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DECLARATION
FOR
EAGLE RANCH COMMERCIAL CENTER



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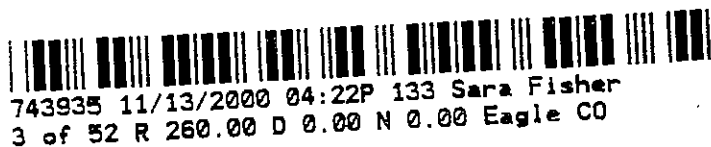
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DECLARATION

FOR

EAGLE RANCH COMMERCIAL CENTER

THIS DECLARATION FOR EAGLE RANCH COMMERCIAL CENTER (this "Declaration"), dated as of SEPTEMBER 21, 2000, shall be effective upon recordation and is made by West Eagle Ranch LLC, a Delaware limited liability company ("Declarant"). Declarant is the owner of certain real property in Eagle County, Colorado, more particularly described on Exhibit A attached hereto and made part of this Declaration by this reference (the "Property"), and Declarant is the owner of additional real property located in Eagle County, Colorado, more particularly described on Exhibit B (the "Expansion Property"). Declarant hereby makes the following grants, submissions, and declarations:

ARTICLE 1 IMPOSITION OF COVENANTS

Section 1.1 Purpose. The purpose of this Declaration is to create a Planned Community known as Eagle Ranch Commercial Center pursuant to the Colorado Common Interest Ownership Act as set forth in Article 33.3, Title 38, Colorado Revised Statutes, as such act exists on the date hereof, except to the extent that the applicability of future amendments to the Act are mandatory (the "Act").

Section 1.2 Intention of Declarant. Declarant intends to develop the Property as a mixed use community, including residential and commercial uses for the benefit of all persons residing, visiting or doing business in Eagle Ranch Commercial Center. Declarant desires to protect the value and desirability of the Property, to own and/or operate certain common amenities and properties for the benefit of the owners of the Property and the separate projects which may be formed thereon and to promote and safeguard the health, comfort, safety, convenience, and welfare of the owners in Eagle Ranch Commercial Center.

Section 1.3 Number of Units. The Town Documents (as that term is hereinafter defined) in effect as of the date hereof permit the development of a maximum of eleven hundred (1,100) Residential Units and one hundred twenty thousand (120,000) square feet of commercial area within Eagle Ranch. In contemplation that all such commercial areas will be developed on the Property and/or the Expansion Property and such commercial areas will be divided on average into Commercial Units of two hundred forty (240) square feet per Commercial Unit, Declarant reserves the right to create five hundred (500) Commercial Units under this Declaration and the Town Documents in effect as of the date hereof. Declarant also reserves the right to create a maximum of one hundred (100) Residential Units under this Declaration. In order to allow flexibility in the operation of this Declaration in the event that the Town Documents are revised in the future,



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Declarant reserves the right to create an additional one hundred (100) Commercial Units provided the Town Documents permit such additional commercial areas.

Section 1.4 Declaration. To accomplish the purposes and intentions recited above, Declarant hereby submits the Property, together with all improvements, appurtenances, and facilities relating to or located on the Property now and in the future, to the provisions of the Act, and hereby imposes upon all of the Property the covenants, conditions, restrictions, easements, reservations, and other provisions of this Declaration below, and Declarant hereby declares that all of the Property shall be held, sold, conveyed, encumbered, leased, rented, occupied and improved subject to the provisions of this Declaration.

Section 1.5 Master Declaration. The Property is subject to the Declaration for Eagle Ranch as recorded June 23, 1999, under Reception No. 700815, in the office of the Clerk and Recorder of Eagle County, Colorado, and as amended and supplemented from time to time (the "Master Declaration").

Section 1.6 Covenants Running With the Land. All provisions of this Declaration shall be deemed to be covenants running with the land, or equitable servitudes, as the case may be. The benefits, burdens, and other provisions contained in this Declaration shall be binding upon and shall inure to the benefit of Declarant, all Owners, and their respective heirs, executors, administrators, personal representatives, successors, and assigns.

ARTICLE 2 DEFINITIONS

The following words, when used in this Declaration or any Supplemental Declaration, shall have the meanings designated below unless the context shall expressly provide otherwise:

Section 2.1 "Act" means the Colorado Common Interest Ownership Act as set forth in the Colorado Revised Statutes, Section 38-33.3-101, et. seq., as such act exists on the date hereof, except to the extent that the applicability of future amendments to the Act are mandatory

Section 2.2 "Assessment Obligation" means the apportionment of Assessments for which a Unit is responsible as calculated pursuant to Section 5.4 below.

Section 2.3 "Assessments" means the annual, special and default Assessments levied pursuant to Article 5 below. Assessments are also referred to as a Common Expense Liability under the Act.

Section 2.4 "Association" means Eagle Ranch Commercial Center Association, a Colorado nonprofit corporation, and its successors and assigns. The Association acts through its Executive Board unless a vote of the Owners is otherwise specifically required by the Act, this Declaration or the articles of incorporation or bylaws of the Association.



Section 2.5 "Association Documents" means the basic documents governing the Association, including, but not limited to, this Declaration, the articles of incorporation and bylaws of the Association, and any procedures, rules, regulations, or policies relating to the Association adopted under such documents by the Association or the Executive Board.

Section 2.6 "Building" means any building (including all fixtures and improvements contained within it) located on the Property.

Section 2.7 "Commercial Unit" means any separate Unit located on the Property which is designated, from time to time, to be used for commercial purposes pursuant to zoning or other governmental restriction (including, without limitation, the Town Documents), deed restriction or other private covenant, and/or design review approval by the Master Association. A Commercial Unit may be redesignated as a Residential Unit as described in Section 4.2 herein below.

Section 2.8 "Common Area" means, to the extent of the Association's interest in such real property or improvements, if any, any real property or improvements within Eagle Ranch Commercial Center (a) that are owned by the Association, (b) that are owned by a person or entity other than the Association, but in which the Association has rights of use or possession pursuant to a lease, license, easement or other agreement (including, without limitation, the "Easement Common Area" as defined in Section 6.2 below), or (c) that the Association is otherwise required to operate, manage, maintain or repair, together with any improvements located thereon. The Common Areas which Declarant anticipates may be constructed, maintained or operated by the Association are as follows: landscaping, streetscaping, benches and other improvements located on or within sidewalks located within Eagle Ranch Commercial Center, parks, commons areas, alleys, breezeways, and parking facilities, together with any related improvements or amenities associated with any of the foregoing. It is contemplated that the Association will maintain all sidewalk areas, including landscaping and other streetscaping improvements between the curb of any dedicated street and/or alley to the exterior walls of all Buildings, whether such areas are located upon public rights-of-way, on any Lot, or upon property owned by the Association. Any Common Area located on a Lot is created by an easement pursuant to and as limited by Section 6.2 and 6.3 of this Declaration (such areas defined therein as the "Easement Common Area").

Section 2.9 "Common Expenses" means (a) all expenses expressly declared to be common expenses by this Declaration or the bylaws of the Association; (b) all other expenses of administering, servicing, conserving, managing, maintaining, repairing or replacing the Common Area; (c) insurance premiums for the insurance carried by the Association; and (d) all expenses lawfully determined to be common expenses by the Executive Board.

Section 2.10 "Declarant" means West Eagle Ranch LLC, a Delaware limited liability company, and its successors and assigns. No party other than West Eagle Ranch LLC shall exercise the rights and privileges reserved herein to Declarant unless such party shall receive and record in the real property records of Eagle County, Colorado a written assignment from West Eagle Ranch LLC of all or a portion of such rights and privileges.

Section 2.11 "Declaration" means this Declaration for Eagle Ranch Commercial Center, together with any supplement or amendment to this Declaration, recorded by Declarant in the office of the Clerk and Recorder of Eagle County, Colorado.

Section 2.12 "Director" means a member of the Executive Board.

Section 2.13 "District" means the Eagle Ranch Metropolitan District.

Section 2.14 "Eagle Ranch" means all of the real property subject to the Master Declaration, including Eagle Ranch Commercial Center.

Section 2.15 "Eagle Ranch Commercial Center" means the entirety of the Property subject to the terms and provisions of this Declaration.

Section 2.16 "Executive Board" means the governing body of the Association, as provided in this Declaration and in the articles of incorporation and bylaws of the Association.

Section 2.17 "Expansion Property" means the real property located in Eagle County, Colorado, more particularly described on Exhibit B attached hereto and incorporated herein by this reference, which Declarant may subject to this Declaration by one or more duly recorded Supplemental Declarations.

Section 2.18 "First Mortgage" means a Mortgage which has priority of record over all other recorded liens except those governmental liens made superior by statute (such as general ad valorem tax liens and special and governmental transfer assessments).

Section 2.19 "First Mortgagee" means the Mortgagee under a First Mortgage.

Section 2.20 "Function" means any activity, function or service required under this Declaration to be undertaken or performed by the Association as well as any activity, function or service otherwise undertaken or performed by the Association.

Section 2.21 "Guest" means any family member, customer, agent, employee, independent contractor, guest, invitee or Lessee of an Owner and any person or persons, entity or entities who have any right, title or interest in a Unit which is not the fee simple title to the Unit (including a Lessee), and any family member, customer, agent, employee, independent contractor, guest or invitee of such person or persons, entity or entities.

Section 2.22 "Lessee" means the person or persons, entity or entities which constitute the lessee under a lease of all or any part of a Unit. The term Lessee shall include Declarant to the extent it is a Lessee as defined above and shall include a sublessee, but it shall not include the Association or any governmental entity (which term shall include but is not limited to special districts formed pursuant to Colorado law).



Section 2.23 "Lot" means, individually or collectively, any separately identified lot(s) designated and shown on the Plat or any Supplemental Plat for any portion of the Property, recorded in the office of the Clerk and Recorder of Eagle County, Colorado, as the same may be amended from time to time. Unless restricted in the Town Documents or otherwise, a Lot may be resubdivided for commercial or mixed-use purposes and subjected to a condominium or planned community regime in accordance with the terms of the Act and the Town Documents.

Section 2.24 "Management Agreement" means any contract or arrangement entered into for purposes of discharging the responsibilities of the Executive Board relative to the operation, maintenance and management of the Common Area or for purposes of undertaking or discharging any Function.

Section 2.25 "Managing Agent" means a person, firm, corporation, or other entity employed or engaged as an independent contractor pursuant to a Management Agreement to perform management services for the Common Area and/or the Association.

Section 2.26 "Map" or "Maps" means and includes any engineering survey or surveys of a Lot locating a Project on a Lot, or the Units in the respective Buildings and the Buildings on the Lot depicting the floor plans of the Units, together with other drawings or diagrammatic plans and information regarding any portion of the Property as recorded in the office of the Clerk and Recorder of Eagle County, Colorado.

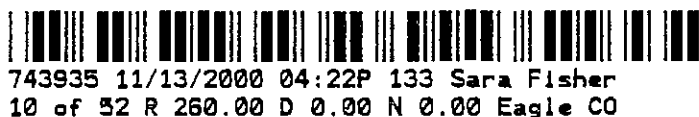
Section 2.27 "Master Association" means the Eagle Ranch Association, a Colorado nonprofit corporation, and its successors and assigns.

Section 2.28 "Master Declaration" means the Declaration for Eagle Ranch as recorded June 23, 1999, under Reception No. 700815, in the office of the Clerk and Recorder of Eagle County, Colorado, and as amended and supplemented from time to time.

Section 2.29 "Maximum Rate" shall mean two percentage points greater than that rate of interest charged by a bank designated from time to time by the Executive Board to the best commercial customers of the designated bank for short-term loans and identified as the "prime rate" by such bank as of the date on which such Maximum Rate is imposed with respect to any amount payable under this Declaration, or if less, the maximum rate allowed by law.

Section 2.30 "Mortgage" means any unpaid and outstanding mortgage, deed of trust, or other security instrument recorded in the office of the Clerk and Recorder of Eagle County, Colorado, which secures financing for the construction or development of any portion of the Property or which encumbers a Unit.

Section 2.31 "Mortgagee" means any person or entity named as a mortgagee or beneficiary under any Mortgage, or any successor to the interest of any such person under such Mortgage.



Section 2.32 "Owner" means any record owner (including Declarant, and including a contract seller, but excluding a contract purchaser), whether a natural person or persons or an entity, of a fee simple title interest in and to any Unit, excluding, however, any record owner with an interest therein merely as a Mortgagee (unless such Mortgagee has acquired fee simple title interest in the Unit pursuant to foreclosure or any proceedings in lieu of foreclosure).

Section 2.33 "Plat" means the subdivision plat or plats of the Property depicting the Lots and other Property subject to this Declaration recorded in the office of the Clerk and Recorder of Eagle County, Colorado and all supplements and amendments thereto.

Section 2.34 "Project" or "Projects" means one or more Buildings, together with the Lot on which such Building(s) are located and which lot is submitted to a condominium or planned community regime by a Project Declaration and the associated Map.

Section 2.35 "Project Association" or "Project Associations" means the association(s), formed for the purpose of representing owners of Units within a particular Project.

Section 2.36 "Project Declaration" means each Declaration creating a Common Interest Community upon a Lot as defined in the Act and subject to this Declaration.

Section 2.37 "Property" means the real property described in the attached Exhibit A.

Section 2.38 "Residential Unit" " means any separate Unit located on the Property which is designated, from time to time, to be used for residential purposes pursuant to zoning or other governmental restriction (including, without limitation, the Town Documents), deed restriction or other private covenant, and/or design review approval by the Master Association. A Residential Unit may be redesignated as a Commercial Unit as described in Section 4.2 herein below.

Section 2.39 "Supplemental Declaration" means an instrument which subjects any part of the Expansion Property to this Declaration, as more fully provided in Article 15 below.

Section 2.40 "Supplemental Plat" means a subdivision plat which depicts any part of the Expansion Property becoming subject to this Declaration through a Supplemental Declaration, as more fully provided in Article 15 below.

Section 2.41 "Town" means the Town of Eagle, State of Colorado, the municipality which has the planning and zoning authority with respect to the Property.

Section 2.42 "Town Documents" means those certain documents relating to the planned unit development for Eagle Ranch covering, without limitation, the Property, and other property, such documents to include, without limitation, zoning requirements, annexation agreements, subdivision improvement agreements, the Eagle Ranch PUD Guide, PUD Development Plan and Subdivision Plans, but only to the extent that such documents are in force from time to time.



Section 2.43 "Unit" means the fee simple interest in and to any parcel of real property subject to this Declaration which is designated for separate ownership and that may be conveyed in fee in compliance with all applicable subdivision regulations, including subdivided parcels of real property whether currently existing or created by subsequent resubdivision of the Property. Each Lot shall be an individual "Unit" as defined herein until and unless a P which shall be deemed the date that a Project Declaration is recorded c: at which time, each unit within the Project shall be a "Unit." The term Residential Unit or a Commercial Unit.

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Section 2.44 "Voting Allocation" means the apportionment o as calculated pursuant to Section 4.3 below.

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

ARTICLE 3 ASSOCIATION FUNCTIONS AND DUTIES

Section 3.1 Property Maintenance Function. The Association shall provide for the care, operation, management, maintenance, repair and replacement of all Common Areas. Moreover, the Association may provide for the care and maintenance of other areas of the Property if the Executive Board, in its sole and exclusive discretion, deems such care and maintenance to be necessary or desirable for access to the boundary of or full utilization of any Unit or any improvements within Eagle Ranch Commercial Center. Such Function may include, without limitation: maintenance of alleys and any other property which has been dedicated to the Town but which may be required to be maintained by the Association in accordance with the Town Documents; removal of snow from and application of sand, salt and other de-icing materials to walks, parking areas, trails and other similar Common Areas as necessary for their customary use and enjoyment; maintenance and care of bike and/or pedestrian paths, trails, open space or unimproved areas included in the Common Area and of plants, trees and shrubs in such open space or unimproved areas; maintenance of sidewalks and all landscaping and streetscaping located on or within such sidewalks and all benches, street furniture, planters, flower pots and other items located thereon; maintenance of lighting provided for walks, drives, paths, trails and other similar Common Areas; removal of trash and debris from Common Areas; purchase, installation and maintenance of public art; and maintenance and irrigation of all landscaping within the Common Areas. The Executive Board shall be the sole judge as to the appropriate maintenance, operation and management of the Common Area and other areas of the Property.

Section 3.2 Marketing and Promotion Function. The Executive Board is authorized to establish and implement programs and activities, the primary purpose of which shall be to increase awareness and support of Eagle Ranch Commercial Center and the businesses located therein and to project a positive image to people and businesses both within and outside of Eagle Ranch Commercial Center. In this regard, the Executive Board may engage in activities designed to



accomplish this purpose including, but not limited to, market research, public relations, advertising, and joint enterprises with other associations, the District or other groups. The Executive Board shall have the authority to determine the nature and extent of any promotion of Eagle Ranch Commercial Center, including, without limitation, holiday decorations and/or functions, sponsorship of festivals, concerts or other events, sponsorship and regulation of street entertainment, or other activities designed to generate interest in and/or traffic to the commercial uses within Eagle Ranch Commercial Center. The Executive Board shall not, pursuant to the authority granted in this Section, promote single entities or components within Eagle Ranch Commercial Center but shall only engage in promotion of Eagle Ranch Commercial Center as a whole; provided, the reasonable and balanced use of single entities as focal viewpoints of periodic promotional activities shall not violate this provision. The activities carried out by the Executive Board in accordance with this Section may be on-site, off-site, within, and outside Eagle Ranch Commercial Center and may be conducted in cooperation with nonmembers. The Executive Board may appoint a committee to undertake the functions described in this Section, in its discretion. All costs of the Association in undertaking the Functions described in this Section shall be allocated among all Commercial Units in conformance with Subsection 5.4.3(b) herein below, and no such expenses shall be charged to the Residential Units in any manner whatsoever.

Section 3.3 Exterior Maintenance Function.

3.3.1 All Owners are expected to maintain their Units, and all Project Associations are expected to maintain their Projects, in accordance with the standards of quality typical within Eagle Ranch Commercial Center, Eagle Ranch and the Town, and the Association does not intend to provide any exterior maintenance and repair of such property. If any Owner fails to maintain its Unit, or any Project Association fails to maintain its Project, related improvements or property, or fails to perform any acts of maintenance or repair required under this Declaration and/or the Master Declaration, the Association may provide, by the affirmative vote of the Executive Board, exterior maintenance and repair upon such property after thirty (30) days notice of such failure to the Owner of such Unit or the applicable Project Association. In addition, the Association may, without notice, make such emergency repairs and maintenance as may in its judgment be necessary for the safety of any person or to prevent damage to any other property. The cost of such exterior maintenance and repairs of a Unit shall be assessed against the Owner of such Unit, shall be a lien and obligation of the Owner and shall become due and payable in all respects as set forth in Article 5 herein. The cost of such maintenance or repairs of a Project shall be assessed against all Owners of Units within such Project and shall be a lien and obligation of such Owners pursuant to Article 5 herein. For the purpose of performing the exterior maintenance authorized by this Section, the Association, through its duly authorized agents or employees, shall have the right, after reasonable notice to the Owner or Project Association, to enter upon such Unit or Project during reasonable hours on any day. The Association or its designee is hereby granted an irrevocable license over all property in Eagle Ranch Commercial Center to inspect (in a reasonable manner) property within Eagle Ranch Commercial Center in order to determine whether any maintenance or repair is necessary under this Section.



3.3.2 Neither Declarant, the Association, nor any of their respective directors, members, officers, agents or employees, shall be liable for any incidental or consequential damages for failure to inspect any Unit or Project or improvements or portion thereof or to repair or maintain the same. Declarant, the Association or any member of the general public, firm or corporation undertaking such repairs or maintenance shall not be liable for any personal injury or other incidental or consequential damages occasioned by any act or omission in the repair or maintenance of any Unit or Project or improvements or portion thereof.

Section 3.4 Trash Removal Function. At the time of recording of this Declaration, it is contemplated that each Project and/or Building shall provide for trash removal with respect to the use of such Project or Building. However, the Association specifically reserves the right, upon notice to all Owners, at the discretion of the Executive Board or if required by the Town or other appropriate governmental authority, to provide common trash removal for the entirety of Eagle Ranch Commercial Center and to require that all Owners participate in and utilize such common trash removal service in the place of individual trash removal services. Costs for trash removal may be allocated to the Owners as the Executive Board reasonably determines, including, without limitation, based upon each Owner's relative level of use of such services, in the event that same are not fairly allocated based upon the Assessment Obligation as described in Section 5.4 below.

Section 3.5 Right to Make Rules and Regulations; Enforcement of Master Association Rules and Regulations. The Association shall be authorized to and shall have the power to adopt, amend and enforce rules and regulations applicable within Eagle Ranch Commercial Center with respect to any Common Area or Function, and to implement the provisions of this Declaration or other Association Documents, including but not limited to, rules and regulations to regulate use of any and all Common Area in order to assure compliance with the Town Documents or to protect the natural features thereof or the interests of all Owners and Guests; to prevent or reduce fire hazard; to prevent disorder and disturbances of the peace; to regulate pedestrian and vehicular traffic; to regulate parking, including, without limitation, the right to create and enforce designated employee and customer parking areas; to regulate signs; to regulate weed and pest control on property within Eagle Ranch Commercial Center; to promote the general health, safety and welfare of persons residing, visiting and doing business within Eagle Ranch Commercial Center; and to protect and preserve property and property rights. In addition, the Association shall have the right to enforce all rules and regulations and use restrictions contained in the Master Declaration or otherwise adopted by Master Association. All rules and regulations shall comply with the Association Documents, the Master Declaration, the Town Documents, and other applicable land use restrictions for Eagle Ranch Commercial Center. The rules and regulations shall be reasonable and shall be uniformly applied, except such rules may differentiate between reasonable classes of Units, Projects, Owners, Lessees, Guests or members of the general public. The Association may provide for enforcement of any such rules and regulations through reasonable and uniformly applied fines and penalties, through exclusion of violators from the Common Area or from enjoyment of any Functions, or otherwise. Each Project Association, Owner, Lessee, Guest and member of the general public shall be obligated to and shall comply with and abide by such rules and regulations and pay such fines or penalties upon failure to comply with or abide by such rules and regulations, and such



unpaid fines and penalties shall be enforceable as a default Assessment in accordance with Section 5.10.

Section 3.6 Payments to Working Capital Account. In order to have adequate working capital funds, the Association may collect at the time of an annual Assessment an amount equal to \$500.00. Such payments to this fund shall not be considered annual Assessments. The working capital deposit shall be returned to the Owner of such Owner's Unit, provided that the new purchaser of the Unit has a working capital deposit with the Association.

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Section 3.7 Taxes. The Association shall pay all ad valorem real estate taxes, special improvement and other assessments (ordinary and extraordinary), ad valorem personal property taxes, and all other taxes, duties, charges, fees and payments required to be made to any governmental or public authority which shall be imposed, assessed or levied upon, or arise in connection with the Common Area or Functions.

Section 3.8 Right to Dispose of Common Area: Third Party Rights in Common Area. Subject to Subsection 3.11.7 below, the Association shall have the full power and authority to sell, lease, grant easements, rights-of-way, licenses, leases or concessions in or to, transfer, encumber, abandon or dispose of any Common Area provided that such action does not result in a violation of the Town Documents. The Association shall be entitled to grant easements to third parties and take other actions which do not constitute a transfer in fee of a Common Area without the consent of the Town. The Association shall be entitled to permit, on a temporary or ongoing basis, the use and enjoyment of portions of the Common Area, such as areas which adjoin a particular Building, Unit or Units, by a particular Owner or a group of Owners and their respective Guests and Lessees, and to restrict such use and enjoyment by other Owners under such terms and for such charges, if any, as may be acceptable to the Executive Board. The Association also shall be entitled to contract with third parties, including, without limitation, other residential or recreational associations or individuals, allowing such persons the use and enjoyment of all or a portion of the Common Area under such terms and for such charges, if any, as may be acceptable to the Executive Board.

Section 3.9 Governmental Successor. Subject to applicable provisions of the Act, any Common Area and any Function may be turned over to a governmental or quasi-governmental entity including any special district or metropolitan district which is willing to accept and assume the same upon such terms and conditions as the Association shall deem to be appropriate.

Section 3.10 Records. The Association shall keep financial records sufficiently detailed to enable the Association to comply with Section 38-33.3-316(8) of the Act concerning statements of unpaid assessments. All financial and other records shall be made available for examination by any Owner or such Owner's authorized agents during normal business hours and under other reasonable circumstances. The Association may charge a reasonable fee for copying such materials.

Section 3.11 Implied Rights of the Association. The Association shall have and may exercise any right or privilege given to it expressly in this Declaration or, except to the extent limited.



by the terms and provisions of this Declaration, given to it by law and shall have and may exercise every other right, privilege, power and/or authority necessary or desirable to fulfill its obligations under this Declaration, including without limitation the rights to:

3.11.1 adopt and amend the bylaws and rules and regulations of the Association;

3.11.2 adopt and amend budgets for revenues, expenditures and reserves and collect Assessments, including, without limitation, Assessments for Common Expenses, from Owners;

3.11.3 hire and terminate Managing Agents and other employees, agents and independent contractors. Notwithstanding any provisions contained in this Declaration to the contrary, it is the intent of this Declaration that the Executive Board shall not be able to independently terminate the Management Agreement pursuant to Section 38-33.3-305 of the Act without a vote of Owners representing an aggregate voting interest of sixty percent (60%) or more. The Managing Agent shall not have the authority to make expenditures except upon prior approval and direction by the Executive Board. The Executive Board shall not be liable for any omission or improper exercise by a Managing Agent of any duty, power or Function so delegated by written instrument executed by or on behalf of the Executive Board;

3.11.4 institute, defend or intervene in litigation or administrative proceedings in its own name on behalf of itself or two or more Owners on matters affecting Eagle Ranch Commercial Center;

3.11.5 make contracts and incur liabilities;

3.11.6 regulate the use, maintenance, repair, replacement and modification of the Common Area;

3.11.7 acquire, hold, encumber and convey in its own name any right, title or interest in real or personal property; provided, however, that the fee interest of any Common Area may not be conveyed or subjected to a security interest unless (a) such action receives approval of Owners holding a majority of the total voting interest in the Association or any greater level of approval if required by the Act; (b) such action is evidenced by a written agreement, or a written ratification of an agreement, executed in the same manner as a deed by the required number of Owners; and (c) such action does not deprive any Unit of its rights of ingress, egress and support;

3.11.8 impose and receive any payments, fees or charges for the use, rental or operation of Common Area;

3.11.9 impose charges for late payments of Assessments, recover reasonable attorney's fees and disbursements and other costs of collection for Assessments and other actions to enforce the rights of the Association, regardless of whether or not suit was initiated, and after notice

and opportunity to be heard, levy reasonable fines and penalties for violations of the Association Documents;

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

3.11.11 provide for the indemnification of the Association's officers and directors and maintain directors' and officers' liability insurance;

3.11.12 assign its right to future income, including without limitation, its right to receive Assessments;

3.11.13 obtain and pay for legal, accounting and other professional services;

3.11.14 perform any Function by, through or under contractual arrangements, licenses or other arrangements with any governmental or private entity as may be necessary or desirable; and

3.11.15 enjoy and exercise any other power or authority which similar associations may now or hereafter enjoy or exercise in the state of Colorado.

Section 3.12 Association Documents. Each Owner shall comply with and may benefit from each term, provision, covenant, condition, restriction, reservation and easement contained in the Association Documents. The obligations, burdens and benefits of membership in the Association touch and concern the Property and are, and shall be, covenants running with each Unit for the benefit of all other Units and the Common Area.

Section 3.13 Indemnification. The Association shall be obligated to and shall indemnify Declarant and hold it harmless from all liability, loss, cost, damage and expense, including without limitation attorneys' fees and disbursements, arising with respect to any operations of the Association or any of the Common Area or any Functions undertaken by the Association pursuant to this Declaration.

Section 3.14 Owner's Negligence. In the event that the need for maintenance, repair, or replacement of all or any portion of the Common Area is caused through or by the negligent or willful act or omission of an Owner or an Owner's Guest or Lessee, or by any Project Association, then the expenses incurred by the Association for such maintenance, repair, or replacement shall be a personal obligation of such Owner or, in the case of a negligent or willful act or omission of a Project Association, then of all Owners of Units within that Project; and, if an Owner fails to repay the expenses incurred by the Association within seven (7) days after notice to the Owner of the amount owed, then the failure to so repay shall be a default by the Owner under the provisions of this Declaration, and such expenses shall automatically become a default Assessment determined and levied against such Unit, enforceable by the Association in accordance with Sections 5.10, 5.11, and 5.12 below.



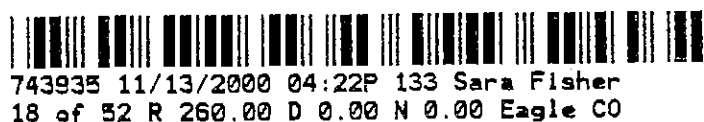
Section 3.15 Enforcement of Association Documents. The Association or any aggrieved Owner or Project Association may take judicial action against any Owner or Project Association to enforce compliance with the rules and regulations of the Association and with the other provisions of the Association Documents to obtain damages for noncompliance or for injunctive relief, or both, all to the extent permitted by law.

Section 3.16 Cooperation with Other Associations. The Association may contract or cooperate with the Master Association, the Project Associations and/or with other homeowners' associations or entities as convenient or necessary to provide services and privileges and to fairly allocate costs among the parties utilizing such services and privileges which may be administered by the Association or such other organizations, for the benefit of Owners and their Lessees and Guests. The costs associated with such efforts by the Association (to the extent not chargeable to other organizations) shall be a Common Expense.

Section 3.17 Assistance to Project Associations. The Executive Board may assist the Project Associations in the performance of their duties and obligations under their respective Project Declarations and other documents governing the applicable Project, and the Association shall cooperate with each Project Association so that each of those entities may most efficiently and economically provide their respective services to Owners. It is contemplated that from time to time the Association and the various Project Associations may use the services each of the other in the furtherance of their respective obligations, and they may contract with each other to better provide for such cooperation. The payment for such contract services or a variance in services provided may be reflected in an increased Assessment by the Association for the Owners of Units in the particular Project or by an item in the Project Association's budget which shall be collected through the assessments of such Project Association and remitted to the Association. If a Project Association fails, neglects or is unable to perform a duty or obligation required by its Project Declaration or other Project documents, then the Association may, after reasonable notice and an opportunity to cure given to the Project Association, perform such duties or obligations until such time as the Project Association is able to resume such functions, and the Association may charge the Project Association a reasonable fee for the performance of such functions.

Section 3.18 LIMITATION OF LIABILITY OF ASSOCIATION. NOTWITHSTANDING THE DUTY OF THE ASSOCIATION TO MAINTAIN AND REPAIR THE COMMON AREA, AND EXCEPT TO THE EXTENT COVERED BY ASSOCIATION INSURANCE, THE ASSOCIATION SHALL NOT BE LIABLE TO OWNERS OR THE PROJECT ASSOCIATIONS FOR INJURY OR DAMAGE, OTHER THAN FOR THE COST OF MAINTENANCE AND REPAIR, CAUSED BY ANY LATENT CONDITION OF THE COMMON AREA TO BE MAINTAINED AND REPAIRED BY THE ASSOCIATION OR CAUSED BY THE ELEMENTS OR OTHER OWNERS OR PERSONS OR THE PROJECT ASSOCIATIONS.

Section 3.19 Master Association Matters. Each Owner, by accepting a deed to a Unit, recognizes that (a) the Unit is subject to the Master Declaration, and (b) by virtue of his ownership,



he has become a member of the Master Association. Each Owner, by accepting a deed to a Unit, acknowledges that he has received a copy of the Master Declaration. The Owner agrees to perform all of his obligations as a member of the Master Association as they may from time to time exist, including, but not limited to, the obligation to pay assessments as required under the Master Declaration and other governing documents of the Master Association.

Section 3.20 Enforcement of Master Declaration. The Association shall have the power, subject to the primary power of the executive board of the Master Association, to enforce the covenants and restrictions contained in the Master Declaration, but only as said covenants and restrictions relate to the Eagle Ranch Commercial Center, and to collect regular, special and default assessments on behalf of the Master Association.

ARTICLE 4 MEMBERSHIP IN ASSOCIATION

Section 4.1 Association Membership. Every Owner shall be a member of the Association, and the Owners of the Lots shall be members until such time, if at all, as a Lot is further subdivided in accordance with a Project Declaration or otherwise, at which time each Owner of such subdivided Units within the Project shall be a member for the period of the Owner's ownership of the Unit. No Owner, whether one or more persons, shall have more than one membership per Unit owned, as applicable. Membership in the Association shall be appurtenant to, and may not be separated from, ownership of a Unit.

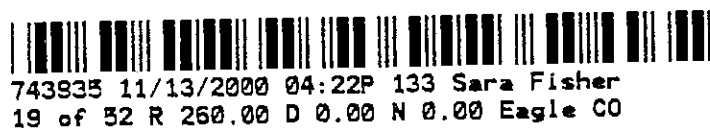
Section 4.2 Classes of Membership.

4.2.1 There shall be two classes of membership in the Association as follows:

4.2.1.1 "Residential Unit Members" shall be all Owners of Residential Units, including Declarant so long as Declarant continues to own an interest in a Residential Unit.

4.2.1.2 "Commercial Unit Members" shall be all Owners of Commercial Units, including Declarant so long as Declarant continues to own an interest in a Commercial Unit.

4.2.2 An owner of any undeveloped Lot shall be deemed to be both a Commercial Unit Member and a Residential Unit Member until such time as a Building or Buildings are constructed upon such Lot; provided, however, that if no Residential Units may be constructed upon a Lot pursuant to the terms of any deed restriction or other private covenant, or otherwise, then the Owner of such Lot shall be a Commercial Unit Member only. In the event that a Building or Buildings are not subjected to a Project Association, the Owner of the Lot upon which such Building or Buildings are located shall be either a Commercial Unit Member or both a Residential Unit Member and a Commercial Unit Member depending upon whether the Building or Buildings upon



the Lot contain, respectively, only commercial space or both commercial space and residential dwelling units.

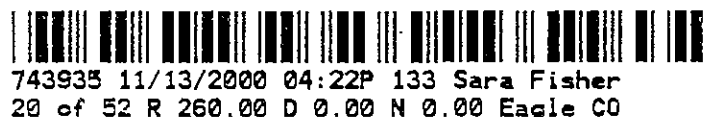
4.2.3 It is contemplated that in the future the use to which any Unit is put may change, and it is the intention of Declarant that this Declaration provide for the flexibility for any Residential Unit to be redesignated as a Commercial Unit, and any Commercial Unit to be redesignated as a Residential Unit, so long as the Owner of a Unit notifies the Association of the change in use and such change in use does not violate any provision of any zoning or other governmental restriction and any deed restriction or other private covenant. In addition, the Association may, by action of the Executive Board, redesignate any Unit among the classes of Units hereunder if it appears that the character of use of such Unit has changed. The redesignation of any Unit among the classes shall be effective upon the date that the Owner of such Unit notifies the Association of the change in use or the date that the Association notifies the Owner of its determination to redesignate the Unit, as applicable.

Section 4.3 Voting Rights. Each Unit shall be allocated a number of votes for the purpose of matters relating to Association issues as set forth below ("Voting Allocation"):

4.3.1 Residential Units. Each Residential Unit in a Project shall be allocated one (1) vote. In the event that a Building or Buildings containing residential uses are not subjected to a Project Declaration, then the Owner of the Lot upon which such Building(s) are located shall be allocated, on account of Residential Units, one (1) vote for each residential dwelling unit intended for separate occupancy within the Building(s) at such time as a temporary or conditional certificate of occupancy or any other document evidencing that the residential dwelling unit(s) may be legally occupied, whether subject to conditions or otherwise, is issued for the residential dwelling unit(s) by an appropriate governmental authority.

4.3.2 Commercial Units. Each Commercial Unit in a Project shall be allocated the greater of: (a) two (2) votes for such Commercial Unit; or (b) two (2) votes for every 500 square feet of space contained in such Commercial Unit. In the event that the calculation of the voting allocation of a Commercial Unit results in what would otherwise be a fractional vote, such voting allocation shall be rounded down to the nearest whole number of votes. In the event that a Building or Buildings containing commercial uses are not subjected to a Project Declaration, then the Owner of the Lot upon which such Building(s) are located shall be allocated, on account of Commercial Units, the greater of (a) two (2) votes on account of such commercial space; or (b) two (2) votes for every 500 square feet of commercial space in said Buildings at such time as a temporary or conditional certificate of occupancy or any other document evidencing that the commercial space may be legally occupied, whether subject to conditions or otherwise, is issued for the commercial space by an appropriate governmental authority.

4.3.3 Undeveloped Property. Notwithstanding the provisions of Subsections 4.3.1 and 4.3.2 above, until such time as a Lot is developed as evidenced by either (a) the recording of a Project Declaration in the office of the Clerk and Recorder of Eagle County, Colorado, or (b)



the receipt by the Owner of the Lot of a temporary or conditional certificate of occupancy or any other document evidencing that any Building on the Lot may be legally occupied, whether subject to conditions or otherwise, is issued for such Building by an appropriate governmental authority, the Voting Allocation for such undeveloped Lot shall be calculated as follows:

4.3.3.1 one (1) vote with respect to each approved but undeveloped Residential Unit or residential dwelling unit which may be constructed on the Lot based upon the maximum number of residential dwelling units permitted on such Lot pursuant to deed restriction or other private covenant or applicable governmental restrictions, whichever permits the fewest such residential dwelling units; and

4.3.3.2 two (2) votes for every 500 square feet of approved but undeveloped commercial space which may be constructed on the Lot based upon the maximum commercial square footage permitted on such Lot pursuant to deed restriction or other private covenant or applicable governmental restrictions, whichever permits the least amount of commercial square footage. In the event that the calculation of the voting allocation of an undeveloped Lot relating to approved but undeveloped commercial space results in what would otherwise be a fractional vote, such voting allocation shall be rounded down to the nearest whole number of votes.

Notwithstanding the foregoing, if an undeveloped Lot is permitted to have both residential and commercial uses thereon pursuant to deed restriction or other private covenant or applicable governmental restrictions, in no event shall such Owner have voting rights in each class which, when combined, constitute more voting rights than the maximum density of the undeveloped Lot, based on a mix of commercial and residential uses, would allow.

4.3.4 Phasing Within a Project. Each Project may be developed in phases. In the event that less than all of the Units permitted to be developed on a Lot are created by subdivision at one time, then (i) the Owner of each subdivided, developed Unit shall be entitled to cast the vote on Association matters with respect to such Unit, and (ii) the Owner of the remainder of the Lot which has not been made subject to the Project Declaration and/or further subdivided shall be entitled to the remaining votes with respect to such Lot.

4.3.5 Notice of Voting Allocation. The Association shall, from time to time, upon the affirmative vote of a majority of the members of the Executive Board, calculate and determine the Voting Allocation for the various Units and place of record in the office of the Clerk and Recorder of Eagle County, Colorado, a copy of the Notice of Voting Allocation in the form attached hereto as Exhibit C, completed with the then-current Voting Allocations. At minimum, the Executive Board shall record a Notice of Voting Allocation upon the inclusion of any part of the Expansion Property in the Association and upon the recording of a Project Declaration with respect to any Lot. The Voting Allocation for each Unit, as evidenced by the recording of the Notice of Voting Allocation, shall be presumed to be correct unless made in bad faith or shown to be clearly in error.

Section 4.4 Election of Directors. The Executive Board shall consist of not less than three (3) nor more than five (5) persons. Except during the period of Declarant control described in Section 4.5 hereof and in the bylaws of the Association, during which time Directors shall be appointed by the Declarant or all Owners other than the Declarant as provided in the bylaws, the Owners of Residential Units, collectively, shall be entitled to nominate and elect one (1) member of the Executive Board, and all other members thereof shall be elected by the Owners of Commercial Units, collectively.

Section 4.5 Declarant Control. Declarant shall be entitled to appoint and remove the members of the Executive Board and officers of the Association to the extent permitted in the bylaws of the Association and in compliance with the Act. The specific restrictions and procedures governing the exercise of Declarant's right to so appoint and remove Directors and officers shall be set out in the bylaws of the Association. Declarant may voluntarily relinquish such power evidenced by a notice recorded in the office of the Clerk and Recorder for Eagle County, Colorado. In such event, Declarant may at its option require that specified actions of the Association or the Executive Board as described in the recorded notice, during the period Declarant would otherwise be entitled to appoint and remove Directors and officers, be approved by Declarant before they become effective.

Section 4.6 Fairness Standard. The Executive Board, the officers of the Association and the Association shall have the duty to represent the interests of both Commercial Unit Members and Residential Unit Members in a fair and just manner on all matters that may affect either or both classes of Owners. In upholding their duties, the Executive Board, the officers and the Association shall be held in their decisions to the standards of good faith and reasonableness with respect to such matters, taking into account the effect, if any, of the matter on Eagle Ranch Commercial Center as a whole.

Section 4.7 Voting by Association Members. To the extent a matter is required by this Declaration or the Act to be submitted to the vote of the members of the Association, all members shall be entitled to participate in the vote on such matter, except as specifically provided to the contrary in this Declaration.

Section 4.8 Owner's and Association's Address for Notices. All Owners of an individual Unit shall have one and the same registered mailing address to be used by the Association or other Owners for notices, demands, and all other communications regarding Association matters. The Owner or Owners shall furnish such registered address to the secretary of the Association within five (5) days after transfer of title to the Unit to such Owner or Owners. Such registration shall be in written form and signed by all of the Owners or by such persons as are authorized by law to represent the interests of all Owners. Notwithstanding the foregoing, the Association shall be entitled to rely upon any such registration or other notice of a change in address of the Owners of the Unit which is signed by less than all of the Owners of such Unit.

If the address of the Unit is the registered address of the Owners, then any notice shall be deemed duly given if delivered to any person occupying the Unit or, if the Unit is unoccupied, if the notice is held and available for the Owners at the principal office of the Association.

All notices and demands intended to be served upon the Executive Board shall be sent to the following address or such other address as the Executive Board may designate from time to time by notice to all of the Owners:

Executive Board
Eagle Ranch Commercial Center Association
643 Brush Creek Road
P.O. Box 1630
Eagle, Colorado 81631

All notices given in accordance with this Section shall be sent by personal delivery, which shall be effective upon receipt; by overnight courier service, which shall be effective one business day following timely deposit with the courier service; or regular, registered or certified mail, postage prepaid, which shall be effective three days after deposit in the U.S. mail.

ARTICLE 5 ASSESSMENTS

Section 5.1 Covenant of Personal Obligation of Assessments. Declarant and every other Owner of a Unit, by acceptance of the deed or other instrument of transfer of such Owner's Unit (whether or not it shall be so expressed in such deed or other instrument of transfer), is deemed to personally covenant and agree, jointly and severally, with every other Owner and with the Association, and hereby does so covenant and agree to pay to the Association the (a) annual Assessments, (b) special Assessments and (c) default Assessments applicable to the Owner's Unit. No Owner may waive or otherwise escape personal liability for the payment of the Assessments provided for in this Declaration by not using the Common Area or the facilities contained in the Common Area or by abandoning or leasing such Owner's Unit. The Project Associations are hereby empowered and authorized, and upon the request of the Association are hereby required, to levy and collect from Owners of Units within their respective Projects the Assessments owing to the Association as part of such Project Association's own assessment procedures and to promptly remit such Assessments collected by the Project Association to the Association. Assessments shall be levied against each Unit but, upon formation, each Project Association is hereby designated as the agent of each Owner of a Unit within such Project for receipt of notices of Assessments and the collection of Assessments and remittance to the Association.

Section 5.2 Purpose of Assessments. The Assessments levied by the Association shall be used for the purpose of promoting the health, safety, convenience, and general welfare of the Owners and the improvement and maintenance of the Common Area and the performance of

Functions, and of the services and facilities located on the Common Area. Proper uses of the Assessments may include, but are not limited to, the following:

5.2.1 Protecting, repairing, replacing, renovating and maintaining any of the Common Area or other improvements maintained by the Association not made the responsibility of the Owners by Section 3.3 above or other provisions of this Declaration;

5.2.2 Obtaining and maintaining insurance as required by the Act;

5.2.3 Establishing and maintaining reserves for repairs, replacement, maintenance, taxes, capital improvements, and other purposes;

5.2.4 Carrying out all other Functions, powers, rights, and duties of the Association specified in the Association Documents; and

5.2.5 Generally, addressing any other expenses necessary to meet the primary purposes of the Association.

Section 5.3 Amount of Total Annual Assessments. The total annual Assessments against all Units shall be based upon the Association's advance budget of the cash requirements needed by it to provide for the administration and performance of its duties during such fiscal year, as approved pursuant to Section 5.5 below, which estimates may include, among other things, the costs associated with the items enumerated in Section 5.2 above, together with any other costs and fees which may reasonably be expected to be incurred by the Association for the benefit of the Owners under or by reason of the Association Documents. In the event of surplus funds remaining after payment of or provision for Common Expenses and any prepayment of or provision for reserves, the Executive Board may within its discretion apply the surplus funds (a) into reserves, (b) toward the following year's Common Expenses, (c) toward a credit to Owners against future Assessments or in the form of a distribution, or (d) any combination of the foregoing.

Section 5.4 Apportionment of Annual Assessments.

5.4.1 The total annual Assessment for any fiscal year of the Association shall be assessed to the Owners of the Units in the same proportion that the number of votes in Association matters appurtenant to the Unit bears to the total number of votes entitled to be cast on Association matters by Owners of all Units.

5.4.2 Any Owner's Assessment obligation computed in accordance with Subsection 5.4.1 above is hereinafter referred to as its "Assessment Obligation".

5.4.3 Notwithstanding any terms in this Section to the contrary, (a) the Executive Board, with the assistance of any company providing insurance for the benefit of the Owners, may reasonably adjust the allocation to each Owner of the cost of premiums for any insurance carried for, and to be charged to, a particular Owner, as provided in the Act; and (b) in the



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event a specific item in the Association's budget may more directly benefit a certain Project, Unit or group of Units, or residential or commercial use classification in excess of its Assessment Obligation, or in the event the Association has provided services to such Project, Units or classification in excess of those provided to other Projects, Units or classifications within the Property, the rate of Assessments levied with respect to such item or services may be modified to reflect such additional benefit at the sole and exclusive discretion of the Executive Board; provided, however, that such rate of Assessments shall be uniform within each Project, Units or classification benefited and shall not be used to circumvent the Assessment apportionment formulas as set forth in this Declaration. All expenses incurred by the Association as a result of the marketing and promotional Function described in Section 3.2 hereinabove shall be assessed among all Commercial Units in accordance with the provisions of Subsection 5.4.3(b) above, and not to the Residential Units.

5.4.4 The total annual Assessments of the Association shall be apportioned among all Units as provided in this Section.

Section 5.5 Annual Budget. Any budget proposed to be adopted by the Executive Board shall include (i) the estimated Common Expenses, other costs and proposed capital expenditures which will be chargeable to the Association to fulfill its obligations under the Association Documents; (ii) the estimated income and other funds which will be received by the Association; and (iii) the estimated total amounts required to be raised by the annual, special, transfer and default Assessments to cover such costs, expenses and capital expenditures of the Association and to provide a reasonable reserve. Within thirty (30) days after the adoption of any proposed budget for the Association, the Executive Board shall mail, by ordinary first-class mail, or otherwise deliver a summary of the budget to all Owners of Units and shall set a date for a meeting to consider ratification of the budget not less than fourteen (14) nor more than sixty (60) days after mailing or other delivery of the summary. Unless at that meeting Owners of a majority of all votes entitled to be cast on Association matters reject 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 in accordance with this Section must be continued until such time as the Owners ratify a subsequent budget proposed by the Executive Board. The Executive Board shall adopt a budget and submit the budget to a vote as provided herein no less frequently than annually. The Executive Board shall levy and assess the Association's annual Assessments in accordance with the annual budget.

Section 5.6 Special Assessments. In addition to the annual Assessments authorized above, the Executive Board may at any time and from time to time determine, levy, and assess in any fiscal year (without the vote of the members of the Association, except as provided in the Act and in this Section below) a special Assessment applicable to that particular fiscal year (and for any such longer period as the Executive Board may determine) for the purpose of defraying, in whole or in part, the unbudgeted costs, fees, and expenses of any construction, reconstruction, repair, demolishing, improvement, replacement, renovation or maintenance of the Common Area, any facilities located on the Common Area or any other improvements maintained and operated by the Association, specifically including any related fixtures and personal property. Any amounts

determined, levied, and assessed pursuant to this Section shall be assessed to the Units in the same manner as described with respect to annual Assessments in Section 5.4 above; provided, however, that any extraordinary insurance costs incurred as a result of the value of a particular Owner's Unit or the actions of a particular Owner (or such Owner's agents, servants, Guests or Lessees) shall be borne by that Owner. Special Assessments shall be based on a budget adopted in accordance with Section 5.5 provided that if necessary, the Association may adopt a new budget pursuant to Section 5.5 prior to levying a special Assessment. Such special Assessment(s) shall be due and payable as determined by the Executive Board.

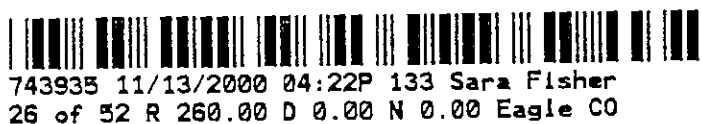
Section 5.7 Assessments Related to Marketing and Promotional Function. Any Assessment relating to expenses of the marketing and promotional Function described in Section 3.2 to be levied against the Commercial Units shall be provided on a separate budget (the "Marketing Budget") which shall be adopted by the Executive Board and delivered to the Owners of Commercial Units along with the annual budget as provided in Section 5.5. Any such Marketing Budget shall be subject to disapproval by the Owners of Commercial Units only and, unless at the meeting called to ratify such budget Owners of a majority of all votes allocated to Commercial Units reject the budget, the budget is ratified, whether or not a quorum of Commercial Unit Members is present.

Section 5.8 Due Dates for Assessment Payments. Unless otherwise determined by the Executive Board, the annual Assessments and any special Assessments which are to be paid in installments shall be paid quarterly in advance and shall be due and payable to the Association at its office or as the Executive Board may otherwise direct in any Management Agreement, without notice (except for the notices required by this Article), on the first day of each calendar quarter. If any such installment shall not be paid within fifteen (15) days after it shall have become due and payable, then the Board may assess a "late charge" on the installment in an amount of fifteen percent (15%) of the amount outstanding or such other charge as the Executive Board may fix by rule from time to time as provided in the bylaws of the Association to cover the extra expenses involved in handling such delinquent Assessment installment. An Owner's Assessment shall be prorated if the ownership of a Unit commences or terminates on a day other than the first day or last day, respectively, of a quarter or other applicable payment period.

Section 5.9 Declarant's Obligation to Pay Assessments. Declarant shall be obligated to pay the annual and special Assessments (including installments thereof) on each Unit owned by it.

Section 5.10 Default Assessments. All monetary fines assessed against an Owner pursuant to the Association Documents, or any expense of the Association which is the obligation of an Owner and collected in accordance with this Declaration shall become liens against such Owner's Unit which may be foreclosed or otherwise collected as provided in this Declaration. Notice of the amount and due date of such default Assessment shall be sent to the Owner subject to the Assessment at least thirty (30) days prior to the due date.

Section 5.11 Lien for Assessments. The annual, special, transfer and default Assessments (including installments of the Assessments) arising under the provisions of this Declaration (together



with any and all interest, costs, late charges, expenses, and reasonable attorneys' fees, including legal assistants' fees, which may arise under the provisions of Section 5.12 below) shall be burdens running with, and a perpetual lien in favor of the Association upon, the specific Unit to which such Assessments apply. To further evidence such lien upon a specific Unit, the Association may, but shall not be obligated to, prepare a written lien notice setting forth the description of the Unit, the amount of Assessments on the Unit unpaid as of the date of such lien notice, the rate of default interest as set by Section 5.12 below, the name of the Owner or Owners of the Unit, and any and all other information that the Association may deem proper. Any such lien notice shall be signed by a member of the Executive Board, an officer of the Association, or the Managing Agent and shall be recorded in the office of the Clerk and Recorder of Eagle County, Colorado. Any such lien notice shall not constitute a condition precedent or delay the attachment of the lien, but such lien is a perpetual lien upon the Unit and attaches without notice at the beginning of the first day of any period for which any Assessment is levied.

Section 5.12 Effect of Nonpayment of Assessments. If any annual, special, transfer or default Assessment (or any installment of the Assessment) is not fully paid within thirty (30) days after the same becomes due and payable, then as often as the same may happen, (i) interest shall accrue at the Maximum Rate on any amount of the Assessment which was not paid within such 30-day period or on the amount of Assessment in default, whichever shall be applicable, accruing from the due date until date of payment, (ii) the Association may declare due and payable all unpaid monthly or other installments of the annual Assessment or any special Assessment otherwise due during the fiscal year during which such default occurred, (iii) the Association may thereafter bring an action at law or in equity, or both, against any Owner personally obligated to pay the same, and (iv) the Association may proceed to foreclose its lien against the particular Unit in the manner and form provided by Colorado law for foreclosure of real estate mortgages.

An action at law or in equity by the Association against an Owner to recover a money judgment for unpaid Assessments (or any installment thereof) may be commenced and pursued by the Association without foreclosing or in any way waiving the Association's lien for the Assessments. If any such Assessment (or installment thereof) is not fully paid when due and if the Association commences such an action (or counterclaims or cross-claims for such relief in any action) against any Owner personally obligated to pay the same, or proceeds to foreclose its lien against the particular Unit, then all unpaid installments of annual and special Assessments and all default Assessments (including any such installments or Assessments arising during the proceedings of such action or foreclosure proceedings), any late charges under Section 5.8 above, any accrued interest under this Section, the Association's costs, expenses, and reasonable attorneys' fees (including legal assistants' fees) incurred for any such action and/or foreclosure proceedings shall be taxed by the court as part of the costs of any such action or foreclosure proceedings and shall be recoverable by the Association from any Owner personally obligated to pay the same and from the proceeds from the foreclosure sale of the particular Unit in satisfaction of the Association's lien.

Foreclosure or attempted foreclosure by the Association of its lien shall not be deemed to estop or otherwise preclude the Association from again foreclosing or attempting to foreclose its lien



for any subsequent Assessments (or installments thereof) which are not fully paid when due or for any subsequent default Assessments. The Association shall have the power and right to bid in or purchase any Unit at foreclosure or other legal sale and to acquire and hold, lease, or mortgage the Unit, and to convey, or otherwise deal with the Unit acquired in such proceedings.

Section 5.13 Successor's Liability for Assessments. Notwithstanding the personal obligation of each Owner of a Unit to pay all Assessments on the Unit, and notwithstanding the Association's perpetual lien upon a Unit for such Assessments, all successors in interest to the fee simple title of a Unit, except as provided in Section 5.14 and Section 5.15 below, shall be jointly and severally liable with the prior Owner or Owners of the Unit for any and all unpaid Assessments, interest, late charges, costs, expenses, and attorneys' fees against such Unit, without prejudice to any such successor's right to recover from any prior Owner any amounts paid thereon by such successor. However, such successor in interest shall be entitled to rely upon the existence and status of unpaid Assessments, interest, late charges, costs, expenses, and attorneys' fees as shown upon any certificate issued by or on behalf of the Association to such named successor in interest pursuant to the provisions of Section 5.15 below.

Section 5.14 Waiver of Homestead Exemption; Subordination of Association's Lien for Assessments. By acceptance of the deed or other instrument of transfer of a Unit, each Owner irrevocably waives the homestead exemption provided by Part 2, Article 41, Title 38, Colorado Revised Statutes, as amended. The Association's perpetual lien for Assessments shall be superior to all other liens and encumbrances except the following:

5.14.1 Real property ad valorem taxes and special assessment liens duly imposed by a Colorado governmental or political subdivision or special taxing district, or any other liens made superior by statute; and

5.14.2 The lien of a First Mortgage except that the Association's lien is prior to the lien of a First Mortgage to the extent of an amount equal to the portion of annual Assessments based on a periodic budget adopted by the Association which would have become due, in the absence of any acceleration, during the six (6) months immediately preceding institution of an action or a nonjudicial foreclosure either to enforce or extinguish the lien.

With respect to the foregoing Subsection 5.14.2, to the extent permitted under the Act, any First Mortgagee who acquires title to a Unit by virtue of foreclosing the First Mortgage or by virtue of a deed or assignment in lieu of such a foreclosure, or any purchaser at a foreclosure sale of the First Mortgage, will take the Unit free of any claims for unpaid Association Assessments, interest, late charges, costs, expenses, and attorneys' fees against the Unit which accrue prior to the time such First Mortgagee or purchaser acquires title to the Unit, and the amount of the extinguished lien may be reallocated and assessed to all Units as a Common Expense at the direction of the Executive Board.

All other persons not holding liens described in Subsection 5.14.1 above and obtaining a lien or encumbrance on any Unit after the recording of this Declaration shall be deemed to consent that any such lien or encumbrance shall be subordinate and inferior to the Association's future liens for Assessments, interest, late charges, costs, expenses, and attorneys' fees, as provided in this Article, whether or not such consent is specifically set forth in the instrument creating any such lien or encumbrance.

A sale or other transfer of any Unit, including but not limited to a foreclosure sale, except as provided in Subsections 5.14.1 and 5.14.2 above, and except as provided in Section 5.15 below, shall not affect the Association's lien on such Unit for Assessments, interest, late charges, costs, expenses, and attorneys' fees due and owing prior to the time such purchaser acquires title and shall not affect the personal liability of each Owner who shall have been responsible for the payment thereof. Further, no such sale or transfer shall relieve the purchaser or transferee of a Unit from liability for, or the Unit from the lien of, any Assessments made after the sale or transfer.

Section 5.15 Statement of Status of Assessments. Upon fourteen (14) calendar days' written request to the Managing Agent, Executive Board or the Association's registered agent and payment of a reasonable fee set from time to time by the Executive Board, any Owner, prospective purchaser of a Unit, or Mortgagee shall be furnished, by personal delivery or by certified mail, first class postage prepaid, return receipt requested, to the inquiring party (in which event the date of posting shall be deemed the date of delivery), a statement of the Owner's account setting forth:

5.15.1 The amount of any unpaid Assessments, interest, late charges, costs, expenses, and attorneys' fees then existing against a particular Unit;

5.15.2 The amount of the current installments of the annual Assessment and the date that the next installment is due and payable;

5.15.3 The date of the payment of any installments of any special Assessments then existing against the Unit; and

5.15.4 Any other information deemed proper by the Association, including the amount of any unpaid lien created or imposed under the terms of the Declaration and collected by the Association as permitted under this Declaration.

Upon the issuance of such a certificate signed by a member of the Executive Board, by an officer of the Association, or by a Managing Agent, the information contained therein shall be conclusive upon the Association as to the person or persons to whom such certificate is addressed and who rely on the certificate in good faith. Unless such a statement of status of Assessments is delivered as described above within said fourteen (14) calendar day period, the Association shall have no right to assert a priority lien upon the Unit over the inquiring party's interest for unpaid Assessments which were due as of the date of the request.

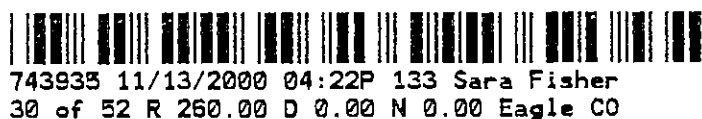


Section 5.16 Liens. Except for annual, special, transfer and default Assessment liens as provided in this Declaration, mechanics' liens (except as provided in Article 10 below), tax liens, judgment liens, other liens validly arising by operation of law and liens arising under Mortgages, there shall be no other liens obtainable against the Common Area.

ARTICLE 6 EASEMENTS

Section 6.1 Easement of Enjoyment. Every Owner and their Guests shall have a nonexclusive easement for the use and enjoyment of the Common Area, which shall be appurtenant to and shall pass with the title to every Unit, subject to the easements set forth in this Article and the rights of the Executive Board to permit exclusive areas as set forth in Section 3.8 above. Such easement is subject to such reasonable regulation on access and use as described in Article 8 and as otherwise imposed by the Association or the Town Documents.

Section 6.2 Commercial Center Common Area. Every Owner acknowledges and agrees that all portions of each Lot outside of the footprint of each Building shall be Common Area (including any "breezeway" areas at ground level which have building improvements located above them at upper floor levels) and the Association is hereby granted a non-exclusive easement over such areas for purposes of maintenance, repair, improvement and replacement of the improvements located in such areas, and the Owner(s) and their Guests are hereby granted a non-exclusive easement of use and enjoyment of such areas in accordance with Section 6.1 above (such easement areas as created and limited by this Section 6.2 and Section 6.3 below referred to as the "Easement Common Area"). Notwithstanding the foregoing sentence, the Easement Common Area shall not include any trash enclosure or dumpster, loading dock area, or other such areas which exist on a Lot for the exclusive use of the owner(s) or occupants of any Building(s) on such Lot and/or on adjacent Lots or the Owners or occupants of Units within any Project(s) on such Lot and/or on adjacent Lots. Any Easement Common Area may be identified on the Map of the Project created on such Lot as "Commercial Center Common Area" or, if an Owner shall not create a Project on such Owner's Lot, such Owner may record an instrument evidencing this easement to the Association and Owners and their Guests over such areas upon completion of improvements on said Lot. Notwithstanding any other provision of this Declaration to the contrary, the inclusion of all areas on each Lot outside of the improvements thereon as Common Area under this Declaration shall not prevent the Owner of any Lot or the Project Association formed with respect thereto from altering, reconstructing or improving the Building(s) on such Lot upon proper prior approval by the Design Review Board of the Master Association and any applicable governmental or quasi-governmental entity having jurisdiction over the Property, and in the event of any exterior change to a Building, the Easement Common Area shall be automatically narrowed to that portion of the Lot outside of the Building as altered. The Association shall deliver to any Owner or Project Association such written documentation as is reasonably required to evidence the right of such Owner or Project Association to so occupy the area of Building improvements.



Section 6.3 Exclusive Exterior Areas. The Association reserves the right to grant the maintenance responsibility of certain areas on each Lot to the Owner(s) thereof or the Project Association created with respect thereto, and the Owner(s) or Project Association is obligated to accept said maintenance responsibility, provided such Owner(s) or Project Association is also granted the exclusive use of such maintenance responsibility area or said assignment is otherwise done in a uniform and nondiscriminatory manner. In addition, the Association may grant an exclusive easement or license to any Owner of a Unit to allow such Owner or such Owner's Guest or Lessee to exclusively occupy any portion of the Common Area on a Lot for the business purposes of such Owner or such Owner's Guest or Lessee so long as the Owner accepts maintenance responsibility for such area in a writing acceptable to the Association and so long as such use is permissible or approved by the Master Association and any applicable governmental or quasi-governmental entity having jurisdiction over such area. In either case, the Easement Common Area will be deemed automatically narrowed to exclude such exclusive exterior areas.

Section 6.4 Public Use. Every Owner acknowledges and agrees that the Common Area consists generally of improvements (such as sidewalk areas, parks, and parking areas) that are intended to be used for public purposes to provide public access to Eagle Ranch Commercial Center for the benefit of all Owners.

Section 6.5 Delegation of Use. Any Owner may delegate, in accordance with the Association Documents, the Owner's right of enjoyment in the Common Area to the Owner's Guests or Lessees.

Section 6.6 Easements for Encroachments. The Common Area, and all portions of it, are subject to easements hereby created for encroachments of any portion of a Project or the Common Area as follows:

6.6.1 In favor of the Association so that it shall have no legal liability when any part of the Common Area encroaches upon a Unit or any portion of a Project;

6.6.2 In favor of each Project Association so that the Project Association shall have no legal liability when any part of the common area or common elements of a Project encroaches upon the Common Area;

6.6.3 In favor of all Owners, the Project Associations and the Association for the existence, maintenance and repair of such encroachments.

Encroachments referred to in this Section include, but are not limited to, encroachments of improvements located on the Common Area onto Units, or common area or common elements of Projects, encroachments of overhangs or other portions of Buildings or other improvements which are part of the common area or common elements of the Projects onto the Common Area, and other encroachments caused by error or variance from the original plans in the construction of improvements on the Common Area or within a Project, by error in a Map, by settling, rising, or shifting of the earth, or by changes in position caused by repair or reconstruction of any part of the



improvements on the Common Area or the Projects. Such encroachments shall not be considered to be encumbrances upon any Unit, any part of the Projects or the Common Area.

Section 6.7 Utility Easements. There is hereby created a general easement upon, across, over, in, and under all of the Property outside the footprint of any Building for ingress and egress and for installation, replacement, repair, and maintenance of all utilities, including but not limited to water, sewer, gas, telephone, electricity and a cable communication system. By virtue of this easement, it shall be expressly permissible and proper for the companies providing electrical, telephone and other communication services to erect and maintain the necessary equipment on the Property and to affix and maintain electrical, communications and telephone wires, circuits and conduits under the Property; provided, however, that any above-ground facilities shall be subject to the design review procedures of the Master Association. Any utility company using this general easement shall use its best efforts to install and maintain the utilities provided without disturbing the uses of the Owners, the Project Associations, the Association and Declarant; shall prosecute its installation and maintenance activities as promptly as reasonably possible; and shall restore any disturbed property to its original condition as soon as possible after completion of its work. Should any utility company furnishing a service covered by the general easement request a specific easement by separate recordable document, Declarant or the Executive Board shall have, and are hereby given, the right and authority to grant such easement upon, across, over or under any part or all of the Property outside the footprint of any Building without conflicting with the terms hereof. The easements provided for in this Section shall in no way affect, avoid, extinguish or modify any other recorded easement on the Property.

Section 6.8 Reservation of Easements, Exceptions and Exclusions. Declarant reserves for itself and its successors and assigns and hereby grants to the Association the concurrent right to establish from time to time by declaration or otherwise, utility and other easements for purposes including but not limited to streets, paths, walkways, drainage, parking areas, ducts, shafts, flues and conduit installation areas, consistent with the ownership of the Property for the best interest of all of the Owners and the Association, in order to serve all the Owners.

Section 6.9 Emergency Access Easement. A general easement is hereby granted to all police, sheriff, fire protection, ambulance, and all other similar emergency agencies or persons to enter upon all streets and upon the Property in the proper performance of their duties.

Section 6.10 Maintenance Easement. An easement is hereby granted to the Association and any Managing Agent and their respective officers, agents, employees, and assigns upon, across, over, in and under the Property and a right to make such use of the Property as may be necessary or appropriate to perform the duties and functions which they are obligated or permitted to perform pursuant to this Declaration.

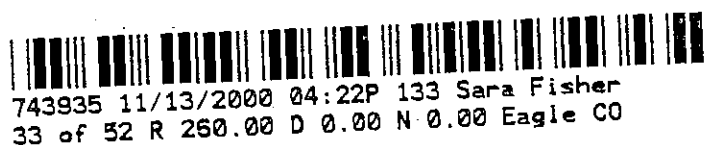
Section 6.11 Drainage Easement. An easement is hereby reserved to Declarant and its successors and assigns and granted to the Association and its officers, agents, employees, successors and assigns to enter upon, across, over, in and under any portion of the Property outside the footprint

of any Building for the purpose of changing, correcting or otherwise modifying the grade or drainage channels of the Property so as to improve the drainage of water on the Property.

Section 6.12 Easements of Access for Repair, Maintenance and Emergencies. Some portions of the Common Area or the facilities serving same are or may be located on or within certain Units or common area or common elements of certain Projects, or may be conveniently accessible only through certain Units or common area or common elements of certain Projects. The Association shall have the irrevocable right to have access to each Unit and to all common elements or common areas of any Project from time to time during such reasonable hours as may be necessary for the maintenance, repair, removal or replacement of any of the Common Area therein or accessible therefrom or for making emergency repairs therein necessary to prevent damage to the Common Area or to any Unit. Additionally there is hereby created an easement for such Common Area as it currently exists within the Units. Subject to the provisions of Section 3.3 above, damage to the interior of any part of a Unit resulting from the maintenance, repair, emergency repair, removal or replacement of any of the Common Area or as a result of emergency repair within another Unit at the instance of the Association shall be a Common Expense.

Section 6.13 Declarant's Rights Incident to Construction and Marketing. Declarant, for itself and its successors and assigns, hereby retains a right and easement of ingress and egress over, in, upon, under and across the Property and the right to store materials on the Property and to make such other use of the Property as may be reasonably necessary or incident to the complete construction of improvements on the Property and/or sale of the Units and the Projects, including, but not limited to, construction trailers, temporary construction offices, sales offices, and directional and marketing signs. Declarant may designate a portion of the Common Area for the foregoing construction and other purposes in connection with the development of a particular Unit or Project. Declarant, for itself and its successors and assigns, hereby retains a right to maintain any Unit or Units as sales offices, management offices or model residences so long as Declarant, or its successors or assigns, continues to be an Owner of a Unit. The use by Declarant of any Unit as a model residence, office or other use shall not affect the Unit's designation on the Plat, Supplemental Plat or any Map as a separate Unit. Declarant further reserves exclusive easement rights over and across the Property for the purpose of marketing, sales and rental of Units or of other projects developed or marketed by Declarant or its affiliates from time to time, including, without limitation, the right to show the Property and to display signs and other promotional devices. None of the foregoing rights shall be exercised by Declarant in such a way as to unreasonably interfere with the occupancy, use, enjoyment or access by any Owner, Lessee, or Guest, or so as to be in contravention of applicable laws, regulations, rules, or other governmental requirements.

Section 6.14 Governmental Requirements. Declarant hereby reserves the right to grant such easements and rights-of-way across the Property, from time to time, as may be required by any government agency. Such easements and rights-of-way shall specifically include, but not be limited to, any public rights-of-way and any environmental easements required by federal, state or local environmental agencies, for so long as the Declarant holds an interest in any Unit subject to this Declaration.



Section 6.15 Declarant Easements. Declarant reserves unto itself, its successors, assigns, Lessees and Guests, for so long as it holds any interest in any Unit, the same easement rights granted to Owners under this Declaration and specific easement rights over and across the Property as it may deem necessary for its use from time to time.

Section 6.16 Right of Declarant and Association to Own Units and to Use Common Area. An easement is hereby reserved by Declarant for itself and its successors and assigns and granted to the Association and its officers, agents, employees, successors and assigns to maintain offices, storage areas, conference areas and recreational areas for use by the Association within the Common Area, subject to all rules and regulations established under this Declaration. The Association shall also have the right (but not the obligation) to purchase and own any Unit for the purpose of maintaining an office for the Association or for any other use which the Association determines is consistent with the operation of Eagle Ranch Commercial Center. The costs and carrying charges incurred by the Association in purchasing and owning any such Unit shall be part of the Common Expenses.

Section 6.17 Remodeling Easement. Declarant, for itself and its successors and assigns, including Owners, retains a right and easement in and about the Buildings for the construction and installation of any additional improvements, services or utilities serving the Common Area in connection with the maintenance, repair, improvement or alteration of the Common Area, including the right of access to such areas of the Property as are reasonably necessary to accomplish such improvements. In the event of a dispute among Owners with respect to the scope of the easement reserved in this Section, the decision of the Executive Board shall be final.

Section 6.18 Reservation for Expansion. Declarant hereby reserves for itself and the Association and/or for Owners in all future phases of Eagle Ranch Commercial Center an easement and right-of-way over, upon and across the Property for construction, utilities, drainage, and ingress and egress from the Expansion Property, and other properties abutting and contiguous to the Property and the Expansion Property, and for use of the Common Area as may be reasonably necessary or incident to the construction of improvements on the Lots or other improvements on the Property or the Expansion Property; provided, however, that no such rights shall be exercised by Declarant in a way which unreasonably interferes with the occupancy, use, enjoyment or access to Eagle Ranch Commercial Center by the Owners. The location of these easements and rights-of-way may be made certain by Declarant or the Association by instruments recorded in the office of the Clerk and Recorder of Eagle County, Colorado.

Section 6.19 Recorded Easements. The Property shall be subject to any easements as shown on the Plat and any Supplemental Plat and as shown on the Map for any Project. The recording data for recorded easements, licenses and other matters appurtenant to or included in the Property or to which any parts of the Property may become subject is set forth on the attached Exhibit D.



Section 6.20 Easements Deemed Created. All conveyances of Units hereafter made, whether by Declarant or otherwise, shall be construed to grant and reserve the easements contained in this Article, even though no specific reference to such easements or to this Article appears in the instrument for such conveyance.

**ARTICLE 7.
RESTRICTIONS ON USE**

Section 7.1 Land Use Restrictions. In addition to the restrictions found in this Article 7, all or any portion of the Property may be further restricted in its use, density or design according to the Town Documents; any supplemental declarations of land use restrictions for Eagle Ranch and/or Eagle Ranch Commercial Center recorded with the Clerk and Recorder of Eagle County, Colorado, if any such supplemental declarations are recorded prior to the time Declarant transfers or conveys any such Property to the Association or to any third party; and the rules and regulations of the Association. Each Owner shall comply with all other terms, provisions, covenants, conditions, restrictions, easements and reservations on the Owner's part to be complied with under this Declaration. During the period in which Declarant retains Expansion and Development Rights as defined in Section 14.6 hereof, no Owner shall be entitled to apply for any change to the Town Documents affecting the zoning of such Owner's property without Declarant's consent.

Section 7.2 Maintenance of Property. Units, except for any portion of the Property then undergoing major construction, including all improvements on such Property, shall be kept and maintained by the Owner thereof in a clean, safe, attractive and sightly condition and in good repair, and no trash, litter, junk, boxes, containers, bottles, cans, implements, machinery, lumber or other building materials shall be permitted to remain exposed upon any Unit or common area or common elements of a Project so that they are visible from, or are a nuisance in any way to, any other Unit, the Common Area or any road.

Section 7.3 Use of Property During Construction. It shall be expressly permissible and proper for Declarant and any Owner acting in accordance with the Design Review Guidelines of the Master Association or with the prior written consent of the Design Review Board of the Master Association, and their respective employees, agents, independent contractors, successors and assigns involved in the construction of improvements on, or the providing of utility service to, the Property, to perform such activities and to maintain upon portions of the Property as they deem necessary such facilities as may be reasonably required, convenient, necessary or incidental to such construction and development of the Property. However, no activity by an Owner will be performed and no facility will be maintained by an Owner on any portion of the Property in such a way as to unreasonably interfere with the use or access of any other Owner or its Guests or Lessees to such Owner's Unit.

Section 7.4 Restriction on Signs. Except as otherwise provided in Section 7.5, no signs or advertising devices of any nature shall be erected or maintained on any Unit or the common area or common elements of any Project in such a manner as to be visible from any other Unit or the Common Area except signs approved by the Executive Board, political signs, signs required by



applicable law or legal proceedings, signs which are required by law to be allowed, identification signs for work under construction (as approved by the Executive Board), temporary signs to caution or warn of danger or the Association signs necessary or desirable to give directions or advise of rules or regulations and permitted signs identifying businesses located in the Commercial Units. Permitted signs shall be subject to reasonable regulation by the Executive Board.

Section 7.5 Declarant's Exemption. Nothing contained in this Declaration shall be construed to prevent (i) the exercise by Declarant of any special declarant rights (as that term is defined in the Act); or (ii) the erection or maintenance by Declarant or its duly authorized agents, of temporary structures, trailers, improvements or signs necessary or convenient to the development, marketing or sale of property within Eagle Ranch Commercial Center; provided, however, that Declarant shall comply with all applicable laws in the exercise of the rights in this Section.

Section 7.6 Health, Safety and Welfare. In the event additional uses, activities and/or facilities are deemed by the Executive Board to be nuisances or to adversely affect the health, safety or welfare of Owners or members of the general public or the value of any Property, the Executive Board may adopt rules and regulations restricting or regulating the same.

Section 7.7 Compliance with Law. In addition to the compliance requirements set forth in Section 7.1 above, no portion of the Property shall be used, occupied, altered, changed, improved or repaired except in compliance with all present and future laws, rules, requirements, orders, directions, ordinances and regulations of the United States of America, State of Colorado, County of Eagle, Town of Eagle and all other municipal, governmental or lawful authority whatsoever, affecting the Property or the improvements thereon or any part thereof, and of all their departments, bureaus and officials. Furthermore, no Owner shall release, discharge or emit from the Property or dispose of, or allow any person under such Owner's control or direction to release, discharge or emit from the Property or dispose of, any material on, above or under the Property that is designated as a pollutant or contaminant under any federal, state or local law, regulation or ordinance.

Section 7.8 Subdivision of Units; Reservation of Rights by Declarant. Declarant hereby reserves all rights and privileges defined as "development rights" under the Act with respect to the Lots and the Units. Without limiting the generality of the foregoing, Declarant shall have the right to subdivide any Unit owned by Declarant in conformance with the Town's land use and development regulations, without the necessity of any approval or review by the Association. Declarant shall have the absolute right to submit the Lots to further subdivision, including, without limitation, the creation of condominium Units, and/or common areas or common elements, so long as such subdivision complies with applicable zoning restrictions, and the total number of Units subject to this Declaration does not exceed the maximum number of Units permitted pursuant to Section 1.3. The rights of Declarant set forth in this Section 7.8 shall expire twenty (20) years from the date of recording of this Declaration, unless terminated earlier pursuant to the terms and provisions of the Act, or unless such rights are (i) extended as allowed by law, or (ii) reinstated or extended by the Association, subject to whatever terms, conditions and limitations the Executive Board may impose on the subsequent exercise of such rights by Declarant.



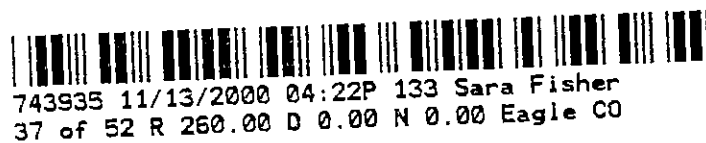
Section 7.9 No Timeshare. No Unit shall be used (i) for the operation of a timesharing, fraction-sharing, or similar program whereby the right to exclusive use of the Unit rotates among participants in the program on a fixed or floating time schedule over a period of years, or (ii) for the operation of a reservation or time-use system among co-Owners of a Unit managed by a party other than the co-Owners themselves or a system whereby co-Owners are required as a condition of purchase of a fractional interest in the Unit to subject the fractional interest to a pre-determined reservation or time-use system among co-Owners, regardless of whether or not the co-Owner may later opt out of such system and regardless of whether the reservation or time-use system is recorded or unrecorded, fixed or floating, except that Declarant, Declarant's affiliates (defined as person or entities controlling, controlled by or under common control with Declarant), Declarant's successors and specific assigns and their respective officers, agents, employees, and assigns may operate such a program with respect to any Unit or Units which it or they own.

Section 7.10 Violation. Determination with respect to whether or not a particular activity or occurrence shall constitute a violation of this Article 8 shall be made by the Executive Board after notice and an opportunity to be heard and shall be final.

Section 7.11 Affordable Housing Restrictions. In order to further the goal of the Association to assist in providing housing for permanent residents of the area, certain Residential Units (the "Restricted Units") may be restricted in one or more manners, including, without limitation, the following: (a) the sales prices of such Restricted Units, whether applicable to the initial sale from Declarant or any subsequent sale, may be restricted to an amount which is less than fair market value, (b) the amounts of rent chargeable for the rental of the Restricted Units may be restricted to amounts that may be less than fair market value, (c) the amounts of income of the Owners and the tenants of the Restricted Units may be restricted to amounts which are less than the amounts made by other Owners and tenants, and (d) the Restricted Units may be restricted in occupancy as primary residences by Owners or their tenants who satisfy certain requirements. The Restricted Units may or may not be part of a Project Association. The terms of the restrictions imposed on the Restricted Units shall be set forth either in the deed transferring the Restricted Unit to an Owner or in a separate instrument recorded in the real property records of Eagle County, Colorado. Such terms may include monitoring or other requirements which may be administered by the Housing Corporation as defined in the Master Declaration, a Project Association or another governmental or non-governmental entity. The Housing Corporation, Project Association or other entity may be granted a right of first refusal to purchase the Restricted Units as they are sold, as well as certain rights upon the default of an Owner on a loan made for the purchase of a Restricted Unit by such Owner. This Section shall not be changed, deleted or repealed without the prior written consent of the Town.

ARTICLE 8 INSURANCE AND FIDELITY BONDS

Section 8.1 Insurance Requirements. The Association and all Owners shall obtain and maintain all insurance coverages and fidelity bonds required by the Act.



ARTICLE 9
MECHANICS' LIENS

Section 9.1 Mechanics' Liens. Subsequent to the recording of this Declaration, no labor performed or materials furnished for use and incorporated in any Unit with the consent of or at the request of the Owner of the Unit or the Owner's agent, contractor or subcontractor shall be the basis for the filing of a lien against a Unit of any other Owner not expressly consenting to or requesting the same, or against any interest in the Common Area or the common areas or common elements of any Project. Each Owner shall indemnify and hold harmless each of the other Owners, the Project Associations and the Association from and against any liability or loss arising from the claim of any mechanic's lien for labor performed or for materials furnished in work on such Owner's Unit against the Unit of another Owner, the common elements or common areas of any Project or against the Common Area, or any part thereof.

Section 9.2 Enforcement by the Association. At its own initiative or upon the written request of any Owner or Project Association (if the Association determines that further action by the Association is proper) the Association shall enforce the indemnity provided by the provisions of Section 9.1 above by collecting from the Owner of the Unit on which the labor was performed or materials furnished the amount necessary to discharge by bond or otherwise any such mechanic's lien, including all costs and reasonable attorneys' fees incidental to the lien, and obtain a release of such lien. In the event that the Owner of the Unit on which the labor was performed or materials furnished refuses or fails to so indemnify within seven (7) days after the Association shall have given notice to such Owner of the total amount of the claim, or any portions thereof from time to time, then the failure to so indemnify shall be a default by such Owner under the provisions of this Section, and such amount to be indemnified shall automatically become a default Assessment determined and levied against such Unit, and enforceable by the Association in accordance with Sections 5.10, 5.11, and 5.12 above.

ARTICLE 10
ASSOCIATION AS ATTORNEY-IN-FACT

Section 10.1 Appointment. Each and every Owner hereby irrevocably constitutes and appoints the Association as such Owner's true and lawful attorney-in-fact in such Owner's name, place, and stead for the purpose of dealing with the Common Area upon its damage, destruction, condemnation, or obsolescence as provided below in Articles 12, 13 and 14. In addition, the Association, or any insurance trustee or substitute insurance trustee designated by the Association, is hereby appointed as attorney-in-fact under this Declaration for the purpose of purchasing and maintaining insurance, including: the collection and appropriate disposition of the proceeds of such insurance; the negotiation of losses and the execution of releases of liability; the execution of all documents; and the performance of all other acts necessary to accomplish such purpose. The Association, or any insurance trustee, shall hold or otherwise properly dispose of any insurance proceeds in trust for the Owners and their Mortgagees, as their interests may appear. Acceptance by



any grantee of a deed or other instrument of conveyance from Declarant or from any Owner shall constitute appointments of the attorneys-in-fact as provided above.

Section 10.2 General Authority. As attorney-in-fact, the Association shall have full and complete authorization, right, and power to make, execute, and deliver any contract, assignment, deed, waiver, or other instrument with respect to the interest of any Owner which may be necessary or appropriate to exercise the powers granted to the Association as attorney-in-fact.

ARTICLE 11 DAMAGE OR DESTRUCTION

Section 11.1 Casualty to Common Area. In the event of damage or destruction to any part of the Common Area due to fire or other adversity or disaster, any insurance proceeds shall be collected by and paid to the Association and such insurance proceeds, if sufficient to reconstruct or repair the damage, shall be applied by the Association to such reconstruction and repair. If the insurance proceeds with respect to such damage or destruction are insufficient to repair and reconstruct the damaged or destroyed Common Area, as applicable, or if there are no insurance proceeds, the Executive Board shall levy an Assessment pursuant to Article 5 in the aggregate amount of such deficiency and shall proceed to make such repairs or reconstruction. Notwithstanding the foregoing, the Association shall have no obligation to repair or reconstruct the damaged or destroyed Common Area if such repair or reconstruction would be illegal under any state or local statute or ordinance governing health or safety or if within sixty (60) days after such damage or destruction Owners representing sixty-seven percent (67%) of the votes in the Association elect not to rebuild. The Assessment provided for herein shall be a debt of each Owner and a lien on its Unit, and may be enforced and collected in the same manner as any assessment lien provided for in Article 5. If Owners representing sixty-seven percent (67%) of the votes in the Association elect not to rebuild any damage or destruction to the Common Area in accordance with the terms and provisions set forth above, the Association shall demolish any destroyed or damaged improvements, remove all debris and rubble caused by such demolition and return the damaged or destroyed area to a sightly condition and shall have the right to levy against and collect from the Owners an Assessment for this limited purpose, if necessary.

Section 11.2 Casualty to Unit or Project. In the event of damage or destruction of the improvements located on any Unit or any part thereof or any damage or destruction to any common areas or common elements of any Project (other than any Common Area which is governed by Section 11.1), due to fire or other adversity or disaster, the Owner of such Unit or the Project Association shall, at its sole cost and expense, with due diligence, either (i) cause the damaged or destroyed improvements to be repaired and restored to a condition comparable to that prior to the damage or destruction, or (ii) demolish the destroyed or damaged improvements, in which event the damaged or destroyed improvements shall forthwith be demolished and all debris and rubble caused by such demolition shall be removed and the affected property regraded and landscaped. If such repair or restoration or such demolition, debris removal, regrading and landscaping is not commenced within one hundred eighty (180) days from the date of such damage or destruction, or



if the same is commenced but then abandoned for a period of more than ninety (90) days, the Association may, after notice and an opportunity to be heard, impose a fine of \$1,000.00 per day or such other rate imposed by the Executive Board in compliance with the Act, charged against the Owner or Project Association until such repair or restoration or such demolition, debris removal, regrading and landscaping is commenced or re-commenced, as the case may be, unless the Owner or Project Association can prove to the satisfaction of the Executive Board that such failure is due to circumstances beyond the Owner's or Project Association's control. Such fine shall be in addition to any Assessment to which such property is subject and the Association shall have all of the rights pertaining to a default Assessment specified in Article 5 for such amount.

ARTICLE 12 OBSOLESCENCE

The Owners holding an aggregate of sixty-seven percent (67%) or more of the total voting interest in the Association may agree that the Common Area is obsolete and adopt a written plan for the renewal and reconstruction thereof. Written notice of the adoption of such a plan shall be given to all Owners and a copy of such plan shall be recorded in the office of the Clerk and Recorder of Eagle County, Colorado, and the expense of renewal and reconstruction shall be payable by all of the Owners as a Common Expense.

ARTICLE 13 CONDEMNATION

Section 13.1 Condemnation of Common Area. In the event the Common Area, or any portion thereof, shall be taken for any public or quasi-public use, under any statute, by right of eminent domain or by purchase in lieu thereof (herein, a "taking"), each Owner will be entitled to notice thereof, but the Association will act as attorney-in-fact for all Owners in the proceedings incident to the taking unless otherwise prohibited by law. The award for such taking will be payable to the Association as trustee for all of the Owners to be disbursed as follows:

13.1.1 If the taking involves a portion of the Common Area on which improvements have been constructed, then, unless restoration or replacement of such improvements would be illegal under any state or local statute or ordinance governing health or safety or unless within sixty (60) days after such taking Owners representing eighty percent (80%) of the votes in the Association elect not to restore or replace such improvements, the Association will restore or replace such improvements so taken on the remaining land included in the Common Area to the extent lands are available therefor, in accordance with plans approved by the Executive Board and any governmental or quasi-governmental entity having jurisdiction over the Property. If such improvements are to be restored or replaced, and the award for the taking is insufficient to restore or replace such improvements, the Executive Board shall levy an Assessment in accordance with Article 5 in the aggregate amount of such deficiency and shall proceed to restore or replace such improvements.

13.1.2 If the taking does not involve any improvements, or if there is a decision made not to restore or replace as set forth above, or if there are net funds remaining after any such restoration or replacement of improvements is completed, then the Association may retain such excess proceeds or distribute such excess in proportionate shares on the basis of all Assessments levied against such Units (other than default Assessments) for the prior twelve (12) month period.

Section 13.2 Condemnation of a Unit or Common Area or Common Element of a Project. In the event any Unit or common area or common element of a Project, or any portion thereof (other than any Common Area which is governed by Section 13.1), shall be taken, the condemnation award for such taking shall be paid solely to the Owner of such Unit or the Project Association, as applicable. The repair or restoration of any improvements located on such property which are affected by the taking shall be governed by the terms of Section 11.2. If an entire Unit shall be condemned, the Owner thereof shall automatically cease to be a member of the Association.

Section 13.3 Allocation of Interest After Condemnation. Section 39-33.3-107 of the Act shall govern the allocation of interests to Units following any condemnation.

ARTICLE 14 EXPANSION AND WITHDRAWAL

Section 14.1 Reservation of Expansion and Withdrawal Rights.

14.1.1 Declarant reserves the right for itself and any Successor Declarant to subject all or any part of the Expansion Property to the provisions of this Declaration and thereby expand the Property to include up to the maximum number of Units as set forth in Section 1.3 above and to expand the Common Area without consent or approval of the Owners.

14.1.2 Subject to those restrictions set forth in Section 38-33.3-222 of the Act, Declarant reserves the right for itself and any Successor Declarant at any time and from time to time to subject unspecified real property to Eagle Ranch Commercial Center and the provisions of this Declaration.

Section 14.2 Supplemental Declarations and Supplemental Plats. Such expansion may be accomplished by the filing for record by Declarant in the office of the Clerk and Recorder for Eagle County, Colorado, of one or more Supplemental Declarations and, if the real property being subject to this Declaration by such Supplemental Declaration has not been previously platted in a plat recorded in the office of the Clerk and Recorder for Eagle County, Colorado, of a Supplemental Plat depicting such Expansion Property recorded concurrently with the applicable Supplemental Declaration. The Supplemental Declaration shall set forth the Lots, Common Area and other real property, if any, to be included in the expansion, together with any covenants, conditions, restrictions and easements particular to such property. The expansion, which shall cause Eagle Ranch Commercial Center to contain no more than the maximum number of Units as set forth in Section 1.3 above, may be accomplished in stages by successive supplements or in one supplemental expansion. Declarant may exercise such rights for expansion on all or any portion of the Expansion



Property in whatever order of development Declarant in its sole discretion determines. Declarant shall not be obligated to expand Eagle Ranch Commercial Center beyond the number of Units initially submitted to this Declaration.

Section 14.3 Expansion of Definitions. In the event of such expansion, the definitions used in this Declaration shall be expanded automatically to encompass and refer to the Property subject to this Declaration as so expanded. For example, "Unit" shall mean the Units as shown on the Plat plus any additional Units added by a Supplemental Declaration or Declarations and, if necessary, Supplemental Plat or Plats, and reference to this Declaration shall mean this Declaration as supplemented. All conveyances of Units shall be effective to transfer rights in the Property as expanded.

Section 14.4 Declaration Operative on New Units.

14.4.1 The new Units shall be subject to all of the terms and conditions of this Declaration and of any Supplemental Declaration, upon placing the Supplemental Declaration and, if necessary, the Supplemental Plat(s) depicting the Expansion Property of public record in the real estate records of Eagle County, Colorado.

14.4.2 It is contemplated that additional Units on the Property will be committed to this Declaration. In the event that a portion of the Expansion Property is submitted to the provisions of this Declaration, Declarant shall retain the right to, but shall not be obligated to, submit any additional portion of the Expansion Property to the provisions of this Declaration. The rights of Declarant and any Successor Declarant, as described herein, shall apply to all Units which are added to this Declaration in accordance with these provisions relating to enlargement thereof.

14.4.3 No rights of any character of any owner of Units in the Expansion Property shall attach until a Supplemental Declaration and, if necessary, a Supplemental Plat is filed of record annexing such Expansion Property to Eagle Ranch Commercial Center. Upon the recording of such Supplemental Declaration and, if necessary, Supplemental Plat, the Units described therein shall be deemed to be governed in all respects by the provisions of this Declaration.

Section 14.5 Effect of Expansion. Upon the inclusion of additional Units under this Declaration by the filing of the Supplemental Declaration(s) and, if necessary, Supplemental Plat(s) thereof or the filing of a Project Declaration and Map creating same, the Voting Allocation and the Assessment Obligation applicable to a Unit shall automatically be amended in the manner described in Sections 4.3 and 5.4 respectively.

Notwithstanding any inclusion of additional Units under this Declaration, each Owner (regardless of whether such Owner is the owner of a Unit shown on the original Plat or is the Owner of a Unit constructed on the Expansion Property) shall remain fully liable with respect to such Owner's obligation for the payment of the Common Expenses of the Association, including the expenses for such new Common Area, costs and fees, if any. The recording of a Supplemental

Declaration or Supplemental Plat shall not alter the amount of the Common Expenses assessed to a Unit prior to such recording.

Section 14.6 Termination of Expansion and Development Rights. The rights reserved to Declarant for itself, its successors and assigns for the expansion and development of the Expansion Property ("Expansion and Development Rights") shall expire twenty (20) years from the date of recording of this Declaration, unless terminated earlier pursuant to the terms and provisions of the Act, or unless the Expansion and Development Rights are (i) extended as allowed by law or (ii) reinstated or extended by the Association, subject to whatever terms, conditions, and limitations the Executive Board may impose on the subsequent exercise of the Expansion and Development Rights by Declarant.

ARTICLE 15 DURATION OF COVENANTS AND AMENDMENT

Section 15.1 Term. The covenants and restrictions of this Declaration shall run with and bind the land in perpetuity, subject to the termination provisions of the Act.

Section 15.2 Amendment. The provisions of this Declaration may be amended or terminated, in whole or in part, from time to time, by Owners holding not less than fifty-one percent (51%) of the total voting interest in the Association at a meeting of the Owners call for that purpose. Any amendment must be executed by the President of the Association and recorded, and approval of such amendment may be shown by attaching a certificate of the Secretary of the Association to the recorded instrument certifying the approval of a sufficient number of Owners of the amendment. No amendment shall be effective to change, limit, impair or reduce any right of Declarant as provided herein unless such amendment is approved in writing by Declarant. Notwithstanding the foregoing, Declarant, acting alone, reserves to itself the right and power to modify and amend this Declaration and/or the Plat to the fullest extent permitted under the Act including, without limitation, to correct clerical, typographical or technical errors, or to comply with the requirements, standards, or guidelines of recognized secondary mortgage markets, the Department of Housing and Urban Development, the Federal Housing Administration, the Veterans Administration, the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association, or the Federal National Mortgage Association. Any provision contained in this Declaration which inures to the benefit of the Town shall not be amended without the Town's prior written consent.

ARTICLE 16 DECLARANT'S RIGHTS REGARDING TRANSFER

Any right or any interest reserved or contained in this Declaration for the benefit of Declarant may be transferred or assigned by Declarant, either separately or with one or more other such rights or interests, to any person, corporation, partnership, association, or other entity, only by written instrument executed by both Declarant and the transferee or assignee and recorded in the office of the Clerk and Recorder of Eagle County, Colorado. Upon such recording, Declarant's rights and



obligations under this Declaration shall cease and terminate to the extent provided in such instrument.

**ARTICLE 17
SPECIAL DISTRICT**

The Association shall have the power, and is hereby authorized, to contract with and to cooperate with the District in order to ensure that their respective responsibilities are discharged. The Association is further authorized to act on behalf of its members to ensure that the level of services provided by the District is consistent with the standards of Eagle Ranch Commercial Center.

Each Owner, by acceptance of such Owner's deed or recorded contract of sale, is deemed to covenant and consent to the creation of the District and to executing a separate document so consenting to the creation of the District, if requested to do so by the Declarant.

**ARTICLE 18
MISCELLANEOUS**

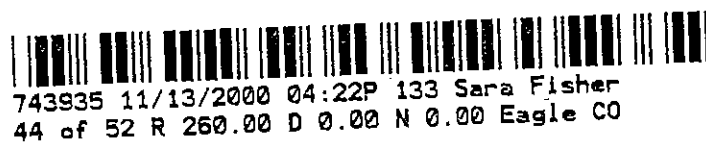
Section 18.1 Compliance with the Act. Notwithstanding anything to the contrary in this Declaration, no rights or powers reserved to Declarant hereunder shall exceed the time limitations or permissible extent of such rights or powers as restricted under the Act. Any provision in this Declaration in conflict with the requirements of the Act shall not be deemed to invalidate such provision as a whole but shall be adjusted as is necessary to comply with the Act.

Section 18.2 Nonwaiver. Failure by Declarant, the Association, or any Owner or First Mortgagee to enforce any covenant, condition, restriction, easement, reservation, right-of-way, or other provision contained in this Declaration shall in no way or event be deemed to be a waiver of the right to do so thereafter.

Section 18.3 Severability. The provisions of this Declaration shall be deemed to be independent and severable, and the invalidity of any one or more of the provisions of it by judgment or court order or decree shall in no way affect the validity or enforceability of any of the other provisions, which provisions shall remain in full force and effect.

Section 18.4 Number and Gender. Unless the context provides or requires to the contrary, the use of the singular herein shall include the plural, the use of the plural shall include the singular, and the use of any gender shall include all genders.

Section 18.5 Captions. The captions to the Articles and Sections and the Table of Contents at the beginning of this Declaration are inserted only as a matter of convenience and for reference, and are in no way to be construed to define, limit, or otherwise describe the scope of this Declaration or the intent of any provision of this Declaration.



Section 18.6 Conflicts in Legal Documents. In case of conflicts between the provisions in this Declaration and the articles of incorporation of the Association or the bylaws of the Association, this Declaration shall control. In case of conflicts in the provisions in the articles of incorporation of the Association and the bylaws of the Association, the articles of incorporation of the Association shall control. In case of conflicts in the provisions in the articles of incorporation, bylaws or this Declaration, on the one hand, and the Act, on the other hand, the terms of the Act shall control.

Section 18.7 Exhibits. All the Exhibits attached to and described in this Declaration are incorporated in this Declaration by this reference.

Executed as of the 21st day of SEPTEMBER, 2000.

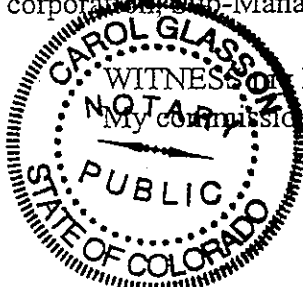
WEST EAGLE RANCH LLC, a Delaware limited liability company

By: East West Partners, Inc., a Colorado corporation, its Sub-Manager

By: *Willis J. Wright*
Name: _____
Vice President

STATE OF COLORADO)
)ss.
COUNTY OF EAGLE)

The foregoing instrument was acknowledged before me this 21st day of Sept, 2000, by Willis J. Wright, as Vice President of East West Partners, Inc., a Colorado corporation, Sub-Manager of West Eagle Ranch LLC, a Delaware limited liability company.



WITNESS my hand and official seal.

My commission expires: 2/10/2004

Carol Glasson
Notary Public

EWPEagleRanch\dec-neighborhood center 6cln - final



JOINDER OF LIENOR

The undersigned, beneficiary under the Deed of Trust, Security Agreement, Assignment of Rents and Financing Statement dated June 9, 1999, recorded June 11, 1999 under Reception No. 699683, in the office of the Clerk and Recorder of Eagle County, Colorado (the " Deed of Trust"), for itself and its successors and assigns, approves the foregoing Declaration for Eagle Ranch Commercial Center, affecting all or a portion of the Property and/or Expansion Property encumbered by the Deed of Trust, and agrees that no foreclosure or other enforcement of any remedy pursuant to the Deed of Trust shall impair, invalidate, supersede or otherwise affect the covenants, conditions, restrictions and easements established by this Declaration; provided, however, that nothing contained herein shall be deemed to waive or release (1) any rights, title, or interests of the undersigned in, to or under the foregoing Declaration which may have been granted or assigned to the undersigned in, to or under the foregoing Declaration which may have been granted or assigned to the undersigned pursuant to the Deed of Trust or the other documents executed in connection therewith, or (2) the obligations of any party under any agreement relating to the assignment of rights or the performance of obligations under the foregoing Declaration.

SOCIETE GENERALE, a French banking corporation acting through its Southwest Agency

By: [Signature]
Name: Joseph T. Martinez, Jr.
Title: Vice President

STATE OF TEXAS)
) ss.
COUNTY OF DALLAS)

The foregoing instrument was acknowledged before me this 29th day of September, 2000, by Joseph T. Martinez, Jr. as Vice President of SOCIETE GENERALE, a French banking corporation acting through its Southwest Agency, on behalf of said corporation.

WITNESS my hand and official seal.
My commission expires 2/14/02

[SEAL]

[Signature]
Notary Public

