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Kathleen Neel - Summit County Recorder

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**AMENDED AND RESTATED  
CONDOMINIUM DECLARATION  
FOR  
THE LODGE AT LAKE DILLON**

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**AMENDED AND RESTATED  
CONDOMINIUM DECLARATION FOR THE LODGE AT LAKE DILLON**

This Amended and Restated Declaration is made effective upon recording.

***RECITALS:***

A. Declarant, Younger & Associates, Ltd., a Colorado corporation, recorded that certain Condominium Declaration for The Lodge at Lake Dillon on March 23, 1971 at Reception No. 119717 in Book 206 at Page 179, in the Office of the Clerk and Recorder for Summit County, State of Colorado as amended and supplemented by the following documents:

1. First Supplement to Condominium Declaration for The Lodge at Lake Dillon recorded in the real property records of Summit County, Colorado on April 7, 1971 at Reception No. 119937 in Book 206 at Page 340; and

2. Second Supplement to Condominium Declaration for The Lodge at Lake Dillon recorded in the real property records of Summit County, Colorado on March 27, 1973 at Reception No. 132700 in Book 233 at Page 671;

and other documents of record, if any (collectively, the "Original Declaration") subjecting the real estate described therein to the terms and conditions set forth in the Original Declaration;

B. The Owners and the Association desire to amend and restate all provisions of the Original Declaration, as amended and supplemented, by virtue of this Amended and Restated Condominium Declaration for The Lodge at Lake Dillon ("Declaration"), and intend, upon the recording of this Declaration, that all prior recorded declarations, amendments and supplements thereto be superseded and replaced by this Declaration;

C. The Original Declaration provides for and allows for this Declaration in Paragraph 19, which provides as follows:

This Declaration shall not be amended unless the owners representing an aggregate ownership interest of sixty percent, or more, of the general common elements and all of the holders of any recorded mortgage or deed of trust covering or affecting any or all condominium units unanimously consent and agree to such amendment by instrument(s) duly recorded;

D. All Owners are aware of the provisions of the Original Declaration allowing for amendment, by virtue of the record notice of the Original Declaration, by acts and disclosures, newsletters or notices of the Association and by other means;

E. The amendments within this Declaration have been prepared and determined by the Association and by the Owners that have approved this Declaration to be reasonable and not burdensome;

F. The purposes of the amendments in this Declaration are to remove unreasonable restrictions on the community, remove developer "boilerplate" language that is no longer applicable to the Community, remove provisions that do not allow the Board to efficiently operate the community or deal with community concerns, remove provisions that do not comply with current state law, add provisions that provide the proper tools for the Association to effectively solve problems, add provisions to provide the Association with sufficient power to create and successfully enforce Rules and Regulations, and add provisions that reflect beneficial state law provisions.

G. The purpose of the Association, as provided in the Declaration, is to preserve the value and desirability of the Community and the Units and to further the interests of the residents of the Community and Members of the Association; and

H. Owners representing the aggregate ownership interest of 60% or more of the general common elements and 100% of the mortgagees have approved this Declaration, or alternatively, a court order entered by the District Court for Summit County, Colorado pursuant to C.R.S. §38-33.3-217(7), has been entered approving this Declaration .

NOW, THEREFORE, the Original Declaration is replaced and amended and restated as follows:

## **ARTICLE 1 DEFINED TERMS**

### **Section 1.1 Defined Terms.**

Each capitalized term in this Declaration or in the Map shall have the meaning specified or as used in the Act, unless otherwise defined in this Declaration or the context requires otherwise:

(a) "Act" shall mean the Colorado Common Interest Ownership Act, C.R.S. §38-33.3-101 *et. seq.*, as it may be amended.

(b) "Allocated Interests" shall mean the undivided interest in the Common Elements, the Common Expense liability and the votes in the Association.

(c) "Architectural Review Committee" or "Design Review Committee" or "Committee" means the committee appointed by the Board of Directors for the purpose of implementing the architectural review provisions of this Declaration and architectural guidelines for the Community to insure proper use, appropriate improvement, and harmonious additions, alterations and improvements within the Community.

(d) "Assessment" shall include all Common Expense Assessments and any other expense levied to a Unit pursuant to this Declaration or the Act, including interest, late fees, attorney fees, fines, and costs.

(e) "Association" shall mean The Lodge at Lake Dillon Condominium Association, a Colorado nonprofit corporation, and its successors and assigns.

(f) "Board" or "Board of Directors" or "Executive Board" shall mean the body designated in the Governing Documents to act on behalf of the Association.

(g) "Common Elements" shall mean the Property within this Community other than the Units, which portion of the Property may be designated on the Map and in this Declaration. Common Elements shall include Limited Common Elements. The Common Elements shall be owned, as tenants in common, by the Owners of the separate Units, each owner of a Unit having an undivided interest in the Common Elements.

(h) "Common Expenses" shall mean expenditures made or liabilities incurred by or on behalf of the Association, together with any allocations to reserves.

(i) "Community" shall mean the Community of The Lodge at Lake Dillon, also known as The Lodge at Lake Dillon Condominiums, which Community is a Condominium Community as defined in the Act and which Community is also a Common Interest Community as defined in the Act.

(j) "Declaration" shall mean and refer to this Amended and Restated Condominium Declaration for The Lodge at Lake Dillon, as amended, recorded in the office of the Clerk and Recorder of Summit County, Colorado.

(k) "Eligible Mortgage Holder" shall mean a holder of a first mortgage on a Unit that has submitted a written request for the Association to notify such holder of any proposed action requiring the consent of a specified percentage of Eligible Mortgage Holders, which request must contain its name, address, and the legal description and address of the Unit upon which it holds a security interest.

(l) "Governing Documents" shall mean this Declaration, the Map, the Articles of Incorporation, the Bylaws, and any Rules and Regulations of the Association, as they may be amended from time to time.

(m) "Limited Common Elements" shall mean those portions of the Common Elements, if any, which are limited to and reserved for the exclusive use of one or more, but fewer than all of the Owners.

(n) "Map" shall mean the Condominium Map of The Lodge at Lake Dillon (and any supplements and amendments thereto) of the Community depicting and locating thereon the location of the buildings, the Units, the Common Elements, the floors and elevations, and all of the land and improvements thereon as the Map may be amended or supplemented from time to time, which Map is incorporated herein and made a part of this Declaration by reference. More than one plat, map or supplement thereto may be recorded, and, if so, then the term "Plat" or "Map" shall collectively mean and refer to all of such plats, maps and supplements thereto.

(o) "Member" shall mean any Owner. The terms "Member" and "Owner" may be used interchangeably.

(p) "Owner" shall mean person or legal entity as is stated in Summit County deed of trust records, including spouse, domestic partner, and any children/step-children. In regards to a multiple-owner unit, the owner with the greatest percentage interest ownership will be considered the principal owner and represent the interests/concerns of all other unit owners to the Board and/or Resident Manager, unless another owner is designated by the multiple-owner group.

(q) "Pet" shall mean and include cats, dogs, birds, reptiles or other household animals, as may be defined in or supplemented by the Rules and Regulations.

(r) "Property" shall mean the property described in the Original Declaration together with all easements, rights, and appurtenances thereto and the buildings and improvements erected or to be erected thereon.

(s) "Rules and Regulations" shall mean any written instruments, however identified, which are adopted by the Association for the regulation and management of the Community, and/or clarification of the Governing Documents, including any amendment to those instruments.

(t) "Unit" shall mean a physical portion of the Community, designated for separate ownership, shown as a Unit on the recorded Map for the Community, the boundaries of which are defined in the Map and in this Declaration. The individual areas depicted on Exhibit A shall be considered single Units.

## **ARTICLE 2 NAMES/DESCRIPTION OF PROPERTY**

### **Section 2.1 Name and Type.**

The type of Common Interest Community is a condominium community. The name of the Community is "The Lodge at Lake Dillon" and is also known as "The Lodge at Lake Dillon

Condominiums." The name of the Association is "The Lodge at Lake Dillon Condominium Association."

Section 2.2 Property.

The Community is located in Summit County, State of Colorado. The Property subject to this Declaration is described in *Exhibit A* of this Declaration, in the Original Declaration, in the Map, and/or as is consistent with the common plan and scheme for the creation and operation of the Community. The Community may be subject to easements or licenses granted pursuant to this Declaration, granted by authority reserved in any recorded document, or established in the Act.

Section 2.3 Utility, Map and Map Easements.

Easements for utilities and other purposes over and across the Units and Common Elements may be as shown upon a recorded plat or the Map of the Community, and as may be established pursuant to the provisions of this Declaration, or granted by authority reserved in any recorded document.

Section 2.4 Easements for the Association and Owners.

Each Unit shall be subject to an easement in favor of the Association, acting through the Board of Directors (including its agents, employees and contractors), and to each Owner to allow for their performance of obligations in this Declaration. Non-emergency repairs shall be made only during regular business hours on business days after at least 24 hours' notice to the occupants of a Unit wherein repairs are to be made. The Association shall have an easement to enter a Unit to inspect for events which may be causing waste of water, heat or any other utility provided by the Association or paid as a part of Common Expenses. If the inspection reveals that the Owner has failed to maintain the Unit so as to prevent waste of common utility services provided for as a Common Expense, the Board shall follow the procedures provided for in this Declaration.

Section 2.5 Easement for Encroachments

If any part of the Common Elements encroaches or shall hereafter encroach upon a Unit, an easement for the existence of such encroachment and for the maintenance of the same shall and does exist. If any part of a Unit currently encroaches upon the Common Elements, or upon another Unit, the Owner of that Unit shall and does have an easement for the existence of such encroachment and for the maintenance of same, except for incidental encroachments that may occur as a result of shifting of soils or settlement of a Unit. If any part of a Unit subsequently encroaches upon the Common Elements or upon another Unit, that encroachment shall be subject to all available remedies of the Association, or as allowed under this Declaration, unless the encroachment has been reviewed and approved (as provided for in this Declaration). The

easement shall extend for whatever period of time the encroachment exists. Such easements for encroachments shall not be considered to be encumbrances either on the Common Elements or on a Unit. The actual location of a Unit shall be deemed conclusively to be the property intended to be conveyed, reserved or encumbered notwithstanding any minor deviations, either horizontally, vertically or laterally from the location of such Unit indicated on the Map.

Section 2.6 Owners' Easements.

Every Owner shall have a right and easement of ingress and egress and enjoyment in, to, and over the Common Elements and Limited Common Elements appurtenant to his or her Unit, and such easement shall be appurtenant to and shall pass with the title to every Unit, subject to the following provisions:

- (a) the right of the Association to limit the number of guests of Owners;
- (b) the right of the Association to adopt Rules and Regulations governing the use of the Common Elements;
- (c) the right, power and authority of the Association to grant any easement, right-of-way, license, lease, dedication or similar interest through, over or in the Common Elements;
- (d) the right of the Association to transfer or convey ownership of the Common Element, or any portion thereof, subject to the prior approval of Members holding at least 67% of the total votes entitled to be cast in the Association; provided that all Owners of Units to which any Limited Common Element is allocated shall approve of any transfer or conveyance of that Limited Common Element;
- (e) the right of the Association to suspend the voting rights and the right to use of any Common Elements and recreational facilities for a period not to exceed 60 days or during any period of violation of any other provision of the Governing Documents, whichever is greater; provided, however, that suspension of voting and use rights shall be automatic during any period that an Owner is in default in the payment of any Common Expense Assessment;
- (f) the right of the Association to close portions of the Common Elements for maintenance, repair, replacement, and improvement; and
- (g) the right of the Association to change use of, add or remove improvements to the Common Elements.

Section 2.7 Delegation of Use.

Owners may delegate their right of enjoyment to the Common Elements and facilities to Owner's family, tenants, invitees, lessees, and guests, subject to Rules and Regulations. If the Owner delegates rights to use the Common Elements and facilities to tenants or contract purchasers (an individual who is under contract to purchase a Unit, but who has not yet closed on the Unit) who reside in the Unit, the Owner shall be entitled to use the Common Elements and facilities. The Board of Directors shall have the express right to limit Owners' ability to delegate their right to use the recreational amenities of the Community through Rules and Regulations and/or reasonable fees charged for such use.

Section 2.8 Disclaimer of Liability.

The Association shall be and remain wholly free and clear of any and all liability to, or claims by, all Owners and all persons and entities, of whatever kind or character, whether sounding in contract or tort, deriving from the occurrence of any injury or damage to any person or property on, or in respect to the use and operation of, the Common Elements or any of their improvements, fixtures, and facilities. It shall be the affirmative duty and responsibility of each Owner, and each user of the Common Elements, to continuously inspect the same for any defects or perils or other unsafe conditions or circumstances, prior to and during such use or enjoyment thereof; and all users of, and visitors to, the Common Elements and their improvements and facilities shall use, enjoy, and visit, the same at their own risk and peril. Any such observed risk or peril must be reported to the Association's Board.

### ARTICLE 3 THE ASSOCIATION

Section 3.1 Membership.

Every person who is an Owner shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Unit. Ownership of a Unit shall be the sole qualification for membership. Each Unit shall be allocated voting rights pursuant to the allocated interests section of this Declaration. Fractional and cumulative voting are prohibited.

Section 3.2 General Purposes and Powers of the Association.

The Association, through its Board of Directors, shall perform functions and manage the Community as provided in the Recitals section of this Declaration. All Owners and any purchaser of a Unit shall be deemed to have assented to, ratified and approved such designations and management. The Association shall have all power necessary or desirable to effectuate such purposes.

Section 3.3 Authority of the Association.

The business affairs of the Community shall be managed by the Association. The Association shall be governed by the Act, to the extent it applies to communities created prior to July 1, 1992, this Declaration, the Map, its Articles of Incorporation and Bylaws, and any Rules and Regulations adopted by the Board of Directors. All corporate or other powers of the Association, unless otherwise specified or expressly reserved to the Members in the Governing Documents, shall be exercised by or under the authority of the Board of Directors, and the business and affairs of the Association shall be managed under the direction of the Board of Directors. The Board of Directors may, by written resolution, delegate authority to a manager or managing agent for the Association, provided no such delegation shall relieve the Board of final responsibility. The Association may exercise any right or privilege and shall perform all duties and obligations expressly granted or reasonably necessary or implied in the Governing Documents to effect such right or privilege or to satisfy such duty or obligation.

Section 3.4 Managing Agent.

The Association may employ or contract for the services of a managing agent to whom the Board may delegate certain powers, functions, or duties of the Association, as provided in the Bylaws of the Association. The agreement shall be by written contract having a term of no more than three years and shall be subject to cancellation by the Association on 30 days' notice, with or without cause, and without a cancellation fee. The Board shall not be liable for any omission or improper exercise by a managing agent of any duty, power, or function so delegated by written instrument executed by or on behalf of the Board.

Section 3.5 Allocated Interests.

The ownership interest, Common Expense liability and votes in the Association allocated to each Unit are set as follows:

- (a) the percentage of ownership of the Common Elements, based on square footage of a Unit, as detailed on Exhibit B;
- (b) the percentage of liability for Common Expenses, based on square footage of a Unit, as detailed on Exhibit B; and
- (c) the number of votes in the Association, based on square footage of a Unit, as detailed on Exhibit B.

Section 3.6 Right to Notice.

Notice of matters affecting the Community shall be given by the Association or through access to Association records, as further provided in the Bylaws or as otherwise provided by the Board of Directors.

Section 3.7 Indemnification.

To the full extent permitted by law, each officer, director or committee member of the Association and other volunteer appointed by the Board of Directors shall be indemnified by the Association against all expenses and liabilities including attorney fees, reasonably incurred by or imposed upon them in any proceeding to which they may be a party, or in which they may become involved, by reason of being or having been an officer, director, committee member or other volunteer of the Association, or any settlements thereof, whether or not they are an officer, director, committee member or other volunteer appointed by the Board of Directors at the time such expenses are incurred, pursuant to the indemnification provisions set forth in the Bylaws and Colorado law.

Section 3.8 Security Disclaimer.

The Association may, but shall not be required to, from time to time, provide measures or take actions which directly or indirectly improve security in the Community; however, each Owner, for himself or herself and his or her tenants, guests, licensees and invitees, acknowledges and agrees that the Association is not a provider of security and shall have no duty to provide security in the Community. Furthermore, the Association does not guarantee that non-residents will not gain access to the Community and commit criminal acts in the Community, nor does the Association guarantee that criminal acts in the Community will not be committed by residents. It shall be the responsibility of each Owner to protect his or her person and property and all responsibility to provide such security shall lie solely with each Owner. The Association shall not be held liable for any loss or damage by reason of failure to provide security or the ineffectiveness of measures taken.

Section 3.9 Education and Training.

As a Common Expense, the Association shall, in accordance with the Act, provide education and training opportunities for Owners, residents and occupants, including providing funding and permitting use of facilities for such purposes. The Association shall provide education and training activities as a tool for fostering Owner, resident and occupant awareness of governance, operations and concerns of the Community and of the Association. Appropriate educational topics include dispute or conflict resolution, issues involving the Governing Documents, and education or topics benefitting or contributing to operation or governance of the Community and the rights and responsibilities of Owners and the Association. The Association may also fund and support education and training for officers and directors.

## **ARTICLE 4 UNITS, COMMON ELEMENTS AND LIMITED COMMON ELEMENTS**

### **Section 4.1    Number of Units.**

The number of Units presently included in the Community is 53.

### **Section 4.2    Unit Boundaries.**

(a)    Boundaries. The following are designated as boundaries of each Unit, as defined below and as depicted on the Map:

(i)    The unfinished interior surfaces of the perimeter walls. All lath, furring, wallboard, plasterboard, plaster, paneling, tiles, surface texture, wallpaper, paint, finished flooring and any other materials constituting the finished surfaces are part of the Unit and all other portions of the floors, walls and ceilings are part of the Common Elements. Where found on the walls and ceilings, the interior surfaces of built-in fireplaces with their flues in the closed position shall be boundaries of the Unit.

(ii)    Unfinished interior surfaces of floors, or the lowermost floors, if it is a Unit containing more than one level;

(iii)    Unfinished interior surfaces of ceilings, or the uppermost ceilings, if it is a Unit containing more than one level;

(iv)    The windows and window frames, doors and door frames of the Unit.

Each Unit includes the spaces and improvements lying within the boundaries described above.

### **Section 4.3    Licensing of Use of Common Elements.**

The Association, acting through the Board, may license use of parts of the Common Elements to Owners, for other uses on such terms and conditions as determined by the Board.

### **Section 4.4    Limited Common Elements.**

(a)    The following portions of the Common Elements are Limited Common Elements assigned to the Units as stated:

(i) If a chute, flue, pipe, duct, wire, conduit, bearing wall, bearing column or other fixture lies partially within and partially outside the designated boundaries of a Unit, the portion serving only the Unit is a Limited Common Element, allocated solely to the Unit, the use of which is limited to that Unit and any portion serving more than one Unit is a Limited Common Element to those Units and any portion serving only the Common Elements is a part of the Common Elements.

(ii) Any balconies, patios, decks, exterior doors, storage units, windows or other fixtures designed to serve a single Unit, located outside the boundaries of the Unit, are Limited Common Elements allocated exclusively to the Unit and their use is limited to that Unit.

(b) The Association may modify Limited Common Elements without a membership vote, but only with consent of the Owner to whose Unit the Limited Common Element is appurtenant. The Association may also, without a membership vote, assign or reassign Limited Common Elements not previously assigned with the consent of the affected Owner(s) and the Association, provided that any such assignment or reassignment shall be made in accordance with the Act.

#### Section 4.5 Mechanic's Liens.

No labor performed and/or materials furnished for use and incorporated into any Unit with the consent or at the request of the Owner thereof, his agent, contractor, or subcontractor, shall be the basis for the filing of a lien against a Unit of any other Owner not expressly consenting to or requesting the same, or against any interest in the Common Elements. Each Owner shall indemnify and hold harmless each of the other Owners and the Association from and against any liability or loss arising from the claim of any mechanic's lien against the Unit of any other Owner, the Common Elements, or any part thereof, for labor performed and/or materials furnished in work on the first Owner's Unit. The Association may pay any sums necessary to eliminate any lien filed against Units not benefitting from the labor and/or materials furnished and the Common Elements on behalf of the other Owners and all sums paid shall be an Individual Assessment against the Owner or Owners for whom the labor and/or materials were furnished.

### **ARTICLE 5 MAINTENANCE AND SERVICE RESPONSIBILITIES**

#### Section 5.1 Association Maintenance and Service Responsibilities.

(a) The Board of Directors of the Association shall determine the specifications, scope, extent, nature and parameters of the Association's maintenance and

service responsibilities. The Association shall maintain, repair, replace, and improve those items set forth in Exhibit C of this Declaration.

(b) Maintenance of Common Elements by Owner. Subject to the maintenance responsibilities herein provided, any maintenance or repair performed on or to the Common Elements by an Owner or occupant which is the responsibility of the Association hereunder (including, but not limited to landscaping of Common Elements) shall be performed at the sole expense of such Owner or occupant, and the Owner or occupant shall not be entitled to reimbursement from the Association even if the Association accepts the maintenance or repair.

(c) Association Discretion. The Association may, in its sole discretion, assume the obligation for maintenance or repair of additional property, either real or personal, that lies within or outside the Community. The Association shall have the right to assume such obligation even if the obligation currently lies with Owners or other entities, provided however, the Association shall provide Owners with 15 days prior written notice of any such change. The Association, in its sole discretion, shall determine the time and manner in which any maintenance, whether required or assumed, shall be performed as well as the color or type of materials used.

(d) Liability of Association.

(i) The Association shall not be liable for injury or damage to person or property caused by or resulting from any water, rain, snow or ice which may leak or flow from any portion of the Common Elements or from any device, pipe, drain, conduit, appliance or equipment which the Association is responsible to maintain hereunder, except:

(1) for injuries or damages arising after the Owner of a Unit has put the Association on written notice of a specific leak or flow from any portion of the Common Elements or device, pipe, drain, conduit, appliance or equipment for which the Association has a maintenance responsibility; and

(2) only if the Association has failed to exercise due care to correct the leak or flow within a reasonable time thereafter.

(ii) The Association shall not be liable to the Owner of any Unit or such Owner's occupant, guest, or family, for loss or damage, by theft or otherwise, of any property which may be stored in or upon any of the Common Elements.

(iii) The Association shall not be liable to any Owner, or any Owner's occupant, guest or family for any damage or injury caused in whole or in part by the Association's failure to discharge its responsibilities under this Section where such damage or injury is caused by an act of God, is not foreseeable or is not a natural result of the Association's failure to discharge its responsibilities.

(iv) No diminution or abatement of Assessments shall be claimed or allowed by reason of any alleged failure of the Association to take some action or perform some function required to be taken or performed by the Association under this Declaration, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or from any action taken by the Association to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority.

#### Section 5.2 Owner's Maintenance Responsibility.

Except as otherwise provided in this Declaration, each Owner shall have the obligation to maintain, repair, replace, and improve all items set forth in Exhibit C of this Declaration.

#### Section 5.3 Owner Responsibilities.

Each Owner shall have the responsibility to:

- (a) perform his or her maintenance responsibility in such manner so as not to unreasonably disturb or put at risk other persons in Units, other Unit, or the Common Elements;
- (b) promptly report to the Association or its agent any defect or need for repairs, for which the Association is responsible; and
- (c) pay for the cost of repairing, replacing or cleaning up any item which is the responsibility of the Owner but which responsibility such Owner fails or refuses to discharge (which the Association shall have the right, but not the obligation, to do), or to pay for the cost of repairing, replacing or cleaning up any item which, although the responsibility of the Association, is necessitated by reason of the willful or negligent act of the Owner, his or her family, tenants, guests, with the cost thereof to be added to and become part of the Owner's next chargeable Assessment.

An Owner shall be liable for all injuries or damages to person or property caused by or resulting from the Owner's maintenance or lack of maintenance of the Unit or any appurtenant Limited Common Element.

#### Section 5.4 Mold.

Each Owner shall be required to take necessary measures to retard and prevent mold from accumulating in the Unit, and the Common Elements, including but not limited to appropriate climate control, removal of visible moisture accumulation on windows, window sills, walls, floors, ceilings and other surfaces and cleaning of the same. No Owner shall block or cover any heating, ventilation or air conditioning ducts. Owners shall immediately notify the Board in writing of the following: (a) any evidence of water leaks, water infiltration or excessive moisture in a Unit; (b) any evidence of mold that cannot be removed by the Owner with a common household cleaner; (c) any failure or malfunction in heating, ventilation or air conditioning; (d) any inoperable doors, windows, heating, ventilation or air conditioning ducts. The receipt of notice by the Association shall not create any additional Association maintenance responsibility other than those set forth in this Declaration. Owners shall be responsible for any damage to his or her Unit and personal property, to any other Unit or the Common Elements, as well as any injury to the Owner or occupants resulting from the Owner's failure to comply with this section. Owners shall be responsible for all costs and expenses incurred by the Board to remove mold and/or damage within his or her Unit, to any other Unit or to the Common Elements if the Owner fails to meet the requirements of this Section.

#### Section 5.5 Insect and Vermin Infestations.

Each Owner shall be required to take necessary measures, as determined in the sole discretion of the Board of Directors, to retard and prevent insect and vermin infestations, including but not limited to, bedbugs, rodents, termites, lice, cockroaches, mice, and rats from accumulating in the Unit. Owners shall immediately notify the Board in writing of the following: (a) any evidence of an insect and/or vermin infestation in a Unit; and (b) all steps taken to remove insects and vermin in a Unit. Owners shall be responsible for treatment and removal of insect and/or vermin infestations immediately upon the discovery of the same. The receipt of notice of an insects and/or vermin infestation in a Unit by the Association shall not create any additional Association maintenance responsibility other than those set forth in this Declaration. Owners must provide written confirmation to the Association that all insect and/or vermin infestations have been removed from the Unit upon completion of the remediation process and must provide evidence and documentation to the Association of such removal. Failure by any Owner to comply with this Section shall entitle the Association to perform all necessary remediation and collect any amounts expended for such remediation as an Assessment. Owners shall be responsible for any damages to their Units, personal property, to any other Units, or the Common Elements, as well as any injury to residents and guests resulting from the Owner's failure to comply with this Section. Any fees or costs incurred by the Association or other Owners as a result of violation of this Section shall be the obligation of the infested Unit's Owner to pay.

**Section 5.6    Inspection, Repair and Replacement of Designated Owner Maintenance Components.**

The Association shall have the right, but not the obligation, to conduct a periodic inspection, on a schedule to be determined by the Board of Directors, of designated Owner maintenance components as may be set forth in the Rules and Regulations. If, in the Board of Directors' sole discretion, the component needs to be maintained, repaired or replaced, the Association may provide such maintenance, repair or replacement (even though such component may be the Owner's responsibility) and the cost of such periodic inspection, maintenance, repair or replacement may be assessed against the Owner of the Unit served by such component pursuant to the following Section of this Declaration.

**Section 5.7    Failure to Maintain.**

If the Association determines that any Owner has failed or refused to discharge properly his or her obligation with regard to the maintenance, repair, or replacement of items of which he or she is responsible hereunder, then, except in the case of an emergency, the Association shall give the Owner written notice of the Owner's failure or refusal and of the Association's right to provide necessary maintenance, repair, or replacement at the Owner's cost and expense. The notice shall set forth with reasonable particularity the maintenance, repair, or replacement deemed necessary by the Association.

Unless the Association determines that an emergency exists, the Owner shall have 10 days within which to complete maintenance or repair, or if the maintenance or repair is not capable of completion within such time period, to commence replacement or repair within 10 days. If the Board determines that: (i) an emergency exists or (ii) that an Owner has not complied with the demand given by the Association as provided in this Section; then the Association may provide any such maintenance, repair, or replacement at the Owner's sole cost and expense, and such costs shall be added to and become a part of the Assessment to which such Owner is subject, shall become and be a lien against the Unit, and shall be collected as provided in this Declaration for the collection of Assessments.

If the Board determines that the need for maintenance or repair is a Common Expense and is caused through the willful or negligent act of any Owner, or occupant or their family, guests, lessees, tenants, or invitees, then the Association may assess the cost of any such maintenance, repair, or replacement against the Owner's or occupant's Unit, shall become a lien against the Unit, and shall be collected as provided in this Declaration for the collection of Assessments.

## **ARTICLE 6 COVENANT FOR COMMON EXPENSE ASSESSMENTS**

### **Section 6.1    Creation of Association Lien and Personal Obligation to Pay Common Expense Assessments.**

Each Owner, by acceptance of a deed for a Unit, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to pay to the Association annual Common Expense Assessments and such other Assessments as imposed by the Association. Such Assessments, including fees, charges, late fees, attorney fees, fines and interest charged by the Association and additional fees charged by the managing agent, including but not limited to, administration and witness fees, and/or any other charges that may be assessed and/or levied or may be agreed to in the process of collecting past due Assessments, including but not limited to, credit card convenience fees from whatever source, shall be the personal obligation of the Owner of such Unit at the time when the Assessment or other charges became or fell due. The annual Common Expense Assessments and such other Assessments as imposed by the Association, including fees, charges, late fees, attorney fees, fines and interest charged by the Association, shall be a charge on each Unit and shall be a continuing lien upon the Unit against which each such Assessment or charge is made. If any Assessment is payable in installments, the full amount of the Assessment is a lien from the time the first installment becomes due. The personal obligation to pay any past due sums due the Association shall not pass to a successor in title unless expressly assumed by them. No Owner may become exempt from liability for payment of the Common Expense Assessments by waiver of the use or enjoyment of the Common Elements or by abandonment of the Unit against which the Common Expense Assessments are made. All Assessments shall be payable in the amounts specified in the levy thereof, and no offsets or reduction thereof shall be permitted by any reason including, without limitation, any claim that the Association or the Board of Directors is not properly exercising its duties and powers under this Declaration. Except as provided in this Declaration, all Common Expense Assessments shall be assessed against all Units in accordance with the formula for liability for the Common Expenses as set forth in this Declaration. Common Expense Assessments are currently allocated among the Owners equally.

### **Section 6.2    Basis of Assessments.**

The Common Expense Assessment may be made on an annual basis against all Units and shall be based upon the Association's advance budget of the cash requirements needed by it to provide for the administration and performance of its duties during such Assessment year.

### **Section 6.3    Annual Assessment.**

The budget for annual Assessments shall be submitted to the Owners for ratification pursuant to Section 303(4) of the Act and as set forth in the Bylaws, as the Bylaws may be amended from time to time. The budget may be vetoed by votes of Owners representing a majority of the total Association vote. Common Expense Assessments shall be due and payable in monthly,

quarterly, or annual installments, or in any other manner, as determined by the Board of Directors. The omission or failure of the Board of Directors to levy the Assessment for any period shall not be deemed a waiver, modification or a release of the Owners from their obligation to pay.

#### Section 6.4 Special Assessments.

In addition to other authorized Assessments, the Association may levy Special Assessments from time to time to cover previously unbudgeted expenses or expenses in excess of those budgeted, including, without limitation, the costs of any construction, restoration, or unbudgeted repairs or replacements of capital improvements that are not covered by the general reserve fund. The proposed Special Assessment shall be submitted to the Owners for ratification pursuant to Section 303(4) of the Act and as set forth in the Bylaws, as the Bylaws may be amended from time to time. The proposed Special Assessment may be vetoed by votes of Owners representing a majority of the total Association votes. A proposed Special Assessment will be ratified unless Owners representing more than a majority of the votes allocated to the Units that will be subject to the special Assessment vote, either in person or by proxy, to reject the Special Assessment at a meeting called for such purpose. Special Assessments may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved. The Board shall have the right to require that Special Assessments be paid in advance of the provision of the subject services or materials.

#### Section 6.5 Supplemental Assessments.

The Association shall have the right to add to any Owner's Assessment as provided in this Article the following:

- (a) Those amounts expended by the Association for the benefit of any individual Unit or any occupant thereof, including but not limited to: Unit insurance; improvement, repair, replacement and maintenance specific to a Unit; improvement, repair, replacement and maintenance caused by the negligent or willful acts of any Owner, his or her guest, employee, licensee, lessee or invitee as set forth in this Declaration;
- (b) Any extraordinary maintenance, repair, improvement and replacement costs of any area which the Association maintains required on fewer than all the Units;
- (c) Any extraordinary insurance costs incurred as a result of the value of a particular Owner's Unit or the actions of an Owner (or his agents, guests, licensees, invitees or lessees);
- (d) All fines and costs assessed against an Owner pursuant to the Governing Documents; and

(e) Any other expenditures or charges which the Board, in its sole discretion, chooses to allocate to a Unit and are reasonably determined to be allocable to a particular Unit.

Section 6.6 Application of Payments.

All sums collected on a delinquent account referred to an attorney shall be remitted to the Association's attorney until the account is brought current. All payments received on an account of any Owner or the Owner's Unit shall be applied to payment of any and all legal fees and costs (including attorney fees), expenses of enforcement and collection, late fees, returned check fees, lien fees and other costs owing or incurred with respect to such Owner pursuant to the Governing Documents, prior to application of the payment to any special or regular Assessments due or to become due with respect to such Owner.

Section 6.7 Effect of Non-Payment of Assessments.

(a) Any Assessment, charge or fee provided for in this Declaration, or any monthly or other installment thereof, which is not fully paid within 10 days after the due date thereof, as established by the Board of Directors, shall bear interest at the rate established by the Board of Directors, on a per annum basis to accrue monthly, from the due date, and the Association may assess a reasonable late fee thereon as determined by the Board of Directors.

(b) Failure to make payment within 60 days of the due date thereof shall cause the total amount of such Owner's Common Expense Assessment for the remainder of that fiscal year to become immediately due and payable at the option of the Board. The Board may, in its discretion, decelerate the Member's annual Assessment.

(c) Further, the Association may foreclose its lien and/or bring an action at law or in equity, or all of the same, against any Owner personally obligated to pay such overdue Assessments, charges or fees, or monthly or other installments thereof. An action at law or in equity by the Association against an Owner to recover a money judgment for unpaid Assessments, charges or fees, or monthly or other installments thereof, may be commenced and pursued by the Association without foreclosing, or in any way waiving the Association's lien therefor. Likewise, the obtaining of a money judgment shall not preclude the foreclosure of the Association's lien so long as the judgment remains unsatisfied.

(d) Foreclosure or attempted foreclosure by the Association of its lien shall not be deemed to estop or otherwise preclude the Association from thereafter again foreclosing or attempting to foreclose its lien for any subsequent Assessment, charges or fees, or monthly or other installments thereof, which are not fully paid when due. The

Association shall have the power and right to bid on or purchase any Unit at foreclosure or other legal sale, and to acquire and hold, lease, mortgage, vote the Association votes appurtenant to ownership thereof, convey or otherwise deal with the same. If a foreclosure action is filed to foreclose any Assessment lien, and an Owner abandons or leaves vacant his or her Unit, the Board may take possession and rent said Unit or apply for the appointment of a receiver for the Unit without prior notice to the Owner. The rights of the Association shall be expressly subordinate to the rights of any holder of a first lien security interest as set forth in its deed of trust or mortgage (including any assignment of rents), to the extent permitted under the Act.

**Section 6.8    Lien Priority.**

The lien of the Association under this Section is prior to all other liens and encumbrances on a Unit except: (1) liens and encumbrances recorded before the recordation of the Declaration; (2) a first lien security interest on the Unit (except as allowed by the Act with regard to the limited lien priority allowed to the Association); and (3) liens for real estate taxes and other governmental assessments or charges against the Unit. This Section does not affect the priority of mechanics' or materialmen's liens. The lien of the Association under this Article is not subject to the provision of any homestead exemption as allowed under state or federal law. Sale or transfer of any Unit shall not affect the lien for said Assessments or charges except that sale or transfer of any Unit pursuant to foreclosure of any first lien security interest, or any proceeding in lieu thereof, including deed in lieu of foreclosure, or cancellation or forfeiture shall only extinguish the lien of Assessment charges as provided by applicable state law. No such sale, transfer, foreclosure, or any proceeding in lieu thereof, including deed in lieu of foreclosure, nor cancellation or forfeiture shall relieve any Unit from continuing liability for any Assessment charges thereafter becoming due, nor from the lien thereof.

**Section 6.9    Borrowing.**

The Association shall have the power to assign its right to future income, including the right to assign its right to receive Common Expense Assessments, but only upon the affirmative vote of a majority of the Owners present and voting, in person or by proxy, at a duly constituted meeting called for that purpose for any amount over \$25,000 in one calendar year.

**ARTICLE 7 COVENANTS AND RESTRICTIONS ON USE, ALIENATION AND  
OCCUPANCY**

All Property within the Community shall be held, used and enjoyed subject to the following limitations and restrictions. The Board shall strictly apply the following limitations and restrictions to the community. However, in certain cases, such restrictions and limitations may be modified or waived, in whole or in part, by the Board of Directors or by an appropriate committee (subject to review by the Board of Directors) if the application of the limitation or

restriction as contained herein would be unreasonable or unduly harsh under the circumstances or is inconsistent with applicable law. Any such modification or waiver must be in writing.

Section 7.1 Use/Occupancy.

All Units within the Community shall be used only for those uses and/or purposes permitted by this Declaration, subject to any Rules and Regulations adopted by the Association. Units shall not be used for any purpose other than a residential dwelling except as set forth in this Section. Home occupations shall be allowed so long as the home occupations are incidental and secondary to the use of the Unit and do not change the residential character thereof, comply with local zoning ordinances and regulations, and comply with this Declaration. External advertising of any kind is prohibited. In no instance shall a home occupation be visible externally, nor shall any home occupation employ in the Unit any person other than the Owner. Uses which have one or more of the following characteristics are not permitted: (a) manufacturing or fabrication of any kind; (b) storage of hazardous materials; (c) increased traffic or parked vehicles beyond that reasonable and customary to a residential dwelling use; (d) permanent or long term parking of heavy equipment, including semi-trailers.

Section 7.2 Use of Patios and Balconies.

Nothing shall be hung from or placed outside the Unit, including patios and balconies, unless allowed in the Rules and Regulations.

Section 7.3 Restrictions on Animals and Pets.

Pets may be kept in a Unit only by an Owner, *if* the Pet is not a nuisance to other occupants within the premises. No Owner shall maintain or keep any Pet which, in the sole discretion of the Board, is considered to be a danger to the Owners, management staff or occupants in the Community or is otherwise considered to be a dangerous breed, as may be further defined in the Rules and Regulations. If a Pet is deemed a nuisance by the Association, the Owner having control of the Pet shall be given a written notice to correct the nuisance and if not corrected, that Owner will be required to remove the Pet from the Community pursuant to, and in accordance with, any dispute resolution procedures as may be set forth in this Declaration or the Rules and Regulations, if any. Pets may not be kept for any commercial purposes. Animals are not permitted in the recreational areas. When on other Common Elements, Pets must be on a leash and under control. Feces left by Pets upon the Common Elements or Limited Common Elements, must be removed promptly by the owner of the Pet or the person responsible for the Pet. Pets shall not be allowed to defecate or urinate on any patio or balcony in the Community. Owners of the pet shall hold the Association harmless from any claim resulting from any action of their Pets.

#### Section 7.4 Antennae.

"Permitted Antennas" are defined as (a) an antenna which is less than one meter in diameter and is used to receive direct broadcast satellite service, including direct-to-home satellite services, or is used to receive or transmit fixed wireless signals via satellite; (b) an antenna which is less than one meter in diameter and is used to receive video programming services via multipoint distribution services, including multichannel multipoint distribution services, instruction television fixed services, and local multipoint distribution services or is used to receive or transmit fixed wireless signals other than via satellite; (c) an antenna which is designed to receive or broadcast television broadcast signals; or (d) other antennas which are expressly permitted under applicable federal statutes or regulations. In the event a Permitted Antenna is no longer expressly permitted under applicable federal statutes or regulations, such antenna will no longer be a Permitted Antenna for purposes of this Section.

Permitted Antennas shall be installed in the least conspicuous location available on the Unit or Limited Common Elements which permits acceptable signals, without unreasonable delay or increase in the cost of installation, maintenance or use of the Permitted Antenna. The Association may adopt rules regarding location and installation of Permitted Antennas, subject to limitations of applicable federal law. Except as allowed by federal statutes and regulation, no exterior television or any other antennae, microwave dish, satellite dish, satellite antenna, satellite earth station or similar device of any type shall be erected, installed or maintained on a Unit or Limited Common Elements.

#### Section 7.5 Nuisances.

No nuisance shall be permitted within the Community, nor any use, activity or practice which is the source of unreasonable annoyance or embarrassment to, or which unreasonably offends or disturbs any Owner or which may unreasonably interfere with the peaceful enjoyment or possession or the proper use of a Unit or Common Element, or any portion of the Community by residents. Nuisance shall be further defined in the Rules and Regulations.

#### Section 7.6 Parking, Storage, and Repairs.

(a) Parking in the Community shall be regulated by the Association pursuant to the Rules and Regulations.

(b) No activity such as, but not limited to, maintenance, repair, rebuilding, dismantling, repainting, or servicing of any kind of vehicle, trailer or boat, may be performed or conducted in the Community or Property, except as permitted by the Association's Rules and Regulations or approval.

Section 7.7 Use of Common Elements.

Nothing shall be altered on, constructed in, or removed from the Common Elements without the prior written approval of the Association. There shall be no obstruction of the Common Elements, nor shall anything be kept or stored on any part of the Common Elements without the prior written approval of the Association.

Section 7.8 No Annoying Lights, Sounds or Odors.

No light shall be emitted from any portion of the Community which is unreasonably bright or causes unreasonable glare, and no sound or odor shall be emitted from any portion of the Community which would reasonably be found by others to be noxious or offensive as further defined in the Rules and Regulations. Without limiting the generality of the foregoing, no exterior spot lights, searchlights, speakers, horns, whistles, bells or other light or sound devices shall be located or used on any portion of the Community except with the prior written approval of the Association.

Section 7.9 Compliance with Insurance Requirements.

Except as may be approved in writing by the Association, nothing shall be done or kept on the Community which may result in a material increase in the rates of insurance or would result in the cancellation of any insurance maintained by the Association.

Section 7.10 Prohibition of Marijuana Distribution and Growing.

No Owner or occupant of a Unit may utilize such Unit for the purpose of growing or distributing marijuana or medical marijuana. This prohibition may further be clarified by the Board of Directors through Rules and Regulations. Owners will be responsible for any damage resulting from a violation of this restriction, including but not limited to increased water and utility charges.

Section 7.11 Smoking Prohibition.

(a) Definitions. For the purposes of this Section, the following terms shall be defined as follows:

(i) "Smoking" shall mean and include the inhaling, exhaling, burning or carrying of any lighted cigarette, cigar or other tobacco product, marijuana or any other legal or illegal substance.

(ii) "Business Invitee" shall mean and include, but not be limited to, any contractor, agent, household worker or other person hired by the Owner, tenant or resident to provide a service or product to the Owner, tenant or resident.

(b) Smoking Prohibition. No Owner, guest, family member, tenant, resident, business invitee or visitor shall smoke cigarettes, cigars, other tobacco products and/or any other legal or illegal substance within the boundaries of the Community, except as permitted in this provision. This smoking prohibition shall include all Unit interiors, Common Elements, and Limited Common Elements in the Community, except that smoking shall be permitted in the Community parking lot, as long as such smoking is greater than 100 feet from the entrance to the building and Units.

(c) Disclosure Requirement. Any Owner who rents his or her Unit or otherwise allows someone other than the Owner to reside within or occupy the Unit shall disclose to all persons residing within the Unit that smoking is prohibited everywhere within the Community, including within all Units, Common Elements and Limited Common Elements, prior to their residency or occupancy.

#### Section 7.12 Tanks.

No tanks of any kind (either elevated or buried), except for small portable tanks associated with an outdoor gas grill shall be erected, placed or permitted in the Community without the prior written approval of the Association

#### Section 7.13 Trash Removal Restriction.

No garbage, refuse, rubbish, or cuttings shall be deposited on any street, road or any Common Elements or outside Units, unless placed in a suitable container suitably located. All equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition. No garbage cans, trash cans or receptacles shall be maintained in an exposed or unsightly manner. The Association shall have the exclusive right to engage a trash removal contractor on behalf of the Owners.

#### Section 7.14 Prohibited Activities.

No Owner or occupant of a Unit may engage in creating conditions conducive to indoor fires, allowing Units to fall into a state of disrepair to the point that rodents or other pests enter, or any other conditions which could cause damage or harm to other Units and Common Areas in the Community.

#### Section 7.15 Leasing and Occupancy.

Any Owner shall have the right to lease or allow occupancy of a Unit upon such terms and conditions as the Owner may deem advisable, subject to the restrictions of this Declaration, subject to restrictions of record and subject to the following:

(a) "Leasing" or "Renting" for the purposes of this Declaration, is defined as

regular, exclusive occupancy of a Unit by any person other than the Owner; provided, however, for the purposes of this Declaration, leasing shall not include the occupancy of the Unit by the child or parent of an Owner. For the purposes of this Declaration, occupancy by a roommate of an Owner who occupies the Unit as such Owner's primary residence shall not constitute leasing.

(b) All leases or rental agreements shall be in writing and shall provide that the leases or rental agreements are subject to all terms of the Governing Documents. Owners are required to provide tenants with copies of the current Declaration, Articles of Incorporation, Bylaws and any Rules and Regulations of the Association.

(c) All occupancies, leases and rental agreements of Units shall state that the failure of the tenant, lessee, renter or their guests to comply with the terms of the Governing Documents shall constitute a default of the occupancy, lease or rental agreement and of this Declaration and such default shall be enforceable by either the Association or the landlord, or by both of them.

(d) All occupancies of Units shall be subject to the right of the Association to remove and/or evict the occupant for failure to comply with the terms of the Declaration, the Bylaws of the Association, the Articles of Incorporation or the Rules and Regulations of the Association. If the Association requests that the Owner evict the Owner's tenant based on the terms of this Declaration, and the Owner fails to commence such action within 30 days of the date of the Association's request and notice, the Association may commence eviction proceedings. Upon failure by the Owner to comply with the Association's request to evict, the Owner delegates and assigns to the Association, acting through the Board, the power and authority to evict the lessee as attorney-in-fact on behalf of and for the benefit of the Owner. If the Association evicts the lessee, any costs, including, but not limited to, reasonable attorney fees actually incurred and court costs associated with the eviction shall be an Assessment and lien against the Unit.

(e) Leases shall be for or of the entire Unit.

(f) The Association shall have the authority to adopt Rules and Regulations regarding leasing, including the implementation of this restriction, and for implementation of other restrictions in the Declaration and as allowed by law.

#### Section 7.16 No Restrictions on Mortgaging of a Unit.

There are no restrictions on the right of the Owners to mortgage or otherwise encumber their Unit. There is no requirement for the use of a specific lending institution or particular type of lender.

Section 7.17 Map Restrictions.

The restrictions, if any, included on the Map for the Property are incorporated herein by this reference.

Section 7.18 Rules and Regulations.

In furtherance of the provisions of this Declaration and the general plan, Rules and Regulations concerning and governing the Community or any portion thereof may be adopted, amended, or repealed from time-to-time by the Board of Directors. The Board of Directors may establish and enforce penalties for the infraction thereof.

Section 7.19 Compliance with Governing Documents.

Each Owner shall comply strictly with the provisions of this Declaration, the Articles of Incorporation, Bylaws, and the Rules and Regulations of the Association, as amended.

Section 7.20 Use of the Words The Lodge at Lake Dillon and The Lodge at Lake Dillon Condominium Association.

No resident or Owner shall use the words The Lodge at Lake Dillon or The Lodge at Lake Dillon Condominium Association or the logo of the Community or Association, if any, or any derivative thereof, in connection with any goods, materials or services, the use of which is likely to cause confusion, mistake or deception as to the source or origin of such goods, materials or services, without the prior written consent of the Association.

## **ARTICLE 8 RIGHT OF FIRST REFUSAL**

Section 8.1 Restrictions on Sale of a Unit/Limited Right of First Refusal.

(a) The right of a Unit Owner to sell, transfer or otherwise convey their Unit shall not be subject to any right of first refusal or similar restriction and such Unit may be sold free of any such restrictions, except for the right of first refusal set forth in this Section.

(b) Notice by Unit Owner. Any Unit Owner who decides to sell his or her Unit ("Offeror") and who receives a bona fide written offer to purchase will, in turn, give written notice to the Board of Directors and all Unit Owners in the Community (collectively, the "Offerees") of Owner's intention sell and the terms and conditions of the proposed offer received. Any notice given in accordance with this Article will be effective whether or not it is actually received.

(c) Offer to other Unit Owners. The written notice, given by an Offeror shall be delivered to the Board of Directors who shall notify each of the Owners in the Community of such notice and offer. Such notice shall constitute and be deemed an offer by that Offeror to sell to any Offeree under the terms and conditions contained in the notice. If the notice constitutes an offer to sell, the closing date will be 10 days after the date of the offer, unless the offer provides for a later closing date.

(d) Acceptance of Offer. Within 20 days after the mailing of the notice, an Offeree may elect to accept the offer by written notice to the Offeror and to the Board. This notice will be either hand delivered to each person or mailed to each person, respectively, at the address of the Offeror as shown on the records of the Association and at the address of the Association. If more than one Offeree elects to accept the offer within the required time period, the Offeree whose acceptance was received first by the Board within the time limit will prevail.

(e) Failure of Offerees to Accept Offer. If no Offeree will accept the offer within 20 days of the giving of notice by the Offeror, the Offeror will be free to sell to any person, at a price no lower than the price in the offer and under no better terms than were contained in the offer. If the Offeror later decides to reduce the purchase price, or otherwise materially and significantly changes the terms of the offer, then the Offeror must first offer the improved terms to the Offerees, pursuant to and in accordance with this Section before offering the improved terms to others.

(f) Violation. Any purported sale of a Unit in violation of this Article will be voidable within five days from the date the document evidencing the sale or lease is recorded, at the election of the Association. The Association may take any other action against the parties to the transactions which are permitted by law.

(g) Exceptions. The provisions of this Article will not apply (a) with respect to any sale or lease by a Unit Owner of his or her Unit to her spouse, any children, parents or siblings or to a partner or principal in the Unit Owner's firm, who has been a partner or principal for at least one year prior to the conveyance, and the firm owns or occupies the Unit or (b) to the acquisition or sale of a Unit by an authorized mortgagee who acquires title to the Unit by mortgage, foreclosure or deed in lieu of foreclosure, or to the acquisition of a Unit by a purchaser at any judicial sale. Any Unit Owner will be free to convey or transfer his Unit by gift, to devise his Unit by will or to pass the same by intestacy, without compliance with any of the provisions of this Article.

(h) Release by Association of Right of Refusal. The right of first refusal contained in this Article may be waived by the Association upon notice, orally or otherwise, from the other Unit Owners or their representatives, eligible to take advantage of the Offer that they do not intend to exercise their right of first refusal with respect to a particular sale or lease. If this right is waived, then the Unit, together with the

Appurtenant Interest, may be sold, conveyed or leased, or a previous sale, conveyance or lease may be confirmed to be free and clear of the provisions of this Article. A waiver executed by the President or Secretary will be binding on the Association with respect to the validity of any act taken in reliance on the waiver. This provision does not relieve any officer of the fiduciary duty of good faith to the members of the Association.

(i) Certificate of Termination of Right of First Refusal. A recordable certificate, executed and acknowledged by the President, Secretary or Manager of the Association, on behalf of the Association and the Unit Owners, stating that the provisions of this Article have been met by an Offeror and that no Offeree has accepted the offer, or that the Offeree's rights have been duly waived by the Association and/or the Offerees, or that the transfer is exempt from this Article, will be binding upon the Association and the Unit Owners in favor of all persons who rely on the certificate in good faith. A certificate will be furnished to any Unit Owner who has in fact complied with the provisions of the Article.

(j) The right of first refusal as provided herein shall extend and run for the loves of the youngest child of Millie Hamner, the state Representative for House District 61 (which includes Summit County), as of the date hereof, plus twenty-one years.

## ARTICLE 9 MODIFICATIONS TO UNITS

### Section 9.1 Alterations of Units or Limited Common Element Balconies Without a Change in Allocated Interests or Boundaries of a Unit.

Owners shall have the right, with written approval from the Board of Directors (or if an Architectural Control Committee is appointed by the Board, from such Architectural Control Committee), and subject to the provisions of this Article, to make the following alterations to their Units or Limited Common Element balconies:

(a) Interiors. Owners have the right to make any improvements or alterations to the interior of his or her Unit as provided for in this Article.

(i) Decoration of Unit. The rights and restrictions in this Article shall not be construed to restrict a Member's right to decorate his or her Unit as he or she should so determine; provided, however, that to the extent such decoration (including but not limited to window coverings and sun screens) is visible from the exterior of any Unit and detracts, in the reasonable judgment of the Board, from the aesthetic or architectural integrity of the Community, the Member may be required to undertake such reasonable measures as the Board may determine to eliminate such aesthetic detracton.

(ii) Nonstructural and Structural Interior Alterations. The rights and restrictions in this Article shall not be construed to restrict a Member's right to move, remove, alter or change any interior, nonstructural wall or partition, or change the use and/or designation of any room within his or her Unit; provided, however, that such change shall not affect the structural integrity of the Community or mechanical or utility systems of the Community. No structural alterations to any Unit or any Common or Limited Common Elements shall be done by any Owner, without the prior written approval of the Committee.

(iii) Combination of Units. Units may be combined in the Community pursuant to the terms of this Declaration.

(b) Exteriors. Owners have the right to make improvements or alterations to the exterior Limited Common Element patio or deck area, as provided for in this Article.

(c) Limitations. Rights of Owners under the prior provisions are limited by the following restrictions:

(i) General Restriction. The alterations and modifications cannot impair the structural integrity, electrical systems, mechanical systems, utilities, lessen the support of any portion of the Community, enclose a Limited Common Element as improved interior space or as a part of a Unit, or violate any of the provisions of this Article.

(ii) Exterior Changes. No porch, garden or yard enclosure, awning, screen, sign, address numbers, banner or other device, and no exterior change, addition, structure, projection, decoration, lighting, or other feature shall be erected, applied to, placed upon or attached to any Unit, or any part thereof or upon any Common or Limited Common Elements without, in each instance, written approval of the Committee.

(iii) Painting, Decals, and Window Coverings. No painting, attaching of decals or other decoration shall be done on any exterior part or surface of any Unit, or on the interior surface of any window, nor shall any window coverings other than a neutral color be installed inside a Unit, without written approval of the Committee, except for holiday decorations, holiday displays, holiday flags and/or holiday signs, which shall be expressly allowed, subject to the Committee's discretion and pursuant to the Rules and Regulations.

(d) Application and Approval Requirements. All changes allowed for under the above authority may only be made by the Owners of those Units, as applicant, after application to and approval by the Committee. The application and approval process shall include at least the following:

(i) Signatures. The signatures of all of the Owners of the Units that are proposed to have changes must be on the application;

(ii) Representations. The Owners must represent and warrant that the proposed modifications do not affect the structural integrity, electrical systems, mechanical systems, utilities, lessen the support of any portion of the Community or violate any of the provisions of this Article;

(iii) Contents of the Application. The application must contain at least the following:

(1) evidence sufficient to the Committee that the applicant has complied with and/or will comply with all local rules and ordinances and that the proposed changes do not violate the terms of any document evidencing a security interest of a lender in any of the applicant's Units;

(2) all necessary and proper permits and approvals from the appropriate governmental authorities have been or will be obtained;

(3) proof that the contractor(s) of the Owner is/are licensed and adequately insured; and

(4) such other information as may be reasonably requested by the Committee.

(iv) Agreement May Be Required. The Committee may require the Owner's written agreement (in the form required by the Association) providing for the following:

(1) for the Owner to be responsible, now and/or in the future, for any structural deficiencies or problems, electrical deficiencies or problems, mechanical structural integrity, electrical systems, utility or mechanical deficiencies or problems or problems associated with a lessening of support of any portion of the Community, or for violations of any of the provisions of this Article, all as may reasonably be determined by the Committee;

(2) for the Owner's agreement to be responsible for ongoing maintenance, repair, replacement and improvement of any or all of the proposed additions/modifications of the Owner. The Committee may require Owners to be responsible for all or some of the maintenance, repair, replacement and improvement of the proposed modifications;

(3) for the Owner's payment of the fees and costs of the Committee, together with a deposit against fees and costs which the Committee will incur in reviewing and effectuating the application, in an amount reasonably estimated by the Committee, in advance of any billing for costs and expenses of the Committee;

(4) for reasonable advance notice by the Owner for the work to be performed, from the Owner or from the Owner's contractor; and

(5) satisfaction of all conditions as may be reasonably imposed by the Committee.

Section 9.2 Alterations of Units or Limited Common Element Balconies With a Requested Change in Allocated Interests or the Boundaries of a Unit.

Subject to the provisions of this Article, and pursuant to the procedures described in section 38-33.3-217 of the Act, the following changes may be made, after application to the Committee by the Owners of those Units and written approval by the Committee:

(a) Boundary Change. Boundaries between adjoining Units may be changed pursuant to the terms of this Declaration.

(b) Conversion of Limited Common Element to Unit. Boundaries of a Unit, to include a former Limited Common Element deck or patio on which an Owner has been approved to make alterations (as provided for in this Section of this Article), may be changed, as provided for in this Article and with approval of at Members holding at least 67% of the total votes entitled to be cast in the Association.

(c) Limitations. No relocation of Unit boundaries shall be effected without the necessary amendments to the Declaration and Map, as provided for in this Article with those amendments, executed and recorded by the Association, pursuant to section 38-33.3-217 of the Act.

(d) Application and Approval Requirements. The Owners of the Units, as the applicant, must submit an application to the Committee, which must be approved by the Committee before the Owner proceeds, including all of the criteria set forth above and the following additional items (if application process is used above) and must also enter into an agreement with the Association, including the items set forth above:

(i) Reallocations. The proposed reallocation of interests, if any, which may include a re-allocation of Common Expense liability, to account for an increase in size to the Unit or Units of the Owner, if sought by the applicant or

required by the Committee; and

(ii) Forms of Amendments. The proposed form for amendments to this Declaration, including the Map, as may be necessary to show the altered boundaries, and their dimensions and identification.

Section 9.3 Maintenance Responsibilities.

For all modifications made to a Unit by an Owner, whether made under the authority and with the approvals under this Article, or whether made previously or without approvals required under this Article, the Owner shall be responsible for maintenance, repair and replacement of all modifications unless the Association expressly assumes any of those responsibilities in writing.

Section 9.4 Acknowledgment of Owners.

Owners acknowledge, accept and agree to the following:

- (a) Owners will not commence construction or installation of an improvement until they have submitted improvement plans and specifications and received written approval from the Committee;
- (b) Owners shall immediately comply with any request by the Committee for additional information relating to an improvement prior to the Committee's approval of a request and/or prior to the completion of an improvement. Failure to comply with such a request by an Owner shall result in the withdrawal of Committee approval, if previously granted;
- (c) Committee approval does not constitute approval of the local building or zoning department, drainage design or structural soundness;
- (d) Owners, by submitting an application for approval, hereby certify: (i) they will construct or modify improvements located only on or in their own Unit or upon Property which they have permission to construct, modify or improve; and (i) they will not violate any easements, rights-of-way, or other rights appurtenant to such Property.
- (e) Owners shall notify the Committee of completion of the improvement's installation or construction within five days of such completion;
- (f) Upon completion of an improvement, Owners authorize the Committee or its representative(s) to enter onto the Unit for exterior inspection;
- (g) Failure of an Owner to notify the Committee of completion of an approved improvement, or refusal to allow inspection, shall result in the withdrawal of

the Committee's approval;

(h) If the improvement as built does not conform to the improvement as approved by the Committee, the Committee's approval will be deemed withdrawn, and upon written request of the Committee, Owners shall, at their own expense and cost, promptly bring the improvement into compliance with the submitted and approved plans and specifications;

(i) In the event of withdrawal of Committee approval for any reason(s) cited in this Section, and upon written request from the Committee, the Owner, at his or her expense and cost, shall promptly restore the Unit to substantially the same condition as it existed prior to commencement of the improvement's installation or construction, and such withdrawal will be deemed to toll the statute of limitations as it pertains to the improvement until such time as the improvement is brought into compliance.

#### Section 9.5 Architectural Criteria.

The Committee shall exercise its reasonable judgment to the end that all attachments, improvements, construction, landscaping and alterations to improvements on a Unit shall comply with the requirements set forth in this Declaration. The approval or consent of the Committee on matters properly coming before it shall not be unreasonably withheld, and actions taken shall not be arbitrary or capricious. Approval shall be based upon, but not limited to, conformity and harmony of exterior appearance of the Units with all other Units, and conformity with the specifications and purposes generally set out in this Declaration. Upon its review of such plans, specifications and submittals, the Committee may require that the applicant(s) reimburse the Committee for actual expense incurred by it in its review and approval process.

#### Section 9.6 Establishment of the Committee.

The Committee shall consist of a minimum of three members appointed by the Board of Directors. In the event a Committee is not established, the Board shall perform all duties of the Committee as provided in this Article and the Governing Documents of the Association. The Board shall have the authority to remove any members of the Committee at their sole discretion.

#### Section 9.7 Architectural Guidelines.

The Committee may propose architectural guidelines from time to time, which guidelines may be approved by the Board of Directors and included in or with any Rules and Regulations of the Association.

#### Section 9.8 Reply and Communication.

The Committee shall reply to all submittals of plans made in accordance herewith in writing

within 45 days after receipt. In the event the Committee fails to take any action on submitted plans and specifications within 45 days after the Committee has received the plans and specifications, approval shall be deemed to be denied. All communications and submittals shall be addressed to the Committee in care of the Association.

#### Section 9.9 Conditions of Approval.

In the discretion of the Board or the Committee, an Owner may be required to enter into a written agreement establishing the approval of the application in recordable form acknowledged by such Owner on behalf of himself or herself and all successors-in-interest. As a condition of approval for a requested architectural change, modification, addition or alteration, an Owner, on behalf of himself or herself and his or her successors-in-interest, affirms and shall assume, unless otherwise agreed in writing, all responsibilities for maintenance, repair, replacement and insurance to and on such change, modification, addition or alteration.

#### Section 9.10 Fees and Costs.

Owners shall be obligated to pay all fees and costs incurred by the Committee in reviewing and effectuating an Owners's application, whether by deposit, or subsequent invoice from the Association.

#### Section 9.11 Commencement and Completion of Construction.

All improvements approved by the Committee must be commenced within six months from the date of approval. If not commenced within such time, then such approval shall be deemed revoked by the Committee, unless the Committee gives a written extension for commencing the work. Additionally, except with written Committee approval otherwise, and except for delays caused by strikes, fires, national emergencies, critical materials shortages or other intervening forces beyond the control of the Owner, all work approved by the Committee shall be completed within one year of commencement.

#### Section 9.12 Variances.

The Committee may grant reasonable variances or adjustments from any conditions and restrictions imposed by this Declaration in order to overcome practical difficulties and unnecessary hardships arising by reason of the application of the conditions and restrictions contained in this Declaration or in architectural guidelines.

#### Section 9.13 Right to Appeal.

If the Board of Directors is not acting as the Committee, an Owner whose plans have been disapproved or conditionally approved may appeal any decision of the Committee to the Board of Directors. The Board of Directors shall review the decision of the Committee pursuant to the

criteria set forth in this Article and/or the architectural guidelines. Any decision of the Committee may be overruled and reversed by a majority of the directors by a written decision setting forth the reasons for the reversal when the directors conclude that the Committee's decision was inconsistent with the criteria set forth in this Article and the guidelines.

**Section 9.14 Waivers.**

The approval or consent of the Committee, or appointed representative thereof, to any application for architectural approval shall not be deemed to constitute a waiver of any right to hold or deny approval or consent by the Committee as to any application or other matters subsequently or additionally submitted for approval or consent.

**Section 9.15 Liability.**

The Committee and the members thereof, as well as any representative of the Board designated to act on its behalf, shall not be liable in damages to any person submitting requests for approval or for any approval, or failure to approve or disapprove in regard to any matter within its jurisdiction under these covenants. Neither the Board nor the Committee shall bear any responsibility for ensuring the design, quality, structural integrity or soundness of approved construction or modifications, nor for ensuring compliance with building codes, zoning regulations and other governmental requirements. The Association will not make any investigation into title, ownership, easements, rights-of-way, or other rights appurtenant to Property with respect to architectural requests and shall not be liable for any disputes relating to the same.

**Section 9.16 Enforcement.**

Enforcement of these covenants, restrictions, charges and other provisions, as amended, may be by any proceeding at law or in equity against any person or persons violating or attempting to violate any such provision. The Association shall have the right, but not the obligation, to institute, maintain and prosecute any such proceedings. In any action instituted or maintained under this Section, the Association may be entitled to recover its costs and reasonable attorney fees incurred pursuant thereto, as well as any and all other sums awarded by the court. Failure of the Association to enforce any covenant or restriction contained in this Section shall in no event be deemed a waiver of the right to do so thereafter. In addition, or in the alternative, the Association shall have all other enforcement rights as set forth in this Declaration.

**ARTICLE 10      INSURANCE/CONDEMNATION/OBSCOLESCENCE**

**Section 10.1 Insurance to be Carried by the Association.**

The Association shall obtain and maintain in full force and effect, to the extent reasonably

available and at all times, the insurance coverage set forth in this Declaration and as set forth in the Act, which insurance coverage shall be provided by financially responsible and able companies duly authorized to do business in the State of Colorado.

**Section 10.2 Association Hazard Insurance on the Units and Common Elements.**

(a) The Association shall obtain and maintain liability and hazard insurance covering full replacement cost, loss, damage or destruction by fire or other casualty to the Units and the Common Elements and the other property of the Association as set forth in Exhibit C of this Declaration.

(b) If obtainable, the Association shall also obtain the following and any additional endorsements deemed advisable by the Executive Board: (a) an Inflation guard endorsement, (b) a Construction Code endorsement, (c) a demolition cost endorsement, (d) a contingent liability from operation of building laws endorsement, (e) an increased cost of construction endorsement.

(c) All blanket hazard insurance policies shall contain a standard non-contributory mortgage clause in favor of each holder of first lien security interests, and their successors and assigns, which shall provide that the loss, if any thereunder, shall be payable to the Association for the use and benefit of such holders of first lien security interests, and their successors and assigns, as their interests may appear of record in the records of the office of the Clerk and Recorder of the County of Summit, State of Colorado.

(d) All insurance purchased by the Association pursuant to this Section shall run to the benefit of the Association, the Board of Directors, officers, all agents and employees of the Association, the Owners, and their respective mortgagees, and all other persons entitled to occupy any Unit, as their interests may appear.

(e) The Association's insurance policy may contain a reasonable deductible, and the amount thereof shall not be subtracted from the face amount of the policy in determining whether the insurance equals at least the replacement cost of the insured property.

(f) The Board of Directors shall make available for review by Owners a copy of the Association's insurance policy to allow Owners to assess their personal insurance needs. Each Owner shall have the right to obtain additional coverage at his or her own expense.

**Section 10.3 Owner Insurance Responsibilities.**

Unit Owners are specifically responsible for maintaining insurance which covers his or her

Unit to the extent not covered by policies maintained by the Association, as set forth in Exhibit C of this Declaration. Owners are also responsible for general liability insurance within a Unit. The liability of the carriers issuing insurance obtained by the Association shall not be affected or diminished by reason of any insurance carried by Unit Owners. The policies of insurance carried by the Association shall be primary, even if a Unit Owner has other insurance that covers the same loss or losses as covered by policies of the Association. The Association's insurance coverage, as specified in this Declaration, and under the Act, does not obviate the need for Unit Owners to obtain insurance for their own benefit.

Section 10.4 Association Flood Insurance.

The Association shall obtain flood insurance to the extent applicable.

Section 10.5 Association Liability Insurance.

The Association shall obtain a policy of public liability and property damage liability insurance covering the Common Elements, in such limits as the Board may determine from time to time, but not in any amount less than a combined single limit of \$1,000,000.00. Coverage shall include, without limitation, liability for personal injuries, operation of automobiles on behalf of the Association, and activities in connection with the ownership, operation, maintenance and other uses of the Community. All liability insurance shall name the Association as the insured.

Section 10.6 Association Fidelity Insurance.

The Association shall obtain fidelity coverage or fidelity bonds to protect against dishonest acts on the parts of its officers, directors, trustees and employees and on the part of all others who handle or are responsible for handling the funds of the Association, including persons who serve the Association with or without compensation. The fidelity coverage or bonds should be in an amount sufficient to cover the maximum funds that will be in the control of the Association, its officers, directors, trustees and employees, as required by law.

Section 10.7 Association Worker's Compensation and Employer's Liability Insurance.

The Association shall obtain worker's compensation and employer's liability insurance and all other similar insurance with respect to its employees in the amounts and forms as may now or hereafter be required by law.

Section 10.8 Association Directors' and Officers' Personal Liability Insurance.

The Association shall obtain directors' and officers' personal liability insurance to protect the directors, officers, committee members and any person acting at the discretion of the Board from personal liability in relation to their duties and responsibilities in acting on behalf of the

Association.

Section 10.9 Other Association Insurance.

The Association may obtain insurance against such other risks, as it shall deem appropriate with respect to the Association responsibilities and duties.

Section 10.10 Miscellaneous Terms Governing Insurance Carried by the Association.

The Association shall maintain, to the extent reasonably available, insurance policies with the following terms or provisions:

(a) All policies of insurance shall provide that each Owner is an insured under the policy with respect to liability arising out of such Owner's membership in the Association.

(b) All policies of insurance shall contain waivers of subrogation against any Owner or member of his or her household.

(c) All policies of insurance shall contain waivers of any defense based on invalidity arising from any acts of an Owner and shall provide that such policies may not be canceled or modified without at least 30 days prior written notice to all of the Owners, holders of first lien security interests and the Association.

(d) If requested, duplicate originals of all policies and renewals thereof, together with proof of payments of premiums, shall be delivered to all Eligible Mortgage Holders at least 10 days prior to the expiration of the then-current policies.

(e) All liability insurance shall include the Association, the Board, the manager or managing agent, if any, the officers of the Association, holders of first lien security interests, their successors and assigns and Owners as insureds.

(f) In no event shall any casualty insurance policy contain a co-insurance clause.

(g) All policies of insurance of the Association shall be primary, providing the primary insurance of the loss, if there is other insurance in the name of the Owner.

(h) All policies of insurance shall provide that the insurance thereunder shall not be invalidated, suspended, voidable or have any condition of recovery due to an act or omission by any Owner, only in respect to the interest of any particular Owner guilty of a breach of warranty, act, omission, negligence or non-compliance of any provision of such policy, including payment of the insurance premium applicable to the Owner's interest, or

who permits or fails to prevent the happening of any event, whether occurring before or after a loss, which under the provisions of such policy would otherwise invalidate or suspend the entire policy, but the insurance under any such policy, as to the interests of all other insured Owners not guilty of any such act or omission, shall not be invalidated or suspended and shall remain in full force and effect.

(i) Prior to obtaining any policy of casualty insurance or renewal thereof, pursuant to the provisions hereof, the Board may obtain an appraisal from a duly qualified real estate or insurance appraiser, which appraiser shall reasonably estimate the full replacement value of the Units and the Common Elements, without deduction for depreciation, review any increases in the cost of living, and/or consider other factors, for the purpose of determining the amount of the insurance to be effected pursuant to the provisions hereof. In no event shall any casualty insurance policy contain a co-insurance clause.

#### Section 10.11 Insurance Premium.

Except as assessed in proportion to risk, insurance premiums for the above provided insurance shall be a Common Expense to be included as a part of the annual Assessments levied by the Association.

#### Section 10.12 Managing Agent Insurance.

The manager or managing agent, if any, shall be adequately insured for the benefit of the Association and shall maintain and submit evidence of such coverage to the Association, including professional liability or errors and omissions insurance, workers' compensation, unemployment and fidelity coverage. The Association may indemnify its managing agent, except for that agent's intentional acts or omissions or negligence outside the scope of their duties and obligations to the Association, or outside of direction from or of the Association.

#### Section 10.13 Annual Association Insurance Review.

The Board shall review the insurance carried by and on behalf of the Association at least annually.

#### Section 10.14 Adjustments by the Association.

Any loss covered by an insurance policy described above shall be adjusted by the Association, and the insurance proceeds for that loss shall be payable to the Association and not to any holder of a first lien security interest. The Association shall hold any insurance proceeds in trust for the Association, Owners and holders of first lien security interests as their interests may appear. Proceeds must be distributed first for the repair or restoration of the damaged property. The Owners and holders of first lien security interest are not entitled to receive

payment of any portion of the proceeds. The Association may determine how a surplus of proceeds, if any, shall be utilized.

**Section 10.15 Responsibility for Payment of Deductible Amount.**

Whether the Board, in its discretion, chooses to submit a claim under the Association insurance policies or not, the payment of the deductible amount for claims which the Association is responsible for insuring shall be as follows:

(a) The Association shall pay or absorb the deductible amount for any work, repairs or reconstruction for damage to Common Elements unless the damage is the liability of an Owner, his family, guests, or invitees, as set forth in this Declaration, in which case the Association shall seek reimbursement of the deductible amount as an Assessment in compliance with and under the terms of this Declaration. Any Owner who receives the proceeds of any Association insurance shall be responsible for the payment of the deductible in proportion to the percentage of insurance proceeds received. Such deductible shall be due within 10 days of notification and shall be considered a Common Expense Assessment allocated directly to the Unit and shall be collected as provided in this Declaration.

(b) The Owner shall pay or absorb the deductible for any loss to the Unit that would be the responsibility of the Owner in the absence of insurance unless: (1) the loss is caused by the negligent or willful act or omission of the Association or another Owner, in which case the negligent party shall be responsible for the deductible, or (2) the loss is caused by the failure of another Owner to maintain any portion of the Unit, including any appliance, equipment, or fixture in a Unit, which that Owner is responsible to maintain in good working order and condition, in which case the Owner who has failed to maintain any such portion of the Unit resulting in damage to another's Unit will be responsible for the deductible. If a negligent Owner or Owner who fails to maintain their Unit as provided in this Declaration fails to pay the deductible for damage to a Unit, the Association may, but shall not be obligated to seek the deductible on behalf of the Owner suffering the loss as provided in this Declaration for the collection of Assessments.

**Section 10.16 Duty to Repair.**

Any portion of the Community for which insurance is required under this Article which is damaged or destroyed must be repaired or replaced promptly by the Association or Owner.

**Section 10.17 Condemnation and Hazard Insurance Allocations and Distributions.**

In the event of a distribution of condemnation proceeds or hazard insurance proceeds to the Owners, the distribution shall be as the parties with interests and rights are determined or allocated by record and pursuant to the Act.

Section 10.18 Insurance Assessments.

If the proceeds of insurance are not sufficient to defray the costs of reconstruction and repair due to deductibles allocated to the Association or failure of the Association to maintain coverage to defray costs of repair and reconstruction which in the absence of insurance would be the maintenance responsibility of the Association, the deductible or additional cost shall be a Common Expense. This Assessment shall not be considered an Assessment as discussed in this Declaration and shall not require any vote or ratification of the Owners.

Section 10.19 Payment of Claims to Delinquent Owners.

Notwithstanding anything to the contrary in this Declaration, in the event of an insured loss under the Association's master hazard insurance policy for which the Association receives from the insurer payment for a loss sustained by an Owner who is delinquent in the payment of Assessments owed to the Association under this Declaration, then the Association may retain and apply such proceeds recovered to the delinquency. Any surplus remaining after application of the proceeds to any delinquency shall be paid by the Association to the affected Owner.

Section 10.20 Obsolescence.

(a) Renewal and Reconstruction. Members holding at least 67% of the total votes entitled to be cast in the Association and 67% of the Eligible Mortgage Holders may agree that the Property is obsolete and adopt a plan for renewal and reconstruction.

(i) If a plan for renewal or reconstruction is adopted by the Owners and Eligible First Mortgage Holders as described above, notice of the adoption of such plan shall be sent to all Owners and recorded, and the expense of renewal and reconstruction shall be payable by all of the Owners as Common Expenses; provided, however, that an Owner who does not desire to be a party to such plan for renewal or reconstruction may give written notice to the Association within 15 days after the date of the notice of the adoption of such plan that his or her Unit shall be purchased by the Association for the fair market value thereof.

(ii) The Association shall then have 30 days from receipt of a notice from an Owner that such Owner does not desire to participate in the plan within which to cancel such plan. If such plan is not cancelled, the Unit of the requesting Owner shall be purchased according to the following procedures:

(1) If such Owner and the Association can agree on the fair market value thereof, then such sale shall be consummated within 30 days after such agreement;

(2) If the parties are unable to agree on the fair market value, the date when either party notifies the other that he, she or it is unable to agree with the other shall be the "Commencement Date" from which all periods of time mentioned hereafter shall be measured. Within 10 days following the Commencement Date, each party shall nominate an appraiser in writing (and give notice of such nomination to the other party). If either party fails to make such a nomination within 10 days of the Commencement Date, the appraiser nominated shall, within 5 days after default by the other party, appoint and associate with him or her another appraiser. If the two designated or selected appraisers are unable to agree on the fair market value of the Unit, they shall appoint another appraiser to be umpire between them, if they can agree on such person. If they are unable to agree upon such umpire, each appraiser previously appointed shall nominate two appraisers and from the names of the four appraisers so nominated one shall be drawn by lot by any judge of any court of record in Colorado, if the Association can arrange such judicial participation in this process, and otherwise by the President of the Association; and the name so drawn shall be such umpire. The nominations from whom the umpire is to be drawn by lot shall be submitted within 10 days of the failure of the two appraisers to agree, which, in any event, shall not be later than 20 days following the appointment of the second appraiser. The decision of the appraisers as to the fair market value or, in the case of their disagreement, such decision of the umpire shall be final and binding and a judgment based upon the decision rendered may be entered in any court having jurisdiction. The expenses and fees of such appraisers shall be borne equally by the Association and the Owner. Alternatively, in the event the purchase price so established is unacceptable to the Board of Directors, then the Association may cancel the plan or resubmit a revised plan, to include the purchase price established for the Unit of the Owner who does not desire to participate in the plan, to the Owners and Eligible Mortgage Holders for approval; and

(3) Unless the plan is canceled or the Board determines to resubmit the plan for approval, the sale shall be consummated within 15 days after the final determination of fair market value as determined above; and the Association, as attorney in fact, shall disburse such proceeds to the Association, Owner(s) and lienholders, as their interests may appear.

(b) Sale of Property. Members holding at least 75% of the total votes entitled to be cast in the Association and 75% of the Eligible Mortgage Holders may agree that the Community is obsolete and that the Community should be sold. In such instance, the Association shall send notice of the approval of such a sale to all Owners and record a notice executed by the Association's President and Secretary setting forth such fact and, upon recording of such notice, the Property shall be sold by the Association, as attorney in fact for all Owners, free and clear from the provisions contained in this Declaration. The sales proceeds shall be collected and apportioned between the Owners on the basis of each Owner's appurtenant interest in and to the Common Elements as specified in the Declaration, and the proceeds shall be paid into separate accounts, each account representing one Condominium Unit. Each such account shall be in the name of the Association and shall be further identified by the Unit designation and the name of the Owner. The Association, as attorney in fact, shall use and disburse the total amount of each separate account, without contribution from one account to another, to the Association, Owner(s) and lienholders, as their interests may appear.

## **ARTICLE 11        SPECIAL RIGHTS OF HOLDERS OF FIRST LIEN SECURITY INTERESTS**

### **Section 11.1    General Provisions.**

The provisions of this Article are for the benefit of holders, insurers, or guarantors of holders of first lien security interests recorded within the Community. To the extent applicable, necessary or proper, the provisions of this Article apply to both this Declaration and to the Articles and Bylaws of the Association. Eligible insurers and guarantors of a first lien security interest shall have the same rights as an Eligible Mortgage Holder.

### **Section 11.2    Special Rights.**

Eligible Mortgage Holders shall be entitled to: (a) timely written notice from the Association of any default by a mortgagor of a Unit in the performance of the mortgagor's obligations under this Declaration, the Articles of Incorporation, the Bylaws or the Rules and Regulations, which default is not cured within 60 days after the Association learns of such default; (b) examine the books and records of the Association during normal business hours; (c) receive a copy of financial statements of the Association, including any annual audited financial statement; (d) receive written notice of all meetings of the Members of the Association; (e) designate a representative to attend any such meetings; (f) written notice of any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association; (g) written notice of abandonment or termination of the Association of the plan contemplated under this Declaration; (h) 60 days written notice prior to the effective date of any proposed

amendments of a material adverse nature to first mortgagees to this Declaration, the Articles of Incorporation, or the Bylaws; (i) 60 days written notice prior to the effective date of termination of professional management of the Association or the Common Elements, when professional management had been required previously under the legal documents for the Community or by an Eligible Mortgage Holder; and (j) immediate written notice as soon as the Association receives notice or otherwise learns of any damage to the Common Elements or to the Unit on which the Eligible Mortgage Holder holds a security interest, if the cost of reconstruction exceeds \$20,000.00 and as soon as the Association receives notice or otherwise learns of any condemnation or eminent domain proceedings or other proposed acquisition with respect to any portion of the Common Elements or any Units.

#### Section 11.3 Special Approvals.

Unless at least 51% of the Eligible Mortgage Holders of first lien security interests (based on one vote for each mortgage owned) of Units in the Association and requisite Owners have given their written approval, neither the Association nor any Member shall (a) by act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the Common Elements or any improvements thereon which are owned, directly or indirectly, by the Association (except that the granting of access easements, utility easements, drainage easements and water facilities easements or easements for other public purposes consistent with the intended use of such Property by the Association shall not be deemed within the meaning of this provision); (b) change the method of determining the obligations, Assessments or other charges which may be levied against Members or the method of allocating distributions of hazard insurance policy proceeds or condemnation awards; (c) by act or omission change, waive or abandon any scheme or regulation, or enforcement thereof, pertaining to architectural approval of improvement of Units, including the architectural design of the exterior appearance of Units, or the upkeep of the Common Elements; (d) fail to maintain the casualty, fire and extended coverage insurance as elsewhere provided in this Declaration; (e) use hazard insurance proceeds for losses other than the repair, replacement or reconstruction of the improvements which were damaged or destroyed; (f) take action to terminate the legal status of the Community after substantial destruction or condemnation occurs; (g) adopt any amendments to this Declaration of a material adverse nature to first mortgagees; and (h) establish self-management by the Association when professional management has previously been required by the legal documents for the Community or by an Eligible Mortgage Holder. An amendment shall not be deemed material if it is for the purpose of correcting technical errors, or for clarification only. If an Eligible Mortgage Holder of a first lien security interest receives written request for approval of the proposed act, omission, change or amendment by certified or registered mail, with a return receipt requested, and does not deliver or post to the requesting party a negative response within 60 days, it shall be deemed to have approved such request.

#### Section 11.4 Right to Pay Taxes and Insurance Premiums.

Any holder of a first lien security interest shall be entitled to pay any taxes or other charges

which are in default and which may or have become a lien against a Unit or any of the Common Elements and may pay any overdue premiums on hazard insurance policies or secure new hazard insurance coverage for the Common Elements or Units.

## **ARTICLE 12      GENERAL PROVISIONS**

### **Section 12.1    Compliance and Enforcement.**

(a) Every Owner and occupant of a Unit shall comply with the Governing Documents, and each Owner shall have the right to enforce the covenants and restrictions, as set forth in this Declaration.

(b) The Association may enforce all applicable provisions of this Declaration, and may impose sanctions for violation of the Governing Documents. Such sanctions may include, without limitation:

(i) imposing reasonable monetary fines, after notice and opportunity for a hearing, which fine shall constitute a lien upon the violator's Unit;

(ii) suspending the right to vote and the right to use Common Elements;

(iii) exercising self-help (including, but not limited to, performing such maintenance responsibilities which are the Owner's responsibility under this Declaration and assessing all costs incurred by the Association against the Unit and the Owner as an Assessment) or taking action to abate any violation of the Governing Documents;

(iv) requiring an Owner, at the Owner's expense, to remove any structure or improvement on such Owner's Unit in violation of the Governing Documents and to restore the Unit to its previous condition and, upon failure of the Owner to do so, the Board or its designee shall have the right to enter the property, remove the violation and restore the property to substantially the same condition as previously existed, at the Owner's expense, and any such action shall not be deemed a trespass, with all fees and costs in connection with such removal and restoration to be assessed to the Owner as an Assessment under the terms of this Declaration;

(v) without liability to any person, precluding any contractor, subcontractor, agent, employee, or other invitee of an Owner who fails to comply with the terms and provisions of this Declaration from continuing or performing any further activities in the Community;

(vi) levying specific Assessments to cover costs incurred by the Association to bring a Unit into compliance with the Governing Documents; and

(vii) bringing suit at law or in equity to enjoin any violation or to recover monetary damages or both.

(c) In addition to any other enforcement rights, if an Owner fails to properly perform his or her maintenance responsibility, or otherwise fails to comply with the Governing Documents, the Association may record a notice of violation against the Owner and the Unit.

(d) All remedies set forth in the Governing Documents shall be cumulative of any remedies available at law or in equity. In any action to enforce the Governing Documents, the prevailing party shall be entitled to recover all costs, including, without limitation, attorney fees and court costs, reasonably incurred in such action.

(e) The decision of the Association to pursue enforcement action in any particular case shall be left to the Board's discretion, subject to the duty to exercise judgment and be reasonable, as provided for in this Declaration, and further restricted in that the Board shall not be arbitrary or capricious in taking enforcement action. A decision of the Association not to pursue enforcement action shall not be construed as a waiver of the Association's right to enforce such provisions at a later time under other circumstances or preclude the Association from enforcing any other covenant, restriction or rule. Without limiting the generality of the foregoing, the Board may determine that, under the circumstances of a particular case:

(i) the Association's legal position is not strong enough to justify taking any or further action;

(ii) the covenant, restriction or rule being enforced is, or is likely to be construed as, inconsistent with applicable law; or

(iii) that it is not in the Association's best interests, based upon hardship, expense, limited effect on other Members or other reasonable criteria, to pursue enforcement action.

#### Section 12.2 Attorney Fees.

If an Owner fails to pay any Assessment or any other amount due to the Association as provided in this Declaration, the Association may require reimbursement for reasonable attorney fees and costs without the necessity of commencing a legal proceeding. If an Owner or an Owner's family member, guest, tenant, invitee or licensee fails to comply with any other provision of the Governing Documents, the Association may seek reimbursement for reasonable

attorney fees and costs incurred as a result of such failure to comply, without the necessity of commencing a legal proceeding. In a legal proceeding in any way related to the Governing Documents or the Community, the court shall award to the party prevailing on each claim the prevailing party's reasonable attorney fees and costs incurred in asserting or defending the claim. Such reasonable attorney fees and costs, if awarded against an Owner, shall be charged as an Assessment and shall constitute a lien against the Unit.

#### Section 12.3 Severability.

Each of the provisions of this Declaration shall be deemed independent and severable. If any provision of this Declaration or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of this Declaration which can be given effect without the invalid provisions or applications.

#### Section 12.4 Term of Declaration.

The covenants and restrictions of this Declaration shall run with and bind the land in perpetuity.

#### Section 12.5 Amendment of Declaration by Owners.

Except as otherwise provided in this Declaration, any provision, covenant, condition, restriction or equitable servitude contained in this Declaration may be amended, revised, removed or repealed, and new provisions, covenants, conditions, restrictions or equitable servitudes may be added, at any time and from time to time upon approval of Members holding at least 67% of the total votes in the Association. Any such amendments shall be certified on behalf of the Association by an officer of the Association designated for that purpose or, in the absence of designation, by the president of the Association. Notice of any meeting at which a proposed amendment will be considered shall state the fact of consideration and the subject matter of the proposed amendment. The amendment or repeal shall be effective upon the recordation in the office of the Clerk and Recorder of Summit County, State of Colorado of a certificate setting forth the amendment in full and certifying that the amendment has been approved as set forth above, and containing the written consent and approval of the Association.

#### Section 12.6 Amendment of Declaration by the Association.

The Association shall have the authority to amend, revise, remove, repeal or add any provision to this Declaration, without Owner or mortgagee approval, in order to conform with any applicable state, city or federal law, and/or to bring the Declaration into compliance with applicable rules and regulations of the Federal National Mortgage Association ("Fannie Mae"), the Department of Housing and Urban Development ("HUD") and the Veterans Administration ("VA") pursuant to federal law.

Section 12.7 Captions.

All captions and titles used in this Declaration are intended solely for convenience of reference and shall not enlarge, limit or otherwise affect that which is set forth in any paragraph, section or article hereof.

Section 12.8 Interpretation.

The provisions of this Declaration shall be construed to effectuate their purposes of creating a uniform plan for promoting and effectuating the fundamental concepts as set forth in this Declaration. The Board of Directors shall have the authority to interpret the meaning of any provision contained in this Declaration. This Declaration shall be construed and governed under the laws of the State of Colorado.

Section 12.9 Singular Includes the Plural.

Unless the context otherwise requires, the singular shall include the plural, and the plural shall include the singular, and each gender referral shall be deemed to include the masculine, feminine and neuter.

Section 12.10 Conflict of Provisions.

In case of conflict between this Declaration and the Articles of Incorporation or the Bylaws, this Declaration shall control. In the case of conflict between the Articles of Incorporation and Bylaws, the Articles of Incorporation shall control.

Section 12.11 Challenge to this Amendment.

All challenges to the validity of this amendment must be made within one year after the date of recording of this document.

Section 12.12 Required VA Provisions.

At least 25 days advance notice to all members is required for any extraordinary action, as set forth in applicable VA guidelines. Such notice shall: (i) state the purpose of the meeting; (ii) contain a summary of any material amendments or extraordinary actions proposed; (iii) contain a copy of the proxy or consent form that can be cast in lieu of attendance at the meeting; and (iv) set forth a 20% Member quorum requirement. The Association shall have the authority to charge reasonable admission or other fees for special or extraordinary uses of the Common Elements.

IN WITNESS WHEREOF, the undersigned, being the President and the Treasurer of The Lodge at Lake Dillon Condominium Association; hereby certify that the Association has obtained written approval of this Amended and Restated Declaration from Owners representing the aggregate ownership interest of 60% or more of the general common elements of the votes within the Community and 100% of the mortgagees, as evidenced by written instruments filed with the records of the Association, or alternatively, has obtained court approval of this Declaration pursuant to the provisions of the Act, Section 217(7).

The Lodge at Lake Dillon Condominium  
Association,  
a Colorado nonprofit corporation

By: \_\_\_\_\_

President

ATTEST:

By: \_\_\_\_\_

Treasurer

STATE OF COLORADO )

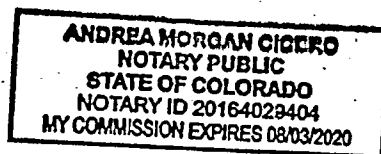
COUNTY OF Jefferson )

) ss.

The foregoing Declaration was acknowledged before me on this 21st day of August, by Jim Florey as President of The Lodge at Lake Dillon Condominium Association a Colorado nonprofit corporation.

Witness my hand and official seal.

My commission expires: 8/3/20



\_\_\_\_\_  
Notary Public

STATE OF COLORADO

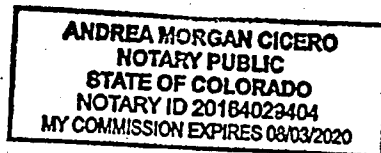
COUNTY OF Jefferson

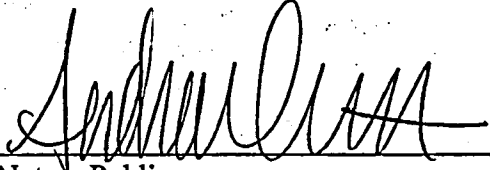
)  
) ss.  
)

The foregoing Declaration was acknowledged before me on this 21st day of August,  
by Peter Gammre as Treasurer of The Lodge at Lake Dillon Condominium  
Association, a Colorado nonprofit corporation.

Witness my hand and official seal.

My commission expires: 8/3/20



  
\_\_\_\_\_  
Notary Public

# Exhibit A

EXHIBIT "A"

to

CONDOMINIUM DECLARATION

for

THE LODGE AT LAKE DILLON

(A Condominium)

That part of Lot 18, Block H, Plat of New Town of Dillon, Section 8; Township 5 South, Range 77 West of the Sixth Principal Meridian.

Beginning at the Northeast corner of said Lot 18, being the true point of beginning; thence S 5° 23' 30" E, a distance of 118.85 feet; thence S 84° 35' 27" W, a distance of 58.22 feet; thence S 5° 24' 33" E, a distance of 12.5 feet; thence S 84° 35' 27" W, a distance of 45.75 feet; thence N 5° 24' 33" W, a distance of 130.77 feet; thence N 84° 38' 30" W, a distance of 153.06 feet; thence N 5° 21' 30" E, a distance of 20.00 feet; thence S 84° 38' 30" E, a distance of 255.13 feet to the true point of beginning.

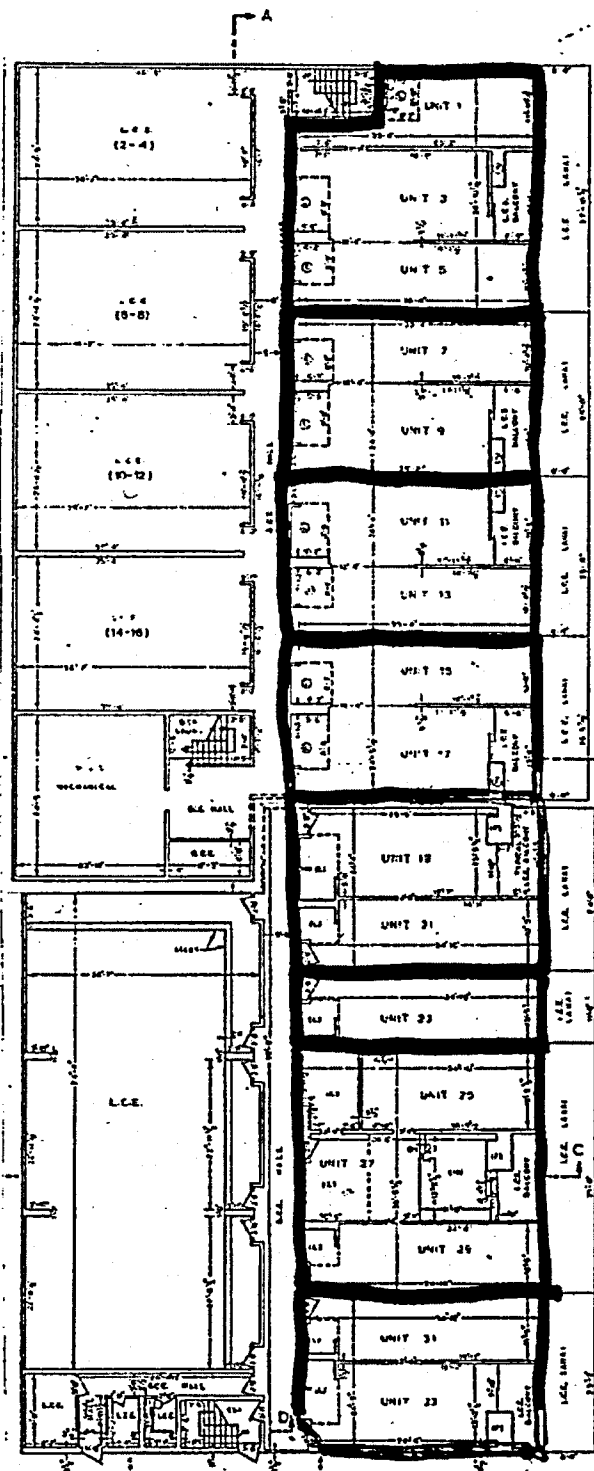
The above described parcel comprises an area of 16,983.39 square feet or .39 acres, more or less.

EXHIBIT "A"  
to  
SECOND SUPPLEMENT TO  
CONDOMINIUM DECLARATION  
for  
THE LODGE AT LAKE DILLON  
(A Condominium)

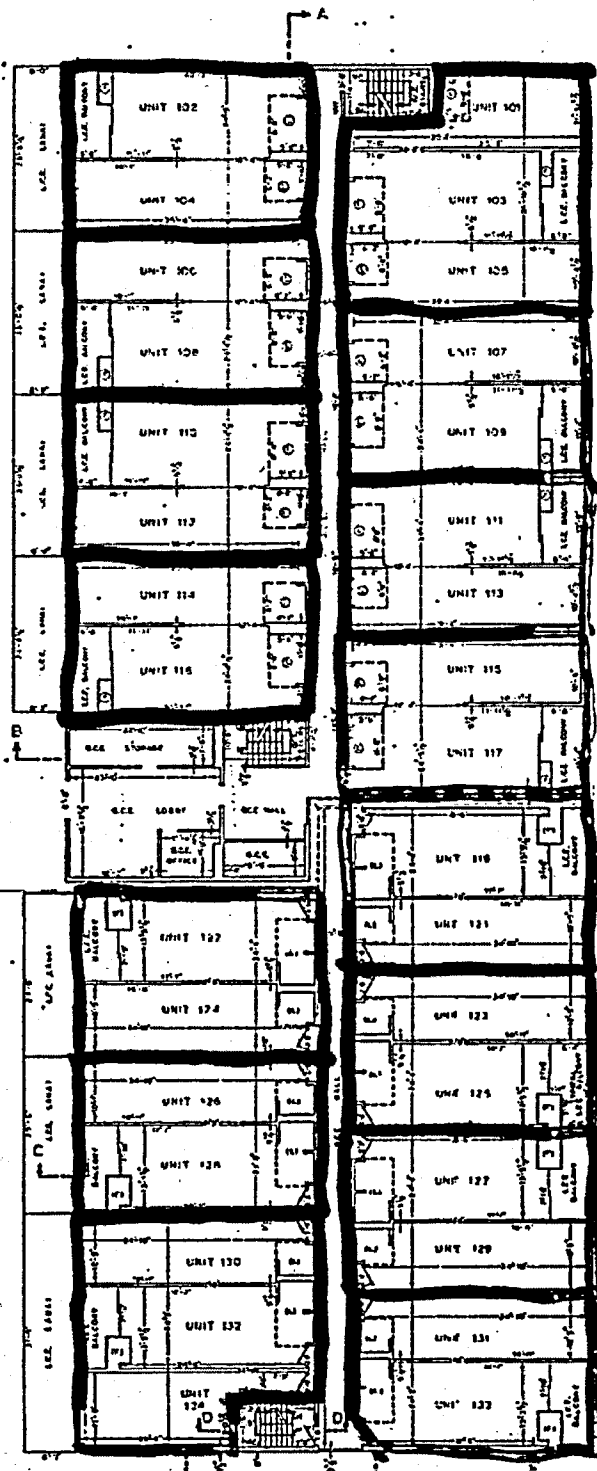
That part of Lot 18, Block H, Plat of New Town of Dillon,  
Section 8: Township 5 South, Range 77 West of the Sixth Principal  
Meridian.

Beginning at the Northeast corner of said Lot 18; thence a  
distance of 118.85 feet along the easterly line of said Lot 18 to  
the true point of beginning; thence S 84° 35' 27" W and leaving  
said Lot Line a distance of 58.22 feet; thence S 05° 24' 33" E  
a distance of 12.50 feet; thence S 84° 35' 27" W a distance of  
45.75 feet; thence S 05° 24' 33" E a distance of 87.47 feet; thence  
N 84° 35' 27" E a distance of 103.94 feet to a point on the easterly  
line of said Lot 18; thence N 05° 23' 30" W along said easterly line  
a distance of 99.97 feet to the true point of beginning.

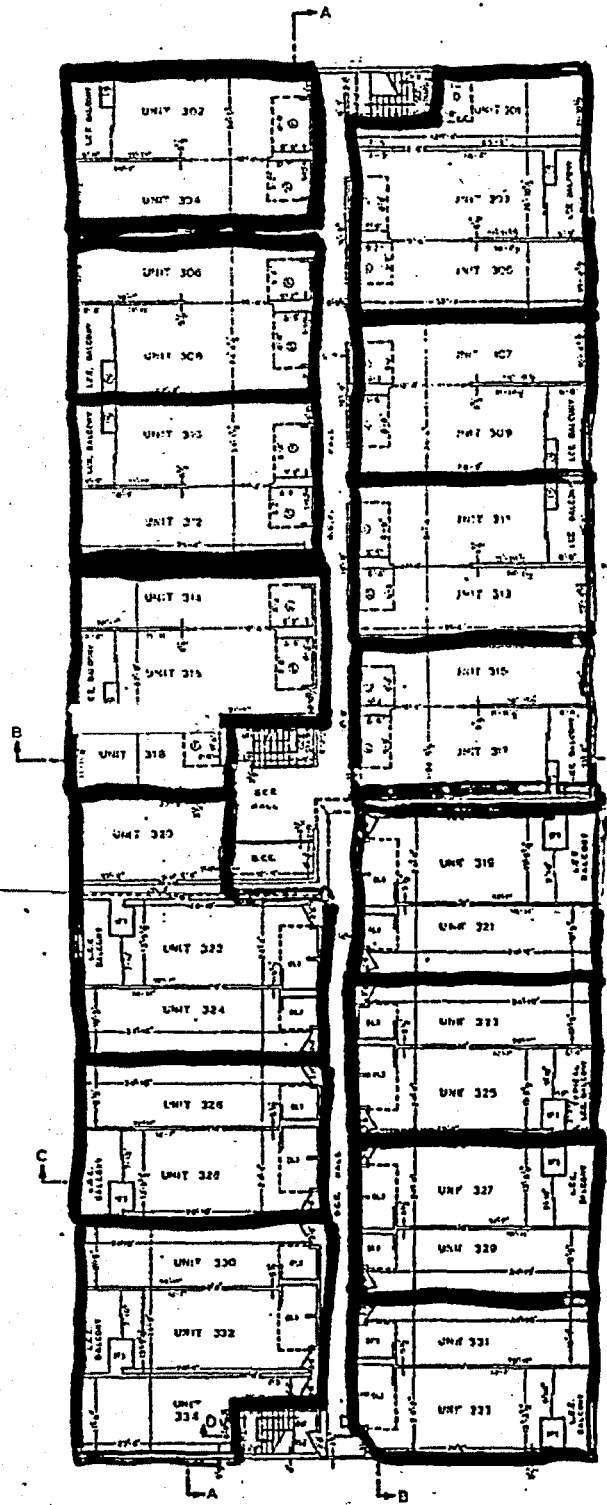
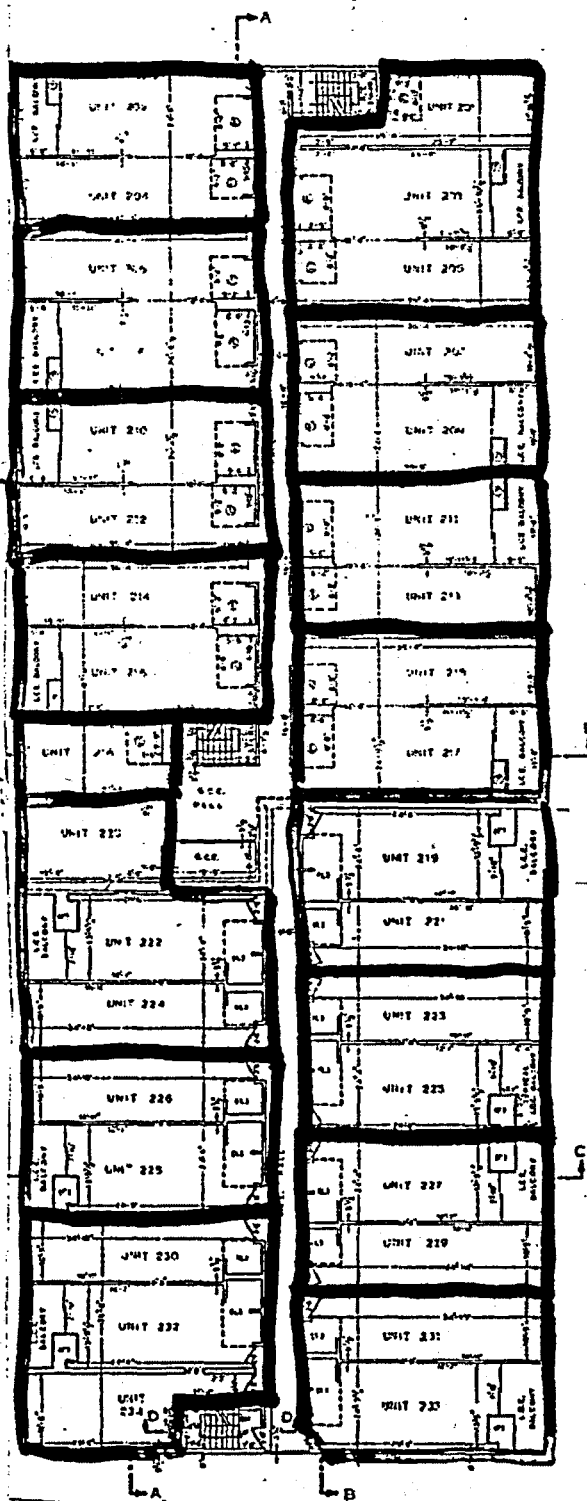
The above described parcel comprises an area of 9820.48  
square feet or 0.225 acres, more or less.



GARDEN LEVEL



FIRST FLOOR



**EXHIBIT B**  
**TO THE AMENDED AND RESTATED**  
**CONDOMINIUM DECLARATION**  
**FOR**  
**THE LODGE AT LAKE DILLON**

**TABLE OF ALLOCATED INTERESTS**

Each unit in the Community, subject to the provisions of Article 3, Section 3.5 hereof, is (a) hereby vested with an undivided percentage of ownership in and to the Common Elements, (b) is subject to the Common Expense liability, and (c) is granted voting rights as follows:

<b>Unit Number</b>	<b>Approx. Sq. Ft Finished</b>	<b>% Ownership/Expense Liability/Vote</b>
001-003-005	1164	2.6087
007-009	776	1.7391
011-013	776	1.7391
015-017	776	1.7391
019-021	776	1.7391
023	388	0.8696
025-027-029	1164	2.6087
031-033	776	1.7391
101-103-105	1164	2.6087
102-104	776	1.7391
106-108	776	1.7391
107-109	776	1.7391
110-112	776	1.7391
111-113	776	1.7391
115-117	776	1.7391
114-116	776	1.7391
119-121	776	1.7391
123-125	776	1.7391
126-128	776	1.7391
127-129	776	1.7391
130-132-134	1164	2.6087
131-133	776	1.7391

**EXHIBIT B**

<b>Unit Number</b>	<b>Approx. Sq. Ft Finished</b>	<b>% Ownership/Expense Liability/Vote</b>
201-203-205	1164	2.6087
202-204	776	1.7391
206-208	776	1.7391
207-209	776	1.7391
210-212	776	1.7391
211-213	776	1.7391
214-216	776	1.7391
215-217	776	1.7391
218	388	.8696
219-221	776	1.7391
220-222-224	1164	2.6087
223-225	776	1.7391
226-228	776	1.7391
227-229	776	1.7391
230-232-234	1164	2.6087
231-233	776	1.7391
301-303-305	1164	2.6087
302-304	776	1.7391
306-308	776	1.7391
307-309	776	1.7391
310-312	776	1.7391
311-313	776	1.7391
314-316-318	1164	2.6087
315-317	776	1.7391
319-321	776	1.7391
320-322-324	1164	2.6087
323-325	776	1.7391
326-328	776	1.7391
327-329	776	1.7391
330-332-324	1164	2.6087
331-333	776	1.7391

**EXHIBIT C**  
**MAINTENANCE AND INSURANCE OBLIGATIONS**

"A" = Association obligation

"O" = Owner obligation

"NA" = not applicable

The term "maintenance" includes repair and replacement unless otherwise noted on the Chart.

	MAINTENANCE	INSURANCE
<b>BUILDING EXTERIORS</b>		
Residence-structure, including foundation, columns, girders, beams and supports	A	A
Siding, sheathing, wrap, brick, trim, molding, and other exterior facade surfaces	A	A
Exterior stoops, steps, and concrete surfaces	A	A
Gutters and downspouts	A	A
Porches, patios, and balconies	A	A
Roof shingles and roof underlay	A	A
Chimneys and chimney caps	A	A
Window screens	O	O
Interior glass surfaces--cleaning	O	O
Glass--repair and replacement	O	O
Window panes and frames--painting and staining	O	O
Window panes and frames--maintenance, repair, and replacement	O	A
Window trim and caulking	O	A
Chimney flue cleaning	O	N/A
Exterior Unit doors --painting and staining	O	O
Hallway Unit doors including peep holes, doorknobs and lock mechanisms--maintenance and repair	O	O

	MAINTENANCE	INSURANCE
Storm doors	N/A	N/A
Balcony/patio sliding glass doors	O	O
Exterior light fixtures on balconies and patios	O	O
Exterior light fixtures (except for lights located on balconies and patios)	A	A
<b>UTILITIES</b>		
Utilities <u>outside</u> Units servicing more than one Unit:	A	A
<ol style="list-style-type: none"> <li>1. Electrical and other wires</li> <li>2. Water and sewer pipes</li> <li>3. Cables</li> <li>4. Circuit boxes</li> <li>5. Water meters</li> <li>6. Circuit breakers</li> </ol>		
Utilities <u>outside</u> Units servicing only one Unit:	A	A
<ol style="list-style-type: none"> <li>1. Electrical and other wires</li> <li>2. Water/sewer pipes</li> <li>3. Cables</li> <li>4. Circuit boxes</li> <li>5. Water meters</li> <li>6. Circuit breakers</li> </ol>		
Utilities <u>inside</u> Units:	O—Everything except heating equipment and hot water equipment.	O—Everything except heating equipment and hot water equipment.
<ol style="list-style-type: none"> <li>1. Heating equipment</li> <li>2. Thermostats</li> <li>3. Conduits</li> <li>4. Water pipes</li> <li>5. Electrical wiring</li> <li>6. Electrical outlets</li> <li>7. Telephone wiring</li> <li>8. Telephone outlets</li> <li>9. Light switches</li> </ol>	A—Heating equipment, which includes zone valves, heat registers, and supply pipes and shut-off valves and hot water equipment which	A—Heating equipment, which includes zone valves, heat registers, and supply pipes and shut-off valves and hot water equipment which includes the common

	MAINTENANCE	INSURANCE
10. Hot water equipment 11. Cable wiring 12. Circuit breakers	includes the common boiler system	boiler system
Air conditioners, including condensers and lines running from/to such equipment	O	O
<b>RESIDENCE INTERIORS</b>		
Furnishings, including all personal property such as furniture, electronics, jewelry, and clothing	O	O
Window coverings	O	O
Permanent fixtures including but not limited to: 1. ceiling fans 2. hand rails 3. cabinets 4. countertops 5. bathtubs and showers 6. sinks 7. toilets	O	O
Appliances including: 1. oven 2. range 3. refrigerator 4. dishwasher 5. washer/dryer 6. countertop microwave	O	O
Fireplaces (including facade, screen, chimney back, flue, and damper)	O	O
Interior <u>non-perimeter</u> walls, floors, and ceilings—including finished and unfinished surfaces, doors, drywalls, studs, insulation, hardware, and other material lying within such walls, floors, and ceilings	O	O

	MAINTENANCE	INSURANCE
Finished surfaces of <u>perimeter</u> walls and ceilings—including: <ol style="list-style-type: none"> <li>1. drywall</li> <li>2. paint</li> <li>3. wallpaper</li> <li>4. paneling</li> <li>5. texture</li> </ol>	O	O
Finished surfaces of <u>perimeter</u> floors—including: <ol style="list-style-type: none"> <li>1. tile</li> <li>2. vinyl</li> <li>3. hardwood</li> <li>4. carpeting</li> </ol>	O	O
Any components lying <u>between the perimeter drywalls and residence exterior</u> , including but not limited to: <ol style="list-style-type: none"> <li>1. insulation</li> <li>2. girders</li> <li>3. beams</li> <li>4. pipes</li> <li>5. wiring</li> <li>6. plumbing</li> </ol>	A	A
Subflooring	A	A
Attics	N/A	N/A
Party walls (walls dividing residences and shared by owners/residents on each side)	A	A
<b>GROUNDS</b>		
Retaining walls	A	A
Landscaping	A	A
Irrigation system and time clocks	A	A
Private roads, drives, and sidewalks	A	A

	MAINTENANCE	INSURANCE
Driveways	A	A
Private parking areas	A	A
Clubhouse/Community Room	A	A
Pool	A	A
Monuments and signage	A	A
Perimeter fence	A	A
Storage sheds	A	A
<b>OTHER</b>		
Snow removal from driveways and sidewalks	A	A
Garbage pick-up	A	A
Common Elements existing in Community and not otherwise listed	A	A
Any personal property of Owners not otherwise listed	O	O
Any Owner installed exterior/interior improvement not otherwise listed	O	O

### NOTES

- A. Pursuant to C.R.S. § 38-33.3-302(1), "the association, without specific authorization in the declaration, may ... exercise any ... powers necessary and proper for the governance and operation of the association." This includes making determinations as to maintenance and repair obligations, based on this Exhibit C and the facts presented in each individual scenario.
- B. If damage, destruction, maintenance, repair, or replacement of any Common Element or Improvement thereon is caused by the willful or negligent act or omission of an Owner, or his/her family, guest, or invitee, then the cost of such repair, maintenance, or reconstruction shall be the personal obligations of such Owner. In these situations in which the Association has a maintenance obligations as set forth above, but such obligation has been transferred to an Owner due to their the willful or negligent act or omission, the Association may offer to allow the Owner to contract directly for the maintenance or repair.
- C. Because negligence is a subjective standard for the most part, the Board has the discretion to determine whether negligence exists in a particular situation.
- D. If interior residence damage originates from an Association maintained component (such as the roof), but the Association has not acted negligently or willfully, the Owner will be responsible for the cost of repairs to the residence or interior.

AFTER RECORDING RETURN TO:  
Altitude Community Law P.C.  
555 Zang St., Suite 100  
Lakewood, CO 80228

**CORRECTIVE AMENDMENT  
TO THE AMENDED CONDOMINIUM DECLARATION  
FOR THE LODGE AT LAKE DILLON**

THIS CORRECTIVE AMENDMENT is made on this 28 day of May, 2019.

**RECITALS**

A. On August 22, 2018, the Association recorded an Amended and Restated Condominium Declaration for The Lodge at Lake Dillon in the real property records of Summit County, State of Colorado, at Reception No. 1177806 (the "Amended Declaration"); and

B. The ballot that was included in the packet of information which was sent to the Owners regarding the vote on the Amended Declaration provided, among other things, the following voting options:

VOTE ON THE PROPOSED SMOKING LANGUAGE Check ONE only:

☐ Vote IN FAVOR of and APPROVE Option A — a complete Community smoking ban

☐ Vote IN FAVOR of and APPROVE Option B — a partial Community smoking ban i.e., no change from current rule)

C. The vote to completely ban smoking passed as 95 out of 115 Owners voted in favor of a complete Community smoking ban; and

D. When the Amended Declaration was recorded, Section 7.11, the smoking provision, inadvertently included language which allowed smoking in the Community parking lot as long as such smoking was greater than 100 feet from the entrance to the building and Units; and

E. The smoking language included in the Amended Declaration was incorrect; and

F. The Association has determined that a corrective amendment to the Declaration is necessary to correct an error in Section 7.11 made due to an oversight.

NOW THEREFORE,

I. Amendments. The Amended Declaration is hereby amended as follows:

(a) **Repeal and Restatement.** Section 7.11(b) is hereby repealed in its entirety and the following Section 7.11(b) is substituted:

7.11(b) Smoking Prohibition. No Owner, guest, family member, tenant, resident, business invitee or visitor shall smoke cigarettes, cigars, other tobacco products and/or any other legal or illegal substance within the boundaries of the Community. This smoking prohibition shall include all of the Community including Unit interiors, Common Elements, Limited Common Elements, and the Community parking lot.

II. No Other Amendments. Except as amended by the terms of this Amendment and previous amendments, the Declaration shall remain in full force and effect.

IN WITNESS WHEREOF, this Amendment is executed by the undersigned.

**The Lodge at Lake Dillon Condominium Association,**  
a Colorado nonprofit corporation

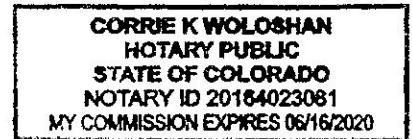
By: [Signature]  
President

By: [Signature]  
Secretary

STATE OF COLORADO )  
 ) ss.  
COUNTY OF Summit )

The foregoing was acknowledged before me this 24 day of May, 2019, by James Flarty, as President of The Lodge at Lake Dillon Condominium Association.

Witness my hand and official seal.  
My commission expires: 6/16/2020

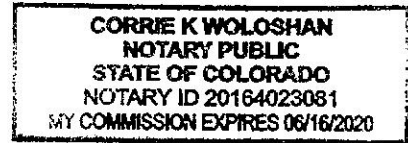



[Signature]  
Notary Public

STATE OF COLORADO    )  
  ) ss.  
COUNTY OF SUMMIT )

The foregoing was acknowledged before me this 24 day of MAY,  
2019, by BARRY HARTZ, as Secretary of The Lodge at Lake Dillon  
Condominium Association.

Witness my hand and official seal.  
My commission expires: 6/16/2020



  
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Notary Public