscaping).

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

(a) **Alterations to the Interiors of the Units.**

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

(b) **Combining Units.** Owners have the right, with written approval from the Association, after acquiring an adjoining Unit or an adjoining part of an adjoining Unit, to remove or alter any intervening partition or create apertures or doorways therein, even if the partition in whole or in part is a Common Element, all as provided for in this section, provided the alterations and modifications can and do not impair the structural integrity, electrical systems, mechanical systems, utilities, lessen the support of any portion of the Community.

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

(A) for the Owner to be responsible, now and/or in the future, for any structural deficiencies or problems, electrical deficiencies or problems, mechanical structural integrity, electrical systems, utility or mechanical deficiencies or problems or problems associated with a lessening of support of any portion of the Community, or for violations of any of the provisions of this section, all as may reasonably be determined by the Association;

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

(C) for the Owner's payment of the fees and costs of the Association, together with a deposit against fees and costs which the Association will incur in reviewing and effectuating the application, in an amount reasonably estimated by the Association, in advance of any billing for costs and expenses of the Association;

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

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

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

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

Section 8.3 Architectural Standards. Interpretation, application and enforcement of the architectural standards may vary as members of the Board change. The standard for approval of improvements includes, but is not limited to: (a) aesthetic consideration, (b) materials to be used, (c) compliance with the community-wide standard, this Declaration, or the design standards which may be adopted by the Association, if any, (d) harmony with the external design of the existing building, Units and structures, and the location in relation to surrounding structures and topography, (e) visibility and location of the proposed modification in the Community, and (f) any other matter deemed to be relevant or appropriate by the Association.

Section 8.4 Authority. The Association has the authority to select and employ professional consultants to assist it in discharging its duties. The cost of any consultants are to be paid by the Owner for which plans and specifications have been submitted whether or not submitted plans and specifications are approved. Prior to incurring consultant costs, the Association will notify the Owner of its belief that consultations are necessary. The Owner will then have the right to withdraw the submission. The Association may require payment of costs prior to approval of plans and specifications. The Association also may charge reasonable fees to cover the cost of review or inspections performed hereunder. These fees, if any, will be published in the Rules and Regulations.

Section 8.5 Required Action by the Association. Applications for approval of any architectural modification will be in writing and provide any information as the Association may reasonably require. If the Association fails to approve or to disapprove the application within 45 days after the application and all information as the Association may reasonably require have been submitted, then the Owner submitting the application may issue written notice, to the Association president and the Association's managing agent, regarding the Owner's intent to proceed with the modification as identified in the application. Unless the Association issues a written disapproval of the application within ten days of receipt of the Owner's notice, the approval will not be required and this section will be deemed complied with as to the items specifically identified in the application; provided, however, even if the requirements of this section are satisfied, nothing herein shall authorize anyone to construct or maintain any structure or improvement that is otherwise in violation of the Declaration, the design guidelines, or the Rules and Regulations of the Association or of any applicable zoning or other laws. The Association is the sole arbiter of the application and may withhold approval for any reason, including purely aesthetic considerations, provided no decision of the Association is arbitrary or capricious.

Section 8.6 Encroachments onto Common Elements. The Association may permit Owners to make encroachments onto the Common Elements as it deems acceptable. Permission or approval, if granted, will be provided in writing to the Owner. If any Owner or Resident makes any other exterior change, alteration, or construction (including landscaping) upon the Common Elements or Limited Common Elements without permission or approval as described in this article, he does so at his sole risk and expense. The Association may require that any unapproved change, alteration or construction be removed or that it remain on the Common Elements or Limited Common Elements without reimbursement to the Owner or Resident for any expense he may have incurred in making the change, alteration or construction. All approved Improvements installed or constructed prior to the effective date of this Declaration will be permitted to remain.

Section 8.7 Conditions of Approval. As a condition of approval for a requested architectural change, modification, addition, or alteration, an Owner, on behalf of himself and his successors-in-interest, assumes all responsibilities for maintenance, repair, replacement and insurance of the change, modification, addition, or alteration, unless the Association otherwise agrees in writing. As a further condition of approval, an Owner may be required to execute an agreement setting forth the conditions of approval to be recorded in the records of the Archuleta real property records.

Section 8.8 **Limitation of Liability.** Neither the Association nor its directors, officers, committee members or agents will bear any responsibility for the design, quality, structural integrity or soundness of approved construction or modifications, nor for compliance with building codes, zoning regulations, and other governmental requirements. The Association, its directors, officers, committee members, and agents are not liable for any injury, damages or loss arising out of the manner, design, or quality of approved construction on or to modifications to any Unit. No lawsuit, action or claim may be brought against any of the foregoing for any injury, damage or loss.

Section 8.9 **No Waiver of Future Approvals.** The Association's approval of any proposals, plans and specifications for any work done or proposed, or in connection with any other matter requiring the Association's approval, is not a waiver of any right to withhold approval as to any similar proposals, plans and specifications.

Section 8.10 **Commencement and Completion of Construction.** All changes, modifications and improvements approved by the Association must be commenced within six months from the date of approval unless the Association otherwise agrees in writing. If not commenced within this time, then approval will be deemed revoked, unless the Association gives a written extension for commencing the work. All work approved by the Association must be completed in its entirety within 90 days from the date of commencement, unless the Association otherwise agrees in writing. All approved changes, modifications, and improvements must be completed in their entirety.

Section 8.11 **Variances.** The Association may grant reasonable variances or adjustments from any conditions and restrictions imposed by this Declaration in order to overcome practical difficulties and unnecessary hardships with respect to topography, natural obstructions or aesthetic or environmental considerations arising by reason of the application of the conditions and restrictions contained in the Declaration or in any design guidelines, provided that such variance is not materially detrimental or injurious to other Units or the Common Elements and is based on unique circumstances. All variances shall be in writing. For purposes of this section, the inability to obtain approval of any governmental agency, the issuance of any permit, or the terms of any financing shall not be considered a hardship warranting a variance.

Section 8.12 **Enforcement.** The Association is entitled to stop any construction that does not conform to the approved plans. The Association is further entitled to stop any construction if the Owner fails to submit plans and specifications and/or obtain written approval prior to commencing construction. The Association may require any Owner to remove any improvement or modification, whether partial or completed, and restore the property to its prior condition, if the Owner fails to obtain prior written approval or constructs in a manner that does not conform to the approved plans. These remedies are in addition to all other remedies available, including the authority to levy a fine.

ARTICLE 9. INSURANCE

Section 9.1 **Association's Property Insurance.** The Association will obtain and maintain at all times, as a Common Expense, property insurance as required herein. The Association will use reasonable efforts to secure a blanket hazard insurance policy providing "special form" coverage in an amount equal to full replacement cost, before application of deductibles. If "special form" coverage is not reasonably available at reasonable cost, the Association shall obtain, at a minimum, broad form covered causes of loss, in like amounts.

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

coverage is changed, the Association will make such information available to all Owners by posting the information on the Association's website, if any, or by other written correspondence to the Owners.

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

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

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

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

Section 9.3 Standards for Association Policies.

- (a) The Association will use reasonable efforts to obtain policies that will provide the following:
 - (i) Each Owner is 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;
 - (ii) The insurer waives its rights of subrogation of any claims against directors, officers, the managing agent, the individual Owners and their respective household members;
 - (iii) No act or omission by any Owner not under the control of the Association will void the policy or be a condition to recovery under the policy;
 - (iv) Ordinance or law coverage, demolition cost coverage and increased cost of construction coverage;
 - (v) Any "other insurance" clause contained in the master policy will expressly exclude individual Unit Owners' policies from its operation;
 - (vi) The master policy may not be canceled, substantially modified, or subjected to non-renewal without at least 30 days prior notice in writing to the Association and all Mortgage Holders of Units, except in instances of nonpayment of premiums, which will require at least ten days prior written notice;
 - (vii) The casualty insurance may not contain a "co-insurance" provision;

(viii) All insurance policies of the Association will be primary if there is other insurance in the name of the Owner;

(ix) An inflation guard endorsement.

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

(c) Insurance carried by the Association as a Common Expense is not required to include any part of a Unit that is not depicted on the Map nor will the Association's policy include public liability insurance for individual Owners for liability arising within the Unit.

Section 9.4 Insurance Deductibles. Unless otherwise specified in guidelines or a resolution adopted by the Board in writing, any required deductible on the Association's policy will be a maintenance expense to be paid by the person or persons who would be responsible for the repair or maintenance of such loss in the absence of insurance. If the loss affects more than one Unit or a Unit and the Common Elements, the cost of the deductible may be apportioned equitably by the Board among the parties suffering loss in proportion to the total cost of repair. Notwithstanding this, if the insurance policy provides that the deductible will apply to each Unit separately or to each occurrence, each Owner will be responsible for paying the deductible pertaining to his or her Unit, if any. Owners are encouraged to obtain a policy or endorsement covering the Owner's portion of any deductible incurred pursuant to the Association's insurance policy. If any Owner or Owners fail to pay the deductible when required under this section, then the Association may pay the deductible and assess the cost to the Owner or Owners pursuant to Article 5 of this Declaration.

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

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

Section 9.7 Source and Allocation of Proceeds. If the proceeds of insurance are not sufficient to defray the costs of reconstruction and repair due to failure of the Association to maintain coverage as provided in this Declaration, the additional cost will be a Common Expense. If, for any other reason, the proceeds of insurance are not sufficient to defray the costs of reconstruction and repair, as determined by the Association, the additional costs will be assessed against the Owners of the Unit(s) damaged in proportion to the damage to the Units or against all Owners, in the case of insufficient funds to cover damage to the Common Elements. This assessment will not be considered a special assessment as provided in this Declaration. If there are surplus funds after repair and reconstruction is completed, those funds will be common funds of the Association to be used as directed by the Association.

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

Section 9.9 **Construction Fund**. The net proceeds of the insurance collected on account of a casualty and the funds collected by the Association from assessments against Owners on account of the casualty will constitute a construction fund, which will be disbursed in payment of the cost of reconstruction and repair in the manner set forth in this Declaration to be disbursed by the Association in appropriate progress payments to the contractor(s), supplier(s), and personnel performing the work or supplying materials or services for the repair and reconstruction of the buildings as are designated by the Association.

ARTICLE 10. MORTGAGE HOLDER'S RIGHTS

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

Section 10.2 **Liability for Assessments**. Where the Mortgage Holder of a first Mortgage of record, or other purchaser of a Unit obtains title pursuant to judicial or non-judicial foreclosure of the Mortgage, it is not liable, nor will the Unit be subject to a lien, for the share of the Common Expenses or assessments by the Association chargeable to the Unit which became due prior to acquisition of title except as provided in the Act. The acquirer is responsible for all charges accruing subsequent to the passage of title, including, but not limited to, all charges for the month in which title is passed. Any unpaid share of Common Expenses or assessments is deemed to be Common Expenses collectible from Owners of all the Units, including the acquirer, its successors and assigns.

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

- (a) any condemnation loss or any casualty loss which affects a material portion of the Community or any Unit on which there is a first Mortgage held by the Mortgage Holder;
- (b) any delinquency in the payment of assessments or charges owed by an Owner of a Unit subject to a first Mortgage held by the Mortgage Holder which remains unsatisfied for a period of 60 days, and any default in the performance by an individual Owner of any other obligation under the Governing Documents which is not cured within 60 days;
- (c) any lapse, cancellation, or material modification of any insurance policy maintained by the Association; or
- (d) any proposed action which would require the consent of a specified percentage of Mortgage Holders, as specified herein.

Section 10.4 **No Priority**. No provision of this Declaration or of the Bylaws gives or will be construed as giving any Owner or other party priority over any rights of the first Mortgage Holder in the

case of distribution to an Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Elements.

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

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

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

ARTICLE 11. AUTHORITY AND ENFORCEMENT

Section 11.1 Compliance With and Enforcement of Governing Documents.

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

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

- (i) imposition of reasonable monetary fines, after notice and opportunity for a hearing, which will be a lien upon the violator's Unit;
- (ii) suspension of the right to vote;
- (iii) suspension of the Owner's rights to use the recreational facilities (as well as the rights of the Owner's family, guests and Residents to use the recreational facilities);
- (iv) suspension of any services provided by the Association to an Owner or the Owner's Unit if the Owner is more than 30 days delinquent in paying any assessment or other charge owed to the Association;
- (v) exercise of self-help or action to abate any violation of the Governing Documents in a non-emergency situation, subject to any requirements as may be set forth in this Declaration, including those related to maintenance, repair or replacement;
- (vi) requiring an Owner, at the Owner's expense, to remove any structure or improvement in the Unit or the Common Elements in violation of the Governing Documents and to restore the Unit or Common Elements to its previous condition and, upon failure of the Owner to do so, the Association will have the right to enter the Unit/Common Elements, remove the violation and restore the Unit/Common Elements to substantially the same condition as previously existed and any action will not be deemed a trespass; and
- (vii) other remedies provided for in this Declaration or by applicable law.

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

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

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

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

(e) Costs Incurred By Association. If the Association exercises any of its rights pursuant to this section, all costs will be assessed against the violating Owner or Resident and will be a lien against the Unit. Additionally, subject to the Act, the Association will also be entitled to reasonable attorney fees actually incurred, which will be collected as an assessment.

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

ARTICLE 12. AMENDMENTS

Section 12.1 Amendment by Owners. This Declaration and/or the map may be amended by the affirmative vote, written agreement, or any combination of affirmative vote and written agreement of the Owners holding at least 51% of the total Association vote.

If a proposed amendment will be considered at a Member meeting, notice of the meeting will state the general subject matter of the proposed amendment. No amendment will be effective until certified by the president and secretary of the Association and recorded in the Archuleta, Colorado real property records.

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

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

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

ARTICLE 13. DECLARANT'S RIGHTS

Section 13.1 Declarant's Right to Complete Four (4) Units. In the Original Declaration, Declarant created 24 Units, of which 20 have been constructed and sold to Owners. As of the effective date of this Declaration, four (4) Units have not been constructed. Nothing in this Declaration is deemed to eliminate Declarant's right to construct the last four (4) Units, as depicted on the Map of Saddle Mountain Townhomes, Phase Four, as recorded at Reception No. 20809127, Archuleta County Clerk and Recorder, and conveyed as Full Ownership Interest Units, as defined in the Original Declaration. Such Units must be constructed in accordance with all state and local requirements. Any modifications to the square footage or layout of one or more of the four (4) Units from those, as established on the Map of Saddle Mountain Townhomes, Phase Four, as recorded at Reception No. 20809127, Archuleta County Clerk and Recorder, must be approved by the Association. Any modifications to the square footage may result in a separate formula for allocating Common Expenses and notes to such Units.

Section 13.2 Declarant's Easements Over Common Elements.

(a) Declarant, including any successor declarant, has a general easement over, across, through and under the Common Elements to:

- (i) discharge Declarant's obligations under this Declaration;
- (ii) exercise any of Declarant's rights under this Declaration; and
- (iii) make improvements in any portion of the Community owned by the Declarant or its successor.

(b) Declarant has the right to:

- (i) establish from time to time access, utility, drainage and other easements, permits or licenses over, across, through and under the Common Elements for Declarant, and other Persons; and
- (ii) create other reservations, exceptions and exclusions for the best interest of Declarant, and other persons, on the conditions that (A) the parties benefitted by the easement, license, permit, reservation, exception or exclusion must use reasonable efforts to locate any such easement, license, permit, exception or exclusion to minimize interference with the use of the Community by the Owners, to the extent practicable, and (B) if the parties benefitted by the easement, license, permit, reservation, exception or exclusion construct or install any improvements in the Community pursuant to the same, the benefitted parties will promptly repair any damage caused to the Community thereby at their sole cost and expense.

Section 13.3 Special Declarant's Rights.

(a) Improvements. Declarant and any successor Declarant(s) has the right, but is not obligated to construct any improvements shown on the Map. At the time of approval of this Declaration, Building Six, containing four Units and depicted on the map for Saddle Mountain Townhomes, Phase Four, has not been constructed.

(b) Sales Office and Models. Declarant and any successor Declarant has the right to maintain a sales office or models within any Unit which Declarant wholly owns, provided that such sales office or model solely relates to Units for sale by Declarant within the Community and does not involve the sale or model of any other real estate or property outside of the Community. Declarant also reserves for itself and any successor Declarant(s) the right to construct and maintain signs advertising the Community on Common Elements near the entrance of the community and/or near the Declarant-owned Units for sale.

(c) Exercising Special Declarant Rights. Declarant may exercise its special declarant rights as set forth herein at any time prior to May 18, 2054. Declarant may exercise its special declarant rights in any order, and no assurance is given as to the order in which Declarant may exercise its special declarant rights. If Declarant exercises any special declarant right with respect to any other portion of the Community, Declarant may, but is not obligated to exercise that special declarant right with respect to any other portion of the Community.

(d) Interference with Special Declarant Rights. The Association may not take any action or adopt any rule or regulation that interferes with or diminishes any special declarant right, without Declarant's prior written consent.

(e) Rights Transferable. Declarant may transfer any special declarant right reserved to it under this sub-section or under any other provision of this Declaration in accordance with the terms and conditions of the Act.

ARTICLE 14. GENERAL PROVISIONS

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

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

Section 14.3 Interpretation. The provisions of this Declaration will be liberally construed to effectuate their purposes of providing a uniform plan for the Community and of promoting and effectuating the fundamental concepts set forth in the recitals of this Declaration. This Declaration shall be construed and governed under the laws of the State of Colorado.

Section 14.4 Electronic Records, Notices and Signatures. Notwithstanding any other portion of this Declaration, records, signatures and notices will not be denied validity or effectiveness hereunder solely on the grounds that they are transmitted, stored, made or presented electronically. The relevant provisions of the Bylaws shall govern the giving of all notices required by this Declaration.

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

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

Section 14.7 Conflicts. In case of any conflict between this Declaration and the Articles of Incorporation or Bylaws of the Association, this Declaration shall control. In case of any conflict between the Articles of Incorporation and the Bylaws of the Association, the Articles of Incorporation shall control.

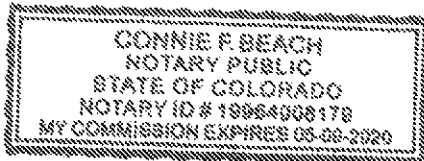
Section 14.8 Public in General. The rights and burdens created in this Declaration do not, are not intended to, and will not be construed to create any rights and burdens in or for the benefit of the general public.

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

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

IN WITNESS WHEREOF, the undersigned officer of Saddle Mountain Resident's Club, Inc., hereby certifies that this Amended and Restated Declaration was duly adopted by the Members of the Association.

This 7th day of AUGUST, 2016.



SADDLE MOUNTAIN RESIDENT'S CLUB, INC.

By: [Signature]
TERRY E. FORD, SECRETARY

STATE OF COLORADO)
COUNTY OF DEWEL) ss.

The foregoing Declaration was acknowledged before me by Terry E. Ford,
Secretary of the Association, on this 7 day of August, 2016.

[Signature]
Notary Public

My commission expires: 5-9-2020

DECLARANT'S CONSENT:

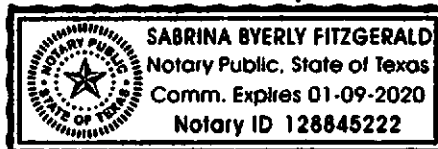
SADDLE MOUNTAIN TOWNHOMES LTD., LLLP (a Colorado Limited Liability Partnership)

By: [Signature]

Name: Tim Fasermyer

Title: Member

STATE OF COLORADO Texas)
COUNTY OF Travis) ss.



The foregoing Declaration was acknowledged before me by Tim Fasermyer
Declarant of the Association, on this 2nd day of August, 2016.

Sabrina Byerly Fitzgerald
Notary Public

My commission expires: 1.9.20

EXHIBIT "A"
LEGAL DESCRIPTION OF CONDOMINIUM

All property as described on the following maps:

1. Saddle Mountain Townhomes Phase One, recorded May 18, 2004 at Reception No. 20404318, Archuleta County Clerk and Recorder, Colorado
2. Saddle Mountain Townhomes Phase Two, recorded December 7, 2005 at Reception No. 20513098, Archuleta County Clerk and Recorder, Colorado
3. Saddle Mountain Townhomes Phase Three, recorded August 16, 2006 at Reception No. 20607908, Archuleta County Clerk and Recorder, Colorado
4. Saddle Mountain Townhomes Phase Four, recorded November 12, 2008 at Reception No. 20809127, Archuleta County Clerk and Recorder, Colorado