

GRANTOR: PAR TERRE LLC

GRANTEE: THE PUBLIC

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# **CONDOMINIUM DECLARATION for RAVER CONDOMINIUM ADDITION TO THE TOWN OF JACKSON, WYOMING**

Upon recording, please return to:

**Christopher Hawks, P.C.  
P.O. Box 4430  
199 East Pearl Avenue, Suite 103  
Jackson, WY 83001**

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**CONDOMINIUM DECLARATION  
FOR  
RAVER CONDOMINIUM ADDITION  
TO THE TOWN OF JACKSON, WYOMING**

This Condominium Declaration for the Raver Condominium to the Town of Jackson, Wyoming is made this 25<sup>th</sup> day of June, 2015, by PAR TERRE LLC, a Wyoming limited liability company (the "Declarant"), pursuant to the Condominium Ownership Act, Wyoming statute § 34-20-101 et. seq., the "Act".

**ARTICLE I: PREAMBLE, RECITALS AND CERTAIN DEFINITIONS**

*PAR TERRE LLC, as the developer of the Raver Condominium Addition to the Town of Jackson, Wyoming has established this Declaration to provide a governance structure and a flexible system of standards and procedures for the overall development, administration, maintenance and preservation of the Raver Condominiums Addition to the Town of Jackson, Wyoming as a condominium community in the Town of Jackson, Wyoming.*

**ARTICLE II: CREATION OF THE COMMUNITY**

**Section 2.1 The Declarant; the Real Property.** The Declarant, together with its successors and assigns, including any person or entity acquiring all, but not less than all, of the interest of the Declarant in the Real Property, whether by purchase, or pursuant to foreclosure proceedings or otherwise, is the owner of that certain real property located in the Town of Jackson, County of Teton, and State of Wyoming, legally described as Lot 1 and Lot 2 Block 7 of the Third Karns Addition to the Town of Jackson of record in the of the Teton County Clerk as Plat No. 130, together with all buildings and improvements constructed or located thereon, and all rights, privileges, easements and appurtenances belonging to or in any way pertaining to said real property, the "Real Property".

**Section 2.2 Intention of Declarant.** Declarant intends to create a project and provide for condominium ownership of the Real Property under the Act.

**Section 2.3 The Project.** The term "Project" shall collectively mean the Real Property and the Building and other improvements located on the Real Property. The Project shall conform to the Town of Jackson Land Use Regulations and the Final Development Permit issued for the Project.

**Section 2.4 Type of Ownership.** This condominium project will provide a means for ownership in fee simple of separate interests in Units together with an undivided fee simple interest in the Common Elements and Limited Common Elements, as those terms are herein defined.

### **ARTICLE III ADDITIONAL DEFINITIONS**

The following terms shall have the following meaning when used herein, unless the context otherwise requires:

**Section 3.1 Association.** “Association” means Raver Condominiums Owners Association, a nonprofit mutual benefit corporation organized under Wyoming statute § 17-19-101 et. seq. All references herein to the “Board” shall mean the Board of Directors for the Association.

**Section 3.2 Association Bylaws.** “Association Bylaws” means the Raver Condominiums Owners Association Condominium Owners Association.

**Section 3.3 Building.** “Building” means the structure constructed or located on the Real Property pursuant to this Declaration.

**Section 3.4 Deed Restricted Unit.** “Deed Restricted Unit” means Units 1, 3, 5, 9 and 11 that have been made available to “Qualified Buyers” as determined by the Teton County Housing Authority (hereinafter “TCHA”) as a condition of the approval of the Raver Condominiums Addition to the Town of Jackson, Wyoming to further the Town of Jackson and Teton County’s goal to make realistically attainable housing by full-time working middle income residents of Teton County. These Unit Owners shall receive special consideration as necessary to maintain the affordability of the Deed Restricted Units as determined by Teton County and TCHA. For all purposes other than the deed restriction, a Deed Restricted Unit is a Residential Unit. The Deed Restricted Units are subject to the Declarant’s first right to designate Qualified Households for the Deed Restricted Units, as more fully described in the Special Restrictions and First Right to Designate for Employment-Based Housing Located at Units 1, 3, 5, 9 and 11 of the Raver Condominium Addition to the Town of Jackson to be recorded in the Teton County Clerk’s Office contemporaneously herewith.

**Section 3.5 Condominium.** “Condominium” means the condominium created by this Declaration.

**Section 3.6 Condominium Documents.** “Condominium Documents” means the Association Bylaws and this Declaration.

**Section 3.7 Condominium Plat.** “Condominium Plat” means the Condominium Plat of Raver Condominium Addition to the Town of Jackson recorded with the Teton County Clerk, consisting of a plat of the Real Property, showing a survey and legal description thereof, the location of the Building with respect to the boundaries of the Real Property, together with diagrammatic floor plans of the Building showing the boundaries of each Unit within the Building, including horizontal and vertical locations and dimensions of all boundaries of each Unit, Unit number identifying the Units and the General and Limited Common Elements, together with such other information as may be included therein in the discretion of the Declarant.

**Section 3.8 General Common Elements.** “General Common Elements” means the entire Project excepting all Residential Units. Without limiting the generality of the foregoing, the General Common Elements shall include (i) the driveway, the land, courtyards,; (ii) all appurtenances; (iii) all pipes, ducts, flues, chutes, conduits, wires and other utility installations to (but not at) the outlets; and (iv) such component parts of walls, floors, ceilings, and other structures and installations as are outside of the Unit boundaries as delineated or described on the Condominium Plat. Each owner shall own an undivided interest in the General Common Elements as a tenant in common with all the other owners of the Property, and, except as otherwise limited in this Declaration, shall have the right to use the General Common Elements for all purposes incident to the use and occupancy of his Unit which right shall be appurtenant to the Unit.

**Section 3.9 Limited Common Elements.** “Limited Common Elements” means those portions of the General Common Elements as described by Wyoming statute § 34-20-103 for the exclusive use of one or more but fewer than all of the Units, and any limited common elements specifically allocated to Units as shown on the Condominium Plat. Entryways, stairways and corridors are identified on the Plat with the letter “E” followed by the Unit number to which the entryway, stairway or corridor provides access. Entryways, stairways and corridors so designated on the Plat shall be Limited Common Elements exclusive to the Unit(s) for which they provide access. Decks are identified on the Plat with the Letter “D” followed by the Unit number to which the deck is appurtenant. Decks shall be Limited Common Elements exclusive to the Unit(s) to which they are appurtenant.

**Section 3.10 Mortgage.** “Mortgage” means any mortgage, deed of trust, or other security instrument by which a Unit or any part thereof is encumbered.

**Section 3.11 Mortgagee.** “Mortgagee” means any person or any successor to the interest of such person named as the mortgagee, trust beneficiary, or creditor under any Mortgage under which the interest of any Owner, or successor to the interest of such Owner, is encumbered.

**Section 3.12 Occupant.** Any person or persons in possession of a Unit, including Unit Owners, lessees, guests, agents, employees and invitees of such person or persons.

**Section 3.14 Owner.** “Owner” means any person or entity, including Declarant, at any time owning a Unit. The term “Owner” shall not refer to any Mortgagee, as herein defined, unless such Mortgagee has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure.

**Section 3.14 Parking Spaces.** “Parking Spaces” means the parking spaces located in those areas on the plat designated as Limited Common Area – Parking Spaces. These parking spaces are reserved by the Declarant until such time as the individual spaces shall be assigned to an owner of a Unit for his/her exclusive use. The Board may establish rules concerning the use of, and right to purchase the use of, the parking spaces with the exception of those parking spaces that will be assigned proportionately, as directed by Teton County Housing Authority in conjunction with The Fair Housing Act, to be utilized exclusively by the Owners of the Deed

Restricted Units. The Deed Restricted Units' parking space shall be restricted in perpetuity and not subject to sale, rental or lease agreements. Unit owners and occupants shall park only in those areas designated as "Parking" and assigned to their Unit. The Declarant shall by separate recorded instrument assign parking spaces to each Unit.

**Section 3.15 Residential Unit.** "Residential Unit" means each of the individually-owned Units designated on the Condominium Plat as Units 2, 4, 6, 8, 10, and 12, each of which shall be occupied and used by Unit Owners and Occupants for residential and residential rental purposes only, or such other uses permitted by applicable zoning ordinances.

**Section 3.16 Unit or Unit.** "Unit" or "Unit" shall mean those certain individual air spaces as designated and delineated on the Condominium Plat. Each Unit shall consist of that part of the Building as bounded by the interior surfaces of the perimeter walls, floors, ceilings, windows and window frames, doors and door frames, and trim, as shown and numbered on the Condominium Plat. The Unit shall include all lath, furring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, finished flooring and any other materials constituting any part of its finished surfaces and the exterior surfaces so described. All other portions of the walls, floors or ceilings (including common walls to separate Units) shall be a part of the Common Elements. In addition, each Unit shall include the following: (a) all spaces, nonbearing interior partitions, windows, window frames, exterior doors, door frames and all other fixtures and improvements within the boundaries of the Unit; (b) all outlets, lines and ducts of utility service lines, including but not limited to power, light, gas, hot and cold water, heating and waste disposal, within the boundaries of the Unit; and (c) all heating and hot water apparatus exclusively serving the Unit. The interior surfaces of a perimeter window or door means at the points at which such surfaces are located when such windows or doors are closed; the physical windows and doors themselves are part of the Common Element as herein defined.

#### **ARTICLE IV LIMITED COMMON ELEMENTS.**

**Section 4.1 Limited Common Elements.** The following shall constitute Limited Common Elements for the exclusive use of all Residential Units in the proportions set forth in Exhibit "A":

- (a) All of the decks, corridors and stairwells to the Residential Units.
- (b) All mechanical rooms and equipment, pipes, ducts, flues, chutes, conduits, wires and other utility installations or outlets, to the extent they serve only Residential Units.

**Section 4.2 Exclusive Limited Common Elements.** In addition, any Parking Space Individually owned or assigned as a special consideration shall pertain to the specific Unit or Units of the Owner(s) and shall constitute Limited Common Elements for the exclusive use of the Owner(s). Parking spaces assigned to the Deed Restricted Units will in perpetuity remain specifically assigned for the exclusive use of Owners of the Deed Restricted Units.

## **ARTICLE V STATEMENT OF INTENTION AND PURPOSE**

**Section 5.1 Declaration.** Declarant hereby declares that the Project and every part thereof is held and shall be held, conveyed, devised, leased, rented, encumbered, used, occupied, and improved and otherwise affected in any manner subject to the provisions of this Declaration, each and all of which provisions are hereby declared to be in furtherance of the general plans and scheme of condominium ownership referred to in Article I and are further declared to be for the benefit of the Project and every part thereof and for the benefit of each Owner. All provisions hereof shall be deemed to run with the land as covenants running with the land or as equitable servitudes as the case may be, and shall constitute benefits and burdens to the Declarant and its assigns and to all persons hereafter acquiring or owning any interest in the Project, however such interest may be obtained.

**Section 5.2 Reservation of Rights.** The rights reserved herein and in the Bylaws for the benefit of Declarant are as follows: to complete the improvements indicated on the Condominium Plat; to maintain signs advertising the Condominium; to use easements through the General Common Elements, to grant easements through the General Common Elements for the benefit of property and Units annexed into the Condominium and to elect, appoint or remove members of the Board until seventy-five percent (75%) of all existing Units are sold. The Declarant may annex additional property and Units to the Condominium at any time up to fifteen-years after the effective date of this Declaration. In connection with such annexation, the Declarant may grant temporary construction easements as necessary to accommodate construction of or on any annexed property.

## **ARTICLE VI NATURE AND INCIDENTS OF CONDOMINIUM OWNERSHIP**

**Section 6.1 Estates of an Owner.** The Project is hereby divided into Units, each consisting of a separate interest in a Unit and an undivided interest in common in the General and Limited Common Elements in accordance with the Condominium Plat which sets forth the General Common Elements appurtenant to each Unit. The percentage of ownership interest in the General Common Elements which is to be allocated to each Unit for purposes of taxes, assessments and other charges under Wyoming statute § 34-20-104(a) and for purposes of liability shall be the same as set forth on Exhibit "A". Such undivided interests in the General Common Elements are hereby declared to be appurtenant to the respective Units.

**Section 6.2 Right to Combine Units.** Declarant reserves the right to physically combine the area or space of one Unit with the area or space of one or more adjoining Units. Such combination shall not prevent separate ownership of such Units in the future. Declarant reserves the right to designate and convey to any purchaser of such combined Units as additional Limited Common Elements any walls, floors, or other structural separations between Units so combined, or any space which would be occupied by such structural separations but for the combination of the Units. Such structural separations and such space shall automatically become General Common Elements if the combined Units become subject to separate ownership in the future.

**Section 6.3 Title.** Title to a Unit may be held or owned by an entity and in any manner in which title to any other real property may be held or owned in the state of Wyoming.

**Section 6.4 Inseparability.** No part of a Unit or of the legal rights comprising ownership of a Unit may be separated from any other part thereof during the period of Condominium ownership prescribed herein, so that each Unit and the undivided interest in the General Common Elements shall always be conveyed, devised, encumbered, and otherwise affected only as a complete Unit. Every gift, devise, bequest, transfer, encumbrance, conveyance, or other disposition of a Unit or any part hereof shall be presumed to be a gift, devise, request, transfer, encumbrance, or conveyance, respectively, of the entire Unit, together with all appurtenant rights created by law or by this Declaration.

**Section 6.5 Partition Not Permitted.** The General Common Elements shall be owned in common by all owners of Units and no owner may bring any action for partition thereof.

**Section 6.6 Owner's Right to General Common Elements and Limited Common Elements.** Subject to the limitations contained in this Declaration, each Owner shall have the nonexclusive right to use and enjoy the General Common Elements and as applicable the Limited Common Elements. Each Owner shall have the exclusive right to use and enjoy the Exclusive Limited Common Elements designated herein for exclusive use by such Owner.

**Section 6.7 Taxes and Assessments.** Each Owner shall execute such instruments and take such actions as may reasonably be specified by the Association to obtain separate real property tax assessments of the interest of each Owner in each Unit. If any taxes or special district or other assessments may, in the opinion of the Association, nevertheless be a lien on the Project or any part thereof, the Association shall pay the same and assess the same to the Owner or Owners responsible therefore. Each Owner shall pay the taxes or assessments assessed against her/his Unit, or interest therein, or his/her interest in the General Common Elements or any part of any or all of the foregoing. Each Owner shall pay all taxes, rates, impositions, and assessments levied against the Project or any part of the General Common Elements in proportion to her/his interest in the General Common Elements, such payment to be made to the Association at least thirty (30) days prior to the delinquency of such tax or assessment. Each such unpaid tax or assessment shall bear interest at eighteen percent (18%) per annum from and after the time the same becomes payable by each Owner and shall be secured by the lien created by Section 11.6 hereof. Notwithstanding the foregoing, taxes, assessments, or other charges attributable to the General Common Elements shall be apportioned among the Owners of Units as provided in Article XI hereof.

**Section 6.8 Owner's Rights with Respect to Interiors.** Except as provided in Section 6.3(f), each Owner shall have the exclusive right to paint, repaint, tile, wax, paper, or otherwise maintain, refinish, and decorate the interior surfaces of the walls, ceilings, floors, doors and clean the exterior and interior surfaces of the windows, all of which form the boundaries of his/her Unit and all walls, ceilings, floors, and doors within such boundaries.

**Section 6.9 Easements for Encroachments.** If any part of the General Common Elements encroaches or shall hereinafter encroach upon a Unit or Units, an easement for such encroachment and for the maintenance of the same shall and does exist. If any part of a Unit encroaches or shall hereafter encroach upon the General Common Elements, or upon an adjoining Unit or Units, an easement for such encroachment and for the maintenance of the same shall and does exist. Such encroachments shall not be considered to be encumbrances either on the General Common Elements or the Units. Encroachments referred to herein are limited to encroachments caused by engineering errors, settling, rising, or shifting of the earth, or by changes in position caused by construction, repair or reconstruction of the Project or any part thereof in accordance with the original plans for the Project and any encroachment due to building overhang or projection.

**Section 6.10 Easements of Access for Repair, Maintenance, and Emergencies.** Some of the General Common Elements are or may be located within the Units or may be conveniently accessible only through the Units. The Owners of other Units shall have the irrevocable right, to be exercised by the Association as their agent, to have access to each Unit and to all General Common Elements from time to time during such reasonable hours as may be necessary for the maintenance, repair, or replacement of any of the General Common Elements located therein or accessible there from or for making emergency repairs therein necessary to prevent damage to the General Common Elements or to another Unit or Units. The Association shall also have such right independent of any agency relationship. The President of the Association and the Building Property Manager (if any) shall each have a master key to all Units for the purpose of gaining access to any Unit for repairs, maintenance and emergencies as provided herein. Damage to the interior of any part of a Unit or Units resulting from the maintenance, repair, emergency repair, or replacement of any of the General Common Elements or as a result of emergency repairs within another Unit at the instance of the Association or of Owners shall be an expense of the Association; provided, however, that if such damage is the result of negligence of the Owner of a Unit, then such Owner shall be financially responsible for all of such damage. Amounts owing by Owners pursuant hereto shall be collected by the Association by assessment pursuant to Article XI below.

**Section 6.11 Owner's Right to Ingress and Egress and Support.** Each Owner shall have the right to ingress and egress over, upon, and across the General Common Elements necessary for access to her/his Unit and to the Limited Common Elements designated for use in connection with his/her Unit, and shall have the right to the horizontal and lateral support of her/his Unit, and such rights shall be appurtenant to and pass with the title to each Unit.

**Section 6.12 Association's Right to Use of General Common Elements.** The Association shall have a nonexclusive easement to make such use of the General Common Elements as may be necessary or appropriate to perform the duties and functions which it is obligated or permitted to perform pursuant to this Declaration, including the right to construct and maintain in the General Common Elements maintenance and storage facilities for use by the Association

**Section 6.13 Easements and Utilities.** In order to adequately serve each Unit and the General and Limited Common Elements utility facilities may be constructed and may encroach

on the General Common Elements or the Units. An easement for such encroachment and for the maintenance of the same shall and does exist.

**Section 6.14 Declarant's Right Incident To Construction.** Declarant, and persons it shall select, shall have the right to ingress and egress over, upon, and across the General Common Elements, the right to store materials thereon and to make such other use thereof as may be reasonably necessary incident to complete development of the Project.

**Section 6.15 Easements Deemed Created.** All conveyances of Units hereafter made, whether by the Declarant or otherwise, shall be construed to grant and reserve such reciprocal easements as shall give effect to Sections 6.9, 6.10, 6.11, 6.12, 6.13 and 6.14 above, even though no specific reference to such easements or to those Sections appear in any such conveyance.

**Section 6.16 Parking Spaces.** Each Unit Owner shall be entitled to the use of the Parking Spaces marked "Parking" on the Plat and as determined by the Declarant. A Unit Owner, with the exception of Owner's of Deed Restricted Units, may transfer, assign or sublease his/her Parking Space to another Unit Owner.

**Section 6.17 Domestic Animals.** Except as specifically permitted below, no animals, reptiles, primates, fish, fowl or insects of any kind shall be kept, raised, bred, maintained or boarded within or upon any part of the Units, General Common Elements or Limited Common Elements.

Notwithstanding the foregoing, each Unit shall be entitled to a maximum of no more than a total of two (2) dogs and/or cats and a reasonable number of other Household Pets (The term Household Pet(s) means generally recognized Household Pets such as dogs, cats, fish, birds, rodents, and non-poisonous reptiles), so long as such pets are not kept for any commercial purpose, are not kept in unreasonable numbers, do not cause an unreasonable amount of noise, odor, or do not otherwise become a nuisance to other Owners. All Owners or Occupants with Household Pets shall keep the animals restrained and controlled on that Owner's or Occupant's Unit at all times so they do not cause a nuisance to others and do not harass or endanger wildlife. "Nuisance" means any noisy animal, any vicious animal, or any animal which chews, tears, digs in or scratches, litters or soils, destroys, or in any other manner injures clothing, garbage containers, gardens, flower beds, lawns, trees, shrubbery, or any other property within the Units, the General Common Elements or the Limited Common Elements. Excessive, continued, or untimely barking, molesting passersby, chasing vehicles, habitually attacking other animals, trespassing upon private property in such a manner as to damage property shall also be deemed a nuisance. "Noisy Animal" means any animal which habitually, constantly, or frequently disturbs the sleep, peace, or quiet of any person. The Board or its designee shall have the right to enter the property and remove any Noisy Animal or animal that is a Nuisance, as defined in this paragraph, and any such action shall not be deemed a trespass. In the event the Board removes such Nuisance or Noisy Animal, the animal shall be kennelled and the cost therefore shall be levied against the offending Owner as a Specific Assessment.

Food for Household Pets shall be stored in a secure area that cannot be accessed by bears or other wildlife.

No owner or custodian of any animal who is visiting or working on a Unit or the General Common Elements or Limited Common Elements shall be permitted to allow such animals to run free. Also, no pet or animal shall be restrained by leash, cord, chain, rope, or other attachment fixed to any vehicle, post, tree, or other structure or object within a Unit or the General Common Elements or Limited Common Elements thereby allowing such animal to become a nuisance or interfere with pedestrian or vehicular traffic in and around any public area within a Unit or the General Common Elements or Limited Common Elements. Contractors, sub-contractors and any other person providing services to an Owner may not bring dogs a Unit or the General Common Elements or Limited Common Elements.

The Owner of a Unit where a Household Pet is kept, as well as the legal owner of the pet (if not such Owner), shall be jointly and severally liable for any and all damage and destruction caused by the pet, and for any clean-up of General Common Elements, Limited Common Elements or other Unit necessitated by such pet.

The Association shall have, and is hereby given, the right and authority to determine in its sole discretion that Household Pets are being kept for commercial purposes, or are otherwise a nuisance to other Owners or Occupants, or that an Owner or Occupant is otherwise in violation of this Section, and to take such action or actions as it deems reasonably necessary to remedy the violation. Without limiting the generality of the foregoing, the Association may require the owner or custodian of a dog that barks or howls excessively, or of a Household Pet with other offensive habits, to confine such animal indoors. In the event that the Board shall determine that a pet has become a "nuisance pet", a written notice of violation shall be personally delivered to the owner or custodian of the nuisance pet, and if the nuisance pet is not removed from the Unit within seventy-two (72) hours thereafter, the Board shall have the right to remove the nuisance pet, or cause the nuisance pet to be removed and kennelled, at the sole expense of the Owner of the Unit on which the nuisance pet is boarded and to enter upon an Owner's Unit for such purpose, all without liability on the part of the Board. Any costs associated with responding to complaints of a nuisance pet may be levied against an Owner or Occupant as a Specific Assessment.

The Association shall have, and is hereby given, the right and authority to determine in its sole discretion that household pets are being kept in violation of this Declaration, or are otherwise a nuisance to other Owners, or that an Owner is otherwise in violation of this Section, and to take such action or actions as it deems reasonably necessary to remedy the violation. The Association may require an Owner, as its own expense, to remove a pet determined by the Association to be kept in violation of this Section and, upon failure of the Owner to do so, the Board or its designee shall have the right to enter the Unit and remove the nuisance pet and any such action shall not be deemed a trespass.

## **ARTICLE VII DESCRIPTION OF A UNIT**

Every contract for the sale of a Unit and every other instrument affecting title to a Unit may describe that Unit by the number shown on the Condominium Plat and this Declaration as each appears on the records in the Office of the Teton County Clerk, in the following fashion:

Unit \_\_\_\_\_ as shown on the Plat of the Raver Condominium Addition to the Town of Jackson, Wyoming, appearing in the Records in the Office of the Teton County Clerk as Plat No. \_\_\_\_\_ as defined and described in that Condominium Declaration for Raver Condominiums Addition to the Town of Jackson recorded in the Records in the Office of the Teton County Clerk in Book \_\_\_\_\_ of Photo at Pages \_\_\_\_\_ to \_\_\_\_\_.

Such description will be construed to describe the Unit, together with the appurtenant undivided interest in the General Common Elements and to incorporate all the rights incident to ownership of a Unit and all the limitations on such ownership as described in this Declaration.

#### **ARTICLE VIII MECHANIC'S LIEN RIGHTS.**

No labor performed or services or materials furnished with the consent of or at the request of an Owner or his/her agent or her/his contractor or subcontractor shall be the basis for the filing of a lien against the Unit of any other Owner, or against any part thereof, or against any other property of any other Owner, unless such other Owner has expressly consented to or requested the performance of such labor or furnishing of such materials or services. Such express consent shall be deemed to have been given by the Owner of any Unit in the case of emergency repairs thereto. Labor performed or services of materials furnished for the Project or any portion thereof, if duly authorized by the Association, shall be deemed to be performed or furnished with the express consent of each Owner of that portion of the Project. Any Owner may remove his/her Unit from a lien against two or more Units or any part thereof by payment to the holder of the lien of the fraction of the total sum secured by such lien which is attributable to her/his Unit.

#### **ARTICLE IX THE ASSOCIATION.**

**Section 9.1 Membership.** Every Owner shall be entitled and required to be a member of the Association. If title to a Unit is held by more than one person, the membership related to that Unit shall be shared by all such persons in the same proportionate interests and by the same type of tenancy in which the title to the Unit is held. An Owner shall be entitled to one membership for each Unit owned by him. No person or entity other than an Owner may be a member of the Association, and the Association Bylaws always shall so state and shall in addition state that the memberships in the Association may not be transferred except in connection with the transfer of a Unit. Provided, however, that the rights of membership may be assigned to a Mortgagee as further security for a loan secured by a lien on a Unit. The Declarant hereby reserves the right to appoint all members of the Board of Directors of until 85% of the Units have been sold to an Owner not affiliated with the Declarant.

**Section 9.2 Voting Rights.** A Unit Owner (including Owners of a Deed Restricted Unit) shall be entitled to one vote on all matters upon which the Owner of that Unit is entitled to vote.

**Section 9.3 Transfer.** Except as otherwise expressly stated herein, any of the rights, interests, and obligations of the Association set forth herein or reserved herein may be

transferred or assigned to any other person or entity; provided, however, that no such transfer or assignment shall relieve the Association of any of the obligations set forth herein. Any such transfer or assignment shall not revoke or change any of the rights or obligations of any Owners as set forth herein.

**Section 9.4 Amplification.** The provisions of this Article are amplified by the Association Bylaws; provided, however, that no present or future provision of such Bylaws shall substantially alter or amend any of the rights or obligations of the Owners set forth herein.

## **ARTICLE X CERTAIN RIGHTS AND OBLIGATIONS OF THE ASSOCIATION.**

**Section 10.1 The Management Body.** The Association shall administer the Project in accordance with the Act, the Association Bylaws, the Plat and the provisions of this Declaration.

**Section 10.2 Adoption of Bylaws.** Upon the execution and the filing of this Declaration, the Declarant shall adopt the Association's Bylaws.

**Section 10.3 The General Common Elements.** The Association, subject to the rights of the Owners set forth in Article V hereof, shall be responsible for the exclusive management and control of the General Common Elements, including Limited Common Elements, and all improvements thereon (including furnishings and equipment related thereto), and shall keep the same in good, clean, attractive, and sanitary condition, order and repair; however, each Owner of a Unit shall keep the Limited Common Area designated for use in connection with his/her Unit in a clean, sanitary, and attractive condition, and shall maintain and repair the heating and air conditioning equipment and water heater servicing her/his Unit exclusively. The Association shall be responsible for the maintenance and repair of exterior surfaces of the Building and improvements located on the Project, including, without limitation, the painting of the same as often as necessary, the replacement of trim and caulking, the maintenance and repair of roofs, the maintenance and repair of other General Common Elements, including utility lines and all other improvements or materials located within or used in connection with the General Common Elements, except to the extent third parties are responsible for damage or repairs. The Association shall maintain in a proper, first class manner all landscaping and natural vegetation constituting part of the General Common Elements. The specification of duties of the Association with respect to a particular General Common Elements shall not be construed to limit its duties with respect to other General Common Elements as set forth in the first sentence in this Section. The cost of such management, maintenance, and repair by the Association shall be borne as provided in Article XI.

The Association shall have the right to grant easements for utility purposes over, upon, across, under, or through any portion of the General Common Elements and each Owner hereby irrevocably appoints the President of the Association as their attorney in fact for such purpose.

Although decks, stairways, entryways and corridors are designated on the Plat and herein as Limited Common Elements, the Association shall maintain all exterior decks, stairways, entryways and corridors as if they were General Common Elements.

**Section 10.4 Miscellaneous Services.** The Association may obtain and pay for the services of any person or entity to manage its affairs, or any part thereof, to the extent it deems advisable, as well as such other personnel as the Association shall determine to be necessary or desirable for the proper operation of the Project, whether such personnel are furnished or employed directly by the Association or by any person or entity with whom or which it contracts. The Association may obtain and pay for legal and accounting services necessary or desirable in connection with the operation of the Project or the enforcement of this Declaration. The Association may arrange with others to furnish electrical, water, sewer, trash collection services, and other common services to each Unit.

**Section 10.5 Personal Property for Common Use.** The Association may acquire and hold for the use and benefit of all the Owners tangible and intangible personal property and may dispose of the same by sale or otherwise, and the beneficial interest in any such property shall be deemed to be owned by the Owners in the same proportion as their respective interests in the General Common Elements. Such interest shall not be transferable except with the transfer of a Unit. A transfer of a Unit shall transfer to the transferee ownership of the transferor's beneficial interest in such property without any reference thereto. Each Owner may use such property in accordance with the purpose for which it is intended, without hindering or encroaching upon the lawful rights of other Owners. The transfer of title to a Unit under a foreclosure shall entitle the purchaser to the interest in such personal property associated with the foreclosed Unit.

**Section 10.6 Rules and Regulations.** The Association may make reasonable rules and regulations governing the use of the Units and of the General Common Elements, which rules and regulations shall be consistent with the rights and duties established in this Declaration. The Association may suspend any Owner's voting rights in the Association during any period or periods during which such Owner fails to comply with such rules and regulations or with any other obligations of such Owner under this Declaration. The Association may also take judicial action against any Owner to enforce compliance with such rules, regulations, or other obligations or to obtain damages for noncompliance, all to the extent permitted by law.

**Section 10.7 Implied Rights.** The Association may exercise any other right or privilege given to it expressly by this Declaration or the Association Bylaws, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

## **ARTICLE XI ASSESSMENTS**

**Section 11.1 Budgeting for Assessments.** At least sixty (60) days before the beginning of each fiscal year, the Board shall prepare a budget of the estimated Common Expenses for the coming year, including any contributions to be made to a reserve fund pursuant to Section 11.2. The budget shall also reflect the sources and estimated amounts of funds to cover such expenses, which may include any surplus to be applied from prior years, any income expected from sources other than assessments levied against the Units, and the amount to be generated through the levy of periodic assessments.

The Association is hereby authorized to levy periodic assessments pro-rata against all Units subject to assessment under this Article to fund the Common Expenses. In determining the periodic assessment rate per Unit, the Board may consider any assessment income expected to be generated from any additional Units reasonably anticipated becoming subject to assessment during the fiscal year.

The Board shall send a copy of the final budget, together with notice of the amount of the periodic assessment to be levied pursuant to such budget, to each Owner not less than forty-five (45) nor more than sixty (60) days prior to the effective date of such budget; provided, however, if the periodic assessment is increased from the previous year's assessment, the Board shall send notice of the increase by first class mail to the Owners not less than thirty (30) nor more than sixty (60) days prior to the increased Base Assessment becoming due. Such budget and assessment shall automatically become effective unless objected to in writing by an Owner within 10 days of the effective date of the budget.

Failure of the members to approve a budget or failure of the Board to fix assessment amounts or rates or to deliver or mail each Owner an assessment notice shall not be deemed a waiver, modification, or a release of any Owner from the obligation to pay assessments. In such event, each Owner shall continue to pay assessments on the same basis as for the last year for which an assessment was made, if any, until a new assessment is made, at which time the Association may retroactively assess any shortfalls in collections.

The Board may revise the budget and adjust the periodic assessment from time to time during the year, subject to the notice requirements and the limitations on increases of assessments provided for herein.

**Section 11.2 Budgeting for Reserves.** The Board shall prepare and review at least annually a reserve budget for capital expenses of the Association. The budget shall take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost. The Board shall include in the Common Expense budget adopted pursuant to this Article, a capital contribution to fund reserves in an amount sufficient to meet the projected need with respect both to amount and timing by annual contributions over the budget period.

**Section 11.3 Agreement to Pay Assessment.** Declarant, for each Condominium owned by it within the Project, and for and as the Owner of the Project and every part thereof, hereby covenants, and each Owner of any Condominium by the acceptance of a deed therefore, whether or not it be so expressed in the deed, shall be deemed to covenant and agree with each other and with the Association to pay to the Association periodic assessments made by the Association for the purposes provided in this Declaration, and special assessments for capital improvements and other matters as provided in this Declaration. Such assessments shall be fixed, established, and collected from time to time in the manner provided in this Article.

**Section 11.4 Amount of Total Periodic Assessments.** The total periodic assessments against all Units shall be based upon advance estimates of cash requirements by the Association to provide for the payment of all estimated expenses growing out of or connected with the

maintenance and operation of the General Common Elements or furnishing electrical, water, sewer, and trash collection services, and other common services to each Unit, to the extent not separately metered and/or billed to a specific Unit, which estimates may include, among other things, expenses of management; taxes and special assessments, until the Units are separately assessed as provided herein; premiums for all insurance which the Association is required or permitted to maintain pursuant hereto; landscaping and care of grounds; common lighting and heating; water charges; trash collection; sewer service charges; repairs and maintenance; wages for Association employees (if any); legal and accounting fees; any deficit remaining from a previous period; the creation of a reasonable contingency reserve, surplus and/or sinking funds; and any other expenses and liabilities which may be incurred by the Association for the benefit of the Owners under or by reason of this Declaration.

**Section 11.5 Apportionment of Periodic Assessments.** As each Unit is sold or occupied for residential use, the expenses attributable to the General Common Elements and to the Project as a whole, except as otherwise provided herein, shall be apportioned generally among all Owners in proportion to the interest in the General Common Elements owned by each Owner as set forth on Exhibit "A" hereof. Expenses identified in Exhibit "A" shall be apportioned between the Owners of Residential and Commercial Units as set forth in Exhibit "A." The expenses of the General Common Elements and the Project not included in Exhibit "A" shall be charged to the Owners as follows:

(a) **Residential Units.** All maintenance, repair, replacement and furnishing of the Limited Common Area and all common utilities and services rendered to Residential Units and to Limited Common Elements pertaining to Residential Units, to the extent the same can be reasonably allocated to the Residential Units, shall be apportioned to each Residential Unit in proportion to the interest of the particular Residential Unit in the Limited Common Elements, as set forth in Exhibit "A". All general/administrative expenses, including management fees, supplies and office services and legal and accounting expenses and all common expenses not otherwise provided for, including the costs of maintaining the General Common Elements and all common utilities and services which cannot be reasonably allocated to either Residential Units, shall be apportioned to the Owner of each Unit in proportion to the interest of the particular Unit in the General Common Elements as set forth in Exhibit "A".

If any Owner or Owners require the Association to incur any expense in excess of the average cost of such expense for Residential Units, then any such expense in excess of the average cost shall be allocated to such Owner or Owners and the average cost shall be apportioned as provided herein.

**Section 11.6 Notice of Periodic Assessments and Time for Payment Thereof.** The Association shall make periodic assessments, which assessments shall be annually, quarterly, or monthly as the Association shall from time to time determine. The Association may, in its discretion, allow assessments to be given to each Owner, which notice shall specify the amount of assessment and the date or dates of payment of the same. No payment shall be due less than thirty (30) days after written notice has been given. Each periodic assessment shall bear interest at the rate of eighteen percent (18%) per annum from the date it becomes due and payable if not paid within thirty (30) days after such date. In addition, a late charge of five percent (5%) of any

assessment past due shall be paid to the Association as a penalty and in order to defray costs of collection. Such late charge shall be due and payable on the fourteenth day after any such assessment is due. Failure of the Association to give written notice of the assessment shall not affect the liability of the Owner of any Unit for such assessment, but the date when payment shall become due in such case shall be deferred to a date thirty (30) days after such notice shall have been given.

**Section 11.7 Special Assessments.** In addition to the annual assessments authorized by this Article, the Association may levy once per quarter a special assessment payable over such period as the Association may determine but no less than 30 days for the Deed Restricted Units, for the purpose of defraying in whole or in part the cost of any construction or reconstruction, unexpected repair or replacement of the Project or any part thereof, or for any other expense incurred or to be incurred as provided in this Declaration. This Section shall not be construed as an independent source of authority for the Association to incur expenses, but shall be construed to prescribe the manner of assessing for expenses authorized by other Sections hereof which shall make specific reference to this Article. Any amounts assessed pursuant hereto shall be assessed to Owners in the same manner as provided in Section 11.3 of this Article. Notice in writing of the amount of such special assessments and the time for payment thereof shall be given promptly to the Owners, and no payment shall be due less than thirty (30) days after such notice shall have been given. The Association shall have the power to incur expenses for maintenance and repair of any Unit, if such maintenance and repair is necessary, in the opinion of the Board of Directors of the Association to protect the General Common Elements or any other portion of the Project, and if the Owner or Owners of said Unit have failed or refused to perform said maintenance or repair within a reasonable time after written notice of the necessity of said maintenance or repair has been delivered by the Board to said Owner or Owners. The Board shall levy a special assessment against the Owner or Owners of any such Unit to pay for the cost of such maintenance and repair, and any other costs or expenses arising out of or incident to such maintenance and repair, and the assessment therefore. A special assessment shall bear interest at the rate of eighteen percent (18%) per annum from the date it becomes due and payable if not paid within thirty (30) days after such date.

**Section 11.8 Specific Assessments.** The Association shall have the power to levy Specific Assessments against a particular Unit as follows:

(a) To cover the costs, including overhead and administrative costs including property loss insurance, and costs of providing services to a Unit upon request of an Owner pursuant to any menu of special services which may be offered by the Association. Specific Assessments for special services may be levied in advance of the provision of the requested service; and

(b) To cover costs incurred in bringing a nonconforming Unit into compliance with this Declaration, or costs incurred as a consequence of the conduct of the Owner or occupants of a nonconforming Unit, their agents, contractors, employees, licensees, invitees, or guests.

**Section 11.9 Lien for Assessments.** All sums assessed to any Unit pursuant to this Article, together with interest thereon as provided herein, shall be secured by a lien on such Unit in favor of the Association upon recordation of a notice of assessment as herein provided. Such lien shall be superior to all other liens and encumbrances on such Unit except for: (a) valid tax and special assessment liens on the Unit in favor of any governmental assessing authority; and (b) labor or materialmen's liens, to the extent allowed by law. The secured party under a valid first Mortgage, duly recorded with the Office of the Teton County Clerk as to a Unit, shall be entitled to cure a default in payment of assessments by paying all past due assessments which accrued no more than six (6) months prior to the date that such secured party was first notified by mail of such Unit owner's failure to pay assessments past due. In the event of foreclosure on any such first Mortgage, the holder thereof shall take the Unit interest subject to all unpaid assessments, except to the extent that such liability has been limited by exercise of the cure option set forth in the immediately preceding sentence. All other lienholders acquiring liens on any Unit after this Declaration shall have been recorded in said records shall be deemed to consent that such liens shall be inferior liens to future liens for assessments as provided herein, whether or not such consent be specifically set forth in the instruments creating such liens.

To create a lien for sums assessed pursuant to this Article, the Association may prepare a written notice of assessment setting forth the amount of the assessment, the date due, the amount remaining unpaid, the name of the record owner of the Unit, and a description of the Unit. Such notice shall be signed by the Association and may be recorded in the Office of the Teton County Clerk. No notice of assessment shall be recorded until there is a delinquency in payment of the assessment. Such lien may be enforced by sale by the Association after failure of the Owner to pay such assessment in accordance with its terms, such sale to be conducted in the manner permitted by law in Wyoming for the foreclosure of liens against real estate or in any other manner permitted by law. In any instance where a lien for nonpayment of assessments is against the Deed Restricted Units, the Teton County Housing Authority shall be given written notice of the lien and shall be granted a 30 day right of first refusal to purchase the Deed Restricted Units commencing immediately prior to the Association initiating any action to foreclose the lien. In any such foreclosure as to all other Units, the Owner shall be required to pay the costs and expenses of such proceeding, the costs and expenses of filing the notice of assessment, and all reasonable attorneys' fees. As to the Deed Restricted Units, the Teton County Housing Authority if they should acquire the Unit shall be required to pay the costs and expenses of such proceeding, the costs and expenses of filing the notice of assessment, and all reasonable attorneys' fees. All such costs and expenses shall be secured by the lien being foreclosed as to all Units. The Owner shall also be required to pay to the Association any assessments against the Unit which shall become due prior to commencement of foreclosure and during the period of foreclosure. The Association shall have the right and power to bid at the foreclosure sale or other legal sale and to acquire, hold, convey, lease, rent, encumber, use, and otherwise deal with the same as the Owner thereof.

A further notice stating the satisfaction and release of any such lien shall be executed by the Association and recorded with the Office of the Teton County Clerk upon payment of all sums secured by a lien that has been made the subject of a recorded notice of assessment.

Any encumbrancor holding a lien on a Unit may pay, but shall not be required to pay, any amounts secured by the lien created by this Section, and upon such payment such encumbrancor shall be subrogated to all rights of the Association with respect to such lien, including priority.

**Section 11.10 Personal Obligation of Owner.** The amount of any periodic or special assessment against any Unit shall be the personal obligation of the Owner thereof to the Association. Suit to recover a money judgment for such personal obligation shall be maintainable by the Association without foreclosure or waiver of the lien securing the same. No Owner may avoid or diminish such personal obligation by waiver of the use and enjoyment of any of the General Common Elements or by abandonment of his/her Unit.

**Section 11.11 Statement of Account.** Upon payment of a reasonable fee and upon twenty (20) days written request of any Owner or any Mortgagee, prospective Mortgagee or prospective purchaser of a Unit, the Association shall issue a written statement setting forth the amount of the unpaid assessments, if any, with respect to such Unit, the amount of the current periodic assessment and the date that such assessment becomes or became due, credit for advanced payments or prepaid items, including, but not limited to, an Owner's share of prepaid insurance premiums, which statement shall be conclusive upon the Association in favor of persons who rely thereon in good faith. Unless such request for a statement of account shall be complied with within twenty (20) days, all unpaid assessments which became due prior to the date of making such request shall be subordinate to the lien of a Mortgagee which acquired its interest subsequent to requesting such statement. Where a prospective purchaser makes such request, both the lien for such unpaid assessments and the personal obligation of the purchaser shall be released automatically if the statement is not furnished within the twenty-day period provided herein.

**Section 11.12 Personal Liability of Purchaser for Assessments.** Subject to the provisions of Section 11.8, a purchaser of a Unit shall be jointly and severally liable with the seller for all unpaid assessments against the Unit up to the time of the grant or conveyance, without prejudice to the purchaser's right to recover from the seller the amount paid by the purchaser for such assessments.

## **ARTICLE XII INSURANCE**

**Section 12.1 Types of Insurance.** The Association shall obtain and keep in full force and effect at all times the following insurance coverage provided by companies duly authorized to do business in Wyoming. The provisions of this Article shall not be construed to limit the power or authority of the Association to obtain and maintain insurance coverage, in addition to any insurance coverage required hereunder, in such amounts and in such forms as the Association may deem appropriate from time to time. In order to facilitate the providing and maintaining of adequate and proper insurance, it is contemplated that Declarant may contract for blanket insurance coverage covering the Project as contemplated by this Article prior to or concurrently with the first conveyance of a Unit and any obligations or commitments for the payment of premiums or expenses otherwise incurred by Declarant under any such blanket policy or coverage, whether or not the same is also a personal obligation of the purchaser or purchasers of any Unit, shall become an obligation of the Association and shall be paid for out of

Association funds.

(a) **Casualty Insurance.** A policy or policies of insurance covering loss or damage from fire, with extended coverage endorsement, and such other coverages such as flooding and earthquake, which the Association may deem desirable, for not less than the full insurable replacement value of the Units and General Common Elements. Such policy or policies shall name Declarant, the Association and the Unit Owners as insureds, as their interest may appear, and shall provide for a separate loss payable endorsement in favor of the mortgagee or mortgagees of each Unit, if any.

(b) **Public Liability and Property Damage Insurance.** A policy or policies insuring the Declarant, the Association, the board of directors, the Unit Owners and the managing agent, against liability to the public or to the Owners of Units and of the General Common Elements, and their invitees or tenants, incident to the ownership or use of the Project. There may be excluded from such policy or policies coverage of a Unit Owner (other than as a member of the Association or board of directors) for liability arising out of acts or omission of such Unit Owner and liability incident to the ownership and/or use of the part of the Project as to which such Unit Owner has the exclusive use or occupancy. Limits of liability under such insurance shall not be less than One Million Dollars (\$1,000,000) on a combined single limit basis. Such policy or policies shall be issued on a comprehensive liability basis and shall provide cross liability endorsement wherein the rights of named insured under the policy or policies shall not be prejudiced as respects his, her or their action against another named insured.

(c) **Workmen's Compensation and Employer's Liability Insurance.** The Association shall purchase workmen's compensation and employer's liability insurance and all other similar insurance in respect of employees of the Association or require any management company of the Association to maintain such coverage all in the amounts and in the forms now or hereafter required by law.

(d) **Other.** The Association may obtain insurance against such other risks, of a similar or dissimilar nature, as it shall deem appropriate with respect to the Project, including any personal property of the Association located thereon.

(e) **FNMA, FHLMC and GNMA Requirements.** Notwithstanding any other provisions of this Article, the Association shall continuously maintain in effect such casualty, flood and liability insurance and a fidelity bond meeting the insurance and fidelity requirements for condominium projects established by Federal National Mortgage Association, Federal Home Loan Mortgage Corporation and Government National Mortgage Association, so long as any are a mortgagee or Owner of a Unit within the Project, except to the extent such coverage is not available or has been waived in writing by Federal National Mortgage Association, Federal Home Loan Mortgage Corporation or Government National Mortgage Association.

**Section 12.2 Casualty and Public Liability Insurance.** The Association may in its discretion obtain casualty and public liability insurance coverage in amounts it may select with respect to an Owner's activities within each individual Unit and for activities of the Owner, not

acting by the Association, with respect to the General Common Elements.

**Section 12.3 Form.** Casualty insurance shall be carried in a form or forms naming the Association the insured as trustee for the Owners and which policy or policies shall provide a standard loss payable clause providing for payment of insurance proceeds to the Association as trustee for the Owners and for the respective first Mortgagees which from time to time shall give notice to the Association of such first Mortgages, such proceeds to be used in accordance with this Declaration. The Association shall furnish in a timely manner to each Owner who requests it and to Declarant a true copy of such policy. All policies of insurance shall provide for a waiver of subrogation by the insurer as to claims against the Association, the Board, employees, and agents and against each Owner and each Owner's employees, agents, and guests and shall provide that the insurance cannot be canceled, invalidated, or suspended on account of the conduct of the Association, the Board, employees, and agents or of any Owner or such Owner's employees, agents, or guests, and shall provide that any "no other insurance" clause in the insurance policy shall exclude any policies of insurance maintained by any Owner or Mortgagee and that the insurance policy shall not be brought into contribution with insurance maintained by any Owner or Mortgagee.

Public liability and property damage insurance shall name the Association as the insured, as trustee for the Owners, and shall protect each Owner against liability for acts of the Association in connection with the ownership, operation, maintenance, or other use of the Project.

**Section 12.4 Owner's Responsibility.** Each Owner shall be responsible for obtaining casualty and public liability insurance coverage within each individual Unit for activities of the Owner, not acting by the Association, with respect to the General Common Elements, unless the Association pursuant to Section 12.2 hereof elects to arrange for such insurance, and regardless of the Association's election, insurance coverage against loss from theft on all personal property and insurance coverage on items of personal property placed in the Unit by Owner, shall be the responsibility of Owners. Notwithstanding the provisions of Sections 12.1 and 12.2 hereof, each Owner shall be responsible for the deductible on any casualty and public liability insurance coverage for any loss or claim arising from his/her Unit.

**Section 12.5 Insurance Proceeds.** The Association shall receive the proceeds of any casualty insurance payments received under policies obtained and maintained pursuant to this Article. The Association shall apportion the proceeds to the portions of the Project which have been damaged and shall determine the amount of the proceeds attributable to damage to the General Common Elements. To the extent that reconstruction is required herein, the proceeds shall be used for such purpose. To the extent that reconstruction is not required herein and there is a determination that the Project shall not be rebuilt, the proceeds shall be distributed in the same manner herein provided in the event of sale of obsolete Units, as set forth in Section 13.4. Each Owner and each Mortgagee shall be bound by the apportionments of damage and of the insurance proceeds made by the Association pursuant hereto.

**Section 12.6 Owner's Own Insurance.** Notwithstanding the provisions of Sections 12.1 and 12.2 hereof, each Owner shall obtain insurance at her/his own expense providing

coverage upon his/her Unit, her/his personal property, for his/her personal liability, and covering such other risks as she/he may deem appropriate, but each such policy shall provide that it does not diminish the insurance carrier's coverage for liability arising under insurance policies which the Association obtains pursuant to this Article. All such insurance of the Owner's Unit shall waive the insurance company's right of subrogation against the Association, the other Owners, and the servants, agents, and guests of any of them, if such insurance can be obtained in the normal practice without additional premium charge for the waiver of rights of subrogation.

**Section 12.7 Actions Affecting Cost and Coverage of Insurance.** Nothing shall be done or kept in any Unit or in the General Common Elements which will increase the cost of insurance on the General Common Elements. No Owner shall permit anything to be done or kept in her/his Unit or in the General Common Elements which will result in cancellation of insurance on any Unit or any part of the General Common Elements.

### **ARTICLE XIII CASUALTY DAMAGE OR DESTRUCTION**

**Section 13.1 Affects Title.** Title to each Unit is hereby made subject to the terms and conditions hereof, which bind the Declarant and all subsequent Owners, whether or not it be so expressed in the deed by which any Owner acquires her/his Unit.

**Section 13.2 Association as Agent.** All of the Owners irrevocably constitute and appoint the Association their true and lawful attorney in fact in their name, place, and stead for the purpose of dealing with the Project upon its damage or destruction as hereinafter provided. Acceptance by any grantee of a deed from the Declarant or from any Owner shall constitute such appointment.

**Section 13.3 General Authority of Association.** As attorney in fact, the Association shall have full and complete authorization, right, and power to make, execute, and deliver any contract, deed, or other instrument with respect to the interest of a Unit Owner which may be necessary or appropriate to exercise the powers herein granted. Repair and reconstruction of the improvements as used in the succeeding subparagraphs mean restoring the Project to substantially the same vertical and horizontal boundaries as before. The proceeds of any insurance collected shall be available to the Association for the purpose of repair or reconstruction unless three fourths of the Owners and two thirds of all first Mortgagees agree not to rebuild in accordance with the provisions set forth hereinafter.

**Section 13.4 Estimate of Costs.** As soon as practicable after an event causing damage to, or destruction of, any part of the Project, the Association shall obtain estimates that it deems reliable and complete of the costs of repair or reconstruction of that part of the Project damaged or destroyed.

**Section 13.5 Repair or Reconstruction.** As soon as practicable after receiving these estimates, the Association shall diligently pursue to completion the repair or reconstruction of that part of the Project damaged or destroyed. The Association may take all necessary or appropriate action to effect repair or reconstruction, as attorney in fact for the Owners, and no consent or other action by any Owner shall be necessary in connection therewith. Such repair or

reconstruction shall be in accordance with the original plans and specifications of the Project or may be in accordance with any other plans and specifications the Owners representing an aggregate of three fourths or more of the voting rights (other than Declarant) of the Association and two thirds of all holders of First Mortgages may approve.

**Section 13.6 Funds for Reconstruction.** The proceeds of any insurance collected shall be available to the Association for the purpose of repair or reconstruction. If the proceeds of the insurance are insufficient to pay the estimated or actual cost of such repair or reconstruction, the Association, pursuant to Article X hereof, may levy in advance a special assessment sufficient to provide funds to pay such estimated or actual costs of repair or reconstruction. Such assessment shall be allocated and collected as provided in that Article. Further levies may be made in like manner if the amounts collected prove insufficient to complete the repair or reconstruction.

**Section 13.7 Act of Neglect of Unit Owner.** If, due to the act or neglect of a Unit Owner, or a member of his/her family or her/his household pet or of a guest, tenant or other authorized occupant, customer, employee or visitor of such Unit Owner and which act or neglect is not covered by the Association's insurance, damage shall be caused to the General Common Elements or to a Unit owned by others, or maintenance, repairs or replacements shall be required which would otherwise be an expense of the General Common Elements, then such Unit Owner shall pay for such damage and such maintenance, repairs and replacements as may be determined by the Association's insurance.

**Section 13.8 Disbursement of Funds for Repair or Reconstruction.** The insurance proceeds held by the Association and the amounts received from the assessments provided for in Section 12.6 constitute a fund for the payment of cost of repair and reconstruction after casualty. It shall be deemed that the first money disbursed in payment for cost of repair or reconstruction shall be made from insurance proceeds. If there is a balance after payment of all costs of such repair or reconstruction, such balance shall be distributed to the Owners in proportion to the contributions by each Owner pursuant to the assessments by the Association under Section 12.6 of this Declaration.

**Section 13.9 Decision Not to Rebuild.** If three fourths of all Owners, (other than Declarant) and two thirds of all holders of first Mortgages on Units agree not to rebuild, as provided herein, the Project shall be sold and the proceeds distributed in the same manner herein provided in the event of sale of obsolete Units, as set forth in Section 13.4.

#### **ARTICLE XIV OBSOLESCENCE**

**Section 14.1 Adoption of a Plan.** Owners representing an aggregate of two thirds or more of the voting rights, (other than Declarant) of the Association may agree that the Project is obsolete and adopt a written plan for the renewal and reconstruction, which plan has the approval of two thirds of all first Mortgagees of record at the time of the adoption of such plan. Written notice of adoption of such a plan shall be given to all Owners. Such plan shall be recorded in Teton County, Wyoming, real estate records.

**Section 14.2 Payment for Renewal and Reconstruction.** The expense of renewal or reconstruction shall be payable by all of the Owners as assessments against their respective Units. These assessments shall be levied in advance pursuant to Article XI hereof and shall be allocated and collected as provided in that Article. Further levies may be made in like manner if the amounts collected prove insufficient to complete the renewal and reconstruction.

**Section 14.3 Sale of Obsolete Units.** The Owners representing an aggregate of three fourths, or more of the voting rights of the Association may agree that the Condominiums are obsolete and that the Project should be sold. Such an agreement must have the approval of two-thirds of all first Mortgagees of record at the time such agreement is made. In such instance, the Association shall forthwith record a notice setting forth such fact or facts, and upon the recording of such notice by the Association the Project shall be sold by the Association as attorney in fact for all of the Owners free and clear of the provisions contained in this Declaration, the Condominium Plat and the Association Bylaws. The sale proceeds shall be apportioned among the Owners in proportion to the respective appraised value of the Unit exclusive of the amounts paid for personal property, and such apportioned proceeds shall be paid into separate accounts, each such account representing one Unit. Each such account shall remain in the name of the Association, and shall be further identified by the Unit designation and the name of the Owner. From each separate account the Association, as attorney in fact, shall use and disburse the total amount of such accounts without contribution from one account to the other, first to Mortgagees and other lienors in the order of priority of their mortgages and other liens and the balance remaining to each respective Owner.

**Section 14.4 Deed Restricted Units.** The Deed Restricted Units are re-sale restricted in perpetuity. No sale, redevelopment or any other reconfiguring of the building shall negate the existence of the requirement for the Deed restricted Units.

**Section 14.5 Distribution of Excess Proceeds.** In the event amounts collected pursuant to Section 14.2 are in excess of the amounts required for renewal and reconstruction, the excess shall be returned to the Owners by the Association by a distribution to each Owner in an amount proportionate to the respective amount collected from each such Owner.

## **ARTICLE XV CONDEMNATION**

**Section 15.1 Consequences of Condemnation.** If at any time or times during the continuance of the condominium ownership pursuant to this Declaration, all or any part of the Project shall be taken or condemned by any public authority or sold or otherwise disposed of in lieu of or in avoidance thereof, the following provisions shall apply.

**Section 15.2 Proceeds.** All compensation, damages, or other proceeds there from, the sum of which is hereinafter called the "Condemnation Award," shall be payable to the Association.

**Section 15.3 Complete Taking.** In the event that the entire Project is taken or condemned, or sold or otherwise disposed of in lieu of or in avoidance thereof, the condominium ownership pursuant hereto shall terminate. The Condemnation Award shall be apportioned

among the Owners in proportion to the appraised value of the Unit exclusive of the amounts paid for personal property, provided that if a standard different from the value of the Project as a whole is employed to measure the Condemnation Award in the negotiation, judicial decree, or otherwise, then in determining such shares the same standard shall be employed to the extent it is relevant and applicable.

On the basis of the principle set forth in the last preceding paragraph, the Association shall as soon as practicable determine the share of the Condemnation Award to which each Owner is entitled. Such shares shall be paid into separate accounts and disbursed as soon as practicable in the same manner provided in Section 14.5 of this Declaration.

**Section 15.4 Partial Taking.** In the event that less than the entire Project is taken or condemned, or sold or otherwise disposed of in lieu of or in avoidance thereof, the condominium ownership hereunder shall not terminate. Each Owner shall be entitled to a share of the Condemnation Award to be determined in the following manner: As soon as practicable the Association shall, reasonably and in good faith, allocate the Condemnation Award between compensation, damages, or other proceeds, and shall apportion the amounts so allocated among the Owners as follows: (a) the total amount allocated to taking of or injury to the General Common Elements shall be apportioned among Owners in the same manner provided in Section 10.3 of this Declaration, (b) the total amount allocated to severance damages shall be apportioned to those Units which were not taken or condemned, (c) the respective amounts allocated to the taking of or injury to a particular Unit and/or improvements an Owner has made within her/his own Unit shall be apportioned to the particular Unit involved, and (d) the total amount allocated to consequential damages and any other takings or injuries shall be apportioned as the Association determines to be equitable in the circumstances. If an allocation of the Condemnation Award is already established in negotiation, judicial decree, or otherwise, then in allocating the Condemnation Award the Association shall employ such allocation to the extent it is relevant and applicable. Distribution of apportioned proceeds shall be made in the same manner provided in Section 14.5 of this Declaration.

**Section 15.5 Reorganization.** In the event a partial taking results in the taking of a complete Unit, the Owner thereof automatically shall cease to be a member of the Association. Thereafter the Association shall reallocate the Ownership, voting rights, and assessment ratio determined in accordance with this Declaration according to the same principles employed in this Declaration at its inception and shall submit such reallocation to the Owners of remaining Units for amendment of this Declaration as provided in Article XVI hereof.

**Section 15.6 Reconstruction and Repair.** Any reconstruction and repair necessitated by condemnation shall be governed by the procedures specified in Article XIII above.

**Section 15.7 Limitations in Action of Homeowners Association.** Notwithstanding any other provisions in Article XIII and this Article and except as provided by statute, in case of condemnation or substantial loss to the Units and/or Common Elements of the Project, unless at least two-thirds of the first Mortgagees (based on one vote for each first Mortgage owned) and/or three fourths of Owners (other than the Declarant) of the individual Units have given their prior written approval, the Association may not:

- (a) By act or omission seek to abandon or terminate the Project.
- (b) Change the pro rata interest or obligations of any Unit in order to levy assessments or charges, allocate distribution of hazard insurance proceeds or condemnation awards or determine the pro rata share of ownership of each Unit in the General Common Elements.
- (c) Partition or subdivided any Unit.
- (d) Seek to abandon, partition, subdivide, encumber, sell or transfer the General Common Elements by act or omission.
- (e) Use hazard insurance proceeds for losses to any Project property (whether Units or General Common Elements) for other than the repair, replacement or reconstruction of the Project property.

## **ARTICLE XVI REVOCATION OR AMENDMENT**

**Section 16.1 Revocation.** This Declaration shall not be revoked nor shall any of the provisions herein be amended unless the Owners representing an aggregate of three-fourths of the voting rights of the Association, and two thirds of all holders of any recorded First Mortgage covering or affecting any or all of the Units, whose interests as First Mortgagees appear in such records, consent and agree to such revocation or amendment by instruments duly recorded. Any such revocation or amendment shall be binding upon every Owner and every Unit whether the burdens thereon are increased or decreased by any such amendment and whether or not the Owner of each and every Unit consents thereto. Notwithstanding the foregoing, the Declarant may amend this Declaration at anytime prior to the sale of 85% of the Units to Owner's not affiliated with the Declarant. The Declarant may not, however, amend this Declaration in any way that would alter, change or affect the nature, class or status of a Deed Restricted Unit without prior approval from the Town of Jackson, Wyoming and the Teton County Housing Authority.

## **ARTICLE XVII PERIOD OF CONDOMINIUM OWNERSHIP**

The condominium ownership created by Declarant and the Condominium Plat shall continue until this Declaration is revoked in the manner provided in Article XVI of this Declaration or until terminated in the manner provided in Articles XIV (Obsolescence) or XV (Condemnation) of this Declaration.

## **ARTICLE XVIII MISCELLANEOUS**

**Section 18.1 Compliance with Provisions of Declaration and Bylaws of the Association.** Each Owner shall comply with the provisions of this Declaration, the Association Bylaws and the decisions and resolutions of the Association adopted pursuant thereto as the same may be lawfully amended from time to time. Failure to comply with any of the same shall be

grounds for an action to recover sums due and for damages or injunctive relief or both, maintainable by the Association on behalf of the Owners, or, in a proper case, by an aggrieved Owner. The prevailing party shall be entitled to an award of costs and attorney fees.

**Section 18.2 Registration of Mailing Address.** Each Owner shall register his/her mailing address with the Association and all notices or demands intended to be served upon any Owner shall be sent by either registered or certified mail, postage prepaid, addressed in the name of the Owner at such registered mailing address. All notices or demands intended to be served upon the Association shall be given by registered or certified mail, postage prepaid, to the address of the Association as designated in the Association Bylaws. All notices or demands to be served on Mortgagees pursuant thereto shall be sent by either registered or certified mail, postage prepaid, addressed in the name of the Mortgagee at such address as the Mortgagee may have furnished to the Association in writing. Unless the Mortgagee furnishes the Association such address, the Mortgagee shall be entitled to receive none of the notices provided for in this Declaration. Any notice referred to in this Section shall be deemed given when deposited in the United States mail in the form provided for in this Section.

**Section 18.3 Owner's Obligations Continue.** All obligations of the Owner under and by virtue of the provisions contained in this Declaration shall continue, notwithstanding that she/he may have leased or rented said interest as provided herein, but the Owner of a Unit shall have no obligation for expenses or other obligations accruing after he/she conveys such Unit.

**Section 18.4 Number and 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 18.5 Severability.** If any of the provisions of this Declaration or any clause, paragraph, sentence, phrase, or word or the application thereof in any circumstances be invalidated, such invalidity shall not affect the validity of the remainder of the Declaration, and the application of any such provision, paragraph, sentence, clause, phrase, or word in any other circumstance shall not be affected thereby.

**Section 18.6 Construction by Declarant.** Nothing in this Declaration, or any action taken by the Association, shall limit the right of Declarant to complete construction of improvements to the General Common Elements and to Units owned by Declarant or to alter the foregoing, or to construct such additional improvements as Declarant deems advisable prior to completion and sale of the entire Project. Such right shall include, but shall not be limited to erecting, constructing, and maintaining on the Project such structures and displays as may be reasonably necessary for the conduct of its business of completing the work and disposing of the same by sale, lease, or otherwise. This Declaration shall not limit, nor shall any action of the Association limit, the right of Declarant at any time prior to the sale of all Units by Declarant to establish on the Project additional easements, reservations and rights of way to itself, to utility companies, or to others as may from time to time be necessary to the proper development and disposal of the Project. Prior to the acquisition of title by purchasers of the total number of Units of the Project, no action by the Association shall require Declarant to construct additional improvements to the Common Areas and Units unless Declarant agrees to construct such

improvements. Declarant reserves the right to alter its construction plans and designs as it deems appropriate.

**Section 18.7 Statute.** The provisions of this Declaration shall be in addition and supplemental to the Act and to all other provisions of law.

## **ARTICLE XIX DISPUTE RESOLUTION**

**Section 19.1 Consents for Association Litigation.** Except as provided in this Section, the Association shall not commence a judicial or administrative proceeding without the approval of the Owners representing an aggregate of three-fourths of the voting rights of the Association. This Section shall not apply, however, to (a) actions brought by the Association to enforce the Declaration (including, without limitation, the foreclosure of liens); (b) the collection of assessments; or (c) counterclaims brought by the Association in proceedings instituted against it. This Section shall not be amended unless such amendment is approved by the percentage of votes, and pursuant to the same procedures, necessary to institute proceedings as provided above.

**Section 19.2 Alternative Method for Resolving Disputes.** The Declarant, the Association, its officers, directors, and committee members, if any, all Persons subject to this Declaration, and any Person not otherwise subject to this Declaration who agrees to submit to this Article (collectively, "Bound Parties") agree to encourage the amicable resolution of disputes involving the Properties, without the emotional and financial costs of litigation. Accordingly, each Bound Party covenants and agrees that those claims, grievances or disputes described in Section 19.3 shall be resolved using the procedures set forth in Section 19.4 in lieu of filing suit in any court.

**Section 19.3 Claims.** Unless specifically exempted below, all Claims arising out of or relating to the interpretation, application or enforcement of the Declaration, or the rights, obligations and duties of any Bound Party under the Declaration or relating to the design or construction of improvements on the property shall be subject to the provisions of Section 19.4.

Notwithstanding the above, unless all parties thereto otherwise agree, the following shall not be Claims and shall not be subject to the provisions of Section 19.4:

(a) Any suit by the Association against a Bound Party to obtain a temporary restraining order (or equivalent emergency equitable relief) and such other ancillary relief as the court may deem necessary in order to maintain the status quo and preserve the Association's ability to enforce the provisions of Article X and Article XI;

(b) Any suit between Owners, which does not include Declarant or the Association as a party, if such suit asserts a Claim which would constitute a cause of action independent of the Governing Documents, if the amount in controversy exceeds five thousand dollars (\$5,000);

(c) Any suit in which any indispensable party is not a Bound Party;

(d) Any suit as to which the applicable statute of limitations would expire within one-hundred twenty (120) days of the Request for Resolution pursuant to Section 17.4, unless the party or parties against whom the Claim is made agree to toll the statute of limitations for such periods as may be reasonably be necessary to comply with this Article; and

With the consent of all parties thereto, any of the above may be submitted to the alternative dispute resolution procedures set forth in Section 19.4

#### **Section 19.4 Mandatory Procedures.**

(a) **Request for Resolution.** Any Bound Party having a Claim ("Claimant" against any other Bound Party ("Respondent") (collectively, the "Parties") shall notify each Respondent in writing (the "Request for Resolution"), stating plainly and concisely:

1. The nature of the Claim, including the Persons involved and Respondent
2. The legal basis of the Claim (i.e., the specific authority out of which the Claim arises);
3. Claimant's proposed remedy; and
4. That Claimant will meet with Respondent to discuss in good faith ways to resolve the Claim; and
5. That Respondent must respond to the Request for Resolution within thirty (30) days of its receipt or it will be deemed to have been rejected.

(b) **Negotiation and Mediation.**

1. The Parties shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation. If requested in writing, accompanied by a copy of the Request for Resolution, the Board may appoint a representative to assist the Parties in negotiation.

2. If the Respondent rejects the Request for Resolution, or Parties do not resolve the Claim within ninety (90) days of the date of acceptance of the Request for Resolution (or within such other period as may be agreed upon by the Parties) ("Termination of Negotiations"), Claimant shall have thirty (30) additional days to submit the Claim to mediation under the auspice of an independent mediation agency providing dispute resolution services in Teton County, Wyoming.

3. If Claimant does not submit the Claim to mediation within such time, or does not appear for the mediation, Claimant shall be deemed to have waived the Claim, and Respondent shall be released and discharged from any and all liability to Claimant on account of such Claim; provided, nothing herein shall release or discharge Respondent from any liability to

any Person other than the Claimant.

4. Any settlement of the Claim through mediation shall be documented in writing by the mediator and signed by the Parties. If the Parties do not settle the Claim within thirty (30) days after submission of the matter to the mediation, or within such time as determined by the mediator, the mediator shall issue a notice of termination of the mediation proceedings ("Termination of Mediation"). The Termination of Mediation notice shall set forth that the Parties are at an impasse and the date that mediation was terminated.

5. Within five (5) days of the Termination of Mediation, the Claimant shall make a final written settlement demand ("Settlement Demand") to the Respondent, and the Respondent shall make a final written settlement offer ("Settlement Offer") to the Claimant. If the Claimant fails to make a Settlement Demand, Claimant's original Request for Resolution shall constitute the Settlement Demand. If the Respondent fails to make a Settlement Offer, Respondent shall be deemed to have made a "zero" or "take nothing" Settlement Offer. In this event, the Mediator shall issue a final written binding decision within ten (10) days of the last offer. This decision shall bind the parties and may be reduced to judgment. The judgment may be enforced by a court of law after the procedures described in Section 17.6 have been exhausted.

**Section 19.5 Allocation of Costs of Resolving Claims.**

(a) Subject to Section 19.5(b), each Party shall bear its own costs, including attorneys' fees, and each Party shall share equally all charges rendered by the mediator(s) ("Post Mediation Costs").

(b) Any Award which is equal to or more favorable to Claimant than Claimant's Settlement Demand shall add Claimant's Post Mediation Costs to the Award, such costs to be borne equally by all Respondents. Any Award which is equal to or less favorable to Claimant than any Respondent's Settlement Offer shall award to such Respondent its Post Mediation Costs.

**Section 19.6 Enforcement of Resolution.** After resolution of any Claim, if any Party fails to abide by the terms of any agreement or Award, then any other Party may file suit or initiate administrative proceedings to enforce such agreement or Award without the need to again comply with the procedures set forth in Section 19.4. In such event, the Party taking action to enforce the agreement or Award shall be entitled to recover from the non-complying Party (or if more than one non-complying Party, from all such Parties pro rata) at all costs incurred in enforcing such agreement or Award, including, without limitation, attorneys' fees and court costs.

**Section 19.7 Board Authorization.** The Board may perform any act reasonably necessary to institute, defend, settle, or intervene on behalf of the Association in binding arbitration, non-binding arbitration, mediation, litigation, or administrative proceedings in matters pertaining to (a) enforcement of this Declaration, (b) damage to the Common Area, (c) damage to the Units which arises out of, or is integrally related to, damage to the Common Area,

or (d) any other civil claim or action.

IN WITNESS WHEREOF, the undersigned has executed this Declaration as of the day and year first above written.

PAR TERRE LLC, a  
Wyoming limited liability company

By: *Joe Rice*  
Its: *MANAGER*

STATE OF WYOMING      )  
                            )  
                            ) ss.  
COUNTY OF TETON        )

The foregoing instrument was acknowledged before me this 25<sup>th</sup> day of June, 2015, by Joe Rice as Manager of PAR TERRE LLC, a Wyoming limited liability company.

Witness my hand and official seal.



*Elizabeth C. Millard*  
Notary Public for Wyoming  
My commission expires: 12-9-17

**EXHIBIT "A"**  
**TO CONDOMINIUM DECLARATION**

**199 East Pearl Condominiums  
Common Elements Ownership  
Owner Association Information**

Unit	Owner Association Votes	Ownership Percentage of Limited Common Elements	Ownership Percentage of General Common Elements
1	1	5.26%	5.26%
2	1	11.39%	11.39%
3	1	5.26%	5.26%
4	1	11.39%	11.39%
5	1	5.26%	5.26%
6	1	11.39%	11.39%
7	1	5.26%	5.26%
8	1	11.39%	11.39%
9	1	5.26%	5.26%
10	1	11.39%	11.39%
11	1	5.26%	5.26%
12	1	11.4%	11.4%