

**THE
DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
OF
THE PEARL**

PREAMBLE

THIS DECLARATION is made as of the 29th day of August, 2002, by The Pearl, LLC, who with its successors and assigns is hereinafter referred to as "Declarant."

WHEREAS, Declarant is the owner of certain real property legally described as

The South 3 feet of Lot 6, all of Lot 7, the North 23 feet 2 inches of Lot 8, Block 320, Clements addition, City and County of Denver, State of Colorado.

(the "Property"), situated in the City and County of Denver (the "County"), State of Colorado, and

WHEREAS, Declarant intends to convert the Property to a residential condominium community; and

WHEREAS, Declarant hereby submits a portion of the Property legally described on Exhibit A attached hereto and incorporated herein by this reference, reserving to Declarant, its successors and assigns the access and utility easements described below (the "Property") to condominium ownership; and

WHEREAS, Declarant intends to own, improve and convey the Property in accordance with the terms of this Declaration.

NOW THEREFORE, Declarant hereby declares as follows:

**ARTICLE I
DEFINITIONS**

As used in this Declaration, unless the context otherwise requires, the terms hereinafter set forth shall have the following meanings:

Section 1.1 ACT means the Colorado Common Interest Ownership Act, as it may be amended from time to time.

Section 1.2 **AGENCIES** means and collectively refers to, the Federal National Mortgage Association (Fannie Mae), the Government National Mortgage Association (GNMA), the Federal Home Loan Mortgage Corporation (FHLMC), the Department of Housing and Urban Development (HUD), the Veterans Administration (VA), the Colorado Housing and Finance Authority (CHFA), or any other governmental or quasi-governmental agency or any other public, quasi-public or private entity which performs (or may perform in the future) functions similar to those currently performed by any of such entities.

Section 1.3 **ALLOCATED INTEREST** is defined in Section 2.2.

Section 1.4 **AMENDMENT OF A MATERIAL NATURE** is defined in Section 12.3.

Section 1.5 **ANNUAL ASSESSMENT** is defined in Section 4.3(a).

Section 1.6 **ARTICLES** means the Articles of Incorporation of the Association.

Section 1.7 **ASSESSMENTS** means all monies due to the Association from Members which are duly assessed or billed to Owners by the Board as Annual Assessments, Special Assessments, Working Capital Fees, and Individual Purpose Assessments and all fines levied hereunder by the Board together with interest, late fees, costs and reasonable attorney's fees for collection.

Section 1.8 **ASSOCIATION** means The Pearl Condominium Association, Inc., its successors and assigns.

Section 1.9 **BOARD OF DIRECTORS or BOARD** means the Board of Directors of the Association. The Board of Directors is the governing body of the Association.

Section 1.10 **BUILDING** means the residential building constructed on the Property.

Section 1.11 **BYLAWS** means the Bylaws adopted by the Board of Directors as amended from time to time.

Section 1.12 **COMMON ELEMENTS** means all portions of the Community, except the Units. The Common Elements are owned by the Owners in undivided interests equal to the Allocated Interests defined in Section 2.2 and consist of General Common Elements and Limited Common Elements.

Section 1.13 **COMMON EXPENSES** means expenditures made or liabilities incurred by or on behalf of the Association together with any allocations to reserve funds.

Section 1.14 **COMMUNITY** means the common interest community created by this Declaration and as shown on the Community Map consisting of the Property, the Units and the Common Elements.

Section 1.15 **COMMUNITY MAP** means that certain condominium map recorded in the Records which shows the Property, the identifying numbers of the Units and boundaries thereof, recording data for easements and licenses affecting the Property, and the information relating thereto which is required by the Act and which is incorporated by reference.

Section 1.16 **CONDOMINIUM UNIT** means the fee simple interest and title in and to a Unit, together with its Allocated Interest in the Common Elements appurtenant to each Unit, the right to use any Limited Common Elements appurtenant to the Unit and all other rights and burdens created by this Declaration, including without limitation the right to use easements granted herein.

Section 1.17 **COUNTY** is defined in the Preamble.

Section 1.18 **DECLARANT** is defined in the Preamble.

Section 1.19 **DECLARATION/OWNER SHARED COMMON EXPENSES** is defined in Section 4.1.

Section 1.20 **DECLARANT'S CONTRIBUTION** is defined in Section 4.1.

Section 1.21 **DECLARATION** means this Declaration of Covenants, Conditions and Restrictions of The Pearl.

Section 1.22 **DEVELOPMENT PERIOD** is defined in Section 3.6.

Section 1.23 **DEVELOPMENT RIGHTS** is defined in Section 2.4.

Section 1.24 **FIRST MORTGAGEE** means any Persons which owns, holds, insures or is a governmental guarantor of a mortgage or deed of trust, which is a first and prior lien ("First Mortgage") (subject only to the lien of the Association pursuant to C.R.S. §38-33.3-316 and to the lien for general taxes) encumbering a Unit within the Property that has been sold by Declarant to a third party.

Section 1.25 **GENERAL COMMON ELEMENTS** means all portions of the Community, except the Units and Limited Common Elements, including without limitation:

(1) The land on which the Building is located;

(2) The Building including, but not by way of limitation, the foundation, columns, girders, beams and supports, perimeter and supporting walls, flues, and roofs; the

mechanical installations of the Building consisting of the equipment and materials making up any services such as electricity, gas, hot and cold water, heating, refrigeration, and air conditioning which exist for use by more than one Unit, including the pipes, vents, ducts, flues, conduits, wires and other similar utility installations used in connection therewith, but specifically excluding all of the Units;

- (3) The streets, curbs, gutters, sidewalks, and automobile parking areas;
- (4) The trash enclosures, landscaping, flowerbeds, and green belt areas;
- (5) Any installations consisting of equipment and materials making up any central utility services.

Section 1.26 **GUEST** means (a) any person who resides with an Owner within a Unit; (b) a guest, licensee or invitee of an Owner; (c) an occupant or tenant of a Unit and any members of his or her household, invitee or co-habitant of any such occupant or tenant, or (d) a contract purchaser of a Unit.

Section 1.27 **INDIVIDUAL PURPOSE ASSESSMENTS** as defined in Section 4.4.

Section 1.28 **LIMITED COMMON ELEMENTS** means those parts of the Common Elements which are reserved for the exclusive use of the Owners of one or more Condominium Units as depicted on the Community Map, or as created by act of the Association, including without limitation, porches, building overhangs and patios.

Section 1.29 **MANAGING AGENT** means any one or more Persons employed by the Association and engaged to perform any of the duties, powers or functions of the Association.

Section 1.30 **MEMBER** means a Person who is a member of the Association as provided in Section 3.4.

Section 1.31 **OWNER** means the record owner(s) of the fee simple title or a seller under a land installment contract of any Condominium Unit excluding, however, those having an interest merely as security for the performance of any obligation.

Section 1.32 **PERSON** means a natural person, corporation, partnership, limited liability company, association, trustee or any other entity recognized as being capable of owning real property under Colorado law.

Section 1.33 **PROPERTY** means such real property and the improvements located thereon as more fully described on Exhibit A attached hereto and incorporated by this reference.

Section 1.34 **RECORDS** means the office of the clerk and recorder of the City and County of Denver.

Section 1.35 **RULES** includes without limitation the rules and regulations adopted by the Board and any other rules and regulations adopted in accordance with this Declaration or the Bylaws, all as amended from time to time.

Section 1.36 **SPECIAL ASSESSMENTS** is defined in Section 4.3.

Section 1.37 **SPECIAL DECLARANT RIGHTS** is defined in Section 2.3.

Section 1.38 **TOTAL ALLOWED UNITS** means 27 Units. This is the maximum number of Units that the Declarant reserves the right to submit to the Community.

Section 1.39 **UNIT** means an individual air space unit which is contained within the perimeter walls, floors, ceilings, windows and doors of such Unit in a Building as shown on the Condominium Map, together with all fixtures and improvements therein contained but not including any of the structural components of the Building located in such Unit.

Section 1.40 **WORKING CAPITAL FEES** is defined in Section 4.5.

ARTICLE II DECLARATION

Section 2.1 **Conveyances Subject to Declaration.** The Property shall be held, sold, improved and conveyed subject to this Declaration which is declared and agreed to be for the protection of the value of the Property and for the benefit of the Owners and which shall be deemed to run with the land and shall be a burden and benefit to Declarant and to any Persons hereafter acquiring interests in the Property, their grantees, successors, heirs, legal representatives and assigns. Any instrument recorded subsequent to this Declaration and purporting to establish and affect any interest in the Property shall be subject to the provisions of this Declaration despite any failure to make reference thereto.

The Pearl is the name of this condominium community created pursuant to and subject to the Act. The Act is incorporated herein by this reference except where specific provisions of this Declaration conflict with the Act and such conflict is permissible under the Act; in such event this Declaration shall prevail over the Act. In all other cases, the Act shall prevail over this Declaration.

Section 2.2. **Division of Property into Condominium Units.** The Declarant, in recording the Declaration, the Plat and the Community Map in the Records has designated all of the Property and the improvements constructed or to be constructed thereon to be and are hereby divided into separate fee simple estates each consisting of one Unit together with an appurtenant, undivided

interest in and to the Common Elements equal to one divided by the number of Units in the Community ("Allocated Interest"). A table of the Allocated Interests is attached hereto as Exhibit B and incorporated herein by this reference.

The Common Elements shall be owned in common by the Owners, and shall remain undivided. Each Owner waives its right to institute or maintain a partition action or other proceeding which would cause a division of the Common Elements. Each Condominium Unit shall be inseparable and may be transferred, conveyed, leased, devised, encumbered or otherwise alienated only as Condominium Unit.

The Plat and Community Map are incorporated herein and made a part of this Declaration. In the event of any inconsistency between the terms of this Declaration and the Plat or the Plat as it may be amended in the future, the Plat or amended Plat shall control. In the event of any inconsistency between the terms of this Declaration and the Community Map or the Community Map as it may be amended in the future, the Community Map or amended Community Map shall control. In the event of any inconsistency between the Plat and the Community Map, the Plat or amended Plat shall control.

The identification number of each Unit is shown on the Community Map. Every contract for sale, deed, lease, encumbrance or other legal instrument may legally describe a Unit by its identifying Unit number followed by the name of the Community, with reference to the Community Map and this Declaration. An illustrative description is as follows:

Unit 5, The Pearl, City and County of Denver, State of Colorado

Section 2.3 Special Declarant Rights. Declarant reserves the following Special Declarant Rights as this term is defined in the Act:

(a) To construct the Units and to complete the improvements indicated on the Plat or Community Map including roadways, sidewalks, curbs, gutters, utilities, drainage, landscaping, and any other improvements which Declarant deems necessary or desirable for the Community;

(b) To exercise any Development Rights;

(c) To maintain sales offices, management offices, models and signs advertising the Community; the number, size, location and rights of relocation are as follows: three sales offices, three management offices and no more than fifteen models may be established at the Property. The sales office and management office may be combined. The sales office and/or management office may be a trailer located on any portion of the Property or may be located within the Community Recreation Facilities. Sales and management offices may also be located off-site or in one or more model homes, as deemed necessary by Declarant. The Declarant reserves the right to relocate the offices, models and signs from time to time to any portion of the Property or upon the Master Community Recreational Facility.

(d) To grant and use easements through the Common Elements for the purposes of making improvements within the Community;

(e) To appoint or remove any officer of the Association or any Board member during the Development Period subject to the provisions of Section 3.6.

(f) To exercise any and all other Special Declarant Rights which may be reserved by Declarant pursuant to the Act.

ARTICLE III THE ASSOCIATION

Section 3.1 General Purposes and Power. The Association is responsible for the operation and management of the Community, the establishment and enforcement of this Declaration, the Bylaws, and Rules, and the maintenance, repair, replacement and operation of the Common Elements as set out in this Declaration, all so as to further the interests of the Members of the Association. Any purchaser or occupant of a Unit shall be deemed to have assented to, ratified and approved such designations and management. The Association acting through the Board shall have all the powers necessary or desirable to effectuate such purposes. In addition, the Board shall have the specific powers granted in the Bylaws which shall not be derogated by amendment to the Bylaws inconsistent with this Declaration. In addition, the Board shall have and may exercise the powers conferred by the Act.

Section 3.2 Board of Directors. The affairs of the Association shall be managed by the Board which may delegate authority to a Managing Agent for the Association as more fully described in the Bylaws, provided no such delegation shall relieve the Board of final responsibility. The Board shall consist of not less than three nor more than five members.

Section 3.3 Articles and Bylaws. The purposes and powers of the Association and the rights and obligations with respect to Members set forth in this Declaration may and shall be amplified by provisions in the Articles of Incorporation and Bylaws of the Association. In the event either the Articles or Bylaws conflict with the Declaration, the Declaration shall control.

Section 3.4 Membership. Every Person who is a record Owner of a Condominium Unit shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of a Condominium Unit. Ownership of such Condominium Unit shall be the sole qualification for such membership. Where more than one person holds an interest in any Condominium Unit, all such persons shall be Members subject to the voting limitations set forth below.

Section 3.5 Voting Rights. The Association shall have one class of voting membership. All Members shall be entitled to one vote for each Condominium Unit owned. The vote for a Condominium Unit, the ownership of which is held by more than one Person, may be exercised

by any one of them, unless an objection or protest by any other Owner of an interest in the Condominium Unit is made prior to the completion of the vote, in which case the vote for such Condominium Unit shall be exercised, as the persons holding a majority of such interest determine between themselves. Should the joint owners of a Condominium Unit be unable, within a reasonable time, to agree upon how they will vote any issue, they shall be passed over and their right to vote on such issue shall be lost. In no event shall more than one vote be cast with respect to any Condominium Unit.

Section 3.6 Development Period. The Development Rights set out in Section 2.4 shall apply to the Units prior to sale to a third party. Special Declarant Rights and Development Rights shall be exercised, if at all, within a period of seven years following the date of sale of the first Unit by Declarant to a third party (the "Development Period"). There are no other conditions or limitations under which the Development Rights or Special Declarant Rights may be exercised or will lapse, except as set out herein or in the Act.

Notwithstanding anything herein to the contrary, Declarant or persons designated by the Declarant may appoint and remove the officers and members of the Board of Directors during the Development Period. However, this right to appoint and remove officers and members of the Board of Directors shall terminate no later than the earlier of sixty days after conveyance of seventy-five percent (75%) of the Total Allowed Units to Owners other than the Declarant, or two years after the last conveyance of a Unit by the Declarant in the ordinary course of business, or two years after any right to add new Units was last exercised. In addition, the right to appoint and remove directors is subject to the provisions of §38-33.3-303(6) of the Act. Even if Declarant's rights to appoint and remove the officers and members of the Board of Directors terminates under this paragraph prior to the expiration of the Development Period, Declarant's remaining Special Declarant Rights shall continue in full force and effect for the entire Development Period.

The Declarant may voluntarily surrender the right to appoint and remove officers and members of the Board of Directors before termination of the Development Period. In that event the Declarant shall have the right to approve matters as described in Section 12.4 below before the action of the Association or the Board of Directors shall be effective as to such matters.

Section 3.7 Indemnification, Assumption of Risk. The Association shall indemnify every present and former director, officer, or employee of the Association against loss, costs and expenses, including attorney's fees reasonably incurred in connection with any action, suit, or proceeding in which such person may be made a party by reason of being, or having been such director, officer, or employee of the Association, except as to matters concerning which such person shall be finally adjudged to be liable for gross negligence, fraud or willful misconduct and in accordance with C.R.S. § 7-129-102.

Section 3.8 Association Agreements. Any agreement for professional management of the Property or any contract providing for services by the Declarant shall be governed by C.R.S. § 38-33.3-305.

Section 3.9 Contracts, Easements and Other Agreements. The Board on behalf of the Association shall have the right to enter into, grant, perform, enforce, cancel and vacate contracts, easements, licenses, leases, agreements, and/or rights-of-way, for use by Owners, Guests, and other persons, concerning the Common Elements and any improvements located thereon. Any such contracts, licenses, leases, agreements, easements and/or rights-of-way, shall be upon such terms and conditions as may be agreed to from time to time by the Board, without the necessity of consent or joinder by the Owners or First Mortgagees.

Section 3.10 Implied Rights. The Board on behalf of the Association shall have and may exercise any right or privilege given to it expressly by this Declaration, or reasonably to be implied from the provisions of this Declaration, or given or implied by the Act, or which may be necessary or desirable to fulfill its duties, obligations, rights or privileges.

ARTICLE IV ASSESSMENTS

Section 4.1 Creation of the Lien and Personal Obligation for the Assessment. The Declarant, for each Condominium Unit owned within the Property, hereby covenants, and each Owner, other than the Declarant, of any Condominium Unit by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association certain Assessments (including without limitation the Master Association Assessments) to be fixed, levied and collected from time to time as herein provided. All Assessments created and defined in this Declaration shall be a continuing lien upon the Condominium Unit against which each Assessment was levied and a personal obligation of the Owner of such Condominium Unit or of the Persons jointly and severally, who were the Owners of such Condominium Unit at the time when the Assessment was levied. The personal obligation for delinquent Assessments shall not pass to successors in title unless expressly assumed by them.

Section 4.2 Purpose of the Assessments. The Assessments levied by the Association shall be for the purpose of carrying out the responsibilities and obligations of the Association under this Declaration and shall include without limitation the Association's duties pursuant to Section 7.1; payments for the operation of the Common Elements and for the administration of the Association; payments pursuant to service contracts for the benefit of the Owners such as utilities in the Common Elements and similar services; payments for wages and fringe benefits for a Managing Agent or other staff; payments for any insurance obtained by the Association, and maintenance of an adequate reserve fund for the replacement of improvements to the Common Elements.

Section 4.3 Basis of Assessments.

(a) Annual Assessment for Common Expenses. The Board of Directors shall assess against all Units an Annual Assessment payable by the Owners thereof for the Common Elements of the Association. The Owner of each Unit shall pay its percentage share of the Annual

Assessment equal to its Allocated Interest. The Board of Directors shall assess against the residential units in the Additional parcels that have not been made subject to this Declaration the Declarant's Contribution payable by the Declarant. For the first three annual budgets after the date of commencement of the Assessments, the Board shall not be authorized to increase the Annual Assessment by more than fifteen (15%) per year.

(b) Special Assessments. In addition to the Annual Assessment authorized above, the Board of Directors may at any time, or from time to time, determine, levy and assess a Special Assessment for the purpose of defraying, in whole or in part, payments for any operating deficit, loss or unbudgeted expense, and/or unbudgeted costs, fees and expenses of any construction, reconstruction, repair, demolition, replacement, management, administration, or maintenance of the Common Elements including without limitation any fixtures and personal property related thereto. The Owner of each Unit shall pay its percentage share of such Special Assessment(s) equal to its Allocated Interest.

(c) Levy of Annual Assessment. At least sixty days prior to the close of the Association's fiscal year, the Board of Directors shall adopt a proposed budget for the Association. Within thirty days after adoption of the proposed budget, the Board shall mail, by ordinary first class mail or otherwise deliver a summary of the budget to all Owners and shall set a date for a meeting of the Owners to consider ratification of the budget not less than fourteen or more than sixty days after mailing or other delivery of the summary. Unless at such meeting the Owners of sixty-five percent (65%) of the Units reject the budget, the budget shall be ratified whether or not a quorum is present. In the event the proposed budget is rejected, the periodic budget last ratified by the Owners shall be continued until such time as the Owners ratify a subsequent budget proposed by the Board. The omission or failure of the Board of Directors to levy an Annual Assessment for any period shall not be deemed a waiver, modification or a release of the Owners from their obligation to pay Annual Assessments.

(d) Non-exemption. No Owner may waive or otherwise escape liability for any Assessments by the non-use of Common Elements, or the abandonment of his or her Unit.

Section 4.4 Individual Purpose Assessment. Any Common Elements or portion thereof benefitting fewer than all of the Units may be assessed by the Board exclusively against the Units benefitted as an "Individual Purpose Assessment." As an example, but not by way of limitation, the costs of maintenance, repair and replacement of the air conditioning unit serving a Unit shall be assessed against the Unit as an Individual Purpose Assessment. Additionally, the Board may assess as an Individual Purpose Assessment any Common Expenses associated with the maintenance, repair or replacement of a Limited Common Element to the Unit to which such Limited Common Element is appurtenant; and the cost of insurance to be allocated in proportion to risk or the cost of insurance due to alterations and upgrades installed in a Unit by an Owner. The Board of Directors shall have the right to levy an Individual Purpose Assessment against any individual Owner to reimburse the Association for any expense arising from the negligence, misconduct, or failure to comply with this Declaration, the Bylaws or Rules by such Owner or such Owner's Guests or to reimburse the Association for the failure to pay water and sewage bills.

The Board in its sole discretion shall make the determination if an Assessment shall be an Individual Purpose Assessment levied against fewer than all of the Owners. However, all Assessments for the regular planned maintenance, repair and replacement of General Common Elements shall be a general assessment against all Units even though such maintenance, repair and replacement work may be accomplished in phases benefitting fewer than all of the Owners.

Section 4.5 Working Capital Fees. The Declarant has or will establish a working capital fund in a segregated account in an amount equal to two monthly installments of the Annual Assessment. From and after the date hereof, each Owner who acquires a Unit from Declarant or upon resale from another Owner shall pay to the Association a one time working capital fee (the "Working Capital Fee") in an amount equal to two monthly installments of the then current Annual Assessment. For any Unit(s) not sold by Declarant to a third party prior to the termination of the Development Period, Declarant shall pay to the Association the Working Capital Fee for each such Unit(s) on the date of termination of the Development Period. Payment of the Working Capital Fee shall be a mandatory function of membership in the Association and ownership of a Unit. The Working Capital Fee shall be collected from each purchaser or other transferee of a Unit as a settlement statement debit and disbursed to the Association. If the Working Capital Fee is not collected at closing and disbursed to the Association, then it shall be payable on demand by the Association.

For the purposes of this Section 4.5, a transfer of a Unit from Declarant to a First Mortgagee by foreclosure or deed in lieu thereof, shall not be a transfer of a Unit triggering the obligation to pay the Working Capital Fee for such Unit. However, a subsequent sale or other transfer of such Unit shall trigger the obligation to pay the Working Capital Fee. In addition, for any Unit(s) not sold or transferred by such First Mortgagee to a third party prior to the termination of the Development Period, such First Mortgagee shall pay to the Association the Working Capital Fee for each such Unit(s) on the date of termination of the Development Period.

The accumulated Working Capital Fees shall be used for the purpose of creating a working capital reserve for the exclusive benefit of the Association to meet unforeseen expenditures or to purchase any additional equipment or services or for future capital repairs, replacements and improvements to the Community, all as determined by the Association. The Working Capital Fees are not considered advance payments of the Annual Assessment. The Working Capital Fees shall be transferred to the Association for deposit to a segregated fund when control of the Association is transferred to the Owners. The Board may change the amount of the Working Capital Fee as it deems necessary and appropriate. No portion of the Working Capital Fee shall be used by the Declarant to defray any of its expenses, reserve contributions, or construction costs or to make up any budget deficits while it is in control of the Association. Notwithstanding anything above to the contrary, when Units are sold to third parties, whether before or after the Development Period, the Association shall reimburse Declarant and any First Mortgagee for funds it paid to the Association for an unsold Unit's share of the Working Capital Fees by using funds collected at Closing when the Unit is sold.

Section 4.6 Date of Commencement of Assessment; Prorations. The Annual Assessment for Common Expenses shall commence as to each Unit on the date of sale of the first Unit by Declarant to a third party, and shall be prorated according to the number of days in the calendar month of closing and number of months remaining in the Association's fiscal year. A sale or transfer of a Unit to a First Mortgagee by foreclosure or deed in lieu thereof, shall not be deemed to be a sale which triggers the commencement of the Annual Assessment.

Section 4.7 Due Date, Non-Payment of Assessments, Remedies of the Association.

(a) The Annual Assessment for Common Expenses shall be levied on an annual basis and shall be due and payable on an installment basis as determined by the Board of Directors. Individual Purpose Assessments and Special Assessments shall be due and payable as established by the Board of Directors but may be payable on an installment basis as determined by the Board of Directors. The Working Capital Fees shall be payable as provided in Section 4.5.

(b) Written notice of all Assessments shall be sent to each Owner subject thereto specifying the type of Assessment, the amount and the date such Assessment is due.

(c) All Assessments shall become delinquent unless paid by their due date. If such Assessments are not paid by their due date, the Owner obligated to pay such Assessment will be required to pay a reasonable late fee, as determined by the Board of Directors from time to time in its discretion and uniformly applied. In addition, any past due Assessments shall bear interest at the rate established by the Board not to exceed twenty-one percent (21%) per annum or the maximum permitted by law. A Member shall be deemed to be in good standing and entitled to vote at any annual or special meeting of the Members or hold office or Board directorship in the Association only if the Member is not delinquent in the payment of all Assessments levied against the Member's Unit which are then due and owing, and only if such Member and such Member's Unit are in full compliance with this Declaration, the Bylaws, Articles and Rules. Failure to make payment of any Assessment within sixty days of the due date thereof shall cause the total amount of such Owner's Annual and Individual Purpose Assessment for the remainder of that fiscal year to become immediately due and payable at the option of the Board. In the event it shall become necessary for the Board to collect any delinquent Assessments, whether by foreclosure of a lien herein created or otherwise, the delinquent Owner shall pay all costs of collection including reasonable attorneys' fees and costs incurred by the Association in enforcing payment. In the event a "Notice of Lien" is filed to enforce collection, the cost of preparation, filing and release shall be considered a cost of collection.

(d) The Association is hereby granted a priority lien encumbering an Owner's Unit in the amount of any Assessment which such Owner fails to make as required by this Declaration. The lien of the Assessment including Individual Purpose Assessments and fines, if any, together with interest, late fees, costs of collection including reasonable attorneys' fees, shall be subject only to a First Mortgage (but with the benefit of § 38-33.3-316) and prior to all other liens and encumbrances to the full extent permitted by the Act. Such lien is to attach at the time of levy of the Assessment

and continue until such Assessment, together with interest, late fees and all costs of collection including reasonable attorneys' fees are paid. The lien hereby given shall also be a lien upon all of the rents and profits of the encumbered Unit. If a foreclosure action is filed to foreclose any Assessment lien, and an Owner abandons or leaves vacant his or her Unit, the Board may take possession and rent said Unit or apply for the appointment of a receiver for the Unit without prior notice to the Owner. In addition to the lien herein granted, the Board shall have the right to bring an action at law against any Owner who fails to pay any amounts assessed against his or her Unit, and obtain judgment for the amount of the Assessments due together with late fees, plus all costs of collection, including reasonable attorneys' fees in collecting the judgment.

(e) The lien accruing hereunder shall be foreclosed upon as provided by the laws of the State of Colorado for foreclosure of mortgages on real property and/or pursuant to the Act. The Board shall have the power to bid at the foreclosure sale, and if title is obtained, hold, lease, mortgage, and encumber or convey the same on behalf of the Association.

(f) The lien of all Assessments created and defined by the Declaration shall be superior to any homestead exemption as it now or may hereafter be provided by Colorado or Federal law. The acceptance of a deed to a Unit subject to this Declaration shall constitute a waiver of the homestead exemption as against such Assessment lien.

(g) Sale or transfer of an interest in any Unit shall not affect the liens for unpaid Assessments.

(h) The Association shall upon written request as set forth in C.R.S. §38-33.3-316(8) and for a reasonable charge, furnish to an Owner or his or her First Mortgagee, within fourteen calendar days after demand a certificate signed by an officer of the Association setting forth whether the Assessments on a specified Unit have been paid. A properly executed certificate of the Association as to the status of the Assessments against a Unit is binding upon the Association as of the date of its issuance. The Board may establish a reasonable charge for the issuance of such certificates.

Section 4.8 No Offsets. All Assessments shall be payable in the amounts specified in the levy thereof, and no offsets or reduction thereof shall be permitted for any reason including, without limitation, any claim that the Association or the Board of Directors is not properly exercising its duties and powers under this Declaration.

Section 4.9 Surplus Funds. Any surplus funds of the Association remaining after payment of or provision for payment of the Assessments and any prepayment or provision for prepayment for reserves shall be applied as directed by the Board or credited to the Owners to reduce future Assessments.

ARTICLE V PROPERTY USE AND OTHER RESTRICTIONS

Section 5.1 Limitations and Restrictions. All Units shall be held, used and enjoyed subject to the following limitations and restrictions, and the Board shall have jurisdiction over the matters set forth in this Article. The Board may, in its sole and absolute discretion, adopt reasonable restrictions on activities permitted outside of Units and reasonable restrictions on matters which have an external effect, including, without limitation, matters which can be seen, heard or otherwise sensed or felt outside the boundaries of a Unit. The Owner of a Unit and Guests shall comply with any Rules adopted by the Board. The strict application of the following limitations and restrictions in any specific case may be modified or waived in whole or in part by the Board if such strict application would be unreasonable or unduly harsh under the circumstances. Any such modification or waiver must be in the Rules promulgated by the Board.

Section 5.2 Land Use and Building Type. No Unit shall be used for any purpose other than residential purposes as generally defined. A home occupation is permitted so long as: (1) the existence or operation of the business or trade activities is not apparent or detectable by sight, sound or smell from outside the Unit; (2) such use does not materially increase the use of the Common Elements, including, without limitation, materially increase vehicular traffic flow; (3) such use is not advertised or otherwise identified by signs or otherwise on, or viewable from the Common Elements; (4) such use does not involve employees or regular visitation of the Unit by clients, customers, suppliers or other business invitees or door-to-door solicitation of residents of the Community; and (5) such use is permitted by law. By way of illustration, childcare as a home occupation is not permitted. This section shall not apply to any activity conducted by Declarant with respect to the development or sale of Units, nor to the Declarant or Association as it relates to the performance of its rights or obligations under this Declaration.

Section 5.3 Restrictions on Garbage and Trash. Garbage, trash or waste shall be disposed of in such manner as may be established by the Association, and the burning of garbage, trash or waste is prohibited.

Section 5.4 Nuisances. No noxious or offensive activity shall be carried on upon the Property nor shall anything be done or maintained which may be or become an annoyance or nuisance to the Community or detract from its value or which is or may cause an unreasonable embarrassment, disturbance or annoyance to others. By way of example, but without limitation, habitually barking, howling or yelping dogs shall be deemed a nuisance.

Section 5.5 No Annoying Lights, Sounds or Odors. No light shall be emitted from any portion of a Unit which is unreasonably bright or causes unreasonable glare, and no sound or odor shall be emitted from any portion of a Unit which is unreasonably noxious or offensive. Without limiting the generality of the foregoing, no exterior spot lights, searchlights, speakers, horns, whistles, bells or other light or sound devices shall be located or used on any portion of the Property

except with the prior written approval of the Board. Owner security systems are encouraged in the Community, but the Board must approve components such as lights or horns.

Section 5.6 No Hazardous Activities. No activity shall be conducted on any portion of the Property which is or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms shall be discharged upon any portion of the Property and no open fires shall be lighted or permitted on any portion of the Property except in a contained barbecue unit while attended and in use for cooking purposes.

Section 5.7 No Unsightliness. No unsightly conditions shall be permitted on any portion of the Common Elements. No storage shall be permitted in any Unit's Limited Common Element which is visible from the Common Elements.

Section 5.8 Taxes. Pursuant to C.R.S. §38-33.3-105(2), each Unit together with its interest in the Common Elements constitutes for all purposes a separate parcel of real estate and shall be separately assessed and taxed.

Section 5.9 Restrictions on Signs and Advertising Devices. No sign, poster, billboard, advertising device or display of any kind, including without limitation, "For Sale" and "For Lease" signs shall be erected or maintained anywhere within the Property, including without limitation within Unit windows and patios, except such signs as may be approved in writing by the Board which may include without limitation signs indicating protection by Neighborhood Watch Programs. The Board shall establish guidelines and a central location for information concerning Units for sale and for lease.

Section 5.10 Fences and Mailboxes. No changes to mailboxes, porch and area lighting, and letters and numbers used for property identification shall be permitted, except as otherwise approved by the Board. No fences shall be constructed or permitted other than those initially installed by Declarant, except as otherwise approved by the Board.

Section 5.11 Compliance with Insurance Requirements. Except as may be approved in writing by the Board, nothing shall be done or kept on the Property which may result in a material increase in the rates of insurance or would result in the cancellation of any insurance maintained by the Association.

Section 5.12 Compliance with Laws. Nothing shall be done or kept on the Property in violation of any law, ordinance, rule or regulation of any governmental authority having jurisdiction over the Property including without limitation any environmental law, ordinance or regulation.

Section 5.13 Environmental Liability. Each Owner covenants and agrees not to generate, release, discharge, store, or dispose of any hazardous waste, toxic substance, motor oil or other petroleum product, or any other material regulated as toxic or hazardous by any governmental

authority ("Hazardous Materials") within the boundaries of the Property or to transport any Hazardous Materials to or from the Property, except in accordance with law.

Section 5.14 Household Pets. No animal, livestock, birds, poultry, reptiles or insects of any kind, shall be raised, bred, kept or boarded in or on any portion of the Property; provided however, that Owners may keep no more than two domestic, *bona fide* household pets, only one of which may be a dog. Such pets may not be bred or kept for any commercial purpose and may not be kept in such a manner as to create a nuisance or inconvenience to any resident of the Property. Any Owner who owns a pet shall obtain liability insurance specifically providing personal liability coverage for his or her pet's vicious acts and shall provide to the Association a certificate of insurance or other evidence that this coverage is in place.

The Board of Directors shall have the right and authority to determine in its sole discretion that dogs, cats or other household pets are being kept for commercial purposes or are being kept in such manner as to be unreasonable or to create a nuisance, or that an Owner is otherwise in violation of the provisions of this Section. The Board of Directors shall take such action or actions as it deems reasonably appropriate to correct the violation to include after Notice and Hearing (as set forth in the Bylaws), directing permanent removal of the pet or pets from the Property. Reimbursement for damages caused by such pets and costs incurred by the Association, to include attorneys' fees and costs, in the removal of a pet or pets from the Property or incurred by the Association in cleanup after such pets may be levied against such pet's Owner as an Individual Purpose Assessment.

Household pets shall not be allowed to run at large within the Property, but shall at all times be under the Owner's control, and Owners shall clean up pet litter. No pets shall be allowed outside of a Unit, except an Owner's dog, which must be on a leash at all times. Cats shall not be permitted outside of a Unit, except when being transported in a cat box to a location outside of the Community.

Section 5.15 Vehicular Parking, Storage and Maintenance; Driveways. Due to the limited availability of parking in the Community, all parking within the Community shall be under the strict control of the Board.

No house trailer, camping trailer, horse trailer, hauling trailer, boat or boat accessories, camper, pickup truck-camper shell combination, truck larger than one ton, recreational vehicle or equipment, mobile home, or commercial vehicle may be parked or stored anywhere within the Property. For purposes of this Declaration, a commercial vehicle is defined as any vehicle which exceeds any of the following dimensions: twenty feet in length, seven feet in width, and seven feet in height (not including antenna). Further, a vehicle is deemed to be commercial if it is equipped with special trade, craft, or material handling fixtures, or if it is permanently labeled with large or prominent commercial emblems, icons or messages.

No abandoned, unlicensed, wrecked or inoperable vehicles of any kind shall be stored or parked within the Property except in garages or except in emergencies. An "abandoned or

"inoperable vehicle" shall be a vehicle which has not been driven under its own propulsion for a period of two weeks or longer. The Board of Directors shall have the right to remove and store a vehicle in violation of this Section after Notice and Hearing (as set forth in the Bylaws), the expenses of which shall be levied against the Owner of the vehicle as an Individual Purpose Assessment. No vehicle maintenance, including, without limitation, oil changes, is permitted within the Property.

Section 5.16 Access. The Board may control access to the Property and may establish gates, vehicle stickers, and other procedures and methods of identification to limit access to those persons and pets entitled to enter the Property. The Board may erect, maintain and replace access controls, signage and street lighting in the Common Elements, subject to applicable governmental requirements. Declarant and the Association hereby disclaim any obligation regarding the security of any persons or property within the Community. Any Owner of property within the Community acknowledges that Declarant and the Association are only obligated to do those acts specifically enumerated herein, or in the Articles of Incorporation and Bylaws, and are not obligated to do any other acts with respect to the safety or protection of persons or property within the Community.

Section 5.17 Antennas. In accordance with the Federal Telecommunications Act, television and radio antennas, and satellite dishes are permissible with the following restrictions, after prior written approval has been received from the Board of Directors. No antenna or satellite dish may be mounted on the roof, wall surface, or privacy fence of a Unit; all VHF and UHF antennas must be installed inside the Unit.

Section 5.18 Owner Use and Occupancy Regulation/Lease of a Unit.

The Association shall have and may exercise the right to control Owners' use and occupancy of their respective Units in order to assure Owners of the eligibility of the Community for loans from any Agency. The Association may adopt Rules with respect to the leasing of Units to non-Owners and acquisition by one Owner of more than one Unit. Initially, all Units shall be sold to Owner-occupants; however, the Board, by Rule, may delete or modify this owner-occupancy requirement.

From the date this Declaration is recorded in the Records, any Owner wishing to lease a Unit shall be subject to the percentage occupancy requirement of the applicable Agency and must first apply for authorization from the Association for any non-Owner residential use. Permission for an Owner to rent a Unit shall be in accordance with the criteria set forth in the Rules, and the Association shall have the authority to permit or deny the leasing of any Unit within the Community, subject to then current federal mortgage eligibility requirements promulgated by any Agency. Any written lease in effect at the time of this Declaration is recorded shall continue in full force and effect.

An Owner's failure to provide information to the Association regarding the proposed leasing of the Unit or failure to comply with the terms and conditions of the Rules shall result in the non-approval of the lease and termination of the lease.

Subject to the limitations stated herein, any Owner shall have the right to lease his or her Unit upon such terms and conditions as the Owner may deem advisable, in accordance with the following:

- (a) The Owner must obtain consent to lease its Unit from the Association in accordance with the limitations set forth above the following restriction. No Owner shall have the right to lease its Unit until after the Owner has owned it for a period of one year, except in the case of special circumstances. Such special circumstances may be further defined in the Rules. An example of special circumstances would be if the Owner's employment changes to a location more than 30 miles from the Property. The Board in its sole discretion shall determine if an Owner's special circumstances are such that the Board should approve the requested lease consent.
- (b) No Owner may lease less than the entire Unit, except in cases where the Owner actually resides in his or her Unit and leases to a roommate.
- (c) Any Unit lease shall be for a minimum term of one month. Any such lease or rental agreement shall be in writing and shall provide that the lease or rental agreement is subject to the terms of this Declaration, by Bylaws, the Articles of Incorporation, and the Rules of the Association.
- (d) Such lease or rental agreement shall state that the failure of the tenant to abide by the Declaration, Bylaws, Articles of Incorporation, and the Rules of the Association shall constitute a default and such default shall be enforceable by either the Board of Directors or the landlord/Owner, or by both of them.
- (e) Any Owner who leases his or her Unit shall, within three days after the execution of such lease, forward a copy of it to the Board of Directors. The Owner shall obtain from the Association and deliver to the tenant copies of this Declaration, Bylaws, Rules and vehicle sticker and/or other identification, if any.

Notwithstanding any other provision in this Declaration, a First Mortgagee shall not be subject to any restrictions concerning the number of Units it may own, and thereafter lease, by virtue of foreclosure of a Mortgage or deed in lieu thereof. In no event shall this Section prohibit or restrict any First Mortgagee who obtains title to a Unit through a foreclosure of a Mortgage or deed in lieu thereof from selling such Unit to owner occupants or to investors, except to the extent necessary to maintain the percentage occupancy requirements of the applicable Agency. Nor shall this section prohibit or restrict the Association from selling any Unit owned by it or acquired by the Association as a result of foreclosure of a lien for Assessments, except to the extent necessary to maintain the percentage occupancy requirements of the applicable Agency.

Section 5.19 Restrictions on Mortgaging or Selling a Unit. There are no restrictions on the right of an Owner to mortgage or otherwise encumber his or her Unit. There is

no requirement for the use of a specific lending institution or particular type lender. There are no rights of first right of refusal or similar restrictions on the right of an Owner to sell its Unit.

Section 5.20 Owner Alterations. No Owner shall construct anything upon, remove anything from or alter any of the Common Elements, or paint, decorate or landscape any portion of the Common Elements. This Section 5.20 shall not apply to the Declarant in the exercise of its Special Declarant Rights.

Section 5.21 Temporary Use by the Declarant. Notwithstanding any provision herein contained to the contrary, during the Development Period the Declarant and its contractors, subcontractors, employees, agents, materialmen and laborers may maintain upon the Property, without charge, such facilities as may be reasonable required, convenient or incidental for construction of the improvements on the Common Elements.

During actual construction, alteration or remodeling of a Unit, the Declarant or its contractors may maintain reasonable and necessary temporary structures for storage of materials. Such temporary structures shall be removed upon completion of the construction, alteration or remodeling.

ARTICLE VI MAINTENANCE

Section 6.1 Association Maintenance Responsibilities. Except as provided in Sections 6.2, 6.4 and 6.5, the Association shall provide for maintenance, repair, renovation, and/or reconstruction of the Common Elements, and certain improvements within the Units consisting of utility installations or similar equipment which serve more than one Unit.

Section 6.2 Owner Maintenance of Units and Buildings. Each Owner shall be responsible for the maintenance and repair of such Owner's Unit as stated below.

For purposes of maintenance, repair, alteration, and re-construction obligations, an Owner shall be deemed to own the interior non-supporting walls, the materials (such as but not limited to plaster, gypsum, dry wall, paneling, wallpaper, paint, wall and floor tile, carpeting and other flooring) making up the finished surfaces of the perimeter walls, ceilings and floors within the Unit, the subflooring below the Unit and the doors and windows serving the Unit. No Owner may change the windows, exterior doors, hardware, exterior facade or roof of its Unit or the Building in which it is located without the written consent of the Board.

The Owner shall not be deemed to own and shall not be required to maintain and repair lines, pipes, wires, conduits or systems (which for brevity are hereafter referred to as "Utilities") running through its Unit which serve one or more other Units except as a tenant in common with the other Owners. Such Utilities shall not be disturbed or relocated by an Owner without written consent and approval of the Board. Such right to repair, alter and remodel shall carry the obligation to replace any finishing or other materials removed with similar or other types or kinds

of materials. An Owner shall not do any work that will impair the structural soundness or integrity of the Building or impair any easement or hereditament. The attic space above a Unit is part of the Common Elements, and may not be used or occupied by the Owner of such Unit. Maintenance and repair of Utilities which serve only the Unit are the responsibility of the Unit Owner from the point of entry into the Unit.

Section 6.3 Maintenance of Drainage Pattern. There shall be no interference with the drainage pattern initially established by the Declarant over any of the Property, except as approved in writing by the Board.

Section 6.4 Repair or Reconstruction Necessitated by Owner Conduct. In the event that any maintenance, repair and/or reconstruction work on the Common Elements is necessary because of the negligence, abuse, misuse, willful neglect, or failure to comply with this Declaration, by an Owner or such Owner's Guest, the Board shall have the right after Notice and Hearing (as set out in the Bylaws) to charge the cost of such repair, maintenance and/or reconstruction to such Owner by an Individual Purpose Assessment in accordance with Section 4.4. Final determination with respect to whether or not a particular activity or occurrence shall constitute a violation of this section shall be made by the Board.

ARTICLE VII CONDEMNATION

Section 7.1 Taking of Common Elements. In the event of a proceeding in condemnation or partial condemnation of the Common Elements by any governmental authority authorized to do so, then all negotiations and proceedings shall be undertaken by the Association as the representative of the Owners and the proceeds from such condemnation attributable to the Common Elements shall be distributed to the Association for repair of the Common Elements after condemnation and the balance remaining shall be distributed to all Owners in the proportion as the Annual Assessments for Common Expenses are assessed or otherwise applied by the Board in accordance with the Act and subject to Section 8.3 below. For the purposes of acquisition of a part of the Common Elements, service on the Association shall constitute sufficient notice to all Owners and service of process on each individual Owner shall not be necessary.

Section 7.2. - Taking of Units. If a Unit is acquired by eminent domain or part of a Unit is acquired by eminent domain leaving the Unit Owner with a remnant which may not practically or lawfully be used for any purpose permitted by this Declaration, the award must include compensation to the Unit Owner for that Unit and its Allocated Interest in the Common Elements whether or not any Common Elements are acquired. Upon acquisition, unless the decree otherwise provides, that Unit's Allocated Interest in the Common Elements is automatically reallocated to the remaining Units in proportion to the respective Allocated Interests of those Units before the taking. Any remnant of a Unit remaining after part of a Unit is taken is thereafter part of the Common Elements.

If part of a Unit is acquired by eminent domain and the remnant may be practically or lawfully used for any purpose permitted by this Declaration, then the award must compensate the Unit Owner for the reduction in value of the Unit and its interest in the Common Elements whether or not any Common Elements are acquired. Upon acquisition, unless the decree otherwise provides:

(a) That Unit's Allocated Interest shall not be reduced in proportion to the reduction in the size of the Unit.

(b) The Owner must use the award to the extent necessary for the repair or the reconstruction of the Unit to make it conform to the appearance of the remainder of the Units in the Community.

Section 7.3 Lien Holders. When condemnation occurs, either to the Common Elements or to a Unit and such Unit is subject to an encumbrance, the proceeds payable hereunder shall be distributed by checks made jointly payable to the Owner and its respective First Mortgagee after cure of any default in Assessments and satisfaction of any liens in favor of the Association, up to an amount equal to six monthly installments of the Annual Assessment.

Section 7.4 Recordings. The court decree shall be recorded in the Records. The reallocations of Allocated Interests pursuant to this Article shall be confirmed by an Amendment to the Declaration prepared, executed, and recorded by the Association.

ARTICLE VIII INSURANCE

Section 8.1 Authority to Purchase/General Requirements. Commencing not later than the time of the first conveyance of a Unit to a Person other than Declarant, the Association shall maintain to the extent available:

(a) Property insurance on the Common Elements, and also including windows and doors; electrical and plumbing fixtures and connections; and fixtures, cabinets, countertops, carpeting and interior wall surfaces as originally installed by the Declarant, together with all of the structural components of the Building envelope such as load bearing walls, firewalls and roof structure components, but not including appliances, an Owners' personal property and Owner added improvements or upgrades to a Unit. Such insurance shall be written on an "all-risk" form policy of hazard insurance with extended coverage, vandalism, malicious mischief, windstorm, debris removal, cost of demolition and water damage endorsements, and such other insurance as the Board may deem necessary or prudent from time to time of the risks associated with the Common Elements and the Units. 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, and other items normally excluded from property policies.

(b) Commercial general liability insurance against claims and liabilities arising in connection with the ownership, existence, use, or management of the Common Elements in an amount deemed sufficient in the judgment of the Board, insuring the Board, the Association, the management agent, and their respective employees, agents, and all persons acting as agents. The Declarant shall be included as an additional insured in such Declarant's capacity as a Unit Owner and Board member. The Unit Owners and their respective First Mortgagees 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.

(c) Flood insurance if the Secretary of Housing and Urban Development (HUD) or the Director of the Federal Emergency Management Agency (FEMA) has identified the area where the Units are located as a Special Flood Hazard Area. Flood insurance for the Common Elements shall be maintained providing coverage equivalent to that provided under the National Flood Insurance Program in an amount of one hundred percent of the current replacement cost of all the insurable improvements located within the flood hazard area, to the extent available.

(d) Fidelity insurance in an amount not less than the aggregate of three months' current assessments plus reserves as calculated from the current budget of the Association.

Section 8.2 Insurance No Longer Available. If the insurance described in Section 8.1 is not available, or if any policy of such insurance is canceled or not renewed without a replacement policy therefor having been obtained, the Association promptly shall cause notice of that fact to be hand delivered or sent prepaid by United States mail to all Owners. The Association in any event may carry any other insurance it considers appropriate, including insurance on Units it is not obligated to insure, to protect the Association or the Owners.

Section 8.3 Policy Requirements. Insurance policies carried pursuant to Section 8.1 must provide that:

(a) Each Owner is an insured Person under the policy with respect to liability arising out of such Owner's interest in the Common Elements or membership in the Association;

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

(c) No act or omission by any Owner, unless acting within the scope of such Owner's authority on behalf of the Association, will void the policy or be a condition to recovery under the policy; and

(d) 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.

Section 8.4 Loss Adjustment. Any loss covered by the property insurance policy described in paragraph (a) of Section 8.1 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 Owner or holder of a security interest. The insurance trustee or the Association shall hold any insurance proceeds in trust for the Association, Owners and lienholders as their interests may appear. Subject to the provisions of Section 8.7, the proceeds must be disbursed first for the repair or restoration of the damaged Common Elements, and the Association, Owners, and lienholders are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the Common Elements have been completely repaired or restored or the Community is terminated.

The Association may adopt and establish written non-discriminatory policies and procedures relating to the submission of claims, responsibility for deductibles, and any other matters of claims adjustment. To the extent the Association settles claims for damages to property, it shall have the authority to assess negligent Owners causing such loss or benefitting from such repair or restoration all deductibles paid by the Association. In the event that more than one Unit is damaged by a loss, the Association in its reasonable discretion may assess each Unit Owner a *pro rata* share of any deductible paid by the Association.

Section 8.5 Owners' Insurance. The Owners' responsibilities with respect to insurance are as follows:

(a) **Property Insurance.** Each Owner shall maintain at its expense property insurance upon all personal property within such Owner's Condominium Unit and Owner added improvements or upgrades to such Condominium Unit in such amounts, against such risks and containing such provisions as the Owner may reasonably determine from time to time. Any such property insurance will permit a waiver of claims among, and provide for a waiver of subrogation by, the insurer as to any claims against the Association, its directors, officers, employees and agents, each Owner and the Owner's Guests; and will be written as a primary policy, not contributing with and not supplemental to the coverage that the Association may carry.

(b) **Liability Insurance.** Each Owner shall maintain at its expense bodily injury and property damage liability insurance for the benefit of such Owner and such additional insureds as it may elect to name, in such amounts and with such coverage as are from time to time be customarily maintained by prudent owners of similar property. The Board may establish minimum liability insurance amounts. In addition, the insurance coverage must include specific coverage for the vicious acts of any pet owned by such Owner.

(c) **Other Insurance.** Each Owner may maintain other insurance at its own expense as it deems necessary to protect its own interest.

Section 8.6. Certificates of Insurance. An insurer that has issued an insurance policy for the insurance described in Section 8.1 shall issue certificates or memoranda of insurance to the Association and, upon request, to any Unit Owner or holder of a security interest. Unless

otherwise provided by statute, the insurer issuing the policy may not cancel or refuse to renew it until thirty days after notice of the proposed cancellation or non-renewal has been mailed to the Association, and each Unit Owner and holder of a security interest to whom a certificate or memorandum of insurance has been issued, at their respective last-known addresses.

Section 8.7 Obligation to Repair. Any portion of the Community for which insurance is required under this Article which is damaged or destroyed must be repaired or replaced promptly by the Association unless:

(i) The Community is terminated, in which case Section 38-33.3-218 in effect on the date of recording this Declaration in the Records applies;

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

(iii) Eighty percent (80%) of the Unit Owners, including every Owner of a Unit that will not be rebuilt, vote not to rebuild; or

(iv) Prior to the conveyance of any Unit to a Person other than the Declarant, the holder of a deed of trust or mortgage on the damaged portion of the Community demands all or a substantial part of the insurance proceeds.

The cost of repair or replacement in excess of insurance proceeds and reserves is a Common Expense. Such excess cost shall be assessed against all Owners in the Community using the same Allocated Interests as the Annual Assessment for Common Expenses and in the manner prescribed in Article IV. Further Assessments may be made in a like manner if the amounts collected prove insufficient to complete the repair and/or reconstruction. If the entire Community is not repaired or replaced, the insurance proceeds attributable to the damaged Common Elements must be used to restore the damaged area to a condition compatible with the remainder of the Community, and, except to the extent that other Persons will be distributees, the insurance proceeds attributable to Units that are not rebuilt must be distributed to the Owners of those Units or to lienholders, as their interests may appear, and the remainder of the proceeds must be distributed to all the Unit Owners or lienholders, as their interests may appear in proportion to the Common Expense liabilities of all the Units. If the Unit Owners vote not to rebuild any Unit, that Unit's Allocated Interests are automatically reallocated upon the vote as if the Unit had been condemned and the Association promptly shall prepare, execute, and record an amendment to the Declaration reflecting the reallocations.

Section 8.8 Rebuilding Following Uninsured Casualty. In the event of an uninsured loss, the Common Elements and Units shall be repaired and/or reconstructed unless the Community has been terminated or eighty-five percent (85%) of the Owner shall have voted not to repair and/or reconstruct the damaged property.

The cost to repair and/or reconstruct the Community shall be assessed against all Owners in the Community in the same proportion as the Annual Assessment for Common Expenses and in the manner prescribed in Article IV. Further Assessments may be made in a like manner if the amounts collected prove insufficient to complete the repair and/or reconstruction. In the event amounts collected are in excess of the amounts required for such repair and/or reconstruction, the excess shall be returned to the Owners or their First Mortgagees by the Association in the same proportion as the Annual Assessment was levied.

ARTICLE IX EASEMENTS

Section 9.1 Easements for Encroachments. If any part of the Common Elements encroaches or shall hereafter encroach upon a Unit, an easement for such encroachment and for the maintenance, repair and reconstruction for the same shall and does exist. If any part of a Unit encroaches or shall hereafter encroach upon the Common Elements, or upon another Unit, the Owner of that Unit shall and does have an easement for such encroachment and for the maintenance, repair and reconstruction of same. Such an easement shall extend for whatever period of time the encroachment shall exist. Such encroachment shall not be considered to be an encumbrance either upon the Common Elements or upon the Unit. Examples of this type of encroachment include without limitation utility service lines which are now or in the future located within a Unit, and which serve one or more Units; encroachments made by error in original construction of a building, by settling, rising or shifting of the earth, or by minor changes in position caused by repair or reconstruction of Units within the Property.

The existing physical boundaries of a Unit or the physical boundaries of a Unit reconstructed in substantial accord with the description on the Community Map will be considered the legal boundaries of the Unit. However, this provision will not absolve an Owner from liability if such Owner has failed to adhere to plans or is determined to be guilty of wilful misconduct.

Section 9.2 Association Easements. Easements for utilities, water, sewer, and drainage, over and across the Common Elements shall be those shown upon the Community Map of the Property, and such other easements as may be established pursuant to the provisions of this Declaration or as may be hereinafter granted over and across the Common Elements by the Board of Directors of the Association.

The Owners shall have the irrevocable right to be exercised by the Board or Managing Agent to have access to each Unit from time to time during reasonable hours as may be necessary for the maintenance, repair 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 other Units. Damage to the interior in any part of the Unit resulting from maintenance, repair or emergency repair or replacement of any of the Common Elements or as a result of emergency repairs in other Units at the instance of the Association shall be a Common Expense of all Owners; provided, however, that if such damage is a result of the negligence or willful

misconduct of an Owner or such Owner's Guest, then such Owner shall be liable for the cost of repair of such damage, which if not paid, may be assessed as an Individual Purpose Assessment.

Section 9.3 Owners' Common Elements Easement. Each Owner shall have the perpetual right and easement of access, ingress and egress to the Unit owned by such Owner and the use and enjoyment in and to the Common Elements, which shall be appurtenant to and shall pass with the title to the Unit of such Owner subject to the following rights:

(a) The right of the Board of Directors to make such use of the Common Elements as may be necessary or appropriate for the performance of the duties and functions which it is obligated or permitted to perform under this Declaration.

(b) The right of the Board of Directors to grant permits, easements, leases, licenses and concessions through or over the Common Elements for utilities, roads, and other purposes necessary for the proper operation of the Community.

(c) The right of the Board of Directors to make reasonable Rules regarding the use of the Common Elements by Owners and Guests entitled to such use.

(d) The rights reserved in this Declaration to the Declarant, the Owners and the Association.

(e) Any other right which the Association may lawfully exercise pursuant to the Act.

Section 9.4 Emergency Easements. A nonexclusive easement for ingress and egress is hereby granted to all police, sheriff, fire protection, ambulance, and other similar emergency agencies or persons, now or hereafter servicing the Property, to enter upon any part of the Property in the performance of their duties.

Section 9.5 Record Easements. The Community is subject to the easements and licenses set forth on the Community Map.

Section 9.6 Easements Deemed Appurtenant. The easements and rights herein created for an Owner shall be deemed appurtenant to the Unit owned by such Owner. All conveyances and instruments affecting title to a Unit shall be deemed to grant and reserve the easements and rights of way as provided herein, as though set forth in said document in full, even though no specific reference to such easements or rights-of-way appear.

ARTICLE X FIRST MORTGAGEE PROVISIONS

Section 10.1 Termination. The consent of Owners of at least seventy-five percent (75%) of the Units and the approval by the First Mortgagees of at least sixty-seven percent (67%) of the Units that are subject to a First Mortgage shall be required to commence any action to terminate the legal status of the Property as a condominium for reasons other than substantial destruction or condemnation of the Property, and approval of the same percentage of Owners and First Mortgagees of at least fifty-one (51%) of the Units that are subject to a First Mortgage to terminate because of substantial destruction or condemnation of the Property. Approval for a First Mortgagee may be implied when such First Mortgagee fails to submit a response to any written proposal for termination 30 days after it receives proper notice of the proposal delivered by certified or registered U.S. Mail, return receipt requested.

Section 10.2 Special Agency Provision. The consent of Owners of at least seventy-five percent (75%) of the Units shall be required to change any provision of this Declaration which complies with a requirement of an Agency.

Section 10.3 Books and Records. Owners and their First Mortgagees shall have the right to examine current copies of this Declaration, the Articles, the Bylaws, Rules and the financial statements, books, and records of the Association during normal business hours at the office of the Association and upon reasonable notice. The Board shall cause the books and records of the Association to be audited annually no later than 120 days after the end of the Association's fiscal year.

Section 10.4 Notice. If a First Mortgagee has sent a written request for notice to the Association, then the Association shall give such First Mortgagee written notice of any of the following events:

- (a) Any condemnation or casualty loss that affects either a material portion of the Community or the Unit securing its Mortgage;
- (b) Any 60-day delinquency in the payment of Assessments or charges owned by the Owner of any Unit on which it holds a Mortgage;
- (c) A lapse, cancellation or material modifications of any insurance policy maintained by the Association; and
- (d) Any proposed action that requires the consent of a specified percentage of eligible First Mortgagees.

Whether or not it requests notice, the Association shall give any beneficiary of a Declarant Deed of Trust notice of (a) through (d) above.

Section 10.5 Transfer of Special Declarant Rights. A First Mortgagee shall automatically succeed to Declarant's Special Declarant Rights upon foreclosure of its Mortgage or deed in lieu thereof in accordance with the written instrument prepared, executed, and recorded by such First Mortgagee in accordance with C.R.S. § 38-33.3-304(3).

ARTICLE XI **DURATION AND AMENDMENTS**

Section 11.1 Duration. The covenants, restrictions and obligations of this Declaration shall run with and bind the Property for a term of twenty (20) years from the date this Declaration is recorded after which time the Declaration shall be automatically extended for successive periods of ten (10) years.

Section 11.2 Amendments by Owners. Except as otherwise specifically required in this Declaration or the Act, any provision, covenant, condition or restriction contained in this Declaration, other than an Amendment of a Material Nature (defined below), may be amended at any time and from time to time upon written approval of the amendment by Owners of at least sixty-seven percent (67%) of the Units.

Any such amendment shall be effective upon the recording in the Records of the amendment together with a duly authenticated Certificate of the Secretary of the Association certifying that the requisite number of Owners have given their written consent to the amendment.

Section 11.3 Amendment of a Material Nature. Any amendment of this Declaration which constitutes an Amendment of a Material Nature requires the written approval of Owners of at least sixty-seven percent (67%) of the Units and the approval by the First Mortgagees of at least fifty-one percent (51%) of the Units that are subject to a First Mortgage. Any amendment of the provisions set forth in this Declaration governing the following shall be considered an Amendment of a Material Nature:

- (a) voting rights;
- (b) increases in Assessments that raise the previously assessed amount by more than twenty-five percent (25%) in any calendar year, Assessment liens, or the priority of Assessment liens;
- (c) reduction in reserves for maintenance, repair, and replacement of Common Elements;
- (d) responsibility for maintenance and repairs;
- (e) reallocation of voting rights or interests in the General or Limited Common Elements, or rights to their use;

- (f) redefinition of any Unit boundaries;
- (g) conversion of Units into Common Elements or vice versa;
- (h) expansion or contraction of the Community, or the addition, annexation, or withdrawal of Property to or from the Community;
- (i) hazard or fidelity insurance requirements;
- (j) imposition of any restrictions on the leasing of Units except as provided herein;
- (k) imposition of any restrictions on a Unit Owner's right to sell or transfer his or her Unit;
- (l) restoration or repair of the Community (after damage or partial condemnation) in a manner other than that specified in the documents;
- (m) the purpose to which any Unit or the Common Elements are restricted;
- (n) any provisions that expressly benefit First Mortgages; or
- (o) establishment of self-management by the Association if professional management has been required by an Agency.

Section 11.4 Consent of Declarant Required. Notwithstanding any other provision in this Declaration to the contrary, Declarant, with the consent of any beneficiary of a Declarant Deed of Trust, if such consent is required by the Declarant Deed of Trust or other loan documents, shall have veto power for any proposed amendment of this Declaration during the Development Period to the full extent permissible under the Act. Without limitation of the foregoing, if Declarant, with the consent of any beneficiary of a Declarant Deed of Trust, if such consent is required by the Declarant Deed of Trust or other loan documents, voluntarily surrenders the right to appoint and remove officers and members of the Board, prior to the termination of the Development Period, Declarant shall continue to have the right to veto any proposed change for the duration of the Development Period.

Section 11.5 Special Amendment. To the extent allowed by the Act, Declarant hereby reserves and is granted the right and power to record, without the approval or consent of any Owner, First Mortgagee, or any other person or entity, special amendments to this Declaration, the Articles and/or Bylaws of the Association, at any time prior to the conveyance by Declarant of the Total Allowed Units to Owners other than Declarant or seven (7) years after the date this Declaration is recorded in the Records, whichever occurs first, in order to comply with any requirements of the

Act or any of the Agencies or to induce any of the Agencies to make, purchase, sell, insure, or guarantee one or more First Mortgages.

ARTICLE XII GENERAL PROVISIONS

Section 12.1 Remedies. The Association and any aggrieved Owner shall have an appropriate right of action against an Owner for such Owner's failure to comply with this Declaration, Bylaws and Rules of the Association or with decisions of the Board of the Association. Owners shall have a similar right of action against the Association. In addition, the Association shall have the following remedies following Notice and Hearing (as set out in the Bylaws) against an Owner who fails to comply with this Declaration, Bylaws, Rules, or with the decisions of the Board of the Association:

- (a) To levy fines;
- (b) To seek damages;
- (c) To obtain injunctive relief;
- (d) To enter upon a Unit to perform an Owner's obligations and to recover the cost thereof from such defaulting Owner as an Individual Purpose Assessment; provided that, judicial proceedings must be instituted prior to any items of construction being altered or demolished;
- (e) To record a lien against a Unit as provided in this Declaration and to foreclose it;
- (f) To seek any other remedy permitted by law;
- (g) To recover its attorney fees and costs incurred in enforcing its rights.

Section 12.2 Liability of Declarant. Neither the Association nor any Owner, except the Declarant, is liable for any cause of action based upon the Declarant's acts or omissions in connection with any responsibilities the Declarant has hereunder. The Declarant's obligations and responsibilities shall be specifically limited to matters expressly described in this Declaration as obligations and responsibilities of the Declarant and as to express obligations and responsibilities of the Declarant under the Act. Declarant shall have no implied responsibilities. If any act or omission by Declarant is asserted to have occurred during the Development Period, the Association must give the Declarant reasonable notice of and an opportunity to cure such act or omission and to defend against the allegations.

Section 12.3 Successors and Assigns. This Declaration shall be binding upon and shall inure to the benefit of the Declarant, the Association and each Owner and the heirs, personal representatives, successors and assigns of each of them.

Section 12.4 Severability. Any portion of this Declaration invalidated in any manner whatsoever shall not be deemed to affect the validity, enforceability or effect of the remainder of this Declaration and in such event, all of the other provisions of this Declaration shall continue in full force and effect as if such invalid provision had not been included.

Section 12.5 No Waiver. No provision contained in this Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

Section 12.6 Registration by Owner of Mailing Address. Each Owner shall register his or her mailing address with the Association, and except for monthly statements and other routine notices, which shall be personally delivered or sent by regular mail, all other notices or demands intended to be served upon an Owner shall be delivered personally or sent by either registered or certified mail, postage prepaid, addressed in the name of the Owner at such registered mailing address. All notices, demands or other notices intended to be served upon the Board or the Association shall be sent by certified mail, postage prepaid to the Registered Agent for the Association duly filed with the Office of the Secretary of State of Colorado.

Section 12.7 Attorneys' Fees and Costs. If any action is brought in a court of law or put into arbitration as to the enforcement, interpretation, or construction of any of the covenants, conditions and restrictions of this Declaration, the prevailing party in such action shall be entitled as a matter of right to reasonable attorneys' fees as well as all costs incurred in the prosecution or defense of such action.

Section 12.8 Captions. The captions and headings in this Declaration are for convenience only, and shall not be considered in constructing any provisions of this Declaration.

Section 12.9 Numbers and Genders. Whenever used herein, unless the context shall otherwise provide, the singular number shall include the plural, plural the singular, and the use of any gender shall include all genders.

IN WITNESS WHEREOF, the Declarant has caused this Declaration to be executed this 29 day of August, 2002.

DECLARANT:

THE PEARL LLC
A Colorado limited liability company

By:

Jurgen Denk, President

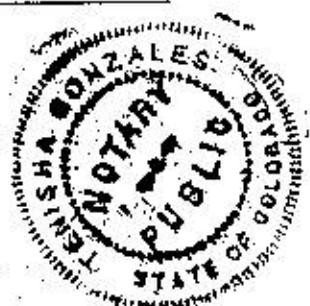
STATE OF COLORADO)
)ss.
COUNTY OF DENVER)

The foregoing instrument was acknowledged before me this 29 day of August, 2002, by
Jurgen Denk, as President of The Pearl, LLC, a Colorado limited liability company, Declarant.

Witness my hand and official seal.

My commission expires: My Commission Expires 02-21-06

Lourdes Gonzalez
Notary Public



{SEAL}

EXHIBIT A

The South 3 feet of Lot 6, all of Lot 7, the North 23 feet 2 inches of Lot 8,
Block 320, Clements addition, City and County of Denver, State of Colorado.

EXHIBIT B

UNIT #	SQUARE FEET	ALLOCATED INTEREST
1	585	5.6%
2	346	3.3%
3	326	3.1%
4	397	3.8%
5	466	4.5%
6	398	3.8%
7	687	6.6%
8	353	3.4%
9	334	3.2%
10	340	3.2%
11	308	2.9%
12	393	3.8%
13	270	2.6%
14	420	4.0%
15	395	3.8%
16	362	3.5%
17	490	4.7%
18	353	3.4%
19	334	3.2%
20	340	3.3%
21	308	2.9%
22	293	2.8%
23	270	2.6%
24	420	4.0%
25	395	3.7%
26	362	3.5%
27	490	4.7%
TOTAL: 27 UNITS	10,435 SQUARE FEET	99.9%

FIRST AMENDMENT TO
THE DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
OF
THE PEARL

THIS FIRST AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF THE PEARL is made as of the 12th day of September, 2002, by The Pearl, LLC, who with its successors and assigns is hereinafter referred to as "Declarant."

WHEREAS, Declarant is the owner of certain real property legally described as

The South 3 feet of Lot 6, all of Lot 7, the North 23 feet 2 inches of Lot 8,
Block 320, Clements addition, City and County of Denver, State of Colorado.

(the "Property"), situated in the City and County of Denver (the "County"), State of Colorado, and

WHEREAS, Declarant desires to amend the Declaration of Covenants, Conditions and Restrictions of the Pearl recorded at Reception Number 2002155049 in the real property records for the City and County of Denver.

NOW THEREFORE, Article I Section 1.8 shall be amended as follows:

Section 1.8 ASSOCIATION means 1650 Pearl Condominium Association, Inc., its successors and assigns.

IN WITNESS WHEREOF, the Declarant has caused this Declaration to be executed this 13rd day of August, 2002.

September

DECLARANT:

THE PEARL LLC
A Colorado limited liability company

By: _____

Jurgen Denk, President

STATE OF COLORADO

)

)ss.

COUNTY OF DENVER

)

The foregoing instrument was acknowledged before me this 12th day of September, 2002, by Jurgen Denk, as President of The Pearl, LLC, a Colorado limited liability company, Declarant.

Witness my hand and official seal.

My commission expires: My Commission Expires 02-21-05



Janisha A. Gonzales
Notary Public

(SEAL)



Return
201 Inverness Way South, Ste 305
Englewood Co 80112

1-3

**SECOND AMENDMENT TO
THE DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
OF
THE PEARL**

THIS SECOND AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF THE PEARL is made as of the 7th day of May, 2003, by The Pearl, LLC, who with its successors and assigns is hereinafter referred to as "Declarant."

WHEREAS, Declarant was the owner of certain real property legally described as

The South 3 feet of Lot 6, all of Lot 7, the North 23 feet 2 inches of Lot 8, Block 320, Clements addition, City and County of Denver, State of Colorado.

(the "Property"), situated in the City and County of Denver (the "County"), State of Colorado, and

WHEREAS, Declarant still owns ninety-two percent of the Units and desires to amend the Declaration of Covenants, Conditions and Restrictions of the Pearl recorded at Reception Number 2002155049 in the real property records for the City and County of Denver.

NOW THEREFORE, Article I Section 1.8 shall be amended as follows:

Section 5.18 Owner Use and Occupancy Regulation/Lease of a Unit.

The Association shall may exercise the right to control Owners' use and occupancy of their respective Units in order to assure Owners of the eligibility of the Community for loans from any Agency.

From the date this Declaration is recorded in the Records, any Owner wishing to lease a Unit shall be subject to the percentage occupancy requirement of the applicable Agency and must first apply for authorization from the Association for any non-Owner residential use. The Association shall have the authority to permit or deny the leasing of any Unit within the Community, subject to then current federal mortgage eligibility requirements promulgated by any Agency.

An Owner's failure to provide information to the Association regarding the proposed leasing of the Unit shall result in the non-approval of the lease and termination of the lease.



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Page: 1 of 3
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CITY & COUNTY OF DENVER

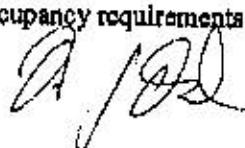
AMD

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Subject to the limitations stated herein, any Owner shall have the right to lease his or her Unit upon such terms and conditions as the Owner may deem advisable, in accordance with the following:

- (a) The Owner must obtain consent to lease its Unit from the Association in accordance with the limitations set forth above.
- (b) No Owner may lease less than the entire Unit, except in cases where the Owner actually resides in his or her Unit and leases to a roommate.
- (c) Any Unit lease shall be for a minimum term of one month. Any such lease or rental agreement shall be in writing and shall provide that the lease or rental agreement is subject to the terms of this Declaration, by Bylaws, the Articles of Incorporation, and the Rules of the Association.
- (d) Such lease or rental agreement shall state that the failure of the tenant to abide by the Declaration, Bylaws, Articles of Incorporation, and the Rules of the Association shall constitute a default and such default shall be enforceable by either the Board of Directors or the landlord/Owner, or by both of them.
- (e) Any Owner who leases his or her Unit shall, within three days after the execution of such lease, forward a copy of it to the Board of Directors. The Owner shall obtain from the Association and deliver to the tenant copies of this Declaration, Bylaws, Rules and vehicle sticker and/or other identification, if any.

Notwithstanding any other provision in this Declaration, a First Mortgagor shall not be subject to any restrictions concerning the number of Units it may own, and thereafter lease, by virtue of foreclosure of a Mortgage or deed in lieu thereof. In no event shall this Section prohibit or restrict any First Mortgagor who obtains title to a Unit through a foreclosure of a Mortgage or deed in lieu thereof from selling such Unit to owner occupants or to investors, except to the extent necessary to maintain the percentage occupancy requirements of the applicable Agency. Nor shall this section prohibit or restrict the Association from selling any Unit owned by it or acquired by the Association as a result of foreclosure of a lien for Assessments, except to the extent necessary to maintain the percentage occupancy requirements of the applicable Agency.



Sent By: PATTERSON & NUSS, P.C.;

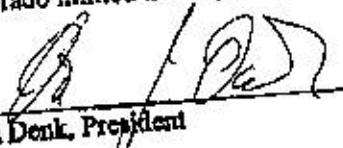
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May 7-03 14:14;

IN WITNESS WHEREOF, the Declarant has caused this Declaration to be executed
this 7th day of May, 2003.

DECLARANT:

THE PEARL LLC
A Colorado limited liability company

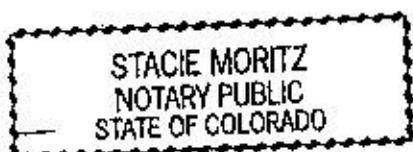
By: 
Jurgen Denk, President

STATE OF COLORADO)
)
COUNTY OF DENVER)

The foregoing instrument was acknowledged before me this 7th day of May, 2003, by
Jurgen Denk, as President of The Pearl, LLC, a Colorado limited liability company, Declarant.

Witness my hand and official seal.

My commission expires: 8-17-05



My Commission Expires 8/17/2005

(SEAL)


Notary Public



CITY & COUNTY OF Denver

AMD