

***DECLARATION
FOR
PARKSIDE***

MASTER

TABLE OF CONTENTS

<u>SUBMISSION OF REAL ESTATE; DEFINED TERMS</u>	5
Submission 1.1 <u>Submission of Real Estate</u>	5
Submission 1.2 <u>Defined Terms</u>	5
<u>ARTICLE 1 GENERAL STATEMENT OF COVENANTS</u>	9
Section 1.1 <u>Covenants Bind the Real Estate</u>	9
Section 1.2 <u>Owners' Easements of Enjoyment</u>	9
<u>ARTICLE 2 UNITS, COMMON ELEMENTS AND LIMITED COMMON ELEMENTS</u>	10
Section 2.1 <u>Number of Units</u>	10
Section 2.2 <u>Identification of Units/Legal Descriptions</u>	10
Section 2.3 <u>Common Elements</u>	10
<u>ARTICLE 3 MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION</u>	11
Section 3.1 <u>Membership and Voting</u>	11
Section 3.2 <u>Rights Subject to Governing Documents</u>	11
Section 3.3 <u>Declarant Control</u>	11
<u>ARTICLE 4 THE ASSOCIATION</u>	12
Section 4.1 <u>General Purposes and Powers</u>	12
Section 4.2 <u>Powers</u>	12
Section 4.3 <u>Enforcement</u>	12
Section 4.4 <u>Association Agreements</u>	13
Section 4.5 <u>Indemnification</u>	13
Section 4.6 <u>Right to Notice and Comment</u>	13
<u>ARTICLE 5 MAINTENANCE AND IMPROVEMENT OF THE REAL ESTATE</u>	14
Section 5.1 <u>Association Responsibilities - General</u>	14
Section 5.2 <u>Owner's Responsibility</u>	14
Section 5.3 <u>Party Walls</u>	14
Section 5.4 <u>Standard of Performance</u>	15
<u>ARTICLE 6 COVENANT FOR COMMON EXPENSE ASSESSMENT</u>	15
Section 6.1 <u>Creation of Association Lien and Personal</u> <u>Obligation to Pay Common Expense Assessments</u>	15
Section 6.2 <u>Apportionment of Common Expenses</u>	15
Section 6.3 <u>Purpose of Assessments</u>	16
Section 6.4 <u>Initial Assessment/Annual Assessment/Commencement of Common</u> <u>Expense Assessments</u>	16

Section 6.5	<u>Special Assessments</u>	17
Section 6.6	<u>Lien Priority</u>	17
Section 6.7	<u>Effect of Non-Payment of Assessments</u>	17
Section 6.8	<u>Reserves/Surplus</u>	18
Section 6.9	<u>Working Capital Fund</u>	18
Section 6.10	<u>No Waiver or Abandonment</u>	18
Section 6.11	<u>Declaration is Notice</u>	18
<u>ARTICLE 7 DESIGN REVIEW</u>		19
Section 7.1	<u>General</u>	19
Section 7.2	<u>Design Review Committee</u>	19
Section 7.3	<u>Guidelines and Procedures--General</u>	19
Section 7.4	<u>No Waiver of Future Approvals</u>	19
Section 7.5	<u>Enforcement</u>	20
Section 7.6	<u>Notice of Noncompliance</u>	20
Section 7.7	<u>Non-liability of the Design Review Committee and Executive Board Members</u>	20
Section 7.8	<u>Variances</u>	21
Section 7.9	<u>Scope of Judicial Review</u>	21
<u>ARTICLE 8 INITIAL RESTRICTIVE COVENANTS</u>		21
Section 8.1	<u>Plan of Development; Applicability; Effect</u>	21
Section 8.2	<u>Authority to Promulgate Use Restrictions</u>	21
Section 8.3	<u>Owners' Acknowledgment</u>	21
Section 8.4	<u>Rights of Owners</u>	21
Section 8.5	<u>Initial Use Restrictions</u>	23
<u>ARTICLE 9 OTHER EASEMENTS, DEDICATIONS, AND RESERVATIONS</u>		25
Section 9.1	<u>Easements to Serve Additional Property</u>	25
Section 9.2	<u>Right of Entry</u>	25
Section 9.3	<u>Access and Utility Easements</u>	25
Section 9.4	<u>Plat Notes, Easements and Restrictions</u>	25
<u>ARTICLE 10 RESERVATION OF SPECIAL DECLARANT RIGHTS AND ADDITIONAL RESERVED RIGHTS</u>		26
Section 10.1	<u>Special Declarant Rights</u>	26
Section 10.2	<u>Additional Reserved Rights</u>	27
Section 10.3	<u>Legal Description</u>	27
<u>ARTICLE 11 RESERVATION OF DEVELOPMENT RIGHTS</u>		27
Section 11.1	<u>Development</u>	27
Section 11.2	<u>Amendment of the Declaration</u>	28
Section 11.3	<u>Amendment of the Plat</u>	28

Section 11.4	<u>Interpretation</u>	28
Section 11.5	<u>Rights Incidental to the Construction Easement</u>	28
Section 11.6	<u>Termination of Development Rights</u>	29
Section 11.7	<u>Legal Description</u>	29
<u>ARTICLE 12 AMENDMENT AND TERMINATION</u>		29
Section 12.1	<u>Technical, Clerical, Typographical or Clarification Amendment</u>	29
Section 12.2	<u>Necessary to Exercise Authority of Association Documents</u>	29
Section 12.3	<u>Attorney in Fact</u>	29
Section 12.4	<u>Amendment of Declaration by Owners</u>	30
Section 12.5	<u>Amendment Required by Mortgage Agencies</u>	30
Section 12.6	<u>Recording of Amendments</u>	30
Section 12.7	<u>Unanimous Consent Required for Certain Amendments</u>	30
Section 12.8	<u>Expenses</u>	30
Section 12.9	<u>Termination</u>	30
<u>ARTICLE 13 ALLOCATED INTERESTS</u>		31
Section 13.1	<u>Formula for Determining Allocated Interests</u>	31
Section 13.2	<u>Reallocation</u>	31
<u>ARTICLE 14 INSURANCE/CONDEMNATION</u>		32
Section 14.1	<u>Insurance Coverage</u>	32
Section 14.2	<u>Application of insurance proceeds</u>	32
Section 14.3	<u>Nondiscriminatory policies</u>	32
Section 14.4	<u>Obligation to Repair</u>	32
Section 14.5	<u>Fidelity Insurance</u>	32
Section 14.6	<u>Qualified Insurance Company</u>	32
Section 14.7	<u>Subrogation Waiver and Cancellation</u>	33
Section 14.8	<u>Blanket Liability</u>	33
Section 14.9	<u>Insurance as Common Expense</u>	33
Section 14.10	<u>Condemnation</u>	33
<u>ARTICLE 15 MORTGAGEE PROVISIONS</u>		33
Section 15.1	<u>Special FHLMC Provision</u>	33
Section 15.2	<u>Amendment</u>	34
Section 15.3	<u>Failure of Mortgagee to Respond</u>	34
<u>ARTICLE 16 GENERAL PROVISIONS</u>		34
Section 16.1	<u>Rights Transferable/Rights Transferred</u>	34
Section 16.2	<u>Attorneys' Fees</u>	35
Section 16.3	<u>Severability</u>	35
Section 16.5	<u>Paragraph Headings</u>	35
Section 16.5	<u>Registration by Owner of Mailing Address and Notice</u>	35

Section 16.6	<u>Gender</u>	35
Section 16.7	<u>Applicable Law</u>	35
Section 16.8	<u>Binding Agreement</u>	35
Section 16.9	<u>Reference to Ownership Interests</u>	35
Section 16.10	<u>Dedication of Common Elements</u>	35
 <u>EXHIBIT A INITIAL REAL ESTATE</u>		37
 <u>EXHIBIT B INITIAL COMMON ELEMENTS</u>		38

DECLARATION FOR PARKSIDE

THIS DECLARATION is made on the date hereinafter set forth by MARSIM DEVELOPMENT LLC, a Colorado Limited Liability Company (referred to throughout as "Declarant").

RECITALS

I. Declarant is the owner of certain real property located in Ouray County, State of Colorado, which is more particularly described on Exhibit A attached hereto and incorporated herein by reference as though set forth in full.

II. Declarant desires to create a common scheme for development and a governance structure on the real property described on Exhibit A and such additional real property as may be added to this Community pursuant to this Declaration. Portions of said real property will be designated for separate ownership.

III. Declarant has caused to be incorporated under the laws of the State of Colorado, Parkside Community Association, Inc., a nonprofit corporation, for the purpose of exercising the functions as herein set forth.

SUBMISSION OF REAL ESTATE; DEFINED TERMS

Submission 1.1 Submission of Real Estate. The Declarant, owner in fee simple of the real estate described on Exhibit A, together with all easements, rights, and appurtenances thereto, the buildings and improvements erected or to be erected thereon, and together with such additional real property as may be added pursuant to this Declaration (collectively, the "Real Estate"). Declarant further declares that all of the Real Estate shall be held or sold, and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with the Real Estate and be binding on all parties having any right, title or interest in the Real Estate or any part thereof, their heirs, legal representatives, successors, and assigns, and shall inure to the benefit of each Owner, in perpetuity. For purposes of the Act, the Common Interest Community shall be a Planned Community. If there are any provisions which are in conflict with the Colorado Common Interest Ownership Act, as amended (C.R.S. § 38-33.3-108 *et. seq.*) (the "Act"), the terms of "the Act" shall control.

Submission 1.2 Defined Terms. Each capitalized term not otherwise defined in this Declaration or in recorded plats or maps for this Planned Community shall have the meaning specified.

1 Allocated Interests. Collective reference to the "Common Expense Liability" (i.e., the percentage share of liability for payment of Common Expenses) and "Votes" (i.e., the votes in the Association) allocated to each Unit pursuant to the terms of this Declaration.

2 Articles of Incorporation. The Articles of Incorporation for Parkside Community Association, Inc., a Colorado nonprofit corporation, as the same may be amended from time to time.

3 Association. The name of the Association is PARKSIDE RIDGWAY COMMUNITY ASSOCIATION, INC., a Colorado non-profit corporation, its successors and assigns.

4 Builder. The Declarant and any person or group of persons designated as such by the Declarant in a Recorded instrument, who purchases: (i) a portion of the Real Estate, or (ii) multiple Lots, for the purpose of constructing improvements thereon and for resale to the general public.

5 Bylaws. The Bylaws of the Association as the same may be amended from time to time.

6 Common Expenses. As used in this Declaration, this term includes all charges levied by and for the benefit of the Association pursuant to the Governing Documents, including, but not limited to: (i) Expenses for preparation of budgets, tax returns, and/or audits of Association Records, (ii) large, single item expenditures of the Association (including but not limited to, capital expenditures and "Special Assessments," as defined in Section 6.5); (iii) amounts necessary to discharge design review obligations not covered by the design review fee.

7 Common Expense Assessment(s); Assessment(s). These terms shall include the following items levied against a particular Owner or Unit: (i) the Owner's Allocated Interest in the Common Expenses, subject to reapportionment pursuant to Section 11.2; (ii) late charges, attorneys' fees, fines, and interest charged by the Association at the rate as determined by the Executive Board; (iii) charges against a particular Owner and the Unit for the purpose of reimbursing the Association for expenditures and other costs of the Association in curing any violation of the Governing Documents by the Owner or Related User and charges levied against an Owner pursuant to Subsections 5.3.2 and 7.5; (iv) any sums permitted by the Governing Documents to be assessed against a particular Owner or Unit; and (v) Special Assessments levied pursuant to Section 6.5.

8 Community. The planned community of "Parkside."

9 Covenants. Collective term for all promises, restrictions, reservations, conditions, terms, easements, and rights-of-way specifically set forth; or referenced in this Declaration and set forth in the Governing Documents, as the same may be adopted and amended from time to time.

10 Declarant. MARSIM DEVELOPMENT LLC, a Colorado limited liability company and any entity, person or group of persons who reserves or succeeds to any special declarant right in accordance with this Declaration.

11 Declaration. This Declaration, and any and all duly executed and Recorded amendments, supplements, ("Supplemental Declaration") or additions to this Declaration, and including the Plat.

12 Design Guidelines. Collective reference to all written design and development guidelines, policies and procedures, application and review procedures and fee schedules, and all architectural controls which shall apply to all construction and all other improvement activities within the Real Estate, and which are created by the Declarant or enacted by the Executive Board in accordance with Section 7.3 below.

13 Design Review Committee. The Committee created by the Declarant for the purpose of establishing architectural control over the Community to insure the proper, appropriate and harmonious development and improvement of the Real Estate, including enforcing Design Guidelines, Owner's maintenance responsibilities and other provisions of the Governing Documents. The Executive Board may, if it so chooses (with the prior approval of the Declarant during the period Declarant has the exclusive right to appoint members to the Design Review Committee) choose to act as the Design Review Committee.

14 First Mortgage. A mortgage, deed of trust, deed to secure a debt, or any other form of security instrument affecting title to a Unit (collectively, "Mortgage"), which is subject only to governmental liens, the lien for real property taxes, a portion of the Common Expense Assessment, and other liens made superior by Colorado law.

15 First Mortgagee. A bank, commercial lender, insurance company, real estate mortgage investment trust, pension fund, agency of the United States Government, mortgage banker, the Federal National Mortgage Association ("FNMA"), the Federal Home Loan Mortgage Corporation ("FHLMC") or any other lender holding a First Mortgage.

16 Governing Documents. Collective reference to those documents which govern the operation of the Association and the Community, including: (i) its Articles of Incorporation; (ii) its Bylaws; (iii) its Rules; (iv) the Plat; and (v) this Declaration, as one or more of the same may be amended from time to time. Each and every provision of the Governing Documents shall be given the force and effect as if set forth in this Declaration.

17 Improvements. Collective reference to all exterior improvements, structures, and any appurtenances thereto or components thereof of every type or kind, and all landscaping features, including, but not limited to, buildings, outbuildings, temporary structures, swimming pools, patios, patio covers, awnings, solar collectors, painting or other finish materials on any visible

structure, additions, walkways, sprinkler systems, garages, carports, driveways, fences, including gates in fences, basketball hoops, swingsets or other play structures, screening walls, retaining walls, stairs, decks, landscaping, hedges, windbreaks, plants, trees, shrubs, flowers, vegetables, sod, gravel, bark, exterior light fixtures, poles, signs, exterior tanks, and exterior air conditioning, cooling, heating, solar collecting and water softening equipment, if any.

18 Lot. A portion of the Real Estate designated for separate ownership of one, two or three Units, together with any Improvements thereon, as described by reference to the numbered lots of land shown upon the Plat. There shall be three types of Lots:

- (i) Single-Family Lot. A Lot shown on the Plat consisting of a single Unit and upon which one Residence and conforming accessory dwelling unit may be constructed.
- (ii) Duplex Lot. A Lot shown on the Plat with lot number 4, 5, 6, & 13 which shall consist of two separate Units and upon which two Residences, joined or separate, may be constructed.
- (iii) Tri-Plex Lot. A Lot shown on the Plat with lot number 14 & 15 which shall consist of three separate Units and upon which three Residences, joined or separate, may be constructed. These lots and the owners thereon may be subject to deed restrictions outlined on the Plat.

19 Owner. One or more individuals or entities which hold the record title to any Unit, excluding those having such interest merely as security for the performance of an obligation.

20 Party Wall. Any common wall adjoining two Units which shall be deemed to include the underlying footings, any utility lines within, and the portion of any roof covering a common wall.

21 Plat. The Recorded plat for Parkside Subdivision and any amendments or replats thereof all or a portion of land within the Community. The "Notes" on the various sheets comprising the Plat are hereby incorporated by this reference and shall be fully enforceable as though set forth herein.

22 Record; Recorded. Filed in the real property records of the Ouray County Clerk and Recorder, State of Colorado.

23 Related User. Any person who: (i) resides with an Owner within the Unit; (ii) is a guest or invitee of an Owner; (iii) is an occupant or tenant of a Unit; and (iv) any family member, guest, invitee or cohabitant of the foregoing.

24 Residence. The primary dwelling unit and related Improvements constructed by Declarant or a Builder or by or on behalf of an Owner which is approved by the Design Review Committee and constructed in accordance with the Governing Documents. This may include an accessory dwelling unit as allowed by Town of Ridgway regulations.

25 Rules. Collective term for all rules, regulations, policies, procedures and guidelines of the Association, in general, and the Design Guidelines, specifically, as the same may be adopted, amended and repealed from time to time by the Executive Board this Declaration and the Bylaws.

26 Unit. A separately-taxed parcel of real property subject to this Declaration, and designated as a Unit in this Declaration, including: (i) all the Improvements thereon, (ii) all easements and rights-of-way appurtenant thereto; and (iii) a fifty percent (50%) undivided percentage interest in any Party Wall shared by such Improvements and any adjacent Unit's Improvements.

ARTICLE 1

GENERAL STATEMENT OF COVENANTS

Section 1.1 Covenants Bind the Real Estate. The Real Estate shall be held, sold, and conveyed subject to the Covenants for the purpose of protecting the value and desirability of the Real Estate and any other purposes incidental thereto, and all Covenants shall continue to run with the Real Estate and shall be binding on all parties having any right, title or interest in the Real Estate or any part thereof, their heirs, legal representatives, successors, and assigns and shall inure to the benefit of each Owner thereof and the Association.

Section 1.2 Owners' Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Elements, subject to the following provisions:

1.2.1 The Governing Documents and any other applicable Covenants;

1.2.2 The right of the Association to exercise all powers and duties pursuant to Article 5 below, other applicable provisions of the Governing Documents;

1.2.3 The right of the Executive Board to adopt and amend, from time to time, Rules concerning all or any portion of the Real Estate and Improvements, as the Association may determine is necessary or prudent;

1.2.4 The right of the Association to enter into and execute contracts with any party for the purpose of providing management, maintenance or other materials and services to the Association and the Owners consistent with the purposes of the Association, and this Declaration.

1.2.5 The right of the Association to dedicate or transfer all or any part of the Common Elements;

ARTICLE 2
UNITS AND COMMON ELEMENTS

Section 2.1 Number of Units. The number of Units initially included in the Common Interest Community is twenty-three (23). The Declarant reserves the right to create and add, at any time and from time to time pursuant this Declaration, up to a maximum of thirty-one (31) Units or the maximum number of Units allowed by any governmental entity having jurisdiction over the Real Estate, whichever is larger in number (the "Maximum Units"). Such additional Units shall be created within the Duplex Lots and the Tri-plex Lots. Declarant shall not be obligated to expand the Community beyond the number of Units initially submitted to this Declaration.

Section 2.2 Identification of Units/Legal Descriptions. Every contract for sale, deed, lease, or security interest with another legal instrument shall legally describe a Unit, as follows:

Lot ____, Parkside, according to the recorded Plat thereof,
subject to the recorded Declaration for Parkside, County of
Ouray, State of Colorado.

2.2.1 Single-Family Lots. Each Single-Family Lot shall consist of one Unit which Unit shall be legally described by its identifying lot number as shown on the Plat;

2.2.2 Duplex Lots. Each Duplex Lot shall consist of two Units, each of which shall be legally described in the manner shown on the Plat. The Party Wall adjoining each of the two Units shall be constructed upon the boundary line between the two Units. Additional units within a duplex lot shall be designated with the letter "a" or "b" once subdivided.

2.2.3 Tri-Plex Lots. Each Tri-plex Lot shall consist of three Units, each of which shall be legally described in the manner shown on the Plat. The Party Wall which adjoins these Units shall be constructed upon the boundary line between the Units. Additional units within a tri-plex lot shall be designated with the letter "a" or "b" or "c" once subdivided.

Section 2.3 Common Elements. The initial Common Elements are described on Exhibit B. There are no Common Elements in the Community at this time.

ARTICLE 3
MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

Section 3.1 Membership and Voting. Every Owner of any Unit shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Unit, and ownership of a Unit shall be the sole qualification for such membership. Where more than one person holds an interest in any Unit, all such persons shall be members of the Association, and all such co-Owners shall be jointly and severally obligated to perform the responsibilities of Owners hereunder. All votes shall be cast in accordance with the Bylaws.

Section 3.2 Rights Subject to Governing. Membership and voting rights are subject to the Governing Documents.

Section 3.3 Declarant. The Declarant shall have the powers reserved in this Declaration to appoint and remove officers and members of the Executive Board.

3.3.1 Turnover Date. The period of Declarant control terminates no later than the earlier of: (i) sixty (60) days after conveyance of seventy-five percent (75%) of the Maximum Units in the ordinary course of business to Owners who are not the Declarant or a Builder; or (ii) three (3) years after the right to add new Units was last exercised; or (iii) Four (4) years after the last conveyance of a Unit in the ordinary course of business to Owners who are not the Declarant or a Builder ("Turnover Date"). For purposes of this section, "Maximum Units" initially shall mean 31 units). No later than the turnover date, a majority of the Executive Board must be elected by Owners who are not the Declarant.

3.3.2 Executive Board Election. Until the Turnover Date:

(1) Not later than sixty (60) days after conveyance of twenty-five percent (25%) of the Maximum Units to Owners other than the Declarant or a Builder, at least one member and not less than twenty-five percent of the members of the Executive Board must be elected by Owners other than the Declarant or Builders.

(2) Not later than sixty (60) days after conveyance of fifty percent (50%) of the Maximum Units to Owners other than the Declarant or a Builder, not less than thirty-three and one-third percent of the members of the Executive Board must be elected by Owners other than the Declarant or Builders.

3.3.3 Declarant May Relinquish Rights. At any time prior to the Turnover Date, the Declarant may relinquish the right to appoint and remove Executive Board members but may require certain specific actions of the Executive Board to be approved by the Declarant.

ARTICLE 4
THE ASSOCIATION

Section 4.1 General Purposes and Powers. The Association, acting in all instances through its Executive Board unless otherwise required by the Act or this Declaration, shall perform such functions and manage the Community as provided in this Declaration so as to further the interests of the Owners. The Association shall have all power necessary or desirable to effectuate such purposes and shall act pursuant to the Governing Documents. All Owners shall be deemed to have assented to, ratified and approved such designation of rights, duties, and authority.

Section 4.2 Powers. The Association, acting in all instances by and through the Executive Board unless specifically reserved to its members, shall have the following specific powers:

4.2.1 The Association shall have all of the powers, authority and duties permitted pursuant to the Colorado Revised Nonprofit Corporation Act, C.R.S. 7-121-101 *et. seq.*

4.2.2 The Association shall have all of the powers, authority and duties necessary and proper to manage the business affairs of the Community.

4.2.3 The Association may undertake any activity, function or service for the benefit or to further the interests of the Owners.

4.2.4 The Association may assign its future income, including its rights to receive Common Expense Assessments, upon the affirmative vote of the Owners to which at least fifty-one percent (51%) of the votes in the Association are allocated, at a meeting called for that purpose, in accordance with the Bylaws.

4.2.5 The Association shall have complete authority and control to issue and amend restrictions on use and occupancy of the Units in addition to those contained in this Declaration.

4.2.6 The Association shall establish and enforce Design Guidelines and other Rules as it deems necessary to ensure the proper use, development, improvement, repair, maintenance and replacement of real and personal property within the Community, and, subject to the provisions of Article 8 below, to appoint persons to serve on the Design Review Committee.

Section 4.3 Enforcement. The Association shall have the power to enforce provisions in its Governing Documents and shall take such action as the Executive Board deems desirable to cause such compliance by each Owner and each Related User, by any of the following means:

4.3.1 By entry upon any Unit after notice and an opportunity to be heard (unless a bona fide emergency exists and, in that event, notice and an opportunity to be heard are not required),

without liability to the Owner thereof, for the purpose of enforcement or causing compliance including by curing said violation;

4.3.2 By commencing and maintaining actions and suits: (i) to recover damages; or (ii) to restrain and enjoin any violation or threatened violation of, or compel compliance with, provisions of the Governing Documents by mandatory injunction or otherwise;

4.3.3 By exclusion of any Owner or Related User from use of any Common Elements for a period of sixty (60) days following any violation, or so long as the violation continues, whichever is longer;

4.3.4 By suspension of the voting rights of an Owner for up to thirty (30) days following any violation, or so long as the violation continues, whichever is longer;

4.3.5 By levying and collecting, after notice and an opportunity to be heard, fines against any Owner for violation by such Owner or a Related User, as a Common Expense Assessment to be secured by a continuing lien, from the date it is levied, and by foreclosure of such lien.

Section 4.4 Association Agreements. The Association shall not be bound either directly or indirectly to a contract or lease entered into during the Declarant control period unless the Association is provided with a right of termination of any such contract or lease without cause, which is exercisable without penalty at any time after the Termination Date upon not more than thirty (30) days notice to the other party thereto.

Section 4.5 Indemnification. To the full extent provided by the Bylaws and as permitted by law, each officer, committee member and member of the Executive Board of the Association shall be and are hereby indemnified by the Association against all expenses and liabilities, including attorneys' fees, reasonably incurred by or imposed upon them in any proceeding to which they may be a party, or in which they may become involved, by reason of being or having been an officer, committee member, or member of the Executive Board of the Association, or any settlements thereof, whether or not they are an officer, committee member, or member of the Executive Board of the Association at the time such expenses are incurred; except in such cases wherein such officer or Executive Board member is adjudged guilty of willful misfeasance or malfeasance in the performance of his duties; provided that in the event of a settlement the indemnification shall apply only when the Executive Board approves such settlement and reimbursement as being in the best interests of the Association.

Section 4.6 Right to Notice and Comment. Pursuant to C.R.S. § 38-33.3-205(1)(o), before the Executive Board amends the Bylaws or adopts or amends Rules, or whenever the Governing Documents require that an action be taken after "Notice and Comment," and at any other time the Executive Board determines, the Owners have the right to receive notice of the proposed action and the right to comment orally or in writing. Further, any Owner may give "Notice and Comment" to

the Owners of any matter affecting the Common Interest Community, and Owners shall then have the right to comment, orally or in writing, on the matter. Notice shall be given to each Owner in writing, delivered personally or by mail to all Owners at such address as appears in the records of the Association, or notice shall be published in a newsletter or similar publication which is routinely circulated to all Owners. The Notice shall be given not less than three days before the proposed action is to be taken. The Notice shall invite comment to the Executive Board or an Owner, orally or in writing before the scheduled time of any meeting.

ARTICLE 5 MAINTENANCE AND IMPROVEMENT OF THE REAL ESTATE

Section 5.1 Association Responsibilities -- General. Except as otherwise specifically provided in this Declaration, the Executive Board shall determine the specifications, scope, extent, nature and parameters of the Association's maintenance responsibilities. The Association shall maintain the following and shall keep it in good, clean, attractive, and sanitary condition, order, and repair, pursuant to the terms and conditions hereof:

5.1.1 All landscaping and other flora, open space, structures, and Improvements contained on the parcel titled "Open Space" on the Plat, such land having been dedicated and conveyed to the Town of Ridgway in the Plat, but for which the Association retains a maintenance obligation.

5.1.2 Such portions of any additional real property and Improvements as may be conveyed to the Association or for which the Association holds possessory or other interests by virtue of this Declaration, any Supplemental Declaration, or any contract or agreement for maintenance thereof entered into by the Association.

Section 5.2 Owner's Responsibility. Each Owner shall be responsible for maintaining his or her Unit and all Improvements thereon except to the extent that such maintenance responsibility is assigned to or otherwise assumed by the Association as provided in Section 5.1. Each Owner shall be responsible for irrigating and sodding of lawn areas within the Owner's Unit, as needed; replacing landscaping materials; replacing flower beds; and maintenance, winterizing, repairing and replacing, as necessary, the irrigation and sprinkler system serving the Unit and any damage to landscaping resulting from such repairs or replacements in strict compliance with the Design Guidelines and landscape requirements contained in the Town Code.

Section 5.3 Party Walls. The cost of maintenance, repair, alteration, improvement and replacement of each Party Wall shall be shared equally by the Owners of the Units adjoining such Party Wall. The right of an Owner to contribution from another Owner pursuant to this Declaration, shall be appurtenant to the land and such rights and obligations shall pass to the Owners' successors in title.

5.3.1 If a Party Wall is destroyed or damaged by fire or other casualty, any Owner whose Unit adjoins such Party Wall may repair or restore it, and the other Owner shall immediately upon receipt of written demand therefore, pay his or her portion of such costs to the Owner making such restoration or repair.

5.3.2 Notwithstanding any provision to the contrary in this Section 5.3, an Owner who by his negligent or willful act causes the Party Wall to be exposed to the elements or damaged in any manner, shall bear the whole cost of furnishing the necessary protection against such elements or of making the necessary repairs or restoration, collectable as an Assessment pursuant to Article 6.

5.3.3 Any Owner or his or her Related User shall have the right of access to all portions of an immediately adjacent Unit for the purpose of performing emergency repairs or to do other work reasonably necessary for the proper maintenance of his Unit or a Party Wall.

Section 5.4 Standard of Performance. Except as otherwise specifically provided herein or in other instruments creating and assigning such maintenance responsibility, responsibility of maintenance shall include responsibility for repair and replacement, as necessary. Neither the Association nor an Owner shall be liable for any damage or injury occurring on, or arising out of the condition of property which it does not own, except to the extent that it has been negligent in the performance of its maintenance responsibilities.

ARTICLE 6 **COVENANT FOR COMMON EXPENSE ASSESSMENT**

Section 6.1 Creation of Association Lien and Personal Obligation to Pay Common Expense Assessments. Declarant, for each Unit, shall be deemed to covenant and agree, and each Owner, by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to pay Assessments to the Association pursuant to the Governing Documents. Such Assessments shall be the personal obligation of the Owner of such Unit at the time when the Assessment or other charges became due. The Assessments shall be a charge on each Unit and shall be a continuing lien upon the Unit against which each such Assessment is made. If any Assessment is payable in installments, the full amount of the Assessment is a lien from the time the first installment becomes due. The personal obligation to pay any past due sums shall not pass to a successor in title unless expressly assumed by them. All Assessments shall be payable in the amounts specified in the levy thereof, and no offsets or reduction thereof shall be permitted by any reason including, without limitation, any claim that the Association or the Executive Board is not properly exercising its duties and powers under this Declaration.

Section 6.2 Apportionment of Common Expenses. Except as provided below and elsewhere in this Declaration, all Common Expense Assessments shall be assessed against all Units in accordance with the formula for allocating the liability for the Common Expenses as set forth in Article 13 of this Declaration:

6.2.1 Any Common Expense for services provided by the Association to an individual Unit may be assessed against that Unit.

6.2.2 Any Common Expense for maintenance, repair or improvement which affects less than all Units may be assessed against only the benefited Units.

6.2.3 If a Common Expense is caused by the actions, failure to act, or misconduct of an Owner or such Owner's Related User, the Association may assess that expense exclusively against that Owner and that Unit.

6.2.4 Fees, charges, taxes, impositions, late charges, fines, collection costs and interest charged against an Owner are enforceable as Common Expense Assessments as are all legal fees and costs incurred by the Association enforcing the Governing Documents to be paid by the Owner against whom such enforcement is sought.

Section 6.3 Purpose of Assessments. Assessments shall be used for the purposes of promoting the health, safety, and welfare of Owners and Related Users, and in particular:

6.3.1 To enforce all provisions of the Governing Documents;

6.3.2 To exercise all rights and powers and to discharge all duties and obligations pursuant to the Act and the Governing Documents;

6.3.3 To discharge all expenses incurred by the Association in the alteration, improvement, construction, reconstruction, repair, maintenance or replacement of the Common Elements and all Improvements located thereon, including fixtures and personal property related thereto; and

6.3.4 To fund any operating deficit or reserves the Association deems necessary to meet its financial obligations.

Section 6.4 Initial Assessment/Annual Assessment/Commencement of Common Expense Assessments. Upon closing of the purchase of any unit, purchaser shall make an Initial Assessment Payment to the Association of \$100.00, for the purposes of establishing initial capitalization of the Association Account. This payment shall be collected as an additional charge to the buyer at closing, in addition to payment of purchase funds, closing costs, and any other fees or prorations. Thereafter, the Common Expense Assessment shall be made on an annual basis against all Units 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 Assessment year. The budget shall be submitted to the Owner as a part of their Title Documents. Common Expense Assessments shall be due and payable annually or in periodic installments, or in any other manner, as determined by the Executive Board. Common Expense Assessments may begin on the first day of the month in which conveyance of the

first Unit to an Owner other than the Declarant occurs. The omission or failure of the Executive Board to levy the Assessment for any period shall not be deemed a waiver, modification or a release of the Owners from their obligation to pay.

Section 6.5 Special Assessments. The Association may at any time, and from time to time, determine, levy and assess a Special Assessment applicable to that particular Assessment year for the purpose of defraying, in whole or in part, payments for any operating deficit and/or unbudgeted costs, fees and expenses incurred by the Association. Any such Special Assessment shall be due and payable as determined by the Executive Board; provided, however, notice in writing setting forth the amount of such Special Assessment per Unit and the due date for payment thereof shall be given to the Owners not less than thirty (30) days prior to such due date.

Section 6.6 Lien Priority. The lien of the Association under this Section is prior to all other liens and encumbrances on a Unit except: (i) liens for real estate taxes and other governmental assessments or charges against the Unit; (ii) liens and encumbrances recorded before the recordation of this Declaration; and (iii) a First Mortgage on the Unit (except as allowed by the Act with regard to the Association's limited lien priority). This Section does not affect the priority of mechanics or materialmen's liens. The lien of the Association under this Article is not subject to the provisions of any Homestead exemption as allowed by state or federal law. Sale or transfer of any Unit shall not affect the lien for said Assessments except that the sale or transfer of any Unit pursuant to foreclosure of any First Mortgage or any proceeding in lieu thereof, including deed in lieu of foreclosure, or cancellation or forfeiture shall only extinguish the lien of Assessment as provided by applicable law. No such sale, transfer, foreclosure, or any proceeding in lieu thereof, including deed in lieu of foreclosure, nor cancellation or forfeiture shall relieve any Unit from continuing liability for any Assessment charges thereafter becoming due nor from the lien thereof.

Section 6.7 Effect of Non-Payment of Assessments. Any Assessment or any installment thereof, which is not fully paid within ten (10) days after the due date thereof, shall bear interest at the rate of twenty-one percent (21%) per annum or at such lesser rate as may be set by the Executive Board from time to time from the due date, and the Association may assess a monthly late charge thereon. Failure to make payment within the sixty (60) days of the due date thereof shall cause the total amount of such Assessment for the remainder of that fiscal year to become immediately due and payable at the option of the Board. Further, the Association may bring an action at law or in equity, or both, against any Owner personally obligated to pay such overdue Assessments, or monthly or other installments thereof. An action at law or in equity by the Association against an Owner to recover a money judgment for unpaid Assessments, or any monthly or other installment thereof, may be commenced and pursued by the Association. The Association's costs of suit, expenses and reasonable attorneys' fees incurred simply by virtue of the failure of the Owner to timely pay Assessments when due, including attorneys' fees and costs for preparing and recording any lien notice, shall be taxed by the court as a part of the costs of any such action and shall be recoverable by the Association from any Owner personally obligated to pay the same. The grantee of a Unit shall be jointly and severally liable with the grantor for all unpaid Assessments against the Unit which

accrued prior to the conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor.

Section 6.8 Reserves/Surplus. The Association shall establish an adequate reserve fund for the maintenance, repair and replacement of those Common Elements that must be periodically maintained, repaired or replaced, if any. Such reserve fund may be funded through the periodic payments of the annual Common Expense Assessments. Any surplus funds derived from Assessments shall be transferred to the reserve fund or used for Association operations, in the Executive Board's sole discretion, and by acceptance of a deed to a Unit each Owner hereby directs the Executive Board to make this determination each year.

Section 6.9 Working Capital Fund. The Association shall establish an adequate reserve fund for the maintenance, repair and replacement of those Common Elements that must be periodically maintained, repaired or replaced, if any. Such reserve fund shall be funded through the monthly payments of the annual Common Expense Assessments. Any surplus funds derived from Assessments shall be transferred to the reserve fund or used for Association operations, in the Executive Board's sole discretion, and by acceptance of a deed to a Unit each Owner hereby directs the Executive Board to make this determination each year. The Association, or the Declarant shall require the Owner of any Unit, who purchases that Unit from the Declarant, to make a nonrefundable contribution (Initial Assessment) to the Association in the amount of One Hundred Dollars (\$100.00) (regardless of whether or not Assessments have commenced as provided in this Article) at closing. Said contribution shall be collected and transferred to the Association at the time of closing of the sale of each Unit by Declarant, and shall be for the sole use and benefit of the Association. Such contribution to the working capital fund shall not relieve an Owner from making regular payments of Assessments as and when the same become due.

Section 6.10 No Waiver or Abandonment. No Owner may be exempt from liability for payment of the Common Expenses by waiver of the use or enjoyment of any of the Common Elements or by abandonment of the Unit against which the Assessments are made.

Section 6.11 Declaration is Notice. Recording of the Declaration constitutes record notice and perfection of the lien. No further recordation is required. However, the Executive Board may prepare and Record a written notice setting forth the amount of any unpaid indebtedness, the name of the Owner, and a description of the Unit.

ARTICLE 7
DESIGN REVIEW

Section 7.1 General. No structure shall be placed, erected, or installed upon any Unit, and no Improvements (including staking, clearing, excavation, grading and other site work), exterior alteration of existing Improvements, or planting or removal of landscaping materials, shall be constructed within or placed upon a Unit except in compliance with the architectural review procedures and restrictions set forth in this Declaration and the Design Guidelines. No provision in this Article and the Design Guidelines shall apply to Improvements to the Common Elements made by or on behalf of the Association.

Section 7.2 Design Review Committee. The Design Review Committee shall initially be appointed by the Declarant, and may consist of as few as one single member or as many as three (3) members. Until seven (7) years from the date this Declaration is recorded, or upon the sale of the last Unit to an Owner who is not also a Builder, or such earlier date as Declarant shall determine in writing (whichever shall first occur), Declarant shall appoint and remove all members of the Design Review Committee. After expiration of Declarant's appointment rights, the Executive Board may act as the Design Review Committee with a minimum of three (3) members or may appoint Owners to the Committee. The Design Review Committee shall select its own chairperson and vice chair (from the members of the Committee).

Section 7.3 Guidelines and Procedures--General. The Declarant shall prepare the initial Design Guidelines, which thereafter may be amended in whole or in part by the Executive Board, (and, for so long as the Declarant holds Development Rights, with the written approval of the Declarant). Any amendments to the Design Guidelines shall apply to construction and modifications commenced after the date of such amendment only and shall not apply to require modifications to or removal of structures previously approved once the approved construction or modification has commenced. The Design Guidelines may contain general provisions applicable to all of the Real Estate, as well as specific provisions which vary from one portion of the Real Estate to another depending upon the location, unique characteristics, and intended use. Design Guidelines shall also include the procedures, materials to be submitted and additional factors which will be taken into consideration in connection with the approval of any proposed Improvement. Design Guidelines may specify circumstances under which the strict application of limitations or restrictions under this Declaration will be waived or deemed waived in whole or in part, and may waive the requirement or exempt certain improvements from the requirement for approval, if such approval is not reasonably required to carry out the purposes of this Declaration. The Design Guidelines as the same shall be amended from time to time shall not be recorded, but shall be considered incorporated herein by references throughout this Declaration and shall be enforceable as though set forth in full.

Section 7.4 No Waiver of Future Approvals. Approval of proposals, plans and specifications, or drawings for any work done or proposed, or in connection with any other matter

requiring approval, shall not be deemed to constitute a waiver of the right to withhold approval as to any similar proposals, plans and specifications, drawings, or other matters subsequently or additionally submitted for approval.

Section 7.5 Enforcement. Any Improvement placed or made in violation of this Article shall be deemed to be nonconforming. Upon written request from the Executive Board, the Design Review Committee or the Declarant, Owners shall, at their own cost and expense, remove such Improvement and restore the land to substantially the same condition as existed prior to the nonconforming work. Should an Owner fail to remove and restore as requested, the Executive Board or its designees shall have the right to enter the Unit, remove the violation, and restore the Unit to substantially the same condition as previously existed. All costs, together with the interest at the maximum rate then allowed by law, may be assessed against such Unit and collected as an Assessment.

Any contractor, subcontractor, agent, employee, or other invitee of an Owner who fails to comply with the terms and provisions of this Article and the Design Guidelines may be excluded by the Executive Board from the Real Estate upon notice and an opportunity to be heard.

In addition to the foregoing, the Association shall have the authority and standing to pursue all legal and equitable remedies available to enforce the provisions of this Article.

Section 7.6 Notice of Noncompliance. If, as a result of inspections or otherwise, the Design Review Committee finds that any Improvement has been done without obtaining the approval of the Design Review Committee, or was not done in substantial compliance with the description and materials furnished to, and any conditions imposed by, the Design Review Committee, the Design Review Committee shall provide notice of the particulars of the noncompliance and shall require the Owner of the Unit upon which such improvements have been made to take such action as may be necessary to remedy the noncompliance. At the sole election of the Executive Board, if such noncompliance is not remedied within thirty (30) days of the date set forth on the notice, the notice may be Recorded.

Section 7.7 Nonliability of the Design Review Committee and Executive Board Members. Neither the Design Review Committee nor the Executive Board nor any member thereof shall be liable to the Association or to any Owner or person for any loss, damage or injury arising out of or in any way connected with the performance of the Design Review Committee's or Executive Board's respective duties under this Declaration or the Governing Documents unless due to an act or omission not in good faith or which involves intentional misconduct or a knowing violation of a law (as defined in C.R.S. § 7-122-101) by the Design Review Committee or Executive Board or individual members thereof. The Design Review Committee or Executive Board shall not be responsible for reviewing, nor shall its approval of any Plans and Specifications be deemed approval of, structural safety, engineering soundness, or conformance with building codes or any other laws or standards.

Section 7.8 Variances. The Design Review Committee may authorize variances from compliance with any of the Guidelines or Rules, when circumstances so warrant. Such variances must be evidenced in writing and must be signed by at least a majority of all the members of the Design Review Committee and approved by a majority of the Executive Board. If such a variance is granted, no violation of the Covenants shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of such a variance shall not operate to waive any of the terms and provisions of this Declaration for any purpose except as to the particular property and particular provision in the particular instance covered by the variance.

Section 7.9 Scope of Judicial Review. The scope of judicial review of any action taken by the Association or the Design Review Committee pursuant to this Article 7, including but not limited to the promulgation and enforcement of Design Guidelines and review, shall be limited to cases of fraud, bad faith, or lack of due process.

ARTICLE 8

INITIAL RESTRICTIVE COVENANTS

Section 8.1 Plan of Development; Applicability; Effect. Declarant has established a general plan of development for the Real Estate in order to protect the Owners' collective interests and the aesthetics and environment within the Real Estate. In furtherance of that general plan, this Declaration establishes the Covenants, subject to certain rights vested in the Executive Board and the Owners to enable them to respond to changes in circumstances, conditions, needs, and desires within the Community.

Section 8.2 Authority to Promulgate Use Restrictions. Initial use restrictions applicable to the Real Estate are set forth in Section 8.5 below. In accordance with its duty to exercise reasonable business judgment, the Executive Board, with the consent of the Declarant as long as the Declarant holds Development Rights, may adopt Rules which insignificantly modify, limit, create exceptions to, or expand the initial use restrictions set forth in Section 8.5 below.

Section 8.3 Owners' Acknowledgment. All Owners and Related Users of Units are given notice that use of their Units is limited by provisions of the Governing Documents as they may be amended, expanded and otherwise modified hereunder. Each Owner, by acceptance of a deed, acknowledges and agrees that the use and enjoyment and marketability of his or her Unit can be affected by this provision and that all restrictions upon the use and occupancy of a Unit may change from time to time.

Section 8.4 Rights of Owners. The Executive Board shall not adopt any Rule in violation of the following provisions:

8.4.1 Equal Treatment. Similarly situated Owners and occupants shall be treated similarly.

8.4.2 Speech. The rights of Owners to display political signs and symbols in or on their Units of the kinds normally displayed in or outside of residences located in single-family residential neighborhoods shall not be abridged, except that the Association may adopt reasonable time, place, and manner restrictions for the purpose of minimizing damage and disturbance to other Owners and Related Users.

8.4.3 Religious and Holiday Displays. The rights of Owners to display religious and holiday signs, symbols, and decorations inside and outside structures on their Units of the kinds normally displayed in residences located in single-family residential neighborhoods shall not be abridged, except that the Association may adopt reasonable time, place, and manner restrictions for the purpose of minimizing damage and disturbance to other Owners and occupants.

8.4.4 Activities Within Dwelling. No rule shall interfere with the activities carried on within the confines of dwellings on the Units, except that the Association may prohibit activities not normally associated with property restricted to residential use, and it may restrict or prohibit any activities that create monetary costs for the Association or other Owners, that create a danger to the health or safety of occupants of other Units, that generate excessive noise or traffic, that create unsightly conditions visible outside the Unit, that block the views from other Units, or that create an unreasonable source of annoyance.

8.4.5 Pets. Owners and Related Users may keep a "reasonable number of bona fide household pets" (including dogs, cats or other domestic animals and including caged or otherwise confined rodents, birds, and reptiles). No pet may be kept for any commercial purpose and pets may not be kept in such number or in such manner as to create a nuisance to anyone residing in the Community, as determined by the Executive Board in its sole discretion. An Owner's right to keep household pets shall be coupled with the responsibility to pay for any damage caused by such pets, as well as any costs incurred by the Association as a result of such pets, and any such costs and damages shall be subject to all of the Association's rights with respect to the collection and enforcement of Assessments and shall be subject to the Rules. Nothing in this provision shall prevent the Association from requiring removal of any animal or reptile that presents an actual threat to the health or safety of residents or from requiring abatement of any nuisance or unreasonable source of annoyance in the Executive Board's sole discretion.

8.4.6 Reasonable Rights to Develop. No Rule by the Association or Executive Board shall unreasonably impede the Declarant's right to develop in accordance with the Real Estate plats and this Declaration.

8.4.7 Abridging Existing Rights. If any Rule would otherwise require Owners or Related Users to dispose of personal property which they owned at the time they acquired their interest in the Unit and such ownership was in compliance with all Rules in force at that time, such Rule shall not apply to any such Owners without their written consent. However, all subsequent Owners and Related Users of that Unit shall comply with such Rule.

Section 8.5 Initial Use Restrictions. Subject to the Development Rights reserved to the Declarant, the following activities are prohibited within the Community unless expressly authorized (and in such cases, subject to such conditions as may be imposed) by the Executive Board:

8.5.1 Subdivision. Except in the case of Duplex or Tri-plex units, subdivision of a single family Unit into two or more Units, or changing the boundary lines between any two Units is prohibited.

8.5.2 Conditions to Conduct Business. Any business, profession, trade, or similar activity, except that an Owner may conduct business activities within the Unit so long as:

(1) the existence or operation of the activity is not apparent or detectable by sight, sound, or smell from outside the Unit;

(2) the activity conforms to all zoning requirements for Community and all applicable federal, state and local laws, rules and regulations, as well as the Rules;

(3) the activity does not involve regular visitation of the Unit by clients, customers, suppliers, or other business invitees, except recognized courier services, or door-to-door solicitation of Owners or Related Users; and

(4) the activity is consistent with the residential character of the Real Estate and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other Owners or Related Users, as may be determined in the reasonable discretion of the Executive Board.

8.5.3 Leases. The term "lease," as used herein, shall include any agreement for the leasing or rental of a Unit and shall specifically include, without limitation, a month-to-month rental. Owners shall have the right to lease their Units only under the following conditions:

(1) All leases shall be in writing.

(2) All leases shall provide that the terms of the lease and the tenant's occupancy of the Unit shall be subject in all respects to the provisions of the Governing Documents, as the same may be amended from time to time, and that any failure by such tenant to comply with the provisions of these instruments, in any respect, shall be a default under the lease, said default to be enforceable by the Executive Board, the Owner/landlord, or both.

(3) Any Owner's right to lease is expressly conditional upon applicable Rules. Deed-restricted tri-plex units may be subject to special provisions that restrict or prevent leasing of such units during the deed-restriction period, and nothing in this section shall be construed to override applicable deed restrictions.

(4) Any Owner who leases his Unit may be requested to forward a copy of the lease to the Association within ten (10) days after such request is made of the Owner and the tenant/lessee.

8.5.4 Restrictions on Vehicles.

(1) Parking or storing of vehicles within the Real Estate shall be subject to Rules enacted by the Executive Board and provisions of this Declaration.

(2) No Unit and no Common Element shall be used as a parking, storage, display or accommodation area for any type of house trailer, camping trailer, boat trailer, hauling trailer, motor home, running gear, boat or accessories thereto, provided, however, such vehicles may be stored, parked or maintained wholly within the garage area of a Unit with the garage door in a closed position.

(3) Recreational vehicles may be parked temporarily within Units or upon streets for purposes of loading and unloading; provided that no such vehicle may be so parked for a period exceeding 24 hours in length.

(4) No abandoned or inoperable vehicles of any kind shall be stored or parked within any Unit (unless stored completely within an enclosed garage) or street. An "abandoned or inoperable vehicle" shall be defined as any automobile, truck, motorcycle, van, recreational vehicle or other device for carrying passengers, goods or equipment which has not been driven under its own propulsion for a period of thirty (30) days or longer, or which does not have installed within it an operable propulsion system.

(5) Unlicensed motor vehicles shall not be operated on the streets or other Common Elements. The definition of unlicensed motor vehicles shall include, but is not limited to, go-carts, mini-bikes, unlicensed motor bikes and all-terrain vehicles.

(6) Parking of permitted vehicles upon streets shall be subject to Rules.

8.5.5 Nuisances. Any use, activity, or practice which is the source of, or unreasonably interferes with the peaceful enjoyment or possession of a Unit or any portion of the Common Elements or any portion of the Community. All valid laws, ordinances and regulations of all governmental bodies having jurisdiction over the Community or a portion thereof shall be observed and may be enforced by the Association as if the same were contained in the Governing Documents. In no event shall the activities of the Declarant or of a Builder which are reasonably necessary to the exercise of the rights granted by this Declaration and the Act be considered a "nuisance" unless such activities interferes with any Owner's use and enjoyment of such Owner's Unit.

ARTICLE 9
OTHER EASEMENTS, DEDICATIONS, AND RESERVATIONS

Section 9.1 Easements to Serve Additional Property. The Declarant hereby reserves for itself and its duly authorized agents, representatives, and employees, successors, assigns, licensees, and mortgagees, an easement over the Common Elements (including the roads in the Community, whether or not they are dedicated to the local government) for the purposes of enjoyment, use, access, and development of all or any portion of the Real Estate, whether or not such property is made subject to this Declaration. This easement includes, but is not limited to, a right of ingress and egress over the Common Elements for construction of roads and for connecting and installing utilities on such property. Declarant agrees that it and its successors or assigns shall be responsible for any damage caused to the Common Elements as a result of vehicular traffic connected with development of such property. Declarant further agrees that if the easement is exercised for permanent access to such property and such property or any portion thereof is not made subject to this Declaration, the Declarant, its successors or assigns shall enter into a reasonable agreement with the Association to share the cost of maintenance of any access roadway serving such Property.

Section 9.2 Right of Entry. In addition to the rights the Association is granted in Section 4.3.1 above, the Association shall have the right, but not the obligation, to enter upon any Unit for emergency, security, and safety reasons, to perform maintenance pursuant to the Governing Documents, to exercise the right of self-help pursuant to the Bylaws, and to inspect for the purpose of ensuring compliance with this Declaration, the Bylaws, and Rules, which right may be exercised by any member of the Executive Board, the Association, officers, agents, employees, and managers, and all policemen, firemen, ambulance personnel, and similar emergency personnel in the performance of their duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner, any damage caused by entry shall be repaired by the Association as a Common Expense. This right of entry shall include the right of the Association to enter upon any Unit to cure any condition which may increase the possibility of a fire or other hazard in the event an Owner fails or refuses to cure the condition within a reasonable time after requested by the Executive Board, but shall not authorize entry into any dwelling without permission of the Owner, except by emergency personnel acting in their official capacities.

Section 9.3 Access and Utility Easements. Declarant hereby dedicates to the Association and all of the Owners a perpetual non-exclusive easement on all Common Elements as shown on the Plat, regardless of how they are named.

Section 9.4 Plat Notes, Easements and Restrictions. All easements shown on the Plat and in the Plat Notes, are hereby dedicated to the benefit of the Association and all of the Owners subject to the restrictions and conditions thereof as provided on the Plat and in this Declaration and subject to the rights of any holders of any such easements recorded prior to the Plat. The Association shall maintain the easements consistent with the restrictions described on the Plat and the Executive Board is empowered to establish Rules governing the use and maintenance thereof.

ARTICLE 10
RESERVATION OF SPECIAL DECLARANT RIGHTS
AND ADDITIONAL RESERVED RIGHTS

Section 10.1 Special Declarant Rights. Declarant hereby reserves the following Special Declarant Rights and Additional Reserved Rights for a time period of seven (7) years from the date of the execution hereof, unless sooner terminated by operation of the Act or the provisions of this Declaration.

10.1.1 Conveyance for Governmental Interests. The right to designate sites within any portion of the Real Estate for fire, police, water, drainage, and utility facilities, parks, and other public facilities.

10.1.2 Completion of Improvements. The right to complete improvements on the Common Elements and Lots owned by the Declarant or a Builder, and in accordance with this right, the right to appoint the Design Review Committee in accordance with Article 8 above.

10.1.3 Exercise of Development Rights. The right to exercise any Development Right reserved in Article 11 of this Declaration or under applicable law.

10.1.4 Sales Management and Marketing. The right of the Declarant and Builders to maintain a sales and management office within the Real Estate and the right to maintain signs advertising the Community, and the right to maintain sales model homes and sales and management offices on any Lot owned by the Declarant or Builder.

10.1.5 Construction Facilities. The right of the Declarant and Builders and their respective employees, representatives, agents, and contractors to maintain within the Real Estate temporary construction facilities and construction materials, staging yards, and other facilities reasonably required during the construction of Improvements and sale of Units.

10.1.6 Construction Easements. The right of the Declarant and Builders to use easements through the Common Elements for the purpose of making Improvements within the Real Estate or within real estate that may be added to the Common Interest Community, and the right to use, and to permit others to use, easements through the Common Elements as may be reasonably necessary for the purpose of discharging the Declarant's obligations under this Declaration.

10.1.7 Merger. The right to merge or consolidate the Community with another community.

10.1.8 Master Association. The right to make the Community subject to a master association.

10.1.9 Control of Association and Executive Board. The right to appoint or remove any Officer of the Association or any Executive Board member as provided by this Declaration.

10.1.10 Amendment of Declaration. The right to amend the Declaration and Plat in connection with the exercise of any Development Right.

Section 10.2 Additional Reserved Rights. In addition to the Special Declarant Rights reserved herein, Declarant also reserves the following additional rights (the "Additional Reserved Rights"):

10.2.1 Use Agreements. The right to enter into, establish, execute, amend, and otherwise deal with contracts and agreements for the use, lease, repair, maintenance or regulation of parking, utility and drainage, and any amenities including, without limitation recreational facilities or areas which may or may not be a part of the project for the benefit of the Owners and/or the Association.

10.2.2 Easements. The right to grant additional easements for the use, repair, or maintenance of drainage facilities or utilities, within the Real Estate.

10.2.3 Other Rights. The right to exercise any additional reserved right created by any other provision of this Declaration, including but not limited to, the right to appoint members of the Design Review Committee pursuant to Article 7.

Section 10.3 Legal Description. These Special Declarant Rights and Additional Reserved rights apply to the Real Estate.

ARTICLE 11

RESERVATION OF DEVELOPMENT RIGHTS

Section 11.1 Development. In addition to the rights reserved by the Declarant in Article 9 and elsewhere in this Declaration, Declarant expressly reserves the right to, through the applicable Town Amendment process, and without opposition by current owners:

11.1.1 add additional unspecified real property to the Community (provided, however the area of such additional real property may not exceed ten percent of the total area of the Real Estate);

11.1.2 create additional Units and Common Elements (including Duplex Common Elements and Tri-plex Common Elements);

11.1.3 subdivide and reconfigure Lots owned by Declarant;

11.1.4 relocate boundaries between Units;

11.1.5 convert Units into Common Elements, and convert Common Elements into Units; and

11.1.6 withdraw any portion of the Real Estate from the Community.

Declarant may exercise its Development Rights on all or any portion of the Real Estate in whatever order of development Declarant, in its sole discretion, determines. Declarant expressly reserves the right to withdraw all or any portion of the Real Estate from the Community; provided, however, that no specific Lot may be withdrawn after such Lot has been conveyed to a purchaser. The property withdrawn from the Real Estate shall be subject to whatever easements, if any, are reasonably necessary for access to or operation of the Real Estate. Declarant shall prepare and Record whatever documents are necessary to evidence such easements and shall amend the Declaration and the Plat to include reference to the recorded easement.

Section 11.2 Amendment of the Declaration. If Declarant elects to exercise any rights described in Section 11.1 above, the Allocated Interests appurtenant to each Unit will be apportioned according to the total number of Units subject to the Declaration. Additionally, upon the creation of Units within the Duplex Lots or within the Tri-plex Lots, the Declaration shall record a Plat containing the legal descriptions for all Units within those Lots.

Section 11.3 Amendment of the Plat. Declarant shall have the right to amend the Plat if necessary to exercise a Development Right. Any amendment to the Plat shall conform to the requirements contained in this Declaration.

Section 11.4 Interpretation. Recording of amendments to the Declaration and Plat shall automatically:

11.4.1 Vest in each existing Owner the reallocated Allocated Interests appurtenant to his Unit; and

11.4.2 Vest in each existing Mortgagee a perfected security interest in the reallocated Allocated Interests appurtenant to the encumbered Unit. Upon the recording of Supplemental Declaration, the definitions used in this Declaration shall automatically be extended to encompass and to refer to the Units created.

Section 11.5 Rights Incidental to the Construction Easement. Declarant expressly reserves the right to perform construction work and to store materials in secure areas, within the Community, and the future right to control such work and repairs, and the right of access thereto, until its completion. All work may be performed by Declarant without the consent or approval of any Owner or Mortgagee. Declarant has such an easement through the Common Elements as may be reasonably

necessary for the purpose of discharging Declarant's obligations and exercising Declarant's reserved rights in this Declaration. Such easement includes the right to construct underground utility lines, pipes, wires, ducts, conduits, and other facilities across the land not designated as reserved for future development in the Declaration or on the Plat for the purpose of furnishing utility and other services to the property so reserved for future development. Declarant's reserved construction easement includes the right to grant easements to public utility companies and to convey improvements within those easements anywhere in the Common Elements. If Declarant grants any such easements, the Declaration and Plat will be amended to include reference to the recorded easement. All rights granted to the Declarant shall inure to Builders unless a Recorded instrument provides otherwise.

Section 11.6 Termination of Development Rights. The Development Rights reserved to Declarant, for itself, its successors and assigns, pursuant to this Article 11 shall expire upon the earlier of: seven (7) years from the date of recording this Declaration or the date the Declarant no longer owns any portion of the Real Estate; 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 these rights by Declarant.

Section 11.7 Legal Description. These development rights apply to all portions of the Real Estate.

ARTICLE 12 AMENDMENT AND TERMINATION

Section 12.1 Technical, Clerical, Typographical or Clarification Amendment. If either the Declarant or the Executive Board shall determine that any amendments to this Declaration or to the Plat shall be necessary in order to make non-material changes, such as for the correction of a technical, clerical or typographical error or clarification of a statement, then, subject to the following sentence of this Section, the Declarant shall have the right and power to make and execute any such amendment until the Turnover Date, and thereafter the Executive Board shall have the right and power to make and execute any such amendments, without obtaining the approval of any Owners. Each such amendment of this Declaration shall be made, if at all, prior to the expiration of seven (7) years from the date this Declaration is recorded.

Section 12.2 Necessary to Exercise Authority of Association Documents. In addition to the rights granted to the Declarant to execute amendments to this Declaration, the Executive Board shall have the authority to execute amendments to this Declaration or to the Plat which are reasonably necessary in order to perform duties authorized by this Declaration.

Section 12.3 Attorney in Fact. In furtherance of the foregoing, a power coupled with an interest is hereby reserved and granted to the Executive Board to make or consent to an amendment under this Article 12 on behalf of each Owner and holder of a Mortgage. Each deed, Mortgage, other evidence of obligation or other instrument affecting a Unit and the acceptance thereof shall be

deemed to be a grant and acknowledgment of, and a consent to the reservation of, the power of the Executive Board to make, execute and record an amendment under this Section.

Section 12.4 Amendment of Declaration by Owners. Except as otherwise provided in this Declaration, and subject to provisions elsewhere contained in this Declaration requiring the consent of others, any provision, covenant, condition, restriction or equitable servitude contained in this Declaration may be changed or repealed, and any such provision added to this Declaration at any time and from time to time upon approval of the Executive Board and at least fifty-one percent (51%) of the votes in the Association as calculated pursuant to Article 13.

Section 12.5 Amendment Required by Mortgage Agencies. Prior to seven (7) years after recording of this Declaration, any provision, covenant, condition, restriction or equitable servitude contained in this Declaration which the FHA, VA, FHLMC, GNMA, FNMA or any similar entity authorized to issue, guarantee, make or purchase mortgage loans requires to be amended or repealed by Declarant or the Association. Any such amendment or repeal shall be effective when a certificate setting forth the amendment or repeal is Recorded.

Section 12.6 Recording of Supplemental Declarations. To be effective, all amendments to or termination of this Declaration must be recorded, and must contain evidence of approval thereof. One method of satisfying the requirements of this Section is the recordation of a certificate of the Secretary of the Association, certifying that Owners representing the requisite percentage of the Units have given their written consent to the amendment. The Secretary shall further certify that originals of such written consent by Owners along with the recorded amendment are in the corporate records of the Association and available for inspection. No action to challenge the validity of an amendment adopted by the Association pursuant to this Section may be brought more than one (1) year after the amendment is recorded.

Section 12.7 Unanimous Consent Required for Certain Amendments. Except as otherwise provided in this Declaration, no amendment may create or increase Special Declarant Rights or change the formulas for determining Allocated Interests as set forth in Section 13.1 below, in the absence of unanimous consent of the Owners.

Section 12.8 Expenses. All expenses associated with preparing and recording an amendment to the Declaration shall be the sole responsibility of:

- (1) In the case of an amendment pursuant to reallocation of Allocated Interests, recordation of new plats and maps, and exercise of Development Rights, the Declarant; and
- (2) In all other cases, by the Association as a Common Expense.

Section 12.9 Termination. The Community may be terminated upon an affirmative vote of the Owners holding 90% of the Allocated Interests.

ARTICLE 13

ALLOCATED INTERESTS

Section 13.1 Formula for Determining Allocated Interests. The Common Expenses and the votes in the Association shall be allocated to each Unit, calculated as follows:

Section 13.1.1 Common Expense Liability: on the basis of a fraction, the numerator is one and the denominator is the total number of Units within the Community (for purposes of this Article, Duplex Units shall be counted as two Units and Triplex Units shall be counted as three Units); and

Section 13.1.2 Voting Interest: the number of votes in the Association: on the basis of one Unit, one vote; cast in accordance with the provisions of the Bylaws of the Association Community (for purposes of this Article, Duplex Units shall be counted as two Units and Triplex Units shall be counted as three Units).

Section 13.2 Reallocation. When Units are withdrawn from, or added to, the Community, pursuant to the provisions of this Declaration, the formula set forth in Section 13.1 above shall be used to reallocate the Allocated Interests.

ARTICLE 14

INSURANCE/CONDEMNATION

Section 14.1 Insurance Coverage. The Association shall obtain and maintain in full force and effect to the extent reasonably available, and at all times, the insurance coverage set forth in this Article 12, and shall comply with C.R.S. §38-33.3-313 and all other provisions of the Act regarding insurance, as follows:

Section 14.2 Application of insurance proceeds and procedures of adjustment must be made pursuant to the Act.

Section 14.3 The Rules may include nondiscriminatory policies and procedures relating to the submittal of claims, responsibility for deductibles, and any other matters of claims adjustment.

Section 14.4 Any portion of the Common Interest Community for which insurance is required under the Act which is damaged or destroyed must be repaired or replaced promptly pursuant to, and as required by, the Act.

Section 14.5 The Association and the manager or managing agent, if any may obtain policies of fidelity insurance in amounts and under the circumstances prescribed by the Act.

Section 14.6 All insurance coverage shall be provided by financially responsible and able companies duly authorized to do business in the State of Colorado.

Section 14.7 All policies of insurance shall contain waivers of subrogation and waivers of any defense based on invalidity arising from any acts of an Owner and shall provide that such policies may not be canceled or modified without at least thirty (30) days prior written notice to all of the Owners and the Association.

Section 14.8 All liability insurance shall be carried in blanket form naming the Association, the Executive Board, the manager or managing agent, if any, the officers of the Association, the Declarant, Builders, and Owners as insureds, and shall be in limits which the Executive Board determines to be commercially reasonable.

Section 14.9 All costs and expenses borne by the Association in compliance with or as may be permitted by the Act, including, but not limited to, insurance premiums, and all costs and expenses borne by the Association in connection with insured and uninsured losses to persons or property within the Common Interest Community, repairs and replacement of insured and uninsured property, and claims settlement or adjustment shall be considered Common Expenses.

Section 14.10 Condemnation. Condemnation of all or any portion of the Real Estate shall be governed by applicable provisions of the Act.

ARTICLE 15 **MORTGAGEE PROVISIONS**

The following provisions are for the benefit of First Mortgagees. The provisions of this Article apply to both this Declaration and to the Bylaws, notwithstanding any other provisions contained therein; unless any provision is prohibited by, or conflicts with, the Act.

Section 15.1 Special FHLMC Provision. So long as required by the Federal Home Loan Mortgage Corporation, the following provisions apply in addition to and not in lieu of the foregoing. Unless at least Members representing at least 67% of the total Association vote entitled to be cast thereon consent, the Association shall not:

(1) by act or omission seek to abandon, partition, subdivide, encumber, sell, or transfer all or any portion of the real property comprising the Common Elements which the Association owns, directly or indirectly (the granting of easements for public utilities or other similar purposes consistent with the intended use of the Common Elements shall not be deemed a transfer within the meaning of this subsection);

(2) change the method of determining the obligations, Assessments, dues, or other charges which may be levied against an Owner (Any action, including contracts, by the Executive Board shall not be subject to this provision if such action is otherwise authorized by this Declaration or the Bylaws);

(3) by act or omission change, waive, or abandon any scheme of regulations or enforcement pertaining to architectural design, exterior appearance or maintenance of Units and the Common Elements (the issuance and amendment of architectural standards, procedures, Rules, or use restrictions shall not constitute a change, waiver, or abandonment within the meaning of this provision); or

(4) fail to maintain insurance as required by this Declaration; or

First Mortgagees may, jointly or singly, pay charges which are in default and which may or have become a charge against the Common Elements may pay overdue premiums on liability insurance policies or secure new liability insurance coverage upon the lapse of an Association policy, and First Mortgagees making such payments shall be entitled to immediate reimbursement from the Association.

Section 15.2 Amendment by Executive Board. Should the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation subsequently delete any of their respective requirements which necessitate the provisions of this Article or make any such requirements less stringent, the Executive Board, without approval of the Owners, may record an amendment to this Article to reflect such changes.

Section 15.3 Failure of Mortgagee to Respond. Any Mortgagee who receives a written request from the Executive Board to respond to or consent to any action shall be deemed to have approved such action if the Association does not receive a written response from the Mortgagee within thirty (30) days of the date of the Association's request, provided such request is delivered to the Mortgagee by certified or registered mail, return receipt requested.

ARTICLE 16

GENERAL PROVISIONS

Section 16.1 Rights Transferable/Rights Transferred. Any rights created or reserved under this Declaration for the benefit of Declarant or Builders may be transferred to any person or persons by a Recorded instrument describing the rights transferred. Such instrument shall be executed by the transferor and the transferee.

Section 16.2 Attorneys' Fees. If an Owner or Related User fails to comply with any provision of the Governing Documents, the Association or any person or class of persons adversely affected by the failure to comply may require reimbursement for collection costs and reasonable attorney fees and costs incurred as a result of such failure to comply, without the necessity of commencing a legal proceeding. For each claim, including but not limited to counterclaims, cross-claims, and third-party claims, in any legal proceeding to enforce provisions of the Governing Documents, the court shall award to the party prevailing on such claim the prevailing party's reasonable collection costs and attorney fees and costs incurred in asserting or defending the claim.

Provided, however, in all instances the court shall award the Association its fees and costs incurred in recovering Assessments, pursuant to Section 6 above.

Section 16.3 Severability. Should any part or parts of the Declaration be declared invalid or unenforceable by any court of competent jurisdiction, such decisions shall not affect the validity of the remaining provisions.

Section 16.4 Paragraph Headings. The paragraph headings in this instrument are for convenience only and shall not be construed to be a part of the provisions contained herein or to limit the contents of any paragraph.

Section 16.5 Registration by Owner of Mailing Address and Notice. Each Owner shall register his mailing address with the Association. All notices or demands affecting this Community may be served upon an Owner by the Association or by other Owners by regular United States Mail, postage prepaid, addressed in the name of the Owner at such registered mailing address or by personal service. All notices or demands intended to be served upon the Association shall be sent by certified United States Mail, postage prepaid, return receipt requested, to the address of the Association as designated in the Articles of Incorporation and Bylaws of the Association or served by personal service on the Association's registered agent for service, or its President and Secretary.

Section 16.6 Gender. Whenever used herein, unless the context shall otherwise provide, the singular number shall include the plural, the plural the singular, and the use of any gender shall include all genders.

Section 16.7 Applicable Law. The proper jurisdiction and venue of any action pertaining to the interpretation or enforcement of this Declaration shall be in the District Court for Ouray County, Colorado.

Section 16.8 Binding Agreement. It is understood and agreed that this Declaration shall be binding upon and inure to the benefit of the successors, executors, administrators and assigns of the parties hereto.

Section 16.9 Reference to Ownership Interests. Whenever in the Governing Documents reference is made to a specific percentage interest of Owners, such reference shall be deemed to mean such percentage of the total aggregate Allocated Interests of such Owners, unless the context otherwise requires, and shall not be deemed to mean a percentage of Owners by number of individual persons, partnerships, corporations or other entities.

Section 16.10 Dedication of Common Elements. Declarant, in recording the Plat and this Declaration, has designated or may designate certain areas of land as Common Elements intended for the common use and enjoyment of Owners for recreation and other related activities. The Common Elements owned by the Association are not dedicated hereby for use by the general public..

Dated this 29 day of February, 2008.

MARSIM DEVELOPMENT, LLC.,
a Colorado limited liability company
By: Spencer Simmons, Manager
By: Michael J. Lynch
Michael J. Lynch, Attorney-in-Fact

STATE OF COLORADO)
) ss.
COUNTY OF SAN MIGUEL)

The foregoing instrument was acknowledged before me this 29 day of February, 2008,
by Michael J. Lynch, attorney-in-Fact for Spencer Simmons, Manager of MARSIM
DEVELOPMENT LLC a Colorado limited liability company.

Witness my hand and official seal.

My commission expires: 8/8/2011



Susan Heiskari
Notary Public

EXHIBIT A

INITIAL REAL ESTATE

Parkside Subdivision, situated in the SE1/4 Section 8 and in the SW1/4 Section 9, Township 45
North, Range 8 West, N.M.P.M., Town of Ridgway, County of Ouray, State of Colorado, and
further described in the final plat recorded at Reception No. 197315 Office of
Clerk & Recorder, Ouray County, Colorado.

EXHIBIT B

INITIAL COMMON ELEMENTS

None