

**AMENDED CONDOMINIUM DECLARATION OF
THREE SEASONS CONDOMINIUMS**

THIS AMENDED CONDOMINIUM DECLARATION OF THREE SEASONS CONDOMINIUMS (“Amended Declaration”), shall be effective upon recordation and is made and adopted by Three Seasons Condominium Owners’ Association, Inc., a Colorado nonprofit corporation (the “Association”), to amend, supersede, and replace the Condominium Declaration Three Seasons Condominiums recorded on February 27, 1980 at Gunnison County Reception No. 348811 and the Amendment to Condominium Declarations Three Seasons Condominium recorded on March 25, 1980 at Gunnison County Reception No. 348252 and any other amendments thereto (collectively referred to herein as the “original Declaration”).

ELECTION FOR TREATMENT UNDER THE COLORADO COMMON INTEREST OWNERSHIP ACT

Three Seasons Condominium Owners’ Association, Inc., a Colorado nonprofit corporation, does hereby submit the real property located in Gunnison County, Colorado described on Exhibit A, attached hereto and incorporated herein by this reference, otherwise referred to herein as the “Property,” and all improvements thereon to the provisions of the Colorado Common Interest Ownership Act, Sections 38-33.3-101 to 38-33.3-401, C.R.S., as amended, for the purpose of treating the Three Seasons Condominiums as a condominium community thereunder, and that such Property and all improvements thereon shall be held and conveyed subject to the Act and the following terms, covenants, restrictions, and conditions:

ARTICLE 1. DEFINITIONS

- 1.1. *Act.* The Act is the Colorado Common Interest Ownership Act, Sections 38-33.3-101 to 38-33.3-401, C.R.S., as amended from time to time.
- 1.2. *Allocated Interests.* Allocated Interests are undivided interests in the Common Elements, the Common Expenses, and votes in the Association, allocated to Units in the Common Interest Community. The Allocated Interests are described in Article 7 of this Amended Declaration.
- 1.3. *Amended Declaration.* The Amended Declaration is this document, including any future amendments.
- 1.4. *Association.* The Association is Three Seasons Condominium Owners’ Association, Inc., a Colorado nonprofit corporation. It is the association of owners pursuant to Section 38-33.3-301, C.R.S. The Association shall have the following powers:
 - (a) to operate the Common Interest Community in accordance with the Act and this Amended Declaration;
 - (b) to promote the health, safety, welfare and common benefit of the owners and residents of the Common Interest Community; and
 - (c) to do any and all permitted acts and to have and exercise any and all powers, rights, and privileges that are granted to an Association of Unit Owners under the laws of the State of Colorado, this Amended Declaration, the Bylaws, the Rules & Regulations, and any other governing documents of the Common Interest Community and the Association.
- 1.5. *Bylaws.* The Bylaws are the Bylaws of the Association, as they may be amended from time to time.
- 1.6. *Common Elements.* The Common Elements are each portion of the Common Interest Community other than a Unit. *General Common Elements* are the Common Elements, but not including the Limited Common Elements.
- 1.7. *Common Expenses.* The Common Expenses are the expenses or financial liabilities for the operation of the Common Interest Community. *Common Expense Assessments* are the funds required to be paid by each Unit Owner in payment of such Owner’s Common Expense liability. These expenses include:
 - (a) expenses of administration, maintenance, construction, improvement, repair, or replacement of the Common

Elements, but not including the Limited Common Elements;

(b) expenses declared to be Common Expenses by the Documents or by the Act;

(c) expenses agreed upon as Common Expenses by the Association; and

(d) reasonable reserves established by the Association, whether held in trust or by the Association, for repair, replacement, or addition to the Common Elements or any other real or personal property acquired or held by the Association.

In addition, the costs and expenses imposed by the Association, benefiting fewer than all the Units, shall be a Common Expense but, except as otherwise stated in this Amended Declaration, assessed exclusively against those Units benefited.

1.8. *Common Interest Community.* The Common Interest Community is the real property described in Exhibit A of, and subject to, this Amended Declaration. A copy of Exhibit A is attached hereto and incorporated herein by this reference.

1.9. *Director.* A Director is a member of the Executive Board.

1.10. *Documents.* The Documents are this Amended Declaration and the Map recorded and filed pursuant to the provisions of the Act, the Articles of Incorporation of the Association, the Bylaws, the Rules & Regulations, and any other Association policies and/or procedures adopted by the Executive Board, as the aforementioned may be amended from time to time. Any exhibit, schedule, or certification accompanying a Document is a part of that Document.

1.11. *Executive Board.* The Executive Board is the board of directors of the Association.

1.12. *Improvements.* Improvements are any construction, structure, equipment, fixture, or facilities existing, or to be constructed on the Property, including, but not limited to, buildings, trees, shrubbery, paving, utility wires, pipes, and light poles.

1.13. *Limited Common Elements.* The Limited Common Elements are the portions of the Common Elements allocated for the exclusive use of one or more, but fewer than all, of the Units by the Amended Declaration, the Amended Condominium Map, or by operation of Section 38-33.3-202(1)(d), C.R.S. The Limited Common Elements in the Common Interest Community are described in Article 5 of this Amended Declaration.

1.14. *Majority or Majority of Unit Owners.* The Majority or Majority of Unit Owners means the Owners of more than 50 percent of the votes in the Association.

1.15. *Map.* The Condominium Map of the Three Seasons Condominiums recorded on February 27, 1980 at Gunnison County Reception No. 34881, including any and all amendments thereto.

1.16. *Manager.* A Manager is a person, firm, or corporation employed or engaged to perform management services for the Common Interest Community and the Association.

1.17. *Notice and Comment.* Notice and Comment is the right of a Unit Owner to receive notice of an action proposed to be taken by, or on behalf of, the Association and the right to comment thereon. The procedures for Notice and Comment are set forth in Section 19.1 of this Amended Declaration.

1.18. *Notice and Hearing.* Notice and Hearing is the right of a Unit Owner to receive notice of an action proposed to be taken by, or on behalf of, the Association and the right to be heard thereon. The procedures for Notice and Hearing are set forth in Section 19.2 of this Amended Declaration.

1.19. *Person.* A Person is an individual, corporation, trust, partnership, limited liability company, association, joint venture, government, government subdivision, or agency or other legal or commercial entity.

1.20. *Property.* The Property is the land and all Improvements, easements, rights, and appurtenances that have been

submitted to the provisions of the Act by this Amended Declaration, as described in Exhibit A attached hereto.

1.21. *Records.* The Records are the real estate records in the Office of the Clerk and Recorder of the County of Gunnison, State of Colorado.

1.22. *Rules & Regulations.* Rules & Regulations means any instruments, however denominated, which are adopted by the Association for the regulation and management of the Common Interest Community, including any amendment to those instruments.

1.23. *Security Interest.* A Security Interest is an interest in and encumbrance upon real estate or personal property, created by contract or conveyance, that secures payment or performance of an obligation. The term includes a lien created by a mortgage, deed of trust, installment land contract, lease intended as security, assignment of lease or rents intended as security, pledge of an ownership interest in the Association, and any other consensual lien intended as security for an obligation. A nonconsensual lien does not create a Security Interest.

1.24. *Trustee.* The Trustee is the entity that may be designated by the Executive Board as the Trustee for the receipt, administration, and disbursement of funds derived from insured losses, condemnation awards, special assessments for uninsured losses, and other sources as defined in the Documents. If no Trustee has been designated, the Trustee will be the Executive Board acting by majority vote.

1.25. *Unit.* A Unit is a physical portion of the Common Interest Community designated for separate occupancy or fee simple ownership, the boundaries of which are described on the Map and in Section 4.3 of this Amended Declaration.

1.26. *Unit Owner or Owner.* The Unit Owner or Owner is any Person who owns a Unit. Unit Owner does not include a Person having only a Security Interest or any other interest in a Unit solely as security for an obligation.

ARTICLE 2. NAME AND TYPE OF COMMON INTEREST COMMUNITY AND ASSOCIATION

2.1. *Name and Type of Common Interest Community.* The name of the Common Interest Community is Three Seasons Condominiums. Three Seasons Condominiums is a condominium community.

2.2. *Association.* The name of the Association is Three Seasons Condominium Owners' Association, Inc., a Colorado nonprofit corporation.

ARTICLE 3. DESCRIPTION OF LAND

The entire Common Interest Community is situated in the Town of Mt. Crested Butte, County of Gunnison, State of Colorado, and is located on the Property, as described on Exhibit A.

ARTICLE 4. UNIT AND BOUNDARY DESCRIPTIONS

4.1. *Maximum Number of Units.* The Common Interest Community contains 76 Units, as identified on Exhibit B and on the Map. No additional Units may be added to the Common Interest Community, unless the Amended Declaration and Map are amended in accord with this Amended Declaration and the Act. The Units may be residential or commercial, as designated herein and/or on the Map.

4.2. *Description of a Unit.* Every deed, lease, mortgage, will, or other instrument shall legally describe a Unit by its identifying Unit number together with a reference to the Map and this Amended Declaration, in the following form:

Condominium Unit _____, THREE SEASONS CONDOMINIUMS, as shown and described on the Condominium Map of Three Seasons Condominiums, recorded on _____, _____, at Reception No. _____, and in accordance with and subject to the Amended Condominium Declaration of Three Seasons Condominiums, recorded on _____, _____, at Reception No. _____ in the Office of the Clerk and Recorder of the County of Gunnison, State of Colorado.

Every such description shall be good and sufficient for all purposes to sell, convey, transfer, encumber, or otherwise affect

not only the Unit but also any appurtenant easements, the Limited Common Elements appurtenant to such Unit, and such Unit's percentage interest in the Common Elements. Any reference to the Map and Declaration in any instrument shall be deemed to include any and all supplements or amendments to the Map and/or Declaration, without specific reference thereto, including this Amended Declaration and the Map.

4.3. *Boundaries.* Each Unit described by this Amended Declaration is shown on the Map and the Unit boundaries are described as follows:

(a) *Upper Horizontal Boundary.* The horizontal or sloping plane or planes of the unfinished lower surfaces of the ceiling bearing structure surfaces, beams, and rafters, extended to an intersection with the vertical perimeter boundaries.

(b) *Lower Horizontal Boundary.* The horizontal plane or planes commencing beneath the subfloors, extended to an intersection with the vertical perimeter boundaries and open horizontal unfinished surfaces of the structural components.

(c) *Vertical Perimeter Boundaries.* The planes defined by the inner surfaces of the studs and framing of the perimeter walls; the unfinished inner surfaces of poured concrete walls; the unfinished surfaces of the interior trim, and thresholds along perimeter walls and floors; the unfinished inner surfaces of closed windows and closed perimeter doors; and the innermost unfinished planes of all interior bearing studs and framing of bearing walls, columns, bearing partitions, and partition walls between separate Units.

(d) *Inclusions.* Each Unit will include the spaces and Improvements lying within the boundaries described in Section 4.3(a), (b), and (c) above, and will also include but not be limited to the finish materials, spaces and the Improvements within those spaces containing any space heating, water heating, or air conditioning apparatus; electrical, telephone, television, cable, broadband, or networking receptacles, switches, wiring, pipes, ducts, or conduits; smoke detectors or sprinkler systems; or light fixtures as are serving that Unit exclusively. The surfaces of the foregoing items will be the boundaries of that Unit, whether or not those items are contiguous to the Unit.

(e) *Exclusions.* Except when specifically included by other provisions of this Section 4.3, the following are excluded from each Unit: the exterior surfaces of the windows and doors of the Units, spaces and Improvements lying outside the boundaries described in (a), (b), and (c) above; and all chutes, pipes, ducts, wires, conduits, fireplaces, flues, chimneys, chimney caps, and other facilities running through or within any interior wall or partition for the purpose of furnishing utilities and similar services to other Units or the Common Elements or both.

ARTICLE 5. LIMITED COMMON ELEMENTS

The Limited Common Elements are those portions of the Common Elements which are either limited to and reserved for the exclusive use and enjoyment of a Unit Owner or limited to and reserved for the common use of more than one, but fewer than all, of the Unit Owners, which shall include by way of illustration and not limitation, exterior surfaces of windows and doors of the Units, balconies, patios, steps, porches, sidewalks, fireplaces, flues, chimneys, chimney caps, and any other apparatus which are specifically designated by this Amended Declaration or the Map as being appurtenant to a particular Unit or Units, but fewer than all the Units. Provided, however, that the fireplaces, flues, chimneys and chimney caps shall be Limited Common Elements even though such fireplaces, flues, chimneys and chimney caps are identified on page 6 of the Map recorded on February 27, 1980 at Reception No. 348810 as General Common Elements.

ARTICLE 6. MAINTENANCE OF THE PROPERTY

6.1. *Common Elements.* The Association shall maintain, repair, and replace all of the Common Elements, except the portions of the Limited Common Elements that are required by this Amended Declaration to be maintained, repaired, or replaced by the Unit Owners.

6.2. *Units.* It shall be the duty and obligation of each Unit Owner, at such Unit Owner's expense, to maintain, repair, and replace all portions of such Owner's Unit, except the portions of the Unit required by the Amended Declaration to be maintained, repaired, or replaced by the Association, if any. Each Owner shall keep his Unit in a good state of repair.

6.3. *Limited Common Elements.* Each Unit Owner shall be responsible for removing snow, leaves, and debris from

all patios and balconies that are Limited Common Elements appurtenant to such Owner's Unit. If any such Limited Common Element is appurtenant to two or more Units, the Owners of those Units shall be jointly responsible for such removal. Each Unit Owner shall be responsible for keeping the exterior surfaces of the windows and doors servicing their Unit in a clean and orderly fashion. The Association shall annually inspect and cause to be cleaned the fireplaces within the Units, as well as the chimneys, chimney caps, and flues associated therewith. The Association shall provide an inspection report to the Owner whose fireplace was inspected. The fees for inspecting and cleaning the fireplaces, flues, chimneys and chimney caps shall be assessed to the Unit or Units appurtenant to the fireplaces, flues, chimneys and chimney caps where such inspection and/or cleaning occurred. Unit Owners shall be individually responsible for any other maintenance, repair and/or replacement of the fireplaces, exterior doors and trim, thresholds, exterior windows and trim, balconies and patios that are appurtenant to their Unit. If any of the foregoing are appurtenant to two or more Units, the Owners of those Units shall be jointly and severally responsible for such maintenance, repairs and/or replacement with each Owner to pay an equal share to maintain, repair or replace the same. Owners shall not use any fireplace, flue or chimney that was determined by an inspection to be a hazard to the Common Interest Community, unless and until such hazard was deemed cured by a proper authority. The Association shall be responsible for maintenance and replacement of the chimneys, flues and chimney caps. The cost of such maintenance, repair and/or replacement of the chimneys, flues and chimney caps shall be assessed on a proportionate basis to the Unit or Units so benefited by such maintenance and/or replacement. Similarly, in the event the Association conducts any maintenance, repairs and/or replacement to any Limited Common Elements, the costs pertaining thereto shall be assessed to the Unit Owner or Owners of the Unit or Units appurtenant to the Limited Common Element in which said maintenance, repairs and/or replacement occurs.

6.4. *Right of Access.* Any person authorized by the Executive Board shall have the right of access to all portions of the Property for the purpose of performing emergency repairs or to do other work reasonably necessary for the proper maintenance of the Common Interest Community for the purpose of performing installations, alterations, or repairs and for the purpose of reading, repairing, and replacing utility meters and related pipes, valves, wires, and equipment; provided that requests for entry are made in advance and that any entry is at a time reasonably convenient to the affected Unit Owner. In case of an emergency, no request or notice is required, and the right of entry shall be immediate and with as much force as is reasonably necessary to gain entrance, whether or not the Unit Owner is present at the time.

6.5 *Repairs Resulting From Negligence.* Each Unit Owner shall reimburse the Association or other Unit Owner(s), as is applicable, for any damages to any other Unit or to the Common Elements caused by a Unit Owner's intentional or negligent act or omission, or by such Unit Owner's failure to properly maintain, repair, or make replacements to such Unit Owner's Unit or to those Limited Common Elements for which such Unit Owner is responsible under Section 6.3 above. The Association shall be responsible for damage to a Unit that is caused by an intentional or negligent act or omission by the Association or its Manager, or by the Association's or Manager's failure to maintain, repair, or make replacements to the Common Elements that the Association is responsible for maintaining. If an expense pursuant to this Section 6.5 is attributable to a Unit Owner, such expense will be assessed to the Unit Owner following Notice and Hearing.

ARTICLE 7. ALLOCATED INTERESTS

7.1 *Allocation of Interests.* The table showing Unit numbers and their Allocated Interests is attached as Exhibit B. These interests have been allocated in accordance with the formulas set out in this Article. All three bedroom units have the same allocated interest, which is greater than the two bedroom allocated interest, which are all the same, and the two bedroom allocated interest is greater than the one bedroom allocated interest, which are all the same. The commercial units allocated interests are proportional to each other.

7.2 *Liability for the Common Expenses.* The share of liability for Common Expenses allocated to each Unit is based on the percentages for each Unit shown on Exhibit B, unless otherwise stated in this Amended Declaration.

7.3 *Votes.* Voting shall be based on an Owner's percentage ownership in the General Common Elements as set forth on Exhibit B.

ARTICLE 8. RESTRICTIONS

8.1 *Use Restrictions.* The following use restrictions apply to all Units and to the Common Elements:

- (a) The use of each Unit is restricted to that of a single family residence and accessory uses as permitted in this

Amended Declaration. No industry, business, trade, or commercial activities (other than home professional pursuits without employees, public visits, or nonresidential storage, mail, or other use of a Unit) shall be conducted, maintained, or permitted in any part of a Unit, unless designated as a Commercial Unit on the Map.

(b) No immoral, improper, offensive, or unlawful use may be made of the Property. Unit Owners shall comply with and conform to all applicable laws and regulations of the United States and of the State of Colorado and all ordinances, rules, and regulations of the Town of Mt. Crested Butte, Colorado and Gunnison County, Colorado, as is applicable. A Unit Owner shall hold harmless the Association and other Unit Owners from all fines, penalties, costs, and prosecutions for any violation or non-compliance with this Section 8.1.

(c) Common Elements shall be used for the furnishing of services and facilities for which the same are reasonably intended. There shall be no obstruction of the General Common Elements, nor shall anything be kept or stored on any part of the General Common Elements, without the written consent of the Association, except as specifically provided by this Amended Declaration.

(d) Subject to the limitations contained in this Amended Declaration, each Owner, his family members, guests, tenants, and invitees shall have the nonexclusive right to use and enjoy the General Common Elements for the purposes for which the same was intended, subject to the Rules & Regulations of the Association, if any, and shall have the exclusive right to use and enjoy the Limited Common Elements adjoining said Owner's Unit so long as such Limited Common Element is designated for exclusive use for such Owner.

(e) Nothing shall be done or kept in any Unit, or in or on the Common Elements, or any part thereof, which would result in the cancellation of any insurance on the Property, or in any increase in the rate of any insurance on the Property, without the prior written consent of the Association. In the event the cost of any insurance policy is increased due to the act, omission or negligence of a Unit Owner, said Unit Owner shall be solely responsible for the cost of such increased insurance, unless otherwise determined by the Executive Board.

(f) Smoking of any substance is prohibited on the Property, including but not limited to, within the Units, on the Common Elements, and on the balconies and patios appurtenant to the Units, but excluding therefrom areas designated to allow smoking by the Association.

(g) No damage to or waste of the Common Elements, or any part thereof, shall be committed by an Owner, or an Owner's family members, guests, invitees or tenants, and each Owner shall be responsible for any such damage or waste and shall indemnify and hold the Association and other Owners harmless against any loss resulting from any such damage or waste.

(h) All equipment, garbage cans, service yards, wood piles, or storage piles shall be screened by adequate planting or fencing so as to conceal them from view of other Units and adjacent walkways, streets, and roadways. All rubbish, trash or garbage shall be regularly removed from the Property, including but not limited to, the Units and Common Elements, and shall not accumulate therein or thereon. Clothes lines are permitted, but must be retractable and in a retracted position when not in use. If reasonably practicable, clothes lines in use shall be screened from view in accordance with this Subsection 8.1(h).

8.2 *Occupancy Restrictions.* The following occupancy restrictions apply to all Units and to the Common Elements:

(a) No electrical device creating overloading of standard circuits may be used without permission from the Executive Board. Misuse or abuse of appliances or fixtures within a Unit that affects other Units or the Common Elements is prohibited. Any damage resulting from such misuse shall be the responsibility of the Unit Owner who caused it. Total electrical usage in any Unit shall not exceed the capacity of the circuits as labeled on the circuit breaker boxes.

(b) All Unit Owners shall maintain their Units in a clean and well maintained condition. No storage of trash will be permitted in or outside any Unit in a manner that may permit the spread of fire, odors, seepage, or vermin.

(c) All fixtures and equipment in the Units and Common Elements shall be used for the purposes for which they were designed.

(d) No noxious, offensive, dangerous, or unsafe activity shall be conducted in any Unit or on the Common Elements, nor shall anything be done, either willfully or negligently, that may be or become an annoyance or nuisance to the other Unit Owners or occupants. No Unit Owner or occupant shall make or permit any disturbing noises nor do or permit anything to be done by others that will interfere with the rights, comforts, or convenience of other Unit Owners or occupants.

(e) No animals, birds, or reptiles of any kind shall be kept in a Unit without the prior approval and licensing in writing by the Executive Board or the Manager as compatible with the Common Interest Community. Household pets are not subject to this prohibition and are permitted, but may be subject to any Bylaws or Rules & Regulations adopted by the Executive Board. Approved pets may not be kept for any commercial purpose. Any approved pet causing or creating a nuisance or unreasonable disturbance or noise shall be permanently removed from the Property upon three days' written notice to the Owner and following Notice and Hearing from the Executive Board. Unit Owners shall hold the Association and other Unit Owners harmless from any claim resulting from any action of their pets. Seeing-eye, hearing-ear, and assistance dogs are permitted for those persons holding certificates of necessity.

(f) Subject to the public-policy-based permissions contained in section 38-33.3-106.5, C.R.S., no signs, window displays, or advertising visible from outside a Unit shall be maintained or permitted in any part of a Unit.

(g) Except as may otherwise be provided by law, no exterior television, internet or radio antennae or satellite dish of any sort shall be placed, allowed or maintained upon any portion of the Property that is not under exclusive control of a Unit Owner, other than for a master system approved by the Executive Board.

8.3 *General Restrictions.* The following restrictions apply to all Units and to the Common Elements:

(a) A Unit may not be conveyed pursuant to a timesharing plan, and timeshare ownership of a Unit is prohibited.
(b) All leases and rental agreements shall be in writing and subject to the requirements of the Documents and the Association.

(c) All leases of a Unit shall include a provision that the tenant will recognize the Association solely for the purpose of having the power to enforce a violation of the provisions of the Documents against the tenant, provided the Association gives the Owner of such leased Unit notice of the Association's intent to so enforce and a reasonable opportunity to cure the violation directly prior to the commencement of an enforcement action.

(d) Parking shall be addressed by the Association's Rules & Regulations.

ARTICLE 9. EASEMENTS AND LICENSES

9.1 *Existing Easements.* All easements or licenses to which the Common Interest Community is presently subject are shown on the Map.

9.2 *Owner's Easement Across Common Elements.* Every Owner, his family members, guests, tenants and invitees shall have an unrestricted right and easement for ingress to, and egress from, such Owner's Unit over and across the Common Elements, which easement shall be appurtenant to and shall pass with the title to every Unit, subject to the right of the Association to dedicate or transfer all or part of the Common Elements for such purposes and subject to such conditions as may be agreed to by the Association. No such dedication or transfer by the Association shall be effective unless an instrument signed by 67 percent of the Unit Owners agreeing to such dedication or transfer has been recorded in the Records.

9.3 *Easements Reserved and Restrictions on Drainage Easements.* Easements and rights of way are reserved on, over, and under the Common Elements and the Units as shown on the Map, for construction, maintenance, repair, replacement, and reconstruction of poles, wires, pipes, chimneys, flues, chimney caps, and conduits for lighting, heating, air conditioning, electricity, gas, telephone, drainage, and any other public or quasi-public utility service purposes, for sewer and pipes of various kinds, and for any other necessary maintenance or repair. There shall also be an easement and right of way within each Unit for fireplace maintenance, cleaning and safety assessments, as discussed in Section 6.3 above.

9.4 *Easements for Encroachments.* If any part of the Common Elements encroaches or shall hereafter encroach upon a Unit, the Association shall have an easement for such encroachment and for the maintenance of those Common Elements.

If any part of a Unit encroaches or shall hereafter encroach upon the Common Elements or upon another Unit, the Owner of the encroaching Unit shall and does have an easement for such encroachment and for the maintenance of same. Such encroachments shall not be considered to be encumbrances either on the Common Elements or on a Unit. Encroachments referred to in this Amended Declaration include, but are not limited to, encroachments caused by error in the original construction of the Common Interest Community, by error in the original Map or Map, by settling, rising, or shifting of the earth, or by changes in position caused by authorized repair or reconstruction, or movements of the Common Interest Community or any part thereof. The easements hereby created for such encroachments shall continue for whatever period the encroachment exists. The foregoing notwithstanding, however, nothing contained in this Amended Declaration shall entitle the party benefited by such encroachment to maintain such encroachment in the event of reconstruction whereby the encroachment could reasonably be eliminated.

9.5 *Easement for Emergency Access.* There is hereby created a right of access across all portions of the Property for the passage of emergency vehicles and police, fire, and other emergency service workers.

ARTICLE 10. ADDITIONS, ALTERATIONS, AND IMPROVEMENTS

10.1 *By Unit Owners.*

(a) No Unit Owner may make any structural addition, alteration, or Improvement in or to the Common Interest Community without the prior written consent of the Executive Board.

(b) Subject to (a) above, Unit Owners:

(i) may make any other Improvements or alterations to the interior of their Units that do not impair the structural integrity or mechanical systems or lessen the support of any portion of the Common Interest Community; and

(ii) may not change the appearance of the Common Elements, the exterior appearance of a Unit, or any other portion of the Common Interest Community without permission of the Association, unless otherwise specifically provided by this Amended Declaration.

(c) A Unit Owner may submit a written request to the Executive Board for approval of anything prohibited under 10.1(a) or (b)(ii) above. The Executive Board shall answer any written request for approval within 60 days after the request. Failure to answer the request within this time shall not constitute a consent by the Executive Board to the proposed action.

(d) Any applications to any department or governmental authority for a permit to make any addition, alteration, or Improvement in or to any Unit shall be executed by the Association and the Unit Owner. This execution will not, however, create any liability on the part of the Association or any of its members to any contractor, subcontractor, or materialman on account of the addition, alteration, or Improvement or to any person because of any claim for injury to person or damage to property arising from the permit.

(e) All additions, alterations, and Improvements to the Units and Common Elements shall not, except pursuant to prior approval by the Executive Board, cause any increase in the premiums of any insurance policies carried by the Association or by the Owners of any Units other than those affected by such change.

10.2 *By Executive Board.* Subject to the limitations of this Amended Declaration, the Executive Board may and shall make any additions, alterations, or Improvements to the General Common Elements which, in its judgment, it deems necessary and in the best interest of the Common Interest Community.

ARTICLE 11. AMENDMENTS TO DECLARATION

11.1 *In General.* Except in cases of amendments that may be executed by the Association under Section 38-33.3-107, C.R.S., or by certain Unit Owners under Section 38-33.3-218, C.R.S., this Amended Declaration and the Map may be amended only by vote or agreement of at least 67 percent (67%) of the Unit Owners. The procedure for amendment must follow the procedures of section 38-33.3-217, C.R.S.

11.2 *Limitation of Challenges.* An action to challenge the validity of an amendment adopted by the Association pursuant

to this Article may not be brought more than one year after the amendment is recorded.

11.3 *Recordation of Amendments.* Each amendment to the Declaration must be recorded in the Records, and the amendment is effective only upon recording.

11.4 *Execution of Amendments.* An amendment to the Declaration required by the Act to be recorded by the Association, which has been adopted in accordance with this Amended Declaration and the Act, must be executed, recorded, and certified on behalf of the Association by an officer of the Association designated for that purpose or, in the absence of designation, by the president and secretary of the Association.

ARTICLE 12. TERMINATION

Termination of the Common Interest Community may be accomplished only in accordance with section 38-33.3-218, C.R.S.

ARTICLE 13. MORTGAGEE PROTECTION

13.1 *Abandonment or Termination.* Unless holders of a first lien Security Interest that represent at least 51% of the votes of the Units subject to first lien Security Interests and Unit Owners holding at least 67% of the total Association act, the Association or the membership shall not, by act or omission, seek to abandon, or terminate the Common Interest Community (except in the case of substantial destruction, as may be allowed for in this Amended Declaration).

13.2 *Liability for Assessments.*

(a) Where the holder of a first lien Security Interest or other purchaser of a Unit obtains title pursuant to judicial or non-judicial foreclosure of the first lien Security Interest, it shall not be liable, nor shall the Unit be subject to a lien, for the share of the Common Expenses or assessments by the Association chargeable to such Unit which became due prior to such, except as provided in the Act.

(b) In addition, the acquirer shall be responsible for all charges accruing subsequent to the passage of the title including, but not limited to, all charges for the month in which title is passed.

(c) Any unpaid share of Common Expenses or assessments, if determined by the Executive Board to be uncollectible, shall be deemed to be Common Expenses collectible from Owners of all the Units, including such acquirer, its successors and assigns.

13.3 *Notice to holder of a first lien Security Interest.* Upon written request to the Association, identifying the name and address of the holder and the Unit number or address, any holder of a first lien Security Interest will be entitled to timely written notice of:

(a) any condemnation loss or any casualty loss which affects a material portion of the Common Interest Community or any Unit on which there is a first lien Security Interest held by such holder of a first lien Security Interest;

(b) any delinquency in the payment of assessments or charges owed by an Owner of a Unit subject to a first lien Security Interest held by such holder of a first lien Security Interest which remains unsatisfied for a period of 60 days, and any default in the performance by an individual Unit Owner of any other obligation under the Documents which is not cured within 60 days;

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

(d) any proposed action which would require the consent of a specified percentage of holders of a first lien Security Interest, as specified herein.

13.4 *No Priority.* No provision of this Amended Declaration or the Bylaws gives or shall be construed as giving any Owner priority over any rights of the holder of a first lien Security Interest of any Unit in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to, or taking of, the Common Elements.

13.5 *Notice to Association.* Upon request, each Owner shall be obligated to furnish to the Association the name and address of any holder of any Security Interest encumbering such Owner's Unit.

13.6 *Failure of holder of a first lien Security Interest to Respond.* Any holder of a first lien Security Interest who receives a written request from the Association to respond to any action shall be deemed to have approved such action if the Association does not receive a written response from the holder of a first lien Security Interest within 60 days of the date of the Association's request, provided such request is delivered to the holder of a first lien Security Interest by certified or registered mail, return receipt requested.

13.7 *Construction of this Article.* Nothing contained in this Article shall be construed to reduce the percentage vote that must otherwise be obtained under the Documents or Colorado law for any of the actions set forth in this Article.

ARTICLE 14. ASSESSMENT AND COLLECTION OF COMMON EXPENSES

14.1 *Apportionment of Common Expenses & Limited Common Elements.*

(a) Except as otherwise provided herein, all Common Expenses shall be assessed against all Units in accordance with their percentage interests in the Common Expenses as shown on Exhibit B of this Amended Declaration.

(b) The Limited Common Elements shall not be assessed as Common Expenses. The costs to the Association to repair, maintain and replace the Limited Common Elements, as provided by Section 6.3 above, shall be assessed to the Unit Owner or Unit Owners of the Unit or Units appurtenant to the Limited Common Element in which said repairs, maintenance and/or replacement occurs. When said maintenance, repairs and/or replacement are to Limited Common Elements that are appurtenant to two or more Units, the Association shall assess the Owner of each appurtenant Unit an equal share of the costs incurred by the Association to maintain, repair and/or replace the same. Provided, however, that this does not in any way affect an Owner's obligation to maintain the Limited Common Elements appurtenant to that Owner's Unit, as set forth in Section 6.3 of this Amended Declaration.

(c) Any Common Expense for services approved by the Executive Board and provided by the Association to an individual Unit or some Units, but fewer than all the Units, at the request of the particular Unit Owner or Owners shall be assessed against the requesting Unit(s).

(d) Any insurance premium increase attributable to a particular Unit by virtue of activities in or construction of the Unit shall be assessed against that Unit.

(e) An assessment to pay a judgment against the Association may be made only against the Units in the Common Interest Community at the time the judgment was entered in proportion to their Common Expense liabilities.

(f) If a Common Expense is incurred by the action or inaction of a Unit Owner, the Association may assess that expense exclusively against that Unit Owner's Unit.

(g) Fees, charges, taxes, impositions, late charges, fines, collection costs, and interest charged against a Unit Owner pursuant to the Documents and the Act are enforceable as Common Expense Assessments.

14.2 *Lien.*

(a) The Association is hereby granted, and shall have, a lien on a Unit for a Common Expense Assessment levied against the Unit or fines imposed against its Unit Owner. Fees, charges, late charges, attorneys' fees, fines, and interest charged pursuant to the Act and the Documents are enforceable as assessments under this Section. The amount of the lien shall include all those items set forth in this Section from the time such items become due. If a Common Expense Assessment is payable in installments, each installment is a lien from the time it becomes due, including the due date set by any valid Association acceleration of installment obligations.

(b) A lien under this Section is prior to all other liens and encumbrances on a Unit except: (1) liens and encumbrances recorded before the recordation of the original Declaration; (2) a first Security Interest on the Unit recorded before the

date on which the Common Expense Assessment sought to be enforced became delinquent; and (3) liens for real estate taxes and other governmental assessments or charges against the Unit. Notwithstanding the foregoing, a lien under this Section 14.2 is prior to all Security Interests to the extent that the Common Expense Assessments (not including fees, charges, late charges, attorneys' fees, fines, and interest pursuant to sections 38-33.3-302(1)(j), (1)(k), and (1)(l), C.R.S., section 38-33.3-313(6), C.R.S., and section 38-33.3-315(2), C.R.S.) are based on the periodic budget adopted by the Association and would have become due, in the absence of acceleration, during the six months immediately preceding institution by either the Association or any party holding a lien senior to any part of the Association lien created under this Section of an action or a non-judicial foreclosure either to enforce or extinguish either the Association's lien or a Security Interest described herein. This Section 14.2 does not affect the priority of mechanic's or materialmen's liens or the priority of a lien for other assessments made by the Association. By purchasing a Unit, an Owner waives all federal and state homestead and other exemptions with respect to the lien for Common Expense Assessments.

(c) Recording of the original Declaration in the Records constituted record notice and perfection of the Association's lien. Further recording of a claim of lien for Common Expense Assessments is not required, but may occur at the discretion of the Association.

(d) A lien for an unpaid Common Expense Assessment is extinguished unless proceedings to enforce the lien are instituted within the timeframes provided by the Act after the full amount of the Common Expense Assessment becomes due, except that if an Owner of a Unit subject to a lien under this Section files a petition for relief under the United States Bankruptcy Code, the time period for instituting proceedings to enforce the Association's lien shall be tolled until thirty days after the automatic stay of proceedings under Section 362 of the Bankruptcy Code is lifted.

(e) This Section does not prohibit the Association from taking a deed in lieu of foreclosure.

(f) A judgment or decree in any action brought under this Section shall include costs and reasonable attorneys' fees for the prevailing party, which shall be additional Common Expense Assessments.

(g) A judgment or decree in an action brought under this Section is enforceable by execution under Colorado law.

(h) The Association's lien must be foreclosed by the same judicial procedure by which a mortgage on real estate is foreclosed under Colorado law.

(i) In any action by the Association to collect Common Expense Assessments or to foreclose a lien for unpaid Common Expense Assessments, the court may appoint a receiver for the Unit who shall collect all sums due from that Unit Owner or a tenant of the Unit Owner prior to or during the pendency of the action. The court may order the receiver to pay any sums held by the receiver to the Association during the pendency of the action to the extent of the Association's Common Expense Assessments based on a periodic budget adopted by the Association pursuant to this Amended Declaration.

(j) If a holder of a first Security Interest in a Unit forecloses that Security Interest, the purchaser at the foreclosure sale is not liable for any unpaid Common Expense Assessments against that Unit which became due before the sale, other than the assessments that are prior to that Security Interest under Subsection 14.2(b) of this Amended Declaration. Any unpaid Common Expense Assessments not satisfied from the proceeds of sale become Common Expenses collectible from all the Unit Owners, including the purchaser.

(k) Any payments received by the Association in the discharge of a Unit Owner's obligation may be applied to the oldest balance due.

14.3 *Budget Adoption and Ratification.* Within 90 days after adoption of a proposed budget for the Common Interest Community, the Executive Board shall provide a summary of the budget to each Unit Owner and shall set a date for a meeting of the Unit Owners to consider ratification of the budget. The meeting shall be not less than 10 or more than 50 days after mailing of the summary. Unless at that meeting a majority of all Unit Owners rejects the budget, the budget is ratified whether or not a quorum is present. If the proposed budget is rejected, the periodic budget last ratified by the Unit Owners continues until the Unit Owners ratify a new budget proposed by the Executive Board.

14.4 *Ratification of Non-budgeted Common Expense Assessments.* The Executive Board has the authority to levy

Common Expense Assessments not included in the annual operating budget in accordance with the Act.

14.5 *Certificate of Payment of Common Expense Assessments.* The Association, upon written request, shall furnish a Unit Owner with a written statement setting out the amount of unpaid Common Expense Assessments against the Owner's Unit. The statement must be furnished within 14 calendar days after receipt of the request and is binding on the Association, the Executive Board, and each Unit Owner. A reasonable fee, established by the Executive Board, may be charged for providing such statement.

14.6 *Payment of Common Expenses.* All Common Expenses assessed under this Amended Declaration shall be due and payable as determined by the Executive Board and as stated in the Association's collection policy.

14.7 *No Waiver of Liability for Common Expenses.* No Unit Owner may become exempt from liability for payment of the Common Expense Assessments by waiver of the use or enjoyment of the Common Elements or by abandonment of a Unit.

14.8 *Personal Liability of Unit Owners.* The Owner of a Unit, at the time a Common Expense Assessment or portion of the assessment is due and payable, is personally liable for the Common Expense Assessment. Personal liability for the Common Expense Assessment shall not pass to a successor in title to the Unit unless the successor agrees to assume the obligation.

14.9 *Reserve for Working Capital Fund.* The Association shall maintain a reserve fund to meet unforeseen expenditures and/or to purchase any additional equipment or services (the "Working Capital Fund"). The Working Capital Fund shall be held by the Association in a segregated fund. Any amounts paid into the Working Capital Fund shall not be considered as advance payments of regular Common Expense Assessments. The Working Capital Fund shall, at minimum, equal three (3) months estimated Common Expense charges applicable to each Unit.

14.10 *Reserve Fund for Replacement of Improvements.* The Association shall establish and maintain an adequate reserve fund for the replacement of Improvements to the Common Elements and those Limited Common Elements that the Association is obligated to maintain (the "Reserve Fund"), as determined by the Executive Board. This Reserve Fund shall be a line item in the periodic budget and shall be collected from and as part of the Common Expense Assessments.

ARTICLE 15. RIGHT TO ASSIGN FUTURE INCOME

The Association may assign its future income, including its right to receive Common Expense Assessments, only by the affirmative majority vote of Unit Owners at a meeting in which a quorum is present.

ARTICLE 16. PERSONS AND UNITS SUBJECT TO DOCUMENTS

16.1 *Compliance with Documents.* All Unit Owners, tenants, and occupants of Units shall comply with the Documents and shall be subject to all rights and duties under the Documents. The acceptance of a deed or the exercise of any incident of ownership or the entering into of a lease or the occupancy of a Unit constitutes agreement that the provisions of the Documents are accepted and ratified by that Unit Owner, tenant, mortgagee, invitee, guest, or occupant. All provisions recorded in the Records are covenants running with the land and shall bind any Persons having at any time any interest or estate in any Unit.

16.2 *Adoption of Rules & Regulations.* The Executive Board may adopt Rules & Regulations regarding the use and occupancy of the General Common Elements, Units as they affect the Common Elements, the Limited Common Elements, and the activities of occupants, subject to Notice and Comment.

16.3 *Enforcement.* In addition to, but not intended to contradict, the provisions of section 38-33.3-123, C.R.S., the Association, as well as any aggrieved Unit Owner, is hereby granted a right of action against any Unit Owner who fails to comply with the provisions of the Documents or to comply with decisions made by the Association. Each and every Unit Owner is also granted a similar right of action against the Association. In any action maintained under this Section 16.3, the prevailing party shall be awarded its reasonable attorneys' fees and costs.

ARTICLE 17. INSURANCE

17.1 *Coverage by the Association.* To the extent reasonably available, the Association and Unit Owners shall obtain and maintain insurance coverage as set forth in this Article. If such insurance is not reasonably available, and the Executive Board determines that any insurance described in this Article will not be maintained, the Executive Board shall cause notice of that fact to be hand delivered or sent prepaid by United States mail to all Unit Owners and first lien Security Interest holders at their respective last known addresses.

17.2 *Property Insurance Coverage.*

- (a) The Association's property insurance shall cover:
 - (i) The Common Elements for broad form covered causes of loss; except that the total amount of insurance must be not less than the full insurable replacement cost of the insured property less applicable deductibles at the time the insurance is purchased and at each renewal date, exclusive of land, excavations, foundations, and other items normally excluded from property policies;
 - (ii) All personal property owned by the Association; and
 - (iii) The Units, but not the finished interior surfaces of the walls, floors, and ceilings of the Units.
- (b) Personal property owned by the Association will be insured for an amount equal to its actual cash value.
- (c) The Executive Board is authorized to obtain appraisals periodically for the purpose of establishing replacement cost of the community facilities and the actual cash value of the personal property, and the cost of such appraisals shall be a Common Expense.
- (d) The Association's insurance policies required by this Article 17 shall provide that:
 - (i) The insurer waives the right to subrogation under the policy against a Unit Owner or member of the household of a Unit Owner;
 - (ii) An act or omission by a Unit Owner, unless acting within the scope of the Unit Owner's authority on behalf of the Association, will not void the policy or be a condition of recovery under the policy;
 - (iii) If, at the time of a loss under the policy, there is other insurance in the name of a Unit Owner that covers the same risk covered by the policy, the Association's policy provides primary insurance;
 - (iv) Losses must be adjusted with the Association;
 - (v) Insurance proceeds shall be paid to any insurance trustee designated in the policy for that purpose and otherwise to the Association, but, in any case, the proceeds are to be held in trust for each Unit Owner and the Unit Owner's mortgagee
 - (vi) The insurer may not cancel or refuse to renew the policy until 30 days after notice of the proposed cancellation or nonrenewal has been mailed to the Association, to each Unit Owner, and to each holder of a Security Interest to whom a certificate or memorandum of insurance has been issued at their respective last known addresses; and
 - (vii) Each Unit Owner is 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.
- (e) A Unit Owner's property insurance shall:
 - (i) Cover the finished interior surfaces of the walls, floors, and ceilings of the Owner's Unit;
 - (ii) Cover any and all personal property, fixtures and equipment within the Owner's Unit;

(iii) Cover damage to the Common Areas or other Units caused by the intentional or negligent act or omission of a Unit Owner or a Unit Owner's family, guests, tenants, invitees, or assigns; and

(iv) Name the Association as an additional insured.

17.3 *Liability Insurance.*

(a) *Association.* The Association's liability insurance, including medical payments insurance, will be maintained in an amount determined by the Executive Board, but in no event shall it be less than \$1,000,000 per occurrence. This insurance shall cover all occurrences commonly insured against for death, bodily injury, and property damage arising out of, or in connection with, the use, ownership, or maintenance of the Common Elements and the activities of the Association. Insurance policies carried pursuant to this Section shall provide that:

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

(ii) The insurer waives the right to subrogation under the policy against a Unit Owner or member of the household of a Unit Owner;

(iii) An act or omission by a Unit Owner, unless acting within the scope of the Unit Owner's authority on behalf of the Association, will not void the policy or be a condition to recovery under the policy;

(iv) If, at the time of a loss under the policy, there is other insurance in the name of a Unit Owner covering the same risk covered by the policy, the policy of the Association provides primary insurance; and

(v) The insurer issuing the policy may not cancel or refuse to renew it until 30 days after notice of the proposed cancellation or nonrenewal has been mailed to the Association, each Unit Owner, and each holder of a Security Interest to whom a certificate or memorandum of insurance has been issued at their last known addresses.

(b) *Unit Owners.* A Unit Owner's liability insurance, including medical payments insurance, may be maintained in an amount determined by the Unit Owner, but in no event shall it be less than \$300,000 per occurrence or such other amount determined by the Executive Board. This insurance shall cover all occurrences commonly insured against for death, bodily injury, and property damage arising out of, or in connection with, the Owner's use, ownership, or maintenance of the Unit and Common Elements, as is applicable by this Amended Declaration. The Association shall be named as an additional insured under a Unit Owner's liability insurance policy.

17.4 *Fidelity Insurance.* The Association shall obtain and maintain, to the extent reasonably available, fidelity insurance. Coverage shall not be less in aggregate than two months current assessments plus reserves, as calculated from the current budget of the Association. Any Person employed as an independent contractor by the Association for the purposes of managing the Common Interest Community shall obtain and maintain fidelity insurance in an amount not less in aggregate than two months current assessments plus reserves, as calculated from the current budget of the Association. The coverage shall include a provision that calls for 10 days written notice to the Association, each holder of a Security Interest in a Unit, each servicer that services a FNMA-owned or FHLMC-owned mortgage on a Unit, and the insurance trustee, if any, before the insurance can be cancelled or substantially modified for any reason.

17.5 *Workers' Compensation Insurance.* The Association shall obtain and maintain Workers' Compensation Insurance to meet the requirements of the laws of the State of Colorado.

17.6 *Directors' and Officers' Liability Insurance.* The Executive Board may obtain and maintain directors' and officers' liability insurance covering all of the Directors and officers of the Association. This insurance shall have policy limits as determined by the Executive Board.

17.7 *Other Insurance.* The Association may carry such other insurance that is not specifically addressed by this Amended Declaration that the Executive Board considers appropriate to protect the Association.

17.8 *Premiums.* Insurance premiums for insurance carried or to be carried by the Association shall be a Common Expense,

unless otherwise provided by this Amended Declaration.

ARTICLE 18. DAMAGE TO OR DESTRUCTION OF PROPERTY

18.1 *Duty to Restore.* A portion of the Common Interest Community for which insurance is required under Section 38-33.3-313, C.R.S., or for which insurance carried by the Association is in effect, whichever is more extensive, that is damaged or destroyed, must be repaired or replaced promptly by the Association unless:

- (a) the Common Interest Community is terminated;
- (b) repair or replacement would be illegal under a state statute or municipal ordinance governing health or safety; or
- (c) 67 percent of the Unit Owners, including each Owner of a Unit or assigned Limited Common Element that will not be rebuilt, vote not to rebuild.

18.2 *Cost.* The cost of repair or replacement in excess of insurance proceeds and reserves is a Common Expense.

18.3 *Plans and Specifications.* The Property must be repaired and restored in accordance with either the Map or other plans and specifications that have been approved by the Executive Board, a majority of Unit Owners, and 51 percent of first lien Security Interest holders.

18.4 *Insurance Proceeds.* The Trustee or, if there is no Trustee, the Executive Board of the Association shall hold any insurance proceeds in trust for the Association, Unit Owners, and lien holders as their interests may appear. Subject to the provisions of Subsections 18.1(a) through (c) of this Amended Declaration, the proceeds shall be disbursed first for the repair or restoration of the damaged Property. The Association, Unit Owners, and lien holders are not entitled to receive payment of any portion of the proceeds unless there is a surplus after the Property has been completely repaired or restored or unless the Common Interest Community is terminated.

18.5 *Replacement of Less Than Entire Property.*

- (a) The insurance proceeds attributable to the damaged Common Elements shall be used to restore the damaged area to a condition compatible with the remainder of the Common Interest Community.
- (b) Except to the extent that other persons will be distributees:
 - (i) the insurance proceeds attributable to a Unit and Limited Common Elements that are not rebuilt must be distributed to the Owner of the Unit and the Owner of the Unit to which the Limited Common Elements were allocated or to lien holders as their interests may appear; and
 - (ii) the remainder of the proceeds must be distributed to each Unit Owner or lien holder, as their interests may appear, in proportion to the Common Element interests of all the Units.
- (c) If the Unit Owners vote not to rebuild a Unit, the Allocated Interests of the Unit are reallocated upon the vote as if the Unit had been condemned under section 38-33.3-107(1), C.R.S., and the Association promptly shall prepare, execute, and record an amendment to the Amended Declaration reflecting the reallocations.

18.6 *Certificates By Executive Board.* The Trustee, if any, may rely on the following certifications in writing made by the Executive Board:

- (a) whether or not damaged or destroyed Property is to be repaired or restored; and
- (b) the amount or amounts to be paid for repairs or restoration and the names and addresses of the parties to whom such amounts are to be paid.

18.7 *Certificates by Attorneys or Title Insurance Companies.* If payments are to be made to Unit Owners or mortgagees, then the Executive Board, and the Trustee, if any, shall obtain and may rely on a title insurance company's or attorney's title certificate or a title insurance policy based on a search of the Records from the date of the recording of the original

Declaration, stating the names of the current Unit Owners and the mortgagees.

18.8 *Association as Attorney-in-Fact—Damage and Destruction.* All of the Unit Owners irrevocably constitute and appoint the Association as their attorney-in-fact, for them and in their names, respectively, to deal with the Common Interest Community upon its destruction, repair, or obsolescence as is provided by this Amended Declaration. As attorney-in-fact, the Association, by its president and secretary, acting pursuant to authorization from the Executive Board, shall have full and complete authority, right, and power to receive the proceeds of any insurance in the names of the Unit Owners or the Association, and to make, execute, and deliver any contract, deed, or any other instrument with respect to the interest of a Unit Owner that is necessary and appropriate to exercise the powers granted by the Act or this Amended Declaration.

ARTICLE 19. NOTICE AND COMMENT; NOTICE AND HEARING

19.1 *Right to Notice and Comment.* Before the Executive Board amends the Bylaws or the Rules & Regulations, whenever the Documents require that an action be taken after “Notice and Comment,” and at any other time the Executive Board determines, the Unit Owners have the right to receive notice of the proposed action and the right to comment orally or in writing. Notice of the proposed action either shall be given to each Unit Owner in writing, delivered personally or by mail to all Unit Owners at such address as appears in the records of the Association, or via email if an Owner has elected to receive email communications from the Association, or it shall be published in a newsletter or similar publication that is routinely circulated to all Unit Owners, if any such publication exists. The notice shall be given not less than five days before the proposed action is to be taken. It shall invite comment to the Executive Board orally or in writing before the scheduled time of the meeting. The right to Notice and Comment does not entitle a Unit Owner to be heard at a formally constituted meeting, unless otherwise permitted by the Documents or the Act.

19.2 *Right to Notice and Hearing.* Whenever the Documents require that an action be taken after “Notice and Hearing,” the following procedure shall be observed. The party proposing to take the action (*e.g.*, the Executive Board, a committee, an officer, the Manager, etc.) shall give written notice of the proposed action to all Unit Owners or occupants of Units whose interest would be significantly affected by the proposed action. The notice shall include a general statement of the proposed action and the date, time, and place of the hearing. At the hearing, the affected person shall have the right, personally or by a representative, to give testimony orally, in writing, or both (as specified in the notice), subject to reasonable rules of procedure established by the party conducting the meeting to assure a prompt and orderly resolution of the issues. Any evidence shall be duly considered but is not binding in making the decision. The affected person shall be notified of the decision in the same manner in which notice of the meeting was given.

19.3 *Appeals.* Any person having a right to Notice and Hearing shall have the right to appeal to the Executive Board from a decision of persons other than the Executive Board by filing a written notice of appeal with the Executive Board within 10 days after being notified of the decision. The Executive Board shall conduct a hearing within 30 days, giving the same notice and observing the same procedures as were required for the original meeting.

ARTICLE 20. EXECUTIVE BOARD

20.1 *Association Records and Minutes of Executive Board Meetings.* The Executive Board shall permit any Unit Owner, or holder, insurer, or guarantor of first mortgages secured by Units, to inspect the records of the Association and the minutes of Executive Board and committee meetings during normal business hours. The minutes shall be available for inspection within 15 days after any such meeting.

20.2 *Powers and Duties.* The Executive Board may act in all instances on behalf of the Association except as provided in this Amended Declaration, the Bylaws, or the Act. The Executive Board shall have, subject to the limitations contained in this Amended Declaration and the Act, the powers and duties necessary for the administration of the affairs of the Association and of the Common Interest Community, which shall include, but not be limited to, the following:

- (a) adopt and amend Bylaws, and Rules & Regulations;
- (b) adopt and amend budgets for revenues, expenditures, and reserves;
- (c) collect Common Expense Assessments from Unit Owners;
- (d) hire and discharge Managers;

- (e) hire and discharge independent contractors, employees, and agents other than Managers;
- (f) institute, defend, or intervene in litigation or administrative proceedings or seek injunctive relief for violation of, or otherwise enforce, the Association's Declaration, Bylaws, or Rules & Regulations in the Association's name on behalf of the Association, or two or more Unit Owners, on matters affecting the Common Interest Community;
- (g) make contracts and incur liabilities;
- (h) regulate the use, maintenance, repair, replacement, and modification of the Common Elements, unless otherwise specifically provided by this Amended Declaration;
- (i) cause additional Improvements to be made as a part of the Common Elements;
- (j) acquire, hold, encumber, and convey, in the Association's name, any right, title, or interest to real property or personal property, but Common Elements may be conveyed or subjected to a Security Interest only pursuant to this Amended Declaration and section 38-33.3-312, C.R.S.;
- (k) grant easements for any period of time, including permanent easements, leases, and licenses, and concessions through or over the Common Elements;
- (l) impose and receive a payment, fee, or charge for the use, rental, or operation of the Common Elements, other than Limited Common Elements described in section 38-33.3-202(1)(b) and (d), C.R.S., and for services provided to Unit Owners;
- (m) impose a reasonable charge for late payment of assessments and, after Notice and Hearing, levy reasonable fines for violations of this Amended Declaration, the Bylaws, and/or the Rules & Regulations of the Association;
- (n) impose a reasonable charge for the preparation and recordation of amendments to this Amended Declaration and for a statement of unpaid assessments;
- (o) provide, at the option of the Executive Board, for the indemnification of the Association's officers and Executive Board and/or maintain directors' and officers' liability insurance;
- (p) assign the Association's right to future income, including the right to receive Common Expense Assessments;
- (q) exercise any other powers conferred by this Amended Declaration, the Bylaws, or the Act;
- (r) exercise any other power that may be exercised in this state by legal entities of the same type as the Association;
- (s) exercise any other power necessary and proper for the governance and operation of the Association; and
- (t) by resolution, establish permanent and standing committees of Directors to perform any of the above functions under specifically delegated administrative standards, as designated in the resolution establishing the committee. All committees must maintain and publish notice of their actions to Unit Owners and the Executive Board. However, actions taken by a committee may be appealed to the Executive Board by any Unit Owner within 45 days of publication of the notice. If an appeal is made, the committee action must be ratified, modified, or rejected by the Executive Board at its next regular meeting.

20.3 *Executive Board Limitations.* The Executive Board may not act on behalf of the Association to amend this Amended Declaration, to terminate the Common Interest Community, or to elect Members of the Executive Board or determine the qualifications, powers and duties, or terms of office of Executive Board Members, but the Executive Board may fill vacancies in its membership for the unexpired portion of any term.

ARTICLE 21. OPEN MEETINGS

21.1 *Access.* All meetings of the Executive Board at which action is to be taken by vote will be open to the Unit Owners except as hereafter provided. Nothing herein precludes the Executive Board from taking action without a meeting unless otherwise precluded herein or by Colorado law.

21.2 *Notice.* Notice of, and an agenda for, every such meeting will be given not less than 24 hours prior to the time set for such meeting by posting the same on the Association's website, if possible, and by posting such notice in a conspicuous location in the Common Interest Community, except that such notice will not be required if an emergency situation requires that the meeting be held without delay.

21.3 *Executive Sessions.*

(a) The members of the Executive Board or any committee thereof may hold an executive or closed door session and may restrict attendance to Executive Board members and such other persons requested by the Executive Board during a regular or specially announced meeting or a part thereof. Matters for discussion by an executive or closed session are limited to:

(i) Matters pertaining to employees of the association or the managing agent's contract or involving the employment, promotion, discipline, or dismissal of an officer, agent, or employee of the association;

(ii) Consultation with legal counsel concerning disputes that are the subject of pending or imminent court proceedings or matters that are privileged or confidential between attorney and client;

(iii) Investigative proceedings concerning possible or actual criminal misconduct;

(iv) Matters subject to specific constitutional, statutory, or judicially imposed requirements protecting particular proceedings or matters from public disclosure;

(v) Any matter the disclosure of which would constitute an unwarranted invasion of individual privacy; and

(vi) Review of or discussion relating to any written or oral communication from legal counsel.

(b) Upon the final resolution of any matter for which the Executive Board received legal advice or that concerned pending or contemplated litigation, the Board may elect to preserve the attorney-client privilege in any appropriate manner, or it may elect to disclose such information, as it deems appropriate, about such matter in an open meeting.

(c) Prior to the time the members of the Executive Board or any committee thereof convene in executive session, the chair of the Board shall announce the general matter of discussion as enumerated in Subsections 21.3(a)(i) to (vi) above.

(d) No rule or regulation of the Board or any committee thereof shall be adopted during an executive session. A rule or regulation may be validly adopted only during a regular or special meeting or after the Board goes back into regular session following an executive session.

(e) The minutes of all meetings at which an executive session was held shall indicate that an executive session was held and the general subject matter of the executive session.

ARTICLE 22. CONDEMNATION

If part or all of the Common Interest Community is taken by any power having the authority of eminent domain, all compensation and damages for, and on account of, the taking shall be payable in accordance with section 38-33.3-107, C.R.S.

ARTICLE 23. ARCHITECTURAL CONTROL

No building, fence, wall or other structure shall be commenced, erected, or maintained upon the Property nor shall any exterior addition to or change or alteration therein occur until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same are submitted and approved in writing by the Executive Board, or a

CERTIFICATION

I,

_____, President of Three Seasons Condominium Owners' Association, Inc., a Colorado nonprofit corporation, and _____, Secretary of Three Seasons Condominium Owners' Association, Inc., a Colorado nonprofit corporation, hereby certify pursuant to Sections 38-33.3-118 and 38-33.3-217, C.R.S., that:

1. The Owners of Three Seasons Condominium Owners' Association, Inc. were entitled to vote to approve this Amended Declaration and the Amendment to the Condominium Map, including but not limited to, the provision to elect treatment under the Colorado Common Interest Ownership Act, at a meeting of such Owners on the ____ day of _____, 2016;

2. A quorum of the Owners of Three Seasons Condominium Owners' Association, Inc. was present, either in person or by proxy, at the meeting on the ____ day of _____, 2016; and

3. The acceptance of this Amended Declaration and the Amendment to the Condominium Map, including but not limited to, the Amended Declaration's provision to elect treatment under the Colorado Common Interest Ownership Act, was authorized by at least sixty-seven percent (67%) of the votes that the Owners present at such meeting, in person or by proxy, were entitled to cast.

**Three Seasons Condominium Owners' Association, Inc.,
a Colorado nonprofit corporation**

By: _____
_____, President

By: _____
_____, Secretary

STATE OF COLORADO)
) ss.
COUNTY OF GUNNISON)

The foregoing CERTIFICATION was acknowledged before me this ____ day of _____, 2016, by _____, as President of Three Seasons Condominium Owners' Association, Inc., a Colorado nonprofit corporation, and by _____, as Secretary of Three Seasons Condominium Owners' Association, Inc., a Colorado nonprofit corporation.

My commission expires: _____
WITNESS my hand and official seal.

Notary Public

EXHIBIT A TO THE DECLARATION
[DESCRIPTION OF LAND]
EXHIBIT B TO THE DECLARATION
[TABLE OF ALLOCATED INTERESTS]

EXHIBIT B

Unit Designation	BY UNIT
C1	2.8346%
C19	0.7600%
C20	0.7600%
C/R 4 OR R130	1.3579%
C/R 5 OR R132	1.3579%
C/R 6 OR R134	1.3579%
C9	0.3500%
C10	0.3500%
C11	0.3500%
C12	0.3500%
C13	0.3500%
C15	0.1500%
C16	0.1500%
C17	0.1500%
C18	0.1500%
C2	0.8310%
C3	0.8310%
C4	0.2680%
C5	0.2680%
C6	0.3500%
C7	0.3500%
C8	0.3500%
C14	0.1140%
R131	1.6618%
R133	1.6618%
R135	1.6618%
C/R 1 OR R136	1.6618%
R137	1.6618%
C/R 2 OR R138	1.6618%
R139	1.6618%
C/R 3 OR R140	1.6618%
R141	1.6618%
C/R 4 OR R142	1.6618%
R143	0.9694%
R201	1.6618%
R202	1.6618%
R203	1.6618%
R204	1.6618%
R205	1.6618%
R206	1.6618%
R208	1.6618%
R231	2.2850%

R232	1.6618%
R233	1.6618%
R234	1.6618%
R235	1.6618%
R236	1.6618%
R237	1.6618%
R238	1.6618%
R239	1.6618%
R240	1.6618%
R241	1.6618%
R242	1.6618%
R243	0.9694%
R244	0.9694%
R301	1.6618%
R302	1.6618%
R303	1.6618%
R304	1.6618%
R305	1.6618%
R306	1.6618%
R308	1.6618%
R331	2.2850%
R332	1.6618%
R333	1.6618%
R334	1.6618%
R335	1.6618%
R336	1.6618%
R337	1.6618%
R338	1.6618%
R339	1.6618%
R340	1.6618%
R341	1.6618%
R342	1.6618%
R343	0.9694%
R344	0.9694%
	100.0000%