

**DECLARATION OF COVENANTS,
CONDITIONS, AND RESTRICTIONS OF
TERRA RIDGE,
EL PASO COUNTY, COLORADO**

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Exhibit A - Property Description

Exhibit B - Listing of Recorded Easements, Licenses and Other Matters

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**CONDITIONS AND RESTRICTIONS OF
TERRA RIDGE,
EL PASO COUNTY, COLORADO**

THIS DECLARATION is made and entered into by Terra Five Development, LLC, a Colorado Limited Liability Company ("Declarant").

RECITALS:

I. Declarant is the owner of that certain real property in the County of El Paso, State of Colorado, which is described on Exhibit A, attached hereto and incorporated herein by this reference; and

II. Declarant desires to create a Common Interest Community and to subject and place upon the above-described property certain covenants, conditions, restrictions, easements, reservations, right-of-way, obligations, liabilities and other charges set forth herein for the purpose of protecting the value and desirability of said property and for the purpose of furthering a plan for the improvement, sale and ownership of said property, to the end that a harmonious and attractive development of said property may be accomplished and the health, comfort, safety, convenience and general welfare of the Declarant, its successors and assigns in said property, or any portion thereof, may be promoted and safeguarded.

III. Declarant hereby declares that all of the properties described above shall be held, sold and conveyed subject to the following covenants, conditions, restrictions, easements, rights-of-way, obligations, liabilities, charges and other provisions set forth herein, which are for the purpose of protecting the value and desirability of, and which shall run with, the above-described property and be binding on all parties having any right, title, or interest in the above-described property or any part thereof, their heirs, personal representatives, successors, and assigns, and shall insure to the benefit of each owner thereof.

**ARTICLE I
DEFINITIONS**

1. **"Act"** shall mean the Colorado Common Interest Ownership Act, C.R.S. § 38-33.3-101, et seq., as amended.

2. **"Agencies"** shall mean and collectively refer to the Government National Mortgage Association (GNMA), the Federal Home Loan Mortgage Corporation (FHLMC), the Department of Housing and Urban Development (HUD), the Veterans Administration (VA) or any other governmental or quasi-governmental agency or any other public, quasi-public or private entity which performs (or may in the future perform) functions similar to those currently performed by any of such entities.

3. **"Allocated Interests"** shall mean the Common Expense Liability and votes in the Association allocated to each Unit. The Allocated Interest of each Unit shall be equal to a fraction, the numerator of which is 1 and the denominator of which is the total number of Units within the Common Interest Community from time to time.

4. **"Architectural Review Committee"** shall mean and refer to the committee appointed by the Declarant or by the Association to review and approve or disapprove plans for Improvements, as more fully provided in this Declaration.

5. **"Association"** shall mean Terra Ridge Property Owners Association, Inc., a unit owners association organized under section 38-33.3-301 of the Act.

6. **"Builder"** shall mean any Person which purchases one or more Units for the purpose of constructing improvements for later sale to consumers or purchases one or more parcels of land within the Common Interest Community for further subdivision, development, and/or resale in the ordinary course of such Person's business.

7. **"Bylaws"** shall mean the Bylaws of the Association, and any other instruments, however denominated, which are adopted by the Association for the regulation and management of the Association, including any amendments to those instruments.

8. **"Common Elements"** shall mean any real estate owned or leased by the Association other than a Unit.

9. **"Common Expense Liability"** shall mean the liability for Common Expenses allocated to each Unit based on its Allocated Interest.

10. **"Common Expenses"** shall mean expenditures made or liabilities incurred by or on behalf of Association, together with any allocations to reserves.

11. **"Common Interest Community"** shall mean real estate described in this Declaration, as supplemented and amended from time to time, with respect to which a Person, by virtue of such Person's ownership of a Unit, is obligated to pay for real estate taxes, insurance premiums, maintenance, or improvement of other real estate described in this Declaration.

12. **"Declarant"** shall mean Terra Five Development, LLC, a Colorado Limited Liability Company, and those of its successors and assigns to which Terra Five Development, LLC, a Colorado Limited Liability Company, has delegated its rights as Declarant hereunder in a written instrument filed with the Clerk and Recorder of the County of El Paso, State of Colorado.

13. **"Declaration"** shall mean this Declaration of Covenants, Conditions and Restrictions and any other recorded instruments, however denominated, that create this Common

Interest Community, including any amendments to those instruments and also including, but not limited to, plats and maps.

14. **"Development Rights"** shall mean any right or combination of rights reserved by the Declarant in this Declaration.

- (a) to submit additional real estate to this Declaration; and
- (b) to create Units, Common Elements or Limited Common Elements, in connection with the addition of such real estate; and
- (c) to subdivide Units owned by Declarant or convert Units owned by Declarant into Common Elements or Limited Common Elements; and
- (d) to withdraw real estate owned by Declarant from the Common Interest Community.

15. **"Executive Board"** shall mean the Board of Directors of the Association.

16. **"Improvements"** shall mean and refer to all exterior improvements, structures, and any appurtenances thereto or components thereof of every type or kind, and all landscaping features, including, but not limited to, buildings, outbuildings, swimming pools, tennis courts, patios, patio covers, awnings, solar collectors, painting or other finish materials on any visible structure, additions, walkways, sprinkler systems, garages, carports, driveways, fences, screening walls, retaining walls, stairs, decks, landscaping, hedges, windbreaks, plantings, trees, shrubs, flowers, vegetables, sod, gravel, exterior light fixtures, poles, signs, exterior tanks, and exterior air conditioning, cooling, heating and water softening equipment.

17. **"Limited Common Element"** shall mean a portion of the Common Elements allocated by the Declaration or by the application of the Act, for the exclusive use of one or more Units, but fewer than all of the Units.

18. **"Map"** shall mean have the meaning set forth in the Act.

19. **"Member"** shall mean and refer to each Unit Owner; membership in the Association shall be appurtenant to, and may not be separated from, ownership of a Unit.

20. **"Owner"** shall mean one or more Persons which may include the Declarant, who hold legal title to any Unit, but excluding in all cases any party holding an interest merely as security for the performance of an obligation.

21. **"Period of Declarant Control"** shall mean and refer to a length of time expiring ten (10) years after initial recording of this declaration in the county in which the Common Interest Community is located; provided, that the Period of Declarant Control shall terminate no

later than either sixty (60) days after conveyance of seventy-five percent (75%) of the Units that May Be Created to Unit Owners other than a Declarant, two (2) years after the last conveyance of a Unit by the Declarant in the ordinary course of business, or two (2) years after any right to add new Units to the Declaration was last exercised.

22. **"Person"** shall mean a natural person, a corporation, a partnership, an association, a trust, or any other entity or any combination thereof.

23. **"Plat"** shall mean that part of the Declaration that is a land survey plat as set forth in C.R.S. § 38-51-105 and is recorded in the real estate records of El Paso County, Colorado.

24. **"Residential Use"** shall mean use for dwelling or recreational purposes by does not include spaces or Units primarily used for commercial income from, or service to, the public.

25. **"Rules and Regulations"** shall mean any instruments, however denominated, which are adopted by the Association for the regulation and management of the Common Interest Community, including any amendment to those instruments.

26. **"Security Interest"** shall mean an interest in real estate or personal property created by contract or conveyance which secures payment or performance of any obligation. The term includes a lien created by a mortgage, deed of trust, trust deed, security deed, contract for deed, land sales 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 or title retention contract intended as security for an obligation. "Security Interest" shall also mean and refer to any executory land sales contract wherein the Administrator of Veterans Affairs, an Officer of the United State of America, is the seller, whether such contract is recorded or not, and whether such contract is owned by the said Administrator or has been assigned by the Administrator and is owned by the Administrator's assignee, or a remote assignee, and the land records in the Office of the Clerk and Recorder of each county in which any portion of the Common Interest Community is located, show the Administrator as having the record title to the Unit.

27. **"Security Interest Holder"** shall mean and refer to any Person named as a mortgagee or beneficiary, or in a similar capacity, under any Security Interest (including, the Administrator of Veteran Affairs, an Officer of the United States of America, or and his assigns under any executory land sales contract wherein the said Administrator is identified as the seller, whether such contract is recorded or not and the land records of the Clerk and Recorder of each county in which any portion of the Common Interest Community is located, show the said Administrator as having the record title to the Unit), or any successor to the interest of any such Person under such Security Interest.

28. **"Special Declarant Rights"** shall mean rights reserved for the benefit of a Declarant to perform the following acts: To complete Improvements indicated on plats and maps filed with the Declaration; to exercise any Development Right; to maintain sales offices,

management offices, signs advertising the Common Interest Community, and models; to use easements through the Common Elements for the purpose of making Improvements within the Common Interest Community or within real estate which may be added to the Common Interest Community; to merge or consolidate the Common Interest Community with another Common Interest Community of the same form of ownership; or to appoint or remove any officer of the Association or any Executive Board member during any Period of Declarant Control. All of the Special Declarant Rights may be exercised by the Declarant with respect to any portion of the property now or hereafter within the Common Interest Community. Declarant may exercise any or all of these Special Declarant Rights at any time and from time to time. Such rights shall terminate automatically on the earlier of the following events; (a) conveyance of the last Unit that may be created by Declarant to a Unit Owner other than Declarant; (b) ten (10) years from the date of recordation of this Declaration, except with respect to the appointment of officers and directors which may only be exercised in accordance with Articles II and III hereof.

29. **"Unit"** shall mean and refer to any separate numbered lot or parcel of real estate shown upon any recorded subdivision map of the real property described on the attached Exhibit A, or any other real property as may hereafter be brought within the jurisdiction of the Association, with the exception of the Common Elements and any public streets.

30. **"Unit Owner"** shall mean the Declarant or other Person who owns a Unit, but does not include a person having an interest in a Unit solely as security for an obligation. The Declarant is the owner of any Unit created by the Declarant until that Unit is conveyed to another Person who may or may not be a Declarant under this Article.

31. **"Units That May Be Created"** shall mean and refer to forty-five (45) Units, which shall be the maximum number of Units that may be subject to this Declaration, including the Units within the real estate described on the attached Exhibit A and those Units which may be added if all of the property provided for in Article XIII, Section 4 hereof, is annexed to this Declaration.

ARTICLE II MEMBERSHIP AND VOTING RIGHTS

1. **Membership.** The membership of the Association at all times shall consist exclusively of all Unit Owners or, following termination of the Common Interest Community, of all former Unit Owners entitled to distributions of proceeds under the Act or their heirs, personal representatives, successors or assigns. Membership shall be appurtenant to and may not be separated from ownership of any Unit.

2. **One Class of Membership.** The Association shall have one class of voting membership. Each Unit Owner shall be entitled to one (1) vote for each Unit owned in accordance with the Allocated Interest attributable to such Unit, except that no votes allocated to a Unit owned by the Association may be cast. The total number of votes which may be cast in connection with any matter shall be equal to the total of all Units then existing within the

Common Interest Community. During the Period of Declarant Control, the Declarant or Persons appointed by the Declarant may appoint and remove all officers and members of the Executive Board which have been appointed by such Declarant. A Declarant may voluntarily surrender the right to appoint and remove officers and members of the Executive Board before termination of the Period of Declarant Control; but, 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.

ARTICLE III
EXECUTIVE BOARD MEMBERS AND OFFICERS

1. **Authority of Executive Board.** Except as provided in this Declaration, the Bylaws or the Act, the Executive Board may act in all instances on behalf of the Association.

2. **Election of Unit Owners During Period of Declarant Control.** No 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 (1) member and not less than twenty-five percent (25%) of the members of the Executive Board must be elected by Unit Owners other than the Declarant. No 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.

3. **Authority of Declarant: Termination of Period of Declarant Control.** Except as otherwise provided in this Article III, during the Period of Declarant Control, the Declarant or Persons appointed by the Declarant may appoint all officers and directors and remove all officers and directors of the Executive Board appointed by it. Not later than the termination of any period of Declarant Control, the Unit Owners shall elect an Executive Board of at least three members, at least a majority of whom must be Unit Owners other than the Declarant or designated representatives of Unit Owners other than the Declarant. The Executive Board shall elect the officers. The Executive Board members and officers shall take office upon termination of the Period of Declarant Control.

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

(a) The original or a certified copy of the recorded Declaration, as amended, the Association's Articles of Incorporation, Bylaws, minute books, other books and records, and any Rules and Regulations which may have been promulgated;

(b) An accounting for Association funds and financial statements from the date the Association received funds and ending on the date the Period of Declarant Control ends. The financial statements shall be audited by an independent certified public accountant and shall be accompanied by the accountant's letter expressing either the opinion that the financial statements present fairly the financial position of the Association in conformity with generally accepted accounting principles or a disclaimer of the accountant's ability to attest to the fairness of the principles and the reasons therefore. The expense of the audit shall not be paid for or charged to the Association;

(c) The Association funds or control thereof;

(d) All of the Declarant's tangible personal property that has been represented by the Declarant to be the property of the Association or all of the Declarant's tangible personal property that is necessary for, and has been used exclusively in, the operation and enjoyment of the Common Elements, and inventories of these properties;

(e) A copy of the plans and specifications used in the construction of the Improvements in the Common Interest Community which were completed within two (2) years before the Declaration was recorded;

(f) All insurance policies then in force in which the Unit Owners, the Association, or its directors and officers are named as insured persons;

(g) Copies of any certificates of occupancy that may have been issued with respect to any Improvements comprising the Common Interest Community;

(h) Any other permits issued by governmental bodies applicable to the Common Interest Community and which are currently in force or which were issued within one (1) year prior to the date on which Unit Owners other than the Declarant took control of the Association;

(i) Written warranties of the contractor, subcontractors, suppliers and manufacturers that are still effective;

(j) A roster of Unit Owners and mortgagees and their addresses and telephone numbers, if known, as shown on the Declarant's records;

(k) Employment contracts in which the Association is a contracting party; and

(l) Any service contract in which the Association is a contracting party or in which the Association or the Unit Owners have any obligation to pay a fee to the persons performing the services.

5. **Budget.** Within thirty (30) days after adoption of any proposed budget for the Common Interest Community, the Executive Board shall mail, by ordinary first-class mail, or otherwise deliver a summary of the budget to all the Unit Owners and shall set a date for a meeting of the Unit Owners to consider ratification of the budget not less than fourteen (14) days nor more than sixty (60) days after mailing or other delivery of the summary. Unless at that meeting the vote of eighty percent (80%) of the Allocated Interest rejects the budget, the budget is ratified, whether or not a quorum is present. In the event that the proposed budget is rejected, the periodic budget last ratified by the Unit Owners must be continued until such time as the Unit Owners ratify a subsequent budget proposed by the Executive Board.

ARTICLE IV **COVENANT FOR ASSESSMENTS**

1. **Personal Obligation for Assessments.** Each Unit Owner, including Declarant, by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, covenants and agrees and shall be personally obligated to pay to the Association monthly assessments or charges, special assessments, and other charges, fines, fees, interest, late charges, and other amounts, all as provided in this Declaration; with such assessments and other amounts to be established and collected as hereinafter provided. The obligation for such payments by each Unit Owner to the Association is an independent covenant with all amounts due, from time to time, payable in full when due without notice or demand (except as otherwise expressly provided in this Declaration), and without set-off or deduction. All Unit Owners of each Unit shall be jointly and severally liable to the Association for the payment of all assessments, fees, charges and other amounts attributable to their Unit. Each assessment, together with interest, late charges, costs, and reasonable attorney's fees, shall also be the personal obligation of the Person who was the Unit Owner of such Unit at the time when the assessment became due. The personal obligation for delinquent assessments shall not pass to such Unit Owner's successors in title unless expressly assumed by them. The Association's lien on a Unit for assessment shall be superior to any homestead exemption now or hereafter provided by the laws of the State of Colorado or any exemption now or hereafter provided by the laws of the United States. The acceptance of a deed to land subject to this Declaration shall constitute a waiver of the homestead and any other exemption as against said assessment lien.

2. **Purpose of Assessments.** The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents of the Units, and for all of those purposes and activities which may be required of the Association or which the Association may be empowered to pursue pursuant to this Declaration or the Articles of Incorporation or Bylaws of the Association, or by law; provided, however, that such assessments levied during the Period of Declarant Control may not be used for the purpose of constructing capital Improvements.

3. **Initial Annual Assessments.** Until the effective date of an Association budget ratified by the Unit Owners with a different amount for the Common Expense assessment, as provided in Section 4 of the Article III, the amount of the annual Common Expense assessment

against each Unit shall be _____ DOLLARS (\$) per Unit per calendar year.

4. **Rate of Assessment.** Annual and special assessments shall be sufficient to meet the expected needs of the Association and shall be apportioned among the Units in accordance with their Allocated Interests. The Common Expense assessments shall include an adequate reserve fund for the maintenance, repair and replacement of those items that must be maintained, repaired or replaced on a periodic basis, and for the payment of insurance deductibles. All Common Expenses shall be assessed against all the Units in accordance with the Allocated Interests set forth in this Declaration. If the Common Expense Liability is reallocated, Common Expense Assessments and any installment thereof not yet due shall be recalculated in accordance with the reallocated Common Expense Liability.

5. **Date of Commencement of Annual Assessments.** Until the Association makes a Common Expense assessment, the Declarant shall pay all Common Expenses. After any assessment has been made by the Association, assessment shall be based on a budget adopted by the Association as provided in this Declaration, which shall be done no less frequently than annually. The annual assessments shall be due and payable in semi-annual installments, in advance, or on such other dates, and with such frequency (which may be other than semi-annually, but not less frequently than annually), as the Executive Board determines in its discretion from time to time, provided that the first annual assessment shall be adjusted to reflect the time remaining in the first Association fiscal year. Any Unit Owner purchasing a Unit between annual due dates shall pay a pro rata share of the last payment due.

6. **Special Assessments.** In addition to the annual Common Expense assessments authorized in this Article, the Executive Board of the Association may at any time levy, in any fiscal year, a special assessment applicable to that year only, for the purpose of defraying in whole or in part the cost of any construction, reconstruction, repair or replacement of a capital improvement upon any portion of real property for which the Association has repair and/or reconstruction obligations, including fixtures and personal property related thereto, or for repair or reconstruction of any damaged or destroyed Improvements located on said real property, or for the funding of any operating deficit incurred by the Association. Any such special assessment shall be set against each Unit in accordance with the Allocated Interests set forth in this Declaration. Notwithstanding the foregoing, special assessments levied during the Period of Declarant Control may not be used for the Purpose of constructing capital improvements.

7. **Lien for Assessments.**

(a) The Association has a statutory lien on a Unit for any assessment levied against that Unit or fines imposed against its Unit Owner from the time the assessment or fine becomes due. Fees, charges, late charges, attorney fees, fines and interest charge pursuant to this Declaration are enforceable as assessments under this Article. If an assessment is payable in installments, the full amount of the assessment is a lien from the time the first installment thereof becomes due.

(b) Recording of the Declaration constitutes record notice and perfection of the lien. No further recordation of any claim of lien for assessment under this Article is required. However, the Executive Board may prepare and record, or cause to be prepared and recorded, in the real property records of Douglas County, Colorado, a written notice setting forth the amount of the unpaid indebtedness, the name of the Unit Owner and a description of the Unit. If a lien is filed, the costs and expenses thereof shall be added to the assessment for the Unit against which it is filed and collected as part and parcel thereof. The Association's lien may be foreclosed in like manner as a mortgage on real estate.

(c) A lien for unpaid assessments is extinguished unless proceedings to enforce the lien are instituted within six (6) years after the full amount of assessments become due.

(d) Unless the Declaration otherwise provides, if two (2) or more associations have liens for assessments created at any time on the same property, those liens have equal priority.

8. Priority of Association Lien.

(a) A lien under this Article IV is prior to all other liens and encumbrances on a Unit except:

(1) Liens and encumbrances recorded before the recordation of the Declaration; and

(2) A Security Interest on the Unit which has priority over all other Security Interests on the Unit and which was recorded before the date on which the assessment sought to be enforced became delinquent; and

(3) Liens for real estate taxes and other governmental assessments or charges against the Unit.

(b) A lien under this Section is also prior to the Security Interest described in the preceding subsection (a)(2) to the extent of:

(1) An amount equal to the Common Expense assessments based on a periodic budget adopted by the Association as provided in this Declaration, which would have become due, in the absence of any acceleration during the six (6) months immediately preceding institution of an action to enforce the lien, but in no event shall the priority of such lien accorded under this subsection exceed one hundred fifty percent (150%) of the average monthly assessment during the immediately preceding fiscal year multiplied by six (6);

(2) Attorney fees and costs being incurred in an action to enforce the lien.

(c) This Section 8 does not affect the priority of mechanics' or materialmen's liens or the priority of liens for other assessments made by the Association. A lien under this Article is not subject to the provisions of part 2 of Article 41 of Title 38, C.R.S., as amended, or to the provisions of C.R.S. § 15-11-201, as amended.

9. **Receiver.** In any action by an Association to collect assessments or to foreclose a lien for unpaid assessments, the court may appoint a receiver of the Unit Owner to collect all sums alleged to be due from 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.

10. **Certificate of Status of Assessments.** The Association shall furnish to a Unit Owner or such Unit Owner's designee or to a holder of a Security Interest or its designee upon written request delivered personally or by certified mail, first class postage prepaid, return receipt, to the Association's registered agent, a statement setting forth the amount of unpaid assessments currently levied against such Unit Owner's Unit. The statement shall be furnished within fourteen (14) business days after receipt of the request and is binding on the Association, the Executive Board, and every Unit Owner. If no statement is furnished to the Unit Owner or holder of a Security Interest or their designee, delivered personally or by certified mail, first class postage prepaid, return receipt requested, to the inquiring party, then the Association shall have no right to assert a priority lien upon the Unit for unpaid assessments which were due as of the date of the request.

11. **Effect of Non-payment of Assessments; Remedies of the Association.** Any assessment installment, which is not paid on or before the due date shall be delinquent. If an assessment installment becomes delinquent, the Association, in its sole discretion and without limiting any other legal or equitable remedy, may take any or all of the following actions:

- (a) Assess a late charge for each delinquency in such amount as the Executive Board deems appropriate;
- (b) Assess an interest charge from the due date at the rate of twenty-one percent (21%) per annum, or such other lawful rate as the Executive Board may establish;
- (c) Suspend the voting rights of the Owner during any period of delinquency;
- (d) Accelerate all remaining assessment installments so that unpaid assessments for the remainder of the fiscal year shall be due and payable at once;
- (e) Bring an action at law against any Owner personally obligated to pay the delinquent assessment; and
- (f) Proceed with foreclosure as set forth in more detail below.

Assessments chargeable to any Unit shall constitute a lien on such Unit, the Association may institute foreclosure proceedings against defaulting Owner's Unit in a manner for foreclosing a mortgage on real property under the laws of the State of Colorado. In the event of any such foreclosure, the Owner shall be liable for the amount of unpaid assessments, any penalties and interest thereon, the costs and expenses of such proceedings, the cost and expenses for filing the notice of claim and lien, and all reasonable attorney's fees incurred in connection with enforcement of the lien. The Association shall have the power to bid on a Unit at the foreclosure sale and to acquire and hold, lease, mortgage and convey the same.

12. **Surplus Funds.** Any surplus funds of the Association, including, but not limited to, working capital funds remaining after payment of or provision for reserves shall be retained by the Association as unallocated reserves and need not be credited to the Unit Owners in proportion to their Common Expense Liability or credited to them to reduce their future Common Expense Assessments.

13. **Working Capital Fund.** The Association or Declarant shall require the first Unit Owner of any Unit other than Declarant to make a non-refundable contribution to the Association in an amount equal to two (2) times the monthly assessment against that Unit in effect at the closing thereof (regardless of whether or not assessments have commenced as provided in Section 5 of this Article). Said contribution shall be collected and transferred to the Association at the time of closing of the sale by Declarant of each Unit and shall be held in a segregated account with other such working capital funds for the use and benefit of the Association, including, without limitation, to meet unforeseen expenditures or to purchase additional equipment, property or services. Such contribution to the working capital fund shall not relieve a Unit Owner from making regular payments of assessments as the same become due. Upon the transfer of his Unit, a Unit Owner shall be entitled to a credit from his transferee (but not from the Association) for the aforesaid contribution to the working capital fund.

14. **Assignment of Future Income.** The Executive Board may assign the Association's right to future income, including the right to receive Common Expenses.

15. **Assessments for Misconduct.** If any Common Expense is caused by the misconduct of any Unit Owner, the Association may assess that Common Expense exclusively against such Unit Owner and his Unit.

ARTICLE V ARCHITECTURAL REVIEW COMMITTEE

1. **Composition of Committee.** The Architectural Review Committee shall consist of three (3) or more persons appointed by the Executive Board; provided, however, that until all of the Units that May Be Created have been conveyed by Declarant to the first Unit Owner thereof (other than Declarant), Declarant shall appoint the Architectural Review Committee. Two or more members of the Committee may jointly designate a representative to act for them. The power to "appoint," as provided herein, shall include without limitation the power to: constitute

the initial membership of the Architectural Review Committee; appoint member(s) to the Architectural Review Committee on the occurrence of any vacancy therein, for whatever reason; and remove any member of the Architectural Review Committee, with or without cause, at any time, and appoint the successor thereof. Each such appointment may be made for such term(s) of office, subject to the aforesaid power of removal, as may be set from time to time in the discretion of the appointor.

2. Review by Committee. No Improvements shall be constructed, erected, placed, planted, applied or installed upon any Unit unless complete plans and specifications therefor (said plans and specifications to show exterior design, height, materials, color, and location of the Improvements, plotted horizontally and vertically, location and size of driveways, location, size, and type of landscaping, fencing, walls, windbreaks and grading plan, as well as such other materials and information as may be required by the Committee), shall have been first submitted to and approved in writing by the Architectural Review Committee; provided, however, that the Declarant shall be exempt from seeking or obtaining Architectural Review Committee approval during Declarant's development of, construction on, or sales of any Unit or residences on any Unit. In conducting its review, the Committee shall adhere to the general and specific provisions of any Design Guidelines which have been established by the Committee which are applicable to Units located within the Common Interest Community. The Architectural Review Committee shall exercise its reasonable judgment to the end that all Improvements conform to and harmonize with the existing surroundings, residences, landscaping and structures. In its review of such plans, specifications and other materials and information, the Architectural Review Committee may require that the applicant(s) reimburse the Committee for the actual expenses incurred by the Committee in the review and approval process. Such amounts, if any, shall be levied in addition to the Common Expense assessment against the Unit for which the request for Architectural Review Committee approval was made, but shall be subject to the Association's lien for assessments and subject to all other rights of the Association for the collection of such assessments, as more fully provided in this Declaration.

3. Procedures. The Architectural Review Committee shall approve or disapprove all requests for approval within thirty (30) days after the complete submission of all plans, specifications, and other materials and information which the Committee may require in conjunction therewith. If the Architectural Review Committee fails to approve or disapprove any request within thirty (30) days after the complete submission of all plans, specifications, materials and other information with respect thereto, approval shall not be required and this Article shall be deemed to have been fully complied with.

4. Vote and Appeal. A majority vote of the Architectural Review Committee is required to approve a request for approval pursuant to this Article, unless the Committee has appointed a representative to act for it, in which case the decision of such representative shall control. In the event a representative acting on behalf of the Architectural Review Committee approves or denies a request for architectural approval, the Unit Owner whose application has been denied shall have the right to an appeal of such decision to the full Committee, upon a request therefor submitted to the Committee within thirty (30) days after such approval or denial