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BYLAWS
OF
THE VILLAS AT SWAN'S NEST HOMEOWNERS ASSOCIATION, INC.

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**BYLAWS
OF
THE VILLAS AT SWAN'S NEST HOMEOWNERS ASSOCIATION, INC.**

**ARTICLE I
DEFINITIONS**

The following terms shall have the same meaning herein as such terms have in the Condominium Declaration for The Villas at Swan's Nest (the "Declaration"): "Association," "Building[s]," "Executive Board or Board," "Common Elements," "Condominium Unit," "Declarant," "First Lienors," "General Common Element," "General Common Expense," "Limited Common Element," "Limited Common Expense," "Mortgagee," "Owner," "Period of Declarant Control," "Premises," "Project," "Sharing Ratio" and "Unit."

The "Act" shall be defined as the Colorado Common Interest Ownership Act, Colorado Revised Statutes 38-33.3-101 et seq., as amended.

**ARTICLE II
OFFICES**

The Association is a Colorado nonprofit corporation, with its principal office at P.O. Box 647, 1121 Dillon Dam Road, Frisco, CO 80443. The Association may also have offices and may carry on its purposes at such other places within and outside the State of Colorado as the Board of Directors may from time to time determine.

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**ARTICLE III MEMBERSHIP, VOTING, QUORUM AND
PROXIES**

3.1 Membership. The members of the Association shall be as set forth in the articles of incorporation from time to time.

3.2 Voting Rights. The Association shall have one class of voting membership. The total number of votes shall be equal to the total number of Units existing within the Premises. Members shall be entitled to one vote for each Unit. The vote for any Unit, the ownership of which is held by more than one member, may be exercised by any one of them, unless an objection or protest by any other holder of an interest in the Unit is made prior to the completion of the vote, in which case the vote for such Unit shall be exercised as the members holding interests in the Unit shall determine between themselves. Should the joint owners of a Unit be unable, within a reasonable time, to agree upon how they will vote any issue, they shall be passed over and their right to vote on such issue shall be lost. The total number of votes that may be cast in connection with any matter shall be equal to the total number of Units existing within the Premises. This Section 3.2 may be amended only by the unanimous vote of all the members.

3.3 Quorum. Except as otherwise required by the laws of Colorado or the Articles of Incorporation, the presence in person or by proxy of members entitled to vote more than twenty-five percent (25%) of the total votes of the members shall constitute a quorum.

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3.4 Proxies. Votes may be cast in person or by proxy. Every proxy must be executed in writing by the member or his duly authorized attorney-in-fact. Such proxy shall be filed with the secretary of the Association before or at the time of the meeting. No proxy shall be valid after the expiration of eleven months from the date of its execution unless otherwise provided in the proxy.

3.5 Majority Vote. At any meeting of members, if a quorum is present, the affirmative vote of a majority of the votes represented at the meeting, in person or by proxy, shall be the act of the members; unless the vote of a greater number is required by law, the articles of incorporation, the Declaration or these Bylaws.

ARTICLE IV ADMINISTRATION

4.1 Election Meeting and Budget Approval Meeting. The Election Meeting of the members shall be held at a time designated by the Board of Directors during the month of May, for the purpose of electing Directors and for the transaction of such other business as may come before the meeting. A Budget Approval Meeting shall be held during the month of November for the expressed purpose of approving the following calendar-year budget and otherwise keeping members informed of the Association's activity. If the day fixed for the Election Meeting or the Budget Approval Meeting shall be a legal holiday in Colorado, such meeting shall be held on the next succeeding business day.

4.2 Special Meetings. Special meetings of the members, for any purpose, unless otherwise prescribed by statute, may be called by the president, by a majority of the Board of Directors, and shall be called by the president at the request of the members entitled to vote twenty percent (20%) or more of the total votes of the members.

4.3 Place of Meeting. The Board of Directors may designate any place, either within or outside Colorado, as the place for any annual meeting or for any special meeting called by the Board of Directors. A waiver of notice signed by all members entitled to vote at a meeting may designate any place, either within or outside Colorado, as the place for such meeting. If no designation is made, or if a special meeting shall be called otherwise than by the Board, the place of meeting shall be the principal office of the corporation in Frisco, Colorado.

4.4 Notice of Meeting. Written or printed notice of any meeting of the members, stating the place, day and hour of the meeting, and the purpose or purposes for which the meeting is called, shall be delivered personally or by mail to each member entitled to vote at such meeting not less than ten (10) nor more than fifty (50) days before the date of the meeting. 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 in the office of the Association, with postage thereon prepaid. For the purpose of determining members entitled to notice of or to vote at any meeting of members, the Board of Directors may set a record date for such determination of members, in accordance with the laws of Colorado. If requested by the person or person lawfully calling such meeting, the secretary shall give notice thereof at the expense of the Association.

4.5 Informal Action by Members. Any action required or permitted to be taken at a meeting of the 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. Such consent shall have the same force and effect as a unanimous vote of the members, and may be stated as such in any articles or document filed with the Secretary of State of Colorado.

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4.6 Voting. In the election of directors there shall be one vote per Unit, but the members owning a Unit shall have the right to cast such single vote for as many persons as there are directors to be elected. Cumulative voting shall not be allowed.

ARTICLE V DECLARANT CONTROL

5.1 Declarant Control of the Association. During the Period of Declarant Control, the Declarant may appoint and remove the officers and members of the Board of Directors of the Association, notwithstanding anything to the contrary in these Bylaws. The Period of Declarant Control commences after initial recording of the Map and terminates no later than the earlier of:

- (a) Sixty (60) days after conveyance of seventy-five percent (75%) of the Units that are built to Owners other than the Declarant; or
- (b) Two (2) years after the last conveyance of a Unit by the Declarant in the ordinary course of business to Owners other than the Declarant; or
- (c) Two (2) years after any right to add new Units was last exercised; or
- (d) Five (5) years after the date of initial recording.

Declarant may voluntarily surrender the right to appoint and remove officers and members of the Board of Directors before termination of the Period of Declarant Control. In that event, the Declarant may require, for the duration of the Period of Declarant Control, that specified actions of the Board of Directors, as described in a recorded instrument executed by the Declarant, be approved by the Declarant before they become effective.

5.2 Elections By Owners

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

(b) Not later than sixty (60) days after conveyance of fifty percent (50%) of the Units to Owners other than the Declarant, not less than thirty-three and one-third percent (33-1/3%) of the members of the Board of Directors must be elected by Owners other than the Declarant.

(c) Not later than the termination of the Period of Declarant Control, the Owners shall elect a Board of Directors, at least a majority of whom shall be Owners other than the Declarant.

5.3 Delivery of Documents by Declarant. Within sixty (60) days after the members of the Association other than the Declarant elect a majority of the members of the Board of Directors, the Declarant shall deliver to the Board of Directors, without any charge to the Association, all property of the Owners and of the Association held by or controlled by the Declarant, including, without limitation, those items listed in Section 8.5 of the Declaration. At such time a representative of the Declarant and a representative of the Association should do a walk-through of the Common Elements of the Project and prepare a mutually acceptable "punch list" of items, if any, that are in need of attention and that Declarant agrees to replace or repair. Declarant shall have no responsibility to the Association or any Owner for replacement or repair of any Common Element problem that does not appear on such "punch list"; provided that nothing herein shall preclude the

Association, on behalf of the Owners, from making claims on any supplier or contractor warranties relating to the Common Elements, all of which will be assigned (to the extent assignable) by Declarant to the Association without recourse, representation or warranty.

ARTICLE VI BOARD OF DIRECTORS

6.1 Number, Tenure and Qualifications. A Board of Directors consisting of at least three (3) and not more than seven (7) Directors, each of whom shall be an individual member, partner, or trustee, shall manage the business and affairs of the Association. Each individual Director shall serve a two-year term. Each year, a minimum of three Directorships, plus any vacant Directorships, shall be filled by election at the Association Annual Meeting. Each Director shall hold office until the election and qualification of his successor or until his earlier death, resignation or removal. The number of directors may be changed by amendment of these Bylaws in the manner set forth herein.

6.2 Resignations; Vacancies and Causes for Removal. Any Director may resign at any time by giving written notice to the President or to the Secretary of the Association. Such resignation shall take effect at the time specified therein; and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective. Any Director determined by the Board of Directors to be acting contrary to the best interest of the Association may be removed from the Board by a majority affirmative vote of the remaining Directors. This removal may be appealed via the Annual Meeting, a Special Meeting or Informal Action by Members, and a sixty-six percent (66%) affirmative vote. Any vacancy occurring in the Board of Directors, by reason of resignation, removal, death, or any newly created directorship resulting from any increase in the authorized number of directors may be filled by the affirmative vote of a majority of the directors then in office though less than a quorum. A Director elected to fill a vacancy or newly created Directorship shall hold office until the next Annual Meeting of the members and until his successor is duly elected and qualified.

6.3 General Powers. The Board of Directors shall have and may exercise all the powers of the Association except such as are expressly conferred upon the members, either in their capacity as members of the Association or as Owners of Condominium Units by law, or by the Articles of Incorporation, the Declaration or these Bylaws.

6.4 Additional Powers and Responsibilities. In addition to its general powers, the Board of Directors shall have the authority and the responsibility, acting through the Association's officers (subject to any and all limitations upon such powers as set forth in the articles of incorporation or the Act):

(a) To administer and enforce the covenants, conditions, restrictions, easements, uses, limitations, obligations and all other provisions set forth in the Declaration submitting the property to the provisions of the Act.

(b) To establish, make, amend and enforce compliance with such reasonable rules and regulations as may be necessary or advisable for the operation, use and occupancy of the Premises and for the operation and use of the Common Elements. Such rules and regulations may be adopted and amended by a majority of the directors in attendance at any meeting where a quorum of the Board is present.

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(c) To maintain in good order, condition and repair all of the Common Elements and all items of personal property used in the enjoyment of the Premises.

(d) To obtain and maintain insurance in connection with the Premises, the Owners, the Association and holders of liens on Units in the manner and the amounts provided in the Declaration.

(e) To obtain and maintain directors' and officers' liability insurance for the Association, in accordance with the provisions of Section 12.4 of these Bylaws.

(f) (i) To fix, determine, levy and collect periodic and special assessments (as more specifically described in the Declaration) to be paid by each of the Owners to meet the General Common Expenses and Limited Common Expenses, and to create a contingency reserve therefor.

(ii) Prior to the beginning of the HOA fiscal year, the Board will have prepared and adopted a proposed budget for the new fiscal year. This shall be accomplished no later than the last meeting of the Board of Directors prior to the beginning of the Association's year.

(iii) Thirty days prior to the last HOA meeting of the current fiscal year, the Board of Directors shall mail, by ordinary first-class mail, or otherwise deliver a summary of the adopted budget for the new fiscal year to all members along with a Meeting Notice and Agenda. Unless at that meeting the members reject the proposed budget by a majority vote, the proposed budget shall be ratified, whether or not a quorum is present. In the event that the proposed budget is rejected, the periodic budget last ratified by the members must be continued until such time as the members ratify a subsequent budget proposed by the Board of Directors.

(iv) All periodic or special assessments shall be in itemized statement form and shall set forth in detail the various expenses for which the assessments are being made.

(g) To collect promptly all delinquent assessments by suit or otherwise and to enjoin or seek damages from an Owner as is provided in the Declaration and these Bylaws.

(h) To protect and defend the Premises from loss and damage by suit or otherwise.

(i) To borrow funds in order to pay for any expenditure or outlay authorized by these Bylaws and the Declaration, to execute all such instruments evidencing such indebtedness as the Board of Directors may deem necessary or advisable.

(j) To enter into contracts within the scope of their duties and powers.

(k) To establish a bank account for the common treasury and for all separate funds which are required or may be deemed advisable by the Board of Directors.

(1) To maintain full and accurate books and records showing all of the receipts, expenses or disbursements of the Association. Any member or Mortgagee may inspect such records at convenient weekday hours. Upon fourteen (14) days' prior written notice to the manager, managing agent or Board of Directors and payment of a reasonable fee, any Owner, Mortgagee, prospective Mortgagee, prospective purchaser or other transferee of a Condominium Unit shall be furnished a written statement setting forth the amount of any unpaid General or Limited Common Expenses, if any, with respect to the applicable Condominium Unit, the amount of the current periodic assessment, the date on which such assessment became or shall become due, the amount of unpaid periodic or special assessments, if any, and the amount of any credit for prepaid expenses.

Deleted: At the first meeting of the Board of Directors after the beginning of the Association's fiscal year, the Board shall adopt a proposed budget for that year. The proposed budget shall include, but shall not be limited to, an estimate of the costs of maintenance and repair of the Common Elements, the cost of utilities and other services to be provided by the Association, the cost of insurance required by the Declaration, and the proposed capital expenditures. For the Association's first fiscal year, estimates of the costs for repair and maintenance of the Common Elements shall be based on a good faith estimate of those costs and may be based on the costs incurred by similar associations in the general locale of the Premises. Thereafter, the cost of maintenance and repair shall be estimated on the basis of the previous year's costs with such adjustments as the Board of Directors considers appropriate. The budget shall also include an estimate, based on such estimates, of the annual assessment for each Unit.

Deleted: Within thirty (30) days after adoption of any proposed budget, the Board of Directors shall mail, by ordinary first-class mail, or otherwise deliver a summary of the budget to all members and shall set a date for a meeting of the members to consider ratification of the budget, which date shall be not less than fourteen (14) nor more than sixty (60) days after mailing or other delivery of the summary. Unless at that meeting the members reject the proposed budget by a majority vote, the proposed budget shall be ratified, whether or not a quorum is present. In the event that the proposed budget is rejected, the periodic budget last ratified by the members must be continued until such time as the members ratify a subsequent budget proposed by the Board of Directors.

(m) The Board of Directors will will receive monthly financial statements. Upon request any homeowner may obtain copies of the same statement at the requesting owner's expense.

Deleted: To prepare and deliver annually to each member a statement showing all receipts, expenses or disbursements since the last such statement.

(n) To designate and remove personnel necessary for the operation, maintenance, repair and replacement of the Premises.

6.5 Managing Agent. The Board of Directors may employ a manager or managing agent, or both, for the Association at a compensation established by the Board of Directors to perform such duties and services as the Board of Directors shall authorize including, but not limited to, the duties listed in Section 6.4 above. Any such delegation, however, shall not relieve the Board of Directors of its responsibility under the Declaration. If, and to the extent that, the Board of Directors delegates its powers relating to the collection, deposit, transfer or disbursement of Association funds to a manager or managing agent, or both, such manager or managing agent, or both shall:

(a) Maintain fidelity insurance coverage or a bond in an amount not less than \$50,000.00 or such higher amount as the Board of Directors may require; and

(b) Maintain all funds and accounts of the Association separate from the funds and accounts of any other associations managed by the manager or managing agent, and maintain all reserve accounts of each association so managed separate from operational accounts of the Association; and

(c) Have prepared and present to the Association an annual accounting for Association funds and a financial statement, which accounting and financial statement shall be prepared by the managing agent, a public accountant, or a certified public accountant.

6.6 Regular Meetings. Regular meetings of the Board of Directors may be held without call or formal notice at such places within the State of Colorado, and at such times as the Board from time to time by vote may determine. Any business may be transacted at a regular meeting. The regular meeting of the Board of Directors for the election of officers and for such other business as may come before the meeting may be held without call or formal notice immediately after, and at the same place as, the annual meeting of members, or any special meeting of members at which a Board of Directors is elected.

6.7 Special Meetings. Special meetings of the Board of Directors may be held at any place within the State of Colorado at any time when called by the president, or by two (2) or more directors, upon the giving of at least three (3) days' prior notice of the time and place thereof to each director by leaving such notice with him or at his residence or usual place of business, or by mailing or telegraphing it prepaid, and addressed to him at his post office address as it appears on the books of the Association, or by telephone. Notices need not state the purposes of the meeting. No notice of any adjourned meeting of the Board of Directors shall be required.

6.8 Quorum. A majority of the number of directors fixed by these Bylaws, as amended from time to time, shall constitute a quorum for the transaction of business, but a lesser number may adjourn any meeting from time to time. When a quorum is present at any meeting, a majority of the directors in attendance shall, except where a larger number is required by law, by the Articles of Incorporation or by these Bylaws, decide any question brought before such meeting.

6.9 Waiver of Notice. Before, at or after any meeting of the Board of Directors, any director may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the

giving of such notice. Attendance by a director at any meeting of the Board of Directors shall be a waiver of notice by him except when such director attends the meeting for the express purpose of objecting to the transaction of business because the meeting is not lawfully called or convened.

6.10 Informal Action by Directors. Any action required or permitted to be taken at a meeting of the Board 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 entitled to vote with respect to the subject matter thereof. Such consent shall have the same force and effect as a unanimous vote of the directors.

6.11 Compensation of Directors. The Board of Directors is authorized to make provision for reasonable compensation to its members.

ARTICLE VII OFFICERS AND AGENTS

7.1 General. The officers of the Association shall be a president (who shall be chosen from among the members of the Board of Directors), one or more vice presidents, a secretary and a treasurer. The officers shall be appointed by an affirmative vote of a majority of the members of the Board of Directors. The Board of Directors may appoint such other officers, assistant officers, committees and agents, including assistant secretaries and assistant treasurers, as they may consider necessary or advisable, who shall be chosen in such manner and hold their offices for such terms and have such authority and duties as from time to time may be determined by the Board of Directors. One person may hold any two offices, except that no person may simultaneously hold the offices of president and secretary. In all cases where the duties of any officer, agent or employee are not prescribed by the Bylaws or by the Board of Directors, such officer, agent or employee shall follow the orders and instructions of the president.

7.2 Removal of Officers. Upon an affirmative vote of a majority of the members of the Board of Directors, any officer may be removed if the majority of Board Members determine that the Officer acted contrary to the best interests of the Association, and his successor shall be elected at any regular meeting of the Board of Directors, or at any special meeting of the Board called for such purpose.

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7.3 Vacancies. A vacancy in any office, however occurring, may be filled by an affirmative vote of a majority of the members of the Board of Directors for the unexpired portion of the term.

7.4 President. The president shall be the chief executive officer of the Association. He shall preside at all meetings of the Association and of the Board of Directors. He shall have the general and active control of the affairs and business of the Association and general supervision of its officers, agents and employees. The president of the Association is designated as the officer with the power to prepare, execute, certify and record amendments to the Declaration on behalf of the Association.

7.5 Vice Presidents. The vice presidents shall assist the president and shall perform such duties as may be assigned to them by the president or by the Board of Directors. In the absence of the president, the vice president designated by the Board of Directors or (if there be no such designation) designated in writing by the president shall have the powers and perform the duties of the president. If no such designation shall be made all vice presidents may exercise such powers and perform such

duties.

7.6 Secretary. The secretary shall:

- (a) Keep the minutes of the proceedings of the members, executive committee and the Board of Directors;
- (b) See that all notices are duly given in accordance with the provisions of these bylaws, the Declaration and as required by law;
- (c) Be custodian of the corporate records and of the seal of the Association and affix the seal to all documents when authorized by the Board of Directors;
- (d) Keep at its registered office or principal place of business within or outside Colorado a record containing the names and registered addresses of all members, the designation of the Unit owned by each member, and, if such Unit is mortgaged, the name and address of each Mortgagee; and
- (e) In general, perform all duties incident to the office of secretary and such other duties as from time to time may be assigned to him by the president or by the Board of Directors. Assistant secretaries, if any, shall have the same duties and powers, subject to supervision by the secretary.

7.7 Treasurer. The treasurer shall be the principal financial officer of the Association and shall have the care and custody of all funds, securities, evidences of indebtedness and other personal property of the Association and shall deposit the same in accordance with the instructions of the Board of Directors. He shall receive and give receipts and acquittances for moneys paid in on account of the Association, and shall pay out of the funds on hand all bills, payrolls and other just debts of the Association of whatever nature upon maturity. He shall perform all other duties incident to the office of the treasurer and, upon request of the Board of Directors, shall make such reports to it as may be required at any time. He shall, if required by the Board of Directors, give the Association a bond in such sums and with such sureties as shall be satisfactory to the Board of Directors, conditioned upon the faithful performance of his duties and for the restoration to the Association of all books, papers, vouchers, money and other property of whatever kind in his possession or under his control belonging to the Association. He shall have such other powers and perform such other duties as may be from time to time prescribed by the Board of Directors or the president. The assistant treasurers, if any, shall have the same powers and duties, subject to the supervision of the treasurer.

ARTICLE VIII OBLIGATIONS OF THE MEMBERS

8.1 Assessments. Each Owner shall pay his share of all assessments imposed by the Association to meet the General and Limited Common Expenses. Unless otherwise set out in the Declaration, each assessment for General Common Expenses shall be allocated among the Owners in accordance with their respective Sharing Ratios and each assessment for Limited Common Expenses shall be allocated among the Owners in accordance with their relative percentage interests in the subject Limited Common Elements. If a Unit is owned by two or more Owners, each of such co-Owners shall be jointly and severally liable for the portion of all assessments attributable to such Unit. Assessments shall be made monthly and shall be due and payable on the date specified in the assessment notice. All unpaid assessments shall bear interest at a rate determined by the

Board of Directors and shall be secured by a lien on the Unit owned by the defaulting Owner in accordance with the provisions of the Declaration.

8.2 Maintenance and Repair.

(a) Every Owner shall perform or cause to be performed at his own expense all maintenance and repair work within his own Unit necessary to maintain the Unit in a good and habitable state of repair.

(b) All repairs of internal installations in a Unit such as water, light, gas, power, sewage, telephones, air conditioners, sanitary installations, doors, windows, electrical fixtures and all other accessories, equipment and fixtures belonging to a Unit shall be at the Owner's expense.

(c) Each Owner shall reimburse the Association promptly upon receipt of its statement for any expenditures incurred by it in repairing or replacing any Common Element damaged by the negligence or intentional acts of such Owner or his tenants or guests.

8.3 Compliance With Declaration, Articles, Bylaws and Rules. Each member shall comply with all of the provisions of the Declaration, the Articles of Incorporation and Bylaws of the Association and any rules and regulations issued by the Board of Directors. If a member fails to comply, the Association shall have the right and power, during the period of such delinquency, (a) to revoke the delinquent member's right to use General Common Elements designed for recreational purposes, (b) to cause utility service to the delinquent member's Unit to be suspended, (c) to suspend the delinquent member's voting privileges, and (d) to impose appropriate fines, as determined by the Board of Directors, against the delinquent member. In the event of the exercise of any such powers, the Association shall notify the delinquent member's First Lienor listed in the Liens on Units (defined in Section 9.3 below) of the delinquency and the action taken.

ARTICLE IX EVIDENCE OF OWNERSHIP, REGISTRATION OF MAILING ADDRESS AND LIEN HOLDERS

9.1 Proof of Ownership. Except for those Owners who initially contracted to purchase a Unit from the Declarant, any person on becoming an Owner shall furnish to the Association a photocopy or a certified copy of the recorded instrument vesting that person with an ownership interest in the Unit. Such copy shall remain in the files of the Association. A member shall not be deemed to be in good standing and shall not be entitled to vote at any annual or special meeting of members unless this requirement is first satisfied. The Association may issue membership certificates to its members; however, such certificates shall not be deemed to be shares of stock in the Association.

9.2 Registration of Mailing Address. If a Unit is owned by two or more Owners, such co-Owners shall designate one address as the registered address required by the Declaration. The registered address of an Owner or Owners shall be furnished to the secretary within five (5) days after transfer of title, or after a change of address, and such registration shall be in writing and signed by all of the Owners or by such persons as are authorized to sign on behalf of such Owners.

9.3 Liens. Any Owner who mortgages or grants a deed of trust covering his Unit shall notify the Board of Directors of the name and address of the Mortgagee and shall file conformed copies of the note and security instrument with the Board of Directors. The Board of Directors shall maintain such information in a book entitled "Liens on Units." The Board of Directors, when giving notice to an Owner of default in paying an assessment or other default, shall send a copy of such

notice to each First Lienor with an interest in such Owner's Unit whose name and address has theretofore been furnished to the Board of Directors.

9.4 Address of the Association. The address of the Association shall be The Villas at Swan's Nest Homeowners Association, Inc., P.O. Box 647, 1121 Dillon Dam Road, Frisco, CO 80443. Such address may be changed from time to time upon written notice to all members and all First Lienors listed in the Liens on Units.

Deleted: 978, 77 Metcalf Road, Suite 201, Avon, Colorado 81620

ARTICLE X SECURITY INTEREST IN MEMBERSHIP

Owners shall have the right irrevocably to constitute and appoint a Mortgagee their true and lawful attorney-in-fact to vote their Unit membership in the Association at any and all meetings of the Association and to vest in the Mortgagee any and all rights, privileges and powers that they have as Owners under the Articles of Incorporation and these Bylaws or by virtue of the Declaration. Such proxy shall become effective upon the filing of notice by the Mortgagee with the secretary of the Association at such time or times as the Mortgagee shall deem its security in jeopardy by reason of the failure, neglect or refusal of the Association, the Board of Directors or the Owners to carry out their duties as set forth in the Declaration. A release of the mortgage or deed of trust covering the subject Unit shall operate to revoke such

proxy. Nothing herein contained shall be construed to relieve Owners, as mortgagors, of their duties and obligations as Owners or to impose upon the Mortgagee the duties and obligations of an Owner.

ARTICLE XI AMENDMENTS

11.1 Directors. Except as limited by law, the Articles of Incorporation, the Declaration or these Bylaws, or committed to action by the members, the Board of Directors shall have power to make, amend and repeal the Bylaws of the Association at any regular meeting of the Board or at any special meeting called for that purpose at which a quorum is represented. If the Board of Directors elects to make, amend or repeal the Bylaws of the Association, the Board shall provide written indication of the changes made to all Members of record at the time of the changes. If, however, the members shall make, amend and repeal any bylaw the directors shall not thereafter amend the same in such manner as to defeat or impair the object of the members in taking such action.

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11.2 Members. Subject to any rights conferred upon First Lienors in the Declaration, the members may, by the vote of the holders of at least fifty percent (50%) of the votes of the members, unless a greater percentage is expressly required by law, the Articles of Incorporation, the Declaration or these Bylaws, make, alter, amend and repeal the Bylaws of the Association at any annual meeting or at any special meeting called for that purpose at which a quorum shall be represented.

11.3 Limitation. Notwithstanding the foregoing, amendment of these Bylaws is specifically subject to the requirements of Section 38-33.3-306 of Colorado Revised Statutes, as amended.

ARTICLE XII

MISCELLANEOUS

12.1 Seal. The corporate seal of the Association shall be circular in form and shall contain the name of the corporation, the year of its organization and the words "Seal, Colorado".

12.2 Right of Entry. The manager and any person authorized by the Board of Directors shall have the right to enter each Unit in case of any emergency originating in or threatening such Unit whether or not the Owner or occupant is present at the time.

12.3 Fiscal Year. The fiscal year of the Association shall be such as may from time to time be designated by the Board of Directors, or, in the absence of such designation, shall be the calendar year.

12.4 Indemnification. The Association shall have the following powers regarding indemnification:

(a) To indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending, or completed action, suit, or proceeding whether civil, criminal, administrative, or investigative (other than an action by or in the right of the Association) by reason of the fact that he is or was a director, officer, employee, or agent of the Association or is or was serving at the request of the Association as a director, officer, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise against expenses (including attorneys' fees), judgments, fines, and amounts paid in settlement actually and reasonably incurred by him in connection with that action, suit, or proceeding if he acted in good faith and in a manner he reasonably believed to be in the best interests of the Association and, regarding any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. The termination of any action, suit, or proceeding by judgment, order, settlement, or conviction or upon a plea of nolo contendere or its equivalent will not of itself create a presumption that the person did not act in good faith and in the manner which he reasonably believed to be in the best interests of the Association and, regarding any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

(b) To indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending, or completed action or suit by or in the right of the Association to procure a judgment in its favor by reason of the fact that he is or was a director, officer, employee, or agent of another Association, partnership, joint venture, trust, or other enterprise against expenses (including attorneys' fees) actually and reasonably incurred by him in connection with the defense or settlement of that action or suit if he acted in good faith and in a manner he reasonably believed to be in the best interests of the Association; but no indemnification shall be made regarding any claim, issue, or matter as to which such person has been adjudged to be liable for negligence or misconduct in the performance of his duty to the Association, unless and only to the extent that the court in which the action or suit was brought determines upon application that, despite the adjudication of liability but in view of all circumstances of the case, such person is fairly and reasonably entitled to indemnification for those expenses which the court deems proper.

(c) To the extent that a director, officer, employee, or agent of the Association has been successful on the merits in defense of any action, suit, or proceeding referred to in subsections (a) and (b) or in defense of any claim, issue, or matter therein, he shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by him in connection therewith.

(d) Any indemnification under subsection (a) or (b) (unless ordered by a court) shall be made by the Association only as authorized in the specific case upon a determination that

indemnification of the director, officer, employee, or agent is proper in the circumstances because he has met the applicable standard of conduct set forth in subsection (a) or (b). That determination shall be made by the Board of Directors by a majority vote of a quorum consisting of directors who were not parties to such action, suit, or proceeding or, if a quorum is not obtainable or even if obtainable a quorum of disinterested directors so directs, by independent legal counsel in a written opinion, or by the members.

(e) Expenses (including attorneys' fees) incurred in defending a civil or criminal action, suit, or proceeding may be paid by the Association in advance of the final disposition of that action, suit, or proceeding as authorized in subsection (d) upon receipt of an undertaking by or on behalf of the director, officer, employee, or agent to repay such amount unless it is ultimately determined that he is entitled to be indemnified by the Association as authorized in this section.

(f) The indemnification provided by this section shall not be deemed exclusive of any other rights to which those indemnified may be entitled under the Articles of Incorporation, these Bylaws, agreement, vote of members or disinterested directors or otherwise, and any procedures provided for by any of the foregoing, both as to action in his official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be a director, officer, employee, or agent and shall inure to the benefit of heirs, executors, personal representatives and administrators of that person.

(g) The Association may purchase and maintain insurance on behalf of any person who is or was a director, officer, employee, or agent of the Association or who is or was serving at the request of the Association as a director, officer, employee, or agent of another Association, partnership, joint venture, trust or other enterprise against any liability asserted against him and incurred by him in any such capacity or arising out of his status as such, whether or not the Association would have the power to indemnify him against that liability under the provisions of this section.

12.5 Recreational Facilities. Recreational facilities for the Premises will include two (2) hot tubs,

Deleted: a swimming pool, a hard surface basketball/play court and a playground.

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12.6 Construction with Other Documents. The Declaration, as it may be amended or supplemented from time to time, and the Articles of Incorporation of the Association, filed with the Colorado Secretary of State, as they may be amended from time to time, are hereby incorporated herein. The provisions of such instruments shall control in the event of an irreconcilable conflict with the provisions of these Bylaws, unless otherwise required by the Act. Similarly the rules and regulations issued by the Board of Directors, as they may be amended or supplemented from time to time, are hereby incorporated herein; and together with the Declaration and these Bylaws shall control each Owner's use and maintenance obligations with respect to the Units and Common Elements,

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