

CERTIFICATION

The Clerk and Recorder for the
CITY AND COUNTY OF DENVER State
of Colorado does hereby certify this
document to be a full, true and
correct copy of the original
document recorded in my office.

**SUPPLEMENTAL DECLARATION TO
CONDOMINIUM DECLARATION FOR SWALLOW HILL**

FEB 14 2003



Clerk and Recorder

by _____
 Deputy County Clerk
 Date _____

KNOW ALL MEN BY THESE PRESENTS:

THAT, SWALLOW HILL RESIDENCES, LLC, a Delaware limited liability company ("Declarant"), has heretofore executed and caused to be recorded that certain Condominium Declaration for Swallow Hill, recorded on October 7, 2002 at Reception No. 2002179996 in the office of the Clerk and Recorder of the City and County of Denver, Colorado, as amended and supplemented from time to time ("Declaration") (terms which are defined in the Declaration shall have the same meanings herein unless otherwise defined); and

WHEREAS, Section 20.2 of the Declaration permits the annexation of all or any portion of the Annexable Property thereto by the Declarant prior to the termination of the period of Special Declarant Rights, without consent of any other Owners, Security Interest Holders, or any other Person, by recording a Supplemental Declaration; and

WHEREAS, termination of the period of Special Declarant Rights has not occurred.

ANNEXATION OF ADDITIONAL LAND

NOW, THEREFORE, the undersigned Declarant does annex to the Declaration the Annexable Property more fully described on Exhibit A attached hereto and incorporated herein by this reference ("Annexed Property"), such that the Annexed Property shall be part of the Project and subject to the Declaration. The Declarant hereby further states and declares as follows:

1. Declarant is the owner of the Units in the Annexed Property.
2. Each Unit in the Annexed Property shall have an identifying number as shown on the Condominium Map of the Annexed Property and as listed on Exhibit B attached hereto and incorporated herein by this reference. All improvements on the Annexed Property are substantially complete.
3. The Common Elements in the Annexed Property generally consist of all of the Annexed Property except for the Individual Air Space Units located therein.

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4. As provided in Section 20.2 of the Declaration, each Owner's allocated interest in the Common Elements, the common expenses and the votes of the Association shall be as set forth on the attached Exhibit B.

5. The Annexed Property is subject to a certain Supplement to the Condominium Map of Swallow Hill Residences, 1630 Clarkson Street, recorded or to be recorded in the records of the office of the Clerk and Recorder of the City and County of Denver, Colorado, as amended.

6. The certification of an independent licensed engineer, surveyor or architect, as required by C.R.S. §§ 38-33.3-201(2) and 38-33.3-209(6), is set forth on the Supplement to the Condominium Map of Swallow Hill Residences, 1630 Clarkson Street.

7. All provisions, covenants, conditions and restrictions of the Declaration, including, but not limited to those provisions regarding obligations to pay assessments to the Association and any right to cast votes as Members, shall be deemed to apply to the Annexed Property upon recording of this Supplemental Declaration, and recording of the Supplement to the Condominium Map of Swallow Hill Residences, 1630 Clarkson Street, in the City and County of Denver, Colorado.

IN WITNESS WHEREOF, the undersigned Declarant has hereunto set its hand this 12 day of February, 2003.

SWALLOW HILL RESIDENCES, LLC,
a Delaware limited liability company

By: GS Swallow Hill, LLC, a Colorado
limited liability company, its
Managing Member

By: Greystar Real Estate Partners
West, LLC,
a Delaware limited liability
company, its Manager

By: P. Barton S. May
Its: Authorized by P. B.



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STATE OF COLORADO)
CITY AND COUNTY OF DENVER) ss.
)

The foregoing Condominium Declaration for Swallow Hill was acknowledged before me this 12th day of February, 2003, by K. Barton Snellings as Authorized Agent Greystar Real Estate Partners West, LLC, a Delaware limited liability company, Manager of GS Swallow Hill, LLC, a Colorado limited liability company, Managing Member of SWALLOW HILL RESIDENCES, LLC, a Delaware limited liability company.

WITNESS my hand and official seal.

My commission expires: 9-11-06



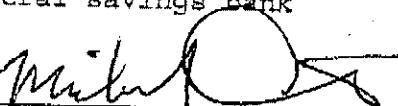
Luis A. Martiney
Notary Public



JOINDER OF LIENOR

The undersigned beneficiary under the Deed of Trust dated May 23, 2001, and recorded May 25, 2001, under Reception No. 2001085534, in the Office of the Clerk and Recorder of the City and County of Denver, Colorado, as amended and supplemented from time to time (the "Deed of Trust"), for itself and its successors and assigns, consents to the foregoing Supplemental Declaration to Condominium Declaration for Swallow Hill, and the Supplement to the Condominium Map of Swallow Hill Residences, 1630 Clarkson Street, each of which affect the Property encumbered by the Deed of Trust, and agrees that no foreclosure or other enforcement of any remedy pursuant to the Deed of Trust shall impair, invalidate, supersede or otherwise affect the covenants, conditions, restrictions and easements established by the Declaration.

OHIO SAVINGS BANK,
a federal savings bank

By: 
Jms: Vice President

STATE OF COLORADO)
CITY AND COUNTY OF DENVER) ss.
)

The foregoing supplemental Declaration to Condominium Declaration for Swallow Hill was acknowledged before me this day of _____, 2003, by Michael Attias as Vice President of OHIO SAVINGS BANK, a federal savings bank.

WITNESS my hand and official seal.

My commission expires: _____

Notary Public



EXHIBIT A
SUPPLEMENTAL DECLARATION TO
CONDOMINIUM DECLARATION FOR SWALLOW HILL

ANNEXED PROPERTY:

LOTS 20 THROUGH 27 INCLUSIVE,
BLOCK 22,
SWALLOW'S RESUBDIVISION OF BLOCK 22,
PARK AVENUE ADDITION,
CITY AND COUNTY OF DENVER,
STATE OF COLORADO

And

THE SOUTH 3 FEET OF LOT 28,
BLOCK 22,
SWALLOW'S RESUBDIVISION OF BLOCK 22,
PARK AVENUE ADDITION,
CITY AND COUNTY OF DENVER,
STATE OF COLORADO

Excepting therefrom

THE EAST 8 FEET OF SAID LOTS 20 THROUGH 27 AND THE EAST 8 FEET OF
THE SOUTH 3 FEET OF SAID LOT 28,
BLOCK 22,
SWALLOW'S RESUBDIVISION OF BLOCK 22,
PARK AVENUE ADDITION,
CITY AND COUNTY OF DENVER,
STATE OF COLORADO



EXHIBIT BSUPPLEMENTAL DECLARATION TO
CONDOMINIUM DECLARATION FOR SWALLOW HILL

OWNERS' INTERESTS IN COMMON ELEMENTS

CONDOMINIUM BUILDING: 1631 EMERSON STREET

<u>Unit No.</u>	<u>Square Footage</u>	<u>% Interest in Common Elements</u>
101	1,402	0.991%
103	1,233	0.872
105	1,315	0.930
107	1,219	0.862
109	1,133	0.801
111	1,051	0.743
113	1,057	0.747
115	911	0.644
117	1,266	0.895
119	1,305	0.923
121	704	0.498
201	1,059	0.749
203	1,194	0.844
205	1,275	0.901
207	1,282	0.906
209	1,200	0.848
211	1,058	0.748
213	1,016	0.718
215	1,073	0.759
217	1,262	0.892
219	1,263	0.893
221	1,038	0.734
223	1,018	0.720
301	1,059	0.749
303	1,194	0.844
305	1,275	0.901
307	1,282	0.906
309	1,200	0.848
311	1,058	0.748
313	1,018	0.720
315	1,073	0.759
317	1,262	0.892

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<u>Unit No.</u>	<u>Square Footage</u>	<u>% Interest in Common Elements</u>
319	1,263	0.893%
321	1,038	0.734
323	1,018	0.720
401	1,745	1.234
403	1,298	0.918
405	1,307	0.924
407	1,752	1.239
409	738	0.522
411	1,606	1.136
413	1,287	0.910
415	1,257	0.889
417	1,574	1.113
419	743	0.525
Subtotal	53,381	

CONDOMINIUM BUILDING: 1630 CLARKSON STREET

<u>Unit No.</u>	<u>Square Footage</u>	<u>% Interest in Common Elements</u>
100	1,144	0.809%
102	892	0.631
104	1,212	0.857
106	1,251	0.885
108	718	0.508
110	1,223	0.865
112	1,314	0.929
114	1,312	0.928
116	1,217	0.860
118	1,158	0.819
120	1,134	0.802
200	1,094	0.774
202	1,063	0.752
204	1,319	0.862
206	1,222	0.864
208	1,030	0.728
210	1,021	0.722
212	1,036	0.732



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<u>Unit No.</u>	<u>Square Footage</u>	<u>% Interest in Common Elements</u>
214	1,223	0.865%
216	1,283	0.907
218	1,289	0.911
220	1,229	0.869
222	1,104	0.781
300	1,094	0.774
302	1,063	0.752
304	1,219	0.862
306	1,222	0.864
308	1,030	0.728
310	1,021	0.722
312	1,036	0.732
314	1,223	0.865
316	1,283	0.907
318	1,289	0.911
320	1,229	0.869
322	1,104	0.781
400	1,094	0.774
402	1,063	0.752
404	1,219	0.862
406	1,222	0.864
408	1,030	0.728
410	1,021	0.722
412	1,036	0.732
414	1,223	0.865
416	1,283	0.907
418	1,289	0.911
420	1,229	0.869
422	1,104	0.781
500	1,094	0.774
502	1,064	0.752
504	1,219	0.862
506	1,221	0.863
508	1,468	1.052
510	1,165	0.824
512	1,283	0.907
514	1,289	0.911
516	1,230	0.870
518	1,104	0.781

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<u>Unit No.</u>	<u>Square Footage</u>	<u>% Interest in Common Elements</u>
600	1,863	1.317%
602	1,220	0.863
604	1,224	0.865
606	1,327	0.938
608	1,416	1.001
610	1,284	0.908
612	1,289	0.911
614	1,970	1.393
700	1,694	1.198
702	2,189	1.548
704	1,076	0.761
706	1,237	0.875
708	2,302	1.628
710	<u>1,792</u>	<u>1.267</u>
Subtotal	<u>88,054</u>	
Total	141,435	100%

The formula used to establish such allocation of ownership interests and assessments is based upon the square footage of respective Condominium Units, as set forth on the Condominium Map.



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AMENDMENT TO THE
CONDOMINIUM DECLARATION
FOR SWALLOW HILL

THIS AMENDMENT TO THE CONDOMINIUM DECLARATION FOR SWALLOW HILL ("Amendment") is made by Swallow Hill Residences, LLC, a Delaware limited liability company, whose address is 1899 Wynkoop Street, Suite 950, Denver, Colorado 80202 ("Declarant").

RECITALS

A. Declarant executed and recorded that certain Condominium Declaration for Swallow Hill recorded October 7, 2002, at Reception No. 2002179996 in the real property records of the Clerk and Recorder of the City and County of Denver, Colorado (the "Declaration"), and in connection therewith Declarant executed and recorded that certain Condominium Map of Swallow Hill Residences recorded October 7, 2002, at Reception No. 2002179997 in the real property records of the Clerk and Recorder of the City and County of Denver, Colorado (the "Map").

B. The Declaration reserves to the Declarant the right to exercise all Development Rights, Special Declarant Rights and other rights reserved to the Declarant by the terms and provisions of the Declaration.

C. Declarant is the Owner of all reserved Development Rights Special Declarant Rights and other reserved rights set forth in the Declaration, including the rights to create Units, create Common Elements and Limited Common Elements, the right to reallocate Common Elements and Limited Common Elements in connection with the overall development of the condominium common interest community, and the right to exercise all reserved rights of the Declarant.

D. Declarant desires to exercise its reserved rights on a portion of the Condominium Community, pursuant to the Declaration, to reallocate among the Condominium Units identified herein, and which are owned by Declarant, certain parking spaces which are designated on the Map as limited common elements.

Now, Therefore, Declarant hereby declares as follows:

1. Declarant is the Owner of Condominium Units 119, 217 and 301, 1631 Emerson Street, as created by the Declaration and the Map. Pursuant to the Declaration, pursuant to this Amendment to

the Condominium Declaration for Swallow Hill, and pursuant to the Map, Declarant hereby reallocates the following designated parking spaces, which are designated as Limited Common Elements on the Map, between Condominium Units 119, 217 and 301 as follows:

a. The southernmost Parking Space which is designated on Sheet 2 of the Map as an L.C.E. allocated to Unit 301 is reallocated to Unit 119;

b. The northernmost Parking Space which is designated on Sheet 2 of the Map as an L.C.E. allocated to Unit 301 is reallocated to Unit 217;

c. The Parking Space which is designated on Sheet 3 of the Map as an L.C.E. allocated to Unit 119 is reallocated to Unit 301;

d. The Parking Space which is designated on Sheet 3 of the Map as an L.C.E. allocated to Unit 217 is reallocated to Unit 301.

2. All of Declarant's Development Rights, Special Declarant Rights and other rights reserved to the Declarant by the terms and provisions of the Declaration are retained and reserved with respect to the reallocations set forth herein.

3. Unless otherwise defined herein, initially capitalized terms or terms defined in the Declaration shall have the same meaning herein.

SWALLOW HILL RESIDENCES, LLC,
a Delaware limited liability company

By: GS Swallow Hill, LLC, a Colorado
limited liability company, its
Managing Member

By: Greystar Real Estate Partners
West, LLC,
a Delaware limited liability
company, its Manager

By: Donald D. MacKenzie
Donald D. MacKenzie, Manager

CONDOMINIUM DECLARATION FOR SWALLOW HILL
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Exhibit B - Owners' Interests in Common Elements

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Exhibit D - Annexable Property

Lottner Rubin Fishman Brown + Saul, P.C.
Attorneys

633 17th Street, Suite 2700 Denver, CO 80202-3635
303.292.1200 Fax: 303.292.1300

SCOTT A. ROSS
(303) 292-1200

TRANSMITTAL

TO: Mr. Bart Spaulding
Greystar Real Estate Partners West
1899 Wynkoop Street, Suite 950
Denver, Colorado 80202

FROM: Scott A. Ross, Esq.

RE: Swallow Hill

DATE: December 20, 2002

ITEM(S):

- I am enclosing the original, executed and recorded Condominium Declaration for Swallow Hill, which was recorded on October 7, 2002, at Reception No. 2002179996 in the Denver County Records. Please place the Declaration in the corporate minute book and binder previously provided to you which holds the original executed homeowners association documents for Swallow Hill.

Call me if you have any questions.

CONDOMINIUM DECLARATION
FOR
SWALLOW HILL

THIS CONDOMINIUM DECLARATION FOR SWALLOW HILL (this "Declaration") dated as of OCTOBER 7, 2002, shall be effective upon recordation and is made by Swallow Hill Residences, LLC, a Delaware limited liability company ("Declarant"). Declarant is the owner of certain real property in the City and County of Denver, State of Colorado, more particularly described on Exhibit A attached hereto and by this reference made a part of this Declaration (the "Property"). Declarant hereby makes the following grants, submissions and declarations:

ARTICLE 1
IMPOSITION OF COVENANTS

1.1 Purpose. The purpose of this Declaration is to create a residential condominium project (the "Project") pursuant to the Act (as hereinafter defined) within the Buildings (as hereinafter defined) and other improvements located on the Property.

1.2 Intention of Declarant. Declarant desires to (a) protect the value and desirability of the Project as a whole while respecting the separate and distinct interests of the owner of Units (as hereinafter defined) within the Project; (b) further a plan for the improvement, sales and condominium ownership of the Project; (c) create a harmonious and attractive residential development within the Project; and (d) promote and safeguard the health, comfort, safety, convenience and welfare of the owners of Units within the Project.

1.3 Development and Use. Declarant hereby divides the Property into Units identified on Exhibit B attached hereto and depicted on the Condominium Map and the Common Elements. The Project is hereby initially divided into and consists of forty-five (45) Condominium Units designated for residential use, each consisting of a separate fee simple estate in a particular Unit, as identified in Exhibit B attached hereto, and an undivided interest in the General Common Elements and an interest in the Limited Common Elements appurtenant thereto.

1.4 Residential Use. The name of the Project is Swallow Hill Condominiums. Subject to the rights of the Declarant set forth herein, the Project is intended for residential use and each Unit shall be occupied and used only for residential purposes and uses incidental thereto. The functions, activities, physical appearance and other features commonly associated with residential uses shall be expressly permitted on the Property and within the Buildings and other improvements, all as more particularly described and governed herein.

1.5 Declaration. To accomplish the purposes and intentions recited above, Declarant hereby submits the Property, together with all improvements, appurtenances and facilities relating to or located on the Property now and in the future to the provisions of the Act and hereby imposes upon all of the Property the covenants, conditions, restrictions, easements, reservations, rights-of-way and other provisions of this Declaration below, and Declarant hereby declares that all of the Property shall be held, sold, conveyed, encumbered, leased, rented, occupied and improved subject to the provisions of this Declaration.

1.6 Covenants Running With the Land. All provisions of this Declaration shall be deemed to be covenants running with the land or equitable servitudes, as the case may be. The benefits, burdens and other provisions contained in this Declaration shall be binding upon and shall inure to the benefit of the Property and Declarant, the Association, all Owners and their respective heirs, executors, administrators, personal representatives, successors and assigns.

ARTICLE 2 DEFINITIONS

The following words, when used in this Declaration, shall have the meanings designated below unless the context shall expressly provide otherwise:

2.1 "Act" means the Colorado Common Interest Ownership Act, as set forth in Article 33.3, Title 38, Colorado Revised Statutes, as such Act exists on the date hereof, except to the extent that the applicability of future amendments to the Act are mandatory.

2.2 "Annexable Property" means that real property more particularly described on Exhibit D attached hereto, including all rights and easements, if any, appurtenant thereto, which may be

annexed to and made a part of the Project and this Declaration, as more particularly provided herein.

2.3 "Assessments" means the annual, special and default Assessments levied pursuant to Article 8 below. Assessments are also referred to as a Common Expense Liability under the Act.

2.4 "Association" means Swallow Hill Condominium Association, Inc., a Colorado non-profit corporation, and its successors and assigns.

2.5 "Association Documents" means the basic documents creating and governing the Project, including but not limited to this Declaration, the articles of incorporation and bylaws of the Association, the Map and any procedures, rules, regulations or policies relating to the Project adopted under such documents by the Association or the Executive Board.

2.6 "Building" or "Buildings" means one or more buildings (including all fixtures and improvements contained within it) in which Condominium Units and certain Common Elements are located.

2.7 "Common Elements" means all of the Project, except the Individual Air Space Units, and including, without limiting the generality of the foregoing, the following components:

2.7.1 The Property, excluding improvements on the Property unless specifically described in this subsection;

2.7.2 The Building (including, but not by way of limitation, the foundations, columns, girders, beams, supports, perimeter and supporting walls, chimneys, flues, chimney chases, roofs, patios, decks, balconies, corridors, lobbies, vestibules, entrances and exits; and the mechanical installations of the Building consisting of the equipment and material making up any central services such as power, light, gas, hot and cold water, sewer and heating, ventilation and central air conditioning which exist for use by one or more of the Owners, including the pipes, vents, ducts, flues, cable conduits, wires, telephone wires and other similar utility installations used in connection therewith and the areas designated on the Map as including those installations; trash rooms and storage rooms; elevators and stairs), except for the Individual Air Space Units;

2.7.3 The yards, sidewalks, walkways, parking areas (including without limitation any parking facility), paths, grass, shrubbery, trees, plants, driveways, roadways, landscaping, gardens and related facilities upon the Property;

2.7.4 The pumps, tanks, motors, fans, storm drainage structures, compressors, ducts, and in general, all apparatus, installations and equipment of the Building existing for use of one or more of the Owners; and

2.7.5 In general, all other parts of the Project designated by Declarant as Common Elements and existing for the use of one or more of the Owners.

The Common Elements shall be owned by the Owners of the separate Condominium Units, each Owner of a Condominium Unit having an undivided interest in the Common Elements as provided below.

2.8 "Common Expense(s)" means and includes the following:

2.8.1 Expenses of administration, insurance, operation and management, improvement, repair or replacement of the Common Elements, except to the extent such repairs and replacements are responsibilities of an Owner, as delineated in Section 9.2 below;

2.8.2 Expenses declared Common Expenses by the provisions of this Declaration or the bylaws of the Association;

2.8.3 All sums lawfully assessed against the Condominium Units by the Executive Board;

2.8.4 Expenses agreed upon as Common Expenses by the members of the Association; and

2.8.5 Expenses provided to be paid by the Owners in accordance with the terms of this Declaration pursuant to any Management Agreements for the maintenance of the General Common Elements and the Limited Common Elements.

2.9 "Condominium Map" or "Map" means and includes any map and plat, engineering survey or surveys of the Property locating the Condominium Units in the Building and the Building on the Property, and depicting the floor plans of the Units, together with other drawings or diagrammatic plans and information regarding the

Property as may be included in the discretion of the Declarant, as recorded, and made a part of this Declaration, in the Office of the Clerk and Recorder of the City and County of Denver, Colorado, as such plat and map may hereafter be amended or supplemented in accordance with this Declaration.

2.10 "Condominium" or "Unit" or "Condominium Unit" means the fee simple interest in and to an Individual Air Space Unit, together with the undivided interests in the Common Elements appurtenant to the Individual Air Space Unit, as specified in Exhibit B attached hereto and incorporated herein by this reference and designated on the Condominium Map as a Unit. Condominium Unit is also referred to as a Unit under the Act.

2.11 "Declarant" means Swallow Hill Residences, LLC, a Delaware limited liability company, and its successors and assigns. No party other than said Declarant shall exercise the rights and privileges reserved herein to Declarant unless such party shall receive and record in the Office of the Clerk and Recorder of the City and County of Denver, Colorado, a written assignment from said Declarant of all or a portion of such rights and privileges.

2.12 "Declarant Control Period" or "Period of Declarant Control" means a length of time expiring seven (7) years after initial recording of this Declaration in the County in which the Community is located, provided that the Declarant Control Period shall terminate no later than either sixty (60) days after conveyance of seventy-five percent (75%) of the Units That May Be Created to Owners other than a Declarant, two (2) years after the last conveyance of a Unit by the Declarant in the ordinary course of business, or two (2) years after any right to add new Units to the Declaration was last exercised.

2.13 "Declaration" means this Condominium Declaration for Swallow Hill, together with any supplement or amendment to this Declaration recorded in the Office of the Clerk and Recorder of the City and County of Denver, Colorado.

2.14 "Director" means a member of the Executive Board.

2.15 "Executive Board" or "Board" or "Board of Directors" means the governing body of the Association, as provided in this Declaration and in the articles of incorporation and bylaws of the Association.

2.16 "First Mortgage" means a Mortgage that has priority of record over all other recorded liens, except those governmental liens made superior by statute (such as general ad valorem tax liens and special assessments).

2.17 "First Mortgagee" means the Mortgagee under a First Mortgage. An "Eligible First Mortgagee" means a First Mortgagee who has given notice to the Association that states the name and address of such First Mortgagee and the identifying number of the Unit encumbered by its First Mortgage and requests notice from the Association of any proposed action by the Association or Owners that requires the approval of a specified percentage of Eligible First Mortgagees.

2.18 "General Common Elements" means the Common Elements, except for Limited Common Elements.

2.19 "Individual Air Space Unit" means that portion of a single Condominium Unit designated for separate ownership by an Owner as depicted on the Map and consisting of enclosed rooms and bounded by the interior surfaces of the Unfinished Perimeter Walls, Ceilings and Floors, and the doors and windows thereof. For the purposes of defining an Individual Air Space Unit, the terms set forth below shall be defined as follows:

2.19.1 "Unfinished Perimeter Wall" means the studs, supports and other wooden, metal or similar structural materials which constitute the interior face of a wall of an Individual Air Space Unit;

2.19.2 "Unfinished Ceiling" means the beams, joists and wooden or other structural materials which constitute the unfinished ceiling of an Individual Air Space Unit; and

2.19.3 "Unfinished Floor" means the beams, floor joists, floor deck material and concrete which constitute the unfinished floor of an Individual Air Space Unit.

An Individual Air Space Unit shall include any drywall, wall paneling, wood, tile, paint, paper, carpeting or any other wall, ceiling or floor covering, windows and window frames, shutters, awnings, doorsteps, stoops, doors and door frames. An Individual Air Space Unit shall also include any fireplace (but excluding any flue). An Individual Air Space Unit shall further include fixtures, chutes, flues, ducts, vents and hardware and all

improvements that are located completely within the boundaries of a Unit created by the Unfinished Perimeter Walls, Ceilings and Floors, and which exclusively serve such Unit. An Individual Air Space Unit shall include any heating and refrigerating elements or related equipment, utility lines and outlets, electrical and plumbing fixtures, pipes and all other related equipment required to provide heating, air conditioning, hot and cold water, electrical or other utility services to the Individual Air Space Unit and located within the Unfinished Perimeter Walls, Ceilings and Floors; provided, however, that an Individual Air Space Unit shall not include any of the structural components of the Building, including without limitation bearing walls, bearing ceiling/floor structural elements, bearing columns, foundations and footings which are Common Elements or utility or service lines, pipes, wires, conduits, chutes, flues, ducts or vents that are located within the Individual Air Space Unit but do not exclusively serve that Individual Air Space Unit.

2.20 "Limited Common Elements" means those parts of the Common Elements which are limited to and reserved for the use of the Owners of one or more, but fewer than all, of the Condominium Units. Limited Common Elements which are reserved for the exclusive use of one or more Owners are defined as "Limited Common Elements" or "L.C.E." on the Map. Without limiting the foregoing, the Limited Common Elements shall include any balcony, deck, patio, entryway or porch adjacent (as shown on the Map) to an individual Air Space Unit, storage spaces which may be designated as Limited Common Elements serving those particular Individual Air Space Units, parking spaces which may be designated as Limited Common Elements for particular Units on the Map, and any individual flues, individual heating, ventilation and air conditioning units and fixtures, and individual water and sewer service lines, any plumbing or other installation servicing an Individual Air Space Unit, including but not limited to all such items designated as Limited Common Elements on the Map. The deck, balcony or patio and the fireplace flues which are directly accessible from, associated with and which adjoin a particular Individual Air Space Unit, without further reference thereto, shall be used in connection with such Individual Air Space Unit to the exclusion of the use thereof by the other Owners, except by invitation. No reference thereto need be made in any instrument of conveyance, encumbrance or other instrument.

2.21 "Management Agreement" means any contract or arrangement entered into for purposes of discharging the

responsibilities of the Executive Board relative to the operation, maintenance and management of the Project.

2.22 "Managing Agent" means a person, firm, corporation or other entity employed or engaged as an independent contractor pursuant to a Management Agreement to perform management services for the Project.

2.23 "Maximum Rate" shall mean, with respect to any amount payable under this Declaration, the maximum rate of interest allowed by law.

2.24 "Member" means each Owner.

2.25 "Mortgage" means any unpaid and outstanding mortgage, deed of trust or other security instrument recorded in the Office of the Clerk and Recorder of the City and County of Denver, Colorado, which secures financing for the construction or development of the Project or which encumbers a Condominium Unit.

2.26 "Mortgagee" means any person or entity named as a mortgagee or beneficiary under any Mortgage, or any successor to the interest of any such person under such Mortgage.

2.27 "Owner" means any record owner (including Declarant, and including a contract seller, but excluding a contract purchaser), whether a natural person or persons, or an entity, of a fee simple interest in and to any Condominium Unit; excluding, however, any record owner with an interest therein merely as a Mortgagee (unless such Mortgagee has acquired fee simple title interest in the Condominium Unit pursuant to foreclosure or any proceedings in lieu of foreclosure).

2.28 "Property" means the real property described in the attached Exhibit A.

2.29 "Special Declarant Rights" means those rights reserved by Declarant in Article 20 hereof or described elsewhere in this Declaration. All of such Special Declarant Rights may be exercised by Declarant with respect to any portion of the Property now or hereafter within the Project. Declarant may exercise any or all 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 an Owner other than Declarant; or (b) seven (7) years from the date

of recordation of this Declaration, except that such Rights shall not terminate automatically with respect to the appointment of officers and Directors, which may only be exercised in accordance with Article 6 hereof.

2.30 "Successor Declarant" means any party or entity to whom Declarant assigns any or all of its rights, obligations or interest as Declarant, as evidenced by an assignment or deed of record executed by both Declarant and the transferee or assignee and recorded in the Office of the Clerk and Recorder of the City and County of Denver, Colorado, designating such party as a Successor Declarant. Upon such recording, Declarant's rights and obligations under this Declaration shall cease and terminate to the extent provided in such document.

2.31 "Units That May Be Created" means one hundred twenty-five (125) Units which shall be the maximum number of Units that may be subject to this Declaration.

Each capitalized term not otherwise defined in this Declaration or in the Map shall have the same meanings specified or used in the Act.

ARTICLE 3 DIVISION OF PROJECT INTO CONDOMINIUM OWNERSHIP

3.1 Division Into Condominium Units. As of the recording of this Declaration, the Property is hereby divided into forty-five (45) Condominium Units. Each Condominium Unit consists of a fee simple interest in an Individual Air Space Unit and an undivided fee simple interest in the Common Elements in accordance with the respective undivided interests in the Common Elements as set forth in Exhibit B attached hereto. The formula used to establish the allocation of undivided interests is based upon the square footage of a Condominium Unit as a percentage of the total square footage of all Condominium Units determined by dividing the Measured Area of such Unit by the sum of the total Measured Area of all Units. "Measured Area" means the approximate area in square feet of all floor space in any Unit measured from the inside of each exterior wall, the centerline of the corridor wall and from the center line of each demising wall. Such undivided interests in the Common Elements are hereby declared to be appurtenant to the respective Units. Declarant has reserved the right (but not the obligation) to create additional Condominium Units by the expansion of the Project, as set forth in Article 20 hereof, provided that the

maximum number of Condominium Units shall not exceed the Units That May Be Created. From and after the date of this Declaration, the allocated interest of each Unit shall be changed upon the occurrence of any event, including expansion to create additional Units, that would cause the allocated interest to change in accordance with the formula given above.

3.2 Delineation of Unit Boundaries. The boundaries of each Individual Air Space Unit are delineated and designated by an identifying number on the Map, and those numbers are set forth in Exhibit B.

3.3 Inseparability of Condominium Unit. No part of a Condominium Unit or of the legal rights comprising ownership of a Condominium Unit may be partitioned or separated from any other part thereof during the period of condominium ownership prescribed in this Declaration. Subject to Section 3.5 below, each Condominium Unit shall always be conveyed, transferred, devised, bequeathed, encumbered and otherwise affected only as a complete Condominium Unit. Every conveyance, transfer, gift, devise, bequest, encumbrance or other disposition of a Condominium Unit or any part thereof shall be presumed to be a disposition of the entire Condominium Unit, together with all appurtenant rights and interests created by law or by this Declaration.

3.4 Nonpartitionability of Common Elements. Subject to the provisions of this Article and Article 5 below, the Common Elements shall be owned in common by all of the Owners and shall remain physically undivided; provided, however, the Limited Common Elements shall be for the exclusive use, enjoyment and control of Owners of one or more, but fewer than all, of the Condominium Units. No Owner shall bring any action for partition or division of the Common Elements. By acceptance of a deed or other instrument of conveyance or assignment to a Condominium Unit, each Owner of the Unit shall be deemed to have specifically waived such Owner's right to institute or maintain a partition action or any other cause of action designed to cause a division of the General Common Elements or the Limited Common Elements; provided, however, the sale or conveyance of a Condominium Unit (including the appurtenant share of the Common Elements) as an undivided property, in association with an action for partition by sale and division of the sale proceeds, shall be permitted, and except as so provided, this Section 3.4 may be pleaded as a bar to the maintenance of such an action. Any Owner who shall institute or maintain any such action shall be liable to the Association and hereby agrees to

reimburse the Association for the Association's costs, expenses and reasonable attorneys' fees in defending any such action. Such amounts shall automatically become a default Assessment determined and levied against such Owner's Unit and enforced by the Association in accordance with Sections 8.10, 8.11 and 8.12 below.

Notwithstanding the foregoing, the Association shall have the right to dedicate, sell or otherwise transfer all or any part of the Common Elements to the fullest extent permitted under the Act. The granting of easements by a majority vote of the Executive Board for public utilities, for access by pedestrians or for other public purposes not inconsistent with the intended use of the Common Elements shall not be deemed a transfer requiring any consent of the Owners.

3.5 Subdivisions, Connections and Building Changes. Except as provided in Section 20.5 hereof (Declarant's right to subdivide, combine and create Units), no Unit may be subdivided into two (2) or more Units. However, a Boundary Relocation may be made, a connection of Units may be made and a Unit Disconnection may be made pursuant to Article 19 hereof.

ARTICLE 4 CONDOMINIUM MAP

4.1 Condominium Map. The Map shall be filed for record in the Office of the Clerk and Recorder of the City and County of Denver, Colorado. Any Map filed subsequent to the first Map shall be termed a supplement to such Map, and the numerical sequence of such supplements shall be shown thereon. The Map shall be filed for record following substantial completion of those portions of any Building subject to this Declaration and prior to the conveyance of any Condominium Unit depicted on the Map to a purchaser. The Map shall show the location of the Building(s) on the Property; the floor and elevation plans; the location of the Condominium Units within the Building, both horizontally and vertically; the thickness of the common walls, if any, between or separating the Condominium Units one from the other or from Common Elements, as applicable; the Condominium Unit designations; designation of General Common Elements and Limited Common Elements; and such other information as Declarant may require in its discretion. The Map shall contain a certificate of a registered professional engineer, licensed architect or a licensed land surveyor certifying that the Map substantially depicts the location and the horizontal and vertical measurements of the Building and

the Condominium Units, the dimensions of the Condominium Units and the elevations of the unfinished floors and ceilings, as constructed, and certifying that such Map is prepared subsequent to the substantial completion of the improvements depicted on the Map. Each supplement or amendment shall set forth a like certificate when appropriate. The Map shall further contain such other information, certifications and depictions as may be required under Section 38-33.3-209 of the Act.

4.2 Amendment. Declarant reserves the right to amend the Map, from time to time, to the fullest extent permitted under the Act.

ARTICLE 5 OWNERS' PROPERTY RIGHTS IN COMMON ELEMENTS

5.1 General Common Elements. Every Owner and the family members, guests, tenants and licensees of each Owner shall have a perpetual right and easement of access over, across and upon the General Common Elements for the purpose of entering and exiting such Owner's Condominium Unit, the parking area of such Owner and the public ways for both pedestrian and vehicular travel, which right and easement shall be appurtenant to and pass with the transfer of title to such Condominium Unit; provided, however, that such right and easement shall be subject to the following:

5.1.1 The covenants, conditions, restrictions, easements, reservations, rights-of-way and other provisions contained in this Declaration and the Condominium Map;

5.1.2 The right of the Association to regulate on an equitable basis the use of parking spaces and storage spaces which are General Common Elements or Limited Common Elements from time to time;

5.1.3 The right of the Association to adopt, from time to time, rules and regulations concerning vehicular traffic and travel upon, in, under and across the Project; and

5.1.4 The right of the Association to adopt, from time to time, any and all rules and regulations concerning the Common Elements as the Association may determine are necessary or prudent, subject to the terms of Section 7.7 and Article 13 hereof.

Notwithstanding the foregoing, the Association shall take no action which unreasonably restricts any Owner's or his family members', guests', tenants' and licensees' right and easement of access over, across and upon the Common Elements to his Unit(s).

5.2 Limited Common Elements.

5.2.1 Use and Enjoyment. Subject to the provisions of this Declaration, every Owner shall have the exclusive right to use and enjoy the Limited Common Elements appurtenant to his Condominium Unit.

5.2.2 Parking.

5.2.2.1 Individual parking spaces located within the parking areas of the Project and storage spaces may be designated on the Map as Limited Common Elements appurtenant to the appropriate Condominium Units or any individual Unit or Units and reserved for the exclusive use of the Owners and the tenants, guests, lessees, licensees, permittees and invitees of the Owners of the Condominium Units; provided, however, any such designation shall not be construed as granting any Owner of a Unit the ownership of such parking or storage spaces. All remaining parking spaces and storage spaces, if any, shall be designated as Limited Common Elements subject to regulation by the Executive Board of the Association, and subject to Declarant's reserved right set forth in Section 5.2.2.2 below. Each individual parking space designated on the Map or otherwise allocated as a Limited Common Element appurtenant to an identified Unit may be reallocated by the Owner of such Unit to another Owner in accordance with Section 38-33.3-208 of the Act.

5.2.2.2 Declarant hereby reserves the right to assign or convey, as Limited Common Elements appurtenant to a particular Condominium Unit(s), with or without consideration, the exclusive right to use any parking space and storage space which has been previously designated on the Condominium Map as a Limited Common Element, but which has not been assigned thereon to a particular Unit. The parking space or storage space so assigned or conveyed shall be a Limited Common Element of the Condominium Unit(s) to which it is assigned or with which it is conveyed. Upon such disposition, the parking space or storage space shall be appurtenant to the Condominium Unit and shall pass with title thereto, regardless of whether or not specifically referenced in the deed or other instrument of conveyance of a Condominium Unit.

5.2.3 Redesignation of Limited and General Common Elements. Any redesignation of the boundaries of the General Common Elements or of the General Common Elements to Limited Common Elements (except as an exercise of a Special Declarant Right) shall be approved by a majority of voting Directors of the Executive Board.

ARTICLE 6 MEMBERSHIP AND VOTING RIGHTS IN ASSOCIATION

6.1 Association Membership. Every Owner shall be a Member of the Association and shall remain a Member for the period of the Owner's ownership of a Condominium Unit. No Owner, whether one or more persons, shall have more than one membership per Condominium Unit owned, but all of the persons owning a Condominium Unit shall be entitled to rights of membership and of use and enjoyment appurtenant to ownership of a Unit. Membership in the Association shall be appurtenant to, and may not be separated from, ownership of a Condominium Unit. However, any Owner may appoint, in a written instrument furnished to the secretary of the Association, a delegate to exercise the rights of such Owner as a Member of the Association, and in the event of such appointment, the delegate shall have the power to cast votes on behalf of the Owner as a Member of the Association, subject to the provisions of and in accordance with the procedures more fully described in the bylaws of the Association.

6.2 Classes of Membership. There shall be one (1) class of membership in the Association, which shall consist of all Owners of Units, including Declarant, so long as Declarant continues to own an interest in a Unit.

6.3 Voting Rights. Each Condominium Unit shall be allocated a number of votes for the purpose of matters relating to the Common Elements or the Project as a whole equal to the same number which is described as a percentage interest in the General Common Elements allocated to each Unit as set forth in Exhibit B attached hereto. The Association shall not have a vote with respect to any Unit which may be owned by it. Declarant shall be entitled to vote with respect to Units owned by it. Members of the Association may exercise such voting rights subject to and in accordance with the provisions of this Declaration and those of the Bylaws of the Association. All Members of the Association shall be entitled to vote on all matters affecting the Project which are

required by this Declaration or the Act to be submitted to the vote of the Owners.

6.3.1 Election of Directors. During the Declarant Control Period, as more particularly described in Section 6.4 below and in the bylaws of the Association, the Directors and officers of the Executive Board shall be appointed by the Declarant and Declarant may remove all officers and Directors appointed by Declarant. The initial Executive Board shall consist of three (3) persons. After expiration of the Declarant Control Period, the Executive Board shall consist of at least five (5) (or such greater or lesser number, but not less than three nor more than nine, as may from time to time be set forth in the Bylaws) persons.

6.4 Declarant Control. During the Declarant Control Period, Declarant shall be entitled to appoint and remove the Members of the Executive Board and officers of the Association to the fullest extent permitted by the Act. Declarant may voluntarily relinquish such power evidenced by a notice recorded in the Office of the Clerk and Recorder for the City and County of Denver, Colorado. In such event, Declarant may at its option require that specified actions of the Association or the Executive Board, as described in the recorded notice, during the period Declarant would otherwise be entitled to appoint and remove Directors and officers, be approved by Declarant before they become effective.

6.5 Executive Board. Except as provided in this Declaration or the Association Bylaws, the Executive Board shall be entitled to participate in Association affairs which affect the Project in its entirety and may act in all instances on behalf of the Association.

6.6 Owners' and Association's Address for Notices. All Owners of each Unit shall have one and the same mailing address to be registered with the Association and used by the Association or other Owners for notices, demands and all other communications regarding Association matters. The Owner or Owners of a Unit shall furnish such address to the Secretary of the Association within five (5) days after transfer of title to the Unit to such Owner or Owners. Notwithstanding the foregoing, the Association shall be entitled to rely upon any such registration or other notice of a change in address of the Owners of a Unit which is signed by less than all of the Owners of such Unit.

If no address is registered or if all of the Owners cannot agree, then the address of such Owner's Unit shall be deemed their registered address until another registered address is furnished as required under this Section.

If the address of the Unit is the registered address of the Owners, then any notice shall be deemed duly given if delivered to any person occupying the Unit or, if the Unit is unoccupied, if the notice is held and available for the Owners at the principal office of the Association.

Any notice delivered to a First Mortgagee in accordance with the terms of this Declaration shall be sent to the address for such party specified in the First Mortgage unless the First Mortgagee notifies the Association in writing of a different address.

All notices and demands intended to be served upon the Executive Board shall be sent to the following address or such other address as the Executive Board may designate from time to time by notice to all of the Owners:

Executive Board
Swallow Hill Condominium Association, Inc.
c/o Greystar Real Estate Partners West, LLC
1899 Wynkoop Street, Suite 950
Denver, Colorado 80202

All notices given in accordance with this Section shall be given by personal delivery, which shall be effective upon receipt; by overnight courier service, which shall be effective one (1) business day following timely deposit with the courier service, charge prepaid; or regular, registered or certified mail, postage prepaid, which shall be effective three (3) days after deposit in the U.S. Mail.

ARTICLE 7 ASSOCIATION DUTIES

7.1 Association Management Duties.

7.1.1 Subject to the rights and obligations of Declarant and other Owners as set forth in this Declaration, the Association shall be responsible for the administration and operation of the Project and for the exclusive management, control, maintenance, repair, replacement and improvement of the General

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Common Elements (including facilities, furnishings and equipment related thereto) and shall keep the same in good, clean, attractive and sanitary condition, order and repair. The expenses, costs and fees of such management, operation, maintenance, improvement and repair by the Association shall be part of the Assessments, and subject to the budget approval procedures of Section 8.6 below, prior approval of the Owners shall not be required in order for the Association to pay any such expenses, costs and fees.

7.1.2 Subject to the provisions of Section 7.1.1 above, each Owner shall be responsible for the management, control, maintenance, repair, replacement and improvement of the Limited Common Elements allocated to such Owner's Unit. Each Owner shall, at its expense (i) maintain at all times in good condition and perform all required repairs, replacements or restorations of his Individual Air Space Unit, including all mechanical, electrical and plumbing systems, lines, equipment or components that are located in and exclusively serve such Unit; (ii) clean, maintain, repair and keep in good condition the balcony area, if any, and all other Limited Common Elements allocated to such Unit, other than parking spaces and exterior Limited Common Elements, other than balconies, which for purposes of this Section shall be maintained by the Association.

7.2 Reserve Account. The Association shall establish and maintain, as part of its budget and out of the installments of the annual Assessments, adequate reserve accounts for maintenance, repair or replacement of those Common Elements that must be replaced on a periodic basis.

7.3 Owner's Negligence. In the event that the need for maintenance, repair or replacement of all or any portion of the Common Elements is caused through or by the negligent or willful act or omission of an Owner, or by any Member of an Owner's family, or by an Owner's guests, invitees or tenants, then the expenses incurred by the Association for such maintenance, repair or replacement shall be a personal obligation of such Owner, and if the Owner fails to repay the expenses incurred by the Association within seven (7) days after notice to the Owner of the amount owed, then the failure to so repay shall be a default by the Owner under the provisions of this Section 7.3 and such expenses shall automatically become a default Assessment determined and levied against such Condominium Unit, enforceable by the Association in accordance with Sections 8.10, 8.11 and 8.12 below.

7.4 Delegation of Management and Maintenance Duties. The Directors may delegate all or any part of their powers and duties to one or more Managing Agents, including Declarant. Notwithstanding the delegation by the Directors to one or more Managing Agents, such Directors shall not be relieved of their responsibilities under this Declaration.

7.5 Acquiring and Disposing of Personal Property. The Association may acquire, own and hold tangible and intangible personal property for the use and benefit of all Owners, and may dispose of the same by sale or otherwise, and the beneficial interest in any such property shall be deemed to be owned by the Owners in the same undivided proportion as their respective undivided interests in the Common Elements. Such interests shall not be transferable except with the transfer of a Condominium Unit. A conveyance of a Condominium Unit shall transfer ownership of the transferor's beneficial interest in such personal property without any reference thereto. Each Owner may use such personal property in accordance with the purposes for which it is intended, without hindering or encroaching upon the lawful rights of other Owners. The transfer of title to a Condominium Unit under foreclosure shall entitle the purchaser to the interest in such personal property associated with the foreclosed Condominium Unit.

7.6 Cooperation with Other Associations. The Association may contract or cooperate with other unit owner associations or entities as convenient or necessary to provide services and privileges and to fairly allocate costs among the parties utilizing such services and privileges which may be administered by the Association or such other organizations for the benefit of Owners and their family members, guests, tenants and invitees. The costs associated with such efforts by the Association (to the extent not chargeable to other organizations) shall be a Common Expense.

7.7 Issuance of Rules and Regulations. The Directors may make and amend reasonable rules and regulations governing the use and rental of the Units and governing the use and operation of the Common Elements, the Limited Common Elements, or the Project as a whole. Notwithstanding the foregoing, any such rules and regulations shall not be inconsistent with the terms of this Declaration, including but not limited to Article 13 hereof. In addition, such rules and regulations shall, when applied to each of the Condominium Units considering the use of such Unit, be equitable and reasonable as applied to the Unit with respect to the use thereof. The Executive Board shall provide thirty (30) days

30 days

written notice prior to the adoption or amendment of any rules and regulations and provide for a reasonable opportunity for Owners to comment at a meeting of the Executive Board on the proposed adoption or amendment of any rules and regulations.

7.8 Payments to Working Capital Account. In order to provide the Association with adequate working capital funds, the Association shall collect at the time of the initial sale of each Condominium Unit by Declarant an amount equal to three (3) months installments of annual Assessments at the rate in effect at the time of the sale. The Association shall maintain the working capital funds in a segregated account for the use and benefit of the Association, including without limitation, to meet unforeseen expenditures or to acquire additional property, equipment or services, subject to the budget approval procedures of Section 8.6 below. Such payments to this fund shall not be considered advance payments of annual Assessments. Upon the transfer of his Unit, an Owner shall be entitled to a credit from his transferee (but not from the Association) for the aforesaid contribution to the working capital fund.

7.9 Implied Rights. The Association may exercise any and all other rights or privileges given to it by this Declaration, or by the other Association Documents, or as may otherwise be given to it by law, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to the Association in the Association Documents or reasonably necessary to effectuate any such right or privilege.

7.10 Books and Records of the Association. The Managing Agent or the Executive Board, as the case may be, shall keep detailed, accurate records of the receipts and expenditures affecting the Common Elements and shall maintain such other books and records as may be required under the Act. Owners and Mortgagees may inspect the records of receipts and expenditures of the Managing Agent or the Executive Board during convenient weekday business hours. In addition, the other books, records and papers of the Association, including this Declaration, the articles of incorporation and the bylaws of the Association, as well as any Management Agreement and any rules and regulations of the Association, shall be available for inspection by any Owner or Mortgagee at all times during convenient weekday business hours.

7.11 Limitation Upon Liability of Association.
NOTWITHSTANDING THE DUTY OF THE ASSOCIATION TO MAINTAIN AND REPAIR

PORTIONS OF THE PROJECT, AND EXCEPT TO THE EXTENT COVERED BY ASSOCIATION INSURANCE AS DESCRIBED IN ARTICLE 10, THE ASSOCIATION SHALL NOT BE LIABLE TO OWNERS FOR INJURY OR DAMAGE, OTHER THAN FOR THE COST OF MAINTENANCE AND REPAIR, CAUSED BY ANY LATENT CONDITION OF THOSE PORTIONS OF THE PROJECT TO BE MAINTAINED AND REPAIRED BY THE ASSOCIATION, OR CAUSED BY THE ELEMENTS OR OTHER OWNERS OR PERSONS.

ARTICLE 8 ASSESSMENTS

8.1 Covenant of Personal Obligation of Assessments. Declarant, by creating the Condominium Units pursuant to this Declaration, and every other Owner, by acceptance of the deed or other instrument of transfer of his Condominium Unit (whether or not it shall be so expressed in such deed or other instrument of transfer), is deemed to personally covenant and agree with the Association, and hereby does so covenant and agree to pay to the Association the (a) annual Assessments; (b) special Assessments; and (c) default Assessments applicable to the Owner's Condominium Unit. No Owner may waive or otherwise escape personal liability for the payment of the Assessments provided for in this Declaration by not using the Common Elements or the facilities contained in the Common Elements or by abandoning or leasing his Condominium Unit.

8.2 Purpose of Assessments. The Assessments levied by the Association shall be used for the purpose of promoting the health, safety, convenience and general welfare of the Owners, including the improvement and maintenance of the Property and of the services and facilities located on the Property. Proper uses of the Assessments shall include but are not limited to the following:

8.2.1 Repairing, replacing, renovating, improving and maintaining any of the Common Elements not made the responsibility of the Owners by Section 7.1 or Section 7.3 above, Section 9.2 below or other provisions of this Declaration;

8.2.2 Installing, maintaining and repairing underground utilities upon, across, over and under any part of the Project which are not conveyed to and accepted by utility companies;

8.2.3 Furnishing garbage and trash pickup and water, sewer and other common utility services to the Project;

8.2.4 Obtaining and maintaining insurance in accordance with the provisions of Article 10 below;

8.2.5 Establishing and maintaining reserves for repairs, replacement, maintenance, taxes, capital improvements and other purposes;

8.2.6 Carrying out all other powers, rights and duties of the Association specified in the Association Documents; and

8.2.7 Generally addressing any other expenses necessary to meet the purposes of the Association.

8.3 Commencement of Assessments. All of the Units shall be allocated full Assessments, subject to the provisions of Section 8.6 below, no later than sixty (60) days after Declarant conveys the first Unit in the Project to a purchaser.

8.4 Amount of Total Annual Assessments. The total annual Assessments against all Condominium Units shall be based upon the Association's advance budget of the cash requirements needed by it to provide for the administration and performance of its duties during such fiscal year, as approved by the Owners pursuant to Section 8.6 below, which estimates may include, among other things, the costs associated with the items enumerated in Section 8.2 above, together with any other costs and fees which may reasonably be expected to be incurred by the Association for the benefit of the Owners under or by reason of the Association Documents. In the event of surplus funds remaining after payment of or provision for Common Expenses and any prepayment of or provision for reserves, the Executive Board may, within its discretion, apply the surplus funds (a) into reserves; (b) toward the following year's Common Expenses; (c) toward a credit to Owners against future assessments or in the form of a distribution; or (d) any combination of the foregoing.

8.5 Apportionment of Annual Assessments. The total annual Assessments for any fiscal year of the Association shall be assessed to each Unit as follows:

8.5.1 The annual Assessment for each Unit shall be in an amount equal to the percentage interest in the General Common Elements allocated to such Unit determined in accordance with

Section 3.1 hereof, as shown on Exhibit B attached hereto multiplied by the Budget (as defined hereinafter).

8.5.2 Any Common Expense for the maintenance, repair or replacement of Limited Common Elements which are appurtenant to less than all Units shall be assessed against the Unit(s) to which they are appurtenant.

8.5.3 To the extent any Common Expense relating to the General Common Elements disproportionately benefits any Owner or group of Owners, the Executive Board may, by a majority of the voting Directors, adjust the Assessment for such Common Expense in such proportion as may be appropriate. To the extent any Common Expense relating to the Limited Common Elements disproportionately benefits any Owner or group of Owners, the Directors may adjust the Assessment for such Common Expense in such proportion as may be appropriate. The Executive Board, with the assistance of any company providing insurance for the benefit of the Owners under Article 10, may reasonably adjust the allocation to each Owner of the cost of premiums for any insurance carried for, and to be charged to, a particular Owner, as more fully detailed in Article 10 hereof. In addition, the Executive Board may allocate costs for consumption of common utilities (such as heating, cooling, trash removal, water and sewer charges) among the users thereof in the event of disproportionate consumption of any such common utility by an Owner, and the Executive Board may allocate such costs based upon any reasonable method of determining relative usage of such utilities, including without limitation, by engineering analysis. At the election of the Executive Board, the cost of utility services for the Common Elements which are Common Expenses (for example, lighting of building lobby and parking areas), including but not limited to gas and electric services, and which are billed to the Association by any utility service provider may in turn be allocated and billed each month (or other periodic basis) by the Association to all Units as a separately billed utility Assessment. The utility Assessment shall be allocated to each Unit based upon each Unit's percentage Interest in the Common Elements allocated to such Unit as shown on Exhibit B or upon any other reasonable method. Each Unit Owner shall be obligated to pay to the Association the utility Assessment billed to the Owner's Unit. The total annual Assessments of the Association shall be apportioned among all Condominium Units as provided in this Section.

8.6 Annual Budget.

8.6.1 Within thirty (30) days after the adoption of any proposed budgets for the Association in accordance with the procedures described below, the Executive Board shall deliver by ordinary first-class mail or in person a summary of the budget information to each of the Owners. The Executive Board shall also set a date for the meeting of Owners to consider ratification of the budgets not less than fourteen (14) nor more than sixty (60) days after mailing or other delivery of the budgets.

8.6.2 In connection with formulating the foregoing annual budgets for the entire Project, the Association shall adhere to the following procedures: the Executive Board shall prepare the budget of the Association pertaining to the Common Expenses (the "Budget"). The Budget shall, within thirty (30) days after the adoption thereof, be delivered by the Executive Board to the Owners. Unless at the meeting set by the Executive Board the Budget is rejected by the vote or agreement of Owners of Units to which at least sixty-seven percent (67%) of the votes in the Association are allocated, then the Budget is ratified, whether or not a quorum is present. In the event the Budget is rejected by the Owners in the foregoing manner, the Budget last ratified must be continued until such time as the Owners ratify a subsequent Budget proposed by the Executive Board.

8.6.3 The Executive Board shall adopt budgets and submit the budgets to a vote of the Owners, as provided herein, no less frequently than annually. The Executive Board shall levy and assess the Association's annual Assessments in accordance with the annual budgets.

8.6.4 Notwithstanding any provision of this Section 8.6 to the contrary, the Executive Board may, by unanimous vote of its Members, simplify the budgeting procedures provided in Section 8.6.2 hereof.

8.7 Special Assessments. In addition to the annual Assessments authorized above, the Executive Board may at any time and from time to time determine, levy and assess in any fiscal year (without the vote of the Members of the Association, except as provided in the Act and in this Section below) a special Assessment applicable to that particular fiscal year (and for any such longer period as the Executive Board may determine) against all of the Owners with respect to the Common Elements, or less than all the

Owners with respect to Limited Common Elements, for the purpose of defraying, in whole or in part, the unbudgeted costs, fees and expenses of any construction, reconstruction, repair, demolishing, replacement, renovation, improvement or maintenance of the Project or of any facilities located on the Project, specifically including any fixtures and personal property related to it or for the funding of any operating deficit incurred by the Association. Any amounts determined, levied and assessed in connection with the Common Elements pursuant to this Declaration shall be assessed by a majority of the voting Directors of the Executive Board to the Condominium Units in proportion to the respective undivided interests in the Common Elements allocated to the Units as shown in Exhibit B attached hereto (except to the extent the Assessment is made to less than all Owners based on the interest of one or more Owners in Limited Common Elements which exclusively serve the Unit(s) of such Owner or Owners); provided, however, that any extraordinary insurance costs incurred as a result of the value of a particular Owner's Condominium Unit or the actions of a particular Owner (or his agents, servants, guests, tenants or invitees) shall be borne by that Owner. Such special Assessment(s) shall be due and payable as determined by the Executive Board. Notwithstanding the foregoing, such special Assessments levied during the Declarant Control Period may not be used for the purpose or constructing capital improvements.

8.8 Due Dates for Assessment Payments. Unless otherwise determined by the Executive Board, the annual Assessments and any special Assessments which are to be paid in installments shall be paid quarterly in advance (or on such other dates and with such frequency which may be other than quarterly, but not less frequently than annually, as the Executive Board may determine in its discretion from time to time) and shall be due and payable to the Association at its office or as the Executive Board may otherwise direct in any Management Agreement, without notice (except for the notices required by this Article 8), on the first day of each quarter. If any such installment shall not be paid within fifteen (15) days after it shall have become due and payable, then the Board may assess a "late charge" on the installment in an amount of One Hundred Dollars (\$100.00) or such other charge as the Executive Board may fix by rule from time to time as provided in the bylaws of the Association to cover the extra expenses involved in handling such delinquent Assessment installment. An Owner's Assessment shall be prorated if the ownership of a Condominium Unit commences or terminates on a day

other than the first day or last day, respectively, of a quarter or other applicable payment period.

8.9 Declarant's Obligation to Pay Assessments. Declarant shall be obligated to pay the annual and special Assessments (including installments thereof) on each Condominium Unit owned by Declarant.

8.10 Default Assessments. All monetary fines assessed against an Owner pursuant to the Association Documents, or any expense of the Association which is the obligation of an Owner shall become liens against such Owner's Unit which may be foreclosed or otherwise collected as provided in this Declaration. Notice of the amount and due date of such default Assessment shall be sent to the Owner subject to the Assessment at least thirty (30) days prior to the due date.

8.11 Lien for Assessments. The annual, special and default Assessments (including installments of the Assessments) arising under the provisions of this Declaration (together with any and all interest, costs, late charges, expenses and reasonable attorneys' fees, including legal assistants' fees, which may arise under the provisions of Section 8.12 below) shall be burdens running with, and a perpetual lien in favor of the Association upon, the specific Condominium Unit to which such Assessments apply. To further evidence such lien upon a specific Condominium Unit, the Association may, but shall not be obligated to, prepare a written lien notice setting forth the description of the Unit, the amount of Assessments on the Unit unpaid as of the date of such lien notice, the rate of default interest as set by the bylaws of the Association and Section 8.12 below, the name of the Owner or Owners of the Unit, and any and all other information that the Association may deem proper. Any such lien notice shall be signed by a Member of the Executive Board, an officer of the Association or the Managing Agent and shall be recorded in the Office of the Clerk and Recorder of the County of Denver, Colorado. Any such lien notice shall not constitute a condition precedent or delay the attachment of the lien, but such lien is a perpetual lien upon the Condominium Unit and attaches without notice at the beginning of the first day of any period for which any Assessment is levied.

8.12 Effect of Nonpayment of Assessments. If any annual, special or default Assessment (or any installment of the Assessment) is not fully paid within thirty (30) days after the same becomes due and payable, then as often as the same may happen

(a) interest shall accrue at the rate of twenty-one percent (21%) per annum, or at such other rate not to exceed the Maximum Rate as may be set from time to time by the Executive Board, on any amount of the Assessment which was not paid within such thirty (30) day period or on the amount of Assessment in default, whichever shall be applicable, accruing from the due date until date of payment; (b) the Association may declare due and payable all unpaid quarterly or other installments of the annual Assessment or any special Assessment otherwise due during the fiscal year during which such default occurred; (c) the Association may thereafter bring an action at law or in equity, or both, against any Owner personally obligated to pay the same; and (d) the Association may proceed to foreclose its lien against the particular Condominium Unit in the manner and form provided by Colorado law for foreclosure of real estate mortgages.

An action at law or in equity by the Association against an Owner to recover a money judgment for unpaid Assessments (or any installment thereof) may be commenced and pursued by the Association without foreclosing or in any way waiving the Association's lien for the Assessments. If any such Assessment (or installment thereof) is not fully paid when due and if the Association commences such an action (or counterclaims or cross-claims for such relief in any action) against any Owner personally obligated to pay the same, or proceeds to foreclose its lien against the particular Condominium Unit, then all unpaid installments of annual and special Assessments and all default Assessments (including any such installments or Assessments arising during the proceedings of such action or foreclosure proceedings), any late charges under Section 8.8 above, any accrued interest under this Section 8.12 the Association's costs, expenses and reasonable attorneys' fees (including legal assistants' fees) incurred for any such action and/or foreclosure proceedings shall be taxed by the court a part of the costs of any such action or foreclosure proceedings and shall be recoverable by the Association from any Owner personally obligated to pay the same and from the proceeds from the foreclosure sale of the particular Condominium Unit in satisfaction of the Association's lien.

Foreclosure or attempted foreclosure by the Association of its lien shall not be deemed to estop or otherwise preclude the Association from again foreclosing or attempting to foreclose its lien for any subsequent Assessments (or installments thereof) which are not fully paid when due or for any subsequent default Assessments. The Association shall have the power and right to bid

in or purchase any Condominium Unit at foreclosure or other legal sale and to acquire and hold, lease or mortgage the Condominium Unit, and to convey or otherwise deal with the Unit acquired in such proceedings.

First Mortgagees shall be entitled to cure any delinquency in the payment of Assessments of the Owner of a Condominium Unit encumbered by the First Mortgagee. In that event, the First Mortgagee shall be entitled to obtain a release from the lien imposed or perfected by reason of such delinquency.

8.13 Successor's Liability for Assessments. Notwithstanding the personal obligation of each Owner of a Condominium Unit to pay all Assessments on the Unit, and notwithstanding the Association's perpetual lien upon a Condominium Unit for such Assessments, all successors in interest to the fee simple title of a Condominium Unit, except as provided in Section 8.14 and Section 8.15 below, shall be jointly and severally liable with the prior Owner or Owners of the Unit for any and all unpaid Assessments, interest, late charges, costs, expenses and attorneys' fees against such Condominium Unit, without prejudice to any such successor's right to recover from any prior Owner any amounts paid thereon by such successor. However, such successor in interest shall be entitled to rely upon the existence and status of unpaid Assessments, interest, late charges, costs, expenses and attorneys' fees as shown upon any certificate issued by or on behalf of the Association to such named successor in interest pursuant to the provisions of Section 8.15 below.

8.14 Waiver of Homestead Exemption; Subordination of Association's Lien for Assessments. By acceptance of the deed or other instrument of transfer of a Condominium Unit, each Owner irrevocably waives the homestead exemption provided by Part 2, Article 41, Title 38, Colorado Revised Statutes, as amended. The Association's perpetual lien on a Condominium Unit for Assessments shall be superior to all other liens and encumbrances except the following:

8.14.1 Real property ad valorem taxes and special assessment lien duly imposed by a Colorado governmental or political subdivision or special taxing district, or any other liens made superior by statute;

8.14.2 To the extent permitted under the Act, the lien of any First Mortgage, including any and all advances made by

the First Mortgagee and notwithstanding that any of such advances may have been made subsequent to the date of the attachment of the Association's liens; and

8.14.3 Liens and encumbrances recorded before the recordation of this Declaration.

With respect to the foregoing subpart 8.14.2, to the extent permitted under the Act, any First Mortgagee who acquires title to a Condominium Unit by virtue of foreclosing the First Mortgage or by virtue of a deed or assignment in lieu of such a foreclosure, or any purchaser at a foreclosure sale of the First Mortgage, will take the Condominium Unit free of any claims for unpaid Association Assessments, interest, late charges, costs, expenses and attorneys' fees against the Condominium Unit which accrue prior to the time such First Mortgagee or purchaser acquires title to the Condominium Unit, and the amount of the extinguished lien may be reallocated and assessed to all Condominium Units as a Common Expense at the direction of the Executive Board.

All other persons not holding liens described in Section 8.14 above and obtaining a lien or encumbrance on any Condominium Unit after the recording of this Declaration shall be deemed to consent that any such lien or encumbrance shall be subordinate and inferior to the Association's future liens for Assessments, interest, late charges, costs, expenses and attorneys' fees, as provided in this Article 8, whether or not such consent is specifically set forth in the instrument creating any such lien or encumbrance.

A sale or other transfer of any Condominium Unit, including but not limited to a foreclosure sale, except as provided in Section 8.14 above and except as provided in Section 8.15 below, shall not affect the Association's lien on such Unit for Assessments, interest, late charges, costs, expenses and attorneys' fees due and owing prior to the time such purchaser acquires title and shall not affect the personal liability of each Owner who shall have been responsible for the payment thereof. Further, no such sale or transfer shall relieve the purchaser or transferee of a Condominium Unit from liability for, or the Condominium from the lien of, any Assessments made after the sale or transfer.

This Section 8.14 does not affect the priority of mechanics' or materialmen'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 Section 15-4-201, C.R.S., 1973, as amended.

8.15 Statement of Status of Assessments. Upon fourteen (14) calendar days written request (furnished in the manner described below for the response to such request) to the Managing Agent or Executive Board of the Association and payment of a reasonable fee set from time to time by the Executive Board, any Owner, prospective purchaser of a Condominium Unit, or Mortgagee shall be furnished by personal delivery or by certified mail, first class postage prepaid, return receipt requested, to the inquiring party (in which event the date of posting shall be deemed the date of delivery) a statement of the Owner's account setting forth:

8.15.1 The amount of any unpaid Assessments, interest, late charges, costs, expenses and attorneys' fees then existing against a particular Condominium Unit; and

8.15.2 The amount of the payment of any installments of any special Assessments then existing against the Condominium Unit.

Upon the issuance of such a certificate signed by a Member of the Executive Board, by an officer of the Association or by a Managing Agent, the information contained therein shall be conclusive upon the Association as to the person or persons to whom such certificate is addressed and who rely on the certificate in good faith. Unless such a statement of status of Assessments is delivered as described above within said fourteen (14) calendar day period, the Association shall have no right to assert a priority lien upon the Unit over the inquiring party's interest for unpaid Assessments which were due as of the date of the request.

8.16 Liens. Except for annual, special and default Assessment liens as provided in this Declaration, mechanic's liens (except as provided in Article 12 below), tax liens and judgment liens and other liens validly arising by operation of law and liens arising under Mortgages, there shall be no other liens obtainable against the Common Elements or against the interest of the Owner of any Condominium Unit in the Common Elements.

ARTICLE 9
MAINTENANCE RESPONSIBILITY

9.1 Owner's Rights and Duties with Respect to Interiors.

Except as may be provided in the purchase and sale agreement or other conveyancing documents executed by Declarant in connection with sales or leases to initial purchasers of the Condominium Units, each Owner shall have the exclusive right and duty to finish or otherwise decorate or redecorate and to maintain and repair the interior surfaces of the walls, floors, ceilings and doors forming the boundaries of such Owner's Individual Air Space Unit and all walls, floors, ceilings and doors within such boundaries. In the event that any maintenance, repair or decoration of any wall within a Unit that forms the exterior boundary of such Unit shall alter the drywall attached to such wall, the Owner shall restore said wall to its previous structural condition, which specifically includes the previous sound transmission coefficient and fire rating.

9.2 Responsibility of the Owner. The Owner at the Owner's expense shall maintain and keep in repair the interior of the Condominium Unit, including the fixtures and utilities located in the Condominium Unit to the extent current repair shall be necessary in order to avoid damaging other Condominium Units or the Common Elements. All fixtures, equipment and utilities installed and included in an Individual Air Space Unit serving only that Unit, commencing at a point where the fixtures, equipment and utilities enter the Individual Air Space Unit shall be maintained and kept in repair by the Owner of that Unit. An Owner shall also maintain and keep in repair all windows and other glass items related to such Owner's Condominium Unit and any entry door or doors serving such Unit. An Owner shall not allow any action or work that will impair the structural soundness of the improvements, impair the proper functioning of the utilities, heating, ventilation or plumbing systems or integrity of the Building, or impair any easement or hereditament. Except as otherwise provided in Section 7.1 above, an Owner or class of Owners shall also have the obligation to maintain and keep in repair all appurtenant Limited Common Elements at such Owner's or class of Owners' expense. Except as otherwise set forth in Section 13.5 below, no Owner shall alter any Common Elements without the prior written consent of the Association.

9.3 Responsibility of the Association. The Association, without the requirement of approval of the Owners but subject to

Section 8.6 above, shall maintain and keep in good repair, replace and improve, as a Common Expense, the General Common Elements and all the Project not required in this Declaration to be maintained and kept in good repair by an Owner(s).

* 9.4 Owner's Failure to Maintain or Repair. In the event that portions of a Condominium Unit or other improvements are not properly maintained and repaired, and if the maintenance responsibility for the unmaintained improvement lies with the Owner of the Condominium Unit, or in the event that such improvements are damaged or destroyed by an event of casualty and the Owner does not take reasonable measures to diligently pursue the repair and reconstruction of the damaged or destroyed improvements to substantially the same condition in which they existed prior to the damage or destruction, then the Association, after written notice to the Owner and the expiration of a thirty (30) day cure period, and with the approval of the Executive Board, shall have the right to enter upon the Condominium Unit to perform such work as is reasonably required to restore the Condominium Unit and other improvements to a condition of good order and repair; provided, however, if such repair and reconstruction due to an event of casualty cannot be reasonably performed within such thirty (30) day cure period, the Owner shall have such time as is reasonably required to perform such repair and reconstruction so long as the work has been commenced within such cure period and is diligently pursued to completion. All costs incurred by the Association in connection with the restoration shall be reimbursed to the Association by the Owner of the Condominium Unit upon demand. All unreimbursed costs shall be a lien upon the Condominium Unit until reimbursement is made. The lien may be enforced in the same manner as a lien for an unpaid Assessment levied in accordance with Article 8 of this Declaration.

ARTICLE 10 INSURANCE AND FIDELITY BONDS

10.1 General Insurance Provisions. The Association shall maintain, to the extent reasonably available:

10.1.1 Property insurance on the Common Elements and the Units for broad form covered causes of loss, except that the total amount of insurance must be not less than the full insurable replacement costs of the insured property, less applicable deductibles at the time the insurance is purchased and at each renewal date, exclusive of land, excavations, foundations, paving

areas, landscaping, personal property and other items normally excluded from property policies; and

10.1.2 Commercial general liability insurance against claims and liabilities arising in connection with the ownership, existence, use or management of the Common Elements and the Association, in an amount, if any, deemed sufficient in the judgment of the Executive Board, insuring the Executive Board, the Association, the Managing Agent and their respective employees, agents and all persons acting as agents. Declarant shall be included as an additional insured in Declarant's capacity as an Owner and Executive Board Member. The Owners shall be included as additional insureds but only for claims and liabilities arising in connection with the ownership, existence, use or management of the Common Elements. The insurance shall cover claims of one or more insured parties against other insured parties; and

10.1.3 Such other and further insurance that the Executive Board considers appropriate, including insurance on Condominium Units that the Association is not obligated to insure, to protect the Association or the Owners.

10.2 Cancellation. If the insurance described in Section 10.1 above 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 given to all Owners.

10.3 Policy Provisions. Insurance policies carried pursuant to Section 10.1 above must provide that:

10.3.1 Each Owner is an insured person under the policy with respect to liabilities arising out of such Owner's interest in the Common Elements or membership in the Association;

10.3.2 The insurer waives its rights to subrogation under the policy against any Owner or member of his household;

10.3.3 No act or omission by any Owner will void the policy or be a condition to recovery under the policy; and

10.3.4 If at the time of a loss under the policy there is other insurance in the name of an Owner covering the same risk covered by the policy, the Association's policy provides primary insurance.

10.4 Insurance Proceeds. Any loss covered by the property insurance policy described in Section 10.1 above must 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 holder of a security interest. The insurance trustee or the Association shall hold any insurance proceeds in trust for the Owners and First Mortgagees as their interests may appear. Subject to the provisions of Section 10.7 below, the proceeds must be disbursed first for the repair or restoration of the damaged property, and the Association, Owners and First Mortgagees are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the damaged property has been completely repaired or restored or the regime created by this Declaration is terminated.

10.5 Association Policies. The Association may adopt and establish written nondiscriminatory policies and procedures relating to the submittal of claims, responsibility for deductibles and any other matters of claims adjustment. To the extent the Association settles claims for damages to the property, it shall have the authority to assess negligent Owners causing such loss or benefitting from such repair or restoration all or any equitable portion of the deductibles paid by the Association.

10.6 Insurer Obligation. An insurer that has issued an insurance policy for the insurance described in Section 10.1 above shall issue certificates or memoranda of insurance to the Association and upon request to any Owner or Mortgagee. Unless otherwise provided by statute, the insurer issuing the policy may not cancel or refuse to renew it until thirty (30) days after notice of the proposed cancellation or nonrenewal has been mailed to the Association and to each Owner and Mortgagee to whom a certificate or memorandum of insurance has been issued at their respective last known addresses.

10.7 Repair and Replacement.

10.7.1 Any portion of the Common Elements for which insurance is required under this Article which is damaged or destroyed must be repaired or replaced promptly by the Association unless:

10.7.1.1 The regime created by this Declaration is terminated;

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

10.7.1.3 Sixty-seven percent (67%) of the votes of the Owners, and all directly adversely affected Owners agree in writing not to rebuild; or

10.7.1.4 Prior to the conveyance of any Condominium Unit to a person other than Declarant, the Mortgagee holding a Mortgage on the damaged portion of the Common Elements rightfully demands all or a substantial part of the insurance proceeds.

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

10.8 Common Expenses. Premiums for insurance that the Association acquires and other expenses connected with acquiring such insurance are Common Expenses.

10.9 Fidelity Insurance. Comprehensive fidelity coverage or fidelity bonds shall be maintained by the Association to protect against dishonest acts on the part of its officers, directors, trustees and employees and on the part of all others who handle or are responsible for handling the funds belonging to or administered by the Association in an amount not less than two (2) months current Assessments, plus reserves as calculated from the current budget of the Association. In addition, if responsibility for handling funds is delegated to a Managing Agent, such bond may be obtained for the Managing Agent and its officers, employees and agents, as applicable or the Association may require that such Managing Agent purchase, at its expense, such fidelity insurance or bonds. Any such fidelity coverage shall name the Association as an obligee and such bonds shall contain waivers by the issuers of all defenses based upon the exclusion of persons serving without

compensation from the definition of "employees" or similar terms or expressions.

10.10 Worker's Compensation Insurance. If the Association has employees, the Association shall obtain Worker's Compensation or similar insurance with respect to its employees in the amounts and forms as may now or hereafter be required by law.

10.11 Other Insurance. The Association shall also maintain insurance to the extent reasonably available and in such amounts as the Executive Board may deem appropriate on behalf of Directors and officers against any liability asserted against a Director or officer or incurred by him in his capacity of or arising out of his status as a Director or officer. The Association may obtain insurance against such other risks, of a similar or dissimilar nature, as it shall deem appropriate with respect to its responsibilities and duties.

10.12 Insurance Obtained by Owners. It shall be the responsibility of each Owner, at such Owner's expense, to maintain physical damage insurance on such Owner's personal property and furnishings and public liability insurance covering such Owner's Individual Air Space Unit. In addition, an Owner may obtain such other and additional insurance coverage on and in relation to the Owner's Condominium Unit as the Owner in the Owner's sole discretion shall conclude to be desirable. However, none of such insurance coverages obtained by such Owner shall affect any insurance coverage obtained by the Association or cause the diminution or termination of that insurance coverage, nor shall such insurance coverage of an Owner result in apportionment of insurance proceeds as between policies of insurance of the Association and the Owner. An Owner shall be liable to the Association for the amount of any such diminution of insurance proceeds to the Association as a result of insurance coverage maintained by the Owner, and the Association shall be entitled to collect the amount of the diminution from the Owner as if the amount were a default Assessment, with the understanding that the Association may impose and foreclose a lien for the payment due. Any insurance obtained by an Owner shall include a provision waiving the particular insurance company's right of subrogation against the Association and the Owners. Each Owner shall be responsible to provide insurance coverage for the amount of any additional value to any Condominium Unit caused by any improvement to the Condominium Unit made by such Owner and not initially made by Declarant, including but not limited to the value of structural

upgrades or fixtures supplied by the Owner, or if the applicable insurance is to be provided by the Association, for any additional insurance costs associated with such increased value due to the improvements.

The Executive Board may require an Owner who purchases additional insurance coverage for the Owner's Condominium Unit (other than coverage for the Owner's personal property) to file copies of such policies with the Association within thirty (30) days after purchase of the coverage to eliminate potential conflicts with any master policy carried by the Association.

ARTICLE 11 CONVEYANCES AND TAXATION OF CONDOMINIUM UNITS

11.1 Contracts to Convey Entered into Prior to Recording of Condominium Map and Declaration. A contract or other agreement for the sale of a Condominium Unit entered into prior to the filing for record of the Condominium Map and this Declaration in the Office of the Clerk and Recorder of the County of Denver, Colorado, may legally describe such Condominium Unit in substantially the manner set forth in Section 11.2 below and may indicate that the Condominium Map and this Declaration are to be recorded.

11.2 Contracts to Convey and Conveyances Subsequent to Recording of Condominium Map and Declaration. Subsequent to the recording of the Condominium Map and this Declaration, contracts to convey, instruments of conveyance and every other instrument affecting title to a Condominium Unit shall be in substantially the following form, with such omissions, insertions, recitals of fact or other provisions as may be required under the Act or by the circumstances or appropriate to confirm to the requirements of any governmental authority or any usage or requirement of law with respect thereto:

Condominium Unit _____, _____, according to the Condominium Map recorded _____, under Reception No. _____, and as defined and described in the Condominium Declaration for Swallow Hill, recorded _____, under Reception No. _____ in the Office of the Clerk and Recorder of the City and County of Denver, Colorado (with

applicable recording information inserted herein).

11.3 Conveyance Deemed to Describe an Undivided Interest in Common Elements. Every instrument of conveyance, Mortgage or other instrument affecting the title to a Condominium Unit which legally describes the Unit substantially in the manner set forth in Section 11.2 above shall be construed to describe the Individual Air Space Unit, together with the undivided interest in the Common Elements appurtenant to it, and together with all fixtures and improvements contained in it (unless any such fixtures or improvements shall be Common Elements), and to incorporate all the rights incident to ownership of a Condominium Unit and all the limitations of ownership, as described in the covenants, conditions, restrictions, easements, reservations, rights-of-way and other provisions contained in this Declaration, including the easement of enjoyment to use the Common Elements.

11.4 Separate Tax Assessments. Upon the recording of this Declaration and the filing of the Condominium Map for record in the City and County of Denver, Colorado, Declarant shall deliver a recorded copy of this Declaration and the Map to the Assessor of the City and County of Denver, Colorado, as provided by law, which notice shall set forth the descriptions of the Condominium Units, including the interest in the Common Elements appurtenant to the Units, so that thereafter, all taxes, assessments and other charges by the State or any governmental or political subdivision or any special improvement district or any other taxing agent or assessing authority shall be assessed against and collected on each Condominium Unit, each of which shall be carried on the tax records as a separate and distinct parcel for that purpose. For the purpose of such assessment against the Condominium Units, valuation of the Common Elements shall be apportioned among the Units in proportion to the fractional interest in the Common Elements appurtenant to such Units. Accordingly, the Common Elements shall not be assessed separately but shall be assessed with the Condominium Units as provided pursuant to Colorado Revised Statutes Subsection 38-33.3-105(2).

The lien for taxes assessed to the Owner or Owners of a Condominium Unit shall be confined to his Individual Air Space Unit and to his appurtenant undivided interest in the Common Elements. No forfeiture or sale of any Condominium Unit for delinquent taxes, assessments or other governmental charges shall divest or in any way affect the title to any other Condominium Unit.

ARTICLE 12
MECHANIC'S LIENS

12.1 Mechanic's Liens. Subsequent to the filing of the Map and recording of this Declaration, no labor performed or materials furnished for use and incorporated in any Condominium Unit with the consent of or at the request of the Owner of the Unit or the Owner's agent, contractor or subcontractor shall be the basis for the filing of a lien against a Condominium Unit of any other 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 Owner for whom such labor shall have been performed or such materials shall have been furnished. Each Owner shall indemnify and hold harmless each of the other Owners and the Association from and against any liability or loss arising from the claim of any mechanic's lien for labor performed or for materials furnished in work on such Owner's Condominium Unit against the Condominium Unit of another Owner or against the Common Elements, or any part thereof.

12.2 Enforcement by the Association. At its own initiative or upon the written request of any Owner (if the Association determines that further action by the Association is proper), the Association shall enforce the indemnity provided by the provisions of Section 12.1 above by collecting from the Owner of the Condominium Unit on which the labor was performed or materials furnished the amount necessary to discharge by bond or otherwise any such mechanic's lien, including all costs and reasonable attorneys' fees incidental to the lien, and obtain a release of such lien. In the event that the Owner of the Condominium Unit on which the labor was performed or materials furnished refuses or fails to so indemnify within seven (7) days after the Association shall have given notice to such Owner of the total amount of the claim, or any portions thereof from time to time, then the failure to so indemnify shall be a default by such Owner under the provisions of this Section, and such amount to be indemnified shall automatically become a default Assessment determined and levied against such Condominium Unit and enforceable by the Association in accordance with Sections 8.10, 8.11 and 8.12 above.

ARTICLE 13
USE RESTRICTIONS

13.1 Residential Uses. Units shall be used for residential dwelling and lodging purposes only; including uses which are customarily incidental thereto, in conformity with all zoning laws, ordinances and regulations and shall not be used for business, commercial or professional purposes; provided, however, that Owners of Units may rent or lease such Units to others on a long term or short term basis for residential purposes and may use the Units for home occupations which do not cause unreasonable disturbance to other Owners and which are permitted by applicable zoning codes (provided, however, that no signage shall be permitted on the Project identifying such home occupations). Any such lease shall expressly state that the tenancy is subject to all of the terms and conditions of this Declaration. Notwithstanding the foregoing, Declarant or the Association may use any Unit as a Project sales office, Units management office, rental and/or property management office, storage facility and/or such other uses as may be permitted under the Act.

13.2 Conveyance of Condominium Units. All Condominium Units, whether or not the instrument of conveyance or assignment, shall refer to this Declaration, shall be subject to the covenants, conditions, restrictions, easements, reservations, rights-of-way and other provisions contained in this Declaration, as the same may be amended from time to time.

13.3 Use of Common Elements. Subject to the rights of Declarant, as provided in this Declaration, there shall be no obstruction of, nor shall anything be kept or stored by any Owner or other party on any part of the Common Elements without the prior written approval of the Association, except as provided in this Declaration with respect to Limited Common Elements. Nothing shall be altered on, constructed in or removed by any Owner or other party from the Common Elements without the prior written approval of the Association.

13.4 Prohibition of Increases in Insurable Risks and Certain Activities. Nothing shall be done or kept in any Condominium Unit or in or on the Common Elements, or any part thereof, which would result in the cancellation of the insurance on all or any part of the Project or in an increase in the rate of the insurance on all or any part of the Project over what the Association, but for such activity, would pay, without the prior written approval of the

Association. Nothing shall be done or kept in any Condominium Unit or in or on the Common Elements which would be in violation of any statute, rule, ordinance, regulation, permit or other imposed requirement of any governmental body, provided, however, the Executive board shall have no duty or obligation to take action to enforce such laws, statutes, ordinances or other requirements of governmental entities. No damage to or waste of the Common Elements shall be committed by any Owner, or by any member of the Owner's family, or by any guest, invitee or contract purchaser of any Owner, and each Owner shall indemnify and hold the Association and the other Owners harmless against all loss resulting from any such damage or waste caused by him, the members of his family or his guests, invitees or contract purchasers. Failure to so indemnify shall be a default by such Owner under this Section and such amount to be indemnified shall automatically become a default Assessment determined and levied against such Condominium Unit. At its own initiative or upon the written request of any Owner (and if the Association determines that further action by the Association is proper), the Association shall enforce the foregoing indemnity as a default Assessment as provided in Sections 8.10, 8.11 and 8.12 above.

13.5 Parking and Vehicles. The parking spaces may be used solely for the parking of motor vehicles and other uses incidental thereto or consistent therewith; provided, however, that unless otherwise approved by the Board:

13.5.1 No parking spaces may be used in such a manner that would preclude its use for the accommodation of a motor vehicle.

13.5.2 No parking space shall be used for the primary purpose of storage of any property other than motor vehicles.

13.5.3 Except in emergencies, none of the following may be kept or parked within the Project:

13.5.3.1 commercial vans or other commercial vehicles of any type;

13.5.3.2 any vehicle rated larger than one ton; and

13.5.3.3 boats, off-road motorcycles, campers, camper shells, trailers of any kind, motor homes or other similar recreational vehicles of any type.

This subparagraph applies to vehicles referred to above even if they are licensed by the State of Colorado or any other jurisdiction as "passenger vehicles."

Notwithstanding anything in this subparagraph to the contrary, the Declarant and/or the Association shall be permitted to utilize a reasonable number of parking spaces for the purpose of storing equipment utilized in the maintenance of the Common Elements.

13.5.4 No abandoned, unlicensed, wrecked or inoperable vehicles of any kind shall be stored or parked within the Project, except in emergencies. Any "abandoned or inoperable vehicle" shall be defined as any of the vehicles listed in this subparagraph or any other kind of passenger vehicle whatsoever which has not been driven under its own propulsion for a period of one (1) week or longer, or which does not have installed within it an operable propulsion system; provided, however, that any vehicle belonging to any Owner which is otherwise permitted will not be deemed to be abandoned while the Owner is hospitalized or out of town. The Board shall have the right to remove and store a vehicle kept in violation of this subparagraph after written notice describing said vehicle is personally delivered to the Owner thereof (if such Owner can be reasonably ascertained) or shall be conspicuously placed on the vehicle (if the Owner cannot be reasonable ascertained) and the vehicle is not removed within a reasonable time thereafter, the expenses of which shall be levied against the Owner of the vehicle as an assessment in accordance with Article 8 hereof. No vehicle maintenance is allowed within the Project.

13.5.5 No emergency or temporary parking or storage shall continue for more than seventy-two (72) hours.

13.6 General Reservation. Subject to any applicable restrictions under the Act, Declarant reserves the right to dedicate any access roads and streets serving the Property for and to public use and to allow such street or road to be used by owners of adjacent land.

13.7 Limits on Timeshare. No Unit shall be used (a) for the operation of a timesharing, fraction-sharing or similar program

whereby the right to exclusive use of the Residential Unit rotates among participants in the program on a fixed or floating time schedule over a period of years; or (b) for the operation of a reservation or time-use system among co-Owners of a Unit managed by a party other than the co-Owners themselves or a system whereby co-Owners are required as a condition of purchase of a fractional interest in the Unit to subject the fractional interest to a pre-determined reservation or time-use system among co-Owners, regardless of whether or not the co-Owner may later opt out of such system and regardless of whether the reservation or time-use system is recorded or unrecorded, fixed or floating.

13.8 Private Roads. Private roads, if any, within the Project are or may be subject to restricted or gated access limitations, and are or may be subject to rules and regulations of the Association, which is responsible for maintaining such private roads.

ARTICLE 14 EASEMENTS

14.1 Easement of Enjoyment. Every Owner shall have a nonexclusive easement for the use and enjoyment of the General Common Elements which shall be appurtenant to and shall pass with the title to every Condominium Unit, subject to the easements set forth in this Article 14.

14.2 Delegation of Use. Any Owner may delegate, in accordance with the Association Documents, the Owner's right of enjoyment in the Common Elements to the Owner's tenants, employees, family, guests and invitees.

14.3 Recorded Easements. The Property shall be subject to any easements as shown on any recorded plat affecting the Property and as shown on the recorded Condominium Map. The recording data for recorded easements and licenses appurtenant to or included in the Property or to which any parts of the Property may become subject is set forth on the attached Exhibit C.

14.4 Easements for Encroachments. The Project and all portions of it are subject to easements hereby created for encroachments between Condominium Units and the Common Elements as follows:

14.4.1 In favor of the Association so that it shall have no legal liability when any part of the Common Elements encroaches upon an Individual Air Space Unit;

14.4.2 In favor of each Owner of each Unit so that the Owner shall have no legal liability when any part of his Individual Air Space Unit encroaches upon the Common Elements or upon another Individual Air Space Unit; and

14.4.3 In favor of all Owners, the Association and the Owner of any encroaching Individual Air Space Unit for the maintenance and repair of such encroachments.

Encroachments referred to in this Section 14.4 include but are not limited to encroachments caused by error or variance from the original plans in the construction of the Building or any Condominium Unit constructed on the Property, by error in the Condominium Map, by settling, rising or shifting of the earth or by changes in position caused by repair or reconstruction of any part of the Project. Such encroachments shall not be considered to be encumbrances upon any part of the Project.

14.5 Utility Easements. There is hereby created a general easement upon, across, over, in and under all of the Property for ingress and egress and for installation, replacement, repair and maintenance of all utilities, including but not limited to water, sewer, gas, telephone, electricity and a cable communication system. By virtue of this easement, it shall be expressly permissible and proper for the companies providing electrical, telephone and other communication services to erect and maintain the necessary equipment on the Property and to affix and maintain electrical, communications and telephone wires, circuits and conduits under the Property. Any utility company using this general easement shall use its best efforts to install and maintain the utilities provided without disturbing the uses of the Owners, the Association and Declarant; shall prosecute its installation and maintenance activities as promptly as reasonably possible; and shall restore the surface to its original condition as soon as possible after completion of its work. Should any utility company furnishing a service covered by the general easement request a specific easement by separate recordable document, Declarant or the Executive Board shall have, and are hereby given, the right and authority to grant such easement upon, across, over or under any part or all of the Property without conflicting with the terms hereof. The easements provided for in this Section 14.5 shall in

no way affect, avoid, extinguish or modify any other recorded easement on the Property.

14.6 Reservation of Easements, Exceptions and Exclusions. Declarant reserves for itself and its successors and specific assigns and hereby grants to the Association the concurrent right to establish from time to time by declaration or otherwise, utility and other easements within the Common Elements for purposes, including but not limited to streets, paths, walkways, drainage, recreation areas, parking areas, ducts, shafts, flues and conduit installation areas consistent with the condominium ownership of the Project for the best interest of all of the Owners and the Association, in order to serve all the Owners within the Project.

14.7 Emergency Access Easement. A general easement is hereby granted to all police, sheriff, fire protection, ambulance and all other similar emergency agencies or persons to enter upon all streets and upon the Property in the proper performance of their duties.

14.8 Maintenance Easement. An easement is hereby granted to the Association and any Managing Agent and their respective officers, agents, employees and assigns upon, across, over, in and under the Common Elements and a right to make such use of the Common Elements as may be necessary or appropriate to perform the duties and functions which they are obligated or permitted to perform pursuant to this Declaration.

14.9 Drainage Easement. An easement is hereby reserved to Declarant and its successors and specific assigns and granted to the Association and its officers, agents, employees, successors and assigns to enter upon, across, over, in and under any portion of the Project for the purpose of changing, correcting or otherwise modifying the grade or drainage channels of the Property so as to improve the drainage of water on the Property.

14.10 Easements of Access for Repair, Maintenance and Emergencies. Some of the Common Elements are or may be located within the Individual Air Space Units or may be conveniently accessible only through the Individual Air Space Units. The Owners of other Individual Air Space Units and the Association shall have the irrevocable right, to be exercised by the Association as the Owners' agent, to have access to each Individual Air Space Unit and to all Common Elements from time to time during such reasonable hours as may be necessary for the maintenance, repair, removal or

replacement of any of the Common Elements therein or accessible therefrom or for making emergency repairs therein necessary to prevent damage to the Common Elements or to any Individual Air Space Unit. In addition, an easement is hereby created for such Common Elements as they currently exist within the Individual Air Space Units. Subject to the provisions of Section 7.3 above, damage to the interior of any part of an Individual Air Space Unit resulting from the maintenance, repair, emergency repair, removal or replacement of any of the Common Elements or as a result of emergency repair within another Individual Air Space Unit at the instance of the Association or of Owners shall be a Common Expense.

14.11 Declarant's Rights Incident to Construction and Marketing. Declarant, for itself and its successors and specific assigns, hereby retains a right and easement of ingress and egress over, in, upon, under and across the Property and the right to store materials on the Property and to make such other use of the Property as may be reasonably necessary or incident to the complete construction and sale of the Project, including but not limited to construction trailers, temporary construction offices, sales offices and directional and marketing signs; provided, however, that no such rights shall be exercised by Declarant in such a way as to unreasonably interfere with the occupancy, use, enjoyment or access by any Owner or family members, guests or invitees of an Owner. Declarant, for itself and its successors and specific assigns, hereby retains a right to maintain any Condominium Unit or Units as sales offices, management offices or model residences so long as Declarant or any successor to the rights of Declarant under this Declaration continues to be an Owner of a Condominium Unit. The use by Declarant of any Unit as a model residence, office or other use shall not affect the Unit's designation on the Map as a separate Unit.

14.12 Right of Declarant and Association to Own Units and to Use Common Elements. An easement is hereby reserved by Declarant for itself and its successors and specific assigns and granted to the Association and its officers, agents, employees, successors and assigns to maintain offices, storage areas, conference areas and recreational areas for use by the Association within the General Common Elements and the Limited Common Elements and subject to all rules and regulations established under this Declaration. The Association shall also have the right (but not the obligation) to purchase and own any Condominium Unit for the purpose of maintaining an office for the Association or for any other use which the Association determines is consistent with the operation

of the Project. The costs and carrying charges incurred by the Association in purchasing and owning any such Condominium Unit shall be part of the Common Expenses.

14.13 Remodeling Easement. Declarant, for itself and its successors and specific assigns, including Owners, retains a right and easement in and about any Building for the construction and installation of any duct work, additional plumbing or other additional services or utilities in the Common Elements in connection with the improvement or alteration of any Condominium Unit, including the right of access to such areas of the Common Elements as is reasonably necessary to accomplish such improvements. In the event of a dispute among Owners with respect to the scope of the easement reserved in this Section, the decision of the Executive Board shall be final.

14.14 Easements Deemed Created. All conveyances of Condominium Units hereafter made, whether by Declarant or otherwise, shall be construed to grant and reserve the easements contained in this Article 14, even though no specific reference to such easements or to this Article 14 appears in the instrument for such conveyance.

ARTICLE 15 ASSOCIATION AS ATTORNEY-IN-FACT

15.1 Appointment. Each and every Owner hereby irrevocably constitutes and appoints the Association as such Owner's true and lawful attorney-in-fact in such Owner's name, place and stead for the purpose of dealing with the Project upon its damage, destruction, condemnation or obsolescence as provided below in Articles 16, 17 and 18. In addition, the Association or any insurance trustee or substitute insurance trustee designated by the Association is hereby appointed as attorney-in-fact under this Declaration for the purpose of purchasing and maintaining insurance under Article 10 above, including: the collection and appropriate disposition of the proceeds of such insurance, the negotiation of losses and the execution of releases of liability, the execution of all documents and the performance of all other acts necessary to accomplish such purpose. The Association or any insurance trustee shall hold or otherwise properly dispose of any insurance proceeds in trust for the Owners and their Mortgagees, as their interests may appear. Acceptance by any grantee of a deed or other instrument of conveyance from Declarant or from any Owner shall constitute appointments of the attorneys-in-fact as provided above.

Notwithstanding any other provision of this Declaration to the contrary, the Association may exercise its authority as attorney-in-fact for any purpose permitted pursuant to this Declaration only if, in each and every instance where such exercise is so permitted, the Executive Board approves the exercise of such authority by the affirmative vote of a majority of the voting Directors. If the Executive Board fails to so approve any exercise of authority as attorney-in-fact, the Association shall have such authority as it may have pursuant to the Act.

15.2 General Authority. As attorney-in-fact, the Association shall have full and complete authorization, right and power to make, execute and deliver any contract, assignment, deed, waiver or other instrument with respect to the interest of any Owner which may be necessary or appropriate to exercise the powers granted to the Association as attorney-in-fact.

ARTICLE 16 DAMAGE OR DESTRUCTION

16.1 The Role of the Executive Board. Except as provided in Section 16.6 below, in the event of damage to or destruction of all or part of the General Common Elements or other property covered by insurance written in the name of the Association under Article 10, the Executive Board shall arrange for and supervise the prompt repair and restoration of the damaged areas of the Project, including without limitation the floor coverings, fixtures and appliances initially installed therein by Declarant and replacement thereof installed by the Owners up to the value of those initially installed by Declarant, but not including any furniture, furnishings, fixtures, equipment or other personal property supplied or installed by the Owners in the Condominium Units unless covered by insurance obtained by the Association. Notwithstanding the foregoing, each Owner shall have the right to supervise the redecorating of his Unit.

16.2 Estimate of Damage or Destruction. As soon as practical after an event causing damage to or destruction of any part of the Project, the Association shall, unless such damage or destruction shall be minor, obtain an estimate or estimates that it deems reliable and complete of the costs of repair and reconstruction of that part of the Project damaged or destroyed. "Repair and reconstruction" as used in this Article 16 shall mean restoring the damaged or destroyed part of the Project to substantially the same condition in which it existed prior to the

damage or destruction, with each Individual Air Space Unit and the Common Elements having substantially the same vertical and horizontal boundaries as before.

16.3 Repair and Reconstruction. As soon as practical after obtaining estimates, the Association shall diligently pursue to completing the repair and reconstruction of the part of the Project damaged or destroyed. As attorney-in-fact for the Owners, the Association may take any and all necessary or appropriate action to effect repair and reconstruction, and no consent or other action by any Owner shall be necessary in connection with that action.

16.4 Funds for Repair and Reconstruction. Subject to the provisions of Section 16.6 below, the proceeds received by the Association from any hazard insurance shall be used for the purpose of repair, replacement and reconstruction.

16.5 Insurance Proceeds Sufficient to Repair. In the event of damage or destruction due to fire or other disaster, the insurance proceeds, if sufficient to reconstruct the improvements, shall be applied by the Association as attorney-in-fact to such reconstruction, and the improvements shall be promptly repaired and reconstructed. The Association shall have full authority, right and power as attorney-in-fact to cause the repair and restoration of the improvements. Assessments for Common Expenses shall not be abated during the period of insurance adjustments and repair and reconstruction.

16.6 Insurance Proceeds Insufficient to Repair; Special Assessment; Remedies for Failure to Pay Special Assessment. If the insurance proceeds are insufficient to repair and reconstruct the improvements, and if such damage is not more than seventy percent (70%) of the total replacement cost of all of the Condominium Units in the Project, not including land, such damage or destruction shall be promptly repaired and reconstructed by the Association as attorney-in-fact, using the proceeds of insurance and, if necessary, the proceeds of a special Assessment to be made against all of the Owners and their Condominium Units. Any such special Assessment shall be a Common Expense in accordance with Section 8.7 above and shall be due and payable within thirty (30) days after written notice as provided in Article 8 above. The Association shall have full authority, right and power as attorney-in-fact to cause the repair, replacement or restoration of the improvements using all of the insurance proceeds for such purpose, notwithstanding the failure of an Owner to pay the Assessment.

Any Assessment provided for in this Section 16 shall be a debt of each Owner and a lien on the Owner's Condominium Unit and may be enforced and collected as provided in Article 8 above. In addition, the Association as attorney-in-fact shall have the absolute right and power to sell the Condominium Unit of any Owner refusing or failing to pay such deficiency Assessment within the time provided, and if not so paid, the Association shall cause to be recorded a notice that the Condominium Unit of the delinquent Owner shall be sold by the Association as attorney-in-fact pursuant to the provisions of this Section 16.6. The Assessments for the Common Expenses shall not be abated during the period of insurance adjustment and repair and reconstruction. The delinquent Owner shall be required to pay to the Association the costs and expenses for filing the notice, interest at the Maximum Rate on the amount of the Assessment and all reasonable attorneys' fees. The proceeds derived from the sale of such Condominium Unit shall be used and disbursed by the Association as attorney-in-fact in the following order:

16.6.1 For payment of real property ad valorem taxes, special assessment liens duly imposed by a governmental subdivision and customary expenses of sale;

16.6.2 For payment of the balance of the lien of any First Mortgage affecting the Condominium Unit;

16.6.3 For payment of unpaid Association Assessments, interest, costs, late charges, expenses and attorneys' fees;

16.6.4 For payment of junior Mortgages affecting the Condominium Unit in the order of and to the extent of their priority; and

16.6.5 For payment of the balance remaining, if any, to the Owner of the Condominium Unit.

If the insurance proceeds are insufficient to repair and reconstruct the improvements, and if such damage is more than seventy percent (70%) of the total replacement cost of all of the Condominium Units in the Project, not including land, such damage or destruction shall be promptly repaired and reconstructed by the Association, as attorney-in-fact, using the proceeds of insurance, and if necessary, the proceeds of a special Assessment made against all of the Owners and their Condominium Units; provided, however,

that Owners representing an aggregate ownership interest in the Common Elements of sixty-seven percent (67%) or more may elect to terminate the Project; and in such event, the Association shall forthwith record a notice setting forth such fact or facts, and upon the recording of such notice by the Association's President and Secretary, the entire Project shall be sold pursuant to the provisions of this Section by the Association as attorney-in-fact for all of the Owners, free and clear of the provisions contained in this Declaration, the Map and the articles of incorporation and bylaws of the Association. Assessments for Common Expenses shall not be abated during the period prior to sale.

In such event, the insurance settlement proceeds shall be collected by the Association and such proceeds shall be divided by the Association according to each Owner's interest in the Common Elements and such divided proceeds shall be paid into separate accounts, each such account representing one of the Condominium Units. Each such account shall be in the name of the Association and shall be further identified by the Condominium Unit designation and the name of the Owner and designated as an agency account. From each separate account, the Association, as attorney-in-fact, shall use and disburse the total amount of each of such accounts without contribution from one account to another toward the partial or full payment of the lien of any First Mortgagee encumbering the Condominium Unit represented by such separate account. Thereafter, each such account shall be supplemented by the apportioned amount of the proceeds obtained from the sale of the entire Property. Such apportionment shall be based upon each Condominium Unit Owner's interest in the Common Elements. The total funds of each account shall be used and disbursed, without contribution from one account to another, by the Association as attorney-in-fact for the same purposes and in the same order as is provided in Sections 16.6.1 through 16.6.5 above.

In the event that the Owners do not elect to terminate the Project as provided above, Owners representing at least sixty-seven percent (67%) of the total allocated votes in the Association (other than Declarant), and all directly adversely affected Owners may alternatively agree in writing not to repair and reconstruct improvements within the Common Elements and if no alternative improvements are authorized, then and in that event, the damaged property shall be restored to its natural state and maintained as an undeveloped portion of the Common Elements by the Association in a neat and attractive condition. Any remaining insurance proceeds shall be distributed in accordance with the Act.

16.7 Repairs. All repairs and reconstruction contemplated by this Article 16 shall be performed substantially in accordance with this Declaration, the Map and the original plans and specifications for the Project, unless other action is approved by the Association in accordance with the requirements of this Declaration and the other Association Documents.

16.8 Notice of Damage or Destruction to First Mortgagees. In the event that any portion of the Project encompassing more than one Individual Air Space Unit is substantially damaged or destroyed by fire or other casualty, then written notice of the damage or destruction shall be given by the Association to each Owner and First Mortgagee of the affected Units within a reasonable time following the event of casualty damage.

ARTICLE 17 OBSOLESCENCE

17.1 Adoption of Plan; Rights of Owners. The Owners representing an aggregate ownership interest in the Common Elements of seventy-five percent (75%) or more may agree that the Project is obsolete and adopt a written plan for the renewal and reconstruction thereof. Written notice of the adoption of such a plan shall be given to all Owners and a copy of such plan shall be recorded in the Office of the Clerk and Recorder of the City and County of Denver, Colorado, and the expense of renewal and reconstruction shall be payable by all of the Owners as Common Expenses; provided, however, that an Owner not a party to such a plan for renewal or reconstruction may give written notice to the Association within fifteen (15) days after the date of adoption of such plan that his Condominium Unit shall be purchased by the Association for the fair market value of the Unit in cash or certified funds. The Association shall then have thirty (30) days after the expiration of such fifteen (15) day period within which to cancel such plan. If such plan is not cancelled, the Condominium Unit of the requesting Owner shall be purchased according to the following procedures.

If such Owner and the Association can agree on the fair market value of the unit, then such sale shall be consummated within ninety (90) days after such agreement. If the parties are unable to agree, the date when either party notifies the other that no agreement may be reached shall be the "commencement date" from which all periods of time mentioned hereafter shall be measured. Within ten (10) days following the commencement date, each party

shall nominate in writing (and give notice of such nomination to the other party) an appraiser. If either party fails to make such a nomination, the appraiser nominated shall, within five (5) days after default by the other party, appoint and associate with another appraiser. If the two designated or selected appraisers are unable to agree on the fair market value of the Unit, they shall appoint another appraiser to be umpire between them, if they can agree on such person, which umpire shall independently determine the fair market value of the Unit in the case of continued disagreement. If the two appraisers are unable to agree upon such umpire, each appraiser previously appointed shall nominate two appraisers, and from the names of the four appraisers so nominated, one shall be drawn by lot by any judge of any court of record in Colorado, and the name so drawn shall be such umpire. The nominations from whom the umpire is to be drawn by lot shall be submitted within ten (10) days of the failure of the two appraisers to agree which, in any event, shall not be later than twenty (20) days following the appointment of the second appraiser.

The decision of the appraisers as to the fair market value, or in the case of their disagreement, then such decision of the umpire shall be final and binding and a judgment based upon the decision rendered may be entered in any court having jurisdiction thereof. The expenses and fees of such appraisers shall be borne equally by the Association and the Owner. The sale shall be consummated within fifteen (15) days thereafter and the Association, as attorney-in-fact, shall disburse such proceeds for the same purposes and in the same order as provided in Sections 16.6.1 through 16.6.5 above.

17.2 Sale of Obsolete Units. The Owners representing an aggregate ownership interest in the Common Elements of seventy-five percent (75%) or more may agree that the Condominium Units are obsolete and that the Project should be sold. In such instance, the Association shall immediately record in the Office of the Clerk and Recorder of the City and County of Denver, Colorado, a notice setting forth such fact or facts, and upon the recording of such notice by the Association, the Project shall be sold by the Association, as attorney-in-fact for all of the Owners, free and clear of the provisions contained in this Declaration, the Condominium Map and the articles of incorporation and bylaws of the Association. Unless otherwise agreed in writing by all the Owners, the sale proceeds (and any insurance proceeds under Section 16.5 above) shall be apportioned among the Owners in proportion to each Owner's undivided interest in the General Common Elements, and such

apportioned proceeds shall be paid into separate accounts, each such account representing one Condominium Unit. Each such account shall be in the name of the Association and shall be further identified by the Condominium Unit designation and the name of the Owner and designated as an agency account. From each separate account, the Association, as attorney-in-fact, shall use and disburse the total amount of such accounts, without contribution from one account to another, for the same purposes and in the same order as is provided in Sections 16.6.1 through 16.6.5 above.

ARTICLE 18 CONDEMNATION

18.1 Consequences of Condemnation. If at any time or times during the continuance of the Project pursuant to this Declaration, all or any part of the Project shall be taken or condemned by any public authority or sold or otherwise disposed of in lieu or in avoidance of condemnation, then all compensation, damages or other proceeds of condemnation, the sum of which is referred to as the "condemnation award" below, shall be payable to the Association and the provisions of this Article 18 shall apply.

18.2 Complete Taking. In the event that the entire Project is taken, condemned, sold or otherwise disposed of in lieu or in avoidance of condemnation, the condominium ownership pursuant to this Declaration shall terminate, subject to the provisions of Section 18.7 below. The condemnation award shall be paid to the Association for the use and benefit of the Owners and the Mortgagees as their interests may appear. Such award shall be apportioned among the Owners and the Mortgagees on the basis of the undivided interest in the Common Elements appurtenant to the Unit in which such Owners and Mortgagees have an interest; provided, however, that if a standard different from the value of the Project as a whole is employed to measure the condemnation award in the negotiation, judicial decree or otherwise, then in determining such apportionment the same standard shall be employed. The Association shall, as soon as practical, determine the share of the condemnation award to which each Owner and Mortgagee is entitled, and such shares shall be paid into separate accounts and disbursed as soon as practical for the same purposes and in the same order as is provided in Sections 16.6.1 through 16.6.5 above.

18.3 Partial Taking. In the event that less than the entire Project is taken, condemned, sold or otherwise disposed of in lieu or in avoidance of condemnation, the condominium ownership under

this Declaration shall not terminate. Each Owner (and Mortgagee holding an interest in such Owner's Unit) shall be entitled to a share of the condemnation award to be determined under the following provisions. The condemnation award shall be paid to the Association for the use and benefit of the Owners and the Mortgagees as their interests may appear. As soon as practical, the Association shall reasonably and in good faith allocate the condemnation award between compensation, damages or other proceeds and shall apportion the amounts so allocated among the Owners, unless otherwise required under the Act, as follows:

18.3.1 The total amount allocated to a taking of or injury to the Common Elements shall be apportioned among affected Owners and their Mortgagees on the basis of each Owner's undivided interest in the Common Elements;

18.3.2 The total amount allocated to severance damages shall be apportioned to the Owners and Mortgagees of those Condominium Units that were not taken or condemned;

18.3.3 The respective amounts allocated to the taking of or injury to a particular Condominium Unit or to improvements an Owner has made within the Owner's own Condominium Unit shall be apportioned to the Owner and Mortgagees of that particular Condominium Unit involved; and

18.3.4 The total amount allocated to consequential damages and any other takings or injuries shall be apportioned as the Association determines to be equitable under the circumstances.

If an allocation of the condemnation award is already established in negotiation, judicial decree or otherwise, then in allocating the condemnation award, the Association shall employ such allocation. Distribution of apportioned proceeds shall be made by checks payable jointly to the respective Owners and their respective Mortgagees.

18.4 Reorganization. In the event a partial taking results in the taking of an Individual Air Space Unit, the Owners thereof shall automatically cease to be Members of the Association and their ownership interests in the Common Elements shall terminate and vest in the Owners of the remaining Condominium Units. The Association shall reallocate the ownership, voting rights and Assessment ratios determined in accordance with this Declaration

according to the same principles employed in this Declaration at its inception as an amendment of this Declaration.

18.5 Repair and Reconstruction. Any repair and reconstruction necessitated by condemnation shall be governed by the procedures contained in Article 16 above.

18.6 Notice of Condemnation. In the event that any portion of the Project shall be made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority, then timely written notice of such condemnation shall be given by the Association to each Owner and First Mortgagee.

18.7 Limitations on Actions of Association. Except as provided by statute, in case of condemnation, unless Owners representing an aggregate ownership interest in the Common Elements of seventy-five percent (75%) or more have given their prior written approval, the Association may not take any of the actions specified in Section 18.1 through 18.5 above.

ARTICLE 19 ALTERATIONS

19.1 Permitted Unit Alterations. An Owner may, subject to the terms and provisions of this Article 19, construct an alteration or improvement to its Unit (a "Permitted Unit Alteration") that:

19.1.1 does not, either during construction or after completion, impair the structural integrity, electrical systems, building systems or mechanical systems, or lessen the support of any portion of the Project;

19.1.2 does not, during construction, substantially and unreasonably impair the use of any Common Element by any Owner (or its permittees) entitled to such use;

19.1.3 does not, during construction, change the appearance or otherwise adversely affect the Common Elements, except for such temporary increases in the use of the Project's elevators, service entry and trash removal facilities as may be reasonable and necessary in view of the nature of the alteration or improvement;

19.1.4 does not, after completion, change the appearance of or otherwise adversely affect the Common Elements (other than, in the case of a Boundary Relocation, a Unit Connection or a Unit Disconnection, the walls which are affected thereby);

19.1.5 does not, after completion, affect the appearance of the Project when viewed from any area outside the altered Unit;

19.1.6 does not, either during construction or after completion, impair or adversely affect any easement or right granted pursuant to this Declaration;

19.1.7 does not involve the painting or alteration in any manner of the exterior of his Unit, including the doors and windows, or the painting or alteration of the exterior of any Building; and

19.1.8 does not otherwise conflict with or constitute a violation of any of the Project documents.

At least seven (7) days prior to the commencement of construction, an Owner intending to perform a Permitted Unit Alteration will provide plans and specifications for such Permitted Unit Alteration to the Board. Any change, addition, alteration or improvement of any Unit that does not constitute a Permitted Unit Alteration is prohibited (unless otherwise permitted pursuant to this Article 19) and may be enjoined by the Association or any aggrieved Owner.

19.2 Boundary Relocation. The Owner(s) of two adjoining Units located on the same floor of the Building may make a boundary relocation affecting the Unit(s) owned by such Owner(s) in accordance with this Section 19.2 ("Boundary Relocation"). The Owner(s) of the Unit(s) directly affected by any proposed Boundary Relocation must make an application to the Board for such Boundary Relocation, signed by such Owner(s), which includes the following:

19.2.1 plans and specifications for the proposed Boundary Relocation in such level of detail as may be required by the Board showing all walls, doors and other improvements that will be demolished or constructed;

19.2.2 evidence sufficient to the Board (which evidence may include, if applicable, reports of licensed architects or structural or mechanical engineers) that the proposed Boundary Relocation will comply with the requirements of subparagraphs 19.1.1 through 19.1.8 hereof;

19.2.3 evidence sufficient to the Board that the proposed Boundary Relocation will comply with all applicable laws (including without limitation zoning and building codes) and that the proposed Boundary Relocation has been approved by the security holder(s) in each Unit;

19.2.4 the proposed reallocation of interests, if any, such as reallocation of common allocations, voting rights, Limited Common Elements or any other rights or responsibilities allocated among the Units pursuant to this Declaration (which reallocation must be based on the same formulas as set forth in this Declaration for the allocations being changed);

19.2.5 a form of proposed amendment to this Declaration (including the Map) sufficient to show the altered boundaries of the subject Unit(s) their dimensions and identifying numbers and the reallocation of interests, if any, proposed pursuant to subparagraph 19.2.4 hereof;

19.2.6 a deposit against attorneys' fees and costs which the Board will incur in reviewing and effectuating the application, in an amount reasonably estimated by the Board; and

19.2.7 such other information as may be reasonably requested by the Board.

At such time as the Board determines that the submitted application satisfies the foregoing requirements, it will prepare a summary description of the proposed Boundary Relocation and submit the same and the related amendment to this Declaration to the Owners and eligible First Mortgagees. If the proposed Boundary Relocation and related amendment are approved by the vote or agreement of Owners of Units to which at least sixty-seven percent (67%) of the votes in the Association are allocated and by a majority of the eligible First Mortgagees, the Board will cause such amendment to be signed by the president or another authorized officer of the Association, acknowledged and recorded. The Owner(s) requesting a Boundary Relocation will pay all costs and

expenses reasonably incurred by the Board or the Association in connection with such Boundary Relocation.

19.3 Connection of Adjoining Units. Two adjoining Units located on the same floor of the Building may be connected without combining such Units into a single Unit, so that each connected Unit will retain its separate identity, identifying number and Unit allocations (a "Unit Connection"), provided the Board approves such Unit Connection in accordance with the following provisions. The Owner of the Units directly involved in any proposed Unit Connection must make an application to the Board for such Unit Connection, signed by such Owner, which must identify the Units involved; specify, in such detail as required by the Board, all demolition or construction necessary to create the air space area (the "Shared Area") occupied by the portion(s) of the General Common Element wall(s) separating such Units which will be demolished in order to provide for opening(s) between the connected Units; and include any other information reasonably requested by the Board. The Board will approve an application for a Unit Connection if all of the following conditions are satisfied:

19.3.1 each Unit directly affected by a proposed Unit Connection is owned by the same Owner;

19.3.2 sufficient evidence has been presented to the Board that the proposed Unit Connection will comply with all applicable laws (including without limitation zoning and building codes) and that the proposed Unit Connection will not violate the terms of any security interest encumbering the subject Unit(s) or has been approved by the security holder(s) thereof; and

19.3.3 evidence sufficient to the Board (which evidence may include, if applicable, reports of licensed architects or structural or mechanical engineers) that the proposed Unit Connection will comply with the requirements of Sections 19.1.1 through 19.1.8 hereof.

If the Board approves an application for a Unit Connection, then concurrently with such approval, the Board will redesignate from a General Common Element to a Limited Common Element the subject Shared Area. Such Shared Area will thereupon be appurtenant to the two (2) Units that are the subject of such Unit Connection. Upon approval of a Unit Connection, the Board will also cause a statement executed by the president or another authorized officer of the Association to be recorded that

identifies the two Units involved in such Unit Connection and gives notice that such Units are the subject of an approved Unit Connection pursuant to this Declaration. From and after the recording of any such statement, the Units described therein may not be conveyed apart from one another and any attempt to do so will be deemed void and of no force or effect until such time as the Board has approved a Unit Disconnection with respect to such Units. The Owner requesting a Unit Connection will pay all costs and expenses reasonably incurred by the Board or the Association in connection with such Unit Connection.

19.4 Unit Disconnection. The Board will, within thirty (30) days of receipt of an application from the Owner of any two (2) Units previously connected pursuant to an approved Unit Connection requesting that such connected Units be disconnected (a "Unit Disconnection"), permit the disconnection of such Units and will redesignate the Shared Area from a Limited Common Element appurtenant to such connected Units to a General Common Element, provided such Owner constructs or otherwise restores, at its sole cost and expense, the wall or walls that was or were demolished to create the Shared Area as depicted on the Map within the time period specified by the Board (which time period will not exceed 60 days from the date of Board approval of a Unit Disconnection) so that all openings between the connected Units authorized by the approved Unit Connection are closed. An application for a Unit Disconnection will be signed by the submitting Owner and, upon approval thereof by the Board, the Board will cause a statement executed by the president or another authorized officer of the Association to be recorded that identifies the two (2) Units involved in such Unit Disconnection and gives notice that such Units are no longer the subject of a Unit Connection pursuant to this Declaration (and therefore may thereafter be conveyed separately). The Owner requesting a Unit Disconnection will pay all costs and expenses reasonably incurred by the Board or the Association in connection with such Unit Disconnection.

19.5 Construction. Any Owner(s) performing any construction or demolition work relating to a Permitted Unit Alteration, a Boundary Relocation, a Unit Connection or a Unit Disconnection (any of which will be referred to hereafter as an "Alteration") must comply with the following additional provisions:

19.5.1 such Owner(s) will obtain all necessary permits and governmental authorizations for the Alteration;

19.5.2 the Alteration and the construction thereof will comply with all applicable zoning and building codes and other applicable laws, ordinances and restrictive covenants;

19.5.3 prior to commencing any construction, such Owner(s) will provide the Board with evidence sufficient to the Board that the insurance required to be maintained by such Owner(s) pursuant to Section 10.12 hereof is in full force and effect and that the contractor who will perform the work maintains Worker's Compensation Insurance in the amount required by law and Contractor's Liability Insurance with such limits as the Board may reasonably require;

19.5.4 such Owner(s) will cause the Alterations to be constructed and completed diligently, in a good and workmanlike manner, and free and clear of all mechanics' and materialmen's liens and other claims;

19.5.5 during the construction process, such Owner(s) will, to the extent consistent with good construction practices, keep the area affected thereby in a safe, neat and clean condition;

19.5.6 such Owner(s) will minimize any impact from the construction process on other Units or Common Elements;

19.5.7 such Owner(s) will perform the Alteration work or cause such work to be performed in such a manner as to maintain harmonious labor relations and as not to interfere unreasonably with or delay the work of any other contractors then working anywhere on the Project;

19.5.8 such Owner(s) will reimburse the Association for all costs incurred by the Association in connection with the Alterations, such as the increase in costs of trash removal due to the performance of the Alteration work; and

19.5.9 such Owner(s) will pay or cause to be paid all costs of design and construction of the Alterations.

19.6 Alteration of Common Elements. Except to the extent permitted in connection with an approved Boundary Relocation, Unit Connection or Unit Disconnection, no Owner or Owner's permittee will construct anything upon, remove anything from or alter any of the Common Elements, or paint, decorate or landscape any portion of the

Common Elements (except that changes or alterations to the interior surface of any patio, balcony or deck appurtenant to an Owner's Unit may be made with the prior consent of the Association). Without limiting the generality of the foregoing, no Owner or Owner's permittee will do anything which will impair or affect (a) the structural stability or building systems of the Project; (b) any easement or right granted pursuant to this Declaration; or (c) any Common Element.

ARTICLE 20 DECLARANT'S RIGHTS

20.1 Special Declarant Rights. Declarant hereby reserves the following Special Declarant Rights:

20.1.1 Improvements. Declarant will have the right, but not the obligation, to complete any one or more of the following improvements or alterations: (a) construct improvements indicated on the Map; (b) remodel or refurbish any one or more of the General Common Elements of the Project; (c) remodel or refurbish any Unit (including any model Unit) owned by Declarant; (d) install security equipment, such as cameras, monitors and video recorders on or about the General Common Elements; (e) construct or install a sales or management office and/or sales and marketing signs in the General Common Elements; (f) install such natural gas or other utility lines on the outside of any Building or on the inside of any Building and with respect to lines inside a Building, running through existing or newly created chases in the Common Elements or in any or all of the Units, as may be necessary to provide utility service sufficient to operate gas-burning fireplaces in some or all of the Units; (g) install gas-burning fireplaces in one or more of the Units owned by Declarant or in the Units of any other Owners who consent to such installation and, in connection therewith, to install such exhaust and make-up air vents on the exterior of the Building as may be necessary to vent exhaust from, and provide make-up air to such gas-burning fireplaces; (h) restripe or reconfigure the parking spaces to conform to those shown on the Map; and (i) make some or all of the improvements to any Building necessary to meet the life-safety requirements for existing residential buildings set forth in the building code for the City and County or otherwise required by any governmental subdivision having jurisdiction over the Project.

20.1.2 Boundary Relocation. Declarant will have the right from time to time to make Boundary Relocations affecting any

Unit(s) then owned by Declarant without the consent or joinder of the Owners or First Mortgagees; provided, however, that the consent or joinder of the primary mortgagee shall be required for any Boundary Relocation. To effect a Boundary Relocation, Declarant will execute, acknowledge and record an amendment to this Declaration (including the Map) showing the affected Unit(s), its or their new boundaries and dimensions and any changes to its or their identifying number(s) and revising Exhibit B attached hereto to show any changes in the allocations resulting from the Boundary Relocation. The revised allocations resulting from any Boundary Relocation made by Declarant will be based on the formula set forth in this Declaration.

20.1.3 Marketing. Declarant will have the right to maintain in such number, size and location as Declarant reasonably determines, sales offices, management offices, parking areas, lighting facilities and model Unit(s) in any Unit(s) owned by Declarant or in any part of the General Common Elements not necessary for access to any Unit, and to change the locations of and remove the same from time to time. Declarant may maintain signs on the General Common Elements advertising the Units for sale and directing prospective purchasers to such offices or model Unit(s) in such number, size and location as Declarant reasonably determines.

20.1.4 Easements. Declarant will have the right to use the Easements described in Article 14 hereof for so long as such Easements remain in effect. In addition, Declarant shall have the right to record additional documents providing for perpetual easements for the benefit of the Annexable Property ultimately becomes subject to this Declaration.

20.1.5 Appoint Board and Officers. Subject to the provisions of this Declaration and the Bylaws, Declarant will have the right to appoint and remove the Members of the Board and the officers of the Association during the Declarant Control Period.

20.1.6 Amend Declaration. In addition to those amendments to this Declaration which Declarant is expressly authorized to make pursuant to the provisions of this Declaration, Declarant will have the right during the Declarant ownership period to amend this Declaration (including the Map) without the consent or joinder of the Owners or First Mortgagees, in any manner authorized by the Act, provided that no such amendment will have a

material adverse effect on the rights or obligations of any Owner or First Mortgagee.

20.1.7 Development Rights. Declarant shall have the right to exercise the development rights described herein.

20.1.8 Declarant's Personal Property. The Declarant reserves the right to retain all personal property and equipment used in the sales, management, construction and maintenance of the Common Elements that has not been represented as property of the Association. The Declarant reserves the right to remove from the Project (promptly after the sale of the last Unit) any and all goods and improvements used in development, marketing and construction, whether or not they have become fixtures.

20.2 Annexation of Additional Properties. Declarant shall have and hereby reserves the right, until termination of the period of Special Declarant Rights, to annex additional real property to the Project in accordance with the following terms and provisions:

20.2.1 Right to Annex Additional Property.

20.2.1.1 Declarant shall have and hereby reserves the right to annex the "Annexable Property" described in Exhibit D attached hereto to the Project, including any portion of the Annexable Property which may have been previously conveyed. In accordance with the foregoing, each Owner of a Unit within the Project grants to Declarant the right to annex the Annexable Property to the Project and to modify such Owner's allocated interest in the Common Elements, as more particularly set forth in this Article.

20.2.1.2 Any purchaser of a Unit within the Annexable Property understands that it is the intent of Declarant that such Unit will be annexed prior to conveyance thereof to such purchaser, and acknowledges and confirms that if such annexation fails to occur for any reason, the Declarant shall have the right to annex such Unit even after the conveyance to such purchaser without prior approval of such purchaser.

20.2.1.3 Declarant reserves the right to annex all or any portion of the Annexable Property to the Project, in one or more parcels, in such order, in such phases and in such a manner as Declarant deems fit in its sole and absolute discretion. Declarant makes no assurances (a) that all or any

portion of the Annexable Property will be annexed to the Project; or (b) that in the event a portion of the Annexable Property is annexed to the Project, all or any other portion of the remainder of the Annexable Property will be annexed to the Project. Furthermore, Declarant shall have the right at any time to effectuate a subdivision of the Annexable Property from the Project and develop the Annexable Property in any manner Declarant chooses.

20.2.1.4 All improvements on the portion of the Annexable Property that is to be annexed to the Project pursuant to this Article shall be substantially completed before such property is so annexed.

20.2.1.5 Notwithstanding the foregoing, Declarant shall have and hereby reserves the right to convey all or any portion of the Annexable Property to such third party or parties as Declarant deems appropriate whether for purposes consistent with the Declaration or otherwise. In connection therewith, Declarant shall have and hereby reserves the right to subdivide the Property from the Annexable Property and to subdivide the Annexable Property into smaller parcels, as Declarant may determine.

20.2.2 Annexation Procedure. The annexation of additional real property to the Project by Declarant shall be effectuated by the recording with the Clerk and Recorder of the City and County of Denver:

20.2.2.1 a Supplemental Declaration containing a legal description of the real property to be annexed to the Project and such other terms and provisions as Declarant may prescribe in accordance with the terms and provisions hereof; and

20.2.2.2 a Supplemental Map which depicts the real property to be annexed to the Project, if not already included on the Map.

The Supplemental Declaration shall incorporate the covenants, conditions and restrictions set forth herein and may contain such additional covenants, conditions, restrictions, limitations, reservations, exceptions, equitable servitudes and provisions as Declarant may impose on such annexed property, taking into account the unique and particular aspects of the proposed development of the real property encumbered by such Supplemental Declaration. Declarant shall have the right to reserve in a Supplemental

Declaration any and all development rights which Declarant deems necessary or appropriate to complete the development of the property being annexed to the Project or which is otherwise necessary to meet the unique and particular aspects of such property.

20.2.3 Effect of Expansion.

20.2.3.1 Upon recordation of a Supplemental Declaration and a Supplemental Map, the property described therein shall be subject to all covenants, conditions, restrictions, limitations, reservations, exceptions, equitable servitudes and other provisions set forth in this Declaration. In the event any real property is annexed to the Project as provided herein, the definitions used in this Declaration shall automatically be expanded to encompass and refer to the Project as expanded.

20.2.3.2 Upon recordation of a Supplemental Declaration and Supplemental Map, every Owner of a Condominium in such annexed area shall, by virtue of ownership of such Condominium, be a Member of the Association and shall be entitled to the same rights and privileges and subject to the same duties and obligations as any other Member, which rights and obligations shall include but shall not be limited to the right to vote in Association matters, the right to use Association properties and the obligation to pay Assessments. Assessments for Condominiums within the area annexed to the Project shall commence as of the date of the recording of the Supplemental Declaration and shall be prorated as of such date.

20.2.3.3 Except as may otherwise be provided herein, upon the annexation of any property, each Owner's allocated interest in the Common Elements and votes of the Association shall be reallocated based on the formula reflected in Article 3 hereof; and a revision of Exhibit B attached hereto shall be filed with the Supplemental Declaration indicating each Owner's revised allocation.

20.3 Withdrawal of Annexed Property. Property for which a Supplemental Declaration has been recorded may be withdrawn from the Project by Declarant at any time prior to the time that any Unit contained therein has been conveyed to a third party. Such withdrawal may be accomplished by the execution, acknowledgment and

recordation of a "Notice of Withdrawal." The Notice of Withdrawal shall:

20.3.1 be executed and acknowledged by Declarant, as the Owner of the property being withdrawn;

20.3.2 contain an adequate legal description of the property being withdrawn;

20.3.3 contain a reference to the Supplemental Declaration by which such property was annexed to the Project, including the date thereof and recording information of such Supplemental Declaration; and

20.3.4 contain a statement and declaration that the property is withdrawn from the Project and shall not be thereafter subject to this Declaration or the Supplemental declaration for such property.

The withdrawal of such property from the Project shall be effective upon the recordation of the Notice of Withdrawal and, upon the recordation of the Notice of Withdrawal, the property described therein shall no longer be part of the Project or subject to this Declaration or Supplemental Declaration for such Property.

20.4 Conversion of Condominiums to Common Areas. Declarant shall have and hereby reserves the right to convert any Condominium owned by it or the Association specifically identified on the Map or any Supplemental Map as a convertible Condominium into Common Elements subject to the terms and provisions of the Act.

20.5 Combination or Subdivision of Condominiums. Declarant shall have and hereby reserves the right to combine or resubdivide the space within any Condominium Unit or Units owned by Declarant to create additional Units and to designate, redesignate and reallocate Limited Common Elements in connection with any such combination or subdivision. Upon the combination or resubdivision of any Unit in accordance with the terms and conditions contained herein, each Owner's allocated interests shall be reallocated.

20.6 Leases. Declarant shall have and hereby reserves the right to lease any Unit in addition to its right as an Owner to lease a Unit.

20.7 Limited Common Elements. Declarant shall have and hereby reserves the right to create, change or reallocate General Common Elements and Limited Common Elements in connection with the overall development of the Project as provided herein, including but not limited to Section 5.2.2.2.

20.8 Special Declarant Rights. In addition to the foregoing reserved rights, Declarant further reserves the right to exercise all Development Rights, Special Declarant's Rights and other Declarant rights.

20.9 Exercise of Rights. The exercise of any or all of the Special Declarant Rights shall be at the sole option and discretion of Declarant. Such Declarant Rights may be exercised with respect to different portions of the Project or parcels of real estate at different times. No assurances are made with respect to the boundaries of the portions of the parcels of real estate that may be subject to such Declarant Rights nor the order in which they may be exercised. If Declarant exercises any Special Declarant Rights, such Rights may, but need not, be exercised as to all or any other portion of the Project. Notwithstanding anything in this Declaration to the contrary, no consent or agreement of the Owners, First Mortgagees or any other person shall be required in order to allow Declarant to exercise any of its rights, provided such exercise complies with the applicable provisions of this Declaration.

Any right or any interest reserved or contained in this Declaration for the benefit of Declarant may be transferred or assigned by Declarant, either separately or with one or more other such rights or interests, to any person, corporation, partnership, association or other entity, only by written instrument executed by both Declarant and the transferee or assignee and recorded in the Office of the Clerk and Recorder of the City and County of Denver, Colorado. Upon such recording, Declarant's rights and obligations under this Declaration shall cease and terminate to the extent provided in such instrument.

ARTICLE 21 SECURITY INTERESTS

21.1 Approval by Members and First Mortgagees. Notwithstanding any provisions of this Declaration to the contrary, the Association shall not:

21.1.1 Except as provided by statute, in case of condemnation or substantial loss to the Units and/or Common Elements, unless it has obtained the prior written approval of the Owners (other than the Declarant) casting at least sixty-seven percent (67%) of the votes in the Association and of those Eligible First Mortgagees who represent at least sixty-seven percent (67%) of the votes in the Association that are allocated to Units that are encumbered by First Mortgages held by Eligible First Mortgagees (based upon one vote for each First Mortgage owned):

21.1.1.1 by act or omission seek to abandon or terminate the Project;

21.1.1.2 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 (however, this requirement will be deemed waived to the extent necessary to allow phasing, add-ons, or annexations in accordance with this Declaration);

21.1.1.3 partition or subdivide any Unit;

21.1.1.4 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 Project 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); and

21.1.1.5 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.

21.1.2 Unless it has obtained the consent of Owners who represent at least sixty-seven percent (67%) of the total allocated votes in the Association, and of Eligible First Mortgagees who represent at least fifty-one percent (51%) of the votes of Units that are encumbered by First Mortgages held by Eligible First Mortgagees (and who have submitted a written request that the Association notify them of any proposed action requiring the consent of a specified percentage of First Mortgagees), add or

amend any material provisions of this Declaration, the Articles of Incorporation or Bylaws of the Association which govern any of the following, provided that the implied approval of any First Mortgagee shall be assumed if such First Mortgagee fails to submit a response to any written proposal for an amendment within thirty (30) days after it receives proper notice of the proposal delivered by certified or registered mail with a "return receipt" requested:

21.1.2.1 voting rights;

21.1.2.2 increases in assessments that raise the previously assessed amount by more than twenty-five percent (25%), assessment liens or the priority of assessment liens;

21.1.2.3 reductions in reserves for maintenance, repair, and replacement of Common Elements;

21.1.2.4 responsibility for maintenance and repairs;

21.1.2.5 reallocation of interests in the General Common Elements, Limited Common Elements or rights to their use;

21.1.2.6 redefinition of any Unit boundaries;

21.1.2.7 convertibility of Units into Common Elements or vice versa;

21.1.2.8 expansion or contraction of the Project, or the addition, annexation or withdrawal of property to or from the Project;

21.1.2.9 hazard or fidelity insurance requirements;

21.1.2.10 imposition of any restrictions on the leasing of Units;

21.1.2.11 imposition of any restrictions on an Owner's right to sell or transfer his or her Unit;

21.1.2.12 a decision by the Association (if the Project consists of fifty (50) or more Units) to establish self-management if professional management had been required previously by the Declaration, the Articles of Incorporation or Bylaws of the Association, or by a security interest holder of a first security interest who has submitted a written request that the Association notify them on any proposed action requiring the consent of a specified percentage of security interest holders of first security interests;

21.1.2.13 restoration or repair of the Project (after a damage or partial condemnation) in a manner other than that specified in the Declaration, the Articles of Incorporation or Bylaws of the Association; or

21.1.2.14 any provisions that expressly benefit First Mortgagees, or insurers or guarantors of First Mortgages.

Provided that the foregoing approval requirements do not apply to amendments effected by the exercise of any Special Declarant Right, including Development Rights in accordance with the provisions of this Declaration or the Act.

21.2 Termination of Legal Status. Any action to terminate the legal status of the Project after substantial destruction or condemnation occurs shall be agreed to by Eligible First Mortgagees who represent at least fifty-one percent (51%) of the votes of Units that are encumbered by First Mortgages held by First Mortgagees.

21.3 Notice of Action. Upon written request to the Association, identifying the name and address of the First Mortgagee or insurer or guarantor of the First Mortgage, and the residence address of the Unit which is subject to such first security interest, each First Mortgagee, or insurer or guarantor, shall be entitled to timely written notice of:

21.3.1 any condemnation loss or casualty loss which affects either a material portion of the Project or any Unit subject to a First Mortgage held by a First Mortgagee;

21.3.2 any delinquency in the payment of assessments or charges owed to the Association by the Owner of the Unit subject

to a First Mortgage held by a First Mortgagee, when such delinquency remains uncured for a period of sixty (60) days;

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

21.3.4 any proposed action that requires the consent of a specified percentage of Eligible First Mortgagees as provided in this Article.

21.4 Audit. If at any time the Project includes at least fifty (50) Units, the Association shall thereafter provide an audited statement for the preceding fiscal year to any First Mortgagee who submits a written request for such audit; and such audit shall be made available within one hundred twenty (120) days of the Association's fiscal year end. When the Project consists of fewer than fifty (50) Units and there is not an audited statement available, any First Mortgagee will be allowed to have an audited statement prepared at its own expense.

ARTICLE 22 MISCELLANEOUS

22.1 Restriction on Declarant Powers. Notwithstanding anything to the contrary herein, no rights or powers reserved to Declarant hereunder shall exceed the time limitations or permissible extent of such rights or powers as restricted under the Act. Any provision in this Declaration in conflict with the requirements of the Act shall not be deemed to invalidate such provision as a whole but shall be adjusted as is necessary to comply with the Act.

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

22.3 Amendment. The provisions of this Declaration may be amended or terminated, in whole or in part, from time to time, upon the written consent of Owners representing an aggregate ownership interest in the Common Elements of sixty-seven percent (67%) or more; provided, however, matters not requiring Owner approval as described in C.R.S. §38-33.3-217(1) may be handled by the Executive Board. In addition (a) a majority of the voting Directors of the Executive Board may make, without the approval of the Owners,

changes to the Map or any other Association Documents to the extent necessary to correct a factual error; and (b) any proposed amendment to this Declaration which affects any right of Declarant shall require the prior written approval of Declarant, in addition to the approval requirements otherwise set forth herein.

22.4 Unilateral Amendment Rights Reserved by Declarant. Notwithstanding any provision in this Declaration to the contrary, Declarant, acting alone, reserves to itself the right and power to modify and amend this Declaration to the fullest extent permitted under the Act, including without limitation to correct clerical, typographical or technical errors or to comply with the requirements, standards or guidelines of recognized secondary mortgage markets, the Department of Housing and Urban Development, the Federal Housing Administration, the Veterans Administration, the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association or the Federal National Mortgage Association.

22.5 Recording of Amendments. Any amendment to this Declaration made in accordance with this Article 22 shall be immediately effective upon recording in the Office of the Clerk and Recorder of the City and County of Denver, Colorado, a copy of the amendment, executed and acknowledged by the appropriate number of Owners, or upon the recording of a copy of the amendment, together with a duly authenticated certificate of the Secretary of the Association stating that the required vote or number of consents of Owners were obtained and are on file in the office of the Association.

22.6 Enforcement and Arbitration.

(a) Except for those claims subject to subsection (c) of this Section, 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 supplemented and amended, may be by any proceeding at law or in equity against any Person(s) (including, without limitation, the Association) violating or attempting to violate any such provision. The Association and any aggrieved 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 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.

(b) The Association shall not institute litigation or administrative proceedings for declaratory relief, injunctive relief or for claims for monetary damages in excess of One Hundred Thousand Dollars (\$100,000.00) in its own name, on behalf of itself or two (2) or more owners against any Person, including Declarant, alleging a defect in the design, construction or physical condition or other alleged defect of the Common Elements, Units or improvements related thereto without first obtaining the affirmative vote of a majority of the Unit Owners present at a meeting called for that purpose at which a quorum is present. The amount of \$100,000.00 shall be increased annually for each subsequent fiscal year of the Association beginning in the year 2003, in an amount equal to the United States Department of Labor Bureau of Labor Statistics final consumer price index for the Denver-Boulder metropolitan statistical area for the preceding calendar year. The amount shall not be decreased if the final consumer price index for the preceding year decreases.

(c) Any claim, controversy or dispute over or related to: (i) the design, construction or physical condition of the Common Elements, Units or improvements related thereto and made against the Declarant or the Association, which shall be deemed a "Construction Dispute;" or (ii) the enforcement of the provisions of the Declaration, or over such other matters as the Association, Declarant and/or other affected person may mutually agree; except any action by any party to seek, obtain or enforce a temporary restraining order, preliminary injunction, or similar equitable order or decree, any action by the Association to assess or collect any Assessments, or enforce or foreclose any lien for such Assessments, or any action by the Association to enforce the provisions set forth in Article 19 hereof, or any action relating to the enforcement or discharge of any mechanic's lien; shall be resolved by binding arbitration in accordance with the Uniform Arbitration Act of 1975, C.R.S. §13-22-201, et seq., as amended (or if such Act is repealed, then such other uniform state arbitration law enacted in its place). Any such arbitration proceeding may be required by an aggrieved person upon written notice delivered to the Association, the Declarant or other person(s), as the case may

be, before the date when commencement of legal or equitable proceedings based on such claim or dispute would be barred by the applicable statute of limitations and no such demand for arbitration shall be made after the date when such proceedings would be barred by the applicable statute of limitations. The American Arbitration Association ("AAA") (or other mutually agreed upon arbitration organization) shall administer all aspects of arbitrations conducted hereunder, including the selection of arbitrators, pursuant to the AAA's Commercial Arbitration Rules. Arbitration hereunder shall be before a three-person panel of arbitrators for any dispute involving claims and counterclaims in the aggregate of One Hundred Thousand Dollars (\$100,000.00) or more, and shall be resolved before a single arbitrator for such disputes involving claims and counterclaims, in the aggregate, of less than One Hundred Thousand Dollars (\$100,000.00). Each arbitrator shall possess the requisite experience and expertise in respect to matters to which the controversy relates to enable him or her to perform his or her arbitral duties competently. The cost of a the arbitrator(s) and of any hearing transcript shall be divided equally between the parties. Any and all discovery in conjunction with such arbitration shall be limited to information directly relevant to the controversy or claim in arbitration and shall be concluded within forty-five (45) days after the appointment of the arbitrator or arbitration panel.

(d) No party shall be entitled to receive any award of damages in connection with the arbitration of a dispute other than such party's direct damages, and Declarant, the Association and any Owner shall be deemed to have waived their right to receive any damages in a dispute other than direct damages, including without limitation, the right to receive indirect damages such as special damages and consequential damages and the right to receive punitive or exemplary damages. BY TAKING TITLE TO A UNIT, EACH OWNER ACKNOWLEDGES AND AGREES THAT SUCH OWNER HAS WAIVED AND SHALL BE DEEMED TO HAVE WAIVED THE RIGHT TO ANY AWARD OF DAMAGES IN CONNECTION WITH THE ARBITRATION OF A DISPUTE OTHER THAN SUCH OWNER'S DIRECT DAMAGES. Each party agrees to cooperate fully with any such arbitrator(s) and to use its best efforts to respond to all reasonable requests of such arbitrator(s). Judgment upon the arbitrator's determination shall be entered and enforced by the district court for the county in which the Community is located. In the event the district court finds and determines for any reason that any judicial proceeding is allowed or had herein, in order to expedite final resolution of the dispute, each party to the dispute

waives any right to a jury trial for claims and counterclaim relating to the dispute.

(e) This Declaration and the provisions hereof shall be governed and construed in accordance with the laws of the State of Colorado.

22.7 Severability. Invalidation of any of the covenants, restrictions or other provisions contained in this Declaration by judgment or court order shall in no way affect or limit any other provisions which shall remain in full force and effect.

22.8 Conflict of Provisions. In case of any conflict between this Declaration and the articles or the bylaws of the Association, this Declaration shall control. In case of any conflict between the articles and the bylaws, the articles shall control. The foregoing to the contrary notwithstanding, in the event of any inconsistency between this Declaration or the articles or the bylaws, on the one hand, and the Act, on the other, then in all events the Act shall control.

22.9 Nonwaiver. Failure by Declarant, the Association or any Owner or First Mortgagee to enforce any covenant, condition, restriction, easement, reservation, right-of-way or other provision contained in this Declaration shall in no way or event be deemed to be a waiver of the right to do so thereafter.

22.10 Number and Gender. Unless the context provides or requires to the contrary, the use of the singular herein shall include the plural, the use of the plural shall include the singular and the use of any gender shall include all genders.

22.11 Captions. The captions to the Articles and Sections are inserted only as a matter of convenience and for reference and are in no way to be construed to define, limit or otherwise describe the scope of this Declaration or the intent of any provision of this Declaration.

22.12 Exhibits. All the Exhibits attached to and described in this Declaration are incorporated in this Declaration by this reference.

Executed as of the 7th day of October, 2002.

SWALLOW HILL RESIDENCES, LLC,
a Delaware limited liability company

By: GS Swallow Hill, LLC, a Colorado
limited liability company, its
Managing Member

By: Greystar Real Estate Partners
West, LLC,
a Delaware limited liability
company, its Manager

By: Bart Spaulding
Bart Spaulding
Its: Authorized Agent

STATE OF COLORADO)
)
 ss.
CITY AND COUNTY OF DENVER)

The foregoing Condominium Declaration for Swallow Hill was acknowledged before me this 7th day of October, 2002, by Bart Spaulding as Authorized Agent of Greystar Real Estate Partners West, LLC, a Delaware limited liability company, Manager of GS Swallow Hill, LLC, a Colorado limited liability company, Managing Member of SWALLOW HILL RESIDENCES, LLC, a Delaware limited liability company.

WITNESS my hand and official seal.

My commission expires: 10-04-03

CARIN GORDON
Notary Public

JOINDER OF LIENOR

The undersigned beneficiary under the Deed of Trust dated May 23, 2001, and recorded May 25, 2001, under Reception No. 2001085534, in the Office of the Clerk and Recorder of the City and County of Denver, Colorado, as amended and supplemented from time to time (the "Deed of Trust"), for itself and its successors and assigns, consents to the foregoing Condominium Declaration for Swallow Hill, affecting the Property encumbered by the Deed of Trust, and agrees that no foreclosure or other enforcement of any remedy pursuant to the Deed of Trust shall impair, invalidate, supersede or otherwise affect the covenants, conditions, restrictions and easements established by that Declaration.

OHIO SAVINGS BANK,
a federal savings bank

By: Michael Attias

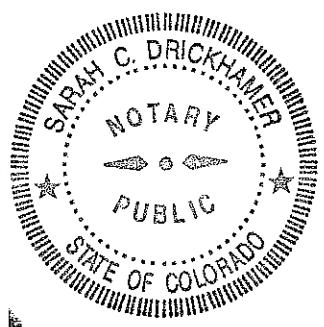
Its: Vice President

STATE OF COLORADO)
)
) ss.
CITY AND COUNTY OF DENVER)

The foregoing Condominium Declaration for Swallow Hill was acknowledged before me this 4th day of October, 2002, by Michael Attias as Vice President of OHIO SAVINGS BANK, a federal savings bank.

WITNESS my hand and official seal.

My commission expires: 4/16/05



Michael Attias
Notary Public

EXHIBIT A
LEGAL DESCRIPTION OF PROPERTY

LOTS 9 THROUGH 16 INCLUSIVE,
BLOCK 22,
SWALLOW'S RESUBDIVISION OF BLOCK 22,
PARK AVENUE ADDITION,
CITY AND COUNTY OF DENVER,
STATE OF COLORADO.

AND

THE NORTH 5 FEET OF LOT 17,
BLOCK 22,
SWALLOW'S RESUBDIVISION OF BLOCK 22,
PARK AVENUE ADDITION,
CITY AND COUNTY OF DENVER,
STATE OF COLORADO.

EXHIBIT B
OWNERS' INTERESTS IN COMMON ELEMENTS

CONDOMINIUM BUILDING: 1631 EMERSON STREET

<u>Unit No.</u>	<u>Square Footage</u>	<u>% Interest in Common Elements</u>
101	1,402	2.626%
103	1,233	2.310
105	1,315	2.463
107	1,219	2.284
109	1,133	2.122
111	1,051	1.969
113	1,057	1.980
115	911	1.707
117	1,266	2.372
119	1,305	2.445
121	704	1.319
201	1,059	1.984%
203	1,194	2.237
205	1,275	2.388
207	1,282	2.402
209	1,200	2.248
211	1,058	1.982
213	1,016	1.903
215	1,073	2.010
217	1,262	2.364
219	1,263	2.366
221	1,038	1.945
223	1,018	1.907
301	1,059	1.984%
303	1,194	2.237
305	1,275	2.388
307	1,282	2.402
309	1,200	2.248
311	1,058	1.982
313	1,018	1.907
315	1,073	2.010
317	1,262	2.364
319	1,263	2.366
321	1,038	1.945
323	1,018	1.907

<u>Unit No.</u>	<u>Square Footage</u>	<u>% Interest in Common Elements</u>
401	1,745	3.269%
403	1,298	2.432
405	1,307	2.448
407	1,752	3.282
409	738	1.383
411	1,606	3.009
413	1,287	2.411
415	1,257	2.355
417	1,574	2.949
419	743	1.392
		100%

The formula used to establish such allocation of ownership interests and assessments is based upon the square footage of respective Condominium Units, as set forth on the Condominium Map.

EXHIBIT C
EASEMENTS, LICENSES AND OTHER TITLE MATTERS

The following items which are recorded, are recorded in the office of the Clerk and Recorder of the City and County of Denver, Colorado:

Taxes and assessments for the year of recording of this Declaration, and for subsequent years, not yet due and payable.

Mountain View Preservation Building Height Restrictions, as imposed by the Ordinance recorded June 12, 1975, in Book 1069 at Page 175.

Restrictions imposed by the Ordinance No. 418, Series of 1999 of the City and County of Denver, recorded June 4, 1999 at Reception No. 9900098821 pertaining to Swallow Hill Historic District.

EXHIBIT D
ANNEXABLE PROPERTY

LOTS 20 THROUGH 27 INCLUSIVE,
BLOCK 22,
SWALLOW'S RESUBDIVISION OF BLOCK 22,
PARK AVENUE ADDITION,
CITY AND COUNTY OF DENVER,
STATE OF COLORADO

And

THE SOUTH 3 FEET OF LOT 28,
BLOCK 22,
SWALLOW'S RESUBDIVISION OF BLOCK 22,
PARK AVENUE ADDITION,
CITY AND COUNTY OF DENVER,
STATE OF COLORADO

Excepting therefrom

THE EAST 8 FEET OF SAID LOTS 20 THROUGH 27 AND THE EAST 8 FEET OF
THE SOUTH 3 FEET OF SAID LOT 28,
BLOCK 22,
SWALLOW'S RESUBDIVISION OF BLOCK 22,
PARK AVENUE ADDITION,
CITY AND COUNTY OF DENVER,
STATE OF COLORADO