

BYLAWS OF
INDEPENDENCE PARK HOMEOWNERS' ASSOCIATION

1. GENERAL.

1.1. Purpose of Bylaws. These Bylaws are adopted for the regulation and management of the affairs of Independence Park Homeowners Association, (the "Association"). The Association has been organized as a Colorado corporation under the Colorado Non-Profit Corporation Act (the "Act") and constitutes the Association under the Declaration for Independence Park recorded June 13, 2003 at Reception No. F1777823 (the "Declarations"). The Declaration has been executed by Independence Park, LLC, a Colorado limited liability company ("Declarant"). The Declarations relate to the real property described "All of Mavetic Subdivision Filing No. 2, Jefferson County, Colorado," commonly known as Independence Park development, County of Jefferson, State of Colorado, and any other real property which may hereafter become subject to the Declarations (the "Property").

1.2. Terms Defined in the Declarations. Terms used in these Bylaws which are defined in the Declarations shall have the same meaning and definition as in the Declarations.

1.3. Controlling Laws and Instruments. These Bylaws are controlled by and shall always be consistent with the provisions of the Act, the Declarations and the Articles of Incorporation of the Association filed with the Colorado Secretary of State, as any of the foregoing may be amended from time to time.

2. OFFICES.

2.1. Principal Office. The board of directors of the Association, in its discretion, may fix and may change, from time to time, the location of the principal office of the Association. The initial principal office shall be 5440 Ward Road, Suite 222, Arvada, Colorado 80002.

2.2. Registered Office and Agent. The Act requires that the Association have and continuously maintain in the State of Colorado a registered office and a registered agent whose business office is identical with such registered office. The registered office need not be the same as the principal office of the Association. The initial registered office and the initial registered agent are specified in the Articles of Incorporation of the Association but may be changed by the Association at any time, without amendment to the Articles of Incorporation, by filing a statement as specified by law in the office of the Colorado Secretary of State.

3. MEMBERS.

3.1. Members. A "Member," as defined in the Declarations, is the person, or if more than one, all persons collectively, who constitute the owner of a lot ("Lot") located in the Property.

3.2. **Memberships Appurtenant to Lots.** Each membership in the Association shall be appurtenant to the fee simple title to a Lot. The person or persons who constitute the owner of fee simple title to a Lot shall automatically be the holder of the membership appurtenant to that Lot and the membership shall automatically pass with fee simple title to the Lot.

3.3. **Classes of Voting Memberships.** The Association shall have one class of voting membership. All Lot owners, including the Declarant, shall be Members of the Association and shall be entitled to one vote for each Lot owned. A Lot resulting from combining two Lots shall have one vote for each of the Lots so combined. When more than one owner holds an interest in the same Lot, all such owners shall be Members and the vote for such Lot shall be cast as the owners thereof agree, but in no event shall more than one vote per question be cast with respect to such Lot. If the owners of such Lot do not agree as to the manner in which their vote should be cast when called upon to vote, then they shall be treated as having abstained. Cumulative voting for the board of directors shall not be permitted.

3.4. **Voting by Joint Owners.** If there is more than one person who constitutes the owner of a Lot, each such person shall be entitled to attend any meeting of Members, but the voting power attributable to the Lot shall not be increased. In all cases in which more than one person constitutes the owner of a Lot, including instances in which a Lot is owned by a husband and wife, then, unless written notice to the contrary, signed by any one of such persons, is given to the board of directors of the Association prior to the meeting, only one such person shall be entitled to cast, in person or by proxy, the vote attributable to the Lot. If, however, more than one person constituting such owner attends a meeting in person or by proxy, and seeks to cast the vote attributable to the Lot, then the act of those persons attending in person or by proxy shall be entitled to cast the vote attributable to such Lot.

3.5. **Resolution of Voting Disputes.** In the event of any dispute as to the entitlement of any Member to vote or as to the results of any vote of Members, the board of directors of the Association shall act as arbitrators, and the decision of a disinterested majority of the board of directors shall, when rendered in writing, be final and binding as an arbitration award and may be acted upon in accordance with the Colorado Uniform Arbitration Act of 1975, as the same may be amended; provided, however, that the board of directors shall have no authority or jurisdiction to determine matters relating to the entitlement of Declarant to vote or relating to the manner of exercise by Declarant of its voting rights. No dispute as to the entitlement of any Member to vote shall postpone or delay any vote for which a meeting of Members has been duly called pursuant to the provisions of these Bylaws and a quorum is present.

3.6. **Suspension of Voting Rights.** The board of directors may suspend the voting rights of a Member during and for up to sixty (60) days following any breach by such Member of any provision of the Declarations or of any Rule or Regulation adopted by the Association.

3.7. **Transfer of Memberships on Association Books.** Transfers of memberships shall be made on the books of the Association only upon presentation of evidence, satisfactory to the Association, of the transfer of ownership of the Lot to which the membership is appurtenant. Prior to presentation of such evidence, the Association may treat the previous owner of the membership as the owner of the membership entitled to all rights in connection therewith, including the right to vote and receive notice.

4. **MEETINGS OF MEMBERS.**

4.1. **Place of Members' Meetings.** Meetings of Members shall be held at the principal office of the Association or at such other place as may be fixed by the board of directors and specified in the notice of meeting.

4.2. **Annual Meeting of Members.** Annual meetings of the Members shall be held in March of each year beginning in 2005 on such day in March and at such time of day as is fixed by the board of directors and specified in the notice of meeting. The annual meetings shall be held to transact such business as may properly come before the meeting.

4.3. **Special Meetings of Members.** Special meetings of the Members may be called by the board of directors of the Association or by Members holding not less than 25% of the total votes of all Members, excluding votes of Declarant, or by Members holding not less than 25% of the total votes of all Members, including votes of Declarant. No business shall be transacted at a special meeting of Members except as indicated in the notice thereof.

4.4. **Record Date.** For the purpose of determining Members entitled to notice of, or to vote at, any meeting of Members or in order to make a determination of such Members for any other proper purpose, the board of directors of the Association may fix, in advance, a date as the record date for any such determination of Members. The record date shall be not more than fifty (50) days prior to the meeting of Members or the event requiring a determination of Members.

4.5. **Notice of Members' Meetings.** Written notice stating the place, day and hour of any meeting shall be delivered not less than ten (10) nor more than fifty (50) days before the date of the meeting, either personally or by mail, by or at the direction of the president or the secretary of the Association or the officers or persons calling the meeting, to each Member entitled to vote at such meeting. The notice of an annual meeting shall identify any matter which it is known may come before the meeting, including; but not limited to, the general nature of any proposed amendment to the Declarations or Bylaws and any proposal to remove an officer or member of the board of directors. The notice of a special meeting shall state the purpose or purposes for which the meeting is called. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail addressed to the Member at his address as it appears on the records of the Association, with postage thereon prepaid. Such notice may be posted in a conspicuous place on the Property, such as on a notice board, and such notice shall be deemed to be delivered to any Member upon such posting if such Member has not furnished an address for mailing of notice to the Association.

4.6. **Proxies.** A Member entitled to vote may vote in person or by proxy executed in writing by the Member or his duly authorized attorney-in-fact and filed with the chairman at the meeting prior to the time the proxy is exercised. Any proxy may be revocable by attendance of a Member in person at a meeting or by revocation in writing filed with the chairman of the meeting prior to the time the proxy is exercised. A proxy shall automatically cease upon the conveyance by a Member of the Lot of the Member and the transfer of the membership on the books of the Association. No proxy shall be valid after eleven (11) months from date of its execution unless

otherwise provided in the proxy and no proxy shall be valid in any event for more than three (3) years after its date of execution. Any form of proxy furnished or solicited by the Association and any form of written ballot furnished by the Association shall afford an opportunity thereon for Members to specify a choice between approval and disapproval of each matter or group of related matters which is known at the time the form of proxy or written ballot is prepared. Proxy forms shall also state that a Member may come before the meeting and shall provide, subject to reasonably specified conditions, that if a Member specifies a choice with respect to any such matter, the vote shall be cast in accordance therewith.

4.7. **Quorum at Members' Meetings.** Except as may be otherwise provided in the Declarations, the Articles of Incorporation or these Bylaws, and except as hereinafter provided with respect to the calling of another meeting, the presence, in person or by proxy, of Members entitled to cast at least 10% of the votes of all Members shall constitute a quorum at any meeting of such Members. Members present in person or by proxy at a duly organized meeting may continue to transact business until adjournment, notwithstanding the withdrawal of Members so as to leave less than a quorum. If the required quorum is not present in person or by proxy at any such meeting of members, another meeting may be called, subject to the notice requirements herein above specified, and the presence, in person or by proxy, of Members entitled to cast at least five percent (5%) of the votes of all members shall, except as may be otherwise provided in the Declarations, the Articles of Incorporation or these Bylaws, constitute a quorum at such meeting.

4.8. **Adjournments of Members' Meetings.** Members present in person or by proxy at any meeting may adjourn the meeting from time to time, whether or not a quorum shall be present in person or by proxy, without notice other than announcement at the meeting, for a total period or periods of not to exceed thirty (30) days after the date set for the original meeting. At any adjourned meeting which is held without notice other than announcement at the meeting, the quorum requirement shall not be reduced or changed, but if the originally required quorum is present in person or by proxy, any business may be transacted which might have been transacted at the meeting as originally called.

4.9. **Vote Required at Members' Meetings.** At any meeting if a quorum is present, a majority of the votes present in person or by proxy and entitled to be cast on a matter shall be necessary for the adoption of the matter, unless a greater proportion is required by law; the Declarations, the Articles of Incorporation or these Bylaws.

4.10. **Order of Business.** The order of business at any meeting of Members shall be as follows: (1) Roll call to determine the voting power represented at the meeting; (2) proof of notice of meeting or waiver of notice; (3) reading of minutes of preceding meeting; (4) the conducting of business for which the meeting was called; and (5) the conducting of any other business.

4.11. **Officers of Meetings.** At any meeting, the Members present shall select a chairman and secretary of the meeting.

4.12. **Expenses of Meetings.** The Association shall bear the expenses of all annual meetings of Members and of special meetings of Members.

4.13. **Waiver of Notice.** A waiver of notice of any meeting of Members, signed by a

Member, whether before or after the meeting, shall be equivalent to the giving of notice of the meeting to such Member. Attendance of a Member at a meeting, either in person or by proxy, shall constitute waiver of notice of such meeting except when the Member attends for the express purpose of objecting to the transaction of business because the meeting is not lawfully called or convened.

4.14. Action of Members without a Meeting. Any action required to be taken or which may be taken at a meeting of Members may be taken without a meeting if a consent, in writing, setting forth the action so taken, shall be signed by all of the Members entitled to vote with respect to the subject matter thereof.

5. BOARD OF DIRECTORS.

5.1. General Powers of Board. The board of directors shall have the power to manage and supervise the affairs of the Association and shall have all powers necessary or desirable to permit it to do so. Without limiting the generality of the foregoing, the board of directors shall have the power to exercise or cause to be exercised for the Association, all of the powers, rights and authority of the Association not reserved to Members, and provided in the Declarations, the Articles of Incorporation, these Bylaws or the Act. In addition, the board of directors shall have all of the duties set forth in the Declarations.

5.2. Special Powers of the Board. Without limiting the foregoing statement of general powers of the board of directors or the powers of the board of directors as set forth in the Declarations, the board of directors of the Association shall be vested with and responsible for the following specific powers:

(a) Assessments. The power to fix and levy from time to time as it deems necessary common assessments, special assessments and default assessments upon the Members of the Association as provided in the Declarations and as provided in Article 7 of the Declarations; to determine and fix the due date for the payment of such Assessments and the date upon which the same shall become delinquent; and to enforce the payment of such delinquent assessments as provided in the Declarations.

(b) Taxes. The power to pay all taxes and assessments levied upon the Common Elements and all taxes and assessments payable by the Association. The board of directors shall also have the power to contest any such taxes or assessments in accordance with the provisions contained in the Declarations.

(c) Insurance. The power to contract and pay premiums for fire and casualty and blanket liability and other insurance in accordance with the provisions of the Declarations.

(d) Common Elements. The power to contract for and pay bills for maintenance, legal service, accounting service, gardening, common utilities and other materials, supplies and services relating to the Common Elements, if any, and to employ personnel necessary for the care and operation of the Common Elements, if any, and to contract and pay for necessary Improvements on the Common Elements, if any.

(e) Agents and Employees. The power to select, appoint and remove all officers,

agents and employees of the Association and to prescribe such powers and duties for them as may be consistent with law, with the Articles of Incorporation, the Declarations and these Bylaws; and to fix their compensation and to require from them security for faithful service as deemed advisable by the board.

(f) Borrowing. The power, with the approval of Members representing at least sixty-seven percent (67%) of the voting power of the Association (exclusive of the voting power of the Declarant), to borrow money and to incur indebtedness for the purposes of the Association, and to cause to be executed and delivered therefor, in the Association's name, promissory notes, bonds, debentures, mortgages, pledges, hypothecations or other evidence of debt and security therefor.

(g) Enforcement. The power to enforce the provisions of the Declarations, the rules and regulations of the Association, these Bylaws or other agreements of the Association.

(h) Delegation of Powers. The power to delegate its powers according to law.

(i) Easements. The power to grant easements where necessary for utilities and other facilities over the Common Elements to service the Property as set forth in the Declarations.

(j) Rules and Regulations. The power to adopt such rules and regulations as the board may deem necessary for the management of the Property. Such rules and regulations may concern, without limitation, use of the Common Elements, signs, parking restrictions; collection and disposal of refuse; minimum standards of property maintenance consistent with the Declarations and the provisions of the Association; and any other matters within the jurisdiction of the Association as provided in the Declarations; provided, however, that such rules and regulations shall be enforceable only to the extent they are consistent with the Declarations, the Articles of Incorporation and these Bylaws.

5.3. Number of Directors. The initial number of directors of the Association shall be three (3). The number of directors may be increased by an amendment to these Bylaws, provided that the number of directors shall not be less than three and no decrease in number shall have the effect of shortening the term of any incumbent director.

5.4. Appointment, Election and Term of Office. Notwithstanding any provision to the contrary contained in the Declarations, the Articles of Incorporation, these Bylaws, or the rules and regulations of the Association, Declarant hereby reserves unto itself the right to appoint and remove the board of directors and officers of the Association until sixty (60) days following the dated upon which Declarant has conveyed one hundred percent (100%) of the Lots to other owners.

(a) Within sixty (60) days after the Declarant has conveyed 100% of the Lots to other owners, the Association shall call a special meeting at which time the Members shall elect all three (3) directors. The directors elected by the Members shall serve until the first annual meeting following the time when Declarant has conveyed 100% of the Lots to other owners

(b) At the first annual meeting of the membership after Declarant has conveyed 100% of the Lots to other owners, the three (3) directors shall be elected as follows: Directors shall be elected by the Members. Two (2) directors shall be elected for a term of two (2) years, and one

(1) director shall be elected for a term of one (1) year. At the expiration of the initial term of office of each member of the board of directors and at each annual meeting thereafter, a successor shall be elected to serve for a term of two (2) years.

5.5. **Removal of Directors.** Except as set forth in Section 5.4, at any meeting of Members, the notice of which indicates such purpose, any director may be removed, with or without cause, by vote of two-thirds (2/3) of the Members and a successor may be then and there elected to fill the vacancy thus created.

5.6. **Resignation of Directors.** Any director may resign at any time by giving written notice to the president, to the secretary, or to the board of directors stating the effective date of such resignation. Acceptance of such resignation shall not be necessary to make the resignation effective.

5.7. **Vacancies.** Any vacancy occurring in the board of directors shall, unless filled in accordance with Sections 5.5 and 5.6 or by election at a special meeting of Members, be filled by the affirmative vote of a majority of the remaining directors, though less than a quorum of the board of directors. A director elected or appointed to fill a vacancy shall be elected or appointed for the unexpired term of his predecessor in office. A directorship to be filled by reason of an increase in the number of directors shall be filled only by vote of the Members.

5.8. **Executive Committee.** The board of directors, by resolution adopted by a majority of the directors in office, may designate and appoint an executive committee, which shall consist of three (3) or more directors and which, unless otherwise provided in such resolution, shall have and exercise such authority as shall be specified in the resolution creating such committee, except such authority as can only be exercised by the board of directors.

5.9. **Other Committees of the Association.** The board of directors, by resolution adopted by a majority of the directors in office, may designate and appoint one or more other committees, which may consist of or include Members who are not directors. Any such committee shall have and exercise such authority as shall be specified in the resolution creating such committee, except such authority as can only be exercised by the board of directors.

5.10. **General Provisions Applicable to Committees.** The designation and appointment of any committee and the delegation thereto of authority shall not operate to relieve the board of directors, or any individual director, of any responsibility imposed upon it or him by law. The provisions of these Bylaws with respect to notice of meeting, waiver of notice, quorums, adjournments, vote required and action by consent applicable to meetings of directors shall be applicable to meetings of committees of the board of directors.

6. **MEETINGS OF DIRECTORS.**

6.1. **Place.** Meetings of the board of directors shall be held at the principal office of the Association or at such other place as may be fixed by the board of directors and specified in the notice of the meeting.

6.2. **Annual Meeting of Directors.** Annual meetings of the board of directors shall be held on the same date as, or within ten (10) days following, the annual meeting of Members. The

business to be conducted at the annual meeting of directors shall consist of the appointment of officers of the Association and the transaction of such other business as may properly come before the meeting. No prior notice of the annual meeting of the board of directors shall be necessary if the meeting is held on the same day and at the same place as the annual meeting of Members at which the board of directors is elected or if the time and place of the annual meeting of the board of directors is announced at the annual meeting of such Members.

6.3. **Other Regular Meetings of the Directors.** The board of directors shall hold regular meetings at least quarterly and may, by resolution, establish in advance the times and places for such regular meetings. No prior notice of any regular meetings need be given after establishment of the times and places thereof by such resolution.

6.4. **Special Meetings of Directors.** Special meetings of the board of directors may be called by the president or any two (2) members of the board of directors.

6.5. **Notice of Directors Meeting.** In the case of all meetings of directors for which notice is required, notice stating the place, day and hour of the meeting shall be delivered not less than three (3) nor more than fifty (50) days before the date of the meeting, by mail, telegraph, telephone or personally, by or at the direction of the persons calling the meeting, to each member of the board of directors. If mailed, such notice shall be deemed to be delivered at 5:00 p.m. on the second business day after it is deposited in the U.S. mail, addressed to the director at his home or business address as either appears in the records of the Association, with postage thereon prepaid. If telegraphed, such notice shall be deemed delivered at 5:00 p.m. on the next calendar day after it is deposited in a telegraph office addressed to the director at either such address, with all charges thereon prepaid. If by telephone, such notice shall be deemed to be delivered when given by telephone to the director or to any person answering the phone number as either appears in the records of the Association. If given personally, such notice shall be deemed to be delivered upon delivery of a copy of a written notice to, or upon verbally advising, the director or some person who appears competent and mature at his home or business address as either appears in the records of the Association. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the board of directors needs be specified in the notice or waiver of such meeting.

6.6. **Proxies.** A director shall not be entitled to vote by proxy at any meeting of directors.

6.7. **Quorum of Directors.** A majority of the number of directors fixed in these Bylaws shall constitute a quorum for the transaction of business.

6.8. **Adjournment of Directors Meeting.** Directors present at any meeting of directors may adjourn the meeting from time to time not to exceed thirty (30) days from the date of the original meeting, whether or not a quorum shall be present, without notice; provided that if the date of the meeting is more than thirty (30) days after the date set for the original meeting, then written notice shall be given. At any adjourned meeting which is held without notice other than announcement at the meeting, the quorum requirement shall not be reduced or changed, but if the originally required quorum is present, any business may be transacted which may have been transacted at the meeting as originally called.

6.9. **Vote Required at Directors Meeting**. At any meeting of the directors, if a quorum is present, a majority of the votes present in person and entitled to be cast on a matter shall be necessary for the adoption of the matter, unless a greater proportion is required by law, the Declarations, the Articles of Incorporation, or these Bylaws.

6.10. **Order of Business**. The order of business at all meetings of directors shall be as follows: (a) Roll call; (b) proof of notice of meeting or waiver of notice; (c) reading of minutes of preceding meeting; (d) reports of officers; (e) reports of committees; (f) unfinished business; and (g) new business.

6.11. **Officers at Meetings**. The president shall act as chairman, and the board of directors shall elect a director to act as secretary at all meetings of directors.

6.12. **Waiver of Notice**. A waiver of notice of any meeting of the board of directors, signed by a director, whether before or after the meeting, shall be equivalent to the giving of notice of the meeting to such director. Attendance of a director at a meeting in person shall constitute waiver of notice of such meeting except when the director attends for the express purpose of objecting to the transaction of business because the meeting is not lawfully called or convened.

6.13. **Action of Directors Without a Meeting**. Subject to the Declarant's right to disapprove certain actions as provided herein, in the Articles of Incorporation, or in the Declarations, any action required to be taken or which may be taken at a meeting of directors may be taken without a meeting if a consent, in writing, setting forth the action so taken, shall be signed by all of the directors.

7. **OFFICERS**

7.1. **Officers, Employees and Agents**. The officers of the Association shall consist of a president, a secretary, a treasurer and such other officers, assistant officers, employees and agents as may be deemed necessary by the board of directors. Officers other than the president need not be directors. No person shall simultaneously hold more than one office except the offices of president and treasurer.

7.2. **Appointment and Term of Office of Officers**. The officers shall be appointed by the board of directors at the annual meeting of the board of directors and shall hold office, subject to the pleasure of the board of directors until the annual meeting of the board of directors or until their successors are appointed, whichever is later, unless the officer resigns, or is removed earlier.

7.3. **Removal of officers**. Any officer, employee or agent may be removed by the board of directors, with or without cause, whenever in the board's judgement the best interests of the Association will be served thereby. The removal of an officer, employee or agent shall be without prejudice to the contract rights, if any, of the officer, employee or agent so removed. Election or appointment of an officer, employee or agent shall not of itself create contract rights.

7.4. **Resignation of Officers**. Any officer may resign at any time by giving written notice to the president, to the secretary or to the board of directors of the Association stating the effective date of such resignation. Acceptance of such resignation shall not be necessary to make the resignation effective.

7.5. Vacancies. Any vacancy occurring in any position as an officer may be filled by the board of directors. An officer appointed to fill a vacancy shall be appointed for the unexpired term of his/her predecessor in office.

7.6. President. The president shall be a member of the board of directors and shall be the principal executive officer of the Association and, subject to the control of the board of directors, shall direct, supervise, coordinate and have general control over the affairs of the Association, and shall have the powers generally attributable to the chief executive officer of a corporation. The president shall preside at all meetings of the board of directors and of Members of the Association.

7.7. Vice President. The vice president may act in place of the president in case of the president's death, absence or inability to act, and shall perform such other duties and have such authority as is from time to time delegated by the board of directors or by the president.

7.8. Secretary. The secretary shall be the custodian of the records and the seal of the Association and shall affix the seal to all documents requiring the same; shall see that all notices are duly given in accordance with the provisions of these Bylaws and as required by law, and that the books, reports and other documents and records of the Association are properly kept and filed; shall take or cause to be taken and shall keep minutes of the meetings of Members, of the board of directors, and of committees of the board; shall keep at the principal office of the Association a record of the names and addresses of the Members and Mortgagees; and in general, shall perform all duties incident to the office of secretary and such other duties as may, from time to time, be assigned to him/her by the board of directors or by the president. The board may appoint one or more assistance secretaries who may act in place of the secretary in case of his/her death, absence or inability to act.

7.9. Treasurer. The treasurer shall have charge and custody of, and be responsible for, all funds and securities of the Association; shall deposit all such funds in the name of the Association in such depositories as shall be designated by the board of directors; shall keep correct and complete financial records and books of account and records of financial transactions and condition of the Association and shall submit such reports thereof as the board of directors may, from time to time, require; and, in general, shall perform all the duties incident to the office of treasurer and such other duties as may from time to time be assigned to him by the board of directors or by the president. The board may appoint one or more assistant treasurers who may act in place of the treasurer in case of his/her death, absence or inability to act.

7.10. Bonds. The Association may require fidelity bonds covering officers or other persons handling funds of the Association. The Association shall pay the premiums for any such bonds that are required.

8. INDEMNIFICATION OF OFFICERS AND AGENTS.

8.1. Certain Definitions. A "corporate official" shall mean any director or officer and any former director or officer of the Association. A "corporate employee" shall mean any employee and any former employee of the Association. "Corporate official" and "corporate employee" shall not include any managing agent employed by the Association, and no such person shall have rights of

indemnification hereunder. "Expense" shall mean all costs and expenses, including attorney fees, liabilities, obligations, judgments and any amounts paid in reasonable settlement of a proceeding. "Proceeding" shall mean any claim, action, suit or proceeding, whether threatened, pending or completed, and shall include appeals.

8.2. **Right of Indemnification.** The Association shall indemnify any corporate official and any corporate employee against any and all expenses actually and necessarily incurred by or imposed upon him/her in connection with, arising out of, or resulting from any proceeding in which he/she may be involved or to which he/she is or may be made a party by reason of (1) actual or alleged error or misstatement or misleading statement or act or omission or neglect or breach of duty while acting in his/her official capacity as a corporate official or corporate employee, or (2) any matter claimed against him/her solely by reason of his/her being a corporate official or corporate employee. The right of indemnification shall not extend to and matter as to which such indemnification would not be lawful under the laws of the State of Colorado.

(a) **Standard of Conduct.** The Association shall indemnify any corporate official and any corporate employee against liability incurred in or as a result of the proceeding if the corporate official or corporate employee: i) conducted himself or herself in good faith; ii) reasonably believed (A) in the case of a director acting in his/her or her official capacity that his or her conduct was in the Association's best interest, or (B) in all other cases, that the corporate official's or corporate employee's conduct was at least not opposed to the Association's best interests; and iii) in the case of any criminal proceeding, the corporate official and corporate employee had no reasonable cause to believe his/her conduct was unlawful.

(b) **Settlement.** The termination of any proceeding by judgment, order, settlement or conviction, or upon a plead of *nolo contendere* or its equivalent, is not of itself determinative that the corporate official or corporate employee did not meet the applicable standards of conduct as set forth in subsection 8.2(a).

(c) **Indemnification Prohibited.** The right of indemnification shall not extend to matters as to which the corporate official or corporate employee: i) has been adjudged liable for gross negligence or willful misconduct in the performance of the corporate official's or corporate employee's duty to the Association; or ii) in connection with any proceeding charging improper personal benefit to such corporate official or corporate employee, in which the party was adjudged liable on the basis that personal benefit was improperly received by such corporate official or corporate employee (even if the Association was not thereby damaged). Notwithstanding the foregoing, the Association shall indemnify such corporate official or corporate employee has applied, if it is determined by such court, upon application of such corporate official or corporate employee that despite the adjudication of liability in the circumstances in clauses (i) and (ii) of this subsection 8.2(c) or whether or not the party met the applicable standards of conduct set forth in subsection 8.2(a), and in view of all relevant circumstances, the corporate official or corporate employee is fairly and reasonably entitled to indemnification for such expenses as the court deems proper in accordance with the Act.

8.3. **Prior Authorization Required.** Any indemnification under Section 8.2 (unless ordered by a court) shall be made by the Association only if authorized in the specific case after a determination has been made that the corporate official or corporate employee is eligible for

indemnification in the circumstances because such corporate official or corporate employee has met the applicable standards of conduct set forth in subsection 8.2(a) and after an evaluation has been made as to the reasonableness of the expenses. Any such determination, evaluation and authorization shall be made by the board of directors by a majority vote of a quorum of such board, which quorum shall consist of directors not parties to the proceeding, or by such other person or body as permitted by law.

8.4. **Success or Merits or Otherwise.** Notwithstanding any other provision of this Article 8, the Association shall indemnify such corporate official or corporate employee to the extent that such party has been successful, on the merits or otherwise, including, without limitation, dismissal without prejudice or settlement without admission of liability, in defense of any proceeding to which the party was a party against expenses incurred by such party in connection therewith.

8.5. **Advancement of Expenses.** The Association shall pay for or reimburse the expenses, or a portion thereof, incurred by a party in advance of the final disposition of the proceeding if (a) the party furnishes the Association with a written affirmation of such party's good faith belief that he/she has met the standard of conduct described in subsection 8.2(a)(i); (b) the party furnishes the Association with a written undertaking, executed personally or on behalf of such party, to repay the advance if it is ultimately determined that the party did not meet such standard of conduct; and (c) authorization of payment and a determination that the facts then known to those making the determination would not preclude indemnification under this Article have been made in the manner provided in Section 8.3. The undertaking required by clause (b) must be an unlimited general obligation of the party, but need not be secured and may be accepted without reference to financial ability to make repayment.

8.6. **Payment Procedures.** The Association shall promptly act upon any request for indemnification, which request must be in writing accompanied by the order of court or other reasonably satisfactory evidence documenting disposition of the proceeding in the case of indemnification under Section 8.4 and by the written affirmation and undertaking to repay as required by Section 8.5 in the case of indemnification under such Section. The right to indemnification and advances granted by this Article shall be enforceable in any court of competent jurisdiction if the Association denies the claim, in whole or in part, or if no disposition of such claim is made within ninety (90) days after written request for indemnification is made. A party's expenses incurred in connection with successfully establishing such party's right to indemnification, in whole or in part, in any such proceeding shall also be paid by the Association.

8.7. **Notification to Members.** Any indemnification of or advance of expenses to a director (but not to any other party) in accordance with this Article, if arising out of a proceeding by or on behalf of the Association, shall be reported in writing to the Members with or before the notice of the next meeting of Members.

8.8. **Authority to Insure.** The Association may purchase and maintain liability insurance on behalf of any corporate official or corporate employee against any liability asserted against him/her and incurred by him/her as a corporate official or corporate employee or arising out of his/her status as such, including liabilities for which a corporate official or corporate employee might not be entitled to indemnification hereunder.

8.9. **Right to Impose Conditions to Indemnification.** The Association shall have the right to impose, as conditions to any indemnification provided or permitted in this Article, such reasonable requirements and conditions as may appear appropriate to the board of directors in each specific case and circumstances, including, but not limited to, any one or more of the following: (a) that any counsel representing the party to be indemnified in connection with the defense or settlement of any proceeding shall be counsel mutually agreeable to the party and to the Association; (b) that the Association shall have the right, at its option, to assume and control the defense or settlement of any proceeding made, initiated, or threatened against the party to be indemnified; and (c) that the Association shall be subrogated, to the extent of any payments made by way of indemnification, to all of the indemnified party's right of recovery, and that the party to be indemnified shall execute all writings and do everything necessary to assure such rights or subrogation to the Association.

8.10. **Other Rights and Remedies.** The indemnification provided by this Article shall be in addition to any other rights which a party may have or hereafter acquire under any law, provision of the Articles of Incorporation, any other or further provision of these Bylaws, vote of the members of the board of directors, agreement, or otherwise.

8.11. **Applicability; Effect.** The indemnification provided in this Article shall be applicable to acts or omissions that occurred prior to the adoption of this Article, shall continue as to any party entitled to indemnification under this Article who has ceased to be a director, officer or employee of the Association. The repeal or amendment of this Article or of any section or provision hereof that would have the effect of limiting, qualifying or restricting any of the powers or rights of indemnification provided or permitted in this Article shall not, solely by reason of such repeal or amendment, eliminate, restrict or otherwise affect the right or power of the Association to indemnify any person or affect any rights of indemnification of such person with respect to any acts or omissions that occurred prior to such repeal or amendment. All rights to indemnification under this Article shall be deemed to be provided by a contract between the Association and each party covered hereby.

8.12. **Indemnification of Agents.** The Association shall have the right to, but shall not be obligated to, indemnify any agent of the Association not otherwise covered by this Article to the fullest extent permissible by the laws of the Colorado. Unless otherwise provided in any separate indemnification arrangement, any such indemnification shall be made only as authorized in the specific case in the manner provided in Section 8.3.

8.13. **Savings Clause; Limitation.** If this Article or any section or provision hereof shall be invalidated by any court on any ground, or if the Act is amended in such a way as to affect this Article, then the Association shall nevertheless indemnify each party otherwise entitled to indemnification hereunder to the fullest extent permitted by law or any applicable provision of this Article that shall not have been invalidated.

9. **MISCELLANEOUS.**

9.1. **Amendment of Bylaws.** Prior to the Termination Date, the board of directors shall have the power to alter, amend or repeal these Bylaws or to adopt new bylaws. After the Termination Date, the Members, at a meeting called for that purpose, shall have the sole power to

alter, amend or repeal the Bylaws and to adopt new bylaws by a majority of votes present at the meeting, including Declarant, if a quorum is present. The Bylaws may contain any provision for the regulation or management of the affairs of the Association not inconsistent with law, the Declarations or the Articles of Incorporation. Notwithstanding anything to the contrary contained herein, prior to the Termination Date, these Bylaws shall not be amended without Declarant's prior written consent and approval.

9.2. **Compensation of Officers, Directors and Members.** No director or officer shall have the right to receive any compensation from the Association for serving as such director except for reimbursement of expenses as may be approved by resolution of disinterested members of the board of directors.

9.3. **Books and Records.** The Association shall keep correct and complete books and records of account and shall keep, at its principal office in Colorado, a record of the names and addresses of its Members, including Declarant, and copies of the Declarations, the Articles of Incorporation and these Bylaws which may be purchased by any Member at reasonable cost. All books and records of the Association, including the Articles of Incorporation, Bylaws as amended, and minutes of meetings of Members and directors may be inspected by any Member, or his/her agent or attorney, and any First Mortgagee of a Member of any proper purpose. The right of inspection shall be subject to any reasonable rules adopted by the board of directors requiring advance notice of inspection, specifying hours and days of the week during which inspection will be permitted and establishing reasonable fees for any copies to be made or furnished.

9.4. **Annual Report.** The board of directors may cause to be prepared and distributed to each Member and to each First Mortgagee who has filed a written request therefor, not later than ninety (90) days after the close of each fiscal year of the Association, an annual report of the Association containing: (a) an income statement reflecting income and expenditures of the Association for such fiscal year; (b) a balance sheet as of the end of such fiscal year; (c) a statement of changes in financial position for such fiscal year; and (d) a statement of the place of the principal office of the Association where the books and records of the Association, including a list of names and addresses of current Members, may be found.

9.5. **Statement of Account.** Upon written request of an owner of a Lot or any person with any right, title or interest in a Lot or intending to acquire any right, title or interest in a Lot, the Association shall furnish a written statement of account setting forth the amount of any unpaid assessments, or other amounts, if any, due or accrued and then unpaid with respect to the Lot, the owner of the Lot, and the amount of the assessments for the current fiscal period of the Association payable with respect to the Lot. Such statement shall be issued within fourteen (14) business days after receipt of such request by the Association and, with respect to the party to whom it is issued, shall be conclusive against the Association and all parties, for all purposes, that no greater or other amounts were then due or accrued and unpaid and that no other assessments have then been levied.

9.6. **Biennial Corporate Reports.** The Association shall file with the Colorado Secretary of State, within the time prescribed by law, biennial corporate reports on the forms prescribed and furnished by the Secretary of State and containing the information required by law and shall pay the fee for such filing as prescribed by law.

9.7. **Fiscal Year.** The fiscal year of the Association shall begin on January 1 and end the succeeding December 31, except that the first fiscal year shall begin on the date of incorporation. The fiscal year may be changed by the board of directors without amending these Bylaws.

9.8. **Seal.** The board of directors may adopt a seal which shall have inscribed thereon the name of the Association and the words "SEAL" and "COLORADO."

9.9. **Shares of Stock and Dividends Prohibited.** The Association shall not have or issue shares of stock and no dividend shall be paid and no part of the income or profit of the Association shall be distributed to its Members, directors or officers.

Notwithstanding the foregoing paragraph, the Association may issue certificates evidencing membership therein, may confer benefits upon its Members in conformity with its purposes and, upon dissolution of final liquidation, may make distributions as permitted by law, and no such payment, benefit or distribution shall be deemed to be a dividend or distribution of income or profit.

9.10. **Loans to Directors and Officers Prohibited.** No loan shall be made by the Association to any director or officer, and any director or officer who assents to or participates in the making of any such loan shall be liable to the Association for the amount of such loan until the repayment thereof.

9.11. **Limited Liability.** As provided in the Articles of Incorporation and Declarations, the Association, the Members, the board of directors, the officers of the Association, Declarant, and any agent or employee of any of the same, shall not be liable to any person for any action or for any failure to act if the action taken or failure to act was in good faith and without malice.

9.12. **Special Rights of First Mortgagees.** Any First Mortgagee of a mortgage encumbering any Lot in the Property, upon filing a written request therefor with the Association, shall be entitled to: (a) receive written notice from the Association of any default by the mortgagor of such Lot in the performance of the mortgagor's obligations under the Declarations, the Articles of Incorporation, these Bylaws or the rules and regulations of the Association, which default is not

cured within sixty (60) days after the Association learns of such default; (b) examine the books and records of the Association during normal business hours; (c) receive a copy of financial statements of the Association, including any annual financial statement, within ninety (90) days following the end of any fiscal year of the Association; (d) receive written notice of all meetings of Members; (e) designate a representative to attend any meeting of Members; (f) receive written notice of abandonment or termination of the Declarations; (g) receive thirty (30) days' written notice prior to the effective date of any proposed, material amendment to the Declarations, the Articles of Incorporation or these Bylaws; and (h) receive immediate written notice as soon as the Association receives notice or otherwise learns of any damage to the Common Elements if the cost of reconstruction exceeds \$10,000 and as soon as the Association receives notice or otherwise learns of any condemnation or eminent domain proceedings or other proposed acquisition with respect to any portion of the Common Elements.

9.13. **Minutes and Presumptions Thereunder.** Minutes or any similar record of the meetings of Members, or of the board of directors, when signed by the secretary or acting secretary of the meeting, shall be presumed to truthfully evidence the matters set forth therein. A recitation in any such minutes that notice of the meeting was properly given shall be prima facie evidence that the notice was given.

9.14. **Record of Mortgagees.** Under the Declarations, First Mortgagees have certain special rights. Therefore, any such First Mortgagee or, upon the failure of such First Mortgagee, any Member who has created or granted a First Mortgage, shall give written notice to the Association, through its manager, or through the secretary in the event there is no manager, which notice shall give the name and address of the First Mortgagee and describes the Lot encumbered by the First Mortgage. Any such First Mortgagee or such Member shall likewise give written notice to the Association at the time of release or discharge of any such First Mortgage.

9.15. **Checks, Drafts and Documents.** All checks, drafts or other orders for payment of money, notes or other evidences of indebtedness issued in the name of or payable to the Association, shall be signed or endorsed by such person or persons, and in such manner as, from time to time, shall be determined by resolution of the board of directors.

9.16. **Execution of Documents.** The board of directors, except as these Bylaws otherwise provide, may authorize any officer or officers, agent or agents to enter into any contract or execute any instrument in the name and on behalf of the Association, and such authority may be general or confined to specific instances; and unless so authorized by the board of directors, no officer, agent or employee shall have the power or authority to bind the Association to any contract or engagement or to pledge its credit or to render it liable for any purpose or in any amount.