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DECLARATION FOR  
PARK RIVER WEST CONDOMINIUM

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## CONDOMINIUM DECLARATIONS

FOR

### PARK RIVER WEST CONDOMINIUMS

Richard H. Wille Trust, hereinafter referred to as Declarant, being the owner of the real property situate in County of Larimer, State of Colorado, described as follows:

Lots 1 and 2, Park River West Subdivision,  
Town of Estes Park, Larimer County,  
Colorado;

does hereby submit said property to the provisions of the Colorado Common Interest Ownership Act, Article 33.3 Title 38, Colorado Revised Statutes, for the purpose of creating Park River West Condominiums; and does hereby declare the property above described shall be held and conveyed subject to the terms, covenants, restrictions, conditions and easement herein set for and set forth on the Condominium Map attendant hereto.

Declarant does hereby establish a plan for the ownership in fee simple of condominium real property estates, subject to this Declaration, as may be amended, and the Condominium Map, as may be amended, consisting of the area of space contained in each of the Units shown on the Condominium Map, together with the co-ownership, by the Unit owners as tenants-in-common of an undivided interest in all of the remaining property which is hereinafter defined and referred to as the common elements. Such plan is hereby declared to be for the benefit of the property and the Unit owners thereof, their heirs, devisees, beneficiaries, grantees, successors, and assigns.

This Declaration and the Condominium Map, as may be amended as herein provided shall be deemed to run with the above described property.

The common interest community shall be a condominium community, and the name thereof shall be Park River West Condominiums.

#### Section 1. Definitions

- A. "Act" means the Colorado Common Interest Ownership Act, Article 33.3, Title 38, Colorado Revised Statutes, as may be amended.
- B. "Association" and "Corporation" mean Park River West Condominium Association, Inc., a Colorado nonprofit corporation. (The Colorado Nonprofit Corporation Act shall also apply thereto.)
- C. "Unit" or "Condominium Unit" means an individual air space Unit together with the appurtenant undivided interest in the common elements which shall be appurtenant to such Unit.
- D. "Condominium Unit Ownership" means the fee simple interest and title in and to a Unit together with the undivided interest in the common elements.
- E. "Owner" means a person, persons, corporation, limited liability company, partnership, or other legal entity, or any combination thereof, who or which owns an interest in a Unit.

F. "Condominium Map" or "Map" mean the Condominium Map recorded with this Declaration, as it may be amended or supplemented from time to time.

G. "Common Elements" means all of the common interest community other than a Unit. Common elements include the buildings and land lying below the buildings.

H. "Ownership Interest in Common Elements" shall mean an equal undivided interest in the common elements, as herein provided.

I. "Declaration" means this Declaration, and Declarant means Richard H. Wille Trust.

J. "Common Expenses" shall include expenses herein declared to be common expenses; and other expenses determined to be common expenses as herein provided.

K. "Mortgagee" shall mean the holder of a mortgage or the holder of a deed of trust, as legally recognized as a real property security interest pursuant to the laws of the State of Colorado.

L. "Board of Directors" or "Directors" means the Board of Directors of the Association.

M. "Bylaws" means the Bylaws of the Association.

N. "Rules and Regulations" mean those rules and regulations adopted from time to time by the Board of Directors, as herein provided.

O. "Common Interest Community" means the real property above described, subject to this Declaration and the Condominium Map.

P. "Property" or "Condominium Property" means the property above described.

Q. "Special Declarant Rights" means certain rights reserved to the Declarant has hereinafter provided.

## Section 2. Common Elements

All common elements shall be general common elements unless otherwise set forth herein or unless otherwise depicted as "LCE" upon the Map. The buildings and the land, including the land lying beneath the buildings, shall be general common elements, except as otherwise set forth herein or as otherwise depicted upon the Map. All common elements, general and limited, shall be owned as tenants-in-common by the Unit owners, in undivided interests as set forth. None of the general common elements may be changed to limited common elements, without a prior unanimous vote of the voting members of the Association, in which event the vote shall be whether or not to adopt a specific plan to allocate specific general common elements to limited common elements. None of the general common elements may be conveyed to any person or entity other than to all the condominium Unit owners, and pursuant to this Declaration. Each Unit owners may use the general common elements in common with other Unit owners

## Section 3. Limited Common Elements.

Limited common elements may be identified as such herein, or upon the Condominium Map as "LCE". All utilities within each Unit and within the interior walls of each Unit, furnace, hot water heaters, Unit windows, doors, floors and subfloors, insulation of a Unit, interior wall coverings and floor coverings, walls within a Unit, all interior sheetrock, deck patios and any utility service lines serving only

one Unit shall be deemed limited common elements. Any utility service lines serving on or more buildings shall be limited common elements for that building or those buildings. Driveway bibs for a Unit shall be limited common element for that Unit. All driveways shall be general common elements. Other limited common elements may be depicted upon the Map. Limited common elements shall be reserved for the use by the owner of the Unit to which they apply and are appurtenant, except by invitation of such Unit owner to others. No limited common elements may be changed in size, appearance or otherwise without the prior written consent of the Board of Directors. None of the limited common elements may be changed to general common elements without a prior unanimous vote of the voting members of the Association, in which event the vote shall be whether or not to adopt a specific plan to allocate any of the limited common elements to general common elements. None of the limited common elements may be conveyed to any person or entity other than to all of the condominium Unit owners, pursuant to this Declaration. The Association Board of Directors may adopt rules and regulations governing the use of any or all common elements, provided such rules and regulations shall be uniform and nondiscriminatory, and not be in conflict with the Declaration, Map, or amendments thereto, or with applicable law.

#### Section 4. Condominium Map and Declaration

This Declaration and initial Condominium Map shall be filed for record in the Larimer County Colorado records, which documents shall reflect the location of all Units, designate the Units by address and the buildings by number, and designate the dimensions (boundaries) of each unit both horizontally and vertically. All maps shall contain the name of the condominium property, and the initial Map shall include a general schematic of the entire property, and the location and dimension of any existing other improvements upon said property. The Map shall show any encroachments on any of the common elements, and a description of all easements serving or burdening any portion of the common elements. All maps shall contain the certificate of a Colorado registered land surveyor, including that it was made under the surveyor's supervision or responsible charge and that it was prepared subsequent to substantial completion of the improvements, including the Units, shown thereon. The certificate on the initial Map shall also state that it does depict a boundary survey of the property. Any supplements or amendments to either the Condominium Map or to this Condominium Declaration shall be filed for record in Larimer County and make reference to the filing information on the initial Map or Declaration, as the case may be, and to any previous amendments or supplements thereto.

#### Section 5. Condominium Units

A. A condominium Unit shall consist of one individual air space contained within a building as shown on the Map, together with undivided interest in the common elements as herein provided. Garages are part of the Unit. All Units shall have access to a public street.

B. The common interest community (condominium development) shall contain a maximum of thirty-two buildings and sixty-eight units.

C. Every contract, deed, lease, deed of trust will, trust, or other instrument shall describe a condominium Unit as follows: Condominium Unit \_\_\_\_\_, Building \_\_\_\_\_, Park River West Condominiums, according to the Condominium Map of Park River West Condominiums, recorded on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, at Reception No. \_\_\_\_\_, as defined by the Condominium Declaration for Park River West Condominiums, recorded on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, at Reception No. \_\_\_\_\_, in the office of the County Clerk and Recorder, Larimer County Colorado. Subject to the terms and condition contained in said Declaration and any amendments thereto. Every such description shall be good and sufficient for all purposes to sell, convey, transfer, lease encumber, devise or otherwise affect not only the Unit, but also the appurtenant undivided interest in the common elements.

D. The real property herein described and the improvements thereon are hereby designated as fee simple condominium estates. Each estate shall consist of the separately designed Unit together with an undivided one-sixty-eighth interest in and to the common elements. The building, Units, and undivided interest in the common elements are set forth upon Exhibit A which is attached hereto and incorporated herein by this reference. Each Unit, together with the undivided interest in the common elements, shall be deemed a parcel for taxation purposes. No forfeiture or sale of any Unit for delinquent taxes, assessments or other charges shall divest or in any way affect the title to any other Unit.

E. A condominium Unit may be held and owned in any real property tenancy recognized under the laws of the State of Colorado.

F. Each Unit, and the undivided interest in the common elements, as set forth upon Exhibit A hereto, shall together comprise one condominium Unit; shall be inseparable; and may be sold, conveyed, leased, rented devised, transferred or encumbered only as one condominium Unit.

#### Section 6. Non-Partitionability

The common elements shall remain undivided, and no owner nor the Association may bring any action for partition or division of the common elements. The Association owners of a Unit shall not, by act or omission, seek to abandon, lease, sell or transfer the common elements, except the undivided interest therein appurtenant to a Unit upon the sale or transfer of that Unit. (However, the granting of easements for public utilities serving this property by the Board of Directors consistent with the intended use of this common interest community shall not be deemed a transfer with the meaning of this section, and the Board shall have the power to do so.) A unit owner shall not, through a partition suit or otherwise, divide or partition a Unit or the ownership thereof.

#### Section 7. General Easements

An easement is hereby granted to the Declarant through the common elements as may be reasonably necessary for the purpose of discharging any of the Declarant's obligations or exercising any special Declarant rights. Further, there is hereby created an easement upon, across, over and under the above described property for the installation, replacement, repair and maintenance of all utilities serving any or all of the condominium Units or any portion of the common elements; and for maintenance and repair of any of the common elements. This easement is reserved unto the Association in, on and over each condominium Unit and all common elements to permit the Association, through its Board of Directors, or its duly authorized agent to effect any desired or necessary installation, replacement, repair or maintenance of any utilities and common elements. In addition, easements for any encroachments shall exist so that a Unit owner shall have no legal liability when any part of the common elements encroach upon a condominium Unit. Such easements shall not be considered or determined to be an encumbrance either on the common element or on the Units, for purposes of marketability of title or otherwise.

#### Section 8. Use of Common Elements

The Association Board of Directors may adopt rules and regulations governing the use of general common elements, provided such rules and regulations shall be uniform and non-discriminatory, and not be in conflict with Declaration, Map, or amendments thereto or with applicable law. The Association Board of Directors may also adopt rules and regulation reasonably governing the use of any limited common element in the interest of this common interest community.

## Section 9. Budget, Common Expenses and Assessments

A. The fiscal year of the Association shall be the calendar year. Each year the Board of Directors shall prepare an advanced annual budget for the Association, containing an estimate of the total amount which the Board considers necessary to full its duties and responsibilities for the ensuing fiscal year, together with such reasonable amounts the Board considers necessary to provide for an operating reserve for said ensuring year and for the continuing reserve fund for the maintenance of the common elements. The Board shall send a copy of said proposed budget to at least one owner of each Unit no less than thirty days prior to the annual membership meeting and the agenda therefor which shall include the budget discussion. The date of the membership meeting shall not be less than thirty days nor more than sixty days subsequent to the date of the mailing said notice. Unless at that meeting a majority of the voting members present reject the budget, the budget shall be deemed ratified, whether or not a quorum is present. In the event the proposed budget is rejected, the budget last adopted shall continue until such time as a new budget is adopted. Said budget shall constitute the basis for determining each unit owner's contribution for common expense, and assessments shall be based thereon. Assessment statements shall be mailed or delivered to Unit owners within fifteen days subsequent to said membership meeting. Unless otherwise determined by the Association membership, all assessments shall be equal. Assessments shall be payable quarterly unless otherwise determined by the Board.

B. In the event of any delay in the preparation or adoption of an annual budget for any year, the same shall not constitute a waiver or release in any manner of a Unit owner's obligation to pay his assessed share of the common expenses, and in the meantime each owner shall continue to pay the assessment for common expenses based upon the last adopted budget until the new budget is adopted.

C. All sums collected by the Board of Directors with respect to assessments may be commingled into a single fund. No interest must necessarily accrue on such account or fund. Any surplus funds of the Association remaining after the payment or provision for common expenses and any prepayments of or provision for reserves shall be retained by the Association as reserves and need not be paid to the owners in proportion to their common expense liability or credited to reduce their future assessments.

D. The Board of Directors shall take prompt action to collect any assessments for common expenses due from any Unit owners which remain unpaid for more than thirty days from the due date thereof. Assessments shall be due thirty days subsequent to the date of deliver or mailing thereof.

E. Common expenses shall include the following: Repair, replacement and maintenance of the general common elements; cost of insurance as herein provided; common driveways snow removal (not including driveway bibs); common utilities; landscaping of the common elements and maintenance of the landscaping; maintenance of the condominium property identification sign; maintenance of and snow removal from the sidewalk along Park River Place Street; maintenance of the common water drainage facilities; including the sedimentation basin area, which are located on private property; maintenance of the perimeter fence; expense of administration, including any manager hired by the Board of Directors; legal and accounting expense incurred by the Association, and together with other expenses determined to be common expenses by the Association Board of Directors. There will be five water meters; a separate meter for each Unit for electricity and natural gas; and the sewer district will bill the Association but with individual Units indicated thereon. Water will be a common expense but allocated to the buildings per the meter therefor. Unit owners shall be obligated to pay their assessments based upon the budget. It shall be the responsibility of the Association to replace any trees, and shrubs, which were planted by the Declarant in the general common element areas, which die subsequent to one year after the planting thereof (the trees will be warranted by the Declarant or by the nursery for the first year).

Such replacements shall be as, reasonably as possible considering expense, of the same size and the replanting will occur within the growing season in which the necessity of replacement occurs.

F. In the event the ownership of a condominium Unit commences on a day other than the first day of the assessment period, the assessment for that period shall be prorated.

G. Owners shall have the right to examine the books and records of the Association at all reasonable business hours, upon reasonable advance written request to an Association Board member.

H. Upon the sale of a Unit, the previous owner and the new owner shall be jointly and severally liable for the payment of any unpaid assessment for common expenses.

I. Upon written request for a statement of account by an owner, by a title company on behalf of a purchaser, or by a lienholder, the Board of Directors of the officer designated thereby shall furnish a written statement of the amount of any unpaid assessments, the amount of the current assessment, and the dates that assessment were due, with regard to that Unit. A reasonable service fee as established by the Board of Directors may be charged for the furnishing of said statement. The Board may request a copy of the lien prior to furnishing a statement to a lienholder. In any event, no director or officer shall be liable to any Unit owner for so furnishing said statement even if it is erroneous. A copy of said statement shall also be delivered or mailed to the Unit owner at the same time that it is so furnished.

J. In the event of default in the payment of any assessment, a Unit owner shall be obligated to pay interest at the rate of 15% per annum on the amount of the delinquent assessment commencing ten days subsequent to the due date thereof, together with all costs and expenses, including reasonable attorney fees, incurred by the Board of Directors in the collection of the same; and together with a 5% penalty for late (past said ten days) payment of each assessment. Suit to recover a money judgment for unpaid assessments may be maintained by the Association through the Board of Directors without foreclosing any assessment lien as hereinafter provided, and any such suit shall not be a waiver of said lien. For the purposes of any such suit to recover a money judgment or to foreclose any assessment lien as herein provided, all Unit owners are subject to the venue and jurisdiction of the courts in and for the County of Larimer, State of Colorado.

#### Section 10. Management and Voting

Except as may otherwise be provided herein or as provided in the Act or in the Association Bylaws, the Association Board of Directors shall conduct the day to day management for the Association, and shall have all the powers, authority and duties, pursuant to the Colorado Common Interest Ownership Act, necessary to manage the business affairs of the condominium common interest community. The board shall have the right to contract for the maintenance of the general common elements. Any contract providing for the management services shall be for no more than a term of one year at a time and shall allow for the termination by either party upon ninety days or less notice, without cause and without payment of a termination fee. Matters requiring a vote of either the Board of Directors or the Association membership shall be by simple majority vote unless a different vote is required herein, by the Act or by the Colorado Nonprofit Corporation Act or by the Association Bylaws. Each Unit shall have one vote on all Association membership matters. Each Board member shall have one vote in all Board of Directors matters.

#### Section 11. Maintenance

A. Maintenance and repair of all general common elements shall be by and at the expense of the Association unless damage is caused thereto by a Unit owner, his, her, their or its family, guests, invitees, tenants or agents, and the same is not covered by the Association's insurance. The Board of

Directors shall make certain that any contractor which works on the general common elements is carrying general business liability insurance and complying with the workmen's compensation laws of the State of Colorado.

B. Limited common elements will be maintained and repaired by the Unit owner or owners to which the limited common elements are appurtenant, unless damage is caused thereto by the Association. Provided, however, all exterior surfaces of any limited common element shall be stained or painted by and at the expense of the Association.

C. A Unit owner shall be responsible for keeping the limited common elements appurtenant to his Unit clean and in good repair. A unit owner shall do no act nor work that will impair the structural soundness or integrity of a Unit or the building in which it is located. If a Unit owner fails to maintain the limited common elements appurtenant to his Unit or the keep the same clean, after thirty days advance written notice of its intent so to do, the Board of Directors may do so and assess the expense therefor against the Unit owner. Any such unpaid assessment may become a lien and be collected as provided herein regarding common expense assessments.

D. A Unit owner may not change the appearance of the exterior of his Unit, with the prior written consent of the Board of Directors.

E. The Association Board of Directors shall serve as an Architectural Control Committee concerning any exterior changes to any building, and decision thereof shall be final.

#### Section 12. Termination of Mechanic Lien Rights and Indemnification

No labor performed or materials or services furnish to a Unit with or without the consent of a Unit owner, by his agent, a contractor or a subcontractor, shall be the basis for filing of any lien against the common elements (except the Unit's undivided interest therein), or against any other Unit the owner of which did not expressly consent to the labor, service or material. Each owner shall indemnify and hold harmless, including reasonable costs and reasonable attorney fees, the Association, the other Units and other owners from and against all liability arising from an such claim or lien again his Unit.

#### Section 13. Compliance with Provisions of Declarations, Map and Corporation Documents Mandatory

Each owner shall comply with the provision of the Declaration, the Map, together with they Bylaws of the Association, and any rules & regulations adopted by the Board of Directors. Failure comply with any of the same shall be grounds for an action to recover sums due for damages or injunctive relief, or both, and for the reimbursement of all reasonable attorney fees, and reasonable costs, including reasonable expert witness fees, incurred in connection therewith, which action shall be maintainable by the Association through the Board and or by any aggrieved owner or owners.

#### Section 14. Insurance

A. The Board of Directors shall obtain and maintain at all times, with the Association as the insured, except as otherwise herein provided, to the extent obtainable, policies written through insurance companies licensed to do business in Colorado covering the risks set for the below.

(1) "All risk" casualty insurance coverage insuring the common elements, including the building, and any person property owned by the Association. The board shall obtain a single master policy covering physical damage for the entirety of said property. The Board shall review this insurance coverage at least once a year; shall be responsible for notifying the carrier of any new Units; may obtain an appraisal to use in determining coverage amounts, as an Association expense; and shall attempt to

obtain full replacement cost coverage without co-insurance or depreciation deductions. The premiums for such casualty insurance coverage shall be a common expense. Each Unit owner shall be responsible for carrying his owner contents casualty insurance. The Board of Directors may determine to also carry flood insurance coverage for the common elements.

(2) Premises liability insurance coverage for the common elements in such amount as the Board of Directors determines, but not in an amount less than \$1,000,000. Each Unit owner shall be responsible for carrying his own premises (Unit) liability insurance.

(3) Workman's Compensation insurance for any employee of the Corporation as required by the laws of the State of Colorado. Any premium therefore shall be a common expense.

(4) If the Board of Directors so determines, fidelity bond or insurance coverage for the Association Treasurer in an amount as determined by the Board of Directors. Any premium therefore shall be a common expense.

(5) If the Board of Directors so determines, officers and directors' liability insurance coverage in an amount as determined by the Board of Directors. Any premium therefor shall be a common expense.

(6) Such other insurance as the Board of Directors may determine, and any premiums therefor shall be a common expense.

B. In addition, the Board of Directors shall make an effort to secure policies, for its casualty and premises liability insurance coverage, which provide the following:

- (1) No deductible exceeding \$1,000. (The Association shall pay the deductible amount unless the event insured and to which the deductible applies was caused by a Unit owner, their family, guests, invites, tenants or agents in which case said owner shall pay the deductible amount.)
- (2) That the insurer waives the right to subrogation under the policy against Unit owners.
- (3) That the master policy on the property cannot be cancelled, invalidated, or suspended on account of the conduct of any member of the Board of Directors, or Association officer, employee, managing agent or member, without a prior demand in writing that the Board of Directors cure the conduct;
- (4) That any "other insurance" clause contained in the master policy shall expressly exclude individual Unit owners' policies;
- (5) That until the expiration of ten days after the insurer gives notice in writing to the mortgagee of any Unit, the mortgagee's insurance coverage will not be affected or jeopardized by any act or conduct of any Unit owner, or Association director, officer, agent employee or member.
- (6) That the policy may not be cancelled or substantially modified without at least ten days' prior written notice of the Board of director and all mortgagees of Units.

C. Upon an insured loss, the Association shall have the right to serve as Insurance Trustee or to designate the insurance company as the Insurance Trustee, and all parties beneficially interested in such insurance coverage shall be bound thereby. The Insurance Trustee at the time of the deposit of such

policies and endorsements shall acknowledge that the policies and any proceeds thereof will be held in accordance with the terms of this Declaration. The duty of the Insurance Trustee shall be to hold the insurance proceeds in trust for the benefit of the Unit owners and their respective mortgagees

D. The Board of Directors is hereby irrevocably appointed the agent for each Unit owner and for each mortgagee of a Unit to oversee adjustment of all claims arising under insurance policies purchased by the Board of Directors and to execute and deliver release upon the payment of claims.

#### Section 15. Corporation -Attorney-in-Fact – Destruction – Obsolescence

This Declaration does hereby make mandatory the irrevocable appointment of an attorney-in-fact to deal with the property upon its damage, destruction or obsolescence. Title to any condominium Unit is declared and expressly made subject to the terms and conditions hereof, and acceptance by grantee of a deed from the Declarant or from any Unit owner shall constitute such appointment. All of the owners irrevocably constitute and appoint the Association Board of Directors their true and lawful attorney-in-fact in their name, place and stead for the purpose of dealing with their property upon its damage, destruction or obsolescence as is herein provided. As attorney-in-fact, the Association Board shall have full and complete authority, right and power to make, execute, deliver and perform any contract with respect to the interest of condominium Unit owner which may be necessary and appropriate to exercise the powers herein granted. Repair and reconstruction of the improvements as used herein means restoring the improvements to substantially the same condition in which they existed prior to the damage, with each Unit and the common elements have substantially the same dimensions and boundaries as before. The proceeds of any insurance shall be available to the Association Board for the purpose or repair or replacement as provided herein.

A. In the event of damage or destruction due to fire or other casualty, the insurance proceeds shall be applied by the Association Board, as attorney-in-fact, to such repair or replacement which shall be promptly accomplished. The Association board shall have authority, right and power as attorney-in-fact to cause the repair or replacement.

B. Should the cost of repair of such damage or destruction exceed the insurance proceeds, the deficiency shall become an assessment. The deficiency assessment, if any shall be an expense assessed only to the Unit owner or owners of a destroyed or damaged Unit or Units. No such owner shall have any right of contribution, or other claim relating to such damage or destruction against the Association or Board. Such deficiency assessment shall be in an amount reasonably determined exclusively and finally by the Association Board (after consulting with such owner, appraisers, and others as it deems appropriate) and shall be due and payable within ninety days after written demand. The Association shall have full authority, right and power, as attorney-in-fact, to cause the repair or replacement of the improvements, using all of the insurance proceeds for such purpose, notwithstanding the failure of an owner to pay the assessment. The assessment provided for herein shall be the debt of the affected owner as aforesaid, a lien on his condominium Unit and may be enforced and collected as provided herein. In addition the Association Board, as attorney-in-fact shall have the absolute authority, right and power to sell the condominium Unit of any owner refusing or failing to pay such deficiency assessment within the time provided, and if not so paid the Association shall cause to be recorded in the county record a notice that such condominium Unit shall be sold by the Association through the Board as attorney-in-fact under the provisions hereof. The proceeds derived from the sale of such condominium Unit shall be used and disbursed by the Association Board as attorney-in-fact in the following order:

- (1) For payment of the reasonable expenses of sale including reasonable attorney fees;
- (2) For payment of or against the balance of any lien of any first mortgage or first deed of trust.

- (3) For payment of or against any county taxes and any special assessment in favor of any taxing entity.
- (4) For payment of any unpaid condominium common expense assessments.
- (5) For payment of or against the balance of any junior liens or encumbrances in the order of their priority.
- (6) For reimbursement of the Association of any advancement of any deficiency of the insurance proceeds to cover repair or reconstruction of the Unit;
- (7) The balance remaining, if any, shall be paid to the condominium Unit owner.

C. The owners representing an ownership interest of 100% of the Units (one vote per Unit) may agree that the condominium Units, or some portion of the project, is obsolete and may adopt a plan for the renewal and/or reconstruction thereof. If a plan for such renewal or reconstruction is adopted, the expense of the renewal and reconstruction shall be payable by owners in the manner and proportion as set forth in the plan.

D. The power of attorney hereinabove referred to shall also apply to the Association's right to maintain and repair and improve all of the general common elements and the limited common elements, if necessary, as herein provided.

#### Section 16. Corporation Lien for Nonpayment of Common Expense Assessments

A. All sums assess but unpaid which are chargeable to any condominium Unit as herein provided, shall constitute a lien on such Unit. Prior to the recording of any such assessment lien, the Board of Directors shall give written notice to the Unit owner that such a lien is about to be filed; the amount of the unpaid assessment or assessments, accrued interest and any costs and charges pursuant thereto, to date, with an interest per diem, and that said owner has thirty days subsequent to the date of the delivery or mailing of that notice with which to pay said assessment. To evidence such lien, the Board of Directors shall prepare a written notice of lien in the name of the Association, dated and setting forth the amount of such unpaid indebtedness and the period involved, a description of the condominium Unit, and the name of the Unit owners. Such notice of lien shall be signed by an Association officer designated by the Board on behalf of the Corporation and shall be recorded in the Larimer County records with a copy thereof mailed to that Unit owner at that time. Such lien shall attach and be effective from the due date of the assessment until all sums, with interest and other charges thereon as herein provided, shall have been fully paid. The Association shall be entitled to add reasonable costs and attorney fees incurred in preparing, giving notice and filing the lien. Upon payment the Association shall record a release of the lien and the Unit owner shall reimburse the Association for reasonable attorney fees and costs associated therewith.

B. Such lien may be enforced by the foreclosure of the defaulting owner's condominium Unit by the Association in like manner as a mortgage on real property is foreclosed pursuant to Colorado law. In any such foreclosure proceeding, the owner shall be required to pay the costs, expenses and reasonable attorney fees incurred as a result thereof. The Association shall be entitled to any rents from the Unit being foreclosed, during the foreclosure period. The Association shall have the authority to bid on the Unit at the foreclosure sale or take a deed in lieu of foreclosure. For the purpose of any foreclosure, all owners submit to the venue and jurisdiction of the courts in and for Larimer County, Colorado.

C. As provided herein, the foregoing shall not prevent the Association Board from bringing an action on account owing.

D. The amount of the common expense assessed against each condominium Unit shall be the personal and individual debt of the owner thereof. No owner may exempt himself from liability for his contribution toward the common expenses by waiver of the use or enjoyment of any of the common elements or by abandonment of his Unit, or by agreement with other Unit owners.

E. The holder of a first deed of trust, upon request, shall be entitled to written notification from the Association Board of Directors of any default in the performance by an individual unit owner/borrower of any obligation under the condominium documents not cured within sixty days. The holder of a first deed of trust who obtains title to a unit pursuant to foreclosure or deed in lieu of foreclosure will not be liable for more than six months of unpaid assessment for the unit involved, which assessments accrued prior to the acquisition of title of the unit by said holder.

#### Section 17. Declaration of Protective Covenants, Conditions and Restrictions

The following covenants, conditions and restrictions upon use and occupancy of and against and upon each Unit and the common elements are hereby created and established. The Association Board of Directors may grant variances from any of the restrictions set for in this Section 17 to overcome practical difficulties so long as the variance will not be detrimental to the condominium community or property.

A. All condominium Units are restricted to one single-family residential dwelling, occupancy and use, only. For this purpose, "single family" shall mean person related by blood marriage or adoption and not exceeding six persons.

B. Units may be rented or leased. No on-site rental management company will be allowed anywhere on the condominium property including within any Unit. It shall be the responsibility of the Unit owners for making certain that tenants are acquainted with the Condominium Declaration, Condominium Map, Condominium Bylaws and any rules and regulations adopted by the board of Directors.

C. No animals, bird, reptiles, livestock or poultry of any kind or nature whatsoever shall be kept with any Unit or upon the condominium property; except two household pets per Unit: provided, however, such household pets shall not be raised, bred or kept for any commercial purposes, and shall be kept within the Unit or on a leash when outside the Unit. No dog or pet run or enclosure shall be allowed, including but not in limitation, none shall be allowed on any deck or patio. Pet owners shall clean up after their pets when the pet is upon the condominium common elements, and the Board of Directors may impose reasonable fines relative thereto pursuant to the Act, after notice and opportunity to be heard.

D. No trash, rubbish, equipment or material of any nature whatsoever shall be stored on the outside of any Unit.

E. No deck or patio may be enlarged or changed in any manner without the consent of the Board of Directors. Hot tubs may be kept only on a first floor level patio or deck of a Unit.

F. No antennas of any nature whatsoever shall be placed or kept upon the exterior of a Unit or building. Twenty-four inch in diameter satellite dishes may be placed upon the exterior of a Unit after the size and location thereof are first approved by the Board of Directors. Such satellite dishes shall be painted the same color as the building.

G. No trailer of any type, including but not in limitation, camper-trailer, horse-trailer or utility trailer; camper shell; boat; motorhome; or any type of recreation vehicle, shall be kept any place upon the condominium property unless the same is kept in an enclosed garage. Not more than two motor vehicles (cars or pick-up truck  $\frac{3}{4}$  ton or smaller) shall be kept by a Unit owner outside of the Unit garage. No inoperative or unlicensed motor vehicles shall be permitted to remain upon the condominium property, unless the same is kept within a garage.

H. No signs shall be located upon any of the condominium property with the exception of one sign advertising the property for sale by the owners or by a realtor, so long as any such sign does not exceed four square feet in size and is attached to the Unit. Provided, however, the Declarant may erect a condominium development identification sign on the condominium property.

I. The Board of Directors may adopt reasonable, uniform rules and regulations concerning noise and nuisance control.

J. No exterior lighting, including methods of illumination and type and design of light poles or standards, shall be permitted unless approved, in advance, by the Board of Directors, except low illumination porch and door lights. All lights shall be down-cast. Special seasonal light and decoration shall be removed within thirty days subsequent to the holiday. The Board of Directors may adopt rules and regulations concerning seasonal lights and decorations.

K. Garages may not be converted into living or storage areas. Garage shall be kept available for the parking of vehicles therein.

L. No fence or barrier of any kind shall be constructed upon the condominium property, without the prior approval of the Board of Directors. Provided, however, Declarant may install a perimeter fence around the condominium complex which shall leave openings for wildlife migration. In no event shall any chain-link, wire or metal fence be used or allowed.

M. There shall be no clotheslines or hanging of clothes outside of a Unit.

N. No vehicle, trailer or boat, of any type shall be parked on the public street or on a common driveway within the condominium complex, except for construction vehicles while a condominium unit or condominium building is being constructed.

O. All window covering shall be white or off-white color, as viewed from the exterior of the Unit.

P. No playhouses, playgrounds or greenhouses shall be constructed or placed upon any of the condominium property.

Q. No home occupations will be allowed which bring customers to the property or employed person not part of the family residing in the Unit, nor which are in violation of the Estes Valley Development Code or Town of Estes Park ordinances.

R. No Unit owner shall permit any use of his Unit or make use of common elements which would increase the cost of or invalidate the Association's insurance coverage.

S. Unit owners shall keep their Unit thermostat set no lower than fifty degrees.

T. No activities shall be conducted with any Unit or upon the condominium property which are or might be unsafe or hazardous to any person or property. No hazardous materials or chemicals shall

at any time be located, kept or stored in, on or at any Unit except such as may be contained in household products normally kept at home for use for the residents thereof and such limited quantities as to not constitute a hazard or danger to person or property.

#### Section 18. Membership

Every person or entity who is a record owner of a fee or undivided fee interest in any unit shall be a member of the Corporation, and there shall be only one class of membership. Such membership shall be mandatory upon Unit owners and shall be automatic upon the purchase of a Unit. Membership shall be appurtenant to and may not be separated from ownership of any Unit. When more than one person or entity holds an ownership interest in any one Unit, all such person shall be members; provided, however, the vote for such Unit shall be exercised as said owners themselves determine, but in no event shall more than one vote be cast per Unit.

#### Section 19. Personal Property for Common Use

The Association (by vote of the membership) may acquire, hold and transfer, for the benefit of the condominium owners, tangible personal property (as general common element), and the interest in any such property shall be owned by the condominium owners in the same proportion as their respective interest in the common elements. A conveyance of a condominium Unit shall transfer to the grantee ownership of the grantor's interest in such personal property. The Board of Directors may adopt rules and regulations pertaining to the use thereof.

#### Section 20. Registration by Owner of Mailing Address and Notices

A. Each Unit owner shall register his, her their or its mailing address with the Association secretary, and any notices intended to be delivered to a Unit owner shall be sent postage prepaid, by U.S. Mail, address to the owner at such mailing address or delivered to him personally.

B. Any notices intended to be served upon the Association shall be sent postage prepaid, by U.S. Mail, addressed to the President or Secretary of the Association at the address on the Association records, or delivered to one of them personally.

#### Section 21. Reservation of Special Declarant Rights

The Declarant reserves the following Special Declarant rights:

A. To maintain a sales office management office and model Unit in a Unit or units so long as Declarant owns that Unit or Units; and to conduct general sales activities on the property in a manner which does not unreasonably disturb the rights of other Unit owners.

B. The right to control the membership of the Board of Directors by appointing and removing officers and members of the Board of Directors. Provided, however, this period of Declarant control shall terminate sixty days after conveyance of seventy-five percent of the Units which may be created by Declarant; two years after the last conveyance of a Unit by the Declarant; or two years after any right to add new Units was last exercised; whichever first occurs. In addition, the Declarant may surrender this right by delivering a written statement to that effect to the Board of Directors.

C. The right to use, and to permit others to use, easements through the common elements as may reasonably be necessary for the purpose of discharging Declarant's obligations and as may be reasonably necessary for the purpose of completing the condominium project.

## Section 22. Reservation of Future Development Rights

This shall be a phased project. The development plan approved by the Town of Estes Park for the property may change at three-year intervals, but there shall be no more than thirty-two phases and not more than a total of sixty-eight units. Future development areas are show on the Condominium Map. Future development shall be completed within twenty years subsequent to the date of this Declaration.

## Section 23. Recorded Easements and Licenses

The recorded easements which affect the condominium property are shown on the Condominium Map. There are no licenses.

## Section 24. Allocated Interests

Exhibit A attached hereto reflect the Unit numbers, the undivided interest in the common elements of each Unit, and the number of votes in Association matters per Unit. These allocations are based on one share to each Unit compared with the total shares allocated to all Units.

## Section 25. Notice and Disputes

A. Any notice, whether herein required or otherwise given by the Board of Directors to a Unit owner or by a Unit owner to the Board of Directors shall be in writing, dated and signed, in the case of the Board of Directors by the President or Secretary and in the case of a Unit owner by such owner. The notice shall either be personally delivered, or be mailed postage prepaid, by U.S. Mail, in which event the date of the notice shall be the date of mailing. Any such notice may be delivered personally to the Board by delivery thereof to the President or Secretary.

B. Should any dispute arise between the Association and a Unit owner pertaining to the provision of the Declaration, Map or any amendment thereto (including but not in limitation architectural control and variances), with regard to the Association Bylaws or with regard to any rule or regulation adopted by the Board of Directors, then either the Board of Directors or the affected Unit owner or owners may request a hearing before the Board of Directors, by giving notice of any such request, which notice shall state the reasons for the request. A hearing shall be held within thirty days subsequent to the delivery of the notice. The decision of the Board of Directors shall be made with fifteen days subsequent to the hearing.

## Section 26. Arbitration

Any action dispute, claim or controversy between or among the Declarant, the Association or Unit owners shall be resolved by binding arbitration as set forth in this section. Provided, however, should the dispute or controversy pertain to the provisions of the Declaration, Map, Association Bylaws or any rule of regulations adopted by the Board of Directors, the matter shall first be heard by the Board of Directors, in mediation, as set forth in Section 25B herein. Such dispute shall be resolved by arbitration in accordance with the Colorado Uniform Arbitration Act, C.R.S. Section 13-22-201, et. seq., and the arbitration rules of the American Arbitration Association then in effect. The arbitrator's award, if any, may be entered as a judgment in the District Court for the County of Larimer, State of Colorado. All statutes of limitation that would otherwise be applicable shall apply to any arbitration proceedings under this section. In any arbitration proceeding subject to these provisions, the arbitrator shall be specifically empowered to allow discovery and decide prehearing motions in accordance with those sections of the Colorado Rules of Civil Procedure for district courts. The arbitrator shall be selected in accordance with

the arbitration rules of the American Arbitration Association; provided however, any arbitrator selected under this section shall be knowledgeable in the area of the subject matter of the dispute.

#### Section 27. Fines

The Board of Directors may determine if a Unit owner's violation of any of the terms of the Declaration, Map, Association Bylaws or any rule or regulation adopted by the Board of Directors is significant enough to warrant a fine. If so, a notification letter of intent to impose a fine will be provided to the Unit owner. The letter will contain details of the circumstances involved, explanation of whether the situation involves a first offense, second offense, etc., as the case may be, which provision of the Declaration, Map, Bylaws or rule & regulation was violated, notice of the intent to impose a fine after ten days, and the explanation that the Unit owner has a right to be heard before the Board of Directors upon the Board of Directors receiving a written request, within said ten days, explaining the grounds upon which the contest will be made. A fine for a first offense shall not exceed \$25. A fine for a second offense shall not exceed \$50. A fine for a third offense and any subsequent offenses, shall not exceed \$150, plus any reasonable costs and attorney fees incurred by the Association as a result of the violation. Nonpayment of any fine within thirty days subsequent to the date of the notification letter (subject to the right to a hearing before the Board of Directors and the right to arbitration as set forth in this Declaration) shall entitle the Board of Directors to place a lien therefore upon the owner's Unit.

#### Section 28. Termination

Termination of the Common Interest Community may be accomplished only in accordance with the provisions of the Act and the provisions of this Declaration.

#### Section 29. General Provisions

A. If any of the provisions of this Declaration in any circumstance are invalidated by court of competent jurisdiction, such invalidity shall not affect the validity of the remainder of this Declaration, and the provisions hereof are severable.

B. 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.

C. Section titles are for convenience of reference and are not intended to limit, enlarge, or change the meaning of the contents thereof.

D. The Declaration and Map are intended to comply with the Colorado Common Interest Ownership Act. However, if any conflicts between the Declaration and Map with a provision of said Act exists the provisions of the Act shall control. In the event of any conflict between this Declaration and any other condominium document, this Declaration shall control.

E. This property is also subject to development, zoning, building and other applicable codes of the Town of Estes Park and of the County of Larimer, Colorado.

F. Each Unit shall be subject to separate real property assessment and taxation. All taxes and assessments for a Unit which are not paid and become a lien shall become a lien only against the individual Unit for which the delinquency exists, and not against the condominium project as a whole or against any other Unit.

G. No waiver of a breach of any of the terms of this Declaration or of the Map, as amended or any rule or regulation adopted by the Board of Directors, shall be construed to be a waiver of any other breach thereof, by the same or different party.

Section 30. Revocation of and Amendments to Declaration and Map

This declaration and the Condominium Map may be revoked only by the unanimous written consent of al of the unit owners and all lienholders, and in compliance with the terms of this Declaration and the Act.

Except to the extent otherwise provided by the Act, this Declaration and the Condominium Map may be amended only in writing, which amendment must include the signature of all owners of sixty-seven percent or more of the Units then competed and for which a Map or supplemental Map has been recorded in the Larimer County records, together with the signature of the holder of any recorded first deed of trust or first mortgage against a Unit the owners of which execute the amendment.

Richard H. Wille Trust

By: \_\_\_\_\_/s/\_\_\_\_\_  
Richard H. Wille, Trustee

17.  
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Richard H. Wille Trust

By: Richard H. Wille Trust  
Richard H. Wille, Trustee

AMENDMENT TO  
CONDOMINIUM DECLARATION FOR  
PARK RIVER WEST CONDOMINIUMS

The Condominium Declaration for Park River West Condominiums was recorded at Reception Number 2002056084, and the Condominium Map at Reception Number 2002056085, Larimer County, Colorado records.

Phase I was declared as Building 6, Units 658 and 660, on Lot 2 of the Subdivision pursuant to the Condominium Declaration and the Condominium Map recorded on May 21 2002, at Reception Number 2002056085, Larimer County records.

Phase II was declared as Building 7, Units 654 and 656, on Lot 2 of the Subdivision pursuant to this Amendment to the Condominium Declaration and the Supplemental Condominium Map recorded on August 1, 2002, at Reception Number 2002081905, Larimer County records.

Phase III was declared as Building 13, Units 630 and 632, on Lot 2 of the Subdivision pursuant to this Amendment to the Condominium Declaration and the Supplemental Condominium Map recorded on November 21, 2002, at Reception Number 2002125888, Larimer County records.

Phase IV was declared as Building 8, Units 650 and 652, on Lot 2 of the Subdivision pursuant to this Amendment to the Condominium Declaration and the Supplemental Condominium Map recorded on November 21, 2002, at Reception Number 2002125889, Larimer County records.

Phase V was declared as Building 9, Units 646 and 648, on Lot 2 of the Subdivision pursuant to this Amendment to the Condominium Declaration and the Supplemental Condominium Map recorded on December 17, 2002, at Reception Number 2002136772, Larimer County records.

Phase VI was declared as Building 10, Units 642 and 644, on Lot 2 of the Subdivision pursuant to this Amendment to the Condominium Declaration and the Supplemental Condominium Map recorded on December 17, 2002, at Reception Number 2002136773, Larimer County records

Each of these units shall include a one-twelfth undivided interest in and to the common elements of this condominium project.

Additional amendments to the Condominium Map and the additional supplemental Condominium Maps will be recorded as additional condominium units are conveyed, which will change the undivided interest in the common elements.

Richard H. Wille Trust

By:                     /s/                      
Richard H. Wille, Trustee  
Declarant

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Richard H. Wille Trust

By: Richard H. Wille Trust  
Richard H. Wille, Trustee  
Declarant

John Phillips  
PO Box 1569  
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80517