

THE GARFIELD HOMEOWNERS ASSOCIATION, INC.

**DECLARATIONS
of Covenants, Conditions, and Restrictions**

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DECLARATION OF COVENANTS,
CONDITIONS, AND RESTRICTIONS
OF
SUN GARDENS CONDOMINIUMS

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- Exhibit A - Property Initially Subject to the Declaration
- Exhibit B - Common Elements
- Exhibit C - Title Exceptions

CONDOMINIUM DECLARATION
OF
THE GARFIELD CONDOMINIUMS

THIS DECLARATION is made by The Mitchell Right Company, Inc., a Colorado corporation ("Declarant").

WITNESSETH:

THAT, WHEREAS, Declarant is the owner of that certain real property located in the City and County of Denver, State of Colorado, which is described on Exhibit A, attached hereto and incorporated hereby by this reference; and

WHEREAS, Declarant desires to subject and place upon the above-described property certain covenants, conditions, restrictions, easements, encumbrances, rights-of-way, obligations, liabilities and other charges set forth herein for the purpose of protecting the value and desirability of said property and for the purpose of furthering a plan for the improvement, sale and condominium ownership of said property, in the end that a harmonious and attractive development of said property may be accomplished and the health, comfort, safety, convenience and general welfare of the Declarant, its successors and assigns in said property, or any portion thereof, may be promoted and safeguarded.

NOW, THEREFORE, Declarant hereby declares that all of the property described above shall be held, sold, and conveyed subject to the following covenants, conditions, restrictions, easements, rights-of-way, obligations, liabilities, charges and other provisions set forth herein, which are for the purpose of protecting the value and desirability of, and which shall run with, the above-described property and be binding on all parties having any right, title, or interest in the above-described property or any part thereof, their heirs, personal representatives, successors, and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I
DEFINITIONS

1. "Act" means the Colorado Common Interest Ownership Act, C.R.S. 38-38.2-101, et al., as amended.

2. "Agencies" collectively means the Government National Mortgage Association (GNMA), the Federal Home Loan Mortgage Corporation (FHLMC), the Federal National Mortgage Association (FNMA), the Department of Housing and Urban Development (HUD), the Veterans Administration (VA) or any other governmental or quasi-governmental agency or any other public, quasi-public or private

entity which performs (or may in the future perform) functions similar to those currently performed by any of such entities.

3. "Allocated Interests" means the Common Expense Liability and votes in the Association allocated to each Unit. The Allocated Interest of each Unit at any time shall be equal to a fraction, the numerator of which is one (1) and the denominator of which is the total number of Units within the Common Interest Community at such time.

4. "Architectural Review Committee" or "Committee" means the committee appointed by the Declarant or by the Association to review and approve or disapprove plans for Improvements, as more fully provided in this Declaration.

5. "Association" means The Garfield Homeowners Association, Inc., a unit owners' association organized under section 28-28.1-301 of the Act.

6. "Common Elements" means the totality of:

(a) The Common Interest Community;

(b) The Condominium Buildings (including, but not by way of limitation, the foundations, columns, girders, beams, supports, perimeter and supporting walls, flues, hallways, roofs, elevators, stairs, stairways, mechanical rooms, maintenance/storage rooms, and entrances and exits, and the mechanical installations of the Condominium Buildings consisting of the equipment and materials making up any services such as power, light, gas, hot and cold water, heating, refrigeration, air conditioning and incinerating, which exist for common uses, including the pipes, vents, ducts, flues, chutes, conduits, wires, and other similar utility installations used in connection therewith), except for the Individual Air Space Units; and

(c) Any sidewalks, walkways, paths, grass, shrubbery, trees, driveways, parking areas, landscaping and gardens, if any, located on the Common Interest Community; and

(d) The tanks, pumps, motors, fans, compressors, ducts and, in general, all apparatus, installations and equipment of the Condominium Buildings existing for common use of some of all of the Unit Owners; and

(e) In general, all other parts of the Common Interest Community including, without limitation, the Common Elements depicted on the Condominium Map and any items designated by Declarant as Common Elements under other provisions of this Declaration which exist for the common use of more than one of the Owners (except for Limited Common Elements), and all other parts of

the Common Interest Community necessary or convenient to its existence, maintenance or safety, and normally in common use.

7. "Common Expense Liability" means the liability for Common Expenses allocated to each Unit based on its Allocated Interest.

8. "Common Expenses" means expenditures made or liabilities incurred by or on behalf of the Association, together with any allocations to reserves.

9. "Common Interest Community" means real estate described in this Declaration, as supplemented and amended from time to time, with respect to which a Person, by virtue of such Person's ownership of a Unit, is obligated to pay for real estate taxes, insurance premiums, maintenance, or improvement of other real estate described in this Declaration. This Common Interest Community is created by recording of this Declaration, and the Condominium Map, in the City and County of Denver, Colorado, and shall be indexed in the grantee's index in the name of the Common Interest Community and in the name of the Association and in the grantor's index in the name of each Person executing this Declaration. However, this Common Interest Community shall not be deemed to have been created with respect to the property described on the attached Exhibit A until this Declaration and the Condominium Map therefor have been recorded.

10. "Condominium Building" means any building (including all fixtures and improvements therein contained) located on the Common Interest Community and within which one or more Individual Air Space Units are located.

11. "Condominium Map" means the condominium map(s) of the Common Interest Community and Improvements thereon that are subject to this Declaration, and which are designated as the Condominium Map for The Garfield Condominiums, recorded or to be recorded in the records of the office of the Clerk and Recorder of the City and County of Denver, Colorado. More than one Condominium Map or supplement thereto may be recorded, and, if so, then the term "Condominium Map" collectively means all of such condominium maps and supplement thereto. The Condominium Map shall depict all or a portion of the Common Interest Community in three dimensions, and shall be executed by a Person who is authorized by the Act to execute a declaration relating to this Common Interest Community. Further, the Condominium Map shall include a certificate of completion executed by an independent licensed or registered engineer, surveyor or architect, stating that all structural components of the Condominium Buildings that concern or comprise any Units there created are substantially completed.

12. "Declarant" means The Mitchell Right Company, Inc., a Colorado corporation, and any other Person or Group of Persons acting in concert therewith.

(a) As part of a common promotional plan, offers to dispose of to a purchaser such Declarant's interest in a Unit not previously disposed of to a purchaser; or

(b) Reserves or succeeds to any Special Declarant Right.

13. "Declaration" means this Condominium Declaration and any other recorded instruments, however denominated, that create this Common Interest Community, including any amendments to those instruments and also including, but not limited to, the Condominium Map and any other plats and maps.

14. "Executive Board" means the body, regardless of name, designated in this Declaration and the Bylaws of the Association to act on behalf of the Association.

15. "First Security Interest" means a Security Interest (as hereinafter defined) that has priority of record over all other recorded liens except those liens made superior by statute (such as general lien against tax liens and special assessments).

16. "General Common Elements" means all of the Common Elements except the Limited Common Elements.

17. "Improvements" means all improvements, structures, and any appurtenances thereto or components thereof of every type or kind, and all landscaping features, including, but not limited to, buildings, outbuildings, swimming pools, tennis courts, patios, patio covers, awnings, solar collectors, painting or other finish materials on any visible structure, additions, walkways, sprinkler systems, garages, carports, driveways, fences, screening walls, retaining walls, stairs, decks, landscaping, hedges, windbreaks, plantings, trees, shrubs, flowers, vegetables, mulch, gravel, bark, light fixtures, poles, signs, clocks, and air conditioning, cooling, heating and water softening equipment.

18. "Individual Air Space Unit" means the air space contained within the enclosed rooms occupying part of a floor or floors in a Condominium Building, and bounded by the unfinished exterior surfaces of the perimeter walls (or the adjoining walls, if two or more Individual Air Space Units adjoin each other), unfinished interior surfaces of floors (or the lowermost floors, if it is an Individual Air Space Unit containing more than one level), unfinished interior surfaces of ceilings (or the uppermost ceilings, if it is an Individual Air Space Unit containing more than one level), and the unfinished interior surfaces of windows and window frames, doors and door frames of a Condominium Building, and which is separately identified on the Condominium Map. All lath, furring, wallboard, plasterboard, plaster, paneling tiles, wallpaper, paint and finished flooring and any other materials constituting any part of the finished flooring and any other materials constituting any of the finished surfaces thereof as a

part of the Individual Air Space Unit, and all other portions of the walls, floors or ceiling are a part of the Common Elements. Each Individual Air Space Unit shall have access to a public street.

If any chute, flue, duct, wire, conduit, bearing wall, bearing column, or other fixture lies partially within and partially outside the designated boundaries of an Individual Air Space, any portion thereof serving only that Unit is a Limited Common Element allocated solely to that Unit, and any portion thereof serving more than one Unit or any portion of the Common Elements is a part of the Common Elements, provided, however that all spaces, interior partitions, and other fixtures and improvements within the boundaries of a Unit are a part of the Unit. Any shutters, awnings, window boxes, doorsteps, stoops, porches, balconies, and patios and all exterior doors and windows or other fixtures designed to serve a single Individual Air Space Unit, but located outside the Unit's boundaries, are Limited Common Elements allocated exclusively to that Unit.

19. "Limited Common Elements" means those parts of the Common Elements which are either limited to and reserved for the exclusive use of the Unit Owner(s) of a particular Unit. Without limiting the foregoing, the Limited Common Elements shall include the utility, heating, air conditioning and domestic hot water equipment associated with or providing service to a Unit; any parking spaces, storage rooms, and balconies designated as such on any Condominium Map. If any chute, flue, duct, wire, conduit, bearing wall, bearing column, or other fixture lies partially within and partially outside the designated boundaries of an Individual Air Space, any portion thereof serving only that Unit is a Limited Common Element allocated solely to that Unit, and any portion thereof serving more than one Unit or any portion of the Common Elements is a part of the Common Elements, provided, however that all spaces, interior partitions, and other fixtures and improvements within the boundaries of a Unit are a part of the Unit. Any shutters, awnings, window boxes, doorsteps, stoops, porches, balconies, and patios and all exterior doors and windows or other fixtures designed to serve a single Individual Air Space Unit, but located outside the Unit's boundaries, are Limited Common Elements allocated exclusively to that Unit. The Limited Common Elements shall be used in connection with the applicable Individual Air Space Unit(s) to the exclusion of the use thereof by the other Unit Owners, except by invitation. No reference to any Limited Common Elements need be made in any instrument of conveyance, encumbrance or other instrument.

20. "Member" means each Unit Owner; membership in the Association shall be appurtenant to, and may not be separated from, ownership of a Unit.

21. "Period of Declarant Control" means a length of time expiring three (3) years after initial recording of this Declaration in the City and County of Denver, Colorado; provided that the Period of Declarant Control shall terminate no later than either sixty (60) days after conveyance of seventy-five percent (75%) of the Units that May Be Created to Unit Owners other than a Declarant, two (2) years after the conveyance of a Unit by the Declarant in the ordinary course of business.

22. "Person" means a natural person, a corporation, a limited liability company, a partnership, an association, a trust, or any other entity or any combination thereof.

23. "Security Interest" means an interest in the Common Interest Community, or any portion thereof, created by contract or conveyance which secures payment or performance of any obligation. The term includes a lien created by a mortgage, deed of trust, trust deed, security deed, contract for deed, land sales contract, deed recorded as security, assignment of lease or rents intended as security, pledge of an ownership interest in the Association, and any other consensual lien or title retention contract intended as security for an obligation. For purposes of Article IV, Section 12 hereof, and with respect to notice of cancellation or substantial modification of certain insurance policies, to Article VI, Section 2 hereof, "Security Interest" shall also mean any and every executory land sales contract wherein the Administrator of Veterans Affairs, an Officer of the United States of America, is the seller, whether such contract is recorded or not, and whether such contract is owned by the said Administrator or has been assigned by the Administrator and is owned by the Administrator's assignee, or a remote assignee, and the land records in the Office of the Clerk and Recorder of each county in which any portion of the Common Interest Community is located, show the Administrator as having the record title to the Unit.

24. "Security Interest Holder" means any Person named as a mortgagee or beneficiary, or in a similar capacity, under any Security Interest (including, for purposes of Article IV, Section 12 hereof, and, with respect to notice of cancellation or substantial modification of certain insurance policies, to Article VI, Section 2 hereof, the Administrator of Veterans Affairs, an Officer of the United States of America, and his assigns under any executory land sales contract wherein the said Administrator is identified as the seller, whether such contract is recorded or not and the land records of the Clerk and Recorder of each county in which any portion of the Common Interest Community is located, show the Administrator as having the record title to the Unit, or any successor to the interest of any such Person under such Security Interest.

25. "Special Declarant Rights" means rights reserved for the benefit of a Declarant to perform the following acts: To complete

Improvements indicated on plats and maps filed with the Declaration; to exercise any Development Right; to maintain sales offices, management offices, signs advertising the Common Interest Community, and models; to use easements through the Common Elements for the purpose of making Improvements within the Common Interest Community; to make the Common Interest Community subject to a master association; to merge or consolidate a Common Interest Community of the same form of ownership; or to appoint or remove any officer of the Association or any Executive Board member during any Period of Declarant Control. All of the Special Declarant Rights may be exercised by the Declarant with respect to any portion of the property now or hereafter within the Common Interest Community. Declarant may exercise any or all of these Special Declarant Rights at any time and from time to time. Such rights shall terminate automatically on the earlier of the following events: (a) conveyance of the last Unit by Declarant to a Unit Owner other than Declarant; (b) three (3) years from the date of recordation of this Declaration, except with respect to the appointment of officers and directors which may only be exercised in accordance with Article III hereof.

25. "Unit" means an Individual Air Space Unit, together with all fixtures and improvements therein contained and together with the undivided interest in the Common Elements appurtenant to the Individual Air Space Unit (which shall be the allocated interest of such Unit) as shown on Exhibit B, attached hereto and incorporated herein by this reference.

26. "Unit Owner" means the Declarant or other Person who owns a Unit, but does not include a Person having an interest in a Unit solely as security for an obligation. The Declarant is the owner of any Unit created by the Declaration until that Unit is conveyed to another Person who may or may not be a Declarant under this Article.

ARTICLE II MEMBERSHIP AND VOTING RIGHTS

1. Membership. Membership of the Association at all times shall consist exclusively of all Unit Owners or, following termination of the Common Interest Community, of all former Unit Owners entitled to distributions of proceeds under the Act or their heirs, personal representatives, successors or assigns. Membership shall be appurtenant to and may not be separated from ownership of any Unit.

2. One Class of Membership. The Association shall have one class of voting membership. Each Unit Owner shall be entitled to one (1) vote for each Unit owned in accordance with the allocated interest attributable to such Unit, except that no votes allocated to a Unit owned by the Association may be cast. The total number of votes which may be cast in connection with any matter shall be

equal to the total number of Units then existing within the Association. For the Period of Declarant Control, the Declarant or Persons appointed by the Declarant may appoint and remove all officers and members of the Executive Board which have been appointed by such Declarant. A Declarant may voluntarily surrender the right to appoint and remove officers and members of the Executive Board before termination of the Period of Declarant Control; but, in that event, the Declarant may require, for the duration of the Period of Declarant Control, that specified actions of the Association or Executive Board, as described in a recorded instrument executed by the Declarant, be approved by the Declarant before they become effective.

ARTICLE VII
EXECUTIVE BOARD MEMBERS AND OFFICERS

1. Authority of Executive Board. Except as provided in this Declaration or the Association Bylaws, the Executive Board may act in all instances on behalf of the Association.
2. Election of Unit Owners During Period of Declarant Control. No later than sixty (60) days after conveyance of two and one-half percent (2 1/2%) of the Units that May Be Created to Unit Owners other than a Declarant, at least one (1) member and not less than twenty-five percent (25%) of the members of the Executive Board must be elected by Unit Owners other than the Declarant. Not later than sixty (60) days after conveyance of fifty percent (50%) of the Units that May Be Created to Unit Owners other than a Declarant, not less than thirty-three and one-third percent (33 1/3%) of the members of the Executive Board must be elected by Unit Owners other than a Declarant.
3. Termination of Period of Declarant Control. Not later than the termination of any Period of Declarant Control, the Unit Owners shall elect an Executive Board of at least three members, a majority of whom must be Unit Owners other than the Declarant or designated representatives of Unit Owners other than the Declarant. The Executive Board shall elect the officers. The Executive Board members and officers shall take office upon election.
4. Delivery of Documents by Declarant. Within sixty (60) days after the Unit Owners other than the Declarant elect a majority of the members of the Executive Board, the Declarant shall deliver to the Association all property of the Unit Owners and of the Association held by or controlled by the Declarant, as provided in the Act.
5. Budget. Within thirty (30) days after adoption of any proposed budget for the Common Interest Community, the Executive Board shall mail, by ordinary first-class mail, or otherwise deliver, a summary of the budget to all the Unit Owners and shall

set a date for a meeting of the Unit Owners to consider ratification of the budget not less than four (4) nor more than sixty (60) days after mailing or other delivery of the summary. Unless at that meeting the vote of eighty percent (80%) of the Allocated Interests rejects the budget, the budget is ratified, whether or not a quorum is present. In the event that the proposed budget is rejected, the periodic budget last ratified by the Unit Owners must be continued until such time as the Unit Owners ratify a subsequent budget proposed by the Executive Board.

ARTICLE IV COVENANT FOR MAINTENANCE ASSESSMENTS

1. Creation of the Lien and Personal Obligation for Assessments. Each Unit Owner, including Declarant, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, covenants and agrees and shall be personally obligated to pay to the Association: annual assessments or charges, special assessments, and other charges, fines, fees, interest, late charges, and other amounts, all as provided in this Declaration; with such assessments and other amounts to be established and collected as hereinafter provided. The annual and special assessments, together with interest, late charges, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the Unit against which each such assessment is made. The obligation for such payments by each Unit Owner to the Association is an independent covenant with all amounts due, from time to time, payable in full when due without notice or demand (except as otherwise expressly provided in this Declaration), and without set-off or deduction. All Unit Owners of each Unit shall be jointly and severally liable to the Association for the payment of all assessments, fees, charges and other amounts attributable to their Unit. Each assessment, together with interest, late charges, costs, and reasonable attorney's fees, shall also be the personal obligation of the Person who was the Unit Owner of such Unit at the time when the assessment became due. The personal obligation for delinquent assessments shall not pass to any Unit Owner's successors in title unless expressly assumed by them. The Association's lien on a Unit for assessments shall be superior to any homestead exemption now or hereafter provided by the laws of the State of Colorado or any exemption now or hereafter provided by the laws of the United States. The acceptance of a deed to a Unit subject to this Declaration shall constitute a waiver of the homestead and any other exemption as against said assessment lien.

2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents of the Units, and for all of those purposes and activities which may be required of the Association or which the Association may be empowered to pursue pursuant to this Declaration or the Articles of Incorporation or

Bylaws of the Association, or by law; provided however, that such assessments levied during the Period of Declarant Control may not be used for the purpose of constructing capital Improvements.

3. Initial Annual Assessment. Until the effective date of an Association budget ratified by the Unit Owners with a different amount for the Common Expense assessment, as provided above, the amount of the annual Common Expense assessment against each Unit shall be computed at the rate of One Hundred Fifty and no/100 Dollars (\$150.00) per Unit per month.

4. Rate of Assessment. Annual and special assessments shall be fixed at a uniform rate for all Units sufficient to meet the expected needs of the Association. The Common Expense assessments shall include an adequate reserve fund for the maintenance, repair and replacement of those items that must be maintained, repaired or replaced on a periodic basis, and for the payment of insurance deductibles. All Common Expenses shall be assessed against all the Units in accordance with the Allocated Interests set forth in this Declaration. If the Common Expense Liability is reallocated, Common Expense assessments and any installments thereof not yet due shall be recalculated in accordance with the reallocated Common Expense Liability.

5. Date of Commencement of Annual Assessments. Until the Association makes a Common Expense assessment, the Declarant shall pay all Common Expenses. After any assessment has been made by the Association, assessments shall be made no less frequently than annually and shall be based on a budget adopted by the Association as provided above. The annual Common Expense assessments shall be due and payable in monthly installments, in advance, provided that the first annual assessment shall be adjusted to reflect the time remaining in the Unit Association fiscal year. Any Unit Owner purchasing a Unit between Common Expense assessment due dates shall pay a pro rata share of the last payment due.

6. Special Assessments. In addition to the annual Common Expense assessments authorized in this Article, the Association, with the approval of the votes of two-thirds (2/3) of the Allocated Interests cast by Members voting in person or by proxy at a meeting duly called for this purpose, may levy, in any fiscal year, a special assessment applicable to that year only, for the purpose of defraying in whole or in part the cost of any construction, reconstruction, repair or replacement of a capital Improvement upon the Common Elements or any portion of property for which the Association has repair and/or reconstruction obligations, including fixtures and personal property related thereto, or for repair or reconstruction of any damaged or destroyed Improvements located on such Common Elements or property, or for the funding of any operating deficit incurred by the Association. Any such special assessment shall be set against each Unit in accordance with the Allocated Interests set forth in this Declaration. A meeting of

the Members called for the purpose of considering the establishment of a special assessment shall be held in accordance with Section 7 of this Article IV. Notwithstanding the foregoing, special assessments levied during the Period of Declared Control may not be used for the purpose of constructing capital improvements.

7. Notice and Quorum for Any Special Assessments. Written notice of any meeting called for the purpose of taking any action authorized under Section 6 of this Article shall be sent to all Members not less than 30 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast sixty percent (60%) of all the Membership votes shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 30 days following the preceding meeting.

8. Lien for Assessments.

(a) The Association has a statutory lien on a Unit for any assessment levied against that Unit or for fines imposed against its Unit Owner. Fees, charges, late charges, attorney fees, fines and interest charged pursuant to this Declaration are enforceable as assessments under this Article. The amount of the lien shall include all those items set forth in this section from the time such items become due. If an assessment is payable in installments, each installment is a lien from the time it becomes due, including the due date set by any valid Association Declaration of installment obligations.

(b) Recording of the Declaration constitutes record notice and perfection of the lien. No further recordation of any claim of lien for assessments is required. However, the Executive Board or managing agent of the Association may prepare, and record in the county in which the applicable Unit is located, a written notice setting forth the amount of the unpaid indebtedness, the name of the Unit Owner of the Unit, and a description of the Unit. If a lien is filed, the costs and expenses thereof shall be added to the assessment for the Unit against which it is filed and collected as part and parcel thereof. The Association's lien may be foreclosed in like manner as a mortgage on real estate.

(c) A lien for unpaid assessments is extinguished unless proceedings to enforce the lien are instituted within six (6) years after the full amount of assessments becomes due.

(d) Unless the Declaration otherwise provides, if two or more associations have liens for assessments created at any time on the same property, those liens have equal priority.

9. Priority of Association Lien.

(a) A lien under this Article IV is prior to all other liens and encumbrances on a Unit except:

(1) Liens and encumbrances recorded before the recordation of the Declaration;

(2) A Security Interest on the Unit which has priority over all other Security Interests on the Unit and which was recorded or perfected before the date on which the assessment sought to be enforced became delinquent;

(3) Liens for real estate taxes and other governmental assessments or charges against the Unit.

(b) A lien under this Section is also prior to the Security Interests described in the preceding subsection (a) to the extent of an amount equal to the Common Expense assessments based on a periodic budget adopted by the Association as provided above which would have become due, in the absence of any acceleration, during the six (6) months immediately preceding institution by either the Association or any party holding a lien senior to any part of the Association lien created under this section of an action or a nonjudicial foreclosure either to enforce or to extinguish the lien.

(c) This Section 9 does not affect the priority of mechanics' or craftsmen's liens or the priority of liens for other assessments made by the Association. A lien under this Article is not subject to the provisions of Part 2 of Article 41 of the C.R.S., as amended, or to the provisions of Section 38-10-201, C.R.S. 1973, as amended.

10. Receiver. In any action by the Association to collect assessments or to foreclose a lien for unpaid assessments, the court may appoint a receiver of the Unit Owner to collect all sums alleged to be due from the Unit Owner prior to or during the pending of the action. The court may order the receiver to pay any sums held by the receiver to the Association during the pending of the action to the extent of the Association's common expense assessments.

11. Certificate of Status of Assessments. The Association shall furnish to a Unit Owner or such Unit Owner's designee or to a holder of a Security Interest or its designee, upon written request delivered personally or by certified mail, first class postage prepaid, return receipt, to the Association's registered agent, a written statement setting forth the amount of unpaid assessments currently levied against such Unit Owner's Unit. The statement shall be furnished within fourteen (14) calendar days after receipt of the request and is binding on the Association, the

Executive Board, and every Unit Owner. If no statement is furnished to the Unit Owner or Security Interest Holder or their designee, delivered personally or by certified mail, first class postage prepaid, return receipt requested, to the inquiring party, then the Association shall have no right to assert a lien upon the Unit for unpaid assessments which were due as of the date of the request.

12. Effect of Non-Payment of Assessments; Remedies of the Association. Any assessment not paid within ten (10) days after the due date thereof may bear interest from the due date at the rate of twenty-one percent (21%) per annum, or at such lesser rate as may be set from time to time by the Executive Board, and the Executive Board may assess thereon a late charge not in excess of Fifty and no/100 Dollars (\$50.00) per month. The Association may bring an action at law against the Unit Owner personally obligated to pay the same, or foreclose the lien against such Unit Owner's Unit. If a judgment or decree is obtained, including without limitation in a foreclosure action, such judgment or decree shall include interest on the assessment and a reasonable attorney's fee to be fixed by the court, together with the costs of the action, and may include interest and late charges, as above provided. No Unit Owner may be exempt from liability for payment of the assessments by waiver of the use or enjoyment of any of the Common Elements or by abandonment of the Unit against which the assessments are made. This Article does not prohibit actions or suits to recover sums for which this Declaration creates a lien, or to prohibit the Association from taking a deed in lieu of foreclosure.

13. Surplus Funds. Any surplus funds of the Association remaining after payment of or provision for Common Expenses and any prepayment of or provision for reserves shall be retained by the Association as unallocated reserves and need not be paid to the Unit Owners in proportion to their Common Expense Liability or credited to them to reduce their future Common Expense assessments.

14. Working Capital Fund. The Association or Declarant shall require the first Unit Owner of any Unit who purchases that Unit from Declarant to make a non-refundable contribution to the Association of Five Hundred and no/100 Dollars (\$500.00). Said contribution shall be collected and transferred to the Association at the time of closing of the sale by Declarant of each Unit and shall, until use, be maintained in a segregated account with other such working capital funds for the use and benefit of the Association, including, without limitation, to meet unforeseen expenditures or to purchase additional equipment, property or services. Such contribution to the working capital fund shall not relieve a Unit Owner from making regular payments of assessments as the same become due. Upon the transfer of his Unit, a Unit Owner shall be entitled to a credit from his transferee (but not from the Association) for the aforesaid contribution to working capital fund.

15. Assessments for Misconduct. If any Common Expense is caused by the misconduct of any Unit Owner, the Association may assess that Common Expense exclusively against such Unit Owner and his Unit.

ARTICLE V
ARCHITECTURAL REVIEW COMMITTEE

1. Composition of Committee. The Architectural Review Committee shall consist of one (1) or more persons appointed by the Executive Board; provided, however, that until all of the Units have been conveyed to the first Unit Owner thereof (other than Declarant), Declarant shall appoint the Architectural Review Committee. The power to "appoint," as provided herein, shall include without limitation the power to: constitute the initial membership of the Architectural Review Committee; appoint member(s) to the Architectural Review Committee on the occurrence of any vacancy therein for whatever reason; and remove any member of the Architectural Review Committee, with or without cause, at any time, and appoint the successor thereof. Each such appointment may be made for such term(s) of office, subject to the aforesaid power of removal, as may be set from time to time in the discretion of the appointor.

2. Review by Committee. Except as provided in Article VII hereof, no Improvements shall be constructed, placed, planted, applied or installed on any General Common Elements, nor shall any structural alteration be made to any Unit or any Common Elements. Subject to the foregoing, no Improvements shall be constructed, erected, placed, planted, applied or installed on any Limited Common Elements unless complete plans and specifications therefor, including without limitation such information and materials as may be required by the Architectural Review Committee in its discretion from time to time, shall have been first submitted to and approved in writing by the Architectural Review Committee; provided, however, that the Declarant shall be exempt from seeking or obtaining Architectural Review Committee approval during Declarant's development of, construction on, or sales of any Unit. The Architectural Review Committee shall exercise its reasonable judgment to the end that all Improvements conform to and harmonize with the existing surroundings, residences, landscaping and structures and do not affect the structural integrity of any Unit or other improvement. In its review of such plans, specifications and other materials and information, the Architectural Review Committee may require that the applicant(s) reimburse the Committee for the actual expenses incurred by the Committee in the review and approval process. Such amounts, if any, shall be levied in addition to the Common Expense assessment against the Unit in which the request for Architectural Review Committee approval was made, but shall be subject to the Association's lien for assessments and subject to all other rights of the Association for

the collection of such assessments, as more fully provided in this Declaration.

3. Time Limit. The Architectural Review Committee shall approve or disapprove all requests for approval within forty-five (45) days after the complete submission of all plans, specifications, and other materials and information which the Committee may require in conjunction therewith. If the Architectural Review Committee fails to approve or disapprove any request within forty-five (45) days after the complete submission of all plans, specifications, materials and other information with respect thereto, approval shall not be required and this Article shall be deemed to have been fully complied with.

4. Vote. A majority vote of the Architectural Review Committee is required to approve a request for approval pursuant to this Article.

5. Records. The Architectural Review Committee shall maintain written records of all applications submitted to it and all actions taken by it thereon, and such records shall be available to Members for inspection at reasonable hours of the business day.

6. Liability. The Architectural Review Committee and the members thereof shall not be liable in damages to any Person submitting requests for approval or to any Person by reason of any action, failure to act, approval, disapproval, or failure to approve or disapprove in regard to any matter within its jurisdiction hereunder.

7. Variance. The Architectural Review Committee may grant reasonable variances or adjustments from any conditions and restrictions imposed by this Article or Article IX hereof, in order to overcome practical difficulties or prevent unnecessary hardships arising by reason of the application of any such conditions and restrictions. Such variances or adjustments shall be granted only in case the granting thereof shall not be materially detrimental or injurious to any other property or improvements in the Common Interest Community and shall not militate against the general intent and purpose hereof.

8. Waivers. The approval or consent of the Architectural Review Committee to any application for architectural approval shall not be deemed to constitute a waiver of any right to withhold or deny approval or consent by the Committee on any application or other matters whatsoever as to which approval or consent may subsequently or additionally be required.

ARTICLE VI
INSURANCE

1. Insurance. The Association shall maintain the following types of insurance, to the extent that such insurance is reasonably available, considering the availability, cost and risk coverage provided by such insurance, and the cost of said coverage shall be paid by the Association as Common Expenses. Notwithstanding any of the specific insurance requirements specified in this article, the Association may also consider, in determining the types and amount of insurance it needs to obtain, the then-existing requirements of any of the Agencies with respect to their insurance, guaranty, or purchase of Security Interests.

(a) A policy of property insurance covering all Common Elements, except for land, foundation, excavation and other matters normally excluded from coverage, in an amount not less than necessary to comply with any co-insurance percentage stipulated in the insurance policy. Further, said policy shall contain a "Replacement Cost Endorsement" providing that any claim will be settled on a full replacement cost basis without deduction for depreciation, and include an "Inflation Guard Endorsement" and an "Agreed Amount Endorsement." The Association may also purchase any or all of the following: a "Demolition Endorsement," an "Increased Cost of Construction Endorsement," a "Contingent Liability from Operation of Building Laws Endorsement," a "Temporary Permit Endorsement" or the equivalent, and coverage of personal property owned by the Association including fixtures and building service equipment, furnishings and supplies. Such insurance shall afford protection against at least the following:

(1) loss or damage by fire and other perils normally covered by the standard extended coverage endorsement; and

(2) such other risks as shall customarily be covered with respect to projects similar in construction, location and use, including all perils normally covered by the standard "all risk" endorsement, where such is available.

(3) The insurance maintained under this subsection (a) shall include the Units but not the finished interior surfaces of the floor, ceiling, and ceilings of the Units. The insurance need not include improvements and betterments installed by Unit Owners; but, if they are covered, any increased charge shall be assessed by the Association to those Unit Owners.

(4) A comprehensive policy of public liability insurance covering the Common Elements, insuring the Association in an amount not less than One Million Dollars (\$1,000,000.00) covering bodily injury, including death to persons, personal injury and property damage liability arising out of a single occurrence. Such coverage shall include, without limitation, legal liability of the insureds

for property damage, bodily injuries and deaths of persons in connection with the operation, maintenance or use of the Common Elements, legal liability arising out of lawsuits related to employment contracts of the Association, and protection against liability for non-owned and hired auto. Such coverage may also include, if applicable, comprehensive automobile liability insurance, garagekeeper's liability, liability for property of others, host liquor liability, water damage liability, contractual liability, workmen's compensation insurance for employees of the Association, and such other risks as shall customarily be required by private institutional mortgage investors with respect to projects similar in construction, location and use. Such insurance shall insure the Executive Board, Association, any managing agent, and their respective employees, as agents. The Declarant shall be included in such Declarant's capacity as a member of the Executive Board. The Unit Owners shall be named as additional insureds but only for that connection with the ownership, existence and use of the Common Elements. The insurance shall insure insured parties against other insured parties.

(c) A policy providing fidelity bonds to protect against officers, directors, Unit Owners, Association, any independent contractor for the purpose of managing the Common Elements who handles (or is responsible for) the Association holds or administers (with or without compensation for services) the estimated maximum of funds included in the assets of the Association at any time, however, that such fidelity coverage shall be in an amount less than three (3) months' dues assessments on the Units, plus such reserve funds as calculated from the current budget of the Association. The Association may carry fidelity insurance in amounts greater than required hereinabove and may require any independent contractor employed for the purpose of managing the Common Interest Community to carry more fidelity insurance coverage than required hereinabove. Such fidelity coverage or bonds shall meet the following requirements:

(1) all such fidelity coverage or bonds shall name the Association as an obligee;

(2) such fidelity coverage or bonds shall contain waivers of any defense based upon the exclusion of persons who serve without compensation from any definition of "employee" or similar expression.

In the event the Association has delegated some or all of its responsibility for the handling of funds to a managing agent, the

Association may require the managing agent to purchase, at its own expense, a policy of fidelity insurance or bonds which fully complies with the provisions of this subparagraph (c).

(d) If any parcels of real property which the Association has an obligation to repair or reconstruct is located within an area identified by the Federal Emergency Management Agency as having special flood hazards, and flood insurance coverage on such parcels has been made available under the National Flood Insurance Program, then such a policy of flood insurance on such parcels in an amount at least equal to the lesser of:

(1) the maximum coverage available under the National Flood Insurance Program for all Condominium Buildings and other insurable property located within a designated flood hazard area; or

(2) one hundred percent (100%) of current replacement cost of all Condominium Buildings and other insurable property located within a designated flood hazard area.

(e) In addition, the Association may obtain insurance against such other risks of a similar or dissimilar nature as it shall deem appropriate from time to time, to the extent that such coverage is reasonably available, including, but not limited to, personal liability insurance to protect directors and officers of the Association from personal liability in relation to their duties and responsibilities in acting as directors and officers on behalf of the Association, and coverage of fixtures, equipment and other personal property inside Units.

2. General Provisions of Insurance Policies. All policies of insurance carried by the Association shall be carried in blanket policy form naming the Association as insured, or its designee as trustee and attorney-in-fact for all Unit Owners, and each Unit Owner shall be an insured person under such policies with respect to liability arising out of any Unit Owner's membership in the Association. The policy or policies shall contain a standard non-contributory Security Interest Holder's clause in favor of each Security Interest Holder and a provision that it cannot be cancelled or materially altered by either the insured or the insurance company until at least ten (10) days' prior written notice thereof is given to the insured and each Security Interest Holder, insurer or guarantor of a Security Interest. The Association shall furnish a certified copy or duplicate original of such policy or renewal thereof, with proof of premium payment and a certificate identifying the interest of the Unit Owner in question, to any party in interest, including Security Interest Holders, upon request. All policies of insurance carried by the Association shall also contain waivers of subrogation by the insurer against any Unit Owner or member of his household. All policies shall contain waivers of any defense based on invalidity

arising from any acts or neglect of a Unit Owner where such Unit Owner is not under the control of the Association.

3. Deductibles. The Association may adopt and establish written non-discriminatory policies and procedures relating to the submittal of claims, responsibility for deductibles, and any other matters of claims adjustment. No policy of insurance of which the Association or its designee is the beneficiary shall include a deductible clause in an amount which is greater than the lesser of Ten Thousand Dollars (\$10,000.00) or one percent (1%) of the face amount of the policy.

(a) To the extent the Association settles claims for damages to real property, it shall have the authority to assess negligent Unit Owners causing such loss or benefiting from such repair or restoration all deductibles paid by the Association. In the event that more than any one (1) Unit is damaged by a loss, the Association, in its reasonable discretion, may assess each Unit Owner a pro rata share of any deductible paid by the Association.

(b) Any loss to any Unit or to any Common Elements which the Association has the duty to maintain, repair and/or reconstruct, which falls within the deductible portion of such policy, shall be borne by the Person who is responsible for the repair and maintenance of the property which is damaged or destroyed. In the event of a joint duty of repair and maintenance of the damaged or destroyed property, then the deductible may be apportioned among the Persons sharing in such joint duty or may be partly or wholly borne by the Association, at the election of the Executive Board. Notwithstanding the foregoing, after notice and hearing, the Association may determine that a loss, either in the form of a deductible to be paid by the Association or an uninsured loss, resulted from the act or negligence of a Unit Owner. Upon said determination by the Association, any such loss or portion thereof may be assessed to the Unit Owner in question and the Association may collect the amount from said Unit Owner in the same manner as any assessment.

4. Payment of Insurance Proceeds. Any loss covered by an insurance policy described in Section 1 of this Article may be adjusted with the Association, but the insurance proceeds for that loss shall be payable to any insurance trustee designated for that purpose, or otherwise to the Association, and not to any Security Interest Holder. The insurance trustee or the Association shall hold any insurance proceeds in trust for the Association, Unit Owners and Security Interest Holders as their interests may appear. Subject to the provisions of Section 1 of Article VII of this Declaration, the proceeds must be disbursed first for the repair or restoration of the damaged property; and the Association, Unit Owners and Security Interest Holders are not entitled to receive payment of any portion of the proceeds unless there is a surplus of

proceeds after the property has been completely repaired or restored or the Common Interest Community is terminated.

5. Association Insurance as Primary Coverage. If at the time of any loss under any policy which is in the name of the Association, there is other insurance in the name of any Unit Owner and such Unit Owner's policy covers the same property or loss, or any portion thereof, which is covered by such Association policy, such Association policy shall be primary insurance not contributing with any of such other insurance. A Unit Owner shall be liable to the Association for the amount of any diminution of insurance proceeds to the Association as a result of policies of insurance of a Unit Owner, and the Association may collect the amount from said Unit Owner in the same manner as any assessment.

6. Acceptable Insurance Companies. Each hazard insurance policy purchased by the Association must be written by a hazard insurance carrier which has a current rating by Best's Insurance Reports of B/III or better, or a general policy holder's rating of at least A, and is authorized by law to do business in the State of Colorado. The Association shall not obtain any policy where (a) under the terms of the insurance company's charter, bylaws, or policy, contributions or assessments may be made against the mortgagor or mortgagee's designee, or (b) under the terms of the carrier's charter, bylaws, or policy, loss payments are contingent upon action by the carrier's Board of Directors, policy holders or members, or (c) the policy includes any limiting clauses (other than insurance conditions) which could prevent mortgagees or any Unit Owner from collecting insurance proceeds.

7. Insurance to be Maintained by Unit Owners. An insurance policy issued to the Association does not obviate the need for Unit Owners to obtain insurance for their own benefit. Insurance coverage on the furnishings and other items of personal property belonging to a Unit Owner, and public liability insurance coverage on each Individual Air Space Unit, shall be the responsibility of the Unit Owner of such Unit. Unit Owners shall also be responsible for obtaining any policies of auto insurance required in connection with any sale of a Unit other than the purchase by the initial Unit Owner from the Declarant.

8. Annual Review of Insurance Policies. All insurance policies carried by the Association shall be reviewed at least annually by the Executive Board to ascertain that the coverage provided by such policies adequately covers those risks insured by the Association. Prior to obtaining any policy of fire insurance or renewal thereof, the Executive Board or the managing agent of the Association may obtain a written appraisal from a duly qualified real estate or insurance appraiser, or other person knowledgeable as to replacement costs, which appraiser shall reasonably estimate the full replacement value of the Improvements to the insured for the purpose of determining the amount of

insurance required pursuant to the provisions of this Article. Any Security Interest Holder shall be furnished with a copy of such appraisal upon request.

9. Notice of Cancellation; Other Insurance. If the insurance described in Section 1 of this Article is not reasonably available, or if any policy of such insurance is cancelled or not renewed without a replacement policy therefor having been obtained, the Association promptly shall cause notice of that fact to be hand delivered, or sent prepaid by United States mail, to all Unit Owners. The Association in any event may carry any other insurance it considers appropriate, including insurance on Units it is not obligated to insure, to protect the Association or the Unit Owners.

ARTICLE VII DAMAGE OR DESTRUCTION

1. Damage or Destruction.

(a) Any portion of the Common Interest Community which is covered by a policy of insurance carried by the Association and which is damaged or destroyed must be repaired or replaced promptly by the Association unless:

- (1) The Common Interest Community is terminated;
- (2) Repair or replacement would be illegal under any state or local statute or ordinance governing health or safety;
- (3) Eighty percent (80%) of the Unit Owners, including every Unit Owner of a Unit that will not be rebuilt, vote not to rebuild; or
- (4) Prior to the conveyance of any Unit to a Person other than the Declarant, the holder of a deed of trust or mortgage on the damaged portion of the Common Interest Community rightfully demands all or a substantial part of the insurance proceeds.

(b) The cost of repair or replacement in excess of insurance proceeds and reserves is a Common Expense. If the entire Common Interest Community is not repaired or replaced, the insurance proceeds attributable to the damaged Common Elements must be used to restore the damaged area to a condition compatible with the remainder of the Common Interest Community, and except to the extent that other Persons will be distributees, the insurance proceeds attributable to Units that are not rebuilt must be distributed to the Unit Owners of those Units or to lienholders, as their interests may appear, and the remainder of the proceeds must be distributed to all the Unit Owners or lienholders, as their interests may appear, in proportion to the Allocated Interests of all the Units. If the Unit Owners vote not to rebuild any Unit, that Unit's Allocated Interests are automatically reallocated upon

the vote as if the Unit had been condemned as provided in Article XIV, Section 8, hereof, and the Association promptly shall prepare, execute and record an amendment to the Declaration reflecting such reallocations.

2. Use or Distribution of Insurance Proceeds. In the event of damage or destruction to all or a portion of the Common Elements, due to fire or other adversity or disaster, the insurance proceeds, if sufficient to reconstruct or repair the damage, shall be applied by the Association to such reconstruction and repair. If the insurance proceeds with respect to such damage or destruction are insufficient to repair and reconstruct the damaged or destroyed area, the Association shall levy a special assessment in the aggregate amount of such insufficiency pursuant to Article IV, Section 6 hereof, but without approval of the Unit Owners, and shall proceed to make such repairs or reconstruction. No distributions of insurance proceeds shall be made unless made jointly payable to the Unit Owners and any Security Interest Holders of their respective Units. The assessment provided for herein shall be a debt of each Unit Owner and a lien on his Unit and the Improvements thereon, and may be enforced and collected in the same manner as any assessment provided for in this Declaration.

3. Destruction of Units. If due to casualty, or for any other reason, an Individual Air Space Unit shall be destroyed or damaged, then the Unit Owner thereof shall, within a reasonable time thereafter, commence and diligently pursue repair and reconstruction of the Individual Air Space Unit, using any available personal insurance proceeds and personal funds of such Unit Owner, unless the Common Elements are not repaired and reconstructed as hereinabove provided.

ARTICLE VIII MAINTENANCE

1. Management and Maintenance Duties. Subject to the rights of Owners as set forth in this Declaration, the Association shall:

(a) be responsible for the management, control, maintenance, repair, replacement and improvement of the Common Elements and all property owned by the Association, including facilities, furnishings and equipment related thereto, and shall keep the same in good, clean, attractive and sanitary condition, and shall order and repair; provided, however, that each Unit Owner shall be responsible for exclusive maintenance, repair and replacement of all fixtures, equipment and utilities installed or located within such Unit Owner's Individual Air Space Unit, and all other equipment providing exclusive service thereto or therefor and any service lines from such equipment to the Unit, including, without limitation, all utility, heating, plumbing, air conditioning and domestic hot water equipment and appurtenances, regardless of whether such fixtures, equipment and utilities are owned by said

Unit Owner or the Common Elements, and for keeping the Limited Common Elements, or portions thereof, designated for use solely in connection with his Unit, in a good, clean, sanitary and attractive condition, order and repair; and

(b) be responsible for maintenance, repair and replacement of any drainage structure or facilities, or other public improvements required by the local governmental entity as a condition of development of the Common Interest Community or any part thereof, and of any other property or Improvements that the Executive Board may elect, on behalf of the Association, unless such improvements have been dedicated to and accepted by the local governmental entity for the purpose of maintenance, repair or replacement or unless such maintenance, repair or replacement has been authorized by law to be performed by a special district or other municipal or quasi-municipal entity; and

(c) collect as Common Expenses, and expend, funds for the costs of the maintenance, repair and replacement to be performed by the Association under this Section, subject to Section 4 of this Article.

2. Association's Right to Repair, Maintain, Restore and Demolish. In the event any Unit Owner shall fail to perform his maintenance, repair and replacement obligations in a manner satisfactory to the Executive Board, the Association may, if said failure continues for a thirty (30) day period after written notice to said Unit Owners by the Executive Board, enter upon said Unit subsequent to the expiration of said thirty (30) day time period to perform any or all of such maintenance, repair or replacement. The cost of such maintenance, repair and replacement shall be the personal obligation of the Unit Owner of the Unit on which such work is performed, and shall be subject to all of the terms and provisions applicable to "assessments" as provided in Article IV hereof, including, without limitation, interest, late charges and lien rights.

3. Easement for Maintenance Access and Entry. Each Unit Owner shall afford to the Association and the other Unit Owners, and to their agents or employees, access through such Unit Owner's Unit reasonably necessary for maintenance, repair and replacement of any Common Elements and any other property or Improvements maintained, repaired or replaced by the Association. If damage is inflicted, or a strong likelihood exists that it will be inflicted, on the Common Elements, any other property, or any Unit, the Unit 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 or avoidance. Further, each Unit shall be subject to an easement in favor of the Association (including its agents, employees and contractors) for performing maintenance, repair and/or reconstruction as provided in this Article during reasonable hours after reasonable notice to the Unit Owners or occupants of

any affected Unit, except that in emergency situations entry upon a Unit may be made at any time provided that the Unit Owner or occupants of each affected Unit shall be warned of impending emergency entry as early as is reasonably possible.

4. Unit Owner's Negligence. Notwithstanding anything to the contrary contained in this Declaration, in the event that the need for maintenance, repair or reconstruction of the Common Elements, any other property, a Unit, or any Improvements located thereon, is caused by the willful or negligent act or omission of any Unit Owner, any member of such Unit Owner's family or by a guest or invitee of such Unit Owner, the cost of such repair, maintenance, reconstruction or expense to avoid such damage shall be the personal obligation of such Unit Owner to the extent that said Unit Owner would be liable for the acts of such Persons under the laws of the State of Colorado; and any costs, expenses and fees incurred by the Association for such maintenance, repair or reconstruction shall be added to the assessment to which such Unit Owner's Unit is subject and shall be subject to all of the terms and provisions of Article IV of this Declaration. A determination of the negligence or willful act or omission of any Unit Owner or any member of a Unit Owner's family or a guest or invitee of any Unit Owner, and the amount of the Unit Owner's liability therefor, shall be determined by the Association at a hearing after notice to the Unit Owner, provided that any such determination which assigns liability to any Unit Owner pursuant to the terms of this Section may be appealed by said Unit Owner to a court of law.

5. Expenses for Property Subject to Development Rights. In addition to the liability that a Declarant as a Unit Owner has under the Act, the Declarant alone is liable for all expenses in connection with real estate subject to Development Rights until expiration of all Development Rights with respect to such real estate. No other Unit Owner and no other portion of the Common Interest Community is subject to a claim for payment of those expenses. Any income or proceeds from real estate subject to Development Rights inures to the Declarant. If the Declarant fails to pay all expenses in connection with real estate within this Common Interest Community that is subject to Development Rights, the Association may pay such expenses, and such expenses shall be assessed as a Common Expense against the real estate that is subject to Development Rights, and the Association may enforce the assessment pursuant to Article IV hereof by creating such real estate as if it were a Unit. If the Association acquires title to the real estate that is subject to the Development Rights through foreclosure or otherwise, the Development Rights shall not be extinguished thereby and, thereafter, the Association may succeed to any Special Declarant Rights specified in a declarant instrument prepared, executed, and recorded by the Association in accordance with the requirements of Section 38-33.3-304(3) of the Act.

ARTICLE
RESTRICTIONS

1. General Plan. It is the intention of the Declarant to establish and impose a general plan for the improvement, development, use and occupancy of the Units, all in order to enhance the value, desirability, and attractiveness of the Units and subserve and promote the sale thereof.

2. Restrictions Imposed. This Common Interest Community is subject to the recorded covenants, conditions and other matters listed on Exhibit C attached hereto and incorporated herein by this reference. In addition, the Declarant declares that all of the Units shall be held and shall hereafter be sold, conveyed, used, improved, occupied, owned, resided upon and hypothecated, subject to the following provisions, conditions, limitations, restrictions, agreements and covenants, as well as those contained elsewhere in this Declaration.

3. Residential Use. Subject to Section 4 of this Article, Units shall be used for residential use only, including uses which are customary incident thereto, and shall not be used at any time for business, commercial or professional purposes; provided, however, that a Unit Owner may use his Unit for professional or home occupation(s) so long as the applicable zoning permits such use, there is no external evidence thereof, and no unreasonable inconvenience to other residents of the Units is created thereby.

4. Declarant's Use. Notwithstanding anything to the contrary contained in this Declaration, it shall be expressly permissible and proper for Declarant and its employees, agents and contractors, to perform such reasonable activities, and to maintain upon portions of the Units such facilities, as Declarant deems reasonably necessary or incidental to the construction and sale of Units, and development and construction of Improvements, specifically including, without limiting the generality of the foregoing, maintaining management offices, signs, model units and sales offices, in such numbers, of such sizes, and at such locations as Declarant may determine from time to time in its reasonable discretion. Notwithstanding the foregoing, Declarant shall not perform any activity or maintain any facility on any portion of the Units in such a way as to unreasonably interfere with or disturb any Unit Owner, or to unreasonably interfere with the use, enjoyment or access of such Unit Owner, his family members, guests or invitees, of and to his Unit and to a public right-of-way.

5. Use of Common Elements. Subject to the rights of Declarant as provided in this Declaration, there shall be no obstruction of the Common Elements, nor shall anything be kept or stored on any part of the Common Elements except as provided in Article V, Section 2 hereof with respect to limited Common

Elements. Other than those improvements erected or installed by Declarant in its completion of the Common Interest Community, nothing shall be altered or, demolished in or removed from the Common Elements except as provided in Article V, Section 2 hereof with respect to Limited Common Elements.

6. Exterior Changes. Except for those improvements erected, constructed or installed by Declarant in its completion of the Common Interest Community, no exterior additions to, alteration or decoration of any Condominium Building or Units shall be commenced, erected, placed or maintained, except as provided in Article V, Section 2 hereof with respect to Limited Common Elements.

7. Household Pets. No animals, livestock, birds, poultry, reptiles or insects of any kind shall be raised, bred, kept or boarded in or on the Units; provided, however, that the Unit Owners of each Unit may keep not more than three (3) dogs, cats, or other domestic animals which are bona fide household pets, so long as such pets are not kept for any commercial purpose and are not kept in such manner as to create a nuisance to any resident of the Units. The Association shall have, and is hereby given, the right and authority to determine in its sole discretion that dogs, cats or other household pets are being kept for commercial purposes or are being kept in such manner as to be unreasonable or to create a nuisance, or that a Unit Owner is otherwise in violation of the provisions of this Section, and to take such action or actions as it deems appropriate to correct the same. A Unit Owner's right to keep household pets shall be coupled with the responsibility to pay for any damage caused by such pets, as well as any costs incurred by the Association as a result of such pets, and any such costs and damages shall be subject to all of the Association's rights with respect to the collection and enforcement of assessments as provided in Article IV hereof.

8. Signs. No advertising or signs of any character shall be erected, placed, permitted, or maintained on any Unit other than a name plate of the occupant and a street number, and except for a "For Sale," "Open House" or "For Rent" sign of not more than five (5) square feet on a portion of the Common Elements designated by the Association, but not in the windows of any Unit. Notwithstanding the foregoing, reasonable signs, advertising, or billboards used by the Declarant in connection with the sale or lease of Units, or otherwise in connection with development of or construction in the Common Interest Community, shall be permissible, provided that such use shall not interfere with the Unit Owners' use and enjoyment of their Unit or with their ingress or egress from a public way to their Unit.

9. Vehicular Parking, Storage and Proliferation.

(a) No house trailer, camping trailer, boat trailer, hauling trailer, boat, or accessories thereof, truck (larger than 3/4 ton), self-contained motorized recreational vehicle, or other type of recreational vehicle or equipment, nor any commercial vehicle, may be parked or stored in the Common Interest Community unless such parking or storage is suitably screened from view in accordance with the requirements of the Architectural Review Committee, except that any such vehicle may be otherwise parked as a temporary expedient for loading, delivery, or emergency. This restriction, however, shall not restrict trucks or other commercial vehicles which are necessary for construction or for the maintenance of the Units, Common Elements, other property, or any improvements.

(b) Except as hereinafter provided, no abandoned or inoperable automobiles or vehicles of any kind shall be stored or parked in the Common Interest Community. The "abandoned or inoperable vehicle" shall be defined as any automobile, truck, motorcycle, or other similar vehicle, which has not been driven under its own propulsion for a period of one (1) week or longer, or which does not have an operable propulsion system installed thereon, or which does not have a current license plate thereon; provided, however, that otherwise permitted vehicles parked by Unit Owners while on vacation (for a maximum of two (2) weeks, or during a period of illness shall not be deemed to be abandoned.

(c) In the event the Association shall determine that a vehicle is parked or stored in violation of subsections (a) or (b) of this Section, then a written notice describing said vehicle shall be personally delivered to the owner thereof (if such owner can be reasonably ascertained) or shall be conspicuously placed upon the vehicle (if the owner thereof cannot be reasonably ascertained), and if the vehicle is not removed within a reasonable time thereafter, as determined by the Association in its discretion from time to time, the Association shall have the right to remove the vehicle at the sole expense of the owner thereof.

(d) No activity such as, but not limited to, maintenance, repair, rebuilding, dismantling, repainting or servicing of any kind of vehicles, trailers or boats, may be performed or conducted within the Common Interest Community. The foregoing restriction shall not be deemed to prevent washing and polishing of any motor vehicle, boat, trailer, motor-driven cycle, or other vehicle, together with those activities normally incident and necessary to such washing and polishing.

10. Nuisances. No nuisance shall be created or maintained, nor any act, activity or practice which is a source of annoyance or embarrassment to, or which offends or disturbs, the resident of any Unit or which interfered with the peaceful enjoyment or possession

and proper use of any Unit, or any portion thereof, by its residents. As used herein, the term "nuisance" shall not include any activities of Declarant which are reasonably necessary to the development and construction of, and sales activities on, the Units; provided, however, that such activities of the Declarant shall not unreasonably interfere with any Unit Owner's use and enjoyment of his Unit, or with any Unit Owner's ingress and egress to or from his Unit and a public way. No noxious or offensive activity shall be carried on upon any Unit nor shall anything be done or placed on any Unit which now or may become a nuisance or cause embarrassment, disturbance or annoyance to others, and no unsightly conditions, structures, facilities, equipment or objects shall be so located on any Unit as to be visible from a street or from any other Unit. Further, no immoral, improper, offensive or unlawful use shall be permitted or made of any Unit or any portion thereof. All valid laws, ordinances and regulations of all governmental bodies having jurisdiction over the Units, or any portion thereof, shall be observed.

11. No Hazardous Activities; no Hazardous Materials or Chemicals. No activities shall be conducted on any Unit or within improvements constructed on any Unit which are or might be unsafe or hazardous to any Person or property. Without limiting the generality of the foregoing, no firearms shall be discharged upon any Unit and no open fires shall be lighted or permitted on any Unit except in a contained barbecue unit while attended and in use for cooking purposes or within an interior fireplace. Further, no hazardous materials or chemicals shall at any time be located, kept or stored in, on or at any Unit except such as may be contained in household products normally kept at homes for use of the residents thereof and in such limited quantities so as to not constitute a hazard or danger to person or property.

12. No Annoying Light, Sounds or Odors. No light shall be emitted from any Unit which is unreasonably bright or causes unreasonable glare; no sound shall be emitted from any Unit which is unreasonably loud or annoying; and no odor shall be permitted from any Unit which is noxious or offensive to others.

13. Restrictions on Trash and Materials. No refuse, garbage, stumps, lumber, grass, shrubs or tree clippings, plant waste, metal, bulk materials, scrap or debris of any kind shall be kept, stored, or allowed to accumulate on any Unit unless placed in a suitable container suitably located solely for the purpose of garbage pickup. All equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition. No garbage or trash cans or receptacles shall be maintained in an unsanitary or unsightly manner.

14. Rules and Regulations. Rules and regulations concerning and governing the Units, Common Elements and/or this Common Interest Community may be adopted, amended or repealed from time to

time by the Executive Board, and the Executive Board may establish and enforce penalties for the infraction thereof, including, without limitation, the levying and collecting of fines for the violation of any of such rules and regulations.

15. Leases. The term "lease," as used herein, shall include any agreement for the leasing or rental of a Unit, or any portion thereof, and shall specifically include, without limitation, month-to-month rentals and subleases. Any Unit Owner shall have the right to lease his Unit, or any portion thereof, under the following conditions:

(a) All leases shall be in writing, and a copy of the lease delivered to the Executive Board or the Association's managing agent, if any, within ten (10) days after execution of the lease; and

(b) All leases shall provide that the terms of the lease and lessee's occupancy of the leased premises shall be subject in all respects to the provisions of this Declaration, and the Articles of Incorporation, Bylaws and rules and regulations of the Association; and that any failure by the lessee to comply with any of the aforesaid documents, in any respect, shall be a default under the lease; and

(c) No Unit may be leased for less than one (1) year.

16. Management Agreements and Other Contracts. Any agreement for professional management of the Association's business or other services providing for the services of the Declarant shall have a minimum term of three (3) years and any such agreement shall provide for termination by either party thereto, with or without cause and without payment of a termination fee, upon not more than ninety (90) days' prior written notice; provided, however, that any such management agreement(s) entered into by the Association with a manager or managing agent prior to termination of the Period of Declarant Control shall be subject to review and approval of HUD or VA if, at the time such agreement is entered into, HUD has insurance or VA has a guarantee(s) on one or more Security Interests, and any such management agreement shall terminate absolutely, in any event, no later than thirty (30) days after termination of the Period of Declarant Control.

17. Use of Common Elements. An easement is hereby granted to the Declarant through the Common Elements as may be reasonably necessary for the purpose of discharging any of Declarant's obligations or exercising any Special Declarant Rights. Subject to the immediately preceding sentence:

NO use shall be made of the Common Elements which will in any manner violate the statutes, rules, or regulations of

any governmental authority having jurisdiction over the Common Elements.

(b) No Unit Owner shall engage in any activity which will temporarily or permanently deny free access to any part of the Common Elements to all Members, nor shall any Unit Owner place any structure whatsoever upon the Common Elements.

(c) The use of the Common Elements shall be subject to such rules and regulations as may be adopted from time to time by the Executive Board.

(d) No use shall ever be made of the Common Elements which will deny ingress and egress to those Unit Owners having access to their Units only over Common Elements, and the right of ingress and egress to said Units is hereby expressly granted.

18. Easement for Encroachments. In the event that any portion of the Common Elements encroaches upon any Unit(s) or in the event that any portion of a Unit encroaches upon any other Unit(s) or upon any portion of the Common Elements, or in the event any encroachment occurs in the future as a result of: (i) settling of a Condominium Building, or (ii) alteration or repair to the Common Elements, or (iii) repair or restoration of the Condominium Building(s) and/or Unit(s) after damage by fire or other casualty, or condemnation or eminent domain proceedings, or (iv) construction, reconstruction, repair, shifting, settling, or other movement of any portion of any Improvement(s). Then, in any of said events, a valid easement is hereby created and does exist for the encroachment and for the maintenance of the same so long as the encroachment exists. In the event that any one or more of the Units, Condominium Buildings or other Improvements are partially or totally destroyed and are subsequently rebuilt or reconstructed in substantially the same location, and as a result of such rebuilding or reconstruction any portion thereof shall encroach as provided in the preceding sentence, a valid easement for such encroachment is hereby created and does exist. Such encroachments and easements shall not be considered or determined to be encumbrances either on the Common Elements or on the Units for purposes of marketability of title or other purposes. In interpreting any and all provisions of this Declaration, subsequent deeds, mortgages, deeds of trust or other security instruments relating to Units, the actual location of a Unit shall be deemed conclusively to be the property intended to be conveyed, reserved or encumbered, notwithstanding any minor deviations, either horizontally, vertically or laterally, from the location of such Unit as indicated on the Condominium Map.

19. Drainage Easement. An easement is hereby granted to the Association, its officers, agents, employees, successors and assigns, to enter upon, across, over, in and under any portion of the Common Interest Community for the purpose of changing, correcting or otherwise modifying the grade or drainage channels of

the Common Interest Community so as to improve the drainage of water in the Common Interest Community.

20. Utilities. There is hereby created a blanket easement upon, across, over and under the Common Elements for utilities and the installation, replacement, repair and maintenance of utilities, including, but not limited to, water, sewer, gas, telephone, electricity, computer cable and master television antenna or cable or satellite television system, if any. By virtue of this blanket easement it shall be expressly made possible to erect and maintain the necessary facilities, equipment and appurtenances on the Common Elements and to affix, repair, and maintain water and sewer pipes, gas, electric, telephone, computer and television wires, cables, circuits, conduits and meters. In the event any utility or quasi-utility company furnishing a service covered by the general easement created herein requests a specific easement by separate recordable document, Declarant reserves and is hereby given the right and authority to grant such easement upon, across, over or under any part or all of the Common Elements without conflicting with the terms hereof; provided, however, that such right and authority shall cease and determine upon the earlier of seven (7) years after recordation of this Declaration in the City and County of Denver, Colorado, or conveyance by Declarant of the last Unit to the first Unit Owner thereof (other than Declarant), at which time said reserved right shall vest in the Association. The easement provided for in this Section shall in no way affect, avoid, extinguish or modify any other recorded easement(s) on the Common Elements.

ARTICLE II PROPERTY RIGHTS IN THE COMMON ELEMENTS

1. Unit Owners' Easements. Subject to the provisions of Section 2 of this article, every Unit Owner shall have a non-exclusive right and easement of enjoyment in and to the General Common Elements and those Limited Common Elements appurtenant to his Unit, plus a right and easement of ingress and egress over, across and upon the General Common Elements and those Limited Common Elements appurtenant to his Unit, for the purpose of getting to and from his Unit and public ways, for both pedestrian and vehicular travel, which rights and easements shall be appurtenant to and pass with the transfer of title to every Unit.

2. Grant of Unit Owners' Interests. The rights and easements created herein shall be subject to the following:

(a) The terms, provisions, covenants, conditions, restrictions, easements, reservations, uses, limitations, obligations contained in this Declaration; and

(b) The right of the Association, in accordance with its Articles and Bylaws, to borrow money for the purpose of improving

the Common Elements and to mortgage said property as security for any such loan; provided, however, that the Association may not subject any portion of the Common Elements to a Security Interest unless such is approved by Members casting at least eighty percent (80%) of the votes in the Association, including eighty percent (80%) of the votes allocated to Units not owned by the Declarant; and

(c) The right of the Association to promulgate, amend, repeal, re-enact and publish rules and regulations with which each Member shall strictly comply; and

(d) The right of the Association to suspend the voting rights of a Member for any period during which any assessment against his Unit or any other amount due from such Member to the Association remains unpaid and, for a period not to exceed sixty (60) days, for any infraction of the Bylaws of the Association or the Association's rules and regulations; and

(e) The right of the Association to dedicate or transfer all or any part of the Common Elements to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members, provided that no such dedication or transfer shall be effective unless first approved by the Members entitled to cast at least eighty percent (80%) of the votes in the Association, including eighty percent (80%) of the votes allocated to Units not owned by the Declarant, and unless written notice of the proposed agreement and the proposed dedication or transfer is sent to every Member at least thirty (30) days in advance of any action taken. Notwithstanding the foregoing, the granting of permits, licenses and easements for public utilities, roads or for other purposes reasonably necessary or useful for the proper maintenance or operation of the Common Interest Community shall not be deemed a transfer within the meaning of this subsection (e); and

(f) The right of the Association, through its Executive Board, to enter into, make, perform or enforce all contracts, leases, agreements, licenses, easements and rights-of-way, for the use or improvement or improvements by Unit Owners, other Persons, their family members, guests and invitees, for any purpose(s) the Executive Board may deem to be useful, beneficial or otherwise appropriate.

3. Delegation of Use. Any Unit Owner may delegate his rights of use of and access over the Common Elements to the persons

of his family, his tenants, or contract purchasers who reside on his Unit.

4. Limited Common Elements. Subject to the terms and provisions of this Declaration, every Unit Owner shall have the right to use and enjoy the Limited Common Elements appurtenant to his Unit, and such right shall be exclusive except as to those Unit Owners with a right to use such Limited Common elements as provided elsewhere in this Declaration.

The allocation of Limited Common Elements may not be altered without the consent of the Unit Owners whose Units are affected.

(a) A Limited Common Element may be reallocated between or among Units after compliance with the procedure set forth in this subsection (a). In order to reallocate Limited Common elements between or among Units, the Unit Owners of those Units, as the applicants, must submit an application for approval of the proposed reallocation to the Executive Board, which application shall be executed by those Unit Owners and shall include:

(1) The proposed form for an amendment to the Declaration as may be necessary to show the reallocation of Limited Common Elements between or among Units;

(2) A deposit against attorney fees and costs which the Association will incur in reviewing and effectuating the application, in an amount reasonably estimated by the Executive Board; and

(3) Such other information as may be reasonably requested by the Executive Board. No reallocation shall be effective without the approval of the Executive Board. The reallocation shall be effectuated by an amendment signed by the Association and by those Unit Owners between or among whose Units the reallocation is made, which amendment shall be recorded. All costs and attorney fees incurred by the Association as a result of the reallocation shall be the sole obligation of the applicants.

(b) A Common Element not previously allocated as a Limited Common Element may be so allocated only pursuant to the provisions in the Declaration made in accordance with the Act. The allocations must be made by amendments to the Declaration prepared, executed and recorded by the Declarant.

5. Conveyance or Encumbrance of Common Elements.

(a) Portions of the Common Elements may be conveyed or subjected to a Security Interest by the Association only if Persons entitled to cast at least eight percent (8%) of the votes in the Association, including eighty percent (80%) of the votes allocated to Units not owned by a Declarant, agree to that action.

(b) An agreement to convey Common Elements or subject them to a Security Interest must be evidenced by the execution of an agreement, or ratification thereof, in the same manner as a deed, by the requisite number of Unit Owners. The agreement must specify a date after which the agreement will be void unless recorded before that date. The agreement and all ratifications thereof must be recorded in every county in which a portion of the Common Interest Community is situated and is effective only upon recordation.

(c) The Association, on behalf of all Unit Owners, may contract to convey an interest in the Common Interest Community pursuant to subsection (a) of this section, but the contract is not enforceable against the Association until approved, executed and ratified. Thereafter, the Association has all powers necessary and appropriate to effect the conveyance or encumbrance, including the power to execute deeds or other instruments.

(d) Unless in compliance with this section, any purported conveyance, encumbrance, judicial sale or other transfer of Common Elements is void.

(e) A conveyance or encumbrance of Common Elements pursuant to this section shall not deprive any Unit of its rights of ingress and egress to the Unit and support of the Unit.

(f) A conveyance or encumbrance of Common Elements pursuant to this section does not affect the priority or validity of preexisting encumbrances.

6. Acquiring, Use, Disposing of Real and Personal Property.
The Association may acquire, own and hold for the use and benefit of all Unit Owners tangible and intangible personal property and real property for such uses and purposes as the Executive Board may in its discretion deem appropriate from time to time, and may dispose of the same by sale or otherwise. The beneficial interest in any such property shall be deemed to be owned by the Unit Owners in the same undivided proportion as their respective undivided interests in the Common Elements. Such beneficial interest of a Unit Owner shall not be transferable except with the transfer of that Unit Owner's Unit. Transfer of a Unit, including transfer pursuant to foreclosure, shall transfer to the transferee ownership of the transferor's beneficial interest in such personal and/or real property without any reference thereto. Each Unit Owner may use such personal and/or real property in accordance with the purposes for which such property is intended and in accordance with such conditions, limitations, restrictions, and rules and regulations as may be placed on any such property by the Executive Board in its sole discretion from time to time, provided that such use of any Unit Owner shall not hinder or encroach upon the lawful rights of other Unit Owners.

ARTICLE VI
CONVEYANCES, OWNERSHIP AND TAXATION OF UNITS

1. Contracts Entered into Prior to Recording of Condominium Map and Declaration. A contract or other agreement for the sale of a Unit entered into prior to the filing for record of the Condominium Map and/or this Declaration in the office of the Clerk and Recorder of the City and County of Denver, Colorado, may legally describe such Unit in the manner set forth in Section 2 of this Article and may indicate that the Condominium Map and/or this Declaration are to be recorded. Upon recordation of the Condominium Map and this Declaration in the City and County of Denver, Colorado, such description shall be conclusively presumed to describe the corresponding Unit shown on the Condominium Map and such Unit shall be subject in all respects to this Declaration.

2. Contracts Entered into Subsequent to Recording of Condominium Map and Declaration. Subsequent to the recording of the Condominium Map and this Declaration, every contract, deed, lease, mortgage, deed of trust, will and every other instrument affecting title to a Unit may legally describe that Unit as follows:

Unit _____, THE GARFIELD
CONDOMINIUMS, according to the Condo-
minium Map thereof, recorded _____,
19____, in Book _____ at Page _____,
in the records of the office of the Clerk
and Recorder of the City and County of
Denver, Colorado, and as defined and
described in the Condominium Declaration
for THE GARFIELD CONDOMINIUMS recorded on
_____, 19____, in Book _____,
at Page _____ in said records

3. Legal Effect of Description.

(a) Every contract, deed, lease, mortgage, deed of trust, will and every other instrument affecting title to a Unit which legally describes said Unit substantially in the manner set forth in Section 2 of this Article shall be good and sufficient for all purposes to sell, convey, transfer, encumber or otherwise affect the Unit, including the undivided interest in the Common Elements appurtenant thereto and all other appurtenant property and property rights, and incorporate all of the rights, limitations and burdens incident to ownership of a Unit as described in this Declaration and the Condominium Map. Each such description shall be construed to include a non-exclusive easement for ingress and egress to and from each Unit and the use of all the General Common Elements, as well as all of the Limited Common Elements appurtenant to said Unit, all as more fully provided in this Declaration.

(b) However, a description of a Unit which sets forth the name of the Common Interest Community, the recording data for the Declaration, the county in which the Common Interest Community is located, and the identifying number of the Unit is a legally sufficient description of that Unit and all rights, obligations and interests appurtenant to that Unit which were created by the Declaration or Bylaws of the Association. It shall not be necessary to use the term "unit" as a part of the legally sufficient description of a Unit.

4. Taxation. Each Unit shall be assessed separately for all taxes, assessments and other charges of the State of Colorado, any political subdivision thereof, any special improvement district, and any other taxing or assessing authority, in accordance with the Act, as amended. For the purpose of such assessments, the valuation of the Common Elements shall be apportioned among the Units in proportion to the undivided interest in the Common Elements appurtenant to the Unit in question. The Association shall furnish to the Tax Assessor of the City and County of Denver, Colorado, and to all other appropriate persons and authorities, all necessary information with respect to such apportionment. No forfeiture or sale of any Unit for delinquent taxes, assessments or other governmental charges shall divest or in any way affect the title to any other Unit.

5. Inalienability. Each Unit, as well as all other appurtenances, rights and burdens connected therewith, shall be inseparable and may be transferred, conveyed, leased, devised, encumbered or otherwise disposed of only as a Unit. Every conveyance, transfer, devise, lease, encumbrance or other disposition of a Unit shall be deemed to be a conveyance, transfer, devise, lease, encumbrance or other disposition as the case may be of the entire Unit, together with all appurtenant rights, interests, duties and obligations created by law or by this Declaration.

6. Non-Partitionability. The Common Elements shall be owned in common by all of the Unit Owners and shall remain undivided. By the acceptance of his deed or other instrument of conveyance or encumbrance, each Unit Owner specifically waives his right to institute and/or maintain a partition action or any other action designed to cause a division of the Common Elements. Furthermore, each Owner agrees that this Section may be pleaded as a bar to the maintenance of such an action. Any violation of this Section shall entitle the Association to collect, jointly and severally, from the parties violating the same, the actual attorneys' fees, costs, expenses and all damages which the Association incurs in connection therewith.

ARTICLE III
MECHANIC'S LIENS

1. Mechanic's Liens. No labor performed and/or materials furnished for use and incorporated in any Unit with the consent or at the request of the Unit Owner thereof, his agent, contractor or subcontractor, shall be the basis for the filing of a lien against a Unit of any other Unit Owner not expressly consenting to or requesting the same, or against any interest in the Common Elements except as to the undivided interest therein appurtenant to the Individual Air Space Unit of the Unit Owner for whom such labor shall have been performed or such materials furnished. Each Unit Owner shall indemnify and hold harmless each of the other Unit Owners and the Association from and against any liability or loss arising from the claim of any mechanic's lien against the Unit of any other Unit Owner, the Common Elements, or any part thereof, for labor performed and/or materials furnished in work on the first Unit Owner's Unit.

2. Enforcement by the Association. At its own initiative or upon the written request of any Unit Owner or any Security Interest Holder, if the Association determines that further action by it is proper and the mechanic's lien(s) are not disputed claims with a reasonable basis for such dispute, the Association, after notice and hearing, shall enforce the indemnity provided by Section 1 of this Article by collecting from the Unit Owner of the Unit on which the labor was performed and/or materials furnished, the amount necessary to discharge any such mechanic's lien, including all costs and reasonable attorney's fees incidental thereto, and obtain a discharge of such lien. In the event that the Unit Owner of the Unit on which the labor was performed and/or materials furnished refuses or fails to so indemnify within seven (7) days after the Association shall have given notice to such Unit Owner of the total amount, or any portions thereof, from time to time, to be indemnified, then the failure to so indemnify shall be a default by such Unit Owner under the provisions of this Section 2 and such amount to be indemnified shall be and constitute an additional assessment for collection by the Association subject to all of the provisions of Article IV hereof.

3. Effect of Part Payment. In the event a lien attributable to labor performed and/or materials furnished on the Common Interest Community, or any portion thereof, is effected against two or more Units the Unit Owner(s) of any of the affected Units may pay to the lienholder the amount of the lien attributable to such Unit Owner's Unit and the lienholder shall release such Unit from the lien. The amount required to be paid by any such Unit Owner in order to obtain release of his Unit from any such lien shall be equal to the quotient of (i) the amount of the lien divided by (ii) the total number of Units affected by the lien. Partial payment and release of any such lien with respect to any Unit(s) shall not

prevent the lienholder from enforcing his rights against the Unit for which payment has not been received.

ARTICLE VIII
SECURITY INTERESTS

1. Approval by Members and Security Interest Holders of First Security Interest. Notwithstanding any other provisions of this Declaration to the contrary, the Association shall not:

(a) unless it has obtained the prior written approval of the Members casting at least two-thirds (2/3) of the votes (excluding Declarant votes) in the Association or of those Security Interest Holders holding at least two-thirds (2/3) of the First Security Interests (based upon one vote for each First Security Interest owned):

(1) by act or omission seek to abandon or terminate the Common Interest Community;

(2) change the pro rata interest or obligations of any Unit in order to levy assessments or charges, allocate distribution of hazard insurance proceeds or condemnation awards, or determine the pro rata share of ownership of each Unit in the Common Elements;

(3) partition or subdivide any Unit;

(4) seek to abandon, partition, subdivide, encumber, sell, or transfer the Common Elements by act or omission. The granting of easements for public utilities or other public purposes consistent with the intended use of the Common Elements by the Common Interest Community is not a transfer within the meaning of this clause. (However, this requirement will be deemed waived to the extent necessary to allow phasing, add-ons, or annexations, in accordance with this Declaration);

(5) use hazard insurance proceeds for losses to any condominium property (whether Units or Common Elements) for other than the repair, replacement, or reconstruction of such condominium property.

(b) Unless it has obtained the prior written consent of at least sixty-seven percent (67%) of the total allocated votes in the Association, and fifty-one percent (51%) of the votes of the Security Interest Holders holding First Security Interests (based on one vote for each First Security Interest owned), amend any material provisions of this Declaration, the Articles of Incorporation or Bylaws of the Association. A change in any of the following shall be considered to be material; provided, however, that any Security Interest Holder of a First Security Interest shall be deemed to have impliedly approved any request for approval

of an amendment if such Security Interest Holder fails to submit a response to any written proposal for an amendment within thirty (30) days after such Security Interest Holder receives proper notice of the proposal by certified or registered mail, return receipt requested:

- (1) voting rights
- (2) assessments, assessment liens or the priority of assessment liens;
- (3) reserves for maintenance, repair and replacement of Common Elements;
- (4) responsibility for maintenance and repairs;
- (5) reallocation of interests in the General Common Elements or Limited Common Elements, or rights to their use;
- (6) redefinition of any Unit boundaries;
- (7) convertibility of Units into Common Elements or vice versa;
- (8) expansion or contraction of the Common Interest Community; or the addition, annexation or withdrawal of property to or from the Common Interest Community;
- (9) insurance or fidelity bond;
- (10) leasing of Units;
- (11) imposition of any restriction on a Unit Owner's right to sell or transfer his or her Unit;
- (12) a decision by the Association to establish self-management when professional management has been required previously by this Declaration, the Articles of Incorporation or Bylaws of the Association, or by any Security Interest Holder of a First Security Interest;
- (13) restoration or repair of the Common Interest Community (after a hazard damage or partial condemnation) in a manner other than that specified in this Declaration, the Articles of Incorporation or Bylaws of the Association;
- (14) any action to terminate the legal status of the Common Interest Community after substantial destruction or condemnation occurs; or
- (15) any provisions that expressly benefit Security Interest holders, or insurers or guarantors of Security Interests.

2. Notice of Action. Upon written request to the Association, identifying the name and address of the Security Interest Holder or insurer or guarantor of the Security Interest, and the Unit number or residence address of the Unit which is subject to such Security Interest, each Security Interest Holder, or insurer or guarantor of a Security Interest, shall be entitled to timely written notice of:

(a) any condemnation or casualty loss that affects either a material portion of the Common Interest Community or the Unit securing its Security Interest;

(b) any sixty-day delinquency in the payment of assessments or charges owed by the Unit Owner of any Unit on which it holds the Security Interest;

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

(d) any proposed action that requires the consent of a specified percentage of Security Interest Holders of First Security Interests.

ARTICLE XIV GENERAL PROVISIONS

1. Enforcement. Enforcement of the covenants, conditions, restrictions, easements, reservations, rights-of-way, liens, charges and other provisions contained in this Declaration, the Articles of Incorporation, Bylaws or rules and regulations of the Association, as amended, may be by any proceeding at law or in equity against any Person (including, without limitation, the Association) violating or attempting to violate any such provision. The Association and any aggrieved Unit Owner shall have the right to institute, maintain and prosecute any such proceedings, and the Association shall further have the right to levy and collect fines for the violation of any provision of any of the aforesaid documents. In any action instituted or maintained under this Section, the prevailing party shall be entitled to recover its costs and reasonable attorneys' fees incurred pursuant thereto, as well as any and all other sums awarded by the Court. Failure by the Association or any Unit Owner to enforce any covenant, restriction or other provision herein contained, or any other provision of any of the aforesaid documents, shall in no event be deemed a waiver of the right to do so thereafter.

2. Severability. All provisions of the Declaration, the Articles of Incorporation and Bylaws of the Association are severable. Invalidation of any of the provisions of any such documents, by judgment, court order or otherwise, shall in no way

affect or limit any other provisions which shall remain in full force and effect.

3. Conflict of Provisions. The Act shall control if any provisions of this Declaration, the Articles of Incorporation or Bylaws of the Association are inconsistent therewith. Otherwise, in case of any conflict between this Declaration, 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.

4. Duration, Revocation, and Amendment.

(a) Each and every provision of this Declaration shall run with and bind the land for a term of twenty (20) years from the date of recording of this Declaration, after which time this Declaration shall be automatically extended for successive periods of ten (10) years each. Except as provided in Subsection (c) of this Section 5 or in Section 4 of this article, this Declaration may be amended during the first twenty (20) year period, and during subsequent extensions thereof, by a vote or agreement of Unit Owners holding at least sixty-seven percent (67%) of the allocated interests.

(b) No action to challenge the validity of an amendment adopted by the Association pursuant to this Section may be brought more than one (1) year after the amendment is recorded.

(c) Every amendment to this Declaration must be recorded in every county in which any portion of the Unit's interest therein is located, and is effective only upon recording.

(d) Except to the extent expressly permitted or required by other provisions of this Declaration, no amendment may create or increase Special Declarant Rights, increase the number of Units, change the boundaries of any Unit or the allocated interests of a Unit, or the use to which any Unit is dedicated, or the character or conditions of use of the Unit or any portion thereof.

(e) Amendments to the Declaration which are required by this Declaration to be recorded by the Unit Owner shall be prepared, executed, recorded, and returned to the office of the Association by any director of the Association designated for that purpose or, in the absence of designation, by the president of the Association.

Registration of Mailing Address. Each Unit Owner and each Security Interest Holder, insurer or grantor of a Security Interest, shall register his mailing address with the Association, and except for annual statements and other routine notices, all other notices or demands intended to be served upon a Unit Owner,

or upon a Security Interest Holder, insurer or guarantor of a Security Interest, shall be sent by either registered or certified mail, postage prepaid, addressed in the name of such Person at such registered mailing address. However, if any Unit Owner fails to notify the Association of a registered address, then any notice or demand may be delivered or sent, as aforesaid, to such Unit Owner at the address of such Unit Owner's Unit. All notices, demands, or other notices intended to be served upon the Executive Board or the Association shall be sent by registered or certified mail postage prepaid, 301 Garfield Street, Denver, Colorado, until such address is changed by the Association.

6. Transfer of Special Declarant Rights. A Special Declarant Right created or reserved under this Declaration may be transferred only by an instrument evidencing the transfer recorded in every county in which any portion of the Common Interest Community is located. The instrument is not effective unless executed by the transferor.

7. Eminent Domain.

(a) If a Unit is acquired by eminent domain or part of a Unit is acquired by eminent domain leaving the Unit Owner with a remnant which may not practically or lawfully be used for any purpose permitted by this Declaration, the award must include compensation to the Unit Owner for that Unit and its Allocated Interests whether or not any Common Elements are acquired. Upon acquisition, unless the decree otherwise provides, that Unit's Allocated Interests are automatically reallocated to the remaining Units in proportion to the respective Allocated Interests of those Units before the taking. Any remnant of a Unit remaining after part of a Unit is taken under this subsection (a) is thereafter Common Elements.

Except as provided in subsection (a) of this Section, if part of a Unit is acquired by eminent domain, the award must compensate the Unit Owner for the reduction in value of the Unit and its interest in the Common Elements whether or not any Common Elements are acquired. Upon acquisition, unless the decree otherwise provides:

(1) That Unit's Allocated Interests are reduced in proportion to the reduction in the size of the Unit or on any other basis specified in this Declaration; and

(2) The portion of Allocated Interests divested from the partially acquired Unit is automatically reallocated to that Unit and to the remaining Units in proportion to the respective interests of those Units before the taking, with the partially acquired Unit participating in the reallocation on the basis of its reduced Allocated Interests.

(c) In part of the Common Elements is acquired by eminent domain, that portion of any award attributable to the Common Elements taken must be paid to the Association. For the purposes of acquisition of a part of the Common Elements, service of process on the Association shall constitute sufficient notice to all Unit Owners, and service of process on each individual Unit Owner shall not be necessary.

(d) The court decree shall be recorded in every county in which any portion of the Common Elements of Community is located.

(e) The reallocation of Allocated Interests pursuant to this Section shall be confirmed by an amendment to the Declaration prepared, executed, and recorded by the Association.

5. Termination of Common Interests. Except in the case of a taking of all the Units by eminent domain, the Common Interests Community may be terminated only in accordance with the Act, and with the prior written approval of at least thirty-seven (37%) of the votes of Security Interest Holders of First Security Interests (based on one vote for each First Security Interest) (provided that Security Interest Holders of First Security Interests shall be deemed to have implicitly approved any proposal if a timely response is not given as provided in Section 2(b) of Article VIII hereof.)

6. Association as Trustee. With respect to a third Person dealing with the Association in its Association's capacity as a trustee, the existence of trust powers and their proper exercise by the Association may be assumed without inquiry. A third Person is not bound to inquire whether the Association has the power to act as trustee or is properly exercising trust powers. A third Person, without actual knowledge that the Association is exceeding or improperly exercising its powers, is fully protected in dealing with the Association as if its powers and properly exercised powers are it purports to exercise. A third Person is not bound to inquire the proper application of trust powers said or delivered to the Association in its capacity as trustee.

7. HUD or VA Approval. During the term of Declaration, the following actions shall require the prior approval of HUD or VA if, at the time any such action is taken, HUD has insurance or VA has a guarantee(s) of one or more Security Interests: amendment of additional real property; amendment of this Declaration; termination of this Common Interests Community; or merger or consolidation of the Association.

8. Run with Land: Binding upon Successors. The benefits, burdens and all other provisions contained in this Declaration shall be covenants running with and binding upon the Common Interests Community and all real property and improvements which are a part thereof. The benefits, burdens and all other provisions

contained in this Declaration shall be binding upon, and inure to the benefit of the Declarant, the Association and all Unit Owners, and upon and to the their respective heirs, personal representatives, successors and assigns. Any right or any interest reserved or contained in this Declaration to or for the benefit of the Declarant may be transferred or assigned by the Declarant, either separately or with one or more of such rights or interests to any Person.

IN WITNESS WHEREOF, the undersigned, being the Declarant hereunto set its hand and seal this 27th day of July, 1975.

DECLARANT:

The Mitchell Right Company, Inc.,
a Colorado corporation

By: [Signature]
Its: [Signature]

STATE OF COLORADO)
COUNTY OF Denver) ss.

The foregoing instrument was acknowledged before me this 27th day of July, 1975, by [Signature] as Secretary of The Mitchell Right Company, Inc., a Colorado corporation.

Witness my hand and official seal

Notary Public: [Signature]

(Seal) [Signature]
Notary Public

EXHIBIT B
TO
CONDOMINIUM DECLARATION
OF
THE GARFIELD CONDOMINIUM

	Percent of Total Floor Area	Percent of Total Floor Area
First Floor Unit 1E		25%
First Floor Unit 1W		25%
Second Floor Unit 2E		25%
Second Floor Unit 2W		25%

EXHIBIT C
TO
CONDOMINIUM DECLARATION
OF
THE GARDENFIELD CONDOMINIUMS

NONE