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**DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
THE GARAGES**

Name of Common Interest Community:

THE GARAGES

Name of Owners' Association:

THE GARAGES OWNERS ASSOCIATION, INC.

Declarant:

WEST FORK VILLAGE OWNERS ASSOCIATION, INC.

Type of Common Interest Community:

CONDOMINIUM

TABLE OF CONTENTS

RECITALS 1

ARTICLE 1 - DECLARATION AND SUBMISSION 1

 1.1 Declaration. 1

**ARTICLE 2 - RELATIONSHIP BETWEEN WEST FORK VILLAGE
 and THE GARAGES** 1

 2.1 *West Fork Village.* 1

 2.2 *Use Restrictions.* 1

 2.3 *Enforcement* 2

ARTICLE 3 -DEFINITIONS 2

 3.1 *Act* 2

 3.2 *Agency.* 2

 3.3 *Annual Assessment.* 2

 3.4 *Articles.* 2

 3.5 *Assessments.* 2

 3.6 *Association.* 2

 3.7 *Association Documents.* 2

 3.8 *Boundaries.* 2

 3.9 *Bylaws.* 3

 3.10 *Clerk and Recorder.* 3

 3.11 *Common Elements.* 3

 3.12 *Common Expenses.* 3

 3.13 *County.* 3

 3.14 *Declaration.* 4

 3.15 *Executive Board.* 4

 3.16 *First Mortgage.* 4

 3.17 *First Mortgagee.* 4

 3.18 *Garage Unit or Unit* 4

 3.19 *Improvements* 4

 3.20 *Limited Common Elements.* 4

 3.21 *Manager.* 4

 3.22 *Map.* 4

 3.23 *Member.* 4

 3.24 *Mortgage.* 4

 3.25 *Mortgagee.* 4

3.26 *Notice* 4
 3.27 *Owner.* 5
 3.28 *Project.* 5
 3.29 *Property* 5
 3.30 *Rules and Regulations.* 5
 3.31 *Successor Declarant.* 5
 3.32 *Supplemental Declaration* 5
 3.33 *Supplemental Map.* 5
 3.34 *Undefined Terms.* 5
 3.35 *West Fork Village.* 5

ARTICLE 4 - NAME, UNITS AND ALLOCATION OF INTERESTS 6

4.1 *Name.* 6
 4.2 *Existing Property.* 6
 4.3 *Number of Units.* 6
 4.4 *Identification of Units.* 6
 4.5 *Description of Units.* 6
 4.6 *Allocation of Interests and Formulas for the Allocation of Interests.* .. 6

ARTICLE 5 - MEMBERSHIP AND VOTING RIGHTS;

ASSOCIATION OPERATIONS 7

5.1 *The Association.* 7
 5.2 *Transfer of Membership.* 7
 5.3 *Membership.* 7
 5.4 *Voting* 7
 5.5 *Declarant Control.* 7
 5.6 *Books and Records.* 7
 5.7 *Manager.* 8
 5.8 *Cooperation with Other Associations.* 8
 5.9 *Rights of Action.* 8
 5.10 *Implied Rights and Obligations.* 8

ARTICLE 6 - POWERS OF THE EXECUTIVE BOARD OF THE ASSOCIATION 9

ARTICLE 7 - MECHANIC'S LIENS 10

7.1 *No Liability.* 10
 7.2 *Indemnification.* 10
 7.3 *Association Action.* 10



ARTICLE 8 - EASEMENTS 11

8.1 *Recorded Easements.* 11

8.2 *Declarant's Rights Incident to Construction.* 11

8.3 *Utility Easements.* 11

8.4 *Reservation of Easements, Exceptions and Exclusions.* 11

8.5 *Emergency Access Easement.* 12

8.6 *Easement In Favor of West Fork Village.* 12

ARTICLE 9 - MAINTENANCE 12

9.1 *Maintenance by Owners.* 12

9.2 *Owner's Failure to Maintain or Repair.* 12

9.3 *Maintenance by Association.* 12

9.4 *Association Maintenance as Common Expense.* 13

9.5 *Easement for Maintenance.* 13

9.6 *Association 's Right to Grant Owner 's Maintenance Area.* 13

9.7 *Limited Common Element Damage.* 14

ARTICLE 10 - INSURANCE 14

10.1 *General Insurance Provisions.* 14

10.2 *Property and Commercial General Liability Insurance* 14

10.3 *Repair and Replacement.* 15

10.4 *Repair Costs* 15

10.5 *Insurance Proceeds* 15

10.6 *Fidelity Insurance* 16

10.7 *Workers' Compensation Insurance* 16

10.8 *Other Insurance* 16

10.9 *Common Expenses* 16

10.10 *Notice* 16

10.11 *Other* 17

ARTICLE 11 - ASSESSMENTS 17

11.1 *Obligation* 17

11.2 *Commencement of Assessments* 17

11.3 *Accounting Year; Assessment Period* 17

11.4 *Budget.* 17

11.5 *Annual Assessments.* 17

11.6 *Apportionment of Annual Assessments.* 18

11.7 *Special Assessments.* 18

11.8 *Default Assessments.* 18



11.9 *Effect of Nonpayment; Assessment Lien.* 18
 11.10 *Personal Obligation.* 19
 11.11 *Payment by Mortgagee.* 19
 11.12 *Statement of Status of Assessment Payment.* 20
 11.13 *Maintenance of Accounts; Accounting.* 20

ARTICLE 12 - DAMAGE OR DESTRUCTION 20

12.1 *The Role of the Executive Board.* 20
 12.2 *Estimate of Damages or Destruction.* 20
 12.3 *Repair and Reconstruction.* 20
 12.4 *Funds for Repair and Reconstruction.* 21
 12.5 *Disbursement of Funds for Repair and Reconstruction.* 21

ARTICLE 13 - CONDEMNATION 21

13.1 *Rights of Owners.* 21
 13.2 *Partial Condemnation; Distribution of Award; Reconstruction.* 21
 13.3 *Complete Condemnation.* 22

ARTICLE 14 - ASSOCIATION AS ATTORNEY-IN- FACT 22

**ARTICLE 15 - RESERVED DEVELOPMENT
 AND SPECIAL DECLARANT RIGHTS** 22

15.1 *General Provisions* 22

ARTICLE 16 - USE OF UNITS, RESTRICTIONS 24

16.1 *Association Power* 24
 16.2 *Nonresidential Use* 24
 16.3 *Use Restricted To Owners and Tenants of West Fork Village* 25
 16.4 *Declarant's Use* 25
 16.5 *Electricity.* 25
 16.6 *Antennas and Exterior Equipment* 25
 16.7 *Home Occupations / Businesses* 25
 16.8 *Owner Improvements.* 25
 16.9 *Owner Repair and Maintenance* 26
 16.10 *Parking of Vehicles, Storage and Repairs* 26

16.11 *Re-Subdivision* 26
 16.12 *Miscellaneous Restrictions* 27
 16.13 *Prohibitions Contrary to Public Policy* 28

ARTICLE 17 - MORTGAGEE'S RIGHTS 29

17.1 *Distribution of Insurance or Condemnation Proceeds* 29
 17.2 *Right to Pay Taxes and Charges* 29
 17.3 *Audited Financial Statement* 29
 17.4 *Notice of Action* 30
 17.5 *Action by Mortgagee* 30

ARTICLE 18 - DURATION OF COVENANTS AND AMENDMENT 30

18.1 *Term* 30
 18.2 *Amendment* 30
 18.3 *Execution of Amendments* 30
 18.4 *Revocation* 30
 18.5 *Declarant Rights* 31

ARTICLE 19 - GENERAL PROVISIONS 31

19.1 *Restriction on Declarant Powers* 31
 19.2 *Enforcement* 31
 19.3 *Registration of Mailing Address* 32
 19.4 *Limitation on Liability* 32
 19.5 *No Representations or Warranties* 32
 19.6 *Disclaimer Regarding Safety* 33
 19.7 *Severability* 33
 19.8 *Conflicts Between Documents* 33

EXHIBIT A

LEGAL DESCRIPTION 34



**DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
THE GARAGES**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS (the "Declaration") is made on the date hereinafter set forth by **WEST FORK VILLAGE OWNERS ASSOCIATION, INC.**, hereinafter referred to as "Declarant."

RECITALS

A. Declarant is the owner of certain real property located in the City of Greeley, Weld County, Colorado, more particularly described on the attached **Exhibit A** (the "Property").

B. Declarant desires to create a condominium common interest community pursuant to the Colorado Common Interest Ownership Act as set forth in C.R.S. 38-33.3-101 *et seq.* (the "Act") on the Property, the name of which is **The Garages**.

ARTICLE 1 - DECLARATION AND SUBMISSION

1.1 *Declaration.* Declarant, for itself, its successors and assigns, hereby declares that all property herein or hereafter made subject to this Declaration shall be held, sold and conveyed subject to the following covenants, conditions, restrictions, easements and other provisions of this Declaration that shall run with the land and be binding on all parties having any right, title or interest in all or any part of the Property, and their heirs, personal representatives, successors and assigns. Additionally, Declarant hereby submits the Property to the provisions of the Act.

**ARTICLE 2 - RELATIONSHIP BETWEEN WEST FORK VILLAGE
AND THE GARAGES**

2.1 *West Fork Village.* The property which is subject to this Declaration is adjacent to West Fork Village, a condominium common interest community.

2.2 *Use Restrictions.* The use of Garage Units is restricted to Owners and Tenants of Dwelling Units in West Fork Village. The Use Restrictions are more specifically described in Article 16 of this Declaration.

2.3 *Enforcement.* The covenants, conditions, and restrictions set forth in this Declaration are for the benefit of the Owners and Tenants of Garage Units and the Owners and Tenants of Dwelling Units in West Fork Village. Therefore, the West Fork Village Owners Association, Inc. is hereby specifically authorized to enforce the covenants, conditions and restrictions set forth in this Declaration to the same extent as a Garage Owner or The Garage Owners Association, Inc.

ARTICLE 3 -DEFINITIONS

The following words when used in this Declaration or any Supplemental Declaration, Articles of Incorporation or any amendments thereto, and the Bylaws or any amendments thereto, shall have the following meanings:

3.1 *Act.* The Colorado Common Interest Ownership Act found in Title 38 of the Colorado Revised Statutes. Any references in the Association Documents to the Act or a section of the Act shall refer to the Act as presently enacted or subsequently amended.

3.2 *Agency.* Any agency or corporation such as Housing and Urban Development, Veteran's Administration or Federal National Mortgage Association ("FNMA") that purchases or insures mortgages.

3.3 *Annual Assessment.* The Assessment levied pursuant to an annual budget.

3.4 *Articles.* The Articles of Incorporation for The Garages Owners Association, Inc., a Colorado nonprofit corporation, currently on file with the Colorado Secretary of State, and any amendments that may be made to those Articles from time to time.

3.5 *Assessments.* The Annual, Special and Default Assessments levied. Assessments are also referred to as a Common Expense Liability as defined under the Act.

3.6 *Association.* The Garages Owners Association, Inc., a Colorado nonprofit corporation, and its successors and assigns.

3.7 *Association Documents.* This Declaration, and any supplemental Declaration, the Articles of Incorporation, the Bylaws, the Plat, the Map and any procedures, rules, regulations or policies adopted under such documents by the Association and any amendments to any of said documents.

3.8 *Boundaries.* The Boundaries of each Unit created by the Declaration are shown on the Map. Perimeter walls, lowermost floors, and uppermost ceilings shall mark the perimeter boundaries of a Unit.

9 of 40 R 201.00
(a) All lath, furring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, and finished flooring and any other materials constituting any part of the finished surfaces thereof are a part of the Unit, and all other portions of the walls, floors, or ceilings are a part of the Common Elements.

(b) If any chute, flue, duct, wire, conduit, bearing wall, bearing column, or other fixture lies partially within and partially outside the designated boundaries of a Unit, any portion thereof serving only that Unit is a Limited Common Element allocated solely to that Unit, and any portion thereof serving more than one Unit or any portion of the Common Elements is a part of the Common Elements.

(c) Subject to the provisions hereof, all spaces, interior partitions, and other fixtures and improvements within the boundaries of a Unit are a part of the Unit.

(d) 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.

3.9 *Bylaws.* The Bylaws adopted by the Association, as amended from time to time.

3.10 *Clerk and Recorder.* The office of the Clerk and Recorder in Weld County, Colorado.

3.11 *Common Elements.* All portions of the Project except the Units.

3.12 *Common Expenses.*

3.12.1 All expenses expressly declared to be common expenses by this Declaration or the Bylaws of the Association;

3.12.2 All other expenses of administering, servicing, conserving, managing, maintaining, repairing or replacing the Common Elements;

3.12.3 Insurance premiums; and

3.12.4 All expenses lawfully determined to be common expenses by the Executive Board.

3.12.5 Common Expenses benefitting fewer than all the Units may, in the discretion of the Executive Board, be assessed exclusively against those Units benefitted.

3.13 *County.* Weld County, Colorado.

3.14 *Declaration.* This Declaration and the Map, and amendments and supplements to the foregoing.

3.15 *Executive Board.* The governing body of the Association. "Executive Board" shall have the same meaning as "Board of Directors."

3.16 *First Mortgage.* Any Mortgage that is not subject to any monetary lien or encumbrance except liens for taxes or other liens that are given priority by statute.

3.17 *First Mortgagee.* Any person named as a mortgagee or beneficiary in any First Mortgage, or any successor to the interest of any such person under such First Mortgage.

3.18 *Garage Unit or Unit.* A physical portion of the Project, designated for separate ownership or occupancy.

3.19 *Improvements.* All improvements now or hereafter constructed including, without limitation, all exterior lighting, benches, walks, landscaping, sprinkling systems, irrigation ditches, and parking areas within the Project.

3.20 *Limited Common Elements.* A portion of the Common Elements allocated by this Declaration, the Map, or by operation of the Act for the exclusive use of one or more Units, but fewer than all of the Units.

3.21 *Manager.* 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.

3.22 *Map.* 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.

3.23 *Member.* Every person or entity that holds membership in the Association by virtue of the ownership of a Unit.

3.24 *Mortgage.* Any mortgage, deed of trust or other document pledging any Unit or interest therein as security for payment of a debt or obligation.

3.25 *Mortgagee.* Any person named as a mortgagee or beneficiary in any Mortgage, or any successor to the interest of any such person under such Mortgage.

3.26 *Notice.* (i) written notice hand delivered or sent by prepaid United States mail to the mailing address of a Unit or to any other mailing address designated in writing by the Unit Owner or to the last known address of the intended recipient, or (ii) notice through an Association publication which is hand delivered or sent by prepaid United States mail to the Units; or (iii) notice delivered



by electronic mail or facsimile to an Owner at the electronic mail address or facsimile number designated by the Owner.

3.27 *Owner.* The owner of record, whether one or more persons or entities, of fee simple title to any Unit.

3.28 *Project.* The common interest community created by this Declaration and as shown on the Map, consisting of the Units, the Common Elements, and Limited Common Elements.

3.29 *Property.* The real property described in Exhibit A, together with such additional property as is subsequently subjected to this Declaration in accordance with the provisions set forth herein below.

3.30 *Rules and Regulations.* Rules and regulations may be adopted by the Board of Directors for the management, preservation, safety, control and orderly operation of the Project and governing use of the Common Elements provided, however, that such Rules and Regulations shall be uniform and nondiscriminatory. Copies of all such Rules and Regulations shall be furnished to Owners prior to the time that they become effective.

3.31 *Successor Declarant.* Any person or entity to whom Declarant assigns any or all of its rights, obligations or interest as Declarant, as evidenced by an assignment or deed of record executed by both Declarant and the transferee or assignee and recorded with the Clerk and Recorder.

3.32 *Supplemental Declaration.* An instrument that amends this Declaration.

3.33 *Supplemental Map.* A supplemental Map of the Project that depicts any change in the Project through a Supplemental Declaration.

3.34 *Undefined Terms.* Each term not otherwise defined in this Declaration, including the Plat, shall have the same meaning specified or used in the Act.

3.35 *West Fork Village.* The condominium common interest community created by the Declaration of Covenants, Conditions and Restrictions for West Fork Village, recorded on October 22, 2002, at Reception No. 2998232 in the Office of the Weld County Clerk and Recorder and any supplements or amendments thereto. Exhibit C to the West Fork Declaration describes the property that may be annexed into West Fork Village. It is possible that more than one common interest community may be created on the property described on said Exhibit C. In such event, any references in this Declaration to West Fork Village or West Fork Village Owners Association, Inc. shall also apply to such additional common interest communities.



ARTICLE 4 - NAME, UNITS AND ALLOCATION OF INTERESTS

4.1 *Name.* The name of the Project is **The Garages**. The Project is a Condominium pursuant to the Act.

4.2 *Existing Property.* The real property that is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration is located in the City of Greeley, Weld County, Colorado, and is more particularly described on **Exhibit A**.

4.3 *Number of Units.* The maximum number of Units that may be created in the Project is fifty-five (55).

4.4 *Identification of Units.* The identification number of each Unit is shown on the Plat.

4.5 *Description of Units:*

4.5.1 Each Unit and 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 a Unit.

4.5.2 Any instrument affecting a Unit may describe it by its unit number, The Garages, City of Greeley, Weld County, Colorado, according to the Map thereof recorded on _____ at Reception No. _____, and the Declaration recorded on _____ at Reception No. _____, in the records of the Clerk and Recorder of Weld County, Colorado, as amended from time to time.

4.6 *Allocation of Interests and Formulas for the Allocation of Interests.* The interest allocated to each Unit and the formulas for calculating the Allocation of Interests are as follows:

4.6.1 *Undivided Interest in Common Elements.* The formula used to establish the allocations of interest is the percentage equivalent to a fraction, the numerator of which is one (1) and the denominator of which is the total number of Units subject to this original Declaration, or subject to this Declaration by supplemental expansion.

4.6.2 *Liability for Common Expenses.* All Common Expenses shall be assessed against Units on the basis of the same formula used to establish the allocations of interest.



**ARTICLE 5 - MEMBERSHIP AND VOTING RIGHTS;
ASSOCIATION OPERATIONS**

5.1 *The Association.* The name of the Association is The Garages Owners Association, Inc.. Declarant has caused the Association to be incorporated as a nonprofit corporation under the laws of the State of Colorado. 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.

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 the Unit and then only to the purchaser or Mortgagee of the 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.

5.3 *Membership.* The Association shall have one (1) class of membership consisting of all Owners, including Declarant so long as Declarant continues to own an interest in a Unit. Except as otherwise provided for in this Declaration, each Member shall be entitled to vote in Association matters as set forth in this Declaration, the Articles of Incorporation and Bylaws. Each Owner is subject to all the rights and duties assigned to Owners under the Association Documents.

5.4 *Voting.* There shall be one (1) vote per Unit.

5.5 *Declarant Control.* Declarant shall be entitled to appoint and remove the members of the Association's Executive Board and officers of the Association to the fullest extent permitted under the Act as set forth in the Association's Articles of Incorporation and Bylaws. Declarant may voluntarily relinquish such power by recording a notice executed by Declarant with the Clerk and Recorder but, in such event, Declarant may at its option require that specified actions of the Association or the Executive Board as described in the recorded notice, during the period Declarant would otherwise be entitled to appoint and remove directors and officers, be approved by Declarant before they become effective.

5.6 *Books and Records.* The Association shall maintain and shall make reasonably available for inspection, upon request, to Owners and their authorized agents, current copies of the Association Documents and the books, records and financial statements of the Association, and any other documents as listed in C.R.S. 38-33.3-317. The Association shall be subject to the privacy provision of C.R.S. 38-33.3-317. The term "reasonably available" shall mean available during normal business hours, upon notice of five business days, or at the next regularly scheduled meeting if such meeting occurs within thirty days after the request, to the extent that (i) the request is made in good faith and for a proper purpose, (ii) the request describes with reasonable particularity the records sought and the purpose of the request, and (iii) the records are relevant to the purpose of the request (C.R.S. 38-33.3-317(4)). The Association may charge a reasonable fee for copying such materials. If the documents requested are on the Association's website, they shall be considered reasonably available. The Association shall not be required to provide written copies of any documents contained on the Association's website.

5.7 *Manager.* The Association may employ or contract for the services of a Manager to whom the Executive Board may delegate certain powers, functions or duties of the Association, as provided in the Bylaws of the Association. The Manager shall not have the authority to make expenditures except as directed by the Executive Board.

5.8 *Cooperation with Other Associations.* The Association shall have the right and authority at any time, from time to time, to enter into agreements and otherwise cooperate with other owner association(s) and/or any district(s), to share the costs and/or responsibility for any maintenance, repair, replacement or other matters, to perform maintenance, repair or replacement for any person(s) in consideration of payment or reimbursement therefor, to utilize the same contractors, subcontractors, managers or others who may perform services for the Association, any other owner association(s) and/or any district(s), or to otherwise cooperate with any other owner association(s) and/or any district(s) in order to increase consistency or coordination, reduce costs, or as may otherwise be deemed appropriate or beneficial by the Executive Board in its discretion from time to time. The costs and expenses for all such matters, if any, shall be shared or apportioned between the Association and/or any other owner association(s) and/or any district(s), as the Executive Board may determine in its discretion from time to time. Additionally, the Association shall have the right and authority at any time, from time to time, to enter into agreements and otherwise cooperate with any other owner association(s) and/or any district(s) to collect assessments, other charges or other amounts which may be due to such entity and to permit any such entity to collect assessments, other charges or other amounts which may be due to the Association; in any such instance, the Association shall provide for remittance to such entity of any amounts collected by the Association or to the Association of any amounts collected by such entity.

5.9 *Rights of Action.* The Association on behalf of itself and any aggrieved Unit Owner shall be granted a right of action against any and all Unit Owners for failure to comply with the provisions of 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 Unit Owner shall have the right but not the obligation to enforce 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 if the parties so agree. The prevailing party in any arbitration or judicial relief shall be entitled to reimbursement from the non-prevailing party or parties, for all reasonable costs and expenses, including attorneys 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 Association Documents shall not be deemed a waiver of the right to enforce any provision thereafter.

5.10 *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.

**ARTICLE 6 - POWERS OF THE EXECUTIVE BOARD
OF THE ASSOCIATION**

Except as provided in the Bylaws and the Act, the Executive Board may act in all instances on behalf of the Association, to:

- 6.1 Adopt and amend bylaws and rules and regulations;
- 6.2 Adopt and amend budgets for revenues, expenditures and reserves and collect Assessments;
- 6.3 Hire and terminate managing agents and other employees, agents and independent contractors;
- 6.4 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;
- 6.5 Make contracts and incur liabilities;
- 6.6 Regulate the use, maintenance, repair, replacement and modification of Common Elements;
- 6.7 Cause additional improvements to be made as a part of the Common Elements;
- 6.8 Acquire, hold, encumber and convey in the name of the Association any right, title or interest to real or personal property, except that Common Elements may be conveyed or subjected to a security interest only if Members entitled to cast at least sixty-seven percent (67%) of the votes agree to that action and 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;
- 6.9 Grant easements, leases, licenses and concessions through or over the Common Elements;
- 6.10 Annex additional property, pursuant to the terms of this Declaration.
- 6.11 Impose and receive any payments, fees or charges for the use, rental or operation of the Common Elements;
- 6.12 Impose charges 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 the Association Documents;

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

6.15 Assign its right to future income, including the right to receive Assessments;

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

6.17 Delegate powers to a master association as provided in C.R.S. § 38-33.3-220. If powers are delegated to a Master Association, the executive board of the master association must be elected pursuant to C.R.S. § 38-33.3-220.

6.18 Exercise all other powers that may be exercised in this state by legal entities of the same type as the Association; and

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

ARTICLE 7 - MECHANIC'S LIENS

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 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.

7.2 *Indemnification.* If, because of any act or omission of any Owner, any mechanic's or other lien or order for the payment of money shall be filed against the Common Elements or against 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 canceled 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, expenses, claims, losses or damages including, without limitation, reasonable attorneys' fees resulting therefrom.

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 its Bylaws, shall be the basis for the filing of a lien pursuant to law against the Common Elements. Any such lien

ARTICLE 8 - EASEMENTS

8.1 *Recorded Easements.* The Property shall be subject to all easements as shown on any Map or plat, those of record, 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.

8.2 *Declarant's Rights Incident to Construction.* Declarant, for itself and its successors and assigns, 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 other real property owned by Declarant, or other properties abutting and contiguous to the Property; provided, however, that no such rights shall be exercised by Declarant in a way that unreasonably interferes with the occupancy, use, enjoyment or access to the Project by the Owners.

8.3 *Utility Easements.* There is hereby created a blanket easement upon, across, over, in and under the Property for the benefit of the Common Elements and the Units and the structures and improvements situated on the Property for ingress and egress, installation, replacing, repairing and maintaining all utilities, including, but not limited to, water, sewer, gas, telephone, cable TV and electricity. Said blanket easement includes future utility services not presently available to the Units that may reasonably be required in the future. By virtue of this easement, it shall be expressly permissible for the companies providing utilities to erect and maintain the necessary equipment on any of the Units and to affix and maintain electrical and/or telephone wires, circuits and conduits 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 to locations. This easement shall also apply to the West Fork Village Owners Association, Inc. and the Owners of Dwelling Units within West Fork Village.

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. Each Owner is hereby granted a perpetual non-exclusive right of ingress to and egress from the Owner's Unit over and across the Common Elements 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 guest parking, storage and closure for repairs and maintenance.



8.5 *Emergency Access Easement.* 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 in the proper performance of their duties.

8.6 *Easement In Favor of West Fork Village.* Each Owner of a Dwelling Unit within West Fork Village is hereby granted a perpetual, non-exclusive right of ingress to and egress from the Owner's Dwelling Unit over and across the part of the street located in front of the Garage Units.

ARTICLE 9 - MAINTENANCE

9.1 *Maintenance by Owners.* 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. Each Owner shall, at such Owner's expense, be responsible for all maintenance, replacement, repair, and routine care of all glass on the Unit, all exterior doors (except painting of the outside surface), all window units (including glass and screens), all fixtures and equipment installed within the Unit commencing at a point where the utilities enter the Unit, all interior non-supporting walls, and all interior surfaces of the walls, ceilings, doors, and floors. Each Owner shall, at such Owner's expense, be responsible for all maintenance, replacement, repair, and routine care of the concrete floor and Limited Common Elements appurtenant to such Owner's Unit. If any such Limited Common Element is appurtenant to two or more Units, the responsibility of the Owners of those Units shall be joint and several.

9.2 *Owner's Failure to Maintain or Repair.* In the event that a Unit (including the allocated Limited Common Element) is not properly maintained and repaired, or in the event that the Unit is damaged or destroyed and the Owner does not take reasonable measures to diligently pursue the repair and reconstruction of the damaged or destroyed Unit, then the Association, after notice to the Owner and with the approval of the Executive Board, shall have the right to enter upon the Unit to perform such work as is reasonably required to restore the Unit to a condition of good order and repair. 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 this Declaration.

9.3 *Maintenance by Association.* The Association shall maintain, repair and replace all the Common Elements, except the portions of the Common Elements that are required by this Declaration or the Act to be maintained, repaired or replaced by the Unit Owners. The Association shall maintain the exterior surfaces of the building. Exterior surfaces shall include gutters, down spouts, exterior surfaces of walls, doors, and roofs. The Association shall provide that all such exterior surfaces are adequately painted, finished and maintained so as to present, at all times, a pleasing and attractive appearance. The need for and time of, as well the nature and type of any



painting, refinishing or re-roofing, including the color thereof, shall be within the sole discretion of the Association.

9.3.1 *Snow Removal.* The West Fork Village Owners Association shall be responsible for snow removal from the Common Elements. The Garage Owners Association shall have no duty to cause any snow removal.

9.3.2 *Trash Removal.* The Association shall not provide trash receptacles, trash pick-up, or other trash service. Because all owners or tenants of the Garage Units shall be Owners or Tenants of West Fork Village, Owners or Tenants shall use trash service provided by the West Fork Village Owners Association, Inc. No Owner or Tenant shall place any hazardous material in the trash receptacles. No Owner or Tenant may use a different trash pick-up service. No Owner or Tenant shall place any trash or other matter outside of the Garage Unit. The Association may adopt Rules and Regulations concerning the use of trash receptacles and the Owners and Tenants shall be subject to Rules and Regulations regarding trash receptacles adopted by the West Fork Village Owners Association, Inc.

9.4 *Association Maintenance as Common Expense.* The cost of maintenance and repair by the Association shall be a Common Expense of all Owners, to be shared by each Unit Owner according to the Allocated Interests for each Unit. Damage to the interior or any part of a Unit resulting from the maintenance, repair or replacement of any of the Common Elements shall also be a Common Expense of all of the Owners. Notwithstanding the foregoing, Common Expenses benefitting fewer than all the Units may, in the discretion of the Executive Board, be assessed exclusively against those Units benefitted.

9.5 *Easement for Maintenance.* Each Owner and the Association shall have the irrevocable right, to be exercised by the Manager, the Executive Board or officers or employees of the Association, to have access to each Unit from time to time during reasonable hours as may be necessary for the maintenance, repair or replacement of any of the Common Elements therein or accessible therefrom, or at any hour for making emergency repairs, maintenance or inspection therein necessary to prevent damage to the Common Elements or another Unit. In the event insurance proceeds are payable to an Owner but the maintenance responsibility of the area to which such proceeds relate is the Association's, the Association shall complete any such repair or replacement at the Owner's cost.

9.6 *Association's Right to Grant Owner's Maintenance Area.* The Association reserves the right to grant the maintenance responsibility to the Unit Owner of certain areas on each Unit or Common Elements, and the Unit Owner is obligated to accept said maintenance responsibility, provided said assignment is done in a uniform and nondiscriminatory manner. The Association may also enter into an agreement with an Owner whereby the Owner accepts the maintenance responsibility for certain areas on or adjacent to the Owner's Unit. Said agreement may be terminated at any time by the Association.



9.7 *Limited Common Element Damage.* 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 Owner's Agent, the then Owners of the Units to which the Limited Common Element is attributable shall bear equally the expense to repair or rebuild 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 Owner's Agent's negligence.

ARTICLE 10 - INSURANCE

10.1 *General Insurance Provisions.* The Association shall acquire and pay for, out of the Assessments levied in accordance with this Declaration, any insurance policies required by the Act and such other Insurance as the Executive Board may, within its discretion, determine desirable for the protection of the Common Elements, if any. Such insurance required by this Article or the Act shall conform to the requirements set forth in C.R.S. § 38-33.3-313(4)(a)-(d) which are as follows:

10.1.1 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.

10.1.2 The insurer waives its rights to subrogation under the policy against any Unit Owner or member of his household.

10.1.3 No act or omission by any Unit Owner, unless acting within the scope of such Unit Owner's authority on behalf of the Association, will void the policy or be a condition to recovery under the policy.

10.1.4 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 Association's policy provides primary insurance.

10.2 *Property and Commercial General Liability Insurance.* Commencing not later than the time of the first conveyance of a Unit to a person other than a Declarant, the Association shall maintain, to the extent reasonably available:

10.2.1 *Property Insurance.* Property insurance on the Common Elements and also on property that must become 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. The insurance must include the Units but not the finished interior surfaces of the walls, floors, and ceilings of the Units. The insurance need

not include improvements and betterments installed by Unit Owners, but if they are covered, any increased charge shall be assessed by the Association to those Owners.

10.2.2 *Commercial General Liability Insurance.* Commercial general liability insurance in an amount deemed sufficient in the judgment of the Executive Board against claims and liabilities arising in connection with the ownership, existence, use or management of the Common Elements, insuring the Executive Board, the Association, the management agent, and their respective employees, agents, and all persons acting as agents. The Declarant shall be included as an additional insured in such Declarant's capacity as a Unit Owner and board member. The Unit Owners shall be included as additional insureds but only for claims and liabilities arising in connection with the ownership, existence, use, or management of the Common Elements. The insurance shall cover claims of one or more insured parties against other insured parties.

10.3 *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 unless:

10.3.1 The common interest community is terminated in which case C.R.S. § 38-33.3-218 applies;

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

10.3.3 There is a vote not to rebuild by (a) eighty percent (80%) of the Owners entitled to vote; and (b) every Owner of a Unit or assigned Limited Common Element that will not be rebuilt; or

10.3.4 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.

10.4 *Repair Costs.* The cost of repair or replacement of Common Elements in excess of insurance proceeds and reserves is a Common Expense. 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 Mortgagees, as their interests may appear in proportion to each Unit's Common Expenses Allocated Interests.

10.5 *Insurance Proceeds.* Any loss covered by the property insurance policy must be adjusted with the Association, but the insurance proceeds for that loss shall be payable to the Association, and not to any holder of a security interest. The Association shall hold any insurance



proceeds in trust for the Owners and Mortgagees as their interests may appear. Subject to the provisions set forth above, 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 common interest community created by this Declaration is terminated.

10.6 *Fidelity Insurance.* Fidelity insurance or fidelity bonds may be maintained by the Association to protect against dishonest acts on the part of its officers, directors, trustees, independent contractors 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 addition, if responsibility for handling funds is delegated to a Manager, such insurance may be obtained by or for the Manager and its officers, employees and agents, as applicable. Such fidelity insurance or bond shall name the Association as insured and 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. Such fidelity bonds shall be a minimum of an amount equal to two (2) months Assessments plus reserves.

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.

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

10.9 *Common Expenses.* Premiums for insurance that the Association acquires and other expenses connected with acquiring such insurance are Common Expenses provided, however, that if the Association's fire and extended coverage insurance covers fixtures, equipment or other property within some but not all of the Units (as required by any Agency including FNMA), the Association reserves the right to charge the Owner of such Units for which the Association provides additional insurance coverage, an amount equal to the premium attributable to such additional insurance coverage.

10.10 *Notice.* If any insurance required by this Article is not reasonably available, or if any policy of such insurance is canceled or not renewed without a replacement policy having been obtained, the Association promptly shall cause notice of that fact to be hand delivered or sent prepaid by United States mail to all Unit Owners.



10.11 *Other.* An insurance policy issued to the Association does not eliminate the need for Owners to obtain insurance for their own benefit.

ARTICLE 11 - ASSESSMENTS

11.1 *Obligation.* Each Owner, including Declarant while an Owner of any Unit, is obligated to pay to the Association (i) Annual Assessments; (ii) Special Assessments; and (iii) Default Assessments.

11.2 *Commencement of Assessments.* Declarant shall maintain all Common Elements and pay all Common Expenses until the first installment of the first annual assessment shall be due. Thereafter, all Common Elements and all Common Expenses shall become the sole responsibility of the Association. Declarant shall determine the date on which the first such installment shall commence, but such date shall be the first of the month.

11.3 *Accounting Year; Assessment Period.* The Association shall operate on a calendar or fiscal accounting year, as determined by the Executive Board, and the Assessment Period shall be for the same period.

11.4 *Budget.* Within ninety (90) days after the adoption of any proposed budget for the Common Interest Community, the Executive Board shall mail, by ordinary first-class mail, or otherwise deliver a summary of the budget to all Owners and shall set a date for a meeting of the Owners to consider the budget. Such meeting shall occur within a reasonable time after mailing or other delivery of the summary, or as allowed for in the Bylaws. The Executive Board shall give notice to the Owners of the meeting as allowed for in the Bylaws. The budget proposed by the Executive Board does not require approval from the Owners and it will be deemed approved by the Owners in the absence of a veto at the noticed meeting by a majority of all Owners, whether or not a quorum is present. In the event that the proposed budget is vetoed, the periodic budget last proposed by the Executive Board and not vetoed by the Owners must be continued until a subsequent budget proposed by the Executive Board is not vetoed by the Owners.

11.5 *Annual Assessments.* Annual Assessments made for Common Expenses shall be based upon the estimated cash requirements as the Executive Board shall from time to time determine to be paid by all of the Owners. 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 deemed desirable or necessary by the Association, landscaping of the Property, care of grounds within the Common Elements, routine repairs, replacements and renovations within any of the Common Elements, wages, common water and utility charges, legal and accounting fees, management fees, expenses and liabilities incurred by the Association under or by reason of this Declaration, payment of any default remaining from a previous assessment period, 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.

Annual Assessments shall be payable in installments as determined by the Executive Board. The omission or failure of the Association to fix the Annual Assessments for any assessment period shall not be deemed a waiver, modification or release of the Owners from their obligation to pay the same. The Association shall have the right, but not the obligation, to make prorated refunds of any Annual Assessments in excess of the actual expenses incurred in any fiscal year.

11.6 *Apportionment of Annual Assessments.* The Common Expenses shall be allocated among the Units on the basis of the Allocated Interests for Common Expenses in effect on the date of assessment, provided, however, that the Association reserves the right to allocate all expenses relating to fewer than all of the Units (such as those expenses attributable to Limited Common Elements and certain insurance premiums) to the Owners of those affected Units only.

11.7 *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, repair or replacement of improvements within the Common Elements or for any other expense incurred or to be incurred as provided in this Declaration. Any amounts assessed pursuant to this Section shall be assessed to Owners according to their Allocated Interests for Common Expenses, subject to the right of the Association to assess only against the Owners of affected Units any extraordinary maintenance, repair or restoration work on fewer than all of the Units. Any extraordinary insurance costs incurred as a result of the value of a particular Owner's Unit or the actions of a particular Owner (or his agents, servants, guests, tenants or invitees) shall be assessed against that Unit. 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.

11.8 *Default Assessments.* All monetary fines assessed against an Owner pursuant to the Association Documents, or any expense of the Association that is the obligation of an Owner or which is incurred by the Association on behalf of the Owner pursuant to the Association Documents, shall be a Default Assessment and shall become a lien against such Owner's Unit that 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 ten (10) days prior to the due date.

11.9 *Effect of Nonpayment; Assessment Lien.* Any Assessment installment, whether pertaining to any Annual, Special or Default Assessment, which is not paid on or before its due date shall be delinquent. If an Assessment installment becomes delinquent, the Association, at its sole discretion, may take any or all of the following actions:



11.9.1 Assess a late charge for each delinquency in such amount as the Association deems appropriate;

11.9.2 Assess an interest charge from the due date at the yearly rate of eighteen percent (18%), or such other lawful rate as the Executive Board may establish;

11.9.3 Suspend the voting rights of the Owner during any period of delinquency;

11.9.4 Suspend the rights of the Owner, and the Owner's family, guests, lessees and invitees, to use Common Element facilities during any period of delinquency;

11.9.5 Accelerate all remaining Assessment installments so that unpaid Assessments for the remainder of the fiscal year shall be due and payable at once;

11.9.6 Bring an action at law against any Owner personally obligated to pay the delinquent Assessments; and

11.9.7 Proceed with foreclosure as set forth in more detail below.

11.9.8 Assessments chargeable to any Unit shall constitute a lien on such Unit. 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 Association shall have the power to bid on a Unit at foreclosure sale and to acquire and hold, lease, mortgage and convey the same. Liens for assessments and their priority shall be as provided in C.R.S. § 38-33.3-316.

11.10 *Personal Obligation.* Each Assessment against a Unit is the personal obligation of the person who owned the Unit at the time the Assessment became due and shall also pass to successors in title. ***By acceptance of a deed for a Unit, each Unit purchaser thereby consents to assume the foregoing joint obligation for all Assessments due against the Unit pursuant to this Section.*** 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, if any. Suit to recover a money judgment for unpaid Assessments, any penalties and interest thereon, the cost and expenses of such proceedings, and all reasonable attorney fees in connection therewith shall be maintainable without foreclosing or waiving the Assessment lien provided in this Declaration.

11.11 *Payment by Mortgagee.* Any Mortgagee holding a lien on a Unit may pay any unpaid Assessment 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 Mortgage.

11.12 *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, 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.

11.13 *Maintenance of 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 and working capital accounts of the Association separate from the operational accounts of the Association, and (c) provide to the Association an annual accounting and financial statement of Association funds prepared by the manager, a public accountant or a certified public accountant.

ARTICLE 12 - DAMAGE OR DESTRUCTION

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

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. Such costs may also include professional fees and premiums for such bonds as the Executive Board determines to be necessary.

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 .

12.4 *Funds for Repair and Reconstruction.* The proceeds received by the Association from any hazard insurance carried by the Association shall be used for the purpose of repair, replacement and reconstruction of the Association-Insured Property for the benefit of Owners and Mortgagees. If the proceeds of the Association's insurance are insufficient to pay the estimated or actual cost of such repair, replacement or reconstruction, or if upon completion of such work the insurance proceeds for the payment of such work are insufficient, the Association may, if permitted under the Act, levy, assess and collect in advance from the Owners, without the necessity of a special vote of the Owners, a Special Assessment sufficient to provide funds to pay such estimated or actual costs of repair and reconstruction. Further levies may be made in like manner if the amounts collected prove insufficient to complete the repair, replacement or reconstruction.

12.5 *Disbursement of Funds for Repair and Reconstruction.* The insurance proceeds held by the Association and the amounts received from the Special Assessments provided for above, constitute a fund for the payment of the costs of repair and reconstruction after casualty. It shall be deemed that the first money disbursed in payment for the costs of repair and reconstruction shall be made from insurance proceeds, and the balance from the Special Assessments. If there is a balance remaining after payment of all costs of such repair and reconstruction, such balance shall be distributed to the Owners in proportion to the contributions each Owner made as Special Assessments, then in proportion to the relative value of each Unit which shall be based on the square footage of the Unit and in accordance with the Units' Percentage Share of Common Expenses, first to the Mortgagees and then to the Owners, as their interests appear.

ARTICLE 13 - CONDEMNATION

13.1 *Rights of Owners.* Whenever all or any part of the Common Elements shall be taken by any authority having 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.

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:

13.2.1 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 Declarant and Owners who represent at least sixty seven percent (67%) of the votes of all of the Owners 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 to be repaired or restored, the provisions above regarding the disbursement of funds shall apply. If the taking does not involve any improvements on the Common Elements, or if there is a decision made not to repair or restore, or if there are net funds remaining after any such restoration or replacement is completed, then such award or net funds shall be distributed among the Units pro rata based upon the square footage of the Units, first to the Mortgagees and then to the Owners, as their interests appear.

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 common interest community created by this Declaration shall terminate, and the portion of the condemnation award attributable to the Common Elements shall be distributed as provided above regarding disbursement of funds for partial condemnation.

ARTICLE 14 - ASSOCIATION AS ATTORNEY-IN- FACT

14.1 Each Owner hereby irrevocably appoints the Association as the Owner's true and lawful attorney-in-fact for the purposes of purchasing and maintaining insurance, 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 upon their damage, destruction, or taking. 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. 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 that may be necessary to exercise the powers granted to the Association as attorney-in-fact.

ARTICLE 15 - RESERVED DEVELOPMENT AND SPECIAL DECLARANT RIGHTS

15.1 *General Provisions.* Declarant shall have the following Rights ("Special Declarant Rights") with respect to all of the Property:

15.1.1 *Reservation of Development Rights.* Declarant reserves the right to exercise all "Development Rights" as defined from time to time in the Act including, without limitation, the right or combination of rights hereby reserved by Declarant, as follows:

- 15.1.1.1 The right to add real estate to the common interest community;
- 15.1.1.2 The right to create Units, Common Elements or Limited Common Elements within the common interest community;
- 15.1.1.3 The right to subdivide Units or convert Units into Common Elements; or
- 15.1.1.4 The right to withdraw real estate from the common interest community.

15.1.2 *Phasing of Development Rights.* No assurances are made by Declarant as to whether Declarant will exercise its Development Rights or the order in which such Development Rights will be exercised. The exercise of Development Rights as to some portions of the property will not obligate Declarant to exercise them as to other portions.

15.1.3 *Special Declarant Rights.* Declarant reserves the following Special Declarant Rights as defined from time to time in the Act including, without limitation, the right or combination of rights, as follows:

- 15.1.3.1 To complete any improvements indicated on the Map;
- 15.1.3.2 To exercise any development right;
- 15.1.3.3 To maintain sales offices, management offices, and signs advertising the common interest community;
- 15.1.3.4 To use easements through the Common Elements and Units for the purpose of making Improvements within the common interest community or within property that may be added to the common interest community;
- 15.1.3.5 To make the common interest community subject to a master association;
- 15.1.3.6 To merge or consolidate a common interest community of the same form of ownership; and
- 15.1.3.7 To appoint or remove any officer of the Association or any Executive Board member during any period of Declarant control.



15.1.4 *Construction: Declarant's Easement.* Declarant reserves the right to perform warranty work, repairs and construction in Units and Common Elements, to store materials in secure areas, and to control and have the right of access to work and make repairs until completion. All work may be performed by Declarant without the consent or approval of the Executive Board. Declarant has an easement through the Common Elements as may be reasonably necessary for the purpose of discharging Declarant's obligations or exercising Special Declarant Rights, whether arising under the Act or reserved in this Declaration. This easement includes the right to convey access, utility, and drainage easements to a governmental entity.

15.1.5 *Declarant's Property.* Declarant reserves the right to remove and retain all its property used in the sales, management, construction and maintenance of the property, whether or not they have become fixtures.

15.1.6 *Limitations on Special Declarant Rights.* Unless terminated earlier by a document executed by Declarant and recorded in the real estate records of Weld County, Colorado, any Reserved Development Rights and Special Declarant Rights may be exercised by Declarant as long as Declarant or a successor declarant continues to be an owner of a Unit or, if earlier, ten (10) years from recording this Declaration with the Clerk and Recorder.

15.1.7 *Interference With Special Declarant Rights.* While the Declarant is entitled to exercise its Special Declarant Rights, neither the Association nor any Unit Owner may take any action or adopt any rule that will interfere with or diminish any Special Declarant Right without the prior written consent of Declarant.

15.1.8 *Rights Transferable.* Any Special Declarant Rights or other Declarant rights created or reserved under this Declaration may be transferred by an instrument evidencing the transfer recorded in Weld County, Colorado. Such instrument shall be executed by the transferor and the transferee.

ARTICLE 16 - USE OF UNITS, RESTRICTIONS

16.1 *Association Power.* The Association shall have the right and power to prohibit any activities deemed unsafe, unsightly, unreasonably noisy or otherwise offensive to the senses and perceptible from another Unit or the Common Area by promulgating Rules and Regulations which restrict or prohibit such activities.

16.2 *Nonresidential Use.* All Units shall be used exclusively for nonresidential purposes.



16.3 *Use Restricted To Owners and Tenants of West Fork Village.* Garage Units may only be used by the West Fork Village Owners Association, Inc. or Owners or Tenants of Dwelling Units within West Fork Village.

16.3.1 All occupancies of Garage Units shall be subject to the right of the Association to remove and/or evict the occupant for failure to comply with the terms of the Declaration or Bylaws of the Association, Articles of Incorporation or the rules and regulations of the Association.

16.3.2 Except as restricted in this Declaration, and such Rules and Regulations as the Association may promulgate, the right to lease or allow occupancy of a Garage Unit shall not be restricted.

16.4 *Declarant's Use.* Notwithstanding any provisions contained in this Declaration to the contrary, it shall be permissible and proper for Declarant and Declarant's employees, agents, independent contractors, successors and assigns involved in the development of the Property or construction of Improvements upon the Property to perform such activities and to maintain such facilities upon any portion of the Property as may be reasonably required, necessary, or incidental to the development of the Property, the construction of Improvements, and sale of Units. The facilities may include but are not limited to a business office, storage areas, construction yards, construction trailers and equipment, signs, model units, and sales offices. No such activity shall be performed nor facility maintained on any portion of the Property which unreasonably interferes with any Owner's use and enjoyment of, or access to, his or her Unit.

16.5 *Electricity.* Unless otherwise provided by Rules and Regulations adopted by the Executive Board, the electricity provided to the Units shall only be used on an intermittent basis, such as the operation of electric tools; and may not be used on a long term or continuous basis, such as in the use of heaters, engine block heaters, refrigerators and freezers. The Executive Board may adopt Rules and Regulations concerning allowing continuous use and the assessment of electricity costs.

16.6 *Antennas and Exterior Equipment.* No antennas, satellite dishes, wiring, ducts, pipes, or other exterior equipment or fixtures of any kind shall be permitted on the Common Elements or the Units without the express written consent of the Executive Board.

16.7 *Home Occupations/Businesses.* The conduct of a home occupation or business shall not be permitted.

16.8 *Owner Improvements.* No Owner shall undertake any interior improvements within a Unit without first obtaining all required permits. All improvements shall be in conformance with applicable building codes including fire sprinkling. Electrical and mechanical plans shall be first submitted to the Executive Board for its review and approval; approval shall be for the compatibility of the proposed improvements with existing service and shall not be unreasonably withheld. The



reasonable cost of any consultant retained by the Association for the purpose of reviewing and evaluating the proposed plans shall be reimbursed by the Owner to the Association. Any upgrade in service piping, wiring or equipment shall be performed by licensed contractors approved by the Association and paid for by the Owner. All electrical and mechanical work shall be performed by licensed and insured contractors. The Owner shall indemnify the Association in a form acceptable to it against any injury, damage or loss occasioned by Owner's undertaking any interior improvement or construction. The Owner shall maintain a policy of general liability insurance naming the Association as additional insured during any period of construction.

16.9 *Owner Repair and Maintenance.* No improvements, alterations, repairs, change of paint colors, or other work which in any way alters the exterior of any Unit or Common Elements from its natural or improved state existing on the date such property was first subject to this Declaration, shall be made or done without the express written consent of the Executive Board. This section shall not apply to the Declarant or its agents.

16.10 *Parking of Vehicles, Storage and Repairs.*

16.10.1 No vehicle or equipment of any kind may be parked, stored or placed upon the Common Elements.

16.10.2 Each Owner shall keep the garage door of their Unit closed as frequently as possible and shall not at any time leave the garage door open unless an individual is physically present at the Unit.

16.10.3 Any maintenance, repair, rebuilding, dismantling, repainting, or servicing of any kind of vehicle, trailer, boat, or equivalent, must be performed completely within the Garage Unit.

16.10.4 In the event the Executive Board determines that a vehicle is parked in violation of the restrictions set forth above or any rule or regulation adopted by the Executive Board, the Association shall have the right to remove the vehicle and the owner thereof shall be responsible for all towing and storing charges. In addition, if the owner of the vehicle is an Owner or Occupant of a Unit, the towing and storing charges shall be a Default Assessment. If the owner of the vehicle is an occupant of a Unit, but is not the Owner of a Unit, the Association may proceed to collect the towing and storing charges directly from the Unit Owner without the necessity of taking any action to collect the towing and storing charges from the owner of the vehicle. Unless it is impractical for safety or other reasons, prior to having any vehicle removed, the Executive Board shall place a written notice on the vehicle and may mail a notice to the appropriate Unit Owner.

16.11 *Re-Subdivision.* No Garage Unit shall be re-subdivided into more than one Garage Unit.



16.12 *Miscellaneous Restrictions.* The following activities and uses shall be prohibited within the Project:

16.12.1 Nothing shall be done or kept in any Unit or within the Common Elements or any part thereof that would be a violation of any statute, rule, ordinance, regulation, permit, or other validly imposed requirement of any governmental body having jurisdiction.

16.12.2 No noxious, destructive, or offensive activity shall be carried on in any Unit or in the Common Elements or any part thereof, nor shall anything be done within the Project which may be or may become an annoyance or nuisance to any other Owner or to any person at any time lawfully using the Project.

16.12.3 No animals of any type shall be raised, kept or boarded on any part of the Project.

16.12.4 No signs of any nature shall be displayed to the public view except each Building may have a sign to identify the Building, each Unit may have a sign to identify the unit number, and each unit may have one sign of not more than two (2) square feet advertising the property for sale or for rent. All signs must be approved by the Executive Board. This section shall not apply to any signs or other advertising of Declarant or Declarant's agents. All garages offered for sale or rent must be registered with the on-site manager.

16.12.5 No Owner shall violate the rules and regulations adopted from time to time by the Executive Board.

16.12.6 No annoying lights, sounds, or odors shall be permitted to emanate from any Unit.

16.12.7 Nothing shall be done in, on or to any portion of the Project that will impair the structural integrity of the improvements located thereon.

16.12.8 Nothing shall be done or kept in any Unit or on any Common Elements or any part thereof that would result in the cancellation of insurance on the Project or any part thereof, or increase the rate of insurance on the Project or any part thereof, over that which the Association or the Owners, but for such activity, would pay.

16.12.9 No structural alterations shall be made to any Unit by an Owner without the written consent of the Executive Board.

16.12.10 No wiring or installation of equipment or machines shall be installed on the exterior of a Unit or of the Building or be allowed to protrude through the walls,



windows or roof of a Unit or of the Building without the express written consent of the Executive Board.

16.12.11 There shall be no obstruction of any of the Common Elements.

16.12.12 Nothing shall be kept or stored on any part of the Common Elements.

16.12.13 Nothing shall be altered on, constructed in, or removed from the Common Elements without the express written consent of the Executive Board.

16.12.14 No condition shall be permitted within any Unit that is visible from the exterior of a Unit and that is inconsistent with the design and integrity of the Project.

16.13 *Prohibitions Contrary to Public Policy.* The Association shall comply with C.R.S. 38-33.3-106.5 as presently enacted or subsequently amended. Said statute currently provides that an association shall not prohibit any of the following:

16.13.1 The display of the American flag on a unit owner's property, in a window of the unit, or on a balcony adjoining the unit if the American flag is displayed in a manner consistent with the federal flag code, P.L. 94-344; 90 stat. 810; 4 U.S.C. 4 to 10. The Association may adopt reasonable rules regarding the placement and manner of display of the American flag. The Association rules may regulate the location and size of flags and flagpoles, but shall not prohibit the installation of a flag or flagpole.

16.13.2 The display of a service flag bearing a star denoting the service of the owner or occupant of the unit, or of a member of the owner's or occupant's immediate family, in the active or reserve military service of the United States during a time of war or armed conflict, on the inside of a window or door of the unit. The Association may adopt reasonable rules regarding size and manner of display of service flags; except that the maximum dimensions allowed shall be not less than nine inches by sixteen inches.

16.13.3 The display of a political sign by the owner or occupant of a unit on property within the boundaries of the unit or in a window of the unit, except that an association may prohibit the display of political signs earlier than forty-five days before the day of an election and later than seven days after an election day. An association may regulate the size and number of political signs in accordance with the following: (i) the association shall permit at least one political sign per political office or ballot issue that is contested in a pending election; and (ii) the maximum dimensions of each sign may be limited to the lesser of the following: The maximum size allowed by any applicable city, town, or county ordinance that regulates the size of political signs on residential property; or thirty-six inches by forty-eight inches. As used in this paragraph, "political sign" means a sign that carries a message intended to influence the outcome of an election, including supporting or



opposing the election of a candidate, the recall of a public official, or the passage of a ballot issue.

16.13.4 The parking of a motor vehicle by the occupant of a unit on a street, driveway, or guest parking area in the common interest community if the vehicle is required to be available at designated periods at such occupant's residence as a condition of the occupant's employment and all of the following criteria are met: (i) the vehicle has a gross vehicle weight rating of ten thousand pounds or less; (ii) the occupant is a bona fide member of a volunteer fire department or is employed by a primary provider of emergency fire fighting, law enforcement, ambulance, or emergency medical services; (iii) the vehicle bears an official emblem or other visible designation of the emergency service provider; and (iv) parking of the vehicle can be accomplished without obstructing emergency access or interfering with the reasonable needs of other unit owners or occupants to use streets and driveways and guest parking spaces within the common interest community

ARTICLE 17 - MORTGAGEE'S RIGHTS

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

17.1 *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 Mortgagee who is a beneficiary of a First Mortgage against the Unit.

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

17.3 *Audited Financial Statement.* Upon written request from any Agency or Mortgagee that has an interest or prospective interest in any Unit or the Project, the Association shall prepare and furnish within ninety (90) days an audited financial statement of the Association for the immediately preceding fiscal year, at the expense of such Mortgagee.



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

17.4.1 Any proposed termination of the common interest community;

17.4.2 Any condemnation loss or any casualty loss that affects a material portion of the Project or that affects any Unit on which there is a First Mortgage held, insured or guaranteed by such Agency;

17.4.3 Any delinquency in the payment of Assessments owed by a Unit Owner subject to the Mortgage where such delinquency has continued for a period of sixty (60) days;

17.4.4 Any lapse, cancellation or material modification of any insurance policy maintained by the Association.

17.5 *Action by Mortgagee.* If this Declaration or any Association Documents require the approval of Mortgagees then, if any Mortgagee fails to respond to any written proposal for such approval within thirty (30) days after such Mortgagee receives proper notice of the proposal (or such longer time as may be set forth in the notice), such Mortgagee shall be deemed to have approved such proposal provided that the notice was delivered to the Mortgagee by certified or registered mail, return receipt requested.

ARTICLE 18 - DURATION OF COVENANTS AND AMENDMENT

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.

18.2 *Amendment.* This Declaration, or any provision of it, may be amended at any time by Owners holding not less than sixty seven percent (67%) of the votes possible to be cast under this Declaration.

18.3 *Execution of Amendments.* 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 the Association to the recorded instrument certifying the approval of a sufficient number of Owners of the amendment. Notwithstanding the foregoing, Declarant, acting alone, reserves to itself the right and power to modify and amend this Declaration and the Map to the fullest extent permitted under the Act.

18.4 *Revocation.* This Declaration shall not be revoked nor shall the condominium common interest community created hereby be terminated (except as provided above regarding total

destruction and/or total condemnation), without the consent of all of the Owners evidenced by a written instrument duly recorded with the Clerk and Recorder.

18.5 *Declarant Rights.* Provisions in this Declaration reserving or creating Declarant Rights may not be amended without the consent of Declarant.

ARTICLE 19 - GENERAL PROVISIONS

19.1 *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.

19.2 *Enforcement.* Except as otherwise provided in this Declaration, the Executive Board, Declarant or any Owner shall have the right to enforce, by a proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Executive Board of the Association, Declarant or by any Owner to enforce any restriction, condition, covenant, reservation, lien, or charge now or hereafter imposed by the provisions of this Declaration shall in no event be deemed a waiver of the right to do so thereafter. Enforcement shall be pursuant to C.R.S. 38-33.3-123, as presently enacted or subsequently amended, which provides as follows:

19.2.1 If any unit owner fails to timely pay assessments or any money or sums due to the association, the association may require reimbursement for collection costs and reasonable attorney fees and costs incurred as a result of such failure without the necessity of commencing a legal proceeding.

For any failure to comply with the provisions of this article or any provision of the declaration, bylaws, articles, or rules and regulations, other than the payment of assessments or any money or sums due to the association, the association, any unit owner, or any class of unit owners adversely affected by the failure to comply may seek reimbursement for collection costs and reasonable attorney fees and costs incurred as a result of such failure to comply, without the necessity of commencing a legal proceeding.

In any civil action to enforce or defend the provisions of this article or of the declaration, bylaws, articles, or rules and regulations, the court shall award reasonable attorney fees, costs, and costs of collection to the prevailing party.

Notwithstanding the previous paragraph, in connection with any claim in which a unit owner is alleged to have violated a provision of this article or of

the declaration, bylaws, articles, or rules and regulations of the association and in which the court finds that the unit owner prevailed because the unit owner did not commit the alleged violation: (i) the court shall award the unit owner reasonable attorney fees and costs incurred in asserting or defending the claim; and (ii) the court shall not award costs or attorney fees to the association. In addition, the association shall be precluded from allocating to the unit owner's account with the association any of the association's costs or attorney fees incurred in asserting or defending the claim.

A unit owner shall not be deemed to have confessed judgment to attorney fees or collection costs.

19.2.2 Notwithstanding any law to the contrary, no action shall be commenced or maintained to enforce the terms of any building restriction contained in the provisions of the declaration, bylaws, articles, or rules and regulations or to compel the removal of any building or improvement because of the violation of the terms of any such building restriction unless the action is commenced within one year from the date from which the person commencing the action knew or in the exercise of reasonable diligence should have known of the violation for which the action is sought to be brought or maintained.

19.3 *Registration of Mailing Address.* Each Owner and each security interest holder, insurer, or guarantor of a security interest, shall register their mailing address with the Association. All notices, demands, or other notices intended to be served upon the Executive Board or the Board of Directors of the Association during the period of Declarant control shall be sent by registered or certified mail, postage prepaid, c/o West Fork Village Owners Association, 5775 West 29th Street #1602, Greeley, CO, 80634, unless such address is changed by the Association during the period of Declarant control. Subsequent to the termination of the period of Declarant control, the Association shall notify the Owners of a different address for notices.

19.4 *Limitation on Liability.* The Association, Board of Directors, Declarant, and any member, agent, or employee of any of the same, shall not be liable to any person for any action or for any failure to act unless the action or failure to act was not in good faith and was done or withheld with malice.

19.5 *No Representations or Warranties.* No representations or warranties of any kind, express or implied, shall be deemed to have been given or made by the Declarant or its agents and employees, in connection with any portion of the community, or any Improvement, or their physical condition, zoning, compliance with applicable laws, fitness for intended use, or in connection with the subdivision, sale, operation, maintenance, cost of maintenance, taxes or regulation thereof, unless and except as shall be specifically set forth in writing.



3445384 01/04/2007 11:00A Weld County, CO
39 of 40 R 201.00 D 0.00 Steve Moreno Clerk & Recorder

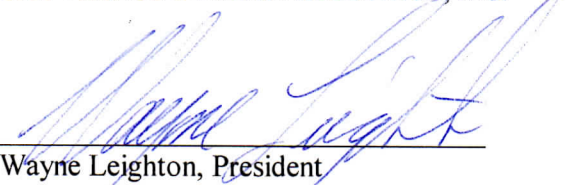
19.6 *Disclaimer Regarding Safety.* DECLARANT AND THE ASSOCIATION HEREBY DISCLAIM ANY OBLIGATION REGARDING THE SECURITY OF ANY PERSONS OR PROPERTY WITHIN THE COMMUNITY. BY ACCEPTING A DEED TO PROPERTY WITHIN THE COMMUNITY, EACH OWNER ACKNOWLEDGES THAT DECLARANT AND THE ASSOCIATION ARE ONLY OBLIGATED TO DO THOSE ACTS SPECIFICALLY ENUMERATED HEREIN, OR IN THE ARTICLES OF INCORPORATION, BYLAWS AND RULES AND REGULATIONS OF THE ASSOCIATION, AND ARE NOT OBLIGATED TO DO ANY OTHER ACTS WITH RESPECT TO THE SAFETY OR PROTECTION OF PERSONS OR PROPERTY WITHIN THE COMMUNITY.

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

19.8 *Conflicts Between Documents.* In case of conflict between this Declaration and the Articles of Incorporation and the Bylaws of the Association, this Declaration shall control. In case of conflict between the Articles and the Bylaws, the Articles shall control.

DECLARANT:

WEST FORK VILLAGE OWNERS ASSOCIATION, INC.

By: 
Wayne Leighton, President

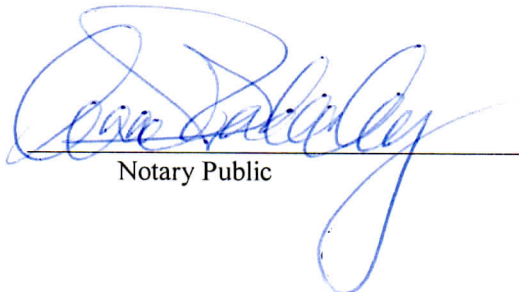
STATE OF COLORADO)
) ss.
COUNTY OF WELD)

The foregoing instrument was acknowledged before me this 15th day of December 2006, by Wayne Leighton, as President of WEST FORK VILLAGE OWNERS ASSOCIATION, INC., a Colorado corporation.

Witness my hand and official seal.

My commission expires: 11-16-07




Notary Public

**EXHIBIT A
TO
DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS FOR
THE GARAGES**

**LEGAL DESCRIPTION OF PROPERTY
SUBJECT TO THIS DECLARATION**

A parcel of land located in Tract 1, Block 9, FIRST REPLAT OF TRACTS 1, 2 and 3, WEST T-BONE RANCH SUBDIVISION FIRST FILING, situated in the Northwest Quarter of Section 22, Township 5 North, Range 66 West of the Sixth Principal Meridian, City of Greeley, County of Weld, State of Colorado more particularly described as follows:

Commencing at the Southeast Corner of said Tract 1; Thence North 15°55'51" West along the East line of said Tract 1 a distance of 507.95 feet to the Northeast corner of said Tract 1; Thence South 89°36'47" West along the North line of said Tract 1 a distance of 102.18 feet to the Point of Beginning; Thence South 00°21'26" East a distance of 44.28 feet; Thence South 89°38'34" West a distance of 105.03 feet; Thence South 89°32'22" West a distance of 95.97 feet; Thence South 89°36'26" West a distance of 541.55 feet; Thence North 00°29'11" West a distance of 44.40 feet to a point on the North line of said Tract 1; Thence North 89°36'47" East along the North line of said Tract 1 a distance of 742.66 feet to the Point of Beginning.

UPON RECORDATION OF PLAT, TO BE KNOWN AS:

Units A1, A2, A3, A4, A5, A6, and A7, Building A; Units B1, B2, B3, B4, B5, B6, B7, B8, B9, B10, B11, and B12, Building B; Units C1, C2, C3, C4, C5, C6, C7, C8, C9, C10, C11, and C12, Building C; Units D1, D2, D3, D4, D5, D6, D7, D8, D9, D10, D11, and D12, Building D; Units E1, E2, E3, E4, E5, E6, E7, E8, E9, E10, E11, and E12, Building E, THE GARAGES, according to the Condominium Map thereof recorded _____ at Reception No. _____ in the records of the Clerk and Recorder of the County of Weld, State of Colorado.