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COMMON INTEREST COMMUNITY DECLARATION OF
QUAIL RUN II ASSOCIATION, INC.
A CONDOMINIUM

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DOMETTA DAVIDSON
ARAPAHOE COUNTY

WHEREAS Townhomes at Quail Run LLC ("Declarant") is the owner of the real property situated in the County of Arapahoe, State of Colorado, described in Exhibit A hereto and incorporated herein by this reference as though fully set forth, and does hereby submit the said real property to the provisions of the Colorado Common Interest Ownership Act, Section 38-33.3-101 et. seq., for the purpose of creating Quail Run II Association, a Condominium, and making the improvements shown on the Map, and does hereby declare that the property described in Exhibit A (and any amendments or supplements thereto) shall be held, transferred, sold, conveyed and occupied subject to the following terms, covenants, restrictions, conditions, easements, charges and liens which shall run with the real property and be binding on all persons having or acquiring any right, title or interest in the Property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of, be binding upon, and be enforceable by Declarant, its successors in interest, each Owner and his or her successors in interest, and Quail Run II Association and its successors in interest:

ARTICLE I - DEFINITIONS

Definitions. As used in this Declaration, the terms hereinafter set forth shall have the following meaning:

1.1 Act. The Act is the Colorado Common Interest Ownership Act, C.R.S. 38-33.3-101 et. seq. as it may be amended from time to time.

1.2 Allocated interests. The Allocated Interests are undivided interests in the Common Elements, the Common Expense liability, and votes in the Association, allocated to Units in the Common Interest Community. The Allocated Interests are described in Article IX of this Declaration.

1.3 Association. The Association is the Quail Run II Association, Inc., a Colorado non-profit corporation, and it is hereby designated as the Association of Unit Owners pursuant to C.R.S. section 38-33.3-101.

1.4 Bylaws. The Bylaws are the Bylaws of the Association, as such may be amended from time to time.

1.5 Common Elements. The Common Elements are each portion of the Common Interest Community other than a Unit.

1.6 Common Expenses. The Common Expenses are the expenses of financial liabilities for the operation of the Common Interest Community. Common expense assessments are the funds required to be paid by each Unit Owner in payment of such Owner's Common Expense liability. These expenses include, but are not limited to:

(a) expenses of administration, maintenance, construction, improvement, repair or replacement of the Common Elements; ..

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

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

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

(e) those costs and expenses imposed on the Association, benefitting fewer than all the Units, but assessed exclusively against those Units benefitted; and

(f) special assessments levied pursuant to Article XIX of this Declaration.

1.7 Common Interest Community. The Common Interest Community is the real property described in Exhibit A, and any supplements or amendments thereto, and subject to this Declaration.

1.8 Declarant. The Declarant is Townhomes at Quail Run LLC, or its successor as defined in C.R.S. 38-33.3-103(12).

1.9 Declaration. The Declaration is this document, including any amendments and/or supplements hereto recorded in the

office of the Clerk and Recorder of Arapahoe County, Colorado.

1.10 Development Rights. Development Rights are the rights reserved by the Declarant under Article VIII of this Declaration,

1.11 Director. A Director is a member of the Executive Board.

1.12 Documents. The Documents are this Declaration and the Map recorded and filed pursuant to the provisions of the Act, the Articles of Incorporation of the Association, the Bylaws of the Association, and the Rules and Regulations of the Association, as they may be amended from time to time. Any exhibit, schedule or certification accompanying a Document is a part of that Document.

1.13 Eligible Insurer. An Eligible Insurer is an insurer or guarantor of a first Security Interest in a Unit. An Eligible Insurer must notify the Association in writing of its name and address and inform the Association that it has insured or guaranteed a first Security Interest in a Unit. It must provide the Association with the Unit number and address of the Unit on which it is the insurer or guarantor of a Security Interest. Such notice shall be deemed to include a request that the Eligible Insurer be given the notices and other rights described in Article XVIII.

1.14 Eligible Mortgagee. The Eligible Mortgagee is the holder of a first Security Interest in a Unit, when the holder has notified the Association, in writing, of its name and address and that it holds a first Security Interest in a Unit. The notice must include the Unit number and address of the Unit on which it has a security interest. This notice shall be deemed to include a request that the Eligible Mortgagee be given the notices and other rights described in Article XVIII.

1.15 Executive Board. The Executive Board is the board of directors of the Association.

1.15 Floor Plans. The Floor Plans are those floor plans filed with this Declaration as Exhibit C, as they may be amended from time to time.

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

1.18 Limited Common Elements. The Limited Common Elements are the portion of the Common Elements allocated for the exclusive use of one or more but fewer than all of the Units by the Declaration or by operation of C.R.S. 38-33.3-202(1)(b) and (1)(d). The Limited Common Elements in the Common Interest Community are described in Article V of this Declaration.

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

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

1.21 Map. Map means that certain map entitled "Common Interest Community Map of Quail Run II Condominiums" which will be recorded in the Records, and it may be amended or supplemented from time to time. The Map may be filed for record in parts or sections. The initial Map and each supplement thereto shall be recorded prior to the conveyance of any of the Condominium Units shown thereon. If the Map is prepared before the Buildings shown thereon have been constructed, the Map shall be amended after the Buildings are complete and the amended Map shall include an affirmation that the Map was prepared subsequent to substantial completion of the improvements shown thereon.

1.22 Member. The term "Member" shall mean and refer to those persons entitled to membership in the Association. "Member" and "Owner" (as hereinafter defined) may be used interchangeably herein, unless the context provides otherwise.

1.23 Notice and Comment. Notice and Comment is the right of a Unit Owner to receive notice of an action proposed to be taken by or on behalf of the Association, and the right to comment thereon. The procedures for Notice and Comment are set forth in Section 24.1 of this Declaration.

1.24 Notice and Hearing. Notice and Hearing is the right of a Unit Owner to receive notice of an action proposed to be taken by or on behalf of the Association, and the right to be heard thereon. The procedures for Notice and Hearing are set forth in Section 24.2 of this Declaration.

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

1.26 Property. Property is the land and all Improvements, easements, rights and appurtenances which have been submitted to the provisions of the Act by this Declaration, as described in Exhibit A attached hereto, and any additions thereto pursuant to Section 8.3(b) of this Declaration.

1.27 Records. The Records are the real estate records in the Office of the Clerk and Recorder of Arapahoe County, Colorado.

1.28 Rules. The Rules are the regulations for the use of Common Elements and for the conduct of persons in connection therewith within the Common Interest Community, as may be adopted by the Executive Board from time to time pursuant to this Declaration.

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

1.30 Special Declarant Rights. Special Declarant Rights are the rights reserved for the benefit of the Declarant under Article VIII of this Declaration.

1.31 Trustee. The Trustee is the entity which may be designated by the Executive Board as the Trustee for the receipt, administration and disbursement of funds derived from insured

losses, condemnation awards, special assessments for uninsured losses, and other sources as defined in the Bylaws. If no Trustee has been designated, the Trustee will be the Executive Board acting by majority vote.

1.32 Unit. A Unit is a physical portion of the Common Interest Community designated for separate ownership or occupancy, the boundaries of which are described on the Map and in Section 4.2 of this Declaration.

1.33 Unit Owner or Owner. The Unit Owner or Owner is the Declarant or any other Person who owns a Unit. Unit Owner does not include a Person having only a Security Interest or any other interest in a Unit solely as security for an obligation. The Declarant is the initial owner of each and every Unit created and defined by this Declaration and the Map.

ARTICLE II NAME AND TYPE OF COMMON INTEREST COMMUNITY AND ASSOCIATION

2.1 Name and Type of Common Interest Community. The name of the Common Interest Community is Quail Run II Association, Inc. Quail Run II Association, Inc. is a condominium.

2.2 Association. The name of the Association is Quail Run II Association, Inc.

2.3 Date of the Organization of the Association. The Association shall be organized no later than the date the first unit in the common interest community is conveyed to a purchaser.

ARTICLE III DESCRIPTION OF LAND

The entire Common Interest Community is situated in the County of Arapahoe, State of Colorado, and is located on the Property.

ARTICLE IV UNIT AND BOUNDARY DESCRIPTIONS

4.1 Maximum Number of Units. The Common Interest Community initially contains eleven (11) fee simple estates, i.e. Units. Each such estate shall consist of a separately designated Units and the undivided interest in and to the Common Elements appurtenant to such Unit as set forth on Exhibit B attached hereto and incorporated herein by this reference. When and if each additional building is added, it shall contain the number of Units shown in the amendment to the Map evidencing the same, and an amendment to Exhibit B hereto. The Declarant reserves the right to create up to a total of two hundred and forty one (241) Units.

4.2 Boundaries. Boundaries of each Unit created by the Declaration are shown on the Map as numbered Units, along with their identifying number, and are described as follows:

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

(b) Lower Horizontal Boundary. The horizontal plane or planes of the undecorated or unfinished upper surfaces of the floors, extended to an intersection with the vertical perimeter boundaries and open horizontal unfinished surfaces or trim, sills and structural components.

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

(d) Inclusions. Each Unit will include the spaces and Improvements lying within the boundaries described in (a), (b), and (c) above, and will also include the spaces and the Improvements within those spaces containing any space heating, water heating, or air conditioning apparatus, all electrical switches, wiring, pipes, ducts, conduits, smoke detector systems,

and television, telephone, electrical receptacles, and light fixtures and boxes serving that Unit exclusively. The surface of the foregoing items will be the boundaries of that Unit, whether or not those items are contiguous to the Unit.

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

(f) Noncontiguous Portions. Certain Units may include special portions, pieces or equipment such as air conditioning compressors, meter boxes, utility connection structures, and storage portions situated in buildings or structures that are detached or semi-detached from the buildings containing the principal occupied portion of the Units. This special equipment and storage portions are a part of the Unit, even though they are not contiguous with the residential portions.

(g) Inconsistency with Map. If this definition is inconsistent with the Map, then this definition will hold.

4.3 Description of Condominium Unit.

(a) Every contract for sale of a Unit written prior to the recordation of this Map and this Declaration may legally describe a Unit by its identifying Unit designation, followed by the words "Quail Run II Association, A Condominium." The location of such Unit shall be depicted on a Map subsequently recorded. Upon recordation of the Map in the records of the Office of the Clerk and Recorder of Arapahoe County, Colorado, such description shall conclusively be presumed to relate to the Units described therein.

(b) After the Map and this Declaration have been recorded, every contract, deed, lease, Mortgage, deed of trust, will or other legal instrument may legally describe a Unit as follows:

Unit No. _____, Quail Run Subdivision Filing No. 1, A Condominium, in accordance with the Declaration recorded on _____, 19____, at Reception No. _____, and the Map recorded on _____, 19____, at Reception No. _____, of the records of the Office of the Clerk and Recorder of Arapahoe County, Colorado, together with the exclusive right to use the following Limited Common Elements (if any): Parking Space No. _____.

(c) Each such description shall be construed to include a nonexclusive easement for ingress and egress to and from an Owner's Unit and the use of all Common Elements as well as all of the Limited Common Elements appurtenant to that Unit. The reference to the Map and Declaration in any instrument shall be deemed to include any supplements or amendments thereto, without specific reference therein. A Unit may be held and owned in any real property tenancy or estate recognized under the laws of the State of Colorado.

4.4 Inseparability of a Condominium Unit. Each Unit, the appurtenant undivided interest in the Common Elements as well as all other appurtenances, rights and burdens shall together comprise one Unit, which Unit shall be inseparable and may be conveyed, leased, devised or encumbered only as a Unit.

4.5 Separate Assessment and Taxation. Declarant shall give notice to the Assessor of Arapahoe County, Colorado, or the creation of condominium ownership in the Property, as is provided by law, so that each Unit and the undivided interest in the Common Elements appurtenant to each Unit shall be deemed a separate parcel of real estate for purposes of separate assessment and taxation.

4.6 Use of Common Elements and Limited Common Elements. Each Owner shall be entitled to exclusive ownership and possession of his Unit and the right of ingress and egress from a public way. Each Owner may use the appurtenant Common Elements and Limited Common Elements in accordance with the purpose for which they are intended without hindering or encroaching upon the lawful rights of the other Owners. The Association may adopt rules and regulations governing the use of the Common Elements and Limited Common Elements provided such rules are uniform and non-discriminatory. Each Owner, by acceptance of his or her deed or other instrument of conveyance or assignment agrees to be bound by the existing and subsequently adopted rules and regulations. However, the

allocation of Limited Common Elements cannot be changed without the consent of the owners of those units affected.

ARTICLE V LIMITED COMMON ELEMENTS

The following portions of the Common Elements are Limited Common Elements assigned to the Units as stated:

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

(b) Any shutters, awnings, window boxes, doorsteps, stoops, porches, decks, balconies, patios, and exterior doors and windows or other fixtures designed to serve a single Unit, located outside the boundaries of the Unit, are Limited Common Elements allocated exclusively the Unit and their use is limited to that Unit.

(c) Stoops, steps, and walls above door openings at the entrances to each building, which provide access to less than all Units, the use of which is limited to the Units to which they provide access.

(d) Attic space above each Unit that has an attic, the use of which is limited to the Unit beneath it.

(e) Stairways, the use of which is limited to certain Units as shown on the Map.

(f) Chimneys, the use of which is limited to the Unit in which its fireplace is located. In the event of a multiple-flue chimney, each flue will be a Limited Common Element allocated to the Unit containing its fireplace while the chimney will be a Limited Common Element allocated to Units using the flue.

(g) Utility areas, the use of which is limited to the Unit or Units as shown on the Map.

(h) Storm windows and storm doors, if any, will be Limited Common Elements of the Unit which they service.

(i) Patios and decks, if any, will be Limited Common Elements of the Unit which they service, the use of which is limited to the Unit as shown on the Map.

(j) Exterior surfaces, trim, siding, doors and windows will be Limited Common Elements allocated to the Units sheltered.

(k) Mailboxes, name plates, and exterior lighting affixed to the building will be Limited Common Elements allocated to the Units served.

ARTICLE VI MAINTENANCE OF THE PROPERTY

6.1 Common Elements. Subject to the provisions of Section 6.1(a) and Article XIX herein, the Association shall maintain, repair, and replace all of the Common Elements, except the portions of the Limited Common Elements which are required by this Declaration or the Act to be maintained, repaired, or replaced by the Unit Owners.

(a) The Quail Run Association, Inc., a Colorado non-profit corporation shall act as administrator and agent for Quail Run II Association, Inc., a Colorado non-profit corporation, as set forth in section 19.5 of this Declaration, in providing maintenance, repair and replacement of those common elements which are the subject of the joint budget committee as outlined in Section 19.3 hereafter.

6.2 Individual Units. It shall be the duty and obligation of each Owner, at such Unit Owner's expense, to maintain, repair, and replace all portions of such Owner's Unit, except the portions of the Unit required to be maintained, repaired, or replaced by the Association.

6.3 Limited Common Elements. Each Unit Owner shall be responsible for removing snow, leaves, and debris from all patios and balconies which are Limited Common Elements appurtenant to such Owner's Unit. If any such Limited Common Element is appurtenant to

two or more Units, the Owners of those Units will be jointly responsible for such removal. In addition, each Unit Owner shall be responsible for the maintenance and repair of their balconies, decks, patios and all glass surfaces.

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

6.5 Repairs Resulting From Negligence. Each Unit Owner will reimburse the Association for any damages to their unit or to any other Unit or to the Common Elements caused intentionally, negligently, or by such Unit Owner's failure to properly maintain, repair, or make replacements to such Unit Owner's Unit or to those Limited Common Elements for which such Unit Owner is responsible under Section 6.3 of the Declaration.

ARTICLE VII SUBSEQUENTLY ALLOCATED LIMITED COMMON ELEMENTS

Those portions of the Common Elements shown as parking spaces on the Map may be subsequently allocated as Limited Common Elements in accordance with Section 8.1(b) and Article XII of this Declaration, or may be assigned by Rule of the Executive Board, or may be limited by Rule to visitors only.

ARTICLE VIII DEVELOPMENT RIGHTS AND OTHER SPECIAL DECLARANT RIGHTS

8.1 Reservation of Development Rights. The Declarant

reserves the following Development Rights:

(a) the right by amendment to create additional Units, Common Elements, and Limited Common Elements in the locations identified on the Map.

(b) the right by amendment to allocate as Limited Common Elements the parking spaces as shown on the Map and to assign them to particular Units. No assurance is given that such spaces will be allocated.

(c) the right to construct underground utility lines, pipes, wires, ducts, conduits, and other facilities across any portion of the Property for the purpose of furnishing utility and other services to buildings and Improvements to be constructed on the Property. The Declarant also reserves the right to withdraw and grant easements and licenses to public utility companies and to convey Improvements within those easements anywhere in the Common Interest Community not occupied by buildings, for the purposes mentioned above.

8.2 Limitations on Development Rights. The Development Rights reserved in Section 8.1 are limited as follows:

(a) the Development Rights may be exercised at any time, but not more than seven (7) years after the recording of the initial Declaration;

(b) not more than two hundred and forty one (241) additional Units may be created under the Development Rights;

(c) garages or carports may be built as Limited Common Elements under the Development Rights;

(d) the quality of construction of any buildings and Improvements to be created on the Property shall be consistent with the quality of those constructed pursuant to this Declaration as initially recorded;

(e) all Units and Common Elements created pursuant to the Development Rights will be restricted to the same uses and to the same extent as the Units created under this Declaration as initially recorded; and

(f) no Development Rights may be exercised unless approved pursuant to Section 18.5 of this Declaration.

8.3 Phasing of Development Rights.

(a) No assurances are made by the Declarant as to whether the Declarant will exercise its Development Rights or the order in which such Development Rights will be developed. The exercise of Development Rights as to some portions of the Property will not obligate the Declarant to exercise them as to other portions.

(b) Declarant shall have the absolute right, but not the obligation, to annex to the land and improvements described in this Declaration and the Map herein referred to, and thereby submit to each and every provision of this Declaration the land described on Exhibit D attached hereto and incorporated herein by this reference, or any portions thereof, together with the improvements to be constructed thereon. It is the intention of Declarant that the lands described in Exhibit D may be annexed to the land covered by this Declaration by additional phases. Such phases may be added by Declarant either in the aggregate or on a phase by phase basis, by a portion of a phase, or any combination thereof, with the result being that this Project may be increased up to the maximum number of units as stated elsewhere in this Declaration, or such lesser amount of Units as the Declarant desires. Any Units or Buildings constructed on the property described in Exhibit D shall substantially conform to the architectural style of previously constructed Units or Buildings.

(c) Any annexation as herein reserved unto Declarant shall be accomplished by the recording of a supplement to this Declaration, and amendment to Exhibit B, and a supplement to the Map, in the records of the Office of the Clerk and Recorder of Arapahoe County, Colorado.

(d) There is hereby reserved to the Declarant the irrevocable power of attorney, coupled with an interest, to execute, acknowledge, and deliver such further instruments and to do such further acts as may be required from time to time in order to accomplish the purposes of this Article VIII, including if necessary amendments to the Association documents, and to act on behalf of the Association to obtain such accomplishment. Each

Owner and each Mortgagee of a Unit in the Property shall be deemed to have acquiesced to the Supplements and/or amendments to this Declaration and the Map for the purpose of adding additional Units and Common Elements to the Project pursuant to this Article VIII.

(e) Any such supplement or amendment shall include at least the legal description of the particular property being annexed, including the Units and Common Elements located thereon, certified by a Registered Land Surveyor; a statement that the lands are being annexed pursuant to this Article VIII of the Declaration; and a statement to the effect that the phase, when annexed, shall be deemed to be included in the Property covered by this Declaration, and thereby subject to all of the terms, provisions, covenants, conditions, reservations, charges and liens, including assessments, applicable hereunder as well as expressly subject to all of the provisions of the Articles of Incorporation and the By-Laws of the Association referred to hereunder.

(f) Upon the Declarant's annexation of any additional property to this Declaration, the undivided interest in the Common Elements (including all Common Elements on the existing Property as well as the additional property already annexed or being annexed) appurtenant to each Unit shall automatically be reduced to a fraction, the numerator of which is 1, and the denominator of which is the total number of all Units now to be contained in the Property, and the new undivided interest in the Common Elements as set forth in an amended Exhibit B appurtenant to each Unit described in and annexed by such Supplemental Declaration shall be calculated by this fraction. Such reduction of undivided interest shall be automatic and no further documentation need be filed of record, nor other action be taken by Declarant, any Owner or Mortgagee to reflect such modification in undivided interests.

(g) Each Unit shall be entitled to one vote, regardless of the number of Owners, and such voting interest shall not be changed by the enlargement of this Project or otherwise.

(h) The assessment responsibility contained in Article XIX and the voting rights outlined in Article IX, appurtenant to the annexed Units, shall become effective on the date of recordation of any annexation by supplement to this Declaration pursuant to this Article VIII.

8.4 Special Declarant Rights. The Declarant reserves the following Special Declarant Rights, to the maximum extent permitted by law, which may be exercised, where applicable, anywhere within the Common Interest Community:

- (a) to complete improvements indicated on the Map;
- (b) to exercise a Development Right reserved in the Declaration;
- (c) to maintain sales offices, management offices, signs advertising the Common Interest Community, and models;
- (d) to use easements through the Common Elements and Units for the purpose of making improvements within the Common Interest Community; and
- (e) to enter into agreements regarding such concerns as cross easements, the creation of a joint budget committee, and enter into agency agreements, such as contracting for Quail Run Association, Inc. to act as agent for Quail Run II, Inc.
- (f) to appoint or remove an officer of the Association or an Executive Board member during a period of Declarant control subject to the provisions of Section 8.9 of this Declaration.
- (g) Declarant has entered into an agreement with Quail Run Association, Inc. regarding cross easements as described in Section 8.4. This agreement has been recorded, and is attached hereto as Exhibit F.

8.5 Models, Sales Offices and Management Offices. As long as the Declarant is a Unit Owner, the Declarant, its duly authorized agents, representatives and employees may maintain any Unit owned by the Declarant or any portion of the Common Elements as a model Unit, sales office, or management office. In addition, during periods of construction, Declarant may maintain a construction trailer on the Common Elements.

8.6 Construction: Declarant's Easement. The Declarant reserves the right to perform warranty work, repairs, and construction work in Units and Common Elements, to store materials in secure areas, and to control and have the right of access to

work and repairs until completion. All work may be performed by the Declarant without the consent or approval of the Executive Board. The Declarant has an easement through the Common Elements as may be reasonably necessary for the purpose of discharging the 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 Arapahoe County, municipalities, special districts, or the State of Colorado.

8.7 Signs and Marketing. The Declarant reserves the right to post and maintain signs and displays in Units owned by Declarant and in the Common Elements in order to promote sales of Units. Declarant also reserves the right to conduct general sales activities in a manner which will not unreasonably disturb the rights of Unit Owners.

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

8.9 Declarant Control of the Association.

(a) Subject to Subsection 8.9(b), there shall be a period of Declarant control of the Association, during which a Declarant, or Persons designated by the Declarant, may appoint and remove the officers of the Association and Members of the Executive Board. The period of Declarant control shall terminate no later than the earlier of:

- (I) Sixty (60) days after conveyance of seventy-five percent (75%) of the Units that may be created in the Common Interest Community to Unit Owners other than a Declarant; or
- (ii) Two (2) years after the last conveyance of a Unit by the Declarant in the ordinary course of business; or
- (iii) Two (2) years after any right to add new Units was last exercised.

A Declarant may voluntarily surrender the right to appoint and remove officers of the Association and Members of the Executive Board before termination of the period described above. In that event, the Declarant may require, for the duration of the period of Declarant control, that specified actions of the Association or Executive Board, as described in a recorded instrument executed by the Declarant, be approved by the Declarant before they become effective.

(b) Not later than sixty (60) days after conveyance of twenty-five percent (25%) of the Units that may be created to Unit Owners other than a Declarant, at least one Member and not less than twenty-five percent (25%) of the Members of the Executive Board shall be elected by Unit Owners other than the Declarant. Not later than sixty (60) days after conveyance of fifty percent (50%) of the Units that may be created to Unit Owners other than a Declarant, not less than thirty-three and one-third percent (33 1/3%) of the Members of the Executive Board must be elected by Unit Owners other than the Declarant.

(c) Not later than the termination of any period of Declarant control, the Unit Owners shall elect an Executive Board of at least three (3) Members, at least a majority of whom shall be Unit Owners. The Executive Board shall elect the officers. The Executive Board Members and officers shall take office upon election.

(d) Notwithstanding any provision of this Declaration or the bylaws to the contrary, following notice under C.R.S. 38-33.3-308, the Unit Owners, by a vote of sixty-seven percent (67%) of all Unit Owners present and entitled to vote at a meeting of the Unit Owners at which a quorum is present, may remove a Member of the Executive Board with or without cause, other than a member appointed by the Declarant.

8.10 Limitations on Special Declarant Rights. Unless terminated earlier by an amendment to this Declaration executed by the Declarant, any Special Declarant Right may be exercised by the Declarant until the earlier of the following: as long as the Declarant (a) is obligated under any warranty or obligation; (b) holds a Development Right to create additional Units or Common Elements; (c) owns any Unit; (d) owns any Security Interest in any

Units; or (e) seven (7) years have elapsed after recording of this Declaration. Earlier termination of certain rights may occur by statute.

8.11 Interference with 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 the Declarant.

8.12 Rights of Lenders to Declarant. Additional limitations on the right of the Declarant to exercise Development Rights may be found in Article XVIII of the Declaration.

ARTICLE IX ALLOCATED INTERESTS

9.1 Allocation of Interests. The table showing Unit numbers and their Allocated Interests is attached as Exhibit B. These interests have been allocated in accordance with the formulas set out in this Article. The same formulas are to be used in reallocating interests if Units are added to the Common Interest Community.

9.2 Formulas for the Allocation of Interest. The interests allocated to each Unit have been calculated by the following formulas:

(a) Undivided Interest in the Common Elements. The percentage of undivided interest in the Common Elements allocated to each Unit is based on one share to each Unit compared with the total shares allocated to all the Units in the Common Interest Community.

(b) Liability for the Common Expenses. The percentage of liability for Common Expenses allocated to each Unit is based on one share to each Unit compared with the total shares allocated to all the Units in the Common Interest Community. Nothing contained in this Subsection shall prohibit certain Common Expenses from being apportioned to particular Units under Article XIX or Article VI of this Declaration.

(c) Votes. Each Unit in the Common Interest

Community shall have the number of votes allocated to such Unit in the Bylaws. Any specified percentage, portion, or fraction of Unit Owners, unless otherwise stated in the Documents, means the specified percentage, portion or fraction of all of the votes as allocated in the Bylaws.

9.3 Assignment of Allocated Interests Pursuant to Exercise of Development Rights. The effective date for assigning Allocated Interests to Units created pursuant to Section 8.1 of this Declaration shall be the date on which the amendment creating the Units and specifying the Allocated Interests is recorded in the Records of the Office of the Clerk and Recorder of Arapahoe County, Colorado.

ARTICLE X RESTRICTIONS ON USE, ALIENATION AND OCCUPANCY

10.1 Use Restrictions. Subject to the Special Declarant Rights reserved under Article VIII, the following use restrictions apply to all Units and to the Common Elements:

(a) The use of each Unit is restricted to that of a single family residence and accessory uses as permitted herein. Except for those activities conducted as a part of the marketing and development program of the Declarant, no industry, business, trade or commercial activities other than home professional pursuits without employees, public visits or nonresidential storage, mail or other use of a Unit shall be conducted, maintained or permitted in any part of a Unit, nor shall any Unit be used or rented for transient, hotel or motel purposes.

(b) No immoral, improper, offensive or unlawful use may be made of the Property; Unit Owners shall comply with and conform to all applicable laws and regulations of the United States and of the State of Colorado and all ordinances, rules and regulations of the County of Arapahoe. The violating Unit Owner shall hold harmless the Association and other Unit Owners from all fines, penalties, costs and prosecutions for any violation or noncompliance.

10.2 Occupancy Restrictions. Subject to the Special

Declarant Rights reserved under Article VIII, the following occupancy restrictions apply to all Units and to the Common Elements:

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

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

(c) All fixtures and equipment will be used for the purposes for which they were designed. There shall be no floor load in excess of fifty (50) pounds per square foot, unless special arrangements are made and an engineering determination of floor load capacity in the area of the heavy use is approved by the Association.

(d) Garages and carports, if any, are restricted to occupancy by the Owner of the Unit to which the garage or carport is a Limited Common Element for storage and for a parking space for vehicles. No commercial vehicles, trailers, campers or recreational vehicles shall be parked outside of a garage on the Property, except in an area which has been specifically designated for the parking of such vehicles by the Association. Nothing in this section requires the Association to designate such an area.

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

(f) No animals, birds or reptiles of any kind shall be

kept in a Unit, except that domesticated dogs, cats, birds or fish may be kept in a Unit, subject to all governmental animal ordinances and laws and subject to rules and regulations promulgated by the Association, provided they are not kept for commercial purposes. Any pet causing or creating a nuisance or unreasonable disturbance or noise shall be permanently removed from the Property upon a three (3) day written notice following Notice and Hearing from the Executive Board. Owner shall hold the Association harmless from any claim resulting from any action of their pets. Seeing eye dogs and hearing ear dogs will be permitted for those persons holding certificates of necessity.

(g) All clothes dryers will have lint filters which will remain installed and prevent lint from accumulating in the vent duct. All stove hoods will have grease screens which will remain installed and prevent grease from accumulating in the vent duct. All such filters and screens will at all times be used and kept clean and in good order and repair by the Unit Owner.

(h) No signs, window displays or advertising visible from outside a Unit shall be maintained or permitted in any part of a Unit or on the Common Elements without the written approval of the Association.

10.3 Restrictions on Alienation. The following restrictions on alienation apply to all Units and to the Common Elements:

(a) A Unit may not be conveyed pursuant to a time-sharing plan. A Unit may not be leased or rented for a term of less than sixty (60) days. All leases and rental agreements shall be in writing and subject to the requirements of the Documents and the Association.

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

10.4 Rules and Regulations. Rules and Regulations may be adopted by the Board of Directors concerning and governing the use of the Common Elements, provided such Rules and Regulations shall be provided to the Owners prior to the time they are adopted and the Owners shall be notified that the Board of Directors will consider adoption of the Rules and Regulations so that the Owners will have an opportunity to be heard or to furnish input regarding the adoption. After adoption, a copy of such Rules and Regulations shall be provided to all Owners. The Association may adopt a fine system to impose monetary penalties for infractions, or may take judicial action against any Owner to enforce compliance, all to the extent permitted by law.

ARTICLE XI EASEMENTS AND LICENSES

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

11.2 Granting of Future Easements. The Common Interest Community may be subject to other easements or licenses granted by the Declarant pursuant to its powers under Article VIII of this Declaration, or by the Association.

11.3 Owner's Easement Across Common Elements. Every Owner shall have a right and easement for ingress to and egress from such Owner's Unit over and across the Common Elements, which easement shall be appurtenant to and shall pass with the title to every Unit. The Declarant and/or the Association retains the right to dedicate or transfer all or part of the Common Elements to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Association. No such dedication or transfer by the Association shall be effective unless an instrument signed by 80 percent of the Unit Owners agreeing to such dedication or transfer has been recorded in the Records.

11.4 Easements Reserved and Restrictions on Drainage Elements. Easements and rights of way are reserved on, over and under the Common Elements and the Units as shown on the Map, for construction, maintenance, repair, replacement and reconstruction of poles, wires, pipes and conduits for lighting, heating, electricity, gas, telephone, drainage and any other public or

quasi-public utility service purposes, and for sewer and pipes of various kinds.

11.5 Maintenance Easement. The Declarant, the Association, and/or its Manager, contractors, employees, or assigns, shall have an unrestricted irrevocable easement to traverse, cross, and utilize any portion of the Common Elements or Limited Common Elements which may be necessary to maintain, repair or replace the Common Elements or Limited Common Elements, or to perform any duty or function which it is obligated or permitted to perform pursuant to this Declaration.

11.6 Emergency easement. An easement for ingress and egress is hereby granted to all police, sheriff, fire protection, ambulance and other similar emergency agencies or persons to enter upon all streets and upon the Property in the performance of their duties.

ARTICLE XII

SUBSEQUENT ALLOCATION OF LIMITED COMMON ELEMENTS

12.1 Procedure. A Common Element not previously allocated as a Limited Common Element may be so allocated only pursuant to the provisions of this Article. All allocations will be made by amendments to Exhibit B of the Declaration specifying to which Unit or Units the Limited Common Element is allocated and shall be effective upon the date the Amendment to Exhibit B is recorded.

12.2 Parking Spaces. The Declarant has reserved the right, under Section 8.1(b) of this Declaration, to allocate as Limited Common Elements the parking spaces shown on the Map. If any such parking spaces are so allocated, they shall be assigned to particular Units by recording of an additional Exhibit F to this Declaration. Any parking spaces which are not allocated as Limited Common Elements at the termination of the Development Rights period may be so allocated by the Association by recording an amended Exhibit F.

12.3 Reallocation. No Limited Common Element depicted on the Map may be reallocated by an amendment to this Declaration pursuant to this Article XII except for basement storage areas or

as part of a relocation of boundaries of Units pursuant to Article XIV of this Declaration. Basement storage areas may be reallocated by an amendment to the Declaration executed by the affected Unit Owners.

ARTICLE XIII
ADDITIONS, ALTERATIONS AND IMPROVEMENTS

13.1 By Unit Owners.

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

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

- (i) may make any other Improvements or alterations to the interior of their Units that do not impair the structural integrity or mechanical systems or lessen the support of any portion of the Common Interest Community;
- (ii) may not change the appearance of the Common Elements, the exterior appearance of a Unit or any other portion of the Common Interest Community without the written permission of the Association; and
- (iii) after acquiring an adjoining Unit, may remove or alter any intervening partition or create apertures in this partition, even if the partition is in whole or in part a Common Element, if those acts do not impair the structural integrity or mechanical systems or lessen the support of any portion of the Common Interest Community. Removal of partitions or creation of apertures under this subsection is not an alteration of

boundaries. If a part of an adjoining Unit is acquired, boundaries will be relocated in accordance with Article XIV.

(c) A Unit Owner may submit a written request to the Executive Board for approval of anything prohibited under (a) or (b)(ii) above. The Executive Board shall answer any written request for approval, after Notice and Hearing, within 60 days after the request. Failure to answer the request within this time shall not constitute a consent by the Executive Board to the proposed action. The Executive Board shall review requests in accordance with the provisions of its rules.

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

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

The provisions of this Section shall not apply to the Declarant in the exercise of any Special Declarant Right.

13.2 By Executive Board. Subject to the limitations of Sections 19.4 and 19.5 of this Declaration, the Executive Board may make any additions, alterations or Improvements to the Common Elements which, in its judgment, it deems necessary.

13.3 Exterior Improvements and Landscaping Within Limited Common Elements. Unit Owners may not make exterior Improvements within or as part of Limited Common Elements constituting balconies or patios including repainting, re-staining, addition of architectural detailing, changing of doors and windows, planting of

gardens, hedges and shrubs, construction of fences, walks, benches and architectural conceits, without the written permission of the Executive Board or an architectural review committee established by the Executive Board for such purpose. Complete plans, prepared by an architect or landscape architect shall first be submitted and reviewed by the Executive Board or committee for consistency with Improvements originally constructed by the Declarant, and consistency with the style and character of the community. No approval will be awarded without Notice and Comment given to the Unit Owners. The applicant will pay for the cost of preparation of the application, the cost of professional review, if required by the reviewing entity, and all costs of permits and fees.

ARTICLE XIV BOUNDARIES

14.1 Application and Amendment. Subject to approval of any structural changes and required permits pursuant to Article XIII, the boundaries between adjoining Units may be relocated by an amendment to the Declaration upon application to the Association by the Owners of the Units affected by the relocation. If the Owners of the adjoining Units have specified a reallocation between their Units of their Allocated Interests, the application shall state the proposed reallocation. Unless the Executive Board determines, within 30 days after receipt of the application, that the reallocations are unreasonable, the Association shall prepare an amendment that identifies the Units involved, states the reallocations and indicates the Association's consent. The amendment must be executed by those Unit Owners affected and contain words of conveyance between them. The approval of all holders of Security Interests in the affected Units shall be endorsed on the conveyance.

14.2 Recording Amendments. The Association and appropriate Unit Owners as necessary shall prepare and record an amendment to the Map necessary to show the altered boundaries between adjoining Units, along with the Units' dimensions and identifying numbers. The applicants will pay for the costs of preparation of the amendment and its recording, as well as the reasonable consultant fees incurred by the Association if the Executive Board deems it necessary to employ a consultant.

ARTICLE XV
AMENDMENTS TO DECLARATION

15.1 In General. Except in cases of amendments that may be executed by the Declarant in the exercise of its Development Rights or by the Association under Article XI of this Declaration and C.R.S. 38-33.3-107, or by certain Unit Owners under Article XII and Section 14.1 of this Declaration and C.R.S. 38-33.3-218, and except as limited by Section 15.4 and Article XVIII of this Declaration, this Declaration and the Map may be amended only by vote or agreement of Unit Owners of Units to which at least 67 percent of the votes in the Association are allocated. The procedure for amendment must follow the procedures of C.R.S. 38-33.3-217.

15.2 Limitation of Challenges. An action to challenge the validity of an amendment adopted by the Association pursuant to this Article may not be brought more than one (1) year after the amendment is recorded.

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

15.4 Unanimous Consent. Except to the extent expressly permitted or required by other provisions of the Act, an amendment may not create or increase Special Declarant Rights, increase the maximum number of Units, change the boundaries of a Unit, the Allocated Interests of a Unit or the uses to which a Unit is restricted, except by unanimous consent of the Unit Owners.

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

15.6 Special Declarant Rights. Provisions in this Declaration creating Special Declarant Rights may not be amended without the consent of the Declarant.

15.7 Consent of Holders of Security Interest. Amendments to the Declaration are subject to the consent requirements of Article XVIII.

15.8 Amendments to Exercise Development Rights. To exercise any Development Right reserved under Section 5.1 of this Declaration, the Declarant shall prepare, execute and record an amendment to the Declaration. The Declarant shall also record an amendment to the Map as necessary to conform to the requirements of C.R.S. 38-33.3-209. The amendment to the Declaration shall assign an identifying number to each new Unit created and reallocate the Allocated Interests among all Units. The amendment shall describe any Common Elements and any Limited Common Elements created and designate the Unit to which each Limited Common Element is allocated to the extent required by C.R.S. 38-33.3-208.

15.9 Amendments to conform to VA, FEA, FNMA, or FHLMC Requirements. Notwithstanding any provisions to the contrary, during the period of Declarant control, Declarant shall have the right to unilaterally amend this Declaration in order to comply with the requirements of the Veteran's Administration, Federal Housing Administration, Federal National Mortgage Association or Federal Home Loan Mortgage Corporation. Such amendment shall not require the vote or consent of Owners in the Property or Project.

15.10 Technical Amendments. Declarant hereby reserves and is granted the right and power to record technical amendments to this Declaration at any time prior to the termination of the Declarant's reserved right to appoint the Board of Directors of the Association, for the purpose of correcting spelling, grammar, dates or as is otherwise necessary to clarify the meaning of the provisions of this Declaration.

ARTICLE XVI AMENDMENTS TO BYLAWS

The Bylaws may be amended only by the vote of sixty-seven percent (67%) of the Members of the Executive Board, following Notice and Comment to all Unit Owners, at any meeting duly called for such purpose.

ARTICLE XVII
TERMINATION

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

ARTICLE XVIII
MORTGAGEE PROTECTION

18.1 Introduction. This Article establishes certain standards and covenants which are for the benefit of the holders, insurers and guarantors of certain Security Interests. This Article is supplemental to, not a substitution for, any other provisions of the Documents but in the case of conflict, this Article shall control.

18.2 Percentage of Eligible Mortgagees. Wherever in this Declaration the approval or consent of a specified percentage of Eligible Mortgagees is required, it shall mean that the approval or consent of Eligible Mortgagees holding Security Interests in Units which in the aggregate have allocated to them that specific percentage of votes as compared to the total votes allocated to all Units in the Association then subject to Security Interests held by all Eligible Mortgagees.

18.3 Notice of Actions. The Association shall give prompt written notice to each Eligible Mortgagee and Eligible Insurer of:

(a) any condemnation loss or any casualty loss which affects a material portion of the Common Interest Community or any Unit in which there is a first Security Interest held, insured or guaranteed by that Eligible Mortgagee or Eligible Insurer, as applicable;

(b) any delinquency in the payment of Common Expense assessments owed by a Unit Owner which remains uncured for a period of sixty (60) days and whose Unit is subject to a first Security Interest held, insured or guaranteed by that Eligible Mortgagee or Eligible Insurer, as applicable;

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

(d) any proposed action which would require the consent of a specified percentage of Eligible Mortgagees as specified in Section 18.4 of the Declaration; and

(e) any judgment rendered against the Association.

18.4 Consent and Notice Required.

(a) Notwithstanding any requirement permitted by this Declaration or the Act, no amendment of any material provision of the Documents by the Association or Unit Owners described in this Section may be effective without notice to all Eligible Mortgagees and Eligible Insurers, as required by Section 18.3 above, without the vote of at least sixty-seven percent (67%) of the Unit Owners (or any greater Unit Owner vote required in this Declaration or the Act) and without approval by at least fifty-one percent (51%) of the Eligible Mortgagees (or any greater Eligible Mortgagee approval required by this Declaration). The foregoing approval requirements do not apply to amendments effected by the exercise of any Development Right. A change to any of the following would be considered material:

- (i) voting rights;
- (ii) assessments, assessment liens or priority of assessment liens;
- (iii) reserves for maintenance, repair and replacement of Common Elements;
- (iv) responsibility for maintenance and repairs
- (v) reallocation of interests in the Common Elements, except that when Limited Common Elements are reallocated by agreement between Unit Owners, only those Unit Owners and only the Eligible Mortgagees

holding Security Interests in those Units need approve the action;

- (vi) redefinitions of boundaries of Units, except that when boundaries on only adjoining Units are involved, or a Unit is being subdivided, then only those Unit Owners and Eligible Mortgagees holding Security Interests in the Unit or Units need approve the action;
- (vii) convertibility of Units into Common Elements or Common Elements into Units;
- (viii) expansion or contraction of the Common Interest Community; or the addition, annexation or withdrawal of property to or from the Common Interest Community;
- (ix) insurance or fidelity bonds;
- (x) leasing of Units;
- (xi) imposition of any restrictions on Unit

Owners' right to sell or transfer their Units;

- (xii) a decision by the Association to establish self-management when professional management had been required previously by the Documents or any Eligible Mortgagee;
- (xiii) restoration or repair of the project after hazard damage or partial condemnation in a manner other than that specified in the Documents;
- (xiv) termination of the Common Interest Community after occurrence of substantial destruction or condemnation; and
- (xv) any provision that expressly benefits

mortgage holders, insurers or guarantors.

(b) Notwithstanding any lower requirement permitted by this Declaration or the Act, the Association may not take any of the following actions, other than rights reserved to the Declarant as Special Declarant Rights, without notice to all Eligible Mortgagees and Eligible Insurers, as required by Section 18.3 above, and approval of at least fifty-one percent (51%) (or the indicated percentage, if higher) of the Eligible Mortgagees:

- (i) convey or encumber the Common Elements or any portion of the Common Elements, for which an eighty percent (80%) Eligible Mortgagee approval is required (the granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Elements by the Common Interest Community will not be deemed a transfer within the meaning of this clause);
- (ii) the termination of the Common Interest Community for reasons other than substantial destruction or condemnation, for which sixty-seven percent (67%) of the Votes of Eligible Mortgagees is required;
- (iii) the alteration of any partition or creation of any aperture between adjoining Units (when Unit boundaries are not otherwise being affected), for which only the owners of Units affected and Eligible Mortgagees of those Units need approve the action;
- (iv) the granting of any easements, leases, licenses or concessions through or over the Common Elements (excluding, however, any utility easements serving or to serve the Common Interest Community and also excluding any leases, licenses or concessions lasting for no more than one

(1) year);

- (v) the restoration or repair of the Property after hazard damage or a partial condemnation in a manner other than specified in the Instruments;
- (vi) the merger of the Common Interest Community with any other common interest community;
- (vii) the assignment of the future income of the Association, including its right to receive Common Expense Assessments; and
- (viii) any action taken not to repair or replace the Property in the event of substantial destruction of any part of a Unit or the Common Elements.

(c) The Association may not change the period for collection of regularly budgeted Common Expense Assessments to other than monthly collection without the consent of all Eligible Mortgagees. This shall not effect the right of the Association to accelerate assessments due in any calendar year from an owner who is at least sixty (60) days delinquent in the payment of monthly assessments.

(d) The failure of an Eligible Mortgagee or Insurer to respond within thirty (30) days to any written request for approval of an addition or amendment to the Document wherever Eligible Mortgagee or Eligible Insurer approval is required, when such request is delivered by certified or registered mail, return receipt requested, shall constitute an implied approval of the addition or amendment.

18.5 Development Rights. No Development Rights may be exercised, voluntarily abandoned or terminated by the Declarant unless all persons holding Security Interests in the Development Rights consent to the exercise, abandonment or termination.

18.6 Inspection of Books. The Association must maintain current copies of the Declaration, Bylaws, Rules, books, records

and financial statements. The Association shall permit any Eligible Mortgagee or Eligible Insurer, or other first mortgagee of Units, to inspect the books and records of the Association during normal business hours.

18.7 Financial Statements. The Association shall provide any Eligible Mortgagee or Eligible Insurer who submits a written request with a copy of an annual financial statement. It shall be provided within ninety (90) days following the end of each fiscal year of the Association. This financial statement shall be audited or reviewed by an independent certified public accountant if:

(a) the Common Interest Community contains fifty (50) or more Units, in which case the cost of the audit or review shall be a Common Expense; or

(b) any Eligible Mortgagee or Eligible Insurer requests it, in which case the Eligible Mortgagee or Eligible Insurers shall bear the cost of the audit or review.

18.8 Enforcement. The provisions of this Article are for the benefit of Eligible Mortgagees and Eligible Insurers and their successors and may be enforced by any of them by any available means, at law or in equity.

18.9 Attendance at Meetings. Any representative of an Eligible Mortgagee or Eligible Insurer may attend and address any meeting which a Unit Owner may attend.

18.10 Appointment of Trustee. In the event of damage or destruction under Article XXII or XXIII or condemnation of all or a portion of the Common Interest Community, any Eligible Mortgagee may require that such proceeds be payable to a Trustee established pursuant to Section 1.31 of this Declaration. Proceeds will then be distributed according to law. Unless otherwise required, the Members of the Executive Board, acting by majority vote, may act as Trustee.

ARTICLE XIX
ASSESSMENT AND COLLECTION OF COMMON EXPENSES

19.1 Apportionment of Common Expenses. Except as provided in Section 1.6 and Section 19.2, all Common Expenses shall be assessed against all Units in accordance with their percentage interest in the Common Expenses as shown on Exhibit B of this Declaration, and any supplements or amendments thereto.

19.2 Common Expenses Attributable to Fewer than all Units.

(a) Any Common Expense associated with the maintenance, repair or replacement of the Association, of components and elements attached to, planted on, or a part of yards, patios, decks, exterior surfaces, trim, siding, doors and elevators may be assessed against the Unit or Units to which the Limited Common Element is assigned as a Common Expense Assessment. If any such Limited Common Element is assigned to more than one Unit, the Common Expenses attributable to the Limited Common Element may be assessed equally among the Units to which it is assigned. No additional component or element may be attached without consent of the Executive Board upon approval by the Architectural Control Committee, if any. In the event any additional component or element becomes deteriorated or unsightly, or is inconsistent with conditions of installation, it may be removed or repaired at the Unit Owner's expense as a Common Expense assessment under this section, after Notice and Hearing.

(b) Any Common Expense associated with the maintenance, repair or replacement of the chimney serving a particular Unit or Units shall be assessed against that particular Unit or Units.

(c) Any Common Expense associated with the maintenance, repair or replacement of heat exchanger, heater outlet, enclosures and mechanical attachments will be assessed against the Unit or Units to which the Limited Common Element is assigned.

(d) Common Expenses associated with the cleaning, maintenance, repair or replacement of all other Limited Common Elements not specifically identified in Subsections (a) through (c) above will be assessed against all Units in accordance with their Allocated Interests in the Common Expenses.

(e) Common Expenses associated with the repair of sewer lines which serve a particular Unit or Units shall be assessed to those Unit(s) which share the use of those sewer lines.

(f) Any Common Expense for services provided by the Association to an individual Unit at the request of the Unit Owner shall be assessed against that Unit.

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

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

(i) If a Common Expense is caused by the misconduct or negligence of a Unit Owner, the Association may assess that expense exclusively against that Unit Owner's Unit.

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

19.3 Joint Budget Committee and Common Expenses associated with Quail Run Homeowners Association, Inc. There is hereby established a Joint Budget Committee to perform the duties set forth below concerning expenses which shall be shared by both Associations.

(a) Composition of Committee. Members of the Committee must be members of the Board of Directors or Executive Board of either Quail Run Association, Inc. Or Quail Run II Association, Inc., and each Board shall appoint the members from their association. Until the first eighty five (85) units in the Association have been sold to homeowners in the Association, the Joint Budget Committee shall consist of one (1) Declarant's representative, and three members appointed by Quail Run Association, Inc. Upon the sale of the 85th unit, the Committee shall be composed of a total of five (5) members including the Declarant's representative, one Board member of Quail Run II Association, Inc. And the Board members appointed

by the Quail Run Association, Inc. Upon the sale of the 170th unit, the Committee shall be composed of a total of six (6) members including the Declarant's representative, two (2) Board members of Quail Run II Association, Inc., and three (3) Board members appointed by Quail Run Association, Inc. Upon the sale of all 241 units, the Committee shall be composed of seven members, including three appointed by Quail Run II Association, Inc. And three appointed by the Quail Run Association, Inc., and a Chairperson. In even years the Chairperson shall be appointed from the Board of Quail Run Association, Inc. In odd years the Chairperson shall be appointed from the board of Quail Run II, Inc. The Chairperson shall not vote except in the even of a tie.

(b) Quorum. Until the sale of the 170th unit, a quorum shall consist of three (3) committee members. Upon the sale of the 170th unit, a quorum shall consist of two members from each association for a total of four members.

(c) The duties of the Committee shall be to establish a joint budget for payment of the following expenses which shall be Common Expenses of both Associations, including but not limited to the following expenses associated with maintaining, repairing and insuring the Common Elements of both associations: water, mowing, landscape maintenance, tree trimming, ponds, pool and facilities associated therewith, tennis court, street lights, utilities, entrance areas including Signage, common element insurance, reserve fund contributions, sprinkler system maintenance and repair, and snow removal.

(d) During the period of Declarant control, Declarant shall, in accordance with the joint budget established by the Committee, pay to Quail Run Homeowners Association, Inc., Declarant's pro rata share of the amount of the costs outlined in Paragraph 19.3(c) above. Payment is due by the fifteenth (15th) day of each month. If not paid when due, the outstanding balance shall accrue interest at the rate of twelve percent (12%) per annum. Declarant's pro rata share under this paragraph will be based on a fraction, the numerator of which shall equal the number of units for which a certificate of occupancy has issued, and the denominator of which is the sum of one hundred and sixty nine (169) plus the number of units for which a certificate of occupancy has issued. The Declarant's obligation to pay assessments shall accrue upon the issuance of a certificate of occupancy. Upon the sale of a unit to

an owner other than Declarant, the Owner of the unit shall make its pro rata payment to Quail Run Association.

(e) After termination of Declarant control, the Members of the Association shall have the same obligations as the Declarant as outlined in Paragraph 19.3(a), (b), and (c) above.

(f) In the event of a dispute under this Section 19.3, the dispute shall be submitted to binding arbitration pursuant to the rules of the American Arbitration Association, the cost of which shall be borne equally by the parties to the dispute. The prevailing party shall be entitled to an award of reasonable attorney fees.

19.4 Lien and collection of assessments.

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

(b) A lien under this Section is prior to all other liens and encumbrances on a Unit except: (1) liens and encumbrances recorded before the recordation of the Declaration; (2) a first Security Interest on the Unit recorded before the date on which the Common Expense Assessment sought to be enforced became delinquent; (3) an owner's homestead exemption, if any; and (4) liens for real estate taxes and other governmental assessments or charges against the Unit. A lien under this Section is also prior to all Security Interests described in Subdivision (2) of this Subsection to the extent that the Common Expense Assessments are based on the periodic budget adopted by the Association pursuant to Section 15.4 of this Article and would have become due in the absence of acceleration, during the six months immediately preceding institution by either the Association or any party holding a lien senior to any part of the Association lien created under this

section of an action or a nonjudicial foreclosure either to enforce or extinguish wither the Association's lien or a Security Interest described in Subdivision (2) of this Subsection. This Subsection does not affect the priority of mechanics' or materialmen's liens or the priority of a lien for other assessments made by the Association. By purchasing a Unit, an Owner waives all federal and state homestead or other exemptions with respect to the lien for Common Expense Assessments.

(c) Recording of the Declaration in the Records constitutes record notice and perfection of the lien. Further recording of a claim of lien for a Common Expense Assessment under this Section is not required.

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

(e) This Section does not prohibit an action to recover sums for which Subsection (a) of this Section creates a lien or prohibit the Association from taking a deed in lieu of foreclosure.

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

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

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

(i) In any action by the Association to collect Common Expense Assessments or to foreclose a lien for unpaid Common Expense Assessments, the court may appoint a receiver for the Unit

who shall collect all sums due from that Unit Owner or a tenant of the Unit Owner prior to or during the pendency of the action. The court may order the receiver to pay any sums held by the receiver to the Association during the pendency of the action to the extent of the Association's Common Expense Assessments, based on a periodic budget adopted by the Association pursuant to Section 19.4 of this Declaration.

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

19.5 Quail Run Association, Inc as Agent for Association.

(a) Quail Run Association, Inc. Is hereby irrevocably appointed to act as administrator and agent for the Association for the administration and management of the Joint Budget referred to above. Quail Run Association, Inc, shall have the right, power and authority to act as the Association's agent for collection of all dues and assessments of the Association, and shall be entitled, as agent, to all remedies contained in this Declaration and all other reasonable methods of collection in the event of nonpayment by any Member. Any attorney fees shall or costs shall be reimbursed to Quail Run Association, Inc. From the Association's regular budget allocation.

(b) Members of the Association shall make payments directly to Quail Run Association, Inc., and all such payments shall be strictly accounted for. Quail Run Association, Inc. Shall maintain a separate account for the administration of the joint budget items. Quail Run Association Inc. Shall promptly disburse the portion allocable to the Association's regular budget to the Association on or before the twentieth (20th) of each month. The portion allocable to the joint budget costs and expenses shall be disbursed to the joint budget account.

19.6 Budget Adoption and Ratification. Within thirty (30) days after adoption of either the joint budget or a proposed budget for the Common Interest Community, the Executive Board shall provide a summary of the budget to each Unit Owner and shall set a date for a meeting of the Unit Owners to consider ratification of the budget. The meeting shall be not fewer than fourteen (14) nor

more than sixty (60) days after mailing of the summary. Unless at that meeting a majority of all Unit Owners rejects the budget, the budget is ratified, whether or not a quorum is present. If the proposed budget is rejected, the periodic budget last ratified by the Unit Owners continues until the Unit Owners ratify a new budget proposed by the Executive Board.

19.7 Ratification of Non-budgeted Common Expense Assessments. If the Executive Board votes to levy Common Expense Assessments not included in the current budget, other than one enumerated in Section 19.2 of this Declaration, in an amount greater than fifteen percent (15%) of the current annual operating budget, the Executive Board shall submit this Common Expense to the Unit Owners for ratification in the same manner as a budget under Section 19.6.

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

19.9 Monthly Payment of Common Expenses. All annual Common Expenses assessed under Sections 19.1 and 19.2 of this Declaration shall be due and payable in monthly installments, unless otherwise determined by the Executive Board, subject to the provisions of Section 19.3.

19.10 Commencement of Common Expense Assessments. Except as provided in Section 19.3 with regard to the Declarant's duty to contribute to the joint budget costs and expenses, Common Expense Assessments shall begin on the first day of the month in which conveyance of the first Unit to a Unit Owner other than the Declarant occurs.

19.11 No Waiver of Liability for Common Expenses. No Unit Owner may become exempt from liability for payment of the Common Expense Assessments by waiver of the use or enjoyment of the Common Elements or by abandonment of the Unit against which the Common Expense Assessments are made.

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

19.19 Easement Agreement with Quail Run Association, Inc. An easement agreement executed on July 31, 1995 between Townhomes at Quail Run LLC, a Colorado Limited Liability Company, and Quail Run Association, Inc, recorded in Arapahoe County, Colorado at Book 8072 and Page 161, and an additional easement agreement between Townhomes at Quail Run LLC, a Colorado Limited Liability Company, and Quail Run Association, Inc, executed on October 25, 1995 and recorded in Arapahoe County, Colorado at Book AS132535 and Page 0001-010 have been recorded and grant easements to, or included in, the common interest community.

ARTICLE XX RIGHT TO ASSIGN FUTURE INCOME

The Association may assign its future income, including its right to receive Common Expense Assessments, only by the affirmative vote of Unit Owners to which at least fifty-one percent (51%) of the votes in the Association are allocated, at a meeting called for that purpose, and with the Eligible Mortgagee consent described in Article XVIII.

ARTICLE XXI PERSONS AND UNITS SUBJECT TO DOCUMENTS

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

21.2 Adoption of Rules. The Executive Board may adopt Rules regarding the use and occupancy of Units as it affects the Common Elements, the Limited Common Elements and the activities of occupants, subject to Notice and Comment.

ARTICLE XXII INSURANCE

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

22.2 Property Insurance Coverage.

(a) Property Insurance will cover:

(i) the project facilities including all buildings on the Property, for example, the Units and all fixtures, equipment and any Improvements and betterments whether part of a Unit or a Common Element, and such personal property of Unit Owners as is normally insured under building coverage, but excluding land, excavations, portions of foundations below the undersurface of the lowest basement floors, underground pilings, piers, pipes, flues and drains and other items normally excluded from property policies; and

(ii) all personal property owned by the Association

(b) The project insurance will be for an amount (after application of any deductions) equal to 100 percent of the project facilities' actual cash value at the time the insurance is

purchased and at each renewal date. Personal property owned by the Association will be insured for an amount equal to its actual cash value. --

(c) The Executive Board is authorized to obtain appraisals periodically for the purpose of establishing replacement cost of the project facilities and the actual cash value of the personal property, and the cost of such appraisals shall be a Common Expense.

(d) The maximum deductible for insurance policies shall be the lesser of \$10,000 or one percent (1%) of the policy face amount.

(e) The difference between the total policy deductible and \$250 deductible per Unit damaged shall be paid by the Association as a Common Expense. Of the deductible portion, \$250 per Unit Owner affected shall be paid by each of the Unit Owners suffering the loss as an additional Common Expense.

(f) The insurance shall afford protection against "all risks" of direct physical loss commonly insured.

(g) Insurance policies required by this Section shall provide that:

(I) the insurer waives the right to subrogation under the policy against a Unit Owner or member of the household of a Unit Owner.

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

(iii) if, at the time of a loss under the policy, there is other insurance in the name of a Unit Owner which covers the same risk covered by the policy, the Association's policy

provides primary insurance.

(iv) losses must be adjusted with the Association.

(v) insurance proceeds shall be paid to any insurance trustee designated in the policy for that purpose, and otherwise to the Association, but, in any case, it is to be held in trust for each Unit Owner and the Unit Owner's mortgagee.

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

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

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

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

(c) an act or omission by a Unit Owner, unless

acting within the scope of the Unit Owner's authority on behalf of the Association, will not void the policy or be a condition to recovery under the policy;

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

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

22.4 Fidelity Bonds. A blanket fidelity bond or dishonesty insurance coverage may be provided at the option of the Executive Board for anyone who either handles or is responsible for funds held or administered by the Association, whether or not they receive compensation for their services. The bond or insurance shall name the Association as obligee and shall cover the maximum funds that will be in the custody of the Association or the manager at any time while the bond is in force. In no event shall the bond or coverage be for an amount less than the sum of three (3) months of assessments plus reserve funds. The bond or coverage shall include a provision that calls for a ten (10) day written notice to the Association, each holder of a Security Interest in a Unit, each servicer that services a FNMA-owned or FHLMC-owned mortgage on a Unit and the insurance trustee, if any, before the bond can be cancelled or substantially modified for any reason. The bond of coverage shall be in an amount equal to the maximum amount of funds in the custody and control of the Association when the bond or insurance is in effect. When either: (a) separate bank accounts for working funds and reserves are maintained and monthly checks are sent directly to the Association, (b) a management company maintains separate records and bank accounts for each association's reserve account, or (c) two (2) Directors must sign any check written on the reserve account, then the fidelity bond or coverage may be in an amount equal to three (3) months of Common Expense Assessments on all Units.

22.5 Unit Owner Policies. An insurance policy issued to

the Association does not preclude Unit Owners from obtaining insurance for their own benefit.

22.6 Workers' Compensation Insurance. The Executive Board shall, if required by the State of Colorado, obtain and maintain Workers' Compensation Insurance.

22.7 Directors' and Officers' Liability Insurance. The Executive Board shall obtain and maintain directors' and officers' liability insurance, if available, covering all of the Directors and Officers of the Association. This insurance will have limits determined by the Executive Board.

22.8 Other Insurance. The Association may carry other insurance which the Executive Board considers appropriate to protect the Association.

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

ARTICLE XXIII DAMAGE TO OR DESTRUCTION OF PROPERTY

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

- (a) the Common Interest Community is terminated; or
- (b) repair or replacement would be illegal under a state statute or municipal ordinance governing health or safety; or
- (c) eighty percent (80%) of the Unit Owners, including each Owner of a Unit or assigned Limited Common Element that will not be rebuilt, vote not to rebuild.

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

23.3 Plans and Specifications. The Property must be

repaired and restored in accordance with either the original plans and specifications or other plans and specifications which have been approved by the Executive Board, a majority of Unit Owners and fifty-one (51%) percent of Eligible Mortgagees.

23.4 Replacement of Less Than Entire Property.

(a) The insurance proceeds attributable to the damaged Common Elements shall be used to restore the damaged area to a condition compatible with the remainder of the Common Interest Community.

(b) Except to the extent that other persons will be distributees:

(i) the insurance proceeds attributable to a Unit and Limited Common Elements that are not rebuilt must be distributed to the Owner of the Unit and the Owner of the Unit to which the Limited Common Elements were allocated, or to lien holders, as their interests may appear; and

(ii) the remainder of the proceeds must be distributed to each Unit Owner or lien holder, as their interests may appear, in proportion to the Common Element interests of all the Units.

(c) If the Unit Owners vote not to rebuild a Unit, the Allocated Interests of the Unit are reallocated upon the vote as if the Unit had been condemned under C.R.S. 38-33.3-107, and the Association promptly shall prepare, execute and record an amendment to the Declaration reflecting the reallocations.

23.5 Insurance Proceeds. The Trustee, or if there is no Trustee, then the Executive Board of the Association, acting by the President, shall hold any insurance proceeds in trust for the Association, Unit Owners and lien holders as their interests may appear. Subject to the provisions of Subsection 23.1(a) through Subsection 23.1(c) of this Declaration, the proceeds shall be disbursed first for the repair or restoration of the damaged Property. The Association, Unit Owners and lien holders are not

entitled to receive payment of any portion of the proceeds unless there is a surplus after the Property has been completely repaired or restored, or unless the Common Interest Community is terminated.

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

(a) whether or not damaged or destroyed Property is to be repaired or restored; and

(b) the amount or amounts to be paid for repairs or restoration and the names and addresses of the parties to whom such amounts are to be paid.

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

ARTICLE XXIV

NOTICE AND COMMENT; NOTICE AND HEARING

24.1 Right to Notice and Comment. Before the Executive Board amends the Bylaws or the Rules, whenever the Documents require that an action be taken after "Notice and Comment," and at any other time the Executive Board determines, the Unit Owners have the right to receive notice of the proposed action and the right to comment orally or in writing. Notice of the proposed action either shall be given to each Unit Owner in writing, delivered personally or by mail to all Unit Owners at such address as appears in the records of the Association, or it shall be published in a newsletter or similar publication which is routinely circulated to all Unit Owners. The notice shall be given not less than five days before the proposed action is to be taken. It shall invite comment to the Executive Board orally or in writing before the scheduled time of the meeting. The right to Notice and Comment does not entitle a Unit Owner to be heard at a formally constituted meeting.

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

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

ARTICLE XXV EXECUTIVE BOARD

25.1 Association Records and Minutes of Executive Board Meetings. The Executive Board shall permit any Unit Owner, or holder, insurer or guarantor of first mortgages secured by Units, to inspect the records of the Association and the minutes of Executive Board and committee meetings during normal business hours. The minutes shall be available for inspection within thirty (30) days after any such meeting.

25.2 Powers and Duties. The Executive Board may act in all instances on behalf of the Association, except as provided in this Declaration, the Bylaws or the Act. The Executive Board shall have, subject to the limitations contained in this Declaration and

the Act, the powers and duties necessary for the administration of the affairs of the Association and of the Common Interest Community, which shall include, but not be limited to, the following:

- (a) adopt and amend Bylaws, Rules and regulations;
- (b) adopt and amend budgets for revenues, expenditures, and reserves;
- (c) collect Common Expense Assessments from Unit Owners;
- (d) hire and discharge managing agents;
- (e) hire and discharge independent contractors, employees and agents, other than managing agents;
- (f) institute, defend or intervene in litigation or administrative proceedings or seek injunctive relief for violation of or otherwise enforce the Association's Declaration, Bylaws, or Rules in the Association's name on behalf of the Association or two or more Unit Owners on matter affecting the Common Interest Community;
- (g) make contracts and incur liabilities;
- (h) regulate the use, maintenance, repair, replacement and modification of the Common Elements;
- (i) cause additional Improvements to be made as a part of the Common Elements;
- (j) acquire, hold, encumber and convey, in the Association's name, any right, title or interest to real property or personal property, but Common Elements may be conveyed or subjected to a Security Interest only pursuant to Section 18.4 above and C.R.S. 38-33.3-312;
- (k) grant easements for any period of time, including permanent easements, and leases, licenses and concessions through or over the Common Elements, for no more than one year;

(l) impose and receive a payment, fee or charge for the use, rental or operation of the Common Elements, other than Limited-Common Elements described in C.R.S. 38-33.3-202(1)(b) and (1)(d), and for services provided to Unit Owners;

(m) impose a reasonable charge for late payment of assessments, and after Notice and Hearing, levy reasonable fines for violations of this Declaration, the Bylaws, Rules and Regulations of the Association;

(n) impose a reasonable charge for the preparation and recordation of amendments to this Declaration and for a statement of unpaid assessments;

(o) provide at the option of the Executive Board for the indemnification of the Association's officers and Executive Board and/or maintain Directors' and Officers' liability insurance;

(p) assign the Association's right to future income, including the right to receive common expense assessments;

(q) exercise any other powers conferred by this Declaration, the Bylaws or the Act;

(r) exercise any other power that may be exercised in this state by legal entities of the same type as the Association;

(s) exercise any other power necessary and proper for the governance and operation of the Association; and

(t) by resolution, establish permanent and standing committees of Directors to perform any of the above functions under specifically delegated administrative standards, as designated in the resolution establishing the committee. All committees must maintain and publish notice of their actions to Unit Owners and the Executive Board. However, actions taken by a committee may be appealed to the Executive Board by any Unit Owner within forty-five (45) days of publication of the notice. If an appeal is made, the committee action must be ratified, modified or rejected by the Executive Board at its next regular meeting.

25.3 Executive Board Limitations. The Executive Board

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

ARTICLE XXVI OPEN MEETINGS

26.1 Access. All meetings of the Executive Board, at which action is to be taken by vote, will be open to the Unit Owners, except as hereafter provided.

26.2 Notice. Notice of every such meeting will be given not less than twenty-four (24) hours prior to the time set for such meeting by posting such notice in conspicuous location in the Common Interest Community, except that such notice will not be required if an emergency situation requires that the meeting be held without delay.

26.3 Executive Sessions. Meetings of the Executive Board may be held in executive session requiring the affirmative vote of Directors only if:

a) no action is taken at the executive session requiring the affirmative vote of Directors, or

b) the action taken at the executive session involves personnel, pending litigation, contract negotiations, enforcement actions, matters which would otherwise involve the invasion of privacy of individual Unit Owners, matters which are to remain confidential by request of the affected parties and agreement of the Board, or actions taken by unanimous consent of the Board.

ARTICLE XXVII CONDEMNATION

27.1 If part or all of the Common Interest Community is

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

ARTICLE XXVIII MISCELLANEOUS PROVISIONS

28.1 Captions. The captions contained in the Documents are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of the Documents or the intent of any provision thereof.

28.2 Gender. The use of the masculine gender refers to the feminine gender, and vice versa, and the use of the singular includes the plural, and vice versa, whenever the context of the Documents so require.

28.3 Waiver. No provision contained in the Documents is abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

28.4 Invalidity/Severability. The invalidity of any provision of the Documents does not impair or affect in any manner the validity, enforceability or effect of the remainder, and if a provision is invalid, all of the other provisions of the Documents shall continue in full force and effect.

28.5 Conflict. The Documents are intended to comply with the requirements of the Act. If there is any conflict between the Documents and the provisions of the statutes, the provisions of the statutes shall control. In the event of any conflict between this Declaration and any other Document, this Declaration shall control.

IN WITNESS WHEREOF, the Declarant has caused this Declaration to be executed this 27th day of MARCH, 1996.

Townhomes at Quail Run LLC

By: *[Signature]*
mgr.

STATE OF COLORADO)
) ss.
COUNTY OF DENVER)

The foregoing instrument was acknowledged before me this 27th day of MARCH, 1996, by *Harvey E. [Signature]*.

Witness my hand and official seal.

[SEAL]

[Signature]
Notary Public

My Commission Expires
12/11/99