



DECLARATION
OF
YARMOUTH WAY CONDOMINIUMS

Name of Common Interest Community:

Yarmouth Way Condominiums

Type of Common Interest Community:

Condominium

Name of the Association:

Yarmouth Way Condominium Association,
Inc.

Person Executing the Declaration:

4655 YARMOUTH, LLC, a Colorado
limited liability company

Declaration of Yarmouth Way Condominiums

THIS DECLARATION OF Yarmouth Way Condominiums (the "Declaration") is made this _____ day of _____, 2011, by 4655 YARMOUTH, LLC, a Colorado limited liability company (the "Declarant").

RECITALS

A. Declarant is owner of that certain real property located in the County of Boulder, Colorado, more particularly described on the attached Exhibit A.

B. Declarant is owner of that certain real property located in the County of Boulder, more particularly described on the attached Exhibit B.

C. Declarant desires to create a condominium common interest community pursuant to the Colorado Common Interest Ownership Act as set forth in Colorado Revised Statute § 38-33.3-101 et. seq. (the "Act") under the name of Yarmouth Way Condominiums.

D. The common interest community created by this Declaration is part of a larger planned community known as the 16th Street Owners Master Association, which is subject to the provisions of a Master Declaration of Protective Covenants, Conditions and Restrictions of 16th Street Owners Master Association, recorded on November 6, 2006 at reception number 2816516 in the office of the Clerk and Recorder of Boulder County, Colorado as it may be amended from time to time ("Master Declaration").

ARTICLE 1

DECLARATION AND SUBMISSION

Section 1.1 Declaration . Declarant hereby declares that the Property shall be held, sold and conveyed subject to the following covenants, restrictions and easements which shall run with the land and be binding on all parties and the heirs, successors and assigns of parties having any right, title or interest in all or any part of the Property. Additionally, Declarant hereby submits the Property to the provisions of the Act.

ARTICLE 2

DEFINITIONS

The following words when used in this Declaration or any Supplemental Neighborhood Declaration shall have the following meanings:

Section 2.1 "Additional Property" means the real property described on Exhibit B attached hereto which Declarant may submit to the terms of this Declaration by one or more Supplemental Neighborhood Declarations. Upon submission of the Additional Property to the terms of this Declaration, the term "Property" shall include such Additional Property.

Section 2.2 “Agency” means any agency or corporation such as Housing and Urban Development (HUD), Department of Veteran’s Affairs (“VA”), Federal National Mortgage Association (“Fannie Mae”) or Federal Home Loan Mortgage Corporation (“Freddie Mac”) that purchases, insures or guarantees residential mortgages.

Section 2.3 “Allocated Interests” means: (a) the undivided interest in the Common Elements as set forth in Exhibit C -1; (b) the Common Expense liability as set forth in Exhibit C-2; and (c) the votes in the Association. The formulas for the Allocated Interests are as follows:

2.3.1 Percentage Share of Ownership of Common Elements and Percentage share of General Common Expenses: Subject to the Board’s right to assess expenses as provided in Section 11.3, this figure is determined by the percentage equivalent to a fraction, the numerator of which shall be the area of a Unit (as determined by the Declarant in accordance with such standards as shall be determined by the Declarant, which may include measurements to exterior walls or middle of demising walls, or both, as part of the Unit), and the denominator of which shall be the area of all Units in the Project (as determined by the Declarant in accordance with such standards as shall be determined by the Declarant, which may include measurements to exterior walls or middle of demising walls, or both, as part of the Unit). The percentage share of ownership of common elements and percentage share of General Common Expenses at the time of filing this Declaration is set forth in Exhibits C-1 and C-2.

2.3.2 Percentage Share of District Common Expenses: Subject to the Board’s right to assess expenses as provided in Section 11.3, this figure is determined by the percentage equivalent to a fraction, the numerator of which shall be the area of each Unit within a District (as determined by the Declarant in accordance with such standards as shall be determined by the Declarant, which may include measurements to exterior walls or middle of demising walls, or both, as part of the Unit), and the denominator of which shall be the area of all of the Units within a District (as determined by the Declarant in accordance with such standards as shall be determined by the Declarant, which may include measurements to exterior walls or middle of demising walls, or both, as part of the Unit). The percentage share of District Common Expenses at the time of filing this Declaration is set forth in Exhibit C-2.

2.3.3 Voting: One vote per Unit. No Owner shall be entitled to vote in any matter who is not in Good Standing with the Association. All Owners in Good Standing shall be entitled to vote in accordance with the provisions of Section 5.3 herein.

Section 2.4 “Articles” mean the Articles of Incorporation for Yarmouth Way Condominium Association, Inc. a Colorado nonprofit corporation, filed with the Colorado Secretary of State, and any amendments that may be made to those Articles from time to time.

Section 2.5 “Annual Assessment” means the Assessment levied pursuant to the annual General Common Expense budget and the District budgets adopted as provided in Section 11.2.

Section 2.6 “Assessments” means the Annual, Special and Default Assessments levied pursuant to Article 11 below. Assessments are also referred to as a Common Expense Liability as defined under the Act.

Section 2.7 “Association” means Yarmouth Way Condominium Association, Inc., a Colorado nonprofit corporation, and its successors and assigns.

Section 2.8 “Association Documents” means this Declaration, the Articles of Incorporation, the Bylaws, the Map, any design or architectural guidelines, and any procedures, rules, regulations or policies adopted under such documents by the Association.

Section 2.9 “Bylaws” the Bylaws adopted by the Association, as amended from time to time.

Section 2.10 “Clerk and Recorder” means the office of the Clerk and Recorder in the County of Boulder, Colorado.

Section 2.11 “Common Element” means all portions of the Project as hereafter defined, except the Units.

The Common Elements are owned by the Owners in undivided interests according to the Allocated Interests set forth in Section 2.3.1 above and consist of General Common Elements and Limited Common Elements.

2.11.1 “General Common Elements” means all tangible physical properties of this Project except the Limited Common Elements and the Units, and without limiting the foregoing, specifically includes all parts of the structures or any facilities, improvements and fixtures which may be within a Unit which are or may be necessary or convenient to the support, existence, use, occupation, operation, maintenance, repair or safety of the structures or any part thereof or any other Unit. The General Common Elements shall include, without limitation, the following:

- a. all of the freehold property or leasehold property, as applicable, and landscaping within the Project including landscaped areas within dedicated rights-of-way required by the City of Boulder to be maintained by Owners of the Project;
- b. all foundations, columns, girders, beams and supports of the structures making up the Units;
- c. the exterior walls of the structures making up the Units; the main or bearing walls within the structures making up the Units; the main or bearing subflooring and the roofs of the structures making up the Units; and all portions of the walls, floors or ceilings that are not part of the Unit as described in Section 2.37 below;
- d. all, stairs, stairways and walkways not within a Unit;

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

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

g. in general, all other parts of the Project necessary in common use or convenient to its existence, maintenance and safety.

2.11.2 “Limited Common Elements” means those parts of the Common Elements which are either limited to or reserved in this Declaration, the Map, in a recorded certificate executed by Declarant pursuant to Article 15, or by action of the Association, for the exclusive use of an Owner of a Unit or are limited to and reserved for the common use of more than one but fewer than all Owners. Without limiting the foregoing, any portion of a fireplace, chimney, chute, flue, duct, pipe, drain, wire, conduit, bearing wall, bearing column, or other fixture which lies completely or partially within and/or completely or partially outside the designated boundaries of a Unit which serves only that Unit is a limited common element allocated solely to that Unit, and any portion thereof serving more than one Unit is a limited common element allocated to the Units served. Any shutters, awnings, window boxes, doorsteps, stoops, porches, balconies, decks, patios, and all exterior doors and windows or other fixtures designed to serve a single Unit, but located outside the Unit’s boundaries, are Limited Common Elements allocated exclusively to that Unit. Without limiting the foregoing, the Limited Common Elements shall include siding, garages, storage spaces, parking spaces and fence enclosed yards including both sides of the fence enclosing such yards, or which are assigned or appurtenant to a particular Unit, or which are conveyed by Declarant as a Limited Common Element. The horizontal boundaries of siding, porches, balconies, decks and patios shall be the same as the interior horizontal boundaries of the Units to which such Limited Common Elements are appurtenant, unless the Map specifically defines other horizontal boundaries.

Section 2.12 “Common Expenses” means expenditures made or liabilities incurred by or on behalf of the Association, together with allocations to reserves, including but not limited to: (i) all expenses expressly declared to be common expenses by this Declaration or the Bylaws of the Association; (ii) all other expenses of administering, servicing, conserving, managing, maintaining, repairing or replacing the Common Elements; (iii) subject to the Board’s right to assess expenses as provided in Section 11.3, expenses incurred for the benefit of all Owners; (iv) insurance premiums for the insurance carried under Article 10; and (v) all expenses lawfully determined to be common expenses by the Executive Board. The Common Expenses shall consist of both General Common Expenses and District Common Expenses.

2.12.1 General Common Expenses are all Common Expenses which are not

District Common Expenses.

2.12.2 District Common Expenses are those Common Expenses of each of the Districts, or for the benefit of Owners within each of the Districts.

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

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

Section 2.15 “District” means those areas of the Project containing the Common Elements, Units and Property as described in Exhibit D, as such areas are made subject to this Declaration from time to time.

Section 2.16 “Eligible Mortgagee” means a First Mortgagee who has notified the Association, in writing, of its name and address and that it holds a First Mortgage on a Unit. The notice must include the address of the Unit on which it has a First Mortgage. Such notice shall include a request that the First Mortgagee be given the notices and other rights described in Articles 17 and 19.

Section 2.17 “Executive Board” means the governing body of the Association.

Section 2.18 “First Mortgage” means a Mortgage the priority of which is not subject to any monetary lien or encumbrance except liens for taxes or other liens that are given priority by statute.

Section 2.19 “First Mortgagee” means the holder of record of a First Mortgage.

Section 2.20 “Good Standing” means that a Member is both (i) not more than thirty (30) days late in the payment any Assessments, and (ii) has not had any of his, her or its membership privileges suspended.

Section 2.21 “Manager” means a person or entity engaged by the Association to perform certain duties, powers or functions of the Association, as the Executive Board may authorize from time to time.

Section 2.22 “Map” means the Condominium map of the Project recorded with the Clerk and Recorder, depicting a plan and elevation schedule of all or a part of the Property subject to this Declaration and any supplements and amendments thereto. The Map and any supplements thereto are hereby incorporated herein by reference as if set forth in their entirety.

Section 2.23 “Master Association” means the 16th Street Owners Master Association, Inc., a Colorado nonprofit membership corporation, or any successor to the Master Association by whatever name, charged with the duties and obligations set forth in the Master Declaration.

Section 2.24 “Master Declaration” means that Master Declaration of Protective Covenants, Conditions and Restrictions of 16th Street Owners Master Association, recorded on November 6, 2006 at reception number 2816516 in the office of the Clerk and Recorder of Boulder County, Colorado as it may be amended from time to time.

Section 2.25 “Member” means any person or entity that holds membership in the Association.

Section 2.26 “Mortgage” means any mortgage, deed of trust or other document pledging any Unit or interest therein as security for payment of a debt or obligation.

Section 2.27 “Mortgagee” means any person named as a mortgagee or beneficiary in any Mortgage or any successor to the interest of any such person under such Mortgage.

Section 2.28. “Notice and Hearing” shall mean the right of an Owner or Permitted User to receive notice of an action proposed to be taken by or on behalf of the Association, and the right to be heard thereon, as provided for herein, or in the Bylaws.

Section 2.29 “Owner” means the owner of record, whether one or more persons or entities, of fee simple title to any Unit and the purchaser under a contract for deed covering a Unit with a current right of possession and interest in the Unit.

Section 2.30 “Permitted User” means (a) any person who resides with an Owner within the Project; (b) a guest, invitee, employee, licensee or tenant of an Owner; or (c) a guest, invitee, employee, or licensee of a tenant of the Unit Owner’s tenant.

Section 2.31 “Project” means the common interest community created by this Declaration and as shown on the Map consisting of the Property, the Units and the Common Elements.

Section 2.32 “Rules” means rules, regulations, policies and procedures adopted and amended from time to time by the Executive Board for the regulation of the Project.

Section 2.33 “Successor Declarant” means any person or entity to whom Declarant assign any or all of their rights, obligations or interest as Declarant, as evidenced by an assignment or deed of record executed by both Declarant and the transferee or assignee and recorded with the Clerk and Recorder.

Section 2.34 “Supplemental Neighborhood Declaration” means an instrument which amends this Declaration.

Section 2.35 “Supplemental Neighborhood Map” means a Supplemental Neighborhood Map of the Project which depicts any change in the Project through a Supplemental Neighborhood Declaration.

Section 2.36 "Unit" means the interest and title in and to an individual airspace which is contained within the perimeter windows, doors and unfinished surfaces of perimeter walls, floors and ceilings as shown on the Map, together with the appurtenant interest in the Common Elements. All spaces, interior partitions, and other fixtures and improvements within the boundaries of a Unit and all lath, furring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, finished flooring and any other materials constituting any part of the interior finished surfaces thereof are a part of the Units. Floors dividing stories within a Unit shall be part of the Unit. The Unit shall include any heating and refrigerating elements or related equipment, utility lines and outlets, electrical and plumbing fixtures, pipes and all other related equipment required to provide heating, air conditioning, hot and cold water, electrical or other utility services to the Unit and located within the unfinished walls, ceilings, and floors. For purposes of this definition of Unit, the terms set forth below shall have the meanings ascribed:

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

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

2.36.3 "Unfinished Floor" means the beams, floor joists, floor deck material and concrete which constitute the floor of a Unit, but not including any finished flooring or other materials, and not including floors dividing stories within a Unit.

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

ARTICLE 3 NAME, DIVISION INTO UNITS

Section 3.1 Name The name of the Project is Yarmouth Way Condominiums. The Project is a condominium pursuant to the Act.

Section 3.2 Association The name of the Association is Yarmouth Way Condominium Association, Inc. Declarant have caused the Association to be incorporated as a non-profit corporation under the laws of the State of Colorado.

Section 3.3 Number of Units . The number of Units initially in the Project is five (5). Declarant reserve the right to expand the Project to a maximum number of thirty (30) Units (the "Units that may be created").

Section 3.4 Identification of Units . The identification number and street address of each Unit is shown on the Map.

Section 3.5 Description of Units.

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

3.5.2 Every contract for the sale of a Unit written prior to the recording of the Map and this Declaration may legally describe a Unit by its identifying Unit number designation followed by the words "YARMOUTH WAY CONDOMINIUMS" with further reference to the Map thereof and the Declaration to be recorded. Upon recordation of the Map and the Declaration in the records of the Office of the Clerk and Recorder of Boulder County, Colorado, the description shall be conclusively presumed to relate to the therein described Units.

Every deed, lease, mortgage, trust deed, will or other instrument may legally describe a Unit by its identifying number followed by the words "YARMOUTH WAY CONDOMINIUMS."

A sufficient description of a Unit shall be as follows:

UNIT _____, YARMOUTH WAY CONDOMINIUMS, according to the CONDOMINIUM MAP OF YARMOUTH WAY CONDOMINIUMS, recorded _____, 2011 as Reception No. _____, and as defined by the DECLARATION OF YARMOUTH WAY CONDOMINIUMS, recorded _____, 2011 as Reception No. _____, in the Office of the Clerk and Recorder of Boulder County, Colorado.

This legal description shall be good and sufficient for all purposes to sell, convey, transfer, encumber or otherwise affect not only the Unit, but also the Common Elements and the right to the use of the Limited Common Elements appurtenant thereto. This legal description shall be construed to include: a nonexclusive easement for appropriate ingress and egress throughout the Project and for the use of the Common Elements, together with the right to the exclusive use of the Limited Common Elements appurtenant thereto, and all other easements, obligations, limitations, rights, encumbrances, covenants, conditions, and restrictions created in this Declaration. The reference to the Map and Declaration in any instrument shall be deemed to include any supplements or amendments to the Map or Declaration, without specific references thereto. The undivided interest in the Common Elements appurtenant to any Unit shall be deemed conveyed or encumbered with that Unit, even though the legal description and the instrument conveying or encumbering the Unit may only refer to the title to that Unit.

3.5.3 The right of an Owner to sell, transfer or otherwise convey his Unit shall not be subject to any right of first refusal or similar restriction as a result of this Declaration and such Unit shall be sold free of any such restrictions.

Section 3.6 Separate Parcels and Taxation . Each Unit shall be deemed to be a parcel and shall be subject to separate assessment and taxation for all types of taxes authorized by law, including ad valorem levies and special assessments. No other parts of the Project shall be deemed a parcel. The lien for taxes assessed to any Unit shall be confined to such Unit. No forfeiture or sale of any Unit for delinquent taxes, assessments or other governmental charges shall divest or in any other way affect the title to any other Unit.

ARTICLE 4 RESTRICTIONS ON USE OF UNITS

Section 4.1 Restricted Units. In accordance with Section 38-33.3-205(1)(l) of CCIOA, those Units subject to a restriction on resale (the "Affordability Restriction") as affordable units (the "Affordable Units") are identified and are further described in: (a) the Permanently Affordable Condominium Units - Interim Covenant by 4655 Yarmouth, LLC (the "Interim Covenant") recorded in the records of the Clerk and Recorder of Boulder County Colorado at reception 03164451 on August 9, 2011 and reception 03160940 on July 22, 2011 and (b) those Affordable Unit Covenants described in Section 2(j) of the Interim Covenant recorded or to be recorded against each Affordable Unit (the Interim Covenant and all Affordable Unit Covenants are described herein collectively as the "Affordable Housing Covenants") as may be recorded and such Affordable are restricted: on use, occupancy, and alienation and on the amount for which such an Affordable Unit may be sold and on the amount that may be received by the Owner of an Affordable Unit on sale, condemnation, or casualty loss to the unit or to the common interest community or on termination of the common interest community. Any such provision describing the rights or limitation of Affordable Units in this Declaration may not be amended at any time without the approval of the City. In accordance with the Affordable Housing Covenants, the Affordable Restriction shall remain in perpetuity, may not be waived by the Unit Owner of the Association and shall be referenced with specificity by the owner of any Unit conveying an Affordable Unit.

Section 4.2 Use and Occupancy Regulation, General . Each Owner shall be entitled to the exclusive ownership and possession of his Unit. All of the Units shall be held, conveyed, used, improved, occupied, owned, resided upon and secured subject to the restrictions contained in the Master Declaration, which are incorporated herein by this reference, and subject to the following provisions, conditions, limitations, restrictions, agreements and covenants, as well as those contained elsewhere in this Declaration. These restrictions are general in nature and the Executive Board shall have the power to adopt, amend, repeal and enforce more specific and restrictive design and architectural guidelines and Rules as the Executive Board deems to be reasonable and necessary to carry out the intent of this Declaration.

Section 4.3 Right to Adopt Rules Regulating Units and Common Elements . Each Owner and Permitted User may use the Limited Common Elements allocated to his or her Unit and the Common Elements in accordance with the purpose for which they are intended, without hindering or encroaching upon the lawful rights of the other Owners. The Executive Board may adopt Rules governing or restricting the use of the Units, Limited Common Elements and the Common Elements. Each Owner and Permitted User, by the Owner's acceptance of a deed or

other instrument of conveyance or assignment to his or her Unit, agrees to be bound by any such Rules. No Owner or Permitted User shall cause, or further, an obstruction of the Common Elements or Limited Common Elements appurtenant to more than one Unit, nor shall anything be stored on any part of the Common Elements or Limited Common Elements (other than garages, which are subject to the restrictions contained in this Declaration), without prior written consent of the Executive Board or if appointed by the Executive Board, the Architectural Review Committee. The physical structure and characteristics of the Common Elements or Limited Common Elements shall not be altered or modified in any manner, except upon the prior written consent of the Executive Board.

Section 4.4 Occupancy Restrictions .

4.4.1 All trash, garbage or other refuse shall be kept in approved containers, in the area designated for such purpose. The Association may provide for regular trash removal as a Common Expense. Each Unit at all times shall be kept in a clean, sightly and wholesome condition. The Executive Board may require any Owner to arrange and pay for trash removal of excessive amounts of trash, garbage or other refuse.

4.4.2 Except as may otherwise be permitted by the Design Review Committee, no exterior radio antenna, television antenna, or other antenna, satellite dish, or audio, visual or communication reception device of any type shall be placed, erected or maintained on any Unit, except inside a residence or a Limited Common Element under the exclusive use and control of an Owner in conformance with applicable federal law. Radio antennae, television antennae and other antennae, satellite dishes, and other audio, visual or communication reception devices or any type may not be installed on, or encroach into, any portion of the General Common Elements unless first approved by the Executive Board, which approval may be withheld in its sole and absolute discretion.

4.4.3 Window coverings in Units shall be in compliance with Rules adopted by the Executive Board.

4.4.4 Balconies, decks, patios and fenced areas appurtenant to Units may not be used as storage areas.

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

Section 4.5 Damage Caused by Owner or Permitted User . If, due to the act or neglect of an Owner or Permitted Users, loss or damage shall occur or be caused to any person or property other than the Owner's Unit, such Owner or Permitted User shall be liable and responsible for the payment of same. The amount of such loss or damages and any costs

incurred by the Association in connection with the enforcement of the Association's rights shall be subject to all of the Association's rights with respect to the collection and enforcement of assessments as provided in this Declaration.

Section 4.6 No Partition, Subdivision or Combination . No portion of the Project shall be subject to an action for partition or division and, subject to the reserved and special Declarant rights set forth in Article 15, no Units shall be subdivided, resubdivided or combined.

ARTICLE 5 MEMBERSHIP AND VOTING RIGHTS: ASSOCIATION OPERATIONS

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

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

Section 5.3 Membership; Voting Rights . The Association shall have one class of membership consisting of all Owners. Except as otherwise provided for in this Declaration, each Member shall be entitled to vote in all matters affecting the Association. Only Owners within a specific District shall be entitled to vote to reject a District budget in accordance with Section 11.2. Each Owner, including Declarant while Declarant own any Unit, is subject to all the rights and duties assigned to Owners under the Association Documents.

Section 5.4 Declarant Control. Declarant shall be entitled to appoint and remove the members of the Association's Executive Board and officers of the Association during the Period of Declarant Control. The "Period of Declarant Control" begins with the appointment of the initial Executive Board and continues until the earlier of: (a) seven (7) years from the date of recording the Declaration; (b) sixty (60) days after Declarant conveys seventy-five percent (75%) of the Units that may be created to Owners other than Declarant; (c) two (2) years after the last conveyance of a Unit by Declarant in the ordinary course of business; or (d) two (2) years after the right to add new Units was last exercised. Declarant may voluntarily relinquish such power evidenced by a notice executed by Declarant and recorded with the Clerk and Recorder but, in such event, Declarant may at their option require that specified actions of the Association or the Executive Board as described in the recorded notice, during the period Declarant would otherwise be entitled to appoint and remove directors and officers, be approved by Declarant before they become effective. Not later than sixty (60) days after conveyance of twenty-five percent (25%) of the Units that may be created to Owners other than Declarant, at least one (1) member and not less than twenty-five percent (25%) of the members of the Executive Board shall be elected by Owners other than the Declarant. Not later than sixty (60) days after conveyance of fifty percent (50%) of the Units that may be created to Owners other than

Declarant, not less than thirty-three and one third percent (33-1/3%) of the members of the Executive Board must be elected by Owners other than the Declarant. Not later than the expiration of the Period of Declarant Control, the Owners (which will include Declarant) shall elect an Executive Board of at least three (3) members, at least a majority of whom shall be Owners other than Declarant. The Owners elected to the Board shall take office upon election.

Section 5.5 Delivery of Documents by Declarant . Within sixty (60) days after the Owners other than the Declarant elect a majority of the members of the Executive Board, the Declarant shall deliver to the Association all property of the Owners and of the Association held by or controlled by the Declarant, including, without limitation, the following items:

- A. The original or a certified copy of the recorded Declaration, as amended, the Articles of Incorporation, Bylaws, minute books, other books and records, and any Rules which may have been promulgated;
- B. An accounting for Association funds and audited financial statements from the date the Association received funds and ending on the date the Period of Declarant Control ends;
- C. The Association funds, books and records;
- D. All of the tangible personal property that has been represented by the Declarant to be the property of the Association or that is necessary for and has been used exclusively in the operation and enjoyment of the Common Elements;
- E. A copy, for the nonexclusive use of the Association, of any plans and specifications used in the construction of improvements in the Project;
- F. All insurance policies then in force in which the Owners, the Association, or its directors and officers are named as insured persons;
- G. Copies of any certificates of occupancy that may have been issued with respect to any improvements comprising the Project;
- H. Any other permits issued by governmental bodies applicable to the Project and which are currently in force or which were issued within one (1) year prior to the date on which Owners other than the Declarant took control of the Association;
- I. Written warranties of any contractor, subcontractors, suppliers and manufacturers that are still effective;
- J. A roster of Owners and Eligible Mortgagees and their addresses and telephone numbers, if known, as shown on the Declarant' records;

- K. Employment contracts in which the Association is a contracting party; and
- L. Any service contract in which the Association is a contracting party or in which the Association or the Owners have any obligation to pay a fee to the person performing the services.

Section 5.6 Executive Board . Except for members of the Executive Board appointed by the Declarant during the Period of Declarant Control, all members of the Executive Board shall be Members of the Association, or in the event that a Member is an entity other than a natural person, such member of the Executive Board shall be an authorized representative of such entity Member. Subject to the provisions of Section 5.4 above, during the Period of Declarant Control, the Executive Board shall consist of three (3) directors. Directors appointed by Declarant need not be Members of the Association.

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

ARTICLE 6

DUTIES AND POWERS OF THE ASSOCIATION AND EXECUTIVE BOARD

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

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

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

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

6.1.4 Duty as to Budgets. The Association shall prepare, and submit to the Owners, annual budgets for revenues, expenditures and reserves for the Association as elsewhere provided in this Declaration.

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

6.1.6 Duty to Keep Records and Make Available for Inspection. The Association shall keep current copies of this Declaration, the Articles of Incorporation, the Bylaws, the rules and regulations, and the books, records and financial statements of the Association. The Association shall make available for inspection, upon request, during normal business hours or under other reasonable circumstances, to Owners, and Mortgagees current copies of the Association Documents and the books, records and financial statements of the Association prepared pursuant to the Bylaws, and as required by the Colorado Revised Nonprofit Corporation Act. The Association shall maintain such books and records as may be required under the Act and as required by the Colorado Revised Nonprofit Corporation Act.

6.1.7 Duty to Maintain Register of Addresses and Notify of Address Change. The Association shall maintain a "Register of Addresses" which contains the address (which shall include the facsimile number, if any, and, if the recipient desires to receive notices from the Association by e-mail, the e-mail address) of each Owner, each Eligible Mortgagee, the Association and Declarant. The initial address for each Owner in the Register of Addresses shall be the address for such Owner set forth in the deed or other instrument of Record conveying the Unit to such Owner, or, if no such address is set forth, the address of the Unit of such Owner. The initial address for an Eligible Mortgagee shall be the address provided by the Eligible Mortgagee to the Association pursuant to Section 2.16. Any Owner may change its address in the Register of Addresses by giving notice to the Association of a new address in accordance with Section 22.2, and the Association shall update the Register of Addresses in accordance with any such notice. The Association shall provide the address for each Owner as listed in the Register of Addresses to any Member who requests such information and certifies to the Association in writing that they intend to use such information to give notice to Owners under this Declaration. The Association shall have no liability to any person (including any Owner, Declarant, and any Eligible Mortgagee) for providing the address as listed in the Register of Addresses, regardless of whether such address is correct or whether any director, officer, employee or agent of the Association has knowledge, actual or imputed, that the address in the Register of Addresses is not correct. No information with respect to Declarant', any Eligible Mortgagee's or any Owner's address shall be imputed to the Association or any director, officer, employee or agent of the Association, and the Association shall be entitled to rely solely on the initial address determined in accordance with this Section 6.1.7 or the most recent address, if any, furnished to the Association by Declarant, any Eligible Mortgagee, or any Owner by notice given in accordance with Section 22.2.

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

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

6.1.10 Power to Indemnify. The Association shall have the power to provide for the indemnification of its officers and Executive Board and maintain directors' and officers' liability insurance.

6.1.11 Power to Cooperate With Other Community Associations. The Association shall have the power at any time, and from time to time, to enter into agreements and otherwise cooperate with any other community associations, including specifically, the Master Association, to share the costs and or responsibility for any matters deemed appropriate by the Executive Board, including, without limitation, (a) the construction, care, operation, management, maintenance, repair and replacement of improvements to the Common Elements or for the provision of services which are the responsibility of the Association as provided herein; (b) the providing of public functions to the Project; (c) the enforcement of the provisions of this Declaration for, on behalf of, and in the name of the Association; (d) the collection of Assessments for, in the name of, and on behalf of the Association; (e) the obtaining of insurance for the Association; (f) the appointment and supervision of a Manager for the Association and the Executive Board may delegate any of its rights and duties to the Manager, except the Executive Board's decision making power, and further except that such delegation shall not relieve the Executive Board from any liability for actions of the Manager acting in good faith and in accordance with the direction of the Executive Board; and (g) such other matters as the Executive Board may deem appropriate or beneficial from time to time in order to increase consistency or coordination, reduce costs, or as may otherwise be deemed appropriate or beneficial. The costs and expenses for all such matters, if any, shall be shared or apportioned between the Association and any other community associations as the Executive Board may determine in its discretion from time to time. Any vote that the Association is entitled to make based on its membership or membership interest in the Master Association, including decisions concerning the election of directors and officers to the Master Association, and budgeting or

assessments for the Master Association, shall be made by the Executive Board.

6.1.12 General Corporate Powers. The Association shall have all of the ordinary powers and rights of a Colorado nonprofit corporation formed under the Act and the Colorado Revised Nonprofit Corporation Act, subject only to such limitations upon such powers as may be set forth in this Declaration or in the Articles of Incorporation, the Bylaws of the Association, the Act or the Colorado Revised Nonprofit Corporation Act. The Association shall also have the power to do any and all lawful things which may be authorized, required or permitted to be done under this Declaration, the Articles of Incorporation or Bylaws of the Association, the Act or the Colorado Revised Nonprofit Corporation Act and to do and perform any and all acts which may be necessary or desirable for the governance and operation of the Association.

Section 6.2 Powers of the Executive Board . Except for those matters expressly reserved to the Members as provided in the Association Documents and the Act and the Colorado Revised Nonprofit Corporation Act, the Executive Board may act in all instances on behalf of the Association, to:

6.2.1 Adopt and amend bylaws and Rules governing the Project;

6.2.2 Determine General Common Expenses and District Common Expenses, and adopt and amend budgets (including General Common Expense budgets and District budgets) for revenues, expenditures and reserves and collect Assessments;

6.2.3 Hire and terminate managing agents and other employees, agents and independent contractors;

6.2.4. Subject to the provisions of Article 20, institute, defend or intervene in litigation or administrative proceedings in its own name on behalf of itself or two or more Unit Owners on matters affecting the Project;

6.2.5 Make contracts and incur liabilities, except that any agreement for professional management of the Association's business or other contract providing for services of the Declarant shall have a maximum term of three (3) years and any such agreement shall provide for termination by either party thereto, with or without cause and without payment of a termination fee, upon not more than ninety (90) day's prior written notice;

6.2.6 Regulate the use, maintenance, repair, replacement and modification of Common Elements;

6.2.7 Cause additional improvements to be made as a part of the Common Elements;

6.2.8 Acquire, hold, encumber and convey in the name of the Association any right, title or interest in real or personal property, except that Common Elements may be conveyed or subjected to a security interest only if (a) Members entitled to cast at least sixty-

seven percent (67%) of the votes agree to that action, (b) the provisions of Article 17 are followed with respect to approval of First Mortgagees, and (c) if all Owners of Units to which any Limited Common Element is allocated agree in order to convey that Limited Common Element or subject it to a security interest;

6.2.9 Grant easements, leases, licenses and concessions through or over the Common Elements;

6.2.10 Impose and receive any payments, fees or charges for the use, rental or operation of the General Common Elements;

6.2.11 Impose charges (including without limitation, late charges and default interest) for late payment of Assessments, recover reasonable attorney fees and other legal costs for collection of Assessments and other actions to enforce the power of the Association, regardless of whether or not suit was initiated, and after notice and opportunity to be heard, levy reasonable fines for violations of provisions of the Association Documents or otherwise suspend other membership privileges (except that notice and opportunity to be heard shall not be required before suspension of membership privileges for failure to pay Assessments within thirty (30) days after they become due);

6.2.12 Impose reasonable charges for the preparation and recordation of amendments to the Declaration or statements of unpaid Assessments;

6.2.13 Provide for the indemnification of its officers and Executive Board and maintain directors' and officers' liability insurance;

6.2.14 Assign the Association's right to future income, including the right to receive Assessments;

6.2.15 At the discretion of the Executive Board or upon request as provided herein, the books and records of the Association shall be subject to an audit, using generally accepted auditing standards, or a review, using statements on standards for accounting and review services, by an independent certified public accountant. The audit or review report shall cover the Association's financial statements, which shall be prepared using generally accepted accounting principles or the cash or tax basis of accounting. An audit shall be required under this Section 6.2.15 only when both of the following conditions are met: (a) the association has annual revenues or expenditures of at least two hundred fifty thousand dollars; and (b) an audit is requested by the owners of at least one-third of the units represented by the association. A review shall be required under this Section 6.2.15 only when requested by the owners of at least one-third of the units represented by the Association. Copies of an audit or review shall be made available upon request to any unit owner beginning no later than thirty days after its completion.

6.2.16 Exercise any other powers conferred by the Declaration or Association Bylaws;

6.2.17 Exercise all other powers that may be exercised in this state by legal entities of the same type as the Association, including without limitation, those powers specified by the Colorado Revised Nonprofit Corporation Act; and

6.2.18 Exercise any other powers necessary and proper for the governance and operation of the Association.

ARTICLE 7 MECHANIC'S LIENS

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

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

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

ARTICLE 8 EASEMENTS

Section 8.1 Recorded Easements . The Property shall be subject to all easements as shown on any Map or plat, those of record (including those set forth an Exhibit E attached hereto), those provided in the Act (including easements for encroachment set forth in Section 214 of the Act and an easement for maintenance of any such encroachment), and otherwise as set forth in this Article.

Section 8.2 Declarant' Rights Incident to Construction . Declarant, for themselves and their successors and assigns, the Association and for Owners in all future phases of Yarmouth

Way Condominiums, hereby reserves an easement for construction, utilities, drainage, ingress and egress over, in, upon, under and across the Common Elements, together with the right to store materials on the Common Elements, to build and maintain temporary walls, and to make such other use of the Common Elements as may be reasonably necessary or incident to any construction of the Units, or improvements on the Property or Additional Property or other real property owned by Declarant, or other properties abutting and contiguous to the Property or Additional Property, or to perform warranty work and repairs and construction work on the Units and Common Elements, to store materials in secure areas and to control and have the right of access to work and repair until completion. Such rights may be exercised by Declarant from time to time, and at different times until completion of the Project by Declarant or a Successor Declarant, and no failure to exercise such rights at any time or for a period of time shall constitute a waiver of the rights contained herein.

Section 8.3 Utility Easements . There is hereby created a blanket easement upon, across, over, in and under the Property and the Additional Property for the benefit of the Common Elements and the Units and the structures and improvements situated on the Property and the Additional Property for ingress and egress, installation, replacing, repairing and maintaining all utilities, including, but not limited to, water, sewer, gas, electricity, telephone, cable television, and other communications, except that such easements may not be utilized by the utility providers until after receiving written approval from the Executive Board. The Executive Board may condition its approval on such matters as it deems appropriate, including without limitation, the location, design, alterations to existing structures and impact on the Common Elements and the Project. Said blanket easement includes future utility services not presently available to the Units which may reasonably be required in the future. By virtue of this easement, after receiving approval of the Executive Board, it shall be expressly permissible for the companies providing utilities to erect and maintain the necessary equipment on any of the Common Elements and to affix and maintain electrical, telephone or other communication wires, circuits, conduits and pipes on, above, across and under the roofs and exterior walls of the improvements, all in a manner customary for such companies in the area surrounding the Property, subject to approval by the Association as provided above. Upon exercise of the rights contained in this Section, the utility providers, at their sole cost and expense, shall repair (or replace if necessary) the Property and the Additional Property and all improvements thereon to their condition as they existed prior to the utility providers performing any work.

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

Section 8.5 Emergency Access . A general easement is hereby granted to all police,

sheriff, fire protection, ambulance and other similar emergency agencies or persons to enter upon the Property and the Additional Property, including all Units, and the Common Elements in the proper performance of their duties.

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

All damage to the interior or any part of a Unit resulting from the maintenance, repair, emergency repair or replacement of any of the Common Elements, at the instance of the Association, shall be a Common Expense. No Owner shall be entitled to diminution or abatement for inconveniences or discomfort arising from the making of repairs or improvements or from action taken to comply with any law, ordinance or order of any governmental authority. Restoration of the damaged improvements shall be substantially to the same as the condition in which they existed prior to the damage.

Notwithstanding the foregoing, if any such damage is the result of the failure of an Owner to provide the Manager with a key to their respective Unit and/or the carelessness or negligence of any Owner, then such Owner shall be solely responsible for the costs of such repairing such damage. In the event the Owner fails within a reasonable time upon proper notice to pay the cost of the damages incurred, the Board may pay for said damages and charge the Owner responsible as a Default Assessment.

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

ARTICLE 9 MAINTENANCE

Section 9.1 Maintenance by Owners . Each Owner shall maintain, repair and replace,

as necessary: (a) the interior of his Unit, including non-supporting walls and the surface materials such as plasters, drywall, paneling, wallpaper, paint, tile and carpeting of the perimeter walls, ceilings and floors within the Unit, including Unit doors, windows and screens, except that painting and caulking exterior window frames, exterior doors and garage doors shall be the Association's responsibility; (b) fixtures and equipment installed within the Unit, including maintenance or repairs thereto to the extent necessary in order to avoid damaging other Owners or Common Elements; (c) utility service lines serving the Unit to the point where such lines connect with utility lines serving other Units; (d) the Limited Common Elements appurtenant to such Owner's Unit, except that the Association shall be responsible for maintaining, repairing or replacing parking spaces designated as Limited Common Elements and Limited Common Elements that serve more than one Unit; and (e) those portions of the Common Elements and the Units, including the Owner's Unit, damaged or destroyed by an event of casualty originating from the Owner's Unit. Exhibit F attached hereto sets forth each Owner's responsibility for maintenance, replacement and repair of specific items. To the extent that Exhibit F conflicts with the general provisions of this Section 9.1, Exhibit F shall control. An Owner shall do no act or any work that will affect the Common Elements, or impair the structural soundness or integrity of the Common Elements or impair any easement. The Association reserves the right, from time to time, and at different times, to grant the responsibility for maintenance of the Improvements to the Owners of the Units, and the Unit Owner is obligated to accept said maintenance responsibility, provided said assignment is done in a uniform and nondiscriminatory manner. Further, the Association reserves the right to revoke any permission granted or responsibility delegated herein, from time to time, and at different times, in which event the Association shall be responsible for maintenance as further set forth herein. Subject to availability of any insurance proceeds, in the event of damage or destruction of a Limited Common Element from any cause other than the negligence or tortious acts of an Owner or Permitted User, the then Owners of the Units to which the Limited Common Element is attributable shall equally bear the expense to repair or replace the Limited Common Element to its previous condition. The Owner shall bear the cost of such damage to the extent of such Owner's or Permitted User's negligence.

Section 9.2 Owner's Failure to Maintain or Repair . In the event that a Unit (including the allocated Limited Common Elements) is not properly maintained and repaired, and if the maintenance responsibility for the unmaintained portion of the Unit and Limited Common Element lies with the Owner of the Unit, or in the event that the Unit or Common Elements is damaged or destroyed by an event of casualty originating from the Owner's Unit and the Owner does not take reasonable measures to diligently pursue the repair and reconstruction of those portions of the damaged or destroyed Unit or Common Elements for which the Owner is responsible to substantially the same condition in which they existed prior to the damage or destruction, then the Association, after notice to the Owner, shall have the right to enter upon the Unit to perform such work as is reasonably required to restore the Unit and Common Elements to a condition of good order and repair, except that no advance approval shall be required in the event of an emergency. All costs incurred by the Association in connection with the restoration shall be reimbursed to the Association by the Owner of the Unit, upon demand. All unreimbursed costs shall be a lien upon the Unit until reimbursement is made. The lien may be enforced in the same manner as a lien for an unpaid Assessment levied in accordance with Article 11 of this Declaration.

Section 9.3 Maintenance by Association . The Association shall be responsible for the maintenance, repair and replacement of those items of the Project not specifically required to be maintained by an Owner as set forth in Section 9.1 above and Exhibit F (unless necessitated by damage caused by the negligence, misuse or tortious act of an Owner or Permitted User as set forth in Section 9.4 below), including, without limitation, improvements within. In the event the Association does not maintain or repair those portions of the Project specified herein, until the expiration of the Period of Declarant Control, Declarant shall have the right, but not the obligation, to do so at the expense of the Association.

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

Section 9.5 No Alteration to Common Elements. In performing maintenance, making repairs or replacements as required herein, no Owner shall make any addition or other alteration to any portion of the Common Elements (both General and Limited Common Elements), no matter how minor, without the express written consent of the Executive Board.

ARTICLE 10 INSURANCE

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

10.1.1 Hazard Insurance Coverage. The Association shall obtain casualty and hazard insurance providing all risk coverage or the nearest equivalent available for the full replacement cost, without deduction for depreciation, for all insurable improvements, the Common Area, and the other property of the Association in such amounts as it deems adequate to protect the Community. The Association shall also provide insurance providing all risk coverage or the nearest equivalent available for the full replacement cost, without deduction for depreciation, for the Units and party walls, specifically excluding betterments and improvements of the Units as made by Owners, and specifically excluding, personal property within a Unit and

general liability within a Unit, so that the Association has no requirement, duty or obligation for any liability within a Unit. All policies shall contain a standard non-contributory mortgage clause in favor of each First Mortgagee, and their successors and assigns, which shall provide that the loss, if any thereunder, shall be payable to the Association for the use and benefit of such First Mortgagee, and their successors and assigns, as their interests may appear of record in the records of the office of the Clerk and Recorder of the Boulder County. The Association may also obtain any additional endorsements which it deems advisable and in the best interests of the Community by the Board of Directors, including but not limited to "inflation guard endorsement", "agreed upon amount endorsement," "Demolition endorsement," "increased cost of construction endorsement," "contingent liability endorsement," and a "code compliance or operation of building laws endorsement." The insurance described in this Section shall be inflation coverage insurance, if such insurance is available, which shall at all times represent one hundred percent (100%) of the replacement value of all facilities in the Common Area except land, foundation, excavation and other items normally excluded from coverage and except for any deductible provisions as permitted under this Article. At the discretion of the Executive Board, such insurance may be obtained for each District, or, if available at a reasonable cost, for the Project as a whole. Maximum deductible amounts for such policies shall be determined by the Executive Board, provided, however, that if an Agency requires specific deductibles, the Executive Board shall follow such Agency's requirements.

Each Unit Owner shall be responsible for obtaining additional or supplemental insurance covering any additions, alterations or improvements to his Unit which increase the replacement value of his Unit. In the event that a satisfactory arrangement is not made for additional insurance by the Unit Owner, the Unit Owner shall be responsible for any deficiency in any resulting insurance loss recovery and the Association shall not be obligated to apply any insurance proceeds to restore the affected Unit to a condition better than the condition existing prior to the making of such additions, alterations or improvements. Any additional premiums attributable to the original specifications of a Unit for which the insurance is increased as herein provided may be the subject of a lien for nonpayment as provided in Section 11.7 hereof in the event the Association pays such premium for a Unit Owner.

10.1.2 Comprehensive Liability. Comprehensive general public liability and property damage insurance for the Project in such amounts as the Executive Board deems desirable, provided that such coverage shall be for at least \$2,000,000 for bodily injury, including death and property damage arising out of a single occurrence insuring the Association, the Executive Board, the Manager and their respective agents and employees, and the Unit Owners from liability in connection with the operation, maintenance and use of Common Elements and must include a "severability of interest" clause or specific endorsement. Such coverage shall also include legal liability arising out of contracts of the Association and such other risks as are customarily covered with respect to condominiums similar to the Project in the Denver/Boulder metropolitan area including automobile liability insurance if appropriate. The Executive Board shall not enter into employment contracts or independent contractor contracts of any kind unless the contracting party provides evidence (such as a Certificate of Insurance) to the Executive Board that such party has current and satisfactory insurance, including workers compensation insurance, commercial general liability and automobile insurance on all of which

the Association is named as an additional insured.

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

Section 10.2 Owner's Mandatory Insurance . Each Owner of a Unit shall obtain and maintain insurance coverage on the furnishings, fixtures and other items of personal property belonging to an Owner and any additions and alterations to a Unit which increase the Unit's replacement value above that of the original specifications for the Unit (unless financed by a Mortgage to be purchased by Fannie, or Freddie Mac), property and public liability insurance coverage for each Unit and the Limited Common Elements associated therewith in a minimum amount of \$300,000 per occurrence and workman's compensation insurance covering work within each Unit or on the Limited Common Elements associated therewith. In the event an Owner fails to obtain and maintain such insurance, or provide proof of the existence or renewal as required herein, the Association shall have the right, without the obligation, to obtain such insurance coverage in the Owner's name and behalf, and the expense therefor shall be paid by the Owner to the Association upon demand. Until paid, such amounts shall constitute Default Assessments owed under the provisions of Section 11.6 herein, and the Association shall have a lien for such amounts owed and be entitled to recover such amounts from the Owner in the same manner as any other debts owed to the Association. Further, in the event an Owner fails to obtain and maintain such insurance, and an uninsured loss occurs which would have otherwise been covered under the insurance required by this paragraph, such Owner shall be liable to the Association for the loss suffered, and the Association shall be entitled to recover such amounts from the Owner in the same manner as any other debts owed to the Association. Notwithstanding the Association's right to obtain insurance on behalf of any Owner under the provisions of this Section 10.2, the Association shall have no liability as a result of any Owner's failure to obtain insurance, whether the Association knows of such failure or not, or as a result of its failure to obtain any such insurance on an Owner's behalf, whether such failure is intentional or negligent.

Section 10.3 Certificates of Insurance: Cancellation . Certificates of insurance for the insurance provided under the provisions of Section 10.1 above shall be issued to each Owner, the Manager and Mortgagee upon request. All policies required to be carried under this Article 10 shall provide a standard non-contributory mortgagee clause in favor of each First Mortgagee of a

Unit and shall provide that such policy cannot be canceled by the insurance company without at least thirty (30) days prior written notice to each Owner, the Manager and each First Mortgagee whose address is shown in the records maintained pursuant to the Association's documents. If the insurance required to be carried by the Association in this Article 10 is not reasonably available, or if any policy of such insurance is canceled or not renewed without a replacement policy therefor having been obtained, the Association promptly shall cause notice of that fact to be hand delivered or sent prepaid by United States mail to all Owners, and all First Mortgagees.

Section 10.4 Insurance Proceeds . Any loss covered by the property insurance policy described in Section 10.1 must be adjusted with the Association, but the insurance proceeds for that loss shall be payable to any trustee designated for that purpose, or otherwise to the Association, and not to any holder of a security interest. The insurance trustee or the Association shall hold any insurance proceeds in trust for the Owners, and Mortgagees as their interests may appear. Subject to the provisions of Section 10.5 below, the proceeds must be disbursed first for the repair or restoration of the damaged property, and the Association, Owners, and Mortgagees are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the damaged property has been completely repaired or restored or the regime created by this Declaration is terminated.

Section 10.5 Repair and Replacement . Any portion of the Common Elements for which insurance is required under this Article which is damaged or destroyed must be repaired or replaced promptly by the Association substantially in accordance with this Declaration and the original plans and specifications for the Project unless:

10.5.1 The common interest community created by this Declaration is terminated in which case the approval must first be obtained of Owners to whom eighty percent (80%) of the votes in the Association are allocated;

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

10.5.3 There is a vote not to rebuild by (a) Owners to whom eighty percent (80%) of the votes in the Association are allocated and (b) every Owner of a Unit or assigned Limited Common Element that will not be rebuilt; or

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

The cost of repair or replacement of Common Elements in excess of insurance proceeds and reserves is a General Common Expense or a District Common Expense, as determined by the Executive Board. If all the Common Elements are not repaired or replaced, the insurance proceeds attributable to the damaged Common Elements must be used to restore the damaged area to a condition compatible with the remainder of the Project, and except to the extent that other persons will be distributees, the insurance proceeds must be distributed to all the Owners,

or the Mortgagees as their interests may appear in proportion to each Owner's percentage share of ownership of Common Elements.

Section 10.6 Fidelity Insurance . Fidelity insurance or fidelity bonds must be maintained by the Association to protect against dishonest acts on the part of its officers, directors, trustees and employees and on the part of all others, including any Manager hired by the Association, who handle or are responsible for handling the funds belonging to or administered by the Association in an amount not less than the greater of (a) fifty thousand dollars (\$50,000) or (b) the estimated maximum amount of funds, including reserve funds, in the custody of the Association or management agent as the case may be, at any given time during the term of each policy as calculated from the current budget of the Association but in no event less than a sum equal to three (3) months' aggregate assessments plus reserve funds. In addition, if responsibility for handling funds is delegated to a Manager, such insurance or bonds must be obtained by or for the Manager and its officers, employees and agents, as applicable. Such fidelity insurance or bonds shall contain waivers of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees," or similar terms or expressions.

Section 10.7 Workers' Compensation Insurance . The Executive Board shall obtain workers' compensation or similar insurance with respect to its employees, if applicable, in the amounts and forms as may now or hereafter be required by law.

Section 10.8 Directors and Officers Liability Insurance . The Association shall also maintain insurance to the extent reasonably available and in such amounts as the Executive Board may deem appropriate on behalf of the Executive Board against any liability asserted against a member of the Executive Board or incurred by him in his capacity of or arising out of his status as a member of the Executive Board.

Section 10.9 Other Insurance . The Association shall maintain flood insurance if any part of the Project is located within a Special Flood Hazard Area on a Flood Insurance Rate Map, equal to the lesser of 100% of the insurable value of the Project or the maximum coverage available under the appropriate National Flood Insurance Program. The Executive Board may obtain insurance against such other risks of a similar or dissimilar nature, including umbrella or extended coverage insurance, as it shall deem appropriate with respect to the Association's responsibilities and duties or as requested by any Agency.

Section 10.10 Common Expenses . Premiums for insurance that the Association acquires under Sections 10.1.1 and 10.1.2 above and other expenses connected with acquiring such insurance are District Common Expenses. Premiums for insurance that the Association acquires under Sections 10.6, 10.7, 10.8 and 10.9 above and other expenses connected with acquiring such insurance are General Common Expenses, provided, however, that if some of the insurance is attributable to some but not all of the Units, the Association reserves the right to charge the Districts for which the insurance coverage is attributable, an amount equal to the premium attributable to such additional insurance coverage.

ARTICLE 11
ASSESSMENTS

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

Section 11.2 Budget . Annually, the Executive Board shall prepare and adopt a proposed General Common Expense budget and a District budget for each District based on estimated Common Expenses. Estimated Common Expenses shall include, but shall not be limited to, the cost of routine maintenance and operation of the Common Elements, expenses of management and insurance premiums for insurance coverage as required herein or deemed desirable or necessary by the Association, landscaping of the Common Elements, care of grounds within the Common Elements, routine repairs and renovations within the Common Elements, wages, common water and sewer utility charges for the Common Elements and the Units to the extent that metering or billing of sewer or water utility charges is for more than one (1) unit, trash removal, legal and accounting fees, management fees, expenses and liabilities incurred by the Association under or by reason of this Declaration, and the creation of a reasonable and adequate contingency or other reserve or surplus fund for insurance deductibles and general, routine maintenance, repairs and replacement of improvements within the Common Elements on a periodic basis, as needed. Within (30) days after the adoption of the proposed budgets, the Executive Board shall mail, by ordinary first class mail, or otherwise deliver, a summary of the General Common Expense budget to all the Owners, and a summary of each District budget to each Owner within such District, and shall set a date for a meeting of the Owners to consider the budgets within a reasonable time after mailing or other delivery of the budgets or summaries. The Executive Board shall give notice of the meeting to the Owners in the manner provided for in the Bylaws. At such meeting, no quorum is necessary to consider either the General Common Expense budget or the District budgets. The General Common Expense budget proposed by the Executive Board does not require approval of the Owners, and it will be deemed approved by the Owners unless, at the meeting, it is disapproved by Owners to whom at least eighty percent (80%) of the votes are allocated. The District budgets proposed by the Executive Board do not require approval of the Owners within the Districts and they will be deemed approved by the Owners within the respective Districts unless, at the meeting, they are disapproved by the Owners within the respective District to whom at least eighty percent (80%)

of the votes are allocated. In the event that a proposed General Common Expense budget or a proposed District budget is rejected, the periodic budget last adopted by the Executive Board and not disapproved by the Owners (whether General Common Expense budget or District budget, as applicable) must be continued until such time as the Owners do not disapprove a subsequent budget proposed by the Executive Board (whether General Common Expense budget or District budget, as applicable). Notwithstanding the foregoing provisions of this Section 11.2, in the event the Board-adopted budget (whether a proposed General Common Expense budget or a proposed District Budget) includes expenditures to pay for capital improvements not previously installed, then such expenditures must be approved by Owners to whom at least sixty-seven percent (67%) of the votes in the Association are allocated.

Section 11.3 Annual Assessments . Annual Assessments shall be determined based on the adopted General Common Expense budget and applicable District Common Expense budget. The Executive Board shall levy and assess the Annual Assessments to each Owner in accordance with the Allocated Interests in effect on the date of the Annual Assessment, provided, however, that any expense associated with the maintenance, repair or replacement of a Limited Common Element shall be assessed against the Units to which the Limited Common Element is assigned, equally, and the Executive Board reserves the right to allocate all expenses relating to fewer than all of the Units to the owners of those affected Units only. Annual Assessments shall be payable in advance monthly or on such other basis as may be determined by the Executive Board, and shall be due on the first day of each period in regular installments on a prorated basis. The omission or failure of the Association to fix the Annual Assessments for any assessment shall not be deemed a waiver, modification or release of the Owners from their obligation to pay the same.

Section 11.4 Date of Commencement of Annual Assessments . The Annual Assessments shall commence as to each Unit on the first day of the month following the effective date of adoption and ratification of the first General Common Expense budget and the first District budget. Until commencement of the Annual Assessments, the Declarant shall pay all Common Expenses of the Association.

Section 11.5 Special Assessments . In addition to the Annual Assessments, the Association may levy in any fiscal year one or more Special Assessments, payable over such a period as the Association may determine, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of improvements within the Common Elements or for any other expense incurred or to be incurred as provided in this Declaration. This Section 11.5 shall not be construed as an independent source of authority for the Association to incur expense, but shall be construed to prescribe the manner of assessing expenses authorized by other sections of this Declaration. Any amounts assessed pursuant to this Section shall be assessed to Owners according to their Allocated Interests for General Common Expenses, subject to the right of the Association to assess the Special Assessment only against the Owners of affected Units, or Owners within a District. Expenses allocable only to Units within a District, shall be borne by the Owners within the District only in accordance with their Allocated Interests for District Common Expenses. Notice in writing of the amount of such Special Assessments and the time for payment of the Special Assessments shall be given promptly to the Owners, and no payment shall be due less than ten (10) days after such notice

shall have been given. Notwithstanding the foregoing, if the purpose of the Special Assessments is to make capital improvements in the Project not previously installed, then any such Special Assessment shall require the approval of Owners to whom at least sixty-seven percent (67%) of the votes in the Association are allocated. Special Assessments otherwise adopted pursuant to this Section 11.5 shall not be used for the construction of any Common Elements required to be completed by Declarant as part of its development of the Project.

Section 11.6 Default Assessments . All monetary fines and other enforcement costs assessed against an Owner pursuant to the Association Documents, or any expense of the Association which is the obligation of an Owner or which is incurred by the Association on behalf of the Owner pursuant to the Association Documents, including without limitation attorneys fees incurred by the Association, shall be a Default Assessment and shall become a lien against such Owner's Unit which may be foreclosed or otherwise collected as provided in this Declaration. Notice of the amount and due date of such Default Assessment shall be sent to the Owner subject to such Assessment at least five (5) days prior to the due date.

Section 11.7 Effect of Nonpayment: Assessment Lien . Any Assessment installment, whether pertaining to any Annual, Special or Default Assessment, which is not paid when due shall be delinquent. If an Assessment installment becomes delinquent, the Association, in its sole discretion, may take any or all of the following actions:

- (i) If the delinquency continues for a period of fifteen (15) days, assess a late charge for each delinquency in such amount as the Association deems appropriate;
- (ii) If the delinquency continues for a period of thirty (30) days, assess an interest charge, in arrears, from the due date at the yearly rate of 18% per year;
- (iii) Accelerate all remaining Assessment installments so that unpaid assessments for the remainder of the fiscal year shall be due and payable at once;
- (iv) Bring an action at law against any Owner personally obligated to pay the delinquent Assessments;
- (v) File a statement of lien with respect to the Unit;
- (vi) Proceed with foreclosure as set forth in more detail below; and
- (vii) Following Notice and Hearing, suspend any of the Owner's membership privileges.

Assessments chargeable to any Unit shall constitute a lien on such Unit. Such lien will be subject to the provisions of Colorado Revised Statutes, Section 38-33.3-316. Such lien will be superior to all other liens, except (i) the liens of all taxes, bonds, assessments and other levies which by law should be superior and (ii) the lien or charge of any First Mortgage made in good

faith and for value. Notwithstanding the foregoing, the Association's lien for delinquent Assessments will be prior to a First Mortgage to the extent of an amount equal to the Assessments which would have come due, in the absence of acceleration, during the six months immediately preceding institution of an action to enforce the lien. The Association may institute foreclosure proceedings against the defaulting Owner's Unit in the manner for foreclosing a mortgage on real property under the laws of the State of Colorado. In the event of any such foreclosure, the Owner shall be liable for the amount of unpaid Assessments, any penalties and interest thereon, the cost and expenses of such proceedings, the cost and expenses for filing the notice of the claim and lien, and all reasonable attorney's fees incurred in connection with the enforcement of the lien. The Owner shall be required to pay the Association the monthly assessment installments for the Unit during the period of any foreclosure. The Association shall have the power to bid on a Unit at foreclosure sale and to acquire and hold, lease, mortgage and convey the same. The Association's lien shall be superior to any homestead exemption now or hereafter provided by the laws of the State of Colorado or any homestead exemption now or hereafter provided by the laws of the United States. The acceptance of a deed to a Unit shall constitute a waiver of the homestead and any other exemption as against said assessment lien.

Section 11.8 Payment by Mortgagee . Any Mortgagee holding a lien on a Unit may pay any unpaid amount payable with respect to such Unit, together with any and all costs and expenses incurred with respect to the lien and upon such payment that Mortgagee shall have a lien on the Unit for the amounts paid with the same priority as the lien of the Mortgagee.

Section 11.9 Statement of Status of Assessment Payment . Upon payment of a reasonable fee set from time to time by the Executive Board and upon fourteen (14) days' written request to the Association's registered agent by personal delivery or certified mail, first-class postage prepaid, return receipt, any Owner, designee of Owner, Agency, Mortgagee, prospective Mortgagee or prospective purchaser of a Unit shall be furnished with a written statement setting forth the amount of the unpaid Assessments, if any, with respect to such Unit. Unless such statement shall be issued by personal delivery or by certified mail, first class postage prepaid, return receipt requested to the inquiring party (in which event the date of posting shall be deemed the date of delivery) within fourteen (14) days after receipt of the request, the Association shall have no right to assert a lien upon the Unit over the inquiring party's interest for unpaid Assessments which were due as of the date of the request.

Section 11.10 Capitalization of the Association . The Association shall require the first Owner of any Unit (other than Declarant or a Successor Declarant) who purchases that Unit from Declarant or a Successor Declarant to make a nonrefundable contribution to the Association in the amount equal to one-sixth (1/6th) of the total annual assessment at the time of sale (regardless of whether or not assessments have commenced as provided herein). Said contribution shall be collected and transferred to the Association at the time of closing of the sale by Declarant or a Successor Declarant of each Unit as aforesaid, and may be used for the benefit of the Association as the Board deems appropriate, including, without limitation, to meet unforeseen expenditures or to purchase additional equipment, property or services. Such contribution of working capital shall not relieve an Owner from making regular payments of assessments as the same become due. Upon the transfer of a Unit, an Owner shall be entitled to

a credit from the transferee (but not from the Association) for the aforesaid contribution to working capital. The Association may, from time to time, increase the amount of the working capital contribution to an amount equal to one-sixth (1/6th) of the then current total annual assessment.

Section 11.11 Maintenance Accounts: Accounting . If the Association delegates powers of the Executive Board or its officers relating to collection, deposit, transfer or disbursement of Association funds to other persons or to a Manager, then such other persons or Manager must (a) maintain all funds and accounts of the Association separate from the funds and accounts of other associations managed by the other person or Manager, (b) maintain all reserve accounts of the Association separate from the operational accounts of the Association, and (c) provide to the Association no less than once per month an accounting for the previous month. In addition, the Association shall obtain an annual accounting and financial statement of Association funds (on either a review or audit basis, at the Association's discretion) and annual tax returns prepared by a certified public accountant.

ARTICLE 12 DAMAGE OR DESTRUCTION

Section 12.1 The Role of the Executive Board . Except as provided in Section 10.5, in the event of damage to or destruction of all or part of any Common Elements, or other property covered by insurance written in the name of the Association under Article 10, the Executive Board shall arrange for and supervise the prompt repair and restoration of the damaged property (the property insured by the Association pursuant to Article 10 is sometimes referred to as the "Association-Insured Property").

Section 12.2 Estimate of Damages or Destruction . As soon as practicable after an event causing damage to or destruction of any part of the Association-Insured Property, the Executive Board shall, unless such damage or destruction shall be minor, obtain an estimate or estimates that it deems reliable and complete of the costs of repair and reconstruction. "Repair and reconstruction" as used in this Article shall mean restoring the damaged or destroyed improvements to substantially the same condition in which they existed prior to the damage or destruction unless the approval is obtained by Owners to whom eighty percent (80%) of the votes in the Association are allocated, and every Owner of a Unit or assigned Limited Common Element that will not be repaired or reconstructed. Such costs may also include professional fees and premiums for such bonds as the Executive Board or the insurance trustee, if any, determines to be necessary.

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

reconstruction.

ARTICLE 13 CONDEMNATION

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

Section 13.2 Partial Condemnation; Distribution of Award: Reconstruction . The award made for such taking shall be payable to the Association for the benefit of the Owners, and Mortgagees, and unless otherwise required under the Act, the award shall be disbursed as follows:

If the taking involves a portion of the Common Elements on which improvements have been constructed, then, unless within sixty (60) days after such taking Owners to whom at least eighty percent (80%) of the votes in the Association are allocated, and Declarant during the Period of Declarant Control, shall otherwise agree, the Association shall restore or replace such improvements so taken on the remaining land included in the Common Elements to the extent lands are available for such restoration or replacement in accordance with plans approved by the Executive Board. If such improvements are not to be repaired or restored, or if there are net funds remaining after any such restoration or replacement is completed, the provisions in Article 10 above regarding the disbursement of funds in respect to casualty damage or destruction shall apply.

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

ARTICLE 14 ASSOCIATION AS ATTORNEY-IN-FACT

Each Owner hereby irrevocably appoints the Association as the Owner's true and lawful attorney-in-fact for the purposes of (a) granting easements pursuant to Article 8, (b) purchasing and maintaining insurance pursuant to Article 10, including the collection and appropriate disposition of the proceeds thereof, the negotiation and settlement of losses and execution of releases of liability, the execution of all documents, and the performance of all other acts necessary to purchase and maintain insurance as well as dealing with any improvements covered

by insurance written in the name of the Association pursuant to Article 9 upon their damage or destruction as provided in Article 12, (c) negotiating and dealing with any authority having the power of condemnation or eminent domain relating to a complete or partial taking as provided in Article 13, above, or (d) acting in any other capacity on behalf of the Owners when approval by the Owners is required and has been obtained. Acceptance by a grantee of a deed or other instrument of conveyance or any other instrument conveying any portion of the Property shall constitute appointment of the Association as the grantee's attorney-in-fact, and the Association shall have full authorization, right and power to make, execute and deliver any contract, assignment, deed, waiver or other instrument with respect to the interest of any Owner which may be necessary to exercise the powers granted to the Association as attorney-in-fact.

ARTICLE 15 RESERVED DEVELOPMENT AND SPECIAL DECLARANT RIGHTS

Section 15.1 Addition of Unspecified Real Estate . Subject to those restrictions set forth in Section 222 of the Act, Declarant reserve the right for themselves and any Successor Declarant at any time and from time to time to subject unspecified real property to the provisions of this Declaration.

Section 15.2 Reserved Development Rights . Declarant reserve the right, without consent of any Owner or First Mortgagee being required, for themselves and any Successor Declarant at any time and from time to time to subject additional phases of the Additional Property to the provisions of this Declaration to include up to thirty (30) additional Units and to expand the Common Elements.

15.2.1 Supplemental Neighborhood Declarations, Supplemental Neighborhood Maps and Additional Districts. Such expansion may be accomplished by the filing for record by Declarant in the office of the Clerk and Recorder one or more Supplemental Neighborhood Declarations and Supplemental Neighborhood Map setting forth the Units and other real property, if any, to be included in the expansion, together with any covenants, conditions, restrictions and easements particular to such property. The expansion may be accomplished in stages by successive supplements or in one supplemental expansion. Declarant may exercise such rights for expansion on all or any portion of the Additional Property in whatever order of development Declarant in their sole discretion, determine. All improvements to be constructed on the Additional Property shall be substantially completed prior to the recording of the Supplemental Neighborhood Declaration and Map adding additional Units and the improvements shall be consistent with the Units hereby submitted to the Declaration in structure, type and quality of construction. Declarant shall not be obligated to expand the Project beyond the number of Units initially submitted to this Declaration. In conjunction with such expansion, Declarant may specify that all or portions of the Additional Property are subject to existing or additional Districts, and shall amend Exhibits C-2 and D accordingly.

15.2.2 Expansion of Definitions. In the event of such expansion, the definitions used in

this Declaration shall be expanded automatically to encompass and refer to the Property subject to this Declaration as so expanded. For example, "Unit" shall mean the Units as shown on the Map plus any additional Units added by any Supplemental Neighborhood Declarations and Supplemental Neighborhood Maps, and reference to this Declaration shall mean this Declaration as supplemented. All conveyances of Units shall be effective to transfer rights in the Property as expanded.

15.2.3 Declaration Operative on Additional Property. Units added by Supplemental Neighborhood Declarations and Maps shall be subject to all of the terms and conditions of this Declaration and of any Supplemental Neighborhood Declarations, upon recording the Supplemental Neighborhood Map(s) depicting the Additional Property and Supplemental Neighborhood Declaration(s) with the Clerk and Recorder. In the event that a portion of the Additional Property is submitted to the provisions of this Declaration, Declarant shall retain the right to, but shall not be obligated to, submit any additional portion of the Additional Property to the provisions of this Declaration. The rights of Declarant and any Successor Declarant, as described herein, shall apply to all Units which are added to this Declaration in accordance with these provisions relating to enlargement thereof.

No rights or obligations of any character of any Owner in Units in the Additional Property shall attach until a Supplemental Neighborhood Declaration and Supplemental Neighborhood Map are filed with the Clerk and Recorder annexing the Units constructed in such area to Yarmouth Way Condominiums.

15.2.4 Effect on Expansion. Upon the construction of additional Units and their inclusion under this Declaration and the filing of the Supplemental Neighborhood Declaration(s) and Supplemental Neighborhood Map(s) thereof, the Allocated Interests applicable to a Unit shall be as set forth in Section 2.3 above, and the Supplemental Neighborhood Declaration shall amend Exhibits C-1 and, C-2

Notwithstanding any inclusion of additional Units under this Declaration each Owner (regardless of whether such Owner is the owner of a Unit shown on the original Map or is the owner of a Unit constructed in the Additional Property and included by a Supplemental Neighborhood Declaration and Map) shall remain fully liable with respect to his obligation for the payment of the Common Expenses of the Association, including the expenses for such new Common Elements, costs and fees, if any. The recording of a Supplemental Neighborhood Declaration or Supplemental Neighborhood Map shall not alter the amount of the Common Expenses assessed to a Unit prior to such recording.

Section 15.3 Reservation of Withdrawal Rights . Declarant reserve the right for themselves and any Successor Declarant at any time and from time to time to withdraw from the provisions of this Declaration individual Units and/or Common Elements, provided however that none of the real estate making up a platted lot may be withdrawn after any Unit within that platted lot has been conveyed by Declarant to a purchaser.

Section 15.4 Reservation of Other Development Rights . Declarant reserve the right, without consent of any Owner or Mortgagee being required, for themselves and any Successor Declarant at any time and from time to time to exercise the following development rights within the Project: (a) to create Units, Common Elements or limited Common Elements; (b) complete improvements indicated on the plats and Maps, (c) maintain and relocate sales offices, management offices, signs advertising the Project and models, of any size within one or more Units and within the General Common Elements; (d) to subject the Project to a master association, (e) to merge or consolidate the Project with a common interest community of the same form of ownership, (f) to appoint or remove any officer of the association or any Executive Board member during the Period of Declarant Control as set forth in Section 5.4 above; (g) to amend the Map to (i) insure that the language and all particulars that are used on the Map and contained in the Declaration are identical; (ii) establish, vacate and relocate utility easements, access easements, and parking spaces; (iii) establish certain Common Elements as Limited Common Elements; and (iv) as may be otherwise permitted by the Act; and (g) to exercise any other Declarant rights or development rights provided for herein.

Section 15.5 Change in Allocated Interests . In the event Declarant or a Successor Declarant exercise the right to add, or withdraw, Units as set forth above or to add Additional Property, the Allocated Interests of the resulting Units after such expansion or withdrawal shall be according to the formula set forth in Section 2.3 above.

Section 15.6 Assign Parking . Declarant, and following the expiration of Declarant rights under this Article 15, the Association, reserves the right to assign parking spaces as Limited Common Elements for the exclusive use of the Owners of a particular Unit. Declarant and the Executive Board shall have the right to modify or reassign the parking designations from time to time as necessary to comply with the Americans with Disabilities Act, the Federal Fair Housing Act, the Federal Fair Housing Amendments Act, or other similar federal or state laws, or on such other basis as deemed appropriate by Declarant or the Executive Board, so long as such modification or reassignment is done on a fair and uniform basis. Notwithstanding an assignment of parking spaces, all parking spaces shall be a part of the Common Elements.

Section 15.7 Termination of Rights . The rights reserved to the Declarant for themselves, their successors and assigns in this Article shall expire, unless sooner terminated as required by the Act, until the earlier to occur of: (a) the conveyance of the last Unit to an Owner who is not a Declarant or a Successor Declarant; or (b) seven (7) years from the date of recording this Declaration with the Clerk and Recorder, unless such rights are (i) extended as allowed by law or (ii) reinstated or extended by the Association, subject to whatever terms, conditions and limitations the Executive Board may impose on the subsequent exercise of the rights by Declarant. Further, Declarant reserve the right, at any time, and from time to time, to surrender or terminate some or all of the development or other rights reserved herein by recording a statement to that effect with the Clerk and Recorder. Notwithstanding the termination of the rights reserved to Declarant as provided herein, Declarant or a related party, may continue to own Units in the Project. By virtue of such ownership, Declarant may continue to influence and impact operation of the Association through the exercise of its voting rights, including but not limited to, election of Executive Board members and the possible appointment of persons related

to Declarant to committees of the Executive Board.

ARTICLE 16
ALTERATIONS, ADDITIONS OR IMPROVEMENTS TO COMMON ELEMENTS

Section 16.1 Alterations, Additions or Improvements to Common Elements : Other than alterations, additions or improvements made by Declarant, no alteration, addition or improvement to the Common Elements of any kind (including, without limitation, change in color, texture, street number, signage, doors or windows), or which in any manner affect the Common Elements or another Unit (by way of example and not by way of limitation, air conditioning units, hot tubs, spas, fireplaces, built in cabinetry, skylights, hard surface floors, and moving or removing structural walls), shall be made unless first approved in writing by the Executive Board. All alterations, additions or improvements shall comply with any rules, guidelines or criteria adopted by the Executive Board governing architectural or design considerations, signs, window coverings, lighting or other alterations, additions or improvements. During the period specified in Section 15.7 above, Declarant shall be exempt from any requirement to obtain approval under the provisions of this Article 16. The Executive Board shall respond to any written request for approval of a proposed addition, alteration or improvement within forty-five (45) days after the complete submission of the plans, specifications and other materials and information which the Executive Board may require in conjunction therewith. If the Executive Board fails to approve or disapprove any request within forty-five (45) days after the complete submission of the plans, specifications, materials and other information with respect thereto, the request shall be deemed to have been disapproved by the Executive Board. In the event the Executive Board approves any such alteration, addition or improvement, it shall exercise reasonable business judgment to the end that any modifications to the Common Elements conform to and harmonize with existing surroundings and structures. The Executive Board has the absolute right to deny any requested changes.

Section 16.2 Governmental Approval : If any application to any governmental authority for a permit to make any such alteration, addition or improvement requires execution by the Association, and provided approval has been given by the Executive Board, then the application shall be executed on behalf of the Association by an authorized officer, only, without however incurring any liability on the part of the Executive Board, the Association or any of them to any contractor, subcontractor or materialman on account of such alteration, addition or improvement, or to any person having claim for injury to person or damage to property arising therefrom.

Section 16.3 Architectural Review Committee and Guidelines .

16.3.1 The Executive Board shall have the right, without the obligation, to establish an Architectural Review Committee which shall be responsible for such matters as may be assigned by the Executive Board, which may include, by way of example, and not by way of limitation, the following: establishment and administration of architectural or design guidelines, landscaping guidelines for fence enclosed Limited Common Elements, sign guidelines, window covering guidelines and lighting guidelines; review and

recommendations for approval, disapproval or approval with conditions of alterations or additions to Common Elements (whether General or Limited); and such other matters as the Executive Board, may request. Declarant reserve the right to appoint, remove and replace all of the members of the Architectural Review Committee, in their sole discretion, until the earlier of: (i) the date Declarant have waived this right to appoint the Architectural Review Committee; or (ii) the date Declarant have conveyed all of their right, title and interest in all Units in the Project to third parties without transferring the right to appoint the Architectural Review Committee to a Successor Declarant.

16.3.2 The architectural or design guidelines may include, among other things, the following restrictions and limitations: (a) procedures for making application to the Architectural Review Committee for review and approval, including the documents to be submitted; (b) limitations on the size of any improvement; (c) landscaping regulations, including requirements for installing and maintaining landscaping on the entire Unit, time limitations within which all landscaping must be completed, limitations and restrictions prohibiting the removal or requiring the replacement of existing trees; and guidelines encouraging the use of plants indigenous to the locale, except that notwithstanding the foregoing or any provision of the Design Guidelines to the contrary, there shall be no prohibition or limitation on xeriscape, or prohibition or limitation on the installation or use of drought-tolerant vegetative landscapes, or any requirement for cultivated vegetation to consist exclusively or primarily of turf grass; and (d) general instructions for the construction, reconstruction, refinishing or alteration of any improvement.

Section 16.4 Association Right to Remove Unauthorized Alterations, Additions or Improvements : The Association, upon the majority approval by the Executive Board and after reasonable notice to the Owner of the offending Unit, may remove any alterations, additions or improvements constructed, reconstructed, refinished, altered, or maintained in violation of this Declaration, and the Owner shall immediately reimburse the Association for all expenses incurred in connection with such removal.

ARTICLE 17 MORTGAGEE'S RIGHTS

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

Section 17.1 Title Taken by First Mortgagee . Any First Mortgagee of record against a Unit who obtains title to the Unit pursuant to remedies exercised in enforcing the Mortgage, including foreclosure of the Mortgage or acceptance of a deed in lieu of foreclosure, will be liable for all Assessments due and payable as of the date title to the Unit (i) is acquired or (ii) could have been acquired under the statutes of Colorado governing foreclosure, whichever is earlier.

Section 17.2 Distribution of Insurance or Condemnation Proceeds . In the event of a distribution of insurance proceeds or condemnation awards allocable among the Units for losses to, or taking of, all or part of the Common Elements, neither the Owner nor any other person shall take priority in receiving the distribution over the right of any First Mortgagee against the Unit.

Section 17.3 Right to Pay Taxes and Charges . First Mortgages may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against any Common Elements, and may pay overdue premiums on insurance policies, or secure new hazard insurance coverage on the lapse of a policy for such Common Elements, and First Mortgagees making such payments shall be owed immediate reimbursement therefor from the Association.

Section 17.4 Audited Financial Statement . Upon written request from any Agency or Mortgagee which has an interest or prospective interest in any Unit or the Project, the Association shall prepare and furnish within ninety days an audited financial statement of the Association for the immediately preceding fiscal year at the at the expense of such Mortgagee.

Section 17.5 Notice of Action . Any Eligible Mortgagee and any Agency which holds, insures or guarantees a First Mortgage, upon written request to the Association (which shall include the Agency's name and address and Unit number), will be entitled to timely written notice of:

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

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

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

17.5.4 Any proposed action that requires the consent of a specified percentage of eligible Mortgagees.

Section 17.6 Action by Mortgagee . If this Declaration requires First Mortgagees to approve or consent to amendments, the Association shall send a dated, written notice and a copy of any proposed amendment by certified mail to each First Mortgagee at its most recent address as shown on the recorded deed of trust or recorded assignment thereof. In addition, the Association shall cause the dated notice, together with information on how to obtain a copy of the proposed amendment, to be printed in full at least twice, on separate occasions at least one week apart, in a newspaper of general circulation in the City and County of Boulder. A First Mortgagee that does not deliver to the Association a negative response within sixty (60) days after the date of the notice shall be deemed to have approved the proposed amendment.

Section 17.7 Junior Mortgages . The owner of a Unit may create junior Mortgages on the following conditions: (1) that any such junior Mortgages shall always be subordinate to all of the terms, conditions, covenants, restrictions, uses, limitations, obligations, liens for Common Expenses, and other obligations created by this Declaration and the Bylaws; (2) that the Mortgagee under any junior Mortgage shall release, for the purpose of restoration of any improvements upon the mortgaged premises, all of his right, title and interest in and to the proceeds under all insurance policies upon said premises which insurance policies were effected and placed upon the mortgaged premises by the Association. Such release shall be furnished forthwith by a junior Mortgagee upon written request of one or more of the members of the Board. If not given, such release may be executed by the Association, as attorney-in-fact for such junior Mortgagee.

ARTICLE 18 DURATION OF COVENANTS AND AMENDMENT

Section 18.1 Term . The covenants and restrictions of this Declaration shall run with and bind the land in perpetuity, subject to the termination provisions of the Act.

Section 18.2 Amendment . Except for amendments otherwise permitted to be undertaken by Declarant hereunder or pursuant to the Act, this Declaration, or any provision of it, may be amended at any time by vote or agreement of Owners to which sixty-seven percent (67%) or more of the votes in the Association are allocated, and approval shall first be obtained of fifty-one percent (51 %) of First Mortgagees if the amendment to the Association Documents add or delete any material provisions which establish, provide for, govern or regulate any of the following:

18.2.1 Voting rights;

18.2.2 Assessments, increases in Assessments that raise the previously assessed amount by more than 25%, Assessment liens or the priority of such liens;

18.2.3 Reductions in reserves for maintenance, repair and replacement of the Common Elements;

18.2.4 Responsibility for maintenance and repairs;

18.2.5 Reallocation of interests in the Common Elements, or rights to their use other than as set forth in Article 15;

18.2.6 Redefinition of boundaries of any Unit other than as set forth in Article 15;

18.2.7 Convertibility of Units into Common Elements or of Common Elements into Units, other than as set forth in Article 15;

18.2.8 Expansion or contraction of the Project, or the addition, annexation, or withdrawal of property to or from the Project, other than as set forth in Article 15;

18.2.9 Hazard or fidelity insurance requirements;

18.2.10 Imposition of any restrictions on the leasing of Units, other than as set forth herein;

18.2.11 Imposition of any restrictions on an Owner's right to sell or transfer his Unit;

18.2.12 A decision by the Association to establish self-management if professional management has been required previously by any Agency;

18.2.13 Restoration or repair of the Project (after damage or partial condemnation) in a manner other than that specified in this Declaration;

18.2.14 Any provision which is for the express benefit of an Agency or First Mortgagee.

Section 18.3 Amendment for Certain Actions . Notwithstanding anything else contained in this Declaration, except as provided by the Act, and except in case of condemnation or substantial loss to the Units and/or Common Elements, unless at least two-thirds (2/3rds) of First Mortgagees and two-thirds (2/3rds) of Owners (other than Declarant) of the Units, the Association may not:

18.3.1 By act or omission seek to abandon or terminate the condominium regime hereby;

18.3.2 Reallocate the Allocated Interest or obligation of any Unit in order to levy assessments or charges, allocate distribution of hazard insurance proceeds or condemnation awards, or determine the Allocated Interests of Ownership of Common Elements other than as set forth in this Declaration;

18.3.3 Partition or subdivide any Unit, except as set forth in this Declaration;

18.3.4 Seek to abandon, partition, subdivide, encumber, sell or transfer the Common Elements, except as set forth in this Declaration, by act or omission other than the grant of easements for public utilities or other public purposes consistent with the intended use of the Common Elements;

18.3.5 Use hazard insurance proceeds for losses to any part of the Property (whether Units or Common Elements) for other than the repair, replacement or reconstruction of the Project.

Section 18.4 Execution of Amendment . Any amendment must be executed by the President of the Association and recorded, and approval of such amendment may be shown by attaching a certificate of the Secretary of Association to the recorded instrument certifying the

approval of the amendment by a sufficient number of Owners and First Mortgagees, if applicable. Notwithstanding the foregoing, Declarant, acting alone, reserve to themselves the right and power to modify and amend this Declaration and the Map to the fullest extent permitted under this Declaration and the Act, including without limitation:

18.3.1 Declarant may amend the Yarmouth Way Condominiums Documents, including the Declaration, a Plat or a Map to correct clerical, typographical, or technical errors;

18.3.2 Declarant may amend the Declaration to comply with the requirements, standards or guidelines of recognized secondary mortgage markets and Agencies; and

18.3.3 Declarant may amend this Declaration as provided in Article 15 hereof.

Section 18.5. No Amendment May Reduce Declarant' Rights . No amendment may revoke, modify or eliminate any right or privilege of the Declarant, including specifically, any provision of this Declaration that requires Declarant' consent or approval, without the written consent of Declarant or of the assignee of any such right or privilege.

Section 18.7. Failure of Mortgagee to Respond. Any Mortgagee who receives a written request from the Board to respond to or consent to any action or proposed amendment shall be deemed to have approved such action if the Association does not receive a written response from the Mortgagee within sixty (60) days of the date of the Association's request, provided such request is delivered to the Mortgagee by certified or registered mail, return receipt requested.

ARTICLE 19 LIMIT ON TIMESHARING

No Unit shall be used (a) for the operation of a timesharing, fraction-sharing or similar program whereby the right to exclusive use of the Unit rotates among participants in the program on a fixed or floating time schedule over a period of years; or (b) for the operation of a reservation or time-use system among co-Owners of a Unit managed by a party other than the co-Owners themselves or a system whereby co-Owners are required as a condition of purchase of a fractional interest in the Unit to subject the fractional interest to a pre-determined reservation or time-use system among co-Owners, regardless of whether or not the co-Owner may later opt out of such system and regardless of whether the reservation or time-use system is recorded or unrecorded, fixed or floating.

ARTICLE 20 MANDATORY DISPUTE RESOLUTION

Section 20.1 Statement of Clarification . Without modifying or restricting the scope of this Article and as a statement of clarification only, nothing contained in this Article is intended to prevent the parties from attempting to resolve any differences between them through the normal course of business and communications. It is only when the parties are unable to resolve

their differences and they wish to proceed further through the assertion of a "Claim" as defined herein, that the mandatory dispute resolution provisions contained in this Article are activated, notwithstanding any provision in this Declaration to the Contrary.

Section 20.2 Alternative Method for Resolving Disputes . Declarant, the Association, its officers and directors, all Owners, the Manager, and any other person or entity not otherwise subject to this Declaration but who agrees to submit to this Article (each such person and entity being referred to as a "Bound Party"), agree to encourage the amicable resolution of disputes involving Yarmouth Way Condominiums and all of its improvements without the emotional and financial costs of litigation. Accordingly, each Bound Party covenants and agrees to submit all Claims each may have to the procedures set forth in this Article 20, notwithstanding any provision in this Declaration to the contrary. All Claims shall be initiated by the Claimant within a reasonable time after the Claim has arisen, and in no event shall it be made after the date when institution of legal or equitable proceedings based on such Claim would be barred by the applicable statute of limitations or repose.

Section 20.3 Claims . Except as excluded or exempted by the terms of this Article 20, "Claim" means any claim, grievance, controversy or dispute between one Bound Party and another, regardless of how the same may have arisen or on what it might be based, including without limitation, those arising out of or related to (i) the interpretation, application or enforcement of any of the Documents or the rights, obligations and duties of any Party under any of the Documents; (ii) enforcement of any of the provisions of the Master Declaration as applied to the Project; (iii) the design or construction of improvements; (iv) any statements, representations, promises, warranties, or other communications made by or on behalf of any Bound Party.

Section 20.4 Exclusions From Claims . Unless all parties thereto otherwise agree, the following claims, grievances, controversies or disputes shall be excluded from the definition of Claims under Section 20.3 and shall be excluded from the provisions of this Article 20:

20.4.1. An action by the Association relating to the collection or enforcement of the obligation to pay Assessments or other charges set forth in the Association Documents;

20.4.2. An action by the Association to obtain a temporary restraining order or preliminary injunction (or equivalent emergency equitable relief) and such other ancillary relief as the court may deem necessary in order to enjoin any immediate threat to persons or property, except that, once any temporary restraining order or preliminary injunctive relief is obtained, resolution of any permanent injunction claims shall be through arbitration as set forth herein;

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

20.4.4. Any action in which any indispensable party does not include the Association, its

officers, directors, or committee members, or a Declarant, its officers, directors or owners, or a person subject to the Association Documents, or their officers, directors, partners, members, employees and agents;

20.4.6. Any action to enforce a settlement agreement or arbitration award made under the provisions of this Article 20.

Section 20.5 Dispute Resolution Procedures . The following procedures will be followed in all Claims:

20.5.1. Prior to proceeding with any Claim, the party(s) asserting the Claim ("Claimant") shall give written notice of the Claim to all opposing party(s) ("Respondent"), which notice shall state plainly and concisely: (i) the nature of the claim, including all persons involved and Respondent's role in the Claim; (ii) the legal or contractual basis of the Claim (i.e. the specific authority out of which the Claim arises); and (iii) the specific relief and/or proposed remedy sought.

20.5.2. After the Respondent receives the notice of Claim, the parties shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation. Such efforts may include inspections of the Claimant's or the Respondent's Unit or the Common Elements for purposes of evaluating any alleged violation. In the exercise of the inspection rights, the party causing the inspection to be made ("Inspecting Party") shall: (a) be careful to avoid any unreasonable intrusion upon, or harm, damage or costs to the other party or property to be inspected ("Inspected Property"); (b) minimize any disruption or inconvenience to any person who occupies the Inspected Property; (c) keep the Inspected Property clean and remove all debris daily caused by the inspection and located on the Inspected Property; and (d) in a reasonable and timely manner, at the Inspecting Party's sole cost and expense, promptly remove all equipment and materials from the Inspected Property and repair and replace all damage, and restore the Inspected Property to the condition of the Inspected Property as of the date of the inspection, unless the Inspected Property is to be immediately repaired. Any party may be represented by attorneys and independent consultants to assist in the negotiations and to attend meetings.

20.5.3. If the parties do not resolve the claim through negotiations within forty-five (45) days after submission of the claim to the Respondent, or if any party in good faith determines that negotiations have been and will be to no avail, the Claimant shall have an additional forty-five (45) days to submit the Claim to a mediator for mediation. In the event the parties are unable to agree on a mediator, either party may request that a mediator be appointed by the District Court in Boulder County. The Claim shall be deemed to be submitted upon filing the petition for appointment of the mediator.

20.5.4. If the Claimant fails to submit the claim to mediation within the permitted time, or fails to appear at the mediation, the Claimant shall be deemed to have waived the Claim, and Respondent shall be released and discharged from any and all liability to Claimant on

account of the Claim; provided, nothing herein shall release or discharge Respondent from any liability to any person other than Claimant.

20.5.5. Any settlement of the Claim through mediation shall be documented in writing by the mediator and signed by the parties. If a termination of the mediation occurs without a resolution, the mediator shall issue a written statement advising that the parties are at an impasse.

20.5.6. Unless otherwise agreed, each party shall bear its own costs of the mediation, including attorneys fees, and each party shall share equally all charges of the mediator.

20.5.7. Upon termination of mediation without a resolution, if Claimant desires to pursue the claim, the Claimant shall have an additional forty-five (45) days to initiate final, binding arbitration of the Claim with an arbitrator. If the Claimant fails to submit the claim to arbitration within the permitted time, or fails to appear at the arbitration, the Claimant shall be deemed to have waived the Claim, and Respondent shall be released and discharged from any and all liability to Claimant on account of the Claim; provided, nothing herein shall release or discharge Respondent from any liability to any person other than Claimant. In the event the parties are unable to agree on an arbitrator, either party may request that an arbitrator be appointed by the District Court in Boulder County. The Claim shall be deemed to be submitted upon filing the petition for appointment of the arbitrator. Arbitration shall be conducted in accordance with the provisions of Exhibit G attached hereto. Any award rendered may be entered in and enforced by any court having jurisdiction over the claim. The arbitrator shall have authority, in the sound exercise of discretion, to award the prevailing party such party's costs and expenses, including reasonable attorney's fees, costs, expenses, arbitrator's fees and administrative fees of the arbitration. Unless otherwise mutually agreed to by the parties to the claim, there shall be one arbitrator who, to the extent feasible, shall have expertise in the area(s) of dispute.

20.5.8. The award of the arbitrator shall be accompanied by detailed written findings of fact and conclusions of law. Except as may be required by law or for confirmation of an award, neither a party nor the arbitrator may disclose the existence, content, or results of any arbitration without the prior written consent of all parties to the Claim. Any award shall be enforceable in accordance with C.R.S. 13-22-201 *et seq.*, as amended from time to time. The party seeking enforcement shall be entitled to all reasonable attorney's fees and costs incurred in the enforcement of the award.

ARTICLE 22 GENERAL PROVISIONS

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

invalidate such provision as a whole but shall be adjusted as is necessary to comply with the Act. Declarant shall have the right to assign its rights, obligations or interest herein to any person or entity by an assignment or deed of record executed by both Declarant and the transferee or assignee and recorded with the Clerk and Recorder.

Section 22.2 Notice . Any notice to an Owner of matters affecting the Project by the Association or by another Owner shall be sufficiently given if in writing and delivered personally, by courier or private service delivery, on the third business day after deposit in the U.S. mail, at the address provided by the Owner to the Association, and if none, at the address of that Owner's Unit.

Section 22.3 Enforcement . All of the provisions of this Section 22.3 are subject to the provisions of Article 20 above, and shall only apply to those matters not constituting a Claim under the provisions of Article 20 above. The Association on behalf of itself and any aggrieved Owner shall be granted a right of action for any matter not constituting a Claim under Article 20 above against any and all Owners for failure to comply with the provisions of the Master Declaration, the Association Documents, or with decisions of the Executive Board made pursuant to authority granted to the Association in the Association Documents. In any action covered by this Section, the Association or any Owner shall have the right but not the obligation to enforce the Master Declaration or the Association Documents by any proceeding at law or in equity, or as set forth in the Association Documents, or by mediation or binding arbitration. The prevailing party in any arbitration or judicial relief shall be entitled to reimbursement from the non-prevailing party or parties, for all costs and expenses, including attorney's fees in connection with such arbitration or judicial relief. Failure by the Association or by any Owner to enforce compliance with any provision of the Master Declaration or the Association Documents shall not be deemed a waiver of the right to enforce any provision thereafter. The decision of the Association to pursue enforcement action in any particular case shall be left to the Board's discretion, subject to the duty to exercise its business judgment, and shall not be arbitrary or capricious in taking enforcement action. Without limiting the generality of the foregoing, the Board may determine that, under the circumstances of a particular case: (i) the Association's position is not strong enough to justify taking any or further action; (ii) the covenant, restriction or rule being enforced is, or is likely to be construed as, inconsistent with applicable law; (iii) although a technical violation may exist or may have occurred, it is not of such a material nature as to be objectionable to a reasonable person or to justify expending the Association's resources; or (iv) that it is not in the Association's best interests, based on hardship, expense or other reasonable criteria, to pursue enforcement action.

Section 22.4 Severability . Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 22.5 Conflicts Between Documents . In case of conflict between this Declaration and the Articles and the Bylaws of the Association, this Declaration shall control. In case of conflict between the Articles and the Bylaws, the Articles shall control.

Section 22.6 Disclosures and Owners' Acknowledgment . Declarant hereby disclose, and each Owner by virtue of accepting a conveyance of a Unit hereby acknowledges, that: (i) the Project consists of many attached Units, and the proximity of such Units as well as the connection of Units may lead to higher noise levels as well as other disruptions, annoyances or inconveniences inherent in attached occupancy properties; (ii) the Project and Owners may be impacted visually, and by noise, vibrations, odors, dust and other inconveniences from allowed uses within the Project; and (iii) the Project and Owners may be impacted visually, and by noise, vibrations, odors, dust and by other inconveniences resulting from commercial and retail uses and ongoing and future development on properties and areas adjacent to or near the Project, including without limitation, demolition, construction activities, traffic and noise.

In Witness Whereof the Declarant have set their hands and seals on the day and year first set forth above.

DECLARANT:

4655 YARMOUTH, LLC,
a Colorado limited liability company

By: 
Mary Roosevelt, Authorized Representative

STATE OF COLORADO)
) ss.
COUNTY OF BOULDER)

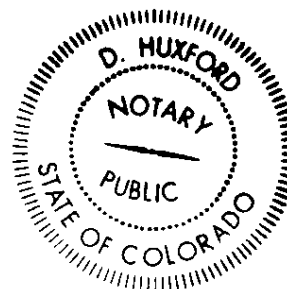
The foregoing instrument was acknowledged before me this 29th day of November 2011 by Mary Roosevelt Authorized Representative of 4655 YARMOUTH, LLC, a Colorado limited liability company.

Witness my hand and official seal.

D. Huxford
Notary Public

My commission expires:

My Commission Expires:
02/05/2012



MORTGAGEE CONSENT

Consent is hereby given to the above Declaration (including the Map recorded herewith), and the undersigned hereby agrees to the recording and imposition of the covenants as provided in the Declaration. The undersigned agrees and acknowledges that any foreclosure or enforcement of any other remedy available to the undersigned under the Deed of Trust date February 01, 2011, from 4655 Yarmouth, LLC, a Colorado limited liability company to the Public Trustee of Boulder County for the use of Community Housing Capital Inc. recorded February 02, 2011, under Reception No. 03130699 of the records of the Clerk and Recorder of the County of Boulder, Colorado and the Financing Statement with, Community Housing Capital Inc. the secured party, recorded February 02, 2011 under Reception No. 03130700 of the records of the Clerk and Recorder of the County of Boulder, Colorado (collectively the "Deed of Trust") of the records of the Clerk and Recorder of the County of Boulder, Colorado, and all other agreements executed in connection therewith, or under any other deeds of trust or other security agreements for the benefit of the undersigned with regard to the Property described in the Declaration will not render void or otherwise impair the validity of the Declaration. Additionally, the undersigned subordinates the lien and interests of the undersigned under said Deed of Trust as above referenced and under any other deeds of trust or other security agreements for the benefit of the undersigned with regard to the Neighborhood described in the Declaration to the covenants, terms and conditions of the above Declaration.

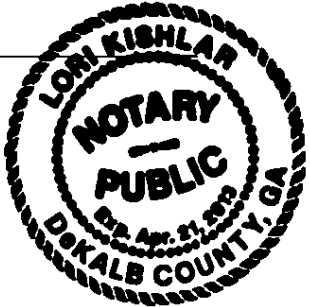
By: [Signature] Title SVP/COO

STATE OF GEORGIA)
) ss.
COUNTY OF DEKALB)

The foregoing instrument was acknowledged before me this 30 day of November 2011 by DAVID U. LANDIS II as SVP/COO of Community Housing Capital, Inc..

Witness my hand and official seal.

[Signature]
Notary Public



**EXHIBIT A TO
DECLARATION OF YARMOUTH WAY CONDOMINIUMS**

PROPERTY SUBJECT TO DECLARATION

EXHIBIT "A"

LOCATED IN THE SOUTHWEST QUARTER OF SECTION 7, TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY OF BOULDER, COUNTY OF BOULDER, STATE OF COLORADO
SHEET 1 OF 2

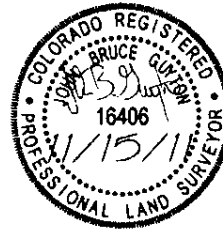
A PORTION OF LOT 15, PEOPLE'S CLINIC SUBDIVISION RECORDED IN THE RECORDS OF BOULDER COUNTY ON OCTOBER 5, 2006 AT RECEPTION NO. 2809748, LOCATED IN THE SOUTHWEST QUARTER OF SECTION 7, TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY OF BOULDER, COUNTY OF BOULDER, STATE OF COLORADO.

CONSIDERING THE EAST LINE OF PEOPLE'S CLINIC SUBDIVISION TO BEAR SOUTH 00°10'46" EAST, BETWEEN TWO FOUND #5 REBAR, WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO.

PARCEL 1:

COMMENCING AT AN EASTERLY CORNER OF LOT 15, PEOPLE'S CLINIC SUBDIVISION; THENCE ALONG A NORTHERLY LINE OF SAID LOT 15 SOUTH 89°26'00" WEST, A DISTANCE OF 78.39 FEET TO AN EASTERLY CORNER OF SAID LOT 15; THENCE ALONG AN EAST LINE OF SAID LOT 15 NORTH 00°34'00" WEST, A DISTANCE OF 2.61 FEET TO THE POINT OF BEGINNING; THENCE DEPARTING SAID EAST LINE SOUTH 89°26'05" WEST, A DISTANCE OF 116.86 FEET; THENCE NORTH 00°34'00" WEST, A DISTANCE OF 14.91 FEET TO A WESTERLY CORNER OF SAID LOT 15; THENCE ALONG A WEST LINE OF SAID LOT 15 NORTH 00°34'00" WEST, A DISTANCE OF 38.28 FEET; THENCE DEPARTING SAID WEST LINE NORTH 89°26'00" EAST, A DISTANCE OF 116.86 FEET TO A POINT ON AN EAST LINE OF SAID LOT 15; THENCE ALONG SAID EAST LINE SOUTH 00°34'00" EAST, A DISTANCE OF 53.19 FEET TO THE POINT OF BEGINNING.


SAID PARCEL CONTAINING 6,216 SQ.FT. OR 0.14 ACRES, MORE OR LESS.



DRAWN BY: B. OELKE
DATE: NOVEMBER 15, 2011

THIS IS NOT A "LAND SURVEY PLAT" OR "IMPROVEMENT SURVEY PLAT" AND THIS EXHIBIT IS NOT INTENDED FOR PURPOSES OF TRANSFER OF TITLE OR SUBDIVISIONS OF LAND. RECORD INFORMATION SHOWN HEREON IS BASED ON INFORMATION PROVIDED BY CLIENT.

Flatirons, Inc.
Surveying, Engineering & Geomatics

3825 IRIS AVE. STE 395 BOULDER, CO 80301 PH: (303) 443-7001 FAX: (303) 443-9830		655 FOURTH AVE LONGMONT, CO 80501 PH: (303) 776-1733 FAX: (303) 776-4355
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www.FlatironsInc.com

EXHIBIT "A"

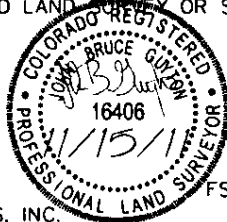
LOCATED IN THE SOUTHWEST QUARTER OF SECTION 7, TOWNSHIP 1 NORTH, RANGE
70 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY OF BOULDER,
COUNTY OF BOULDER, STATE OF COLORADO
SHEET 2 OF 2

PARCEL 2:

BEGINNING AT THE SOUTHWEST CORNER OF LOT 15, PEOPLE'S CLINIC SUBDIVISION; THENCE
ALONG THE WEST LINE OF SAID LOT 15 NORTH 00°08'53" WEST, A DISTANCE OF 97.03 FEET;
THENCE DEPARTING SAID WEST LINE NORTH 89°23'22" EAST, A DISTANCE OF 55.75 FEET;
THENCE NORTH 00°37'39" WEST, A DISTANCE OF 1.05 FEET; THENCE NORTH 89°22'21" EAST,
A DISTANCE OF 37.85 FEET; THENCE SOUTH 00°34'00" EAST, A DISTANCE OF 98.16 FEET TO
A POINT ON THE SOUTH LINE OF SAID LOT 15; THENCE ALONG SAID SOUTH LINE SOUTH
89°26'00" WEST, A DISTANCE OF 94.31 FEET TO THE SOUTHWEST CORNER OF SAID LOT 15,
SAID POINT ALSO BEING THE POINT OF BEGINNING.

SAID PARCEL CONTAINING 9,159 SQ.FT. OR 0.21 ACRES, MORE OR LESS.

I, JOHN B. GUYTON, A LAND SURVEYOR LICENSED IN THE STATE OF COLORADO, DO HEREBY
STATE FOR AND ON BEHALF OF FLATIRONS, INC., THAT THIS PARCEL DESCRIPTION AND
ATTACHED EXHIBIT, BEING MADE A PART THEREOF, WERE PREPARED BY ME OR UNDER MY
RESPONSIBLE CHARGE AT THE REQUEST OF THE CLIENT AND IS NOT INTENDED TO
REPRESENT A MONUMENTED LAND, TRACT OR SUBDIVIDE LAND IN VIOLATION OF STATE
STATUTE.



JOHN B. GUYTON
COLORADO P.L.S. #16406
CHAIRMAN/CEO, FLATIRONS, INC. FSI JOB NO. 11-58,657

DRAWN BY: B. OELKE
DATE: NOVEMBER 15, 2011

THIS IS NOT A "LAND SURVEY PLAT" OR "IMPROVEMENT
SURVEY PLAT" AND THIS EXHIBIT IS NOT INTENDED FOR
PURPOSES OF TRANSFER OF TITLE OR SUBDIVISIONS OF LAND
RECORD INFORMATION SHOWN HEREON IS BASED ON
INFORMATION PROVIDED BY CLIENT.

Flatirons, Inc.
Surveying, Engineering & Geomatics

3825 IRIS AVE, STE 395 BOULDER, CO 80301 PH: (303) 443-7001 FAX: (303) 443-9830		655 FOURTH AVE LONGMONT, CO 80501 PH: (303) 776-1733 FAX: (303) 776-4355
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www.FlatironsInc.com

**EXHIBIT B TO
DECLARATION OF YARMOUTH WAY CONDOMINIUMS**

ADDITIONAL PROPERTY

LEGAL DESCRIPTION

Lot 15, People's Clinic Subdivision, County of Boulder, State of Colorado except those parcels described in Exhibit A above.

**EXHIBIT C-1 TO
DECLARATION OF YARMOUTH WAY CONDOMINIUMS**

UNDIVIDED INTEREST IN COMMON ELEMENTS

Unit Number	Area of Unit	Allocated Interest in Common Elements	Votes Allocated to Units
Unit 7	1464	15.052%	1
Unit 8	1437	14.775%	1
Unit 9	1437	14.775%	1
Unit 10	1437	14.775%	1
Unit 11	1437	14.775%	1
Unit 20	2514	25.848%	1

**EXHIBIT C-2 TO
DECLARATION OF YARMOUTH WAY CONDOMINIUMS
COMMON EXPENSE LIABILITY**

Unit Number	Area of Unit	Allocated Interest in General Common Expenses	Allocated Interest in District Common Expenses
<i>Attached District</i>			
Unit 7	1464	15.052%	20.300%
Unit 8	1437	14.775%	19.925%
Unit 9	1437	14.775%	19.925%
Unit 10	1437	14.775%	19.925%
Unit 11	1437	14.775%	19.925%
<i>Detached District</i>			
Unit 20	2514	25.848%	100%

**EXHIBIT D TO
DECLARATION OF YARMOUTH WAY CONDOMINIUMS**

**DESIGNATION OF DISTRICTS
(INCLUDING UNITS THAT MAY BE CREATED IN THE ADDITIONAL PROPERTY)**

DESIGNATION OF DISTRICTS

District 1: Attached Unit District

- Unit 1
- Unit 2
- Unit 3
- Unit 4
- Unit 5
- Unit 6
- Unit 7
- Unit 8
- Unit 9
- Unit 10
- Unit 11
- Unit 18
- Unit 19
- Unit 21
- Unit 22
- Unit 24
- Unit 25

District 2: Detached Unit District

- Unit 12
- Unit 13
- Unit 14
- Unit 15
- Unit 16
- Unit 17
- Unit 20
- Unit 23

**EXHIBIT E TO
DECLARATION OF YARMOUTH WAY CONDOMINIUMS
EASEMENTS AND LICENSES ENCUMBERING THE PROJECT**

1. RIGHT OF PROPRIETOR OF A VEIN OR LODE TO EXTRACT AND REMOVE HIS ORE THEREFROM SHOULD THE SAME BE FOUND TO PENETRATE OR INTERSECT THE PREMISES AS RESERVED IN UNITED STATES PATENT RECORDED JULY 16, 1888, IN BOOK 75 AT PAGE 460.
2. TERMS, CONDITIONS AND PROVISIONS OF ANNEXATION AGREEMENT RECORDED FEBRUARY 19, 1991 AT RECEPTION NO. 1088216.
3. ANY TAX, LIEN, FEE, OR ASSESSMENT BY REASON OF INCLUSION OF SUBJECT PROPERTY IN THE MUNICIPAL SUBDISTRICT, NORTHERN COLORADO WATER CONSERVANCY DISTRICT, AS EVIDENCED BY INSTRUMENT RECORDED SEPTEMBER 03, 1991, UNDER RECEPTION NO. 01127209.
4. TERMS, CONDITIONS AND PROVISIONS OF DEVELOPMENT AGREEMENT RECORDED JULY 11, 2002 AT RECEPTION NO. 2307277 AND AS AMENDED IN INSTRUMENT RECORDED JUNE 13, 2006 UNDER RECEPTION NO. 2783259.
5. TERMS, CONDITIONS AND PROVISIONS OF AGREEMENT RECORDED MAY 14, 2004 AT RECEPTION NO. 2587378 AND AS AMENDED IN INSTRUMENT RECORDED SEPTEMBER 23, 2004 UNDER RECEPTION NO. 2629441.
6. RESTRICTIVE COVENANTS, WHICH DO NOT CONTAIN A FORFEITURE OR REVERTER CLAUSE, BUT OMITTING ANY COVENANTS OR RESTRICTIONS, IF ANY, BASED UPON RACE, COLOR, RELIGION, SEX, SEXUAL ORIENTATION, FAMILIAL STATUS, MARITAL STATUS, DISABILITY, HANDICAP, NATIONAL ORIGIN, ANCESTRY, OR SOURCE OF INCOME, AS SET FORTH IN APPLICABLE STATE OR FEDERAL LAWS, EXCEPT TO THE EXTENT THAT SAID COVENANT OR RESTRICTION IS PERMITTED BY APPLICABLE LAW, AS CONTAINED IN INSTRUMENT RECORDED AUGUST 22, 2003, UNDER RECEPTION NO. 2492348.
7. TERMS, CONDITIONS AND PROVISIONS OF SUBDIVISION AGREEMENT RECORDED SEPTEMBER 08, 2006 AT RECEPTION NO. 2803777.
8. TERMS, CONDITIONS AND PROVISIONS OF GRANT OF EASEMENT RECORDED FEBRUARY 09, 2005 AT RECEPTION NO. 2664051.

9. RESTRICTIVE COVENANTS, WHICH DO NOT CONTAIN A FORFEITURE OR REVERTER CLAUSE, BUT OMITTING ANY COVENANTS OR RESTRICTIONS, IF ANY, BASED UPON RACE, COLOR, RELIGION, SEX, SEXUAL ORIENTATION, FAMILIAL STATUS, MARITAL STATUS, DISABILITY, HANDICAP, NATIONAL ORIGIN, ANCESTRY, OR SOURCE OF INCOME, AS SET FORTH IN APPLICABLE STATE OR FEDERAL LAWS, EXCEPT TO THE EXTENT THAT SAID COVENANT OR RESTRICTION IS PERMITTED BY APPLICABLE LAW, AS CONTAINED IN INSTRUMENT RECORDED NOVEMBER 06, 2006, UNDER RECEPTION NO. 2816516.
10. RESTRICTIVE COVENANTS, WHICH DO NOT CONTAIN A FORFEITURE OR REVERTER CLAUSE, BUT OMITTING ANY COVENANTS OR RESTRICTIONS, IF ANY, BASED UPON RACE, COLOR, RELIGION, SEX, SEXUAL ORIENTATION, FAMILIAL STATUS, MARITAL STATUS, DISABILITY, HANDICAP, NATIONAL ORIGIN, ANCESTRY, OR SOURCE OF INCOME, AS SET FORTH IN APPLICABLE STATE OR FEDERAL LAWS, EXCEPT TO THE EXTENT THAT SAID COVENANT OR RESTRICTION IS PERMITTED BY APPLICABLE LAW, AS CONTAINED IN INSTRUMENT RECORDED FEBRUARY 10, 1983, UNDER RECEPTION NO. 532761.
11. TERMS, CONDITIONS AND PROVISIONS OF COVENANT TO BE BOUND BY MASTER DECLARATION RECORDED NOVEMBER 06, 2006 AT RECEPTION NO. 2816517. TERMS, CONDITIONS AND PROVISIONS OF DEVELOPMENT AGREEMENT RECORDED APRIL 21, 2011 AT RECEPTION NO. 03145082.
12. TERMS, CONDITIONS AND PROVISIONS OF GRANT OF UTILITY EASEMENT RECORDED JUNE 02, 2011 AT RECEPTION NO. 03151905.
13. TERMS, CONDITIONS AND PROVISIONS OF GRANT OF EMERGENCY ACCESS EASEMENT RECORDED JUNE 02, 2011 AT RECEPTION NO. 03151906.
14. TERMS, CONDITIONS AND PROVISIONS OF GRANT OF UTILITY EASEMENT RECORDED JUNE 02, 2011 AT RECEPTION NO. 03151907.
15. TERMS, CONDITIONS AND PROVISIONS OF GRANT OF PUBLIC ACCESS AND UTILITY EASEMENT RECORDED JUNE 02, 2011 AT RECEPTION NO. 03151908.
16. TERMS, CONDITIONS AND PROVISIONS OF GRANT OF PUBLIC ACCESS AND UTILITY EASEMENT RECORDED JUNE 02, 2011 AT RECEPTION NO. 03151909.
17. TERMS, CONDITIONS AND PROVISIONS OF GRANT OF UTILITY EASEMENT RECORDED JUNE 02, 2011 AT RECEPTION NO. 03151910.
18. EASEMENTS, CONDITIONS, COVENANTS, RESTRICTIONS, RESERVATIONS AND NOTES ON THE RECORDED PLAT OF PEOPLES CLINIC SUBDIVISION RECORDED OCTOBER 5, 2006 UNDER RECEPTION NO. 2809748.

19. DEED OF VACATION RECORDED JUNE 15, 2011 UNDER RECEPTION NO. 03153911.

20. TERMS, PROVISIONS, BURDENS, OBLIGATIONS PERTAINING TO AFFORDABLE HOUSING AND INCOME ELIGIBILITY COVENANTS, AS SET FORTH IN PERMANENTLY AFFORDABLE CONDOMINIUMS UNITS INTERIM COVENANT RECORDED JULY 22, 2011 UNDER RECEPTION NO. 03160940 AND AUGUST 9, 2011 UNDER RECEPTION NO. 03164451.

**EXHIBIT F TO
DECLARATION OF YARMOUTH WAY CONDOMINIUMS**

MAINTENANCE AND CAPITAL REPLACEMENT RESPONSIBILITIES

The attached chart and the titles and headings used are not intended to describe or encompass all maintenance or replacement functions, nor to delineate all respective responsibilities between the Owners and the Condominium Association. The placement of responsibility under any specific column does not always accurately reflect the precise character and nature of ownership. The appropriate sections of the Declaration determine ownership. In some cases, maintenance responsibility is allocated to the Condominium Association to ensure central maintenance responsibility, uniformity and quality of repair, and to protect community health and safety. Where such maintenance is required due to the negligent or wrongful act or omission of an Owner (or member of his household, tenants, employees, agents, visitor, guests or pets), the Association may perform the necessary maintenance at the sole expense of the Owner.

ASSOCIATION RESPONSIBILITY - Responsibility for determining the maintenance, repair and replacement requirements of these items and determining the costs thereof shall be the responsibility of the Yarmouth Way Condominium Association, Inc. and such designees to which it may delegate certain such responsibilities.

OWNER RESPONSIBILITY - Responsibility for determining the maintenance, repair and replacement requirements of these items and determining the costs thereof shall be the responsibility of the Owners in Yarmouth Way Condominium Association, Inc. In addition, there may be certain other components that are the Owner's responsibility without respect to ownership of the component. Without limiting the foregoing, any portion of a fireplace, chimney, chute, flue, duct, pipe, drain, wire, conduit, bearing wall, bearing column, or other fixture which lies completely or partially within and/or completely or partially outside the designated boundaries of a Unit which serves only that Unit is the responsibility of the Unit Owner. All components within a Unit are the responsibility of the Unit Owner. The Unit is defined as an individual airspace which is contained within the perimeter windows, doors and unfinished surfaces of perimeter walls, floors and ceilings as shown on the Map. All spaces, interior partitions, and other fixtures and improvements within the boundaries of a Unit, including floors dividing stories within a Unit, and all lath, furring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, finished flooring and any other materials constituting any part of the interior finished surfaces thereof are a part of the Unit.

See Attached Chart

CHART OF MAINTENANCE AND CAPITAL REPLACEMENT RESPONSIBILITIES

A = The Association	
O = Owner	
A/O = Association responsibility for originally installed or repaired in accordance with original plans/specs but Owner responsibility if added by owner	

BUILDING EXTERIORS	Maintenance	Insurance
Roof shingles and roof underlay	A	A
Siding, sheathing, wrap, brick, trim, molding, and other exterior façade surface	O	A
Stoops, doorsteps, and other concrete surfaces	O	A
Railings on stoops and porches	O	A
Entry door columns	O	A
Porches, patios, decks and balconies	O	A
Patio covers and roofs	O	A
Railings and wall enclosures on front and back balconies	O	A
Gutters and downspouts	O	A
Chimneys and chimney caps	O	A
Glass in windows and doors, window panes	O	A
Window and door screens	O	A
Window frames	O	A
Entry doors - except for painting	O	A
Entry doors - painting only	O	A
Garage doors- except for painting	O	A
Garage doors - painting only	O	O
Garage doors openers -	O	O
Garage Door opener remotes	O	O
All door hardware, including but not limited to peep holes, door knobs and locks	O	A
Storm doors	O	A
Balcony/patio doors	O	A
Sliding glass doors	O	A
Door frames - except for painting	O	A
Door frames - exterior painting only	O	A
Exterior light fixtures (excluding light bulbs)	O	A
Replacement of light bulbs	O	N/A
Address numbers	O	A
Antennas/Satellite dishes	O	O
Solar panels	O	O
Other original exterior portions of the Dwelling Unit not otherwise stated above	O	A
All exterior improvements added by Owner	O	O
RESIDENCE INTERIORS		
Furnishings, including all personal property such as furniture, electronics, jewelry, and clothing	O	O
Any household goods of Owner	O	O
Fixtures including but not limited to the following: ceiling fans, hand rails, cabinets, countertops, bathtubs and showers, sinks, toilets	O	A/O
Appliances including: oven, range, refrigerator, dishwasher, clothes washer/dryer, countertops microwave	O	O
All other installations or additions comprising part of the individual Dwelling Unit within the unfinished interior surfaces of the perimeter walls, floors, and ceilings, of the Dwelling Unit	O	A/O
Interior surfaces of walls and ceilings - including but not limited to drywalls, paint, wallpaper, paneling, texture	O	A/O

Surfaces of floors - including: tile, vinyl, hardwood, carpeting	O	A/O
Any components lying between the perimeter drywalls and residence exterior, including but not limited to: insulation, girders, beams, pipes, wiring, plumbing	A	A
Crawl spaces, including all fixtures, installations or additions within the unfinished interior surfaces of the same	O	A/O
Party walls (walls dividing residences and shared by owners/residents on each side)	O	A
Fireplaces (including façade, screen, chimney back, flue and damper)	O	O
UTILITIES		
Utilities and related equipment located inside the unfinished interior surfaces of the perimeter walls, floors and ceilings of the Dwelling Unit including: furnaces, heating equipment, thermostats, ducts, conduits, water pipes, electrical wiring, electrical outlets, telephone wiring, telephone outlets, light switches, hot water equipment, cable wiring, compressors, sump pumps, circuit breakers	O	A/O
Utilities located outside the foundation of the Dwelling Unit including: electrical and other wires, water/sewer pipes, cables, circuit boxes, water meters, circuit breakers	A	A
GROUNDS		
Bike Racks	A	A
Walkways and driveways	A	A
Landscaping located in LCE yards, as originally installed, including but not limited to grass, trees, hedges, flowers, and plantings	O	O
Landscaping located on LCE yards, added by Owners and approved by Design Review Committee	O	O
All Common Area landscaping	A	A
Courtyard walls and fences, gates & gate windows located on Lots, as originally installed	O	O
Retaining walls and fences located on Lots, added by Owners and approved Design Review Committee	O	O
All retaining walls and fences located on Common Area including all perimeter fences	A	A
Sprinkling system in Common Area landscaping	A	A
All of the LCE yard and any other visible improvements thereon lying outside the foundations of the Dwelling Unit, as originally installed	O	O
All of the Lot and any other visible improvements thereon lying outside the foundations of the Dwelling Unit, as added by the Owner	O	O
All Common Area and any landscaping, fencing and all other improvements thereon (excluding fencing around LCE yards)	A	A
OTHER		
All other portions of the Dwelling Unit and Lot not otherwise addressed above	O	O
Snow removal from perimeter sidewalks	A	N/A
Fire Sprinkler- replacement	O	A
Fire Sprinkler- annual flush	A	N/A

**EXHIBIT G TO
DECLARATION OF YARMOUTH WAY CONDOMINIUMS**

Arbitration Procedures

1. No person shall serve as the arbitrator where that person has any financial or personal interest in the result of the arbitration or any family, social or significant professional acquaintance with any other party to the arbitration. Any person designated as an arbitrator shall immediately disclose in writing to all parties any circumstance likely to affect the appearance of impartiality, including any bias or financial or personal interest in the outcome of the arbitration (“Arbitrator Disclosure”). If any party objects to the service of any arbitrator within 14 days after receipt of that Arbitrator’s Disclosure, such arbitrator shall be replaced in the same manner in which that arbitrator was selected.

2. The arbitrator shall fix the date, time and place for the hearing. The arbitration proceedings shall be conducted in Boulder County, Colorado unless otherwise agreed by the parties.

3. No formal discovery shall be conducted in the absence of an order of the arbitrator or express written agreement among all the parties.

4. Unless directed by the arbitrator, there will be no post-hearing briefs.

5. The arbitration award shall address each specific Claim to be resolved in the arbitration, provide a summary of the reasons therefore and the relief granted, and be rendered promptly after the close of the hearing and no later than 14 days from the close of the hearing, unless otherwise agreed by the Parties. The award shall be in writing and shall be signed by the arbitrator.

6. The arbitrator shall have authority, in the sound exercise of discretion, to award the prevailing party such party’s costs and expenses, including reasonable attorney’s fees.