



1246795

Kathleen Neel - Summit County Recorder

**AMENDED AND RESTATED DECLARATION
FOR
LANCE'S WEST CONDOMINIUM**

WHEREAS, the Owners ("Owners") of Lances West Condominium Corp., a Colorado non-profit corporation ("Association"), and the Association are collectively the owners of all of property located in the County of Summit, State of Colorado, described as follows:

Lot 7b, FOUR SEASONS OF BRECKENRIDGE VILLAGE, FILING NO. 1, according to the plat recorded at reception number 147679, in the records of the Summit County Clerk and Recorder,

(the "Property"); and

WHEREAS, the Owners wish to amend and restate the Condominium Declaration for Lance's West Condominium recorded January 12, 1972, at Reception No. 124262 (the "Original Declaration");

WHEREAS, the Original Declaration was amended by the First Amended Declaration, recorded at Reception No. 125856 on April 25, 1972, by the Second Amendment to the Declaration at Reception No. 147675 on March 31, 1975, by the Third Amendment to the Declaration at Reception No. 169283 on October 18, 1977, and the Fourth Amendment to the Declaration at Reception No. 266464 on October 28, 1983 (collectively the "Amendments");

WHEREAS, for the sake of clarity and to update the Original Declaration and all of the Amendments, the Owners wish to adopt this Amended and Restated Declaration for Lance's West Condominium ("Declaration") as set forth herein;

WHEREAS, pursuant to C.R.S. § 38-33.3-118, the Owners wish to submit the Property to the provisions of the Colorado Common Interest Ownership Act, C.R.S. § 38-33.3-101 et seq. (the "Act"); and

WHEREAS, at least sixty-seven percent (67%) of the Owners have approved this Declaration.

NOW, THEREFORE, the Owners hereby make the following declarations, which shall govern the divisions, conveyances, covenants, restrictions, limitations, conditions and uses of the Property, hereby specifying that this Declaration shall constitute covenants to run with the land and shall be binding on the Owners, their successors and assigns, and all subsequent owners of all or any part of the Property and improvements thereon, together with their grantees, successors, heirs, administrators and assigns.

1. Definitions.

a. All applicable definitions as contained in C.R.S. 38-33.3-101 et seq. (“CCIOA”) shall apply to this Declaration and the Property, except as modified or changed by individual definitions contained herein.

b. “Association” means Lances West Condominium Corp., a Colorado non-profit corporation formed for the purpose of managing, maintaining, repairing and administering the Property and all buildings, improvements and Common Elements on the Property; of assessing, collecting and applying Common Expenses, for enforcing this Declaration, for acting as attorney in fact or trustee for condominium unit owners as hereafter set forth and generally for administering the Property. The Association’s only members shall be owners of condominium units. A person who for any reason ceases to be an Owner shall cease to be a Member.

c. “Building” means a building or structure containing Condominium Units or Garage Units.

d. “Building Ownership” means the fractional interest which each condominium unit owner owns of the building in which such owner’s condominium unit is located.

e. “Common Elements” means all portions of the Property other than the Condominium Units and Garage Units.

f. “Common Expenses” means the expenses of repair and maintenance of common elements and units owned by the Association, including, but not limited to, trash removal, mowing grass, caring for the grounds, sprinkler system, swimming pool, saunas, recreational buildings, roofs, structural walls and supports of buildings, carports, reserve for repair, maintenance, taxes and other charges including fire and other hazard insurance premiums, and a liability insurance policy in the face amount of not less than \$1,000,000, which policy, in addition to public liability, shall cover repair and construction work to all of the assets and property owned or to be maintained by the Association. Such common expenses shall be paid in amounts and at times determined reasonable and necessary by the Association for the best good and convenience of the Owners.

g. “Condominium Interest” means the fee title to a condominium unit, together with all undivided interest, fractional interest, building ownership and other rights appurtenant thereto.

h. “Condominium Map” means an engineered survey entitled “Condominium Plat of Lance’s West Condominium,” and all amendments thereto, showing at least the following:

- i. Boundary description of the property;
- ii. The locations of all buildings and other improvements thereon;

- iii. The floor and wall thickness and building elevations; and
- iv. Condominium units by letter or number.

i. "Condominium Unit" means the air space which is contained within the perimeter walls, floors and roofs of each unit of a building as shown on the Condominium Map of the Property, together with all improvements and fixtures within said air space, except bearing walls, pillars, beams and portions of the building forming essential supports and structural parts, together with any and all appurtenances thereto.

j. "Fractional Interest" means the proportionate interest of each condominium unit owner's undivided interest in common elements to all such interest, as set forth in Exhibit A attached hereto.

k. "Garage Unit" means the four garage units on the first floor of Building C identified as such on the Condominium Map as Garages A, B, C, and D, which are also referred to as G-1, G-2, G-3, and G-4.

l. "Limited Common Elements" means those common elements whose use is limited or reserved to the owner or owners of an individual condominium unit or to fewer than all owners of condominium units.

m. "Member" means the Owner of each Unit in their capacity as a member in the Association appurtenant to such ownership.

n. "Owner" means a person who owns a Condominium Unit.

2. Conveyance of Condominium Interests. Every contract of sale, deed, lease, mortgage, deed of trust or other similar instrument affecting title to a Condominium Unit ("Deed") may describe that unit by the number and building shown on the Condominium Map with the appropriate reference to the Condominium Map and this Declaration and any supplemental declaration as each shall appear in the Summit County, Colorado records in the following manner:

"Condominium Unit No. ____, Building _____, as shown on the condominium map for Lance's West Condominium appearing in the records of the County Clerk and Recorder of Summit County, Colorado, at Reception No. _____, and as defined and described in the Condominium Declaration for Lance's West Condominium recorded at Reception No. _____. Such description shall be construed to describe the unit together with the appropriate undivided fractional interest in the common elements, and to incorporate all the rights incident to ownership of a condominium unit and all the limitations on such ownership as described in this Declaration and any Supplemental Declaration."

The initial deed may contain whatever reservations, exceptions and exclusions as are deemed by Owner to be for the best interest of all condominium unit owners and the Association. All such reservations, exceptions and exclusions shall be deemed for the ultimate benefit of the

Association after Owner shall have conveyed all of its interest in the Property to owners of condominium units.

Anything in deeds of conveyance, restrictions or this Declaration to the contrary notwithstanding, the Owners shall be entitled to the use of air space over all common elements, except limited common elements in common with all other such condominium unit owners, except such space specifically conveyed to another or which is being actually built on or utilized for purposes specifically reserved by deed; provided only that no Owner may build on or over any such common elements or limited common elements or appropriate to his own use air space over common elements, all except as may properly be done through the Association.

3. Duties of the Association. The Association shall have the duty of determining by estimate or otherwise the amount of common expenses necessary to properly maintain, repair and administer the Property. At the time of the first conveyance of each condominium unit, and from time to time thereafter, it shall notify the Owner of each condominium unit of the amount of the estimated annual assessment, which amount shall be allocated to each condominium unit in a manner determined according to each Owner's Fractional Interest as set forth in Exhibit A, attached hereto, this Declaration and the Act at the annual meeting of the Association, and shall collect said amount from each Owner of a condominium unit each month. It shall establish and maintain a reserve of such funds for maintenance, repair, administration, payment of a manager if necessary, payment of insurance premiums and other matters deemed by the Association as appropriate for reserves. It shall have the duty of applying such funds to keep the condominium property well maintained and in a proper state of repair and cleanliness and to keep all of the property properly insured as hereinafter provided.

The common expenses shall include the insurance premium, administration and management expenses, costs of maintaining all buildings and recreation areas; maintenance of parking areas; maintenance and replacement of hot water heaters, furnaces and other utilities and equipment used in connection with the Common Elements. Heat, light, water, trunk lines and the cost of replacing, maintaining and repairing equipment for same shall be assessed by charging the building ownership percentage of the cost therefore for each building to the owner of each condominium unit in such building. Such costs for sewer and water mains, electrical lines and other matters serving common elements, as contrasted with limited common elements, shall be charged to each Owner according to each Owner's Fractional Interest as set forth in Exhibit A. The amounts may be determined by estimate and changed from time to time as actual bills or experience require. Each condominium unit owner shall pay all repairs and utilities, except water and sewer, applicable to his or her individual condominium unit, including hot water heater, ranges, etc. in the building in which his or her unit is located directly and not through the Association.

The Association also has the authority to charge an assessment for the Garage Units, which shall be allocated to each Garage Unit on the basis of a one-fourth (1/4) fractional interest.

4. Lien for Non-Payment of Common Expenses. It shall be the duty of the owner of each condominium unit to pay his proportionate share of the expenses of administration, maintenance

and repair of the common elements, taxes, insurance and fixed charges allocated or assessed to such unit and its corresponding condominium interest, and of any other expense set forth in Section 3 above. Payment thereof shall be in such amounts and at such times as may be determined by the Association.

If any condominium unit owner shall fail or refuse to make any such payment of the common expenses when due, the amount due shall thirty (30) days thereafter accrue interest at the then highest allowable legal rate per annum. The amount thereof shall constitute a lien on the condominium interest of such owner as set forth in the Deed of conveyance to him or her, together with his or her interest in common elements, and upon the recording of notice thereof by the Association, such lien shall be constituted upon such unit owner's interest of condominium property prior to all other liens and encumbrances, recorded or unrecorded, except only notice thereof by the Association, such lien shall be constituted upon such unit owner's interest of condominium property prior to all other liens and encumbrances, recorded or unrecorded, except only property taxes, special assessments and special taxes theretofore or thereafter levied by any political subdivision or municipal corporation of this state and other state or Federal taxes which by law are a lien on the interest of such unit owner prior to pre-existing recorded encumbrances thereon, and encumbrances on the interest of such unit owner recorded prior to the date such notice is recorded which by law would be a lien thereon prior to subsequently recorded encumbrances.

The lien provided for in this section shall be in favor of the Association and shall be for the benefit of all other condominium unit owners and may be foreclosed by an action brought in the name of the Association in a like manner as a mortgage of real property. The Association, acting on behalf of the unit owners, shall have the power to bind the interest so foreclosed at foreclosure sale and to acquire and hold, lease, mortgage and convey the same; and to subrogate so much of its rights to such lien as may be necessary or expedient to an insurance company which will continue to give total coverage in spite of non-payment of such defaulting owner's portion of the premium.

5. Foreclosure Deeds, Etc.

In the event any person shall acquire or be entitled to the issuance of a tax deed, public trustee's deed, sheriff's deed, commissioner's deed, etc., the interest so acquired shall be subject to all the provisions of this Declaration and to the terms, provisions, covenants, conditions and limitations contained in the Declaration, the Condominium Map, the Bylaws of the Association, or any restrictions or exceptions affecting such interest then in force.

6. Insurance.

The Association, through its Board of Directors, shall have the authority to, and shall, obtain insurance for the condominium property and each condominium building or a single policy on all buildings and common areas for liability as set forth Paragraph 1(f) above and against loss or damage by fire and such other hazards as are generally covered in the area under standard extended coverage provisions for at least the full insurable replacement costs of the condominium buildings,

common elements and units and may include coverage against vandalism, etc. Such insurance coverage shall be written in the name of and the proceeds thereof to be payable to the Association and encumbrancers who shall receive an endorsement to them as their interests may appear and shall insure the full amount to an encumbrancer of a condominium interest if required by such encumbrancer.

The Association shall act in regard thereto as trustee for each of the owners in the respective percentage ownership allocated in this Declaration. Premiums for such insurance shall be common expenses. An owner may obtain whatever additional insurance he or she desires, and it shall be the individual responsibility of each owner to provide as he or she sees fit homeowner's liability insurance, theft and other insurance covering personal property damage and loss, but payment for the premiums therefor and renewal thereof shall be the sole responsibility of such owner and not of the Association.

7. Damage, Destruction, Obsolescence and Condemnation.

a. As soon as practical after an event causing damage to or destruction of any part of the condominium property, the Association shall, unless such damage or destruction shall be minor (for the purpose meaning less than \$1,000, unless the Association determines any particular damage or destruction of less than such amount not to be minor), obtain an estimate or estimates that it deems reliable and complete of the costs of repair and reconstruction of that part of the condominium property so damaged or destroyed. "Repair and construction" as used in this section shall mean restoring the damaged or destroyed part of the property to substantially the same condition in which it existed prior to the damage or destruction, with each individual condominium unit and the common elements having substantially the same vertical and horizontal boundaries as before.

b. As soon as practical after obtaining estimates or after the damage or destruction, in the case of minor damage or destruction, the Association shall diligently pursue to completion the repair and reconstruction of the part of the property damaged or destroyed. As attorney-in-fact for the owners, the Association may take any and all necessary or appropriate action to effect repair and reconstruction and no consent or other action by any owner shall be necessary in connection therewith.

c. The proceeds received by the Association from any hazard insurance shall be used for the purpose of repair, replacement, and reconstruction. If the proceeds of the insurance are insufficient to pay the estimated or actual cost of such repair and reconstruction, the Association may levy, apportion, assess, and collect in advance from all owners a special assessment sufficient to provide funds to pay such estimated or actual costs of repair and reconstruction. Further levies may be made in like manner if the amounts collected prove insufficient to complete the repair and reconstruction.

d. The insurance proceeds held by the Association and the amounts received from the special assessments shall constitute a fund for the payment of the cost of repair

and reconstruction shall be made from insurance proceeds, and the balance from the special assessments. If there is a balance remaining after payment of all costs of such repair and reconstruction, such balance shall be distributed to the owners in proportion to the contributions each owner made pursuant to the special assessments the Association made for such repair and reconstruction.

e. If, however, in the event of damage or destruction, all the owners of three-fourths or more of the condominium units and all the first mortgagees on all condominium units agree not to repair and reconstruct, then the project shall be sold and the sales proceeds and any insurance proceeds shall be distributed in the same manner as hereinafter provided for the sale in the event the project is found obsolete as hereinafter provided.

In the event there shall be any major change or destruction as above provided, and in any case in the event of loss and damage to any one condominium unit in excess of \$1,000 or to the common elements in excess of \$10,000, then notice of such loss, damage or destruction shall be given by the Association to the first mortgagee on any condominium unit affected or in the event such damage or destruction is to common elements to all first mortgagees.

8. Owner's Failure to Maintain or Repair.

In the event that a Unit, the fixtures, equipment or utilities therein are not properly maintained and repaired by the Owners as required pursuant to this Declaration or the Act, or in the event that the fixtures, equipment or utilities in the Unit are damaged or destroyed by an event of casualty and the Owner does not take reasonable measures to diligently pursue repair and reconstruction to substantially the same condition in which they existed prior to the damage or destruction, then the Association, after notice to the Owner, shall have the right to enter upon the Unit to perform such work as is reasonably required to restore the Unit, fixtures, equipment or utilities therein to a condition of good order and repair. All costs incurred by the Association in connection with the restoration shall be reimbursed to the Association by the Owner upon demand. All unreimbursed costs shall be a lien upon the Unit until reimbursement is made, and any resulting lien may be enforced in the same manner as a lien for unpaid Assessments.

In the event that the need for maintenance, repair, or replacement of all or any portion of the Common Elements or another Unit is caused through or by the negligent or willful act or omission of an Owner or Occupant, then the expenses incurred by the Association for such maintenance, repair, or replacement shall be a personal obligation of such Owner; and, if the Owner fails to repay the expenses incurred by the Association within seven (7) days after notice to the Owner of the amount owed, then the failure to so repay shall be a default by the Owner, and such expenses shall automatically become a default Assessment determined and levied against such Unit, enforceable by the Association in accordance with this Declaration.

9. Association as Attorney in Fact.

This Declaration does hereby make mandatory the irrevocable appointment of an attorney in fact to deal with the property upon its destruction or obsolescence. Title to any condominium unit is

declared and expressly made subject to the terms and conditions hereof, and acceptance by any grantee of a deed from the Owner or from any owner shall constitute appointment of the attorney in fact herein provided.

All of the owners irrevocably constitute and appoint the Association their true and lawful attorney in their place and stead for the purpose of dealing with the property upon its destruction or obsolescence as is hereafter provided. As attorney in fact, the Association, by its President and Secretary, shall have full and complete authorization, right and power to make, execute and deliver to itself or a third person any contract, deed or any other instrument with respect to the interest of a condominium unit Owner which is necessary and appropriate to exercise the powers herein granted. Repair and reconstruction of the improvement(s) as used in the succeeding paragraphs means restoring the improvement(s) to substantially the same condition in which it existed prior to the damage, with each unit and the common elements and limited common elements having the same vertical and horizontal boundaries as before. The proceeds of any insurance collected shall be available to the Association as set forth in Paragraph 7 above.

Such power of attorney includes a power to subject a unit owner's condominium interest and/or percentage ownership to whatever rights are necessary to permit proper maintenance, repair and improvement to each and all condominium buildings and common areas by the Association.

10. Easement for Minor Encroachments.

The owners agree that if any portion of the common areas and utilities encroaches upon the condominium units or garage units, a valid easement for the encroachment and for the maintenance of same, so long as it stands, shall and does exist. In the event a structure is partially or totally destroyed and rebuilt, the owners of units therein agree the minor encroachment of parts of the common areas and facilities due to construction shall be permitted and that a valid easement for said encroachment and the maintenance thereof shall exist.

There is hereby created a blanket easement upon, across, over and under the Property for ingress, egress, installation, replacing, repairing and maintaining all utilities, including but not limited to, water, sewers, gas, telephone, internet, cable and electricity. By virtue of this easement, it shall be expressly permissible for the providing electrical and/or telephone company to erect and maintain the necessary poles and other necessary equipment on said property and to affix and maintain electrical and/or telephone wires, circuits and conduits on, above, across and under the roofs and exterior walls of said buildings. Notwithstanding anything to the contrary contained in this paragraph, no sewers, electrical lines, water lines or other utilities may be installed or relocated on the Property except as initially installed or thereafter approved by the Association's Board of Directors. This easement shall in no way affect any other recorded easement on said premises.

An easement is also reserved on and over each condominium unit and garage unit to permit the Association or its designees to affect any desired or necessary maintenance or repairs to a building.

11. Restrictive Covenants.

a. The Property is hereby restricted to residential dwellings for residential use and uses related to the convenience and enjoyment of such residential use. All buildings or structures erected upon the Property shall be of new construction and no buildings or structures shall be moved to other locations on the Property, and no subsequent buildings or structures other than buildings shown on the Condominium Map, being residence units joined together by party walls, shall be built on any parcel where the builder theretofore programmed and constructed a building. No structures of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuilding shall be used on any portion of the premises at any time as a residence, either temporarily or permanently.

b. No animals, livestock, or poultry of any kind shall be raised, bred or kept in any unit, except that dogs, cats or other household pets may be kept provided that they are not kept, bred or maintained for any commercial purpose.

c. No advertising signs (except one of not more than five square feet "For Rent" or "For Sale" sign per parcel), billboards, unsightly objects or nuisances shall be erected, placed or permitted to remain on the premises, nor shall the premises be used in any way or for any purpose which may endanger the health or unreasonably disturb the owner of any condominium unit or any resident thereof. Further, no business activities of any kind whatever shall be conducted in any building or in any portion of the Property; provided further, however, the following covenants shall not apply to the business activities, signs and billboards or the construction and maintenance of buildings, if any, of the Association, its successors and assigns, in furtherance of its powers and purposes as hereinafter set forth.

d. All clotheslines, equipment, garbage cans, service yards, wood piles or storage piles shall be kept screened by adequate planting or fencing so as to conceal them from view of neighboring condominium units and streets. All rubbish, trash or garbage shall be regularly removed from the premises and shall not be allowed to accumulate thereon. All clotheslines shall be confined to patio areas.

e. Except in the individual patio areas, no planting or gardening shall be done, and no fences, hedges or walls shall be erected or maintained upon the Property except such as are installed in accordance with the initial construction of the buildings located thereon or as approved by the Association's Board of Directors or their designated representative. The owners are hereby prohibited and restricted from using any land or air space outside the exterior building lines and patio enclosures except as may be allowed by the Association's Board of Directors or as provided in this Declaration. It is expressly acknowledged and agreed by all parties concerned that this paragraph is for the mutual benefit of all owners of condominium units and is necessary for the protection of said owners.

f. Any cooperative action necessary or appropriate to the proper maintenance and upkeep of the common elements and all exteriors and roofs of the buildings, including but not limited to any recreational facilities, shall be taken by the Association.

g. The Association or its duly delegated representative shall maintain and otherwise manage all property up to the exterior building lines and patio enclosures, including but not limited to, the landscaping, parking areas, streets, recreational facilities, roofs, common elements and exteriors of the buildings located upon the Property, except windows of units, and shall maintain and otherwise manage and be responsible for the rubbish removal of all areas within the above described property.

h. No exterior additions or alterations to any buildings nor changes in fences, hedges, walls and other structures shall be commenced, erected or maintained until the plans and specifications showing the nature, kind, shape, height, materials, location and approximate cost of sale shall have been submitted to and approved in writing as to conformity and harmony of external design and location with existing structures in the property by an architectural committee composed of the Board of Directors of the Association or by a representative designated by the Board of Directors. The members of such committee shall not be entitled to compensation for services performed pursuant to this paragraph.

i. The Association's Board of Directors shall have the right and power to provide for the construction of additional common facilities from time to time as in their discretion appears to be in the best interests of the Association and the Property. Any such construction, improvements or additions shall be authorized by an affirmative vote of at least sixty-seven percent (67%) of the Board of Directors at a duly called meeting at which a quorum is present.

j. In the event any common element, building (exclusive of any party wall), carport or storage facility is damaged or destroyed through the negligent or culpable act of an owner or any of his guests, agents or members of his family, such owner does hereby irrevocably authorize the Association as attorney in fact as set forth in Paragraph 8 above to repair said damaged element, building, carport or storage facility, and the Association shall so repair said damaged element, building, carport or storage facility. The owner shall then repay the Association in the amount actually expended for said repairs. Each condominium unit owner further agrees that these charges for repairs, if not paid within ten (10) days after completion of the work, shall become a lien upon said owner's condominium unit as set forth in Paragraph 4 above and shall continue to be such lien until fully paid.

k. These covenants shall be binding upon the heirs and assigns of any owners, but no person shall be liable for any act or omission respecting any party wall except such as took place while an owner.

l. No exterior television or radio antennae of any sort shall be placed, allowed or maintained upon any portion of the improvements to be located upon the premises, nor upon any structure situated upon said real property.

m. An owner shall maintain and keep in repair the interior of his own condominium unit, including the fixtures thereof.

n. All fixtures and equipment installed within a condominium unit commencing at a point where the utility line, pipes, wires, conduits or systems (which for brevity are hereafter referred to "Utilities") enter the apartment unit shall be maintained and kept in repair by the owner thereof.

o. An owner shall do no act nor any work that will impair the structural soundness or integrity of the building or impair any easement or hereditament.

12. Garage Units. The ownership and use of the Garage Units shall be restricted as follows:

a. Ownership of a Garage Unit shall be restricted solely to Owners of Condominium Units in Lance's West.

b. It shall be prohibited for an Owner to concurrently own or lease more than one Garage Unit.

c. Garage Units shall not be leased for any period of time to anyone who is not also an Owner of a Condominium Unit.

d. The transfer, conveyance, inheritance or bequest of a Garage Unit to anyone who is not the Owner of a Condominium Unit shall be null and void.

e. In the event it is determined a Garage Unit is owned by a party that is not also the Owner of a Condominium Unit, the Association shall have the right to seek injunctive relief in the Summit County District Court to compel a sale of the Garage Unit as a direct violation of this Declaration. The Association shall be awarded its costs and attorney's fees incurred in the enforcement of the terms of this Declaration.

f. The ownership of a Garage Unit by an Owner shall not create any voting rights to the Owner in addition to the vote allocated to said Owner for the ownership of a Condominium Unit.

g. The Garage Units shall not be used for any business or commercial purpose, and shall only be used for the parking of vehicles, storage, and purposes that are complimentary to the residential use and ownership of a Condominium Unit.

13. Partition Prohibited.

No condominium unit owner shall bring any action for partition or division of his undivided interest in the land underlying the condominium unit or property or in any common element or condominium building in which he owns an undivided interest. Any covenant or agreement to the contrary shall be null and void.

14. Right of First Refusal.

Any owner who desires to sell his Condominium Unit shall, prior to accepting any offer to purchase, give to the Association written notice of the terms and amount of such offer including the name and address of the offeror. If within thirty (30) days after service of such notice by owner, any member or group of members of the Association submits to the Association an identical firm and binding offer to purchase, the owner shall accept the offer of said member or group of members of the Association in preference to the original offer described in the notice to the Association, and in the event more than one member or group of members of the Association submits an identical firm and binding offer to the Association within said thirty (30) day period, the owner may, at his discretion, accept any one of such offers. If no identical offer from a member or group of members of the Association is submitted within said thirty (30) day period, the Association may, on said thirtieth (30th) day, submit such an offer; and if no such offer is received within said period, then the Association shall, upon request of the owner, execute an affidavit stating that the owner has complied with the provisions hereof. Such affidavit shall contain the information that the Association has been duly elected, that particular condominium unit has been offered for sale, identifying the same, and that the proper notice to sell has been served by the owner, and that the thirty (30) day period has passed and that neither the Association nor any member or group of members of the Association submitted an identical firm and binding offer within the time allowed herein. Such affidavit shall be deemed conclusive evidence of the truth of the acts therein recited.

If neither the Association nor any member or group of members of the Association submits an identical firm and binding offer within said thirty (30) day period, the selling owner may at the expiration of said thirty (30) day period and at any time within Sixty (60) days after the expiration of said period accept the offer described in said notice.

The provisions of this paragraph shall not be applicable or be enforceable by the Board or by any person with respect to:

- a. A sale, transfer or conveyance of any unit to any person pursuant to a judgment of foreclosure of a mortgage or deed of trust of record or a deed in lieu of foreclosure.
- b. Any rental directly by owner, with or without a written lease.
- c. A transfer of title by testamentary disposition or intestate succession.

15. Miscellaneous Services, Including Management.

The Association may obtain and pay for the services of any person or entity to manage its affairs, or any part thereof, to the extent it deems advisable as well as such other personnel as the Association shall determine to be necessary or desirable for the proper operation of the condominiums whether such personnel are furnished or employed directly by the Association or

by any person or entity with whom or which it contracts. The Association may obtain and pay for legal and accounting services necessary or desirable in connection with the operation of the condominiums or of the enforcement of this Declaration. The Association may arrange with others to furnish lighting, heating, trash collection, sewer charges and other common services to each unit. The Association, in addition to delegating its duties, powers and functions to any person or firm as managing agent, is also authorized to delegate the exclusive right to lease, manage and maintain all condominium units within the buildings.

16. Records of Receipts and Expenditures.

The Association shall keep detailed, accurate records of the receipts and expenditures affecting the common elements, specifying and itemizing the maintenance and repair expenses of the common elements and any other expenses incurred, or as otherwise required by the Act. Such records and the vouchers authorizing the payments shall be available for examination by the condominium unit owners and others with an interest, such as mortgagees or prospective lenders, at convenient hours of weekdays.

17. Removal of the Property from the Provisions of this Declaration.

a. Subject to the prior or simultaneous release by or of all voluntary encumbrancers or encumbrances against all condominium interest, the owners of all condominium interests in the condominium property may remove said condominium property from the provisions of this Declaration by conveyance or conveyances duly recorded. Such removal shall not prevent such property from being again made subject to the provisions hereof.

b. Such removal shall have the effect of removing such property from the provisions of this Declaration, including any effect of the Declaration or other matters recorded pursuant to this Declaration from and after the date of the recording of such conveyance and revocation and of placing such property under other applicable provisions of law in effect in this state pertaining to real property. Such removal shall not prevent such property from again being conveyed, subject to this Declaration.

18. Severability. If any provisions of this Declaration or any section, sentence, clause, phrase or word, or the application thereof in any circumstance, is held invalid, the validity of the remainder of the Declaration and of the application of any such provision, section, sentence, clause, phrase or word in any other circumstances shall not be affected thereby.

19. Language Variation. The use of pronouns or of singular or plural as used herein shall be deemed to be changed as necessary to conform to actual facts.

20. Obsolescence. All the owners may agree that the project is obsolete and may adopt written plans for the renewal and reconstruction thereof, which plan must have the unanimous approval of all first mortgagees at the time of the adoption of such plan. Written notice of the adoption of

such plan shall be given to all owners and a copy of such plan shall be recorded in the office of the Clerk and Recorder of the county of Summit, Colorado.

All the owners may agree that the condominium units are obsolete and that the project should be sold. Such an agreement must have the unanimous approval of all of the first mortgagees at the time such an agreement is made. such instance the Association shall forthwith record in the office of the Clerk and Recorder of the county of Summit, state of Colorado, a notice setting forth such fact or facts, and upon the recording of such notice by the Association the project shall be sold by the Association as attorney-in-fact, for all the owners, free and clear of the provisions contained in this Declaration, the Condominium Map and Articles of Incorporation, and Bylaws of the Association. Unless otherwise agreed in writing by all the owners and first mortgagees, the sales proceeds (and any insurance proceeds) shall be apportioned among the owners in proportion to each owner's undivided interest in the common elements and such apportioned proceeds shall be paid into separate accounts, each such account representing one condominium unit. Each such account shall be in the name of the Association and shall be further identified by the condominium unit designation and the name of the owner. From each separate account the Association, as attorney-in-fact, shall use and disburse the total amount of such accounts, without contribution from one account to another, in priority as follows:

FIRST: For payment of the balance of the lien of any first mortgage;

SECOND: For payment of real property taxes, special assessment liens duly imposed by governmental subdivision and customary expense of a sale;

THIRD: For payment of unpaid association assessments, interests, costs, late charges, expenses, and attorneys fees;

FOURTH: For payment of junior mortgages in the order of and to the extent of their priority; and

FIFTH: The balance remaining, if any, shall be paid to the owner of the condominium unit.

21. Condemnation. If at any time or times during the continuance of the project pursuant to this Declaration, all or any part of the project shall be taken or condemned by any public authority or sold or otherwise disposed of in lieu thereof, or in avoidance thereof, then all compensation, damages, or other proceeds therefrom, the sum of which is hereinafter referred to as the "Condemnation Award", shall be payable to the Association and provisions of this section shall apply.

In the event that the entire project is taken or condemned or sold or otherwise disposed of in lieu thereof, or in avoidance thereof, the condominium ownership pursuant hereto shall terminate. The condemnation award shall be apportioned among the owners on the basis of each owner 's undivided interest in the common elements; provided, however, that if a standard different from the value of the project as a whole is employed to measure the

condemnation award in the negotiation, judicial decree, or otherwise, then in determining such apportionment the same standards shall be employed. The Association shall, as soon as practical, determine the share of the condemnation award to which each owner is entitled, and such shares shall be paid into separate accounts and disbursed as soon as practical for the same purposes and in the same order as is provided hereinabove with respect to obsolescence.

In the event that less than the entire project was taken or condemned or sold or otherwise disposed of in lieu thereof or in avoidance thereof, the condominium ownership hereunder shall not terminate. Each owner shall be entitled to his share of the condemnation award to be determined under the following provisions. As soon as practical, the Association shall reasonably and in good faith allocate the condemnation award between compensation, damages, or other proceeds, and shall apportion the amounts so allocated among the owners as follows:

The total amount allocated to taking of or injury to the common elements shall be apportioned among owners on the basis of each owner's undivided interest in the common elements;

The total amount allocated to severance damages shall be apportioned to the owners of those condominium units which were not taken or condemned;

The respective amounts allocated to the taking of or injury to a particular condominium unit or to improvements an owner has made within his own condominium unit shall be apportioned to the owner of that particular condominium unit involved; and

The total amount allocated to consequential damages in any other taking or injury shall be apportioned as the Association determines to be equitable under the circumstances.

If an allocation of a condemnation award has already been established in the negotiation, a judicial decree, or otherwise, then in allocating the condemnation award the Association shall employ such allocation. Distribution of apportioned proceeds shall be made by checks payable jointly to the respective owners and their respective first mortgagees. In the event a partial taking results in the taking of an individual condominium unit, the owners thereof shall upon such taking and payment as above provided, automatically cease to be a member of the Association and those owners' interest in the common elements shall terminate and vest in the owners of the remaining condominium units in proportion to their respective interests in the common elements. Thereupon, the Association shall reallocate the ownership, voting rights and assessments ratios to determine in accordance with this Declaration according to the same principles employed in this Declaration at its inception, and shall submit such reallocation to the owners of the remaining individual airspace units for the amendment of this Declaration.

Any repair and reconstruction necessitated by condemnation shall be governed by the procedures of this Declaration relating to repair and reconstruction. In the event that any

portion of the project shall be made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by condemning authority, then timely written notice of such condemnation shall be given by the Association to each owner and first mortgagee.

22. Voting. For all matters upon which the Owners are entitled to vote, each Condominium Unit shall have one (1) vote, regardless of its allocation set forth in Exhibit A. If a Condominium Unit is owned by more than one (1) person, the Owners of said Unit shall designate one of them to exercise such vote or, in the case of corporate ownership, an officer or director thereof shall be designated to exercise such vote. The designation of the person entitled to exercise such vote shall be made in the manner provided by, and subject to any provisions and restrictions set forth in the Bylaws. If the Association acquires ownership of a Unit, the Board shall be entitled to one vote for such Unit on behalf of the Association.

23. Electronic Notice and Meetings. Owners of a Condominium Unit, whether the Unit is owned by a single person or by multiple persons or by a business entity of any form, shall submit one (1) single address to be used by the Association or other Owners for notices, demands, and all other communications regarding Association matters, which address may be an electronic mailing address. The Owner or the representative of the Owners of a Unit shall furnish such address to the Association within ten (10) days after transfer of title to the Unit. If no address is provided, then any notice shall be deemed duly given if delivered to any person occupying the Unit or, if the Unit is unoccupied, if the notice is held and available for the Owners at the principal office of the Association. All notices and demands intended to be served upon the Board of Directors shall be sent to the registered address of the Board of Directors or Managing Agent by registered or certified mail, postage prepaid. Notices given in accordance with this Section may be delivered or sent: by personal delivery or electronic mail (if to Owner), which shall be effective upon delivery; by overnight courier service, which shall be effective one (1) day after deposit with the courier service; or by regular, registered or certified mail, postage prepaid, which shall be effective three (3) days after deposit in the U.S. mail.

24. Amendment. This Declaration may be amended by the Association upon the vote or approval of no less than sixty-seven percent (67%) of the Owners.

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