

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
300 SOUTH SPRING STREET, A CONDOMINIUM**

Name of Declarant:	Snowmass Corporation
Name of Project:	300 South Spring Street
Type of Common Interest Community:	Condominium

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**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
300 SOUTH SPRING STREET, A CONDOMINIUM**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR 300 SOUTH SPRING STREET, A CONDOMINIUM (the "Declaration") is made as of _____, 2011, by Snowmass Corporation, a Colorado corporation (the "Declarant").

RECITALS

A. Declarant is the owner of that certain real property described as Unit A on the First Amended Plat of the Hannah Dustin Condominiums, recorded August 29, 2006, as Reception No. 527927, in the Office of the Clerk and Recorder of Pitkin County, Colorado (the "Property").

B. The Property contains improvements, consisting of an office building, landscaping, sidewalks and parking areas. The City of Aspen has granted an approval for an addition to the current improvements on the Property, consisting of approximately 2,440 sq. ft. of floor area for commercial and residential uses, defined herein as the Expansion Project.

C. Declarant desires to create a condominium common interest community pursuant to the Colorado Common Interest Ownership Act as set forth in Colorado Revised Statute 38-33.3-101, et seq. (the "Act"), the name of which is 300 South Spring Street.

**ARTICLE 1
DECLARATION AND SUBMISSION**

Section 1.1 Declaration. Declarant hereby declares that Condominium Units constructed within 300 South Spring Street shall be held and conveyed subject to the following covenants, conditions, restrictions and easements, which shall run with title to each Unit and be binding on all parties and heirs, successors, and assigns of parties having any right, title, or interest in all or any part of 300 South Spring Street. Declarant hereby submits 300 South Spring Street to the provisions of the Act.

**ARTICLE 2
DEFINITIONS**

The terms (with or without initial capitalization) defined in Section 38-33.3-103 of the Act shall have the meaning specified therein wherever they appear in the Declaration except as otherwise defined herein. Any term which is defined both in the Act and in this Declaration shall be deemed to encompass both definitions to the extent such definitions are not inconsistent; in the case of any inconsistency, the definition provided in this Declaration shall control. Except for the foregoing, the terms listed below in this Section, when used herein, shall have the meanings listed:

Section 2.1 Allocated Interests means the undivided interests in the Common Elements and in the Assessments and votes in the Association allocated to each Unit as provided in **Exhibit A**, and pursuant to any Supplemental Declaration to be recorded as new Units are created pursuant to **Section 15.1** or as Units are withdrawn, combined or subdivided pursuant to **Sections 15.2, 15.3, 15.4, 15.5 or 15.6** by the recording of a Supplemental Declaration and a Supplemental Condominium Map.

Section 2.2 Articles means the Articles of Incorporation for the 300 South Spring Street Condominium Association on file from time to time with the Colorado Secretary of State.

Section 2.3 Annual Assessment means the Assessment levied pursuant to an annual budget.

Section 2.4 Approval Ordinance means Ordinance No. 16, Series of 2006, of the City of Aspen granting approval for the Expansion Project recorded July 12, 2006, as Reception No. 526319 in the Office of the Clerk and Recorder of Pitkin County, Colorado.

Section 2.5 Assessments means the Annual, Special, and Default Assessments levied pursuant to **Article 11** below.

Section 2.6 Association means the 300 South Spring Street Condominium Association, a Colorado nonprofit corporation.

Section 2.7 Association Documents means this Declaration, the Articles, the Bylaws, the 300 South Spring Street Condominium Map or Maps, and any procedures, rules, regulations, or policies adopted by the Association.

Section 2.8 Bylaws means the Bylaws adopted by the Association, as amended from time to time.

Section 2.9 Commercial Units means Units which are specifically dedicated to commercial use.

Section 2.10 Common Elements means all portions of the buildings except the Units as well as all parks, landscaping, signs and streets within the Project. Common Elements consist of General Common Elements and Limited Common Elements created by this Declaration or the 300 South Spring Street Condominium Map or Maps.

2.10.1 General Common Elements means all tangible physical properties of 300 South Spring Street except Limited Common Elements and the Units.

2.10.2 Limited Common Elements means those parts of the Common Elements which are either limited to or reserved in this Declaration, on a Condominium Map, or by the action

of the Association, for the exclusive use of an Owner of a Unit or are limited to and reserved for the use of fewer than all Owners.

Section 2.11 Common Expenses means (i) all expenses expressly declared to be common expenses by this Declaration; (ii) all other expenses of administering, servicing, conserving, managing, maintaining, repairing, or replacing the Common Elements; (iii) insurance premiums under **Article 10**; (iv) utilities not separately metered to specific Units; (v) a reasonable and adequate contingency or other reserve or surplus fund for insurance deductibles and general routine maintenance, repairs and replacement of improvements within the General Common Elements on a periodic basis, as needed; and (vi) all expenses lawfully determined to be common expenses by the Executive Board.

Section 2.12 Condominium Map or Maps means one or more of the Condominium Maps of 300 South Spring Street recorded with the Clerk and Recorder, depicting in three dimensions the Units to be created as part of 300 South Spring Street subject to this Declaration and any amendments thereto.

Section 2.13 County Records means the books and records in the office of the Clerk and Recorder in the County of Pitkin, Colorado.

Section 2.14 Executive Board means the governing body of the Association.

Section 2.15 Expansion Project means the physical addition to the existing improvements on the Property, consisting of one (1) Residential Unit and additional Commercial Units, which were approved by and described in the Approval Ordinance, the location of which is described on **Exhibit B**, attached hereto and incorporated herein by this reference.

Section 2.16 Member means every person or entity that holds membership in the Association.

Section 2.17 Mortgage means any mortgage, deed of trust, or other document pledging any Unit or interest therein as security for payment of a debt or obligation. "First Mortgage" means any Mortgage that is not subject to any prior monetary lien or encumbrance except liens for taxes or other liens that are given priority by statute. "Mortgagee" means any person named as a mortgagee or beneficiary in any Mortgage, or any successor to the interest of any such person under such Mortgage. "First Mortgage" means any person named as or a successor to a mortgagee or beneficiary in any First Mortgage.

Section 2.18 Owner means the owner of record, whether one or more persons or entities, of fee simple title to a Unit.

Section 2.19 Parking Units mean Parking Unit 1 and Parking Unit 2, as shown on the Condominium Map, consisting of the surface area of the Parking Unit and the airspace above the

perimeter of the Parking Unit to a height of 10 feet.

Section 2.20 Project means the condominium common interest community to be created by this Declaration and the Condominium Maps, consisting of the Units and the Common Elements.

Section 2.21 Residential Unit means the Unit which is specifically dedicated to residential use.

Section 2.22 Storage Units mean the Units which are specifically dedicated to storage uses and identified as such on the Condominium Map or a Supplemental Map.

Section 2.23 Successor Declarant means any person or entity to whom Declarant specifically assigns any or all of its rights, obligations, or interest as Declarant, as evidenced by an assignment or deed of record executed by Declarant and recorded with the Clerk and Recorder.

Section 2.24 Supplemental Declaration means an instrument which amends this Declaration.

Section 2.25 Supplemental Map means a supplemental Condominium Map or Maps of the Project which depicts any changes in the Project through a Supplemental Declaration.

Section 2.26 Unit or Condominium Unit means an individual airspace that is contained within the perimeter windows, doors and unfinished surfaces of perimeter walls, floors and ceilings as shown on the Condominium Map or Maps, together with the appurtenant interest in the Common Elements.

ARTICLE 3 NAME, DIVISION INTO UNITS

Section 3.1 Name. The name of the Project is 300 South Spring Street. Upon the recording of the initial Condominium Map, the Project will be considered a Condominium under the Act.

Section 3.2 Association. The name of the association is the 300 South Spring Street Condominium Association.

Section 3.3 Identification of Units. Each Unit will be identified on the Condominium Map or Maps.

Section 3.4 Description of Units.

3.4.1 Each Unit shall include the appurtenant undivided interest in the General Common Elements and the appurtenant Limited Common Elements, which shall be inseparable and may be transferred, leased, devised or encumbered only as a whole, subject to the limitations in

Section 3.4.3 and Section 17.1.

3.4.2 Any contract of sale, deed, lease, Mortgage, will or other instrument affecting a Unit may describe it by its Unit name or number, County of Pitkin, State of Colorado, according to the Condominium Map thereof recorded _____, 20__ at Reception No. _____, and the Condominium Declaration for 300 South Spring Street, recorded _____, 20__ at Reception No. _____, in the records of the Clerk and Recorder of the County of Pitkin, Colorado, and any Supplemental Map or Supplemental Declaration.

3.4.3 No Owner shall bring any action for partition or division of the Common Elements. No mortgagee shall have any rights in the Common Elements independent or separate from a Unit.

3.4.4 Each Owner of a Unit shall be entitled to the exclusive ownership and possession thereof.

ARTICLE 4
MEMBERSHIP AND VOTING RIGHTS; ASSOCIATION OPERATIONS

Section 4.1 The Association. Each Owner shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Unit.

Section 4.2 Transfer of Membership. An Owner shall not transfer, pledge, or alienate membership in the Association in any way, except upon the sale or encumbrance of a Unit and then only to the purchaser or Mortgagee of the Unit.

Section 4.3 Membership. After the period of Declarant Control, the Association shall have one (1) class of membership. Except as otherwise specifically provided for in this Declaration, each Member shall be entitled to vote in Association matters in accordance with the Allocated Interests as set forth in **Section 2.1** above.

Section 4.4 Declarant Control. Declarant shall be entitled to appoint and remove the members of the Association's Executive Board and officers of the Association to the fullest extent permitted under the Act. The specific restrictions and procedures governing the exercise of Declarant's rights to so appoint and remove Directors and officers are set out in the Articles and Bylaws of the Association. Declarant may voluntarily relinquish such power evidenced by a notice executed by Declarant recorded with the Clerk and Recorder but, in such event, Declarant may at its option require that specified actions of the Association or the Executive Board as described in the recorded notice, during the period Declarant would otherwise be entitled to appoint and remove directors and officers, be approved by Declarant before they become effective.

Section 4.5 Books and Records. The Association shall make available for inspection, upon request, during normal business hours or under other reasonable circumstances, to Owners and to Mortgagees, current copies of the Association Documents and the books, records, and financial

statements of the Association. The Association may charge a reasonable fee for copying such materials.

Section 4.6 Manager. The Association may employ or contract for the services of a manager to whom the Board may delegate certain powers, functions, or duties of the Association.

Section 4.7 Implied Rights and Obligations. To the extent not expressly limited by the Association Documents, the Association may exercise any right or privilege expressly granted to the Association in the Association Documents, by the Act, and by the Colorado Nonprofit Corporation Act.

Section 4.8 Notice. Any notice to an Owner of matters affecting the Project by the Association or by another Owner shall be sufficiently given if in writing and delivered personally, by courier, or private service delivery, or the third business day after deposit in the mails for regular delivery at the address of record for real property tax assessment notices with respect to that Owner's Unit.

Section 4.9 Assignment of Future Income. The Association shall have the right to assign its right to future income, including the right to receive Assessments.

ARTICLE 5 POWERS OF THE EXECUTIVE BOARD OF THE ASSOCIATION

Section 5.1 General Powers. Except as otherwise required by this Declaration, the Bylaws or the Act, the Executive Board may act in all instances on behalf of the Association.

Section 5.2 Powers With Respect to Common Elements. The Executive Board shall have all powers, express and implied, related to the Common Elements as set forth in the Act, including:

5.2.1 Power to Convey. The Common Elements may only be conveyed or subjected to a security interest if (a) Members entitled to cast at least seventy-five percent (75%) of the votes agree to that action, (b) the provisions of **Article 17** are followed with respect to approval of First Mortgagees, and (c) if all Owners of Units to which any Limited Common Element is allocated agree in order to convey that Limited Common Element or subject it to a security interest.

5.2.2 Power to Maintain and Repair. The Executive Board shall have the power, and duty, to keep all Common Elements in good repair, to establish a maintenance schedule related thereto, and to assess all such expenses of maintenance and repair to the Owners in accordance with **Article 11** hereof.

5.2.3 Power to Regulate Use. The Executive Board has the power, and duty, to establish such reasonable rules and regulations for the use of the Common Elements as it deems, from time to time, to be necessary for the smooth operation of the Project, and for the care of such

Common Elements.

Section 5.3 Design Review. The Executive Board shall act as the Design Review Committee as provided in **Article 16** hereof.

ARTICLE 6
USE RESTRICTIONS AND REQUIREMENTS

Section 6.1 Compliance with Approval Ordinance. All development within 300 South Spring Street, including the Units and other Improvements constructed thereon, and the use thereof, shall be subject to and governed by the terms, provisions and conditions of the Approval Ordinance and any amendments thereto.

Section 6.2 General Use Limitations. The Residential Unit shall only be used for residential purposes. Simultaneously with the recording of the Supplemental Declaration that creates it, the Residential Unit shall be made subject to a Master Deed Restriction Agreement which further restricts the use and occupancy of the Residential Unit in accordance with the Approval Ordinance. The Commercial Units may be used for all purposes except residential purposes. The Owners each acknowledge that the Project is a mixed-use project and that traffic, noise and commerce will occur at the Project for lawful commercial activities. Such traffic, noise and commerce are regulated by the City of Aspen, Colorado, and shall not rise to the level of a common law nuisance. The Executive Board shall have the right to regulate or prohibit any use that violates the Approval Ordinance or would create a common law nuisance. All parts of the Project shall be kept in a clean and sanitary condition, and no rubbish, refuse, or garbage shall be allowed to accumulate nor any fire hazard to exist. No Owner shall permit any use of a Unit or make use of the Common Elements that will unreasonably increase the rate of insurance upon the Project.

Section 6.3 Parking Units. Parking Units 1 and 2 as designated on the Condominium Map constitute separate condominium units and may be separately conveyed, subject to the restrictions set forth in **Section 6.5**, below. The owner of each Parking Unit shall be responsible for the maintenance and repair of said Parking Unit and the use thereof shall be subject to such reasonable rules and regulations as the Association may adopt and, from time to time, amend.

Section 6.4 Storage Units. The Storage Units, as designated on the Condominium Map, constitute separate condominium units and may be separately conveyed, subject to the restrictions set forth in **Section 6.5**, below. The owner of each Storage Units shall be responsible for the maintenance and repair of said Storage Unit and the use thereof shall be subject to such reasonable rules and regulations as the Association may adopt and, from time to time, amend.

Section 6.5 Restriction on Sale of Parking Units and Storage Units. A Parking Unit and a Storage Unit may only be owned by the Owner of a Commercial Unit, the Declarant or the Association unless sale of a Parking Unit or Storage Unit to another party is approved by the Declarant. Without Declarant approval, which may be withheld for any reason, the Owner of a

Parking Unit or Storage Unit may only transfer, convey, encumber or lease (collectively, a "transfer") a Parking Unit or Storage Unit to the Owner of a Commercial Unit, the Declarant or the Association. Any transfer of a Parking Unit or a Storage Unit which violates these restrictions is hereby declared null and void, and the Association may take such action, including litigation seeking damages or injunctive relief, as it deems necessary to enforce this provision.

Section 6.6 Use of General Common Elements. Subject to the rights of Declarant as provided in this Declaration, there shall be no obstruction of the General Common Elements nor shall anything be kept or stored on any part of the General Common Elements without the prior written approval of the Association. Except for those improvements erected or installed by Declarant in its completion of 300 South Spring Street, nothing shall be altered on, constructed in or removed from the General Common Elements without the prior written approval of the Board. Such approval will not be unreasonably withheld and may be conditioned upon the Owner who requests the approval being required to submit plans for the alteration to the Association for approval, to obtain insurance as required by the Association and to post adequate surety. In reviewing any plans, the Association may engage the services of architects, attorneys and engineers and the cost of such services will be paid by the requesting party.

Section 6.7 Noxious or Offensive Activity. No noxious or offensive activity or sound, as determined by the Executive Board, shall be conducted on any portion of 300 South Spring Street at any time, nor shall anything be done or permitted which may become a nuisance to or unreasonably disturb Owners of other Units, or be injurious to the reputation of 300 South Spring Street.

Section 6.8 Damage by Owners. Each Owner is responsible for any damage caused to roads, fences, trails, natural drainage courses, irrigation ditches, utilities, Association Property, or to other Units or General Common Elements.

Section 6.9 Declarant's Use. Notwithstanding anything to the contrary contained in this Declaration, it is permissible and proper for Declarant, its employees, agents, and contractors to perform such reasonable activities as Declarant deems necessary or incidental to the completion and sale of Units, specifically including, without limiting the generality of the foregoing, maintaining business offices, storage areas, signs, model units, sales offices, parking areas and lighting facilities. Declarant reserves the right to locate any sales office, management office or models on any Unit owned by Declarant. The rights retained by Declarant in this **Section 6.9** shall terminate upon the earlier to occur of (a) the sale of the last Unit by Declarant to the first Owner thereof, or (b) seven (7) years from the date this Declaration is filed in the land records of the County.

ARTICLE 7 MECHANIC'S LIENS

Section 7.1 No Liability. If any Owner, Declarant or Successor Declarant shall cause any material to be furnished to its Unit or the Expansion Project, or any labor to be performed therein

or thereon, no Owner of any other Unit shall under any circumstances be liable for the payment of any expense incurred or for the value of any work done or material furnished. All such work shall be at the expense of the Owner, Declarant or Successor Declarant causing it to be done, and such Person shall be solely responsible to contractors, laborers, material men and other persons furnishing labor or materials to its Unit or its Expansion Project.

Section 7.2 Indemnification. If, because of any act or omission of any Owner, Declarant or Successor Declarant, any mechanic's or other lien or order for the payment of money shall be filed against the Common Elements or against any other Owner's Unit or an Owner or the Association (whether or not such lien or order is valid or enforceable as such), the Owner whose act or omission forms the basis for such lien or order shall at its own cost and expense cause the same to be cancelled and discharged of record or bonded by a surety company acceptable to the Association or to the Owners affected by such lien, within twenty (20) days after the date of filing thereof, and further shall indemnify and save such Owners and the Association harmless from and against any and all costs, expenses, claims, losses or damages including, without limitation, reasonable attorneys' fees resulting therefrom.

Section 7.3 Association Action. Labor performed or materials furnished for the Common Elements, if duly authorized by the Association, shall be deemed to be performed or furnished with the express consent of each Owner and shall be the basis for the filing of a lien pursuant to law against the Common Elements. Any such lien shall be limited to the Common Elements and no lien may be effected against a Unit.

ARTICLE 8 EASEMENTS AND USES

Section 8.1 Recorded Easements. 300 South Spring Street shall be subject to all easements as shown on the Condominium Map or Maps, those now of record, those provided in the Act, and otherwise as set forth in this Declaration.

Section 8.2 Declarant's Rights Incident to Construction. Declarant, for itself and its successors and assigns and/or for Owners in all future phases of 300 South Spring Street, hereby reserves an easement for construction, utilities, drainage, ingress and egress over, in, upon, under and across the Common Elements, together with the right to store materials on the Common Elements, to build and maintain temporary walls, and to make such other use of the Common Elements as may be reasonably necessary or incident to any construction of or improvements to 300 South Spring Street, including the Expansion Property, provided, however, that no such rights shall be exercised by Declarant in a way which unreasonably interferes with the occupancy, use, enjoyment, or access to the Project by the Owners.

Section 8.3 Utility Easements. There is hereby created a blanket easement upon, across, over, in and under 300 South Spring Street in the structures and improvements situated thereon for the benefit of the Association and utility providers, for ingress and egress, installation, replacing,

repairing and maintaining all utilities, including, but not limited to, water, sewer, gas, telephone, cable TV and electricity. Said blanket easement includes utility services which may reasonably be required in the future. The location of any such easement within the interior of a Unit shall be restricted to locations shown on the Condominium Map or Maps, locations where utilities now exist or are installed by Declarant in connection with the exercise of a right reserved under **Article 15** hereof, and locations approved by the Owner of such Unit in such Owner's reasonable discretion (the Executive Board to be the final arbiter of any unresolved dispute as to what constitutes a reasonable location). Any ingress to a Unit pursuant to this **Section**, except in case of an emergency, shall be at reasonable times during normal business hours, preceded by reasonable notice to the Owner of such Unit.

Section 8.4 Reservation of Easements, Exceptions and Exclusions. The Association is hereby granted the right to establish from time to time, utility and other easements, permits, or licenses over the Common Elements for the best interest of all the Owners and the Association.

Section 8.5 Emergency Access Easement. A general easement is hereby granted to all police, sheriff, fire protection, ambulance, and other similar emergency agencies or persons to enter upon 300 South Spring Street in the proper performance of their duties.

Section 8.6 Sign and Awning Easement. The Owners of the Commercial Units shall each have an easement for signs and awnings (which are the personal property of the respective Owner) over and on the appurtenant portions of the exterior surfaces of their Units, the location, size, number and appearance of such signs and awnings being subject to the laws, rules and regulations of the County of Pitkin, Colorado and to any and all decisions with respect to such signs made by the Executive Board pursuant to **Article 16** hereof.

ARTICLE 9 MAINTENANCE

Section 9.1 Maintenance by Owners. Each Owner shall maintain and keep in repair (a) its Unit, at a minimum to the extent repair shall be necessary in order to avoid damaging other Unit Owners, (b) except as otherwise provided in **Section 9.3** below, its appurtenant Limited Common Elements and (c) the exterior surfaces of windows and doors attached to the Unit. All fixtures and equipment installed within and for the use of the Unit commencing at a point where the utilities enter the Unit shall be maintained and kept in repair by the Owner of such Unit. An Owner shall not do any work that will impair the structural integrity of the Common Elements or impair any easement. Each Owner shall be responsible for the maintenance of the interior walls, floors and ceilings of its Unit, and the surface materials thereon such as plaster, drywall, paneling, wallpaper, paint, tile and carpeting, and including Unit doors and windows.

Section 9.2 Owner's Failure to Maintain or Repair. If a Unit or Limited Common Element is not properly maintained and repaired to the potential detriment of other Units or the Common Elements, and if such maintenance responsibility lies with an Owner, or if the Unit is

damaged by a casualty and the Owner does not take reasonable measures to diligently pursue the repair and reconstruction of those portions of the damaged Unit for which the Owner is responsible to substantially the same condition in which they existed prior to the damage or destruction, then the Association, after notice to the Owner and with the approval of the Executive Board shall have the right to enter upon the Unit or Limited Common Elements to perform such work as is reasonably required to restore the Unit or Limited Common Elements to a condition of good order and repair. All costs incurred by the Association in connection with the restoration shall be reimbursed to the Association by the Owner upon demand. All unreimbursed costs shall be a lien upon the Owner's Unit until reimbursement is made. The lien may be enforced in the same manner as a lien for an unpaid Assessment.

Section 9.3 Maintenance by Association. The Association shall be responsible for the maintenance and repair of the General Common Elements. This maintenance shall include, but shall not be limited to, upkeep, repair and replacement, subject to any insurance then in effect, of all landscaping, courtyards, walls, parks, trade blankets, gardens which an Owner is not required to maintain as set forth in **Section 9.1**, irrigation systems, sidewalks, driveways and improvements located in the Common Elements. To the extent that a Limited Common Element is allocated to more than one Unit, it shall be maintained by the Association and the cost thereof shall be assessed equally to the affected Units, unless all the Owners of such Units undertake to provide their own maintenance in a manner acceptable to the Association.

Section 9.4 Association Maintenance as Common Expense. The cost of maintenance and repair by the Association shall be a Common Expense of all of the Owners, to be shared by each Owner according to the Allocated Interests therefor, except the cost of maintenance for Limited Common Elements allocated to more than one Unit, which cost shall be allocated directly to the Owners of the affected Units as provided in **Section 9.3**. Damage to the interior or any part of a Unit or a Limited Common Element, or any property located therein or thereon, resulting from the failure of a Common Element, or the maintenance, repair, emergency repair or replacement of any of the Common Elements or as a result of emergency repairs to a Common Element within another Unit at the instance of the Association shall also be a Common Expense of all of the Owners. However, if such damage is caused by negligent or tortious acts of an Owner, members of the Owner's family, or the Owner's agent, employee, invitee, licensee or tenants, then such Owner shall be responsible and liable for all of such damage and the cost thereof, to the extent of such negligence.

Section 9.5 Easement for Maintenance. Each Owner and the Association shall have the irrevocable right, to be exercised by the Manager, the Executive Board or officers or employees of the Association, to have access to each Unit from time to time during reasonable hours (after at least 24 hours notice to the Owner in the case of non-emergency access to a Unit) as may be necessary for the maintenance, repair or replacement of any of the Common Elements therein or accessible therefrom, or at any hour for making emergency repairs, maintenance or inspection therein necessary for personal safety or to prevent imminent damage to the Common Elements or another Unit. If insurance proceeds under **Article 10** are payable to an Owner but the maintenance responsibility of the area to which such proceeds relate is the Association's, the Owner shall promptly turn over such

proceeds to the Association. If the Owner fails to so turn over such proceeds promptly after notice from the Association, the Association shall complete any such repair or replacement at the Owner's cost and such cost shall constitute a Default Assessment and a lien upon such Owner's Unit.

Section 9.6 Limited Common Element Damage. If there is damage or destruction to a Limited Common Element from any cause, other than the negligence of or attributable to an Owner, the then Owners of the Units to which the Limited Common Element is appurtenant shall bear, proportionate to their rights of use, the expense to repair or rebuild the Limited Common Element to its previous condition. If there is damage or destruction to a Limited Common Element from the negligence of or attributable to an Owner, such Owner shall bear the cost of damage to the extent of such negligence.

Section 9.7 Association Power. The Association shall have the right and power to prohibit storage or other activities deemed unsafe, unsightly, unreasonably noisy or otherwise offensive to the senses and perceptible from another Unit or the Common Elements. No Owner shall make any addition or other alteration to any portion of the Common Elements without the express consent of the Executive Board.

Section 9.8 Circular Stairway in Units 203 and 303. A circular stairway currently exits which connects Units 203 and 303. The open space which previously consisted of the structural elements between the ceiling of Unit 203 and the floor of Unit 303 shall be considered a Limited Common Element appurtenant to Unit 203 as long as the circular stairway remains in place. If Units 203 and 303 come under separate ownership, or if the circular stairway is removed, the Owner of Unit 203 shall be responsible for the reconstruction of the structural elements within said open space, in the manner and utilizing such materials as are required by the Association. Following such reconstruction, the structural elements in the area between the ceiling of Unit 203 and the floor of Unit 303 shall be considered part of the General Common Elements.

ARTICLE 10 INSURANCE

Section 10.1 General Insurance Provisions. The Association shall acquire and pay for, out of the assessments levied under **Article 11** below, the following insurance policies carried with reputable insurance companies authorized to do business in Colorado:

10.1.1 Hazard Insurance Coverage. Insurance for fire, with extended coverage, vandalism, malicious mischief, all-risk, replacement cost, agreed amount (if the policy includes co-insurance), special condominium, building ordinance and inflation guard endorsements attached, in amounts determined by the Executive Board to represent not less than the full then current insurable replacement cost of the buildings located on 300 South Spring Street, including all of the Units and Common Elements, including all fixtures, interior and perimeter walls and floors, partitions, decorated and finished surfaces of interior and perimeter walls, floors, and ceilings, doors, windows and other elements or materials comprising a part of the Units and excluding any betterments and

improvements made by Owners and building excavations and foundations. Maximum deductible amounts for such policy shall be determined by the Executive Board. In the event the Project has central heating or cooling or contains a steam boiler, coverage for loss or damage resulting from steam boiler and machinery equipment accidents in an amount equal to the lesser of \$1,000,000 or the insurable value of the building housing the boiler or machinery shall also be obtained. The Association shall obtain insurance covering the original specifications of each Unit. Each Owner shall be responsible for obtaining additional or supplemental insurance covering any additions, alterations or improvements to its Unit which increase the replacement value of its Unit. In the event that satisfactory arrangement is not made for additional insurance by the Owner, the Owner shall be responsible for any deficiency in any resulting insurance loss recovery and the Association shall not be obligated to apply any insurance proceeds to restore the affected Unit to a condition better than the condition existing prior to the making of such additions, alterations or improvements. Any additional premiums attributable to the original specifications of a Unit for which the insurance is increased as herein provided may be subject of a lien for nonpayment as provided in **Section 11.7** hereof in the event the Association pays such premium for an Owner.

Such hazard insurance policy must be written by an insurance carrier that has (a) a "B" or better general policyholder's rating or a "6" or better financial performance index rating in Best's Insurance Reports, or (b) an "A" or better general policyholder's rating and a financial size category of "VIII" or better in Best's Insurance Reports International Edition.

10.1.2 Comprehensive Liability. Comprehensive general public liability and property damage insurance for the Project in such amounts as the Executive Board deems desirable, provided that such coverage shall be for at least \$1,000,000 for bodily injury, including deaths and property damage arising out of a single occurrence insuring the Association, the Executive Board, the Manager or managing agent, or both, if any, and their respective agents and employees, and the Owners from liability in connection with the operation, maintenance and use of Common Elements and must include a "severability of interest" clause or specific endorsement. Such coverage shall also include legal liability arising out of contracts of the Association and such other risks as are customarily covered with respect to condominiums similar to the Project in Pitkin County including automobile liability insurance if appropriate. The Executive Board shall not enter into employment contracts or independent contractor contracts of any kind unless the contracting party provides evidence (such as a Certificate of Insurance) to the Executive Board that such party has current and satisfactory insurance, including workers' compensation insurance, commercial general liability insurance and automobile insurance on all of which the Association is named as an additional insured.

The insurance policies may be carried in blanket policy form naming the Association as the insured, for the use and benefit of and as attorney-in-fact for the Owners. Each Owner shall be an insured person under the policy with respect to liability arising out of such Owner's interest in the Common Elements or membership in the Association. Each Mortgagee and its successors or assigns shall be a beneficiary of the policy in the percentages of Common Expenses for the Unit which the Mortgage encumbers. The insurance company shall waive its rights of subrogation under the

insurance policy against any Owner or member of the Owner's household. No act or omission by any Owner, unless acting within the scope of such Owner's authority on behalf of the Association, shall void the insurance policy or be a condition to recovery under the insurance policy. If, at the time of a loss under an insurance policy described above there is other insurance in the name of the Owner covering the same risk covered by the policy, the Association's policy shall provide primary insurance.

Insurance coverage on the furnishings and other items of personal property belonging to an Owner and any additions and alterations to a Unit which increase the Unit's replacement value above that of the original specifications for the Unit, casualty and public liability insurance coverage for each Unit and the Limited Common Elements associated therewith and workman's compensation insurance covering work within each Unit or on the Limited Common Elements associated therewith shall be the responsibility of the Owner of the Unit.

Section 10.2 Certificates of Insurance; Cancellation. Certificates of insurance shall be issued to each Owner and Mortgagee upon request. All policies required to be carried under this **Article 10** shall provide a standard non-contributory mortgagee clause in favor of each First Mortgagee of a Unit and shall provide that such policy cannot be cancelled by the insurance company without at least thirty (30) days prior written notice to each Owner and each First Mortgagee whose address is shown in the records maintained pursuant to the Association Documents. If the insurance described in **Article 10** is not reasonably available, or if any policy of such insurance is cancelled or not renewed without a replacement policy therefore having been obtained, the Association promptly shall cause notice of that fact to be hand delivered or sent prepaid by United States mail to all Owners and to all First Mortgagees.

Section 10.3 Insurance Proceeds. Any loss covered by the property insurance policy described in **Section 10.1** must be adjusted with the Association, but the insurance proceeds for that loss shall be payable to any insurance trustee designated for that purpose, or otherwise to the Association, and not to any holder of a security interest. The insurance trustee or the Association shall hold any insurance proceeds in trust for the Owners and Mortgagees as their interests may appear. Subject to the provisions of **Section 10.5** below, the proceeds must be disbursed first for the repair or restoration of the damaged property, and the Association, Owners and Mortgagees are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the damaged property has been completely repaired or restored or the regime created by this Declaration is terminated.

Section 10.4 Insurer Obligation. An insurer that has issued an insurance policy for the insurance described in **Section 10.1** and **10.7** or its agents shall issue certificates or memoranda of insurance to the Association and, upon request, to any Owner or Mortgagee. Unless otherwise provided by statute, the insurer issuing the policy may not cancel or refuse to renew it until thirty (30) days after notice of the proposed cancellation or nonrenewal has been mailed to the Association and to each Owner and Mortgagee to whom a certificate or memorandum of insurance has been issued at their respective last-known addresses.

Section 10.5 Repair and Replacement. Any portion of the Common Elements for which insurance is required under this Article which is damaged or destroyed must be repaired or replaced promptly by the Association unless:

10.5.1 The common interest community created by this Declaration is terminated in which case the approval must first be obtained of seventy-five percent (75%) in Percentage Interests of all Owners;

10.5.2 Repair or replacement would be illegal under any state or local statute or ordinance governing health or safety;

10.5.3 There is a vote not to rebuild by (a) seventy-five percent (75%) of the Percentage Interests of Owners entitled to vote and (b) every Owner of a Unit or appurtenant Limited Common Element that will not be rebuilt; or

10.5.4 Prior to the conveyance of any Unit to a person other than Declarant, the Mortgagee holding a Mortgage on the damaged portion of the Common Elements rightfully demands all or a substantial part of the insurance proceeds.

The cost of repair or replacement of Common Elements in excess of insurance proceeds and reserves is a Common Expense. If all the Common Elements are not repaired or replaced, the insurance proceeds attributable to the damaged Common Elements must be used to restore the damaged area to a condition compatible with the remainder of the Project, and except to the extent that other persons will be distributees, the insurance proceeds attributable to Limited Common Elements which are not rebuilt must be distributed to all the Owners or Mortgagees of those Units to which such Limited Common Elements are allocated, as their interests may appear, and the remainder of the proceeds must be distributed to all the Owners or Mortgagees, as their interests may appear, in proportion to each Unit's Common Expenses Allocated Interests.

Section 10.6 Common Expenses. Premiums for insurance that the Association acquires and other expenses connected with acquiring such insurance are Common Expenses, provided, however, that if the Association's fire and extended coverage insurance covers insurance attributable to some but not all of the Units, the Association reserves the right to charge the Owners of such Units for which the Association provides additional insurance coverage, an amount equal to the premium attributable to such additional insurance coverage.

Section 10.7 Fidelity Insurance. Fidelity Insurance or fidelity bonds must be maintained by the Association to protect against dishonest acts on the part of its officers, directors, trustees and employees and on the part of all others, including any manager hired by the Association, who handle or are responsible for handling the funds belonging to or administered by the Association in an amount not less than the greater of (a) twenty-five thousand dollars (\$25,000) or (b) the estimated maximum of funds, including reserve funds, in the custody of the Association or management agent

as the case may be, at any given time during the term of each policy as calculated from the current budget of the Association but in no event less than a sum equal to three (3) months' aggregate assessments plus reserve funds. In addition, if responsibility for handling funds is delegated to a Manager, such insurance or bonds must be obtained by or for the Manager and its officers, employees and agents, as applicable. Such fidelity insurance or bonds shall name the Association as insured and shall contain waivers of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees," or similar terms of expressions.

Section 10.8 Workers' Compensation Insurance. The Executive Board shall obtain workers' compensation or similar insurance with respect to its employees, if applicable, in the amounts and forms as may now or hereafter be required by law.

Section 10.9 Other Insurance. The Executive Board may obtain insurance against such other risks of a similar or dissimilar nature as it shall deem appropriate with respect to the Association's responsibilities and duties.

ARTICLE 11 ASSESSMENTS

Section 11.1 Obligations. Each Owner is obligated to pay to the Association (1) the Annual Assessments; (2) Special Assessments; and (3) Default Assessments.

Section 11.2 Budget. Within thirty (30) days after the adoption of any proposed budget for the Association, the Executive Board shall deliver a summary of the budget to all Owners and shall set a date for a meeting of the Owners to consider ratification of the budget not less than fourteen (14) nor more than sixty (60) days after delivery of the summary. Unless at that meeting a majority of all Owners reject the budget, the budget is ratified, whether or not a quorum is present. If the proposed budget is rejected, the periodic budget last ratified by the Owners must be continued until such time as the Owners ratify a subsequent budget proposed by the Executive Board. The Executive Board shall adopt a budget and shall submit the budget to a vote of the Owners as provided herein no less frequently than annually.

Section 11.3 Limitation on Assessment Liability for the Expansion Project Units. In the event that the Expansion Project is made subject to this Declaration pursuant to **Section 15.1.1**, the Owner of the Commercial Units and the Residential Unit within the Expansion Project shall not be subject to assessments related to any costs incurred by the Association for the repair or replacement of the roof of the structure located at 300 South Spring Street as it exists on the date of this Declaration or for the repair or replacement of other General Common Elements as they exist on the date hereof which are completed prior to May 1, 2016, except costs associated with installation of a trash compactor, which shall be assessed to all Units, including those within the Expansion Project.

Section 11.4 Annual Assessments. The Executive Board shall levy and assess the Annual Assessments in accordance with the annual budget and its estimated need for cash (including without

limitation, the creation of a reasonable contingency or other reserve or surplus fund for general, routine maintenance, repairs, and replacement of improvements within the Common Elements on a periodic basis, as needed).

Annual Assessments shall be payable in monthly installments on a prorated basis in advance and shall be due on the first day of the month. The omission or failure of the Association to fix the Annual Assessments for any assessment period shall not be deemed a waiver, modification, or release of the Owners from their obligation to pay the same. The Association shall have the right, but not the obligation, to make prorated refunds of any Annual Assessments in excess of the actual expenses incurred in any fiscal year.

Section 11.5 Apportionment of Annual Assessments.

11.5.1 Common Expenses shall be allocated among the Units on the basis of the Allocated Interests for Common Expenses as set forth in **Exhibit A**, as amended by any Supplemental Declaration. In the event Units are combined pursuant to **Sections 2.1 and 15**, the Common Expenses shall be re-allocated to account for such change. The new allocation of Common Expenses following the combination or subdivision of Units shall be effective as of the date of recordation of the Supplemental Declaration and Condominium Map or Maps.

11.5.2 The Association shall allocate expenses that inherently relate only to residential uses to the Owners of the Residential Units only and the Association shall allocate expenses that inherently relate only to commercial uses to the Owners of the Commercial Units only.

11.5.3 If the members of the Executive Committee representing one class unanimously agree, the Association shall allocate a specific discretionary expense only among the Owners of Units in that class.

Section 11.6 Special Assessments. In addition to the Annual Assessments, the Association may levy in any fiscal year one or more Special Assessments, payable over such a period as the Association may determine, for the purpose of defraying the cost of any construction, unexpected repair or replacement of improvements within the Common Elements or for any other expense incurred or to be incurred as provided in this Declaration. This **Section 11.6** shall not be construed as an independent source of authority for the Association to incur expense, but shall be construed to prescribe the manner of assessing expenses authorized by other sections of this Declaration. Any amounts assessed pursuant to this **Section** shall be assessed to Owners according to their Allocated Interests for Common Expenses. However, The Association shall assess special assessments only against the Owners of affected Units and/or against Owners entitled to use Limited Common Elements, any extraordinary maintenance, repair or restoration work on fewer than all of the Units or Limited Common Elements, and any extraordinary insurance costs incurred as a result of the value of a particular Owner's Unit or the actions of or attributable to a particular Owner. Written notice of the amount of such Special Assessments and the time for payment shall be given promptly to the Owners, and no payment shall be due less than 10 days after such notice shall have been given.

Section 11.7 Default Assessments. All monetary fines assessed against an Owner pursuant to the Association Documents, or any expense of the Association which is the obligation of an Owner or which is incurred by the Association on behalf of the Owner pursuant to the Association Documents, shall be a Default Assessment. Notice of the amount and due date of such Default Assessment shall be sent to the Owner subject to such Assessment at least 10 days prior to the due date.

Section 11.8 Effect of Nonpayment; Assessment Lien. Any Assessment installment, whether pertaining to any Annual, Special, or Default Assessment, which is not paid on or before its due date shall be delinquent. If an Assessment installment becomes delinquent, the Association, in its sole discretion, may take any or all of the following actions:

11.8.1 Assess a late charge for each delinquency in such amount as the Association deems appropriate;

11.8.2 Assess an interest charge from the due date at the yearly rate of six points above the prime rate charged by the Association's bank, or such other lawful rate as the Executive Board may establish;

11.8.3 Suspend the voting rights of the Owner during any period of delinquency;

11.8.4 Accelerate all remaining Assessment installments so that unpaid Assessments for the remainder of the fiscal year shall be due and payable at once;

11.8.5 Bring an action at law against any Owner personally obligated to pay the delinquent Assessments; and

11.8.6 Proceed with foreclosure as set forth in more detail below.

Assessments chargeable to any Unit shall constitute a lien on such Unit. The Association may institute foreclosure proceedings against the defaulting Owner's Unit in the manner for foreclosing a mortgage on real property under the laws of the State of Colorado. In the event of foreclosure, the Owner shall be liable for the amount of unpaid Assessments, any penalties and interest thereon, the cost and expenses of such proceedings, the cost and expenses for filing the notice of the claim and lien, and all reasonable attorney's fees incurred in connection with the enforcement of the lien. The Association shall have the power to bid on a Unit at foreclosure sale and to acquire and hold, lease, mortgage, and convey the same.

Section 11.9 Personal Obligation. Each Assessment against a Unit is the personal obligation of the person who owned the Unit at the time the Assessment became due and shall not pass to successors in title unless they agree to assume the obligation. No Owner may exempt itself from liability for the Assessment by abandonment of its Unit or by waiver of the use or enjoyment of all or any part of the Common Elements. Suit to recover a money judgment for unpaid

Assessments, any penalties and interest thereon, the cost and expenses of such proceedings, and all reasonable attorney's fees in connection therewith shall be maintainable without foreclosing or waiving the Assessment lien provided in this Declaration

Section 11.10 Payment by Mortgagee. Any Mortgagee holding a lien on a Unit may pay any unpaid Assessment payable with respect to such Unit, together with any and all costs and expenses incurred with respect to the lien, and upon such payment that Mortgagee shall have a lien on the Unit for the amounts paid with the same priority as the lien of the Mortgage.

Section 11.11 Statement of Status of Assessment Payment. Upon payment of a reasonable fee set from time to time by the Executive Board and upon fourteen (14) days' written request to the Association's registered agent by personal delivery or mail, first-class postage pre-paid, any Owner, designee of Owner, Mortgagee, prospective Mortgagee, or prospective purchaser of a Unit shall be furnished with a written statement setting forth the amount of the unpaid Assessments, if any, with respect to such Unit. Unless such statement shall be issued by personal delivery or by mail to the inquiring party (the date of posting being deemed the date of delivery) within fourteen (14) days after receipt of the request, the Association shall have no right to assert a lien upon the Unit over the inquiring party's interest for unpaid Assessments which were due as of the date of the request.

Section 11.12 Capitalization of the Association. Upon acquisition of record title to a Unit from Declarant or any seller after Declarant, or if earlier upon use of the Unit, each Owner shall contribute to the working capital and reserves of the Association an amount equal to two (2) monthly installments of the Annual Assessment for that Unit for the year in which the Owner acquired title or began to use the Unit. The initial capital account shall be established and Annual Assessments shall commence for the first phase submitted to the terms of this Declaration upon the conveyance of the first Unit in the first phase of the Project by Declarant to a third-party purchaser. Thereafter, upon the submission of each new phase of the Project to the condominium regime created by this Declaration, Annual Assessments shall begin and the capital account shall be established for all Units added by the new phase. Such payments shall not be considered advance payments of Annual Assessments. The unused portion of the working capital deposit shall be returned to each Owner upon the sale of its Unit, provided that the new purchaser of the Unit has deposited the required working capital deposit with the Association.

Section 11.13 Maintenance Accounts; Accounting. If the Association delegates powers of the Executive Board or its officers relating to collection, deposit, transfer or disbursement of Association funds to other persons or to a manager, then such other persons or manager must (a) maintain all funds and accounts of the Association separate from the funds and accounts of other associations managed by the other person or manager, (b) maintain all reserve and working capital accounts of the Association separate from the operational accounts of the Association, (c) provide to the Association no less than once per quarter an accounting for the previous quarter, and (d) provide to the Association an annual accounting and financial statement of Association funds prepared by the manager, a public accountant or a certified public accountant.

ARTICLE 12
DAMAGE OR DESTRUCTION

Section 12.1 The Role of the Executive Board. In the event of damage to or destruction of all or part of any Common Elements improvement, or other property covered by insurance written in the name of the Association, the Executive Board shall arrange for and supervise the prompt repair and restoration of the damaged property (the property insured by the Association is sometimes referred to as the "Association-Insured Property").

Section 12.2 Estimate of Damages or Destruction. As soon as practicable after an event causing damage to or destruction of any part of the Association-Insured Property, the Executive Board shall, unless such damage or destruction shall be minor, obtain an estimate that it deems reliable and complete of the costs of repair and reconstruction. "Repair and reconstruction" as used in this Article shall mean restoring the damaged or destroyed improvements to substantially the same condition in which they existed prior to the damage or destruction.

Section 12.3 Repair and Reconstruction. As soon as practicable after the damage occurs and any required estimates have been obtained, the Association shall diligently pursue to completion the repair and reconstruction of the damage or destroyed Association-Insured Property. As attorney-in-fact for the Owners, the Association may take all appropriate action to effect repair and reconstruction of any damage to the Association-Insured Property, and no consent or other action by any Owner shall be necessary. Assessments of the Association shall not be abated during the period of insurance adjustments and repair and reconstruction.

Section 12.4 Funds for Repair and Reconstruction. The proceeds received by the Association from any hazard insurance carried by the Association shall be used for the purpose of repair, replacement, and reconstruction of the Association-Insured Property.

If the proceeds of the Association's insurance are insufficient to pay the cost of such repair, replacement, and reconstruction, the Association may levy, assess, and collect in advance from the Owners, without the necessity of a special vote of the Owners, a Special Assessment sufficient to provide funds to pay such costs of repair and reconstruction. Further levies may be made in like manner if the amounts collected prove insufficient to complete the repair, replacement, or reconstruction.

Section 12.5 Disbursement of Funds for Repair and Reconstruction. The insurance proceeds held by the Association and the amounts received from the Special Assessments constitute a fund for the payment of the costs of repair and reconstruction after casualty. It shall be deemed that the first money disbursed in payment for the costs of repair and reconstruction shall be made from insurance proceeds, and the balance from the Special Assessments. If there is a balance remaining after payment of all costs of such repair and reconstruction, it shall be distributed to the Owners in proportion to the contributions each Owner made as Special Assessments, then in proportion to the Units' Percentage Share of Common Expenses, first to the Mortgagees and then to the Owners, as

their interests appear.

ARTICLE 13 CONDEMNATION

Section 13.1 Rights of Owners. Whenever any part of the Common Elements shall be taken by any authority having power of condemnation or eminent domain or whenever any part of the Common Elements is conveyed in lieu of a taking under threat of condemnation by the Executive Board acting as attorney-in-fact for all Owners under instructions from any authority having the power of condemnation or eminent domain, each Owner shall be entitled to notice of the taking or conveying.

Section 13.2 Partial Condemnation; Distribution of Award; Reconstruction. The award made for such taking shall be payable to the Association as trustee for those Owners for whom use of the Common Elements was conveyed and, unless otherwise required under the Act, the award shall be disbursed as follows:

If the taking involves a portion of the Common Elements on which improvements have been constructed, then, unless within sixty (60) days after such taking all of the Owners shall otherwise agree, the Association shall restore or replace such improvements so taken on the remaining land included in the Common Elements to the extent lands are available for such restoration or replacement in accordance with plans approved by the Executive Board. If such improvements are to be repaired or restored, the provisions regarding the disbursement of funds in respect to casualty damage or destruction which is to be repaired shall apply. If the taking does not involve any improvements on the Common Elements, or if there is a decision made not to repair or restore, or if there are net funds remaining after any such restoration or replacement is completed, then such award or net funds shall be distributed among the Units according to each Unit's Allocated Interests of Percentage Shares of Common Elements, first to the Mortgagees and then to the Owners, as their interests appear except that any part of the remaining awards or net funds which relate to Limited Common Elements shall be distributed on a pro rata basis among the Units to which such Limited Common Elements are allocated, first to the Mortgagees and then to the Owners, as their interests appear.

Section 13.3 Complete Condemnation. If all of 300 South Spring Street is taken, condemned, sold, or otherwise disposed of in lieu of or in avoidance of condemnation, then the common interest community created by this Declaration shall terminate, provided that approval must first be obtained of fifty-one percent (51%) of First Mortgagees of Units subject to First Mortgages (which percentage is measured by votes allocated to such Units), and the portion of the condemnation award attributable to the Common Elements shall be distributed as provided in **Section 12.5** above.

ARTICLE 14
EXECUTIVE BOARD AS ATTORNEY-IN-FACT

Each Unit Owner hereby irrevocably appoints the Executive Board as the Owner's true and lawful attorney-in-fact for the purposes of (a) exercising the powers of the Executive Board and the Association pursuant to **Section 4.7 and Article 5**, (b) granting easements pursuant to **Article 8**, (c) purchasing and maintaining insurance pursuant to **Article 10**, including the collection and appropriate disposition of the proceeds thereof, the negotiation and settlement of losses and execution of releases of liability, the execution of all documents, and the performance of all other acts necessary to purchase and maintain insurance as well as dealing with any improvements covered by insurance written in the name of the Association pursuant to **Article 10** upon their damage or destruction as provided in **Article 12** and (c) negotiating and dealing with any authority having the power of condemnation or eminent domain relating to a complete or partial taking as provided in **Article 13**, above. Acceptance by a grantee of a deed or other instrument of conveyance or any other instrument conveying any portion of 300 South Spring Street shall constitute appointment of the Association as the grantee's attorney-in-fact, and the Association shall have full authorization, right and power to make, execute and deliver any contract, assignment, deed, waiver or other instrument with respect to the interest of any Owner which may be necessary to exercise the powers granted to the Association as attorney-in-fact.

ARTICLE 15
RESERVED DEVELOPMENT AND SPECIAL DECLARANT RIGHTS; THE RIGHT TO
COMBINE UNITS

Section 15.1 Reserved Development Rights of Expansion. Declarant reserves the right for itself and any Successor Declarant at any time and from time to time to construct the Expansion Project and to create additional Units associated therewith. Furthermore, Declarant may transfer any or all of the Declarant's rights reserved under this Article pursuant to an instrument acknowledged in the manner of a Deed and recorded in the records of the Clerk and Recorder of Pitkin County, Colorado. Declarant may restrict or limit the exercise of any rights and interests so assigned. Any successor in interest to Declarant, in respect to any portion of the Declarant's reserved rights hereunder, may further assign and transfer such rights and interests in like manner, but only to the extent expressly permitted in the assignment from Declarant.

15.1.1 Supplemental Declarations and Supplemental Plats. Such expansion may be accomplished by the filing of record by Declarant in the office of the Clerk and Recorder a Supplemental Condominium Map and a Supplemental Declaration setting forth the Units and other real property, if any, to be included in the expansion, together with any covenants, conditions, restrictions and easements particular to such property. All improvements to be constructed in connection with the Expansion Project shall be substantially completed prior to the recording of the Supplemental Declaration and Supplemental Map adding additional Units.

15.1.2 Expansion of Definitions. In the event of such expansion, the definitions used

in this Declaration shall be expanded automatically to encompass and refer to the Units subject to this Declaration as so expanded. For example, "Unit" shall mean the Units as shown on the initial Map or Maps plus any additional Units added by any Supplemental Declarations and Supplemental Maps, and reference to this Declaration shall mean this Declaration as supplemented.

15.1.3 Declaration Operative on Expansion Units. Units added by any Supplemental Declaration and Condominium Map shall be subject to all of the terms and conditions of this Declaration and of any Supplemental Declarations, upon recording the Supplemental Map(s) depicting the additional Units and Supplemental Declaration(s) with the Clerk and Recorder. The rights of Declarant and any Successor Declarant, as described herein, shall apply to all Units which are added to this Declaration in accordance with these provisions relating to enlargement thereof.

No rights or obligations of any character of any owner in new Units shall attach until a Supplemental Declaration and Supplemental Map are filed with the Clerk and Recorder annexing the Units constructed in such area to the Project.

15.1.4 Effect of Expansion. Upon the construction of additional Units and their inclusion under this Declaration and the filing of the Supplemental Declaration(s) and Supplemental Map(s) thereof, the Allocated Interests applicable to a Unit shall be as set forth in **Section 2.1** above and on **Exhibit A**, provided, however, that the Allocated Interest for the single Residential Unit shall be four percent (4%).

Notwithstanding any inclusion of additional Units under this Declaration, each Owner (regardless of whether such Owner is the owner of a Unit shown on the original Condominium Map or Maps or is the owner of a new Unit constructed in 300 South Spring Street and included by a Supplemental Declaration and Condominium Map or Maps) shall remain fully liable with respect to his obligation for the payment of the Common Expenses of the Association, including the expenses for such new Common Area, costs and fees, if any. The recording of a Supplemental Declaration or Supplemental Plat shall not alter the amount of the Common Expenses assessed to a Unit prior to such recording.

Section 15.2 Reservation of Withdrawal Rights. Declarant reserves the right for itself and any Successor Declarant at any time and from time to time to withdraw from the provisions of this Declaration individual Units and/or Common Elements, provided however that none of the real estate may be withdrawn after any Unit has been conveyed by Declarant to a purchaser, and provided further that the Declarant reserves no right to withdraw the Expansion Project from the provisions of this Declaration following completion thereof and the recording of a Supplemental Condominium Map and Supplemental Declaration pursuant to **Section 15.1.1**.

Section 15.3 Reservation to Subdivide or Convert Units. Declarant reserves the right, by recording a Supplemental Declaration and Condominium Map or Maps, to subdivide a Unit into further Units and to create Common Elements in connection with such subdivision, to convert a General Common Element or portion thereof into one or more Limited Common Elements, and to

convert a Unit or portion thereof into Common Elements, subject to the requirements of the Act. The Supplemental Declaration and Condominium Map or Maps shall describe and depict the resulting Units and Common Elements, and apportion the Allocated Interests of all affected Units in a manner consistent with the principles used in **Section 2.1** above.

Section 15.4 Other Reserved Rights. Declarant reserves the right at any time and from time to time to: (a) complete improvements indicated on the Condominium Map or Maps, and (b) maintain and relocate sales offices, management offices, signs advertising the Project and models, of any size, within one or more Units and within the General Common Elements so long as Declarant or Successor Declarant continues to be an Owner of a Unit or, if earlier, ten (10) years from the recording of this Declaration with the Clerk and Recorder.

Section 15.5 Termination of Rights. The rights reserved to the Declarant in this **Article** shall expire, unless sooner terminated as required by the Act, twenty (20) years from the date of recording this Declaration, unless such rights are (i) extended as allowed by law or (ii) reinstated or extended by the Association, subject to whatever terms, conditions, and limitations the Executive Board may impose on the subsequent exercise of the rights by Declarant.

Section 15.6 Combination of Units. An Owner may combine two or more contiguous commercial Units into one Unit. Only an entire Unit may be so combined. If contiguous Units are combined by the Owner, such combination of Units shall also combine all appurtenant interests in the combined Units. The structural separations between such Units shall become Limited Common Elements appurtenant to the combined Unit. The Owner of a combined Unit shall have the right to separate the Unit back into its constituent Units as previously constituted. In such event, the interests and Limited and General Common Elements appurtenant to each Unit prior to their combination shall be thereupon restored. Before any combination or separation of Units, the Owner shall submit such plans, specifications and information to the Executive Board as it shall reasonably require, and shall pay all expenses of preparing and recording a Supplemental Declaration and Condominium Map or Maps that describe and depict the resulting Units and Common Elements, and apportion the Allocated Interests of all affected Units in a manner consistent with the principles used in **Section 2.1** above.

ARTICLE 16 DESIGN REVIEW

No alteration or additions to the Common Elements or the exterior surfaces of a Unit shall be made unless first approved by the Executive Board. The Executive Board shall exercise its best judgment to the end that all modifications to the Common Elements and exterior surfaces conform to and harmonize with existing surroundings and structures. The Executive Board has the absolute right to deny any requested changes to the General Common Elements, and has the right to deny any requested changes to the Limited Common Elements which the Executive Board reasonably determines do not conform to and harmonize with the existing Project or the surroundings and structures or which could adversely affect another Unit or the Common Elements.

ARTICLE 17
MORTGAGEE'S RIGHTS

The following provisions are for the benefit of holders, insurers, or guarantors of First Mortgages.

Section 17.1 Title Taken by Mortgagee. Any Mortgagee holding a First Mortgage of record against a Unit who obtains title to the Unit pursuant to remedies exercised in enforcing the Mortgage, including foreclosure of the Mortgage or acceptance of a deed in lieu of foreclosure, will be liable for all Assessments due and payable as of the date title to the Unit (i) is acquired or (ii) could have been acquired under the statutes of Colorado governing foreclosures, whichever is earlier. The security interest of any Mortgagee in the General Common Elements shall be subject and subordinate to all of the rights of the Association and the Executive Board as set forth in this Declaration, including the right to convey and encumber the General Common Elements.

Section 17.2 Distribution of Insurance or Condemnation Proceeds. In the event of a distribution of insurance proceeds or condemnation awards allocable among the Units for losses to, or taking of, all or part of the Common Elements, neither the Owner nor any other person shall take priority in receiving the distribution over the right of any Mortgagee who is a beneficiary of a First Mortgage against the Unit.

Section 17.3 Right to Pay Taxes and Charges. Mortgagees who hold First Mortgages may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against any Common Elements, and may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy for such Common Elements, and Mortgagees making such payments shall be owed immediate reimbursement therefor from the Association.

Section 17.4 Financial Statement. Upon written request from any Mortgagee which has an interest or prospective interest in any Unit or the Project, the Association shall prepare and furnish within ninety (90) days a financial statement of the Association for the immediately preceding fiscal year at the expense of such Mortgagee.

Section 17.5 Notice of Action. Any First Mortgagee which holds a First Mortgage, upon written request to the Association (which shall include the Agency's name and address and the Unit number), will be entitled to timely written notice of:

17.5.1 Any proposed amendment of the Association Documents effecting a change in (a) the boundaries of any Unit or the exclusive easement rights appertaining thereto, (b) the interest in the Common Elements appurtenant to the Unit or the liability of Assessments relating thereto, (c) the number of votes in the Association relating to any Unit, or (d) the purposes to which any Unit or the Common Elements are restricted or any amendment set forth in **Section 18.2** below;

17.5.2 Any proposed termination of the common interest community;

17.5.3 Any condemnation loss or any casualty loss which affects a material portion of the Project or which affects any Unit on which there is a First Mortgage held, insured or guaranteed by such Agency;

17.5.4 Any delinquency in the payment of Assessments owed by an Owner subject to the Mortgage where such delinquency has continued for a period of sixty (60) days;

17.5.5 Any lapse, cancellation or material modification of any insurance policy maintained by the Association pursuant to **Article 10**.

Section 17.6 Action by Mortgagee. If this Declaration or any Association Documents require the approval of Mortgagees then, if any Mortgagee fails to respond to any written proposal for such approval within thirty (30) days after such Mortgagee receives proper notice of the proposal (or such longer time as may be set forth in the notice), such Mortgagee shall be deemed to have approved such proposal provided that the notice was delivered to the Mortgagee by certified or registered mail, return receipt requested.

ARTICLE 18 DURATION OF COVENANTS AND AMENDMENT

Section 18.1 Term. The covenants and restrictions of this Declaration shall run with and bind the land in perpetuity, subject to the termination provisions of the Act.

Section 18.2 Amendment. This Declaration may be amended at any time by Owners holding not less than sixty-seven percent (67%) of the votes possible to be cast under this Declaration at a meeting of the Owners called for that purpose, except that, provided the First Mortgagee has requested notice in accordance with **Section 17.5** above, the approval shall first be obtained of fifty-one percent (51%) of First Mortgagees of Units subject to a First Mortgage (which percentage is measured by votes allocated to such Units) if the amendment to the Association Documents add or delete any material provisions which establish, provide for, govern or regulate any of the following:

18.2.1 Voting;

18.2.2 Assessments, Assessment liens or subordination of such liens;

18.2.3 Reserves for maintenance or repair and replacement of the Common Elements;

18.2.4 Insurance or fidelity bonds;

18.2.5 Reallocation of interests in the Common Elements, or rights to use of the Common Elements other than as set forth in **Article 15**;

18.2.6 Responsibility for maintenance and repair of the Project;

18.2.7 Expansion or contraction of the common interest community, or the addition, annexation or withdrawal of property to or from the common interest community;

18.2.8 Boundaries of any Unit;

18.2.9 The interests in the Common Elements;

18.2.10 Convertibility of Units into Common Elements or of Common Elements into Units;

18.2.11 Imposition of any restrictions on the leasing of Units;

18.2.12 Imposition of any right of first refusal or similar restriction on the right of an Owner to sell, transfer, or otherwise convey its Unit;

18.2.13 Establishment of self-management by the Association where professional management has been required by any Agency;

18.2.14 Any provision which is for the express benefit of an Agency or First Mortgagees, regardless of whether the amendment is material;

18.2.15 Hazard or fidelity insurance requirements; and

18.2.16 Restoration or repair of the common interest community (after damage or partial condemnation) other than as specified herein.

Section 18.3 Amendment for Certain Actions. Notwithstanding anything else contained in this Declaration, except as provided by the Act and as provided in **Article 15** hereof, and except in case of condemnation or substantial loss to the Units and/or Common Elements, unless at least two-thirds (2/3rds) of First Mortgagees (which percentage is measured by votes allocated to such Units) or seventy-five percent (75%) of Owners (other than Declarant) have given their prior written approval, the Association may not:

18.3.1 By act or omission seek to abandon or terminate the condominium regime created hereby;

18.3.2 Reallocate the Allocated Interest or obligation of any Unit in order to levy assessments or charges, allocate distribution of hazard insurance proceeds or condemnation awards,

or determine the Percentage Share of Ownership of Common Elements other than as set forth in **Article 15**;

18.3.3 Partition or subdivide any Unit other than as set forth in **Article 15**;

18.3.4 Seek to abandon, partition, subdivide, encumber, sell or transfer the Common Elements by act or omission other than the grant of easements for public utilities or other public purposes consistent with the intended use of the Common Elements and other than as set forth in **Article 15**; or

18.3.5 Use hazard insurance proceeds for losses to any part of 300 South Spring Street (whether Units or Common Elements) for other than the repair, replacement or reconstruction of the Project.

Section 18.4 Evidence of Amendment. Any amendment must be executed by the President of the Association and recorded, and approval of such amendment may be shown by attaching a certificate of the Secretary of the Association to the recorded instrument certifying the approval of a sufficient number of Owners of the amendment. Notwithstanding the foregoing, Declarant, acting alone, reserves to itself the right and power to modify and amend this Declaration and the Condominium Map or Maps to the fullest extent permitted under the Act. During the period of Declarant Control, this Declaration shall not be amended without the consent of the Executive Board.

ARTICLE 19 LIMIT ON TIMESHARING AND HOUSE EXCHANGE

No Owner of any Unit shall offer or sell any interest in such Unit under a "timesharing" or "interval ownership" plan, or any similar plan, nor shall a Unit be dedicated to an exchange program that provides for recurring occupancies by different persons for durations of less than one (1) year.

ARTICLE 20 GENERAL PROVISIONS

Section 20.1 Restriction on Declarant Powers. No rights or powers reserved to Declarant hereunder shall exceed the time limitations or permissible extent of such rights or powers as restricted under the Act. Any provision in this Declaration in conflict with the requirements of the Act shall not be deemed to invalidate such provision as a whole but shall be adjusted as is necessary to comply with the Act.

Section 20.2 Enforcement. Except as otherwise provided in this Declaration, the Executive Board, Declarant, or any Owner shall have the right (but not the obligation) to enforce, by a proceeding at law or in equity, or by mediation or binding arbitration if the parties so agree, all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by the

CONSENT AND SUBORDINATION OF MORTGAGEE

The undersigned, as beneficiary under the Deed of Trust dated September 4, 2008, recorded on September 8, 2008, at Reception No. 552735, recorded in the real property records of Pitkin County, Colorado, encumbering Unit A, as shown on the First Amended Plat of the Hannah Dustin Condominiums, recorded in Book 80 at Page 3 in the office of the Clerk and Recorder of Pitkin County, Colorado, hereby consents and subordinates the lien of its deed of trust as described below to the foregoing DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR 300 SOUTH SPRING STREET, A CONDOMINIUM; provided, however, that (i) pursuant to C.R.S. §38-33.3-316(2)(a)(I), the lien of the Deed of Trust shall remain prior to any lien for assessments created under the Declaration, and (ii) no provision of this Declaration or the Condominium Map may be amended without the prior written consent of the undersigned as long as the above-referenced Deed of Trust is in effect as a lien on Unit A.

Deed of Trust dated _____, _____, recorded _____, _____, at Reception No. _____, in the office of the Clerk and Recorder of Pitkin County, Colorado.

BANK OF AMERICA, N.A.

By: Christine Ventura

Dated: 5/19/11

Connecticut
STATE OF ~~COLORADO~~)
) ss.
COUNTY OF Hartford)

The foregoing instrument was acknowledged before me this 19th day of May, 2011, by Christine Ventura.

WITNESS my hand and official seal.

My commission expires:



Laura Mulvehill
Notary Public

EXHIBIT A
ALLOCATED INTERESTS

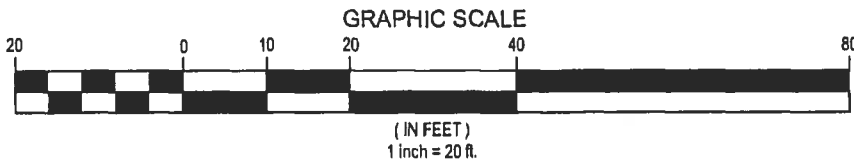
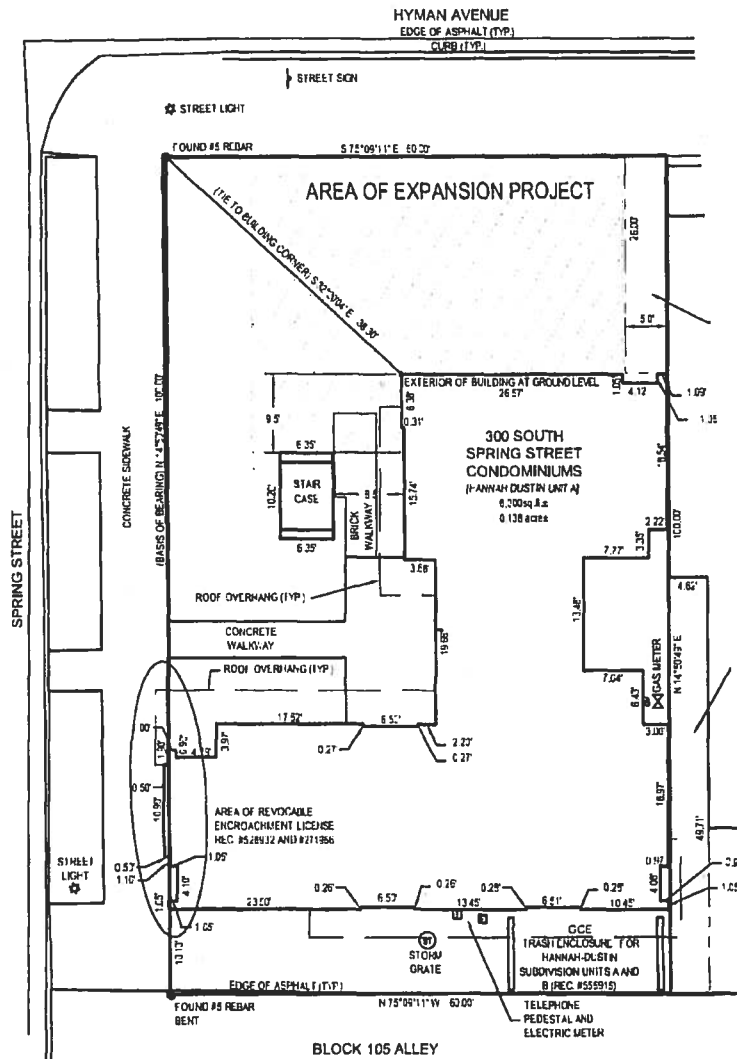
1. Commercial Units shall, collectively, have a ninety-four percent (94%) Allocated Interest. The portion of the collective Allocated Interests for each Commercial Unit shall be the percentage that the square footage floor area of each Commercial Unit bears to the total square footage floor area of all Commercial Units. If the Residential Unit within the Expansion Project is constructed and made a part of this Declaration pursuant to a Supplemental Declaration and a Supplemental Condominium Map, the collective Allocated Interest of the Commercial Units shall be reduced to ninety percent (90%) and the Allocated Interest for the Residential Unit shall be four percent (4%).
2. Storage Units shall, collectively, have a four percent (4%) Allocated Interest. The Allocated Interest for each Storage Unit shall be the percentage determined by dividing four percent (4%) by the total number of Storage Units, rounded to the nearest one hundredth (1/100th).
3. Parking Unit 1 shall have an Allocated Interest of one percent (1%) and Parking Unit 2 shall have an Allocated Interest of one percent (1%).

RECEPTION#: 580190, 05/27/2011 at 11:45:12 AM, 37 OF 39,
Janice K. Vos Caudill, Pitkin County, CO

EXHIBIT B

EXHIBIT B - EXPANSION PROJECT MAP FOR: 300 SOUTH SPRING STREET CONDOMINIUMS

A PARCEL OF LAND SITUATED IN SECTION 18, TOWNSHIP 10 SOUTH, RANGE 84 WEST, OF THE 6th P.M.
CITY OF ASPEN, COUNTY OF PITKIN, STATE OF COLORADO
SHEET 1 OF 1



SOPRIS ENGINEERING - LLC CIVIL CONSULTANTS

502 MAIN STREET, SUITE A3
CARBONDALE, COLORADO 81623
(970) 704-0311
sopris@sopriseng.com

AREA OF EXPANSION PROJECT

provisions of this Declaration. Failure by the Executive Board, Declarant, or by any Owner to enforce any covenant or restriction contained in this Declaration shall not be deemed a waiver of the right to do so thereafter. The prevailing party in any arbitration or judicial relief shall be entitled to reimbursement from the non-prevailing party or parties, for all reasonable costs and expenses, including attorneys' fees in connection with such arbitration or judicial relief.

Section 20.3 Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 20.4 Conflicts Between Documents. In case of conflict between this Declaration and the Articles and the Bylaws of the Association, this Declaration shall control. In case of conflict between the Articles and the Bylaws, the Articles shall control.

DECLARANT:

SNOWMASS CORPORATION

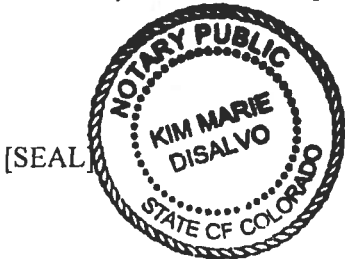
By: *James W. Light*
James W. Light, President

STATE OF COLORADO)
) ss.
COUNTY OF PITKIN)

The foregoing instrument was acknowledged before me this 13th day of May, 2011, by James W. Light, as President of the Snowmass Corporation.

WITNESS my hand and official seal.

My commission expires: 09.15.2013



[Signature]
Notary Public