

AMENDED RESTATED BYLAWS  
OF  
OWNERS ASSOCIATION OF TEN MILE CONDOMINIUMS, LTD

ARTICLE I  
DEFINITIONS

1.01 Declaration.

As used herein "Declaration" means the Amended and Restated Declaration of Covenants, Conditions and Restrictions for Ten Mile Condominiums recorded on March 31, 1998, at Reception No. 562185 in the real property records of Summit County, Colorado.

1.02 Other Definitions.

Unless otherwise defined herein, all capitalized terms used herein shall have the meanings given to them in the Declaration.

ARTICLE II  
OFFICES

The Association is a Colorado nonprofit corporation, with its principal office at 108 Ten Miles Circle, Copper Mountain, Colorado 80443. The Association may also have offices and may carry on its purposes at such other places within and outside the State of Colorado as the Executive Board may from time to time deem necessary or appropriate.

ARTICLE III  
MEMBERSHIP, VOTING, QUORUM AND PROXIES

3.01 Membership.

The members of the Association shall be those Persons that hold Memberships as set forth in the Articles.

3.02 Voting Rights.

The total number of votes to which a Membership is entitled shall be determined in accordance with the Articles.

3.03 Rules of Procedure

Roberts Rules of Order shall apply to all meetings of the membership and the Executive Board.

ARTICLE IV  
ADMINISTRATION

4.01 Notice of Meeting.

(a) Written notice of any meeting of the members, stating the place, day and hour of the meeting, and in the case of special meetings, the purpose or purposes for which the meeting is called, and shall be posted at Ten Mile Haus and shall be delivered personally, by mail or by overnight courier, by or at the direction of the President, or the Secretary, or the Persons calling the meeting, and shall be

given to each member entitled to vote at such meeting not less than ten (10) nor more than fifty (50) days before the date of the meeting. If mailed or delivered by overnight courier, such notice shall be deemed to be delivered when deposited in the United States mail or with the overnight courier, postage prepaid and addressed to the member at the member's registered address provided to the Association. For the purpose of determining members entitled to notice of or to vote at any meeting, the Executive Board may set a record date for such determination in accordance with the laws of the State of Colorado.

(b) Written waiver of notice signed by or on behalf of the Persons or Person entitled to such notice, whether before or after the time stated therein, shall be equivalent to the giving of such notice.

#### 4.02 Informal Action by Members.

Any action required or permitted to be taken at a meeting of the members may be taken without a meeting if a written consent, setting forth the action so taken, shall be signed by all of the members entitled to vote with respect to the subject matter thereof. Such consent shall have the same force and effect as a unanimous vote of the members.

### ARTICLE V EXECUTIVE BOARD

#### 5.01 Number, Tenure and Qualifications.

(a) The business and affairs of the Association shall be managed by the Executive Board. The Executive Board shall consist of five (5) but not more than thirteen (13) Directors. Each shall be:

- (i) an individual Owner or Lessee; or
- (ii) a partner, trustee, officer, director or twenty-five percent shareholder of an organizational Owner or Lessee.

(b) A director shall automatically cease to be a Director at such time as such Director ceases to be an individual Owner or Lessee or a partner, trustee, officer, director or twenty-five percent shareholder of an organizational Owner or Lessee. Each director shall be elected annually by the members entitled to vote at the annual meeting. Each Director shall hold office for a term of one year and until the election and qualification of his or her successor or until his or her earlier death, resignation or removal.

(c) The number of Directors may be increased or decreased by amendment of these Bylaws, or on condition that the number of Directors shall not be less than five (5), nor increased to more than thirteen (13). No decrease in the number of Directors shall have the effect of shortening the term of any incumbent Director.

#### 5.02 Removal, Resignations, Vacancies.

At any meeting of members, the notice of which indicates such purpose, Directors may be removed, with or without cause, by a vote of a majority of the members then entitled to vote at an election of Directors. Any Director may resign at any time by giving written notice to the Executive Board. Such resignation shall take effect on receipt of written notice by the Executive Board, unless an effective time is set forth in such notice. Unless otherwise specified in a resignation notice, the acceptance of such resignation shall not be necessary to make it effective. Any vacancy occurring on the Executive Board (by reason of resignation or death) or any newly created directorship resulting from any increase in the authorized number of Directors may be filled by the affirmative vote of a majority of the Directors then in office though less than a quorum. A Director elected to fill a vacancy on the Executive Board shall hold office for the unexpired term of his predecessor in office. A Director selected to fill a newly created directorship shall hold office until the next annual meeting of the members.

### 5.03 Powers.

#### 5.031 General Powers

Except as provided in the Declaration, the Articles and these Bylaws, the Executive Board may act on behalf of the Association in all instances.

#### 5.032 Power to Raise and Disburse Funds

1. At least annually, the Executive Board shall prepare an operating budget for the next year that shows income and expenses, and a budget for anticipated capital expenditures. The budgets will be distributed to the membership at the annual meeting and acted upon according to State law and regulations.
2. Based upon the budgets, the Executive Board shall establish, levy and collect the quarterly assessments used for covering the operating expenses of the Association. The Executive Board may adjust the quarterly assessments at any time to meet the actual operating expenses being incurred.
3. At least annually, the Executive Board shall review and establish the level of resources to be held in the reserve fund. The reserve fund will be used for expenditures on capital items.
4. The Executive Board shall levy and collect quarterly assessments to maintain the reserve fund.
5. The Executive Board shall establish the need for and level of capital expenditures.
6. A project for which the anticipated capital expenditures exceed 75% of the previous year's total operating expenses must be approved by a plurality of the voting rights of the members of the Association.
7. The Executive Board shall make a reasonable effort to obtain multiple bids to perform the tasks for which capital expenditures are authorized.
8. The Executive Board may draw upon the reserve fund and/or levy and collect special assessments to cover capital expenditures.
9. Under the following circumstances, the Executive Board is empowered to take whatever actions are necessary and prudent and to levy special assessments to cover the costs of those actions without regard to the limitation of 75% of the previous year's operating expenses and, when time is of the essence, without the requirement to obtain multiple bids:
  - a. A danger to the health or safety of any person or persons on the property of the Association is identified;
  - b. A significant imminent threat to the physical structures and property owned by the Association or to the financial well being of the Association or its members is identified.

### 5.04 Regular Meetings.

A regular meeting of the Executive Board for the election of officers and for such other business as may come before the meeting, shall be held without call or formal notice immediately after, and at the same place as, the annual meeting of members. Regular meetings of the Executive Board for other than the election of officers may be held upon three days prior notice or at such times and in such places as the Executive Board may determine and schedule from time to time. Any business may be transacted at a regular meeting.

Regular meetings of the Executive Board will be held, at Ten Mile Haus, at 4 PM, on the 1<sup>st</sup> Saturday of December and the 3<sup>rd</sup> Saturday of May. Each member will be notified by email of all other meetings of the Executive Board.

### 5.05 Special Meetings.

Special meetings of the Executive Board may be held at any place within the State of Colorado at any time when called by the President, or upon written request delivered to the Secretary of the corporation, by any two Directors. The Secretary must give at least three days' prior notice of the time and place thereof to each Director by leaving such notice with him or her at his or her residence or usual place of business, or by delivering the notice by U.S. mail or overnight courier, postage prepaid, and addressed to him or her at his or her post office address as it appears on the books of the Association, or by facsimile or telephone. Notices need not state the purposes of the meeting.

#### 5.06 Quorum.

A majority of the number of Directors fixed by these Bylaws, as amended from time to time, shall constitute a quorum for the transaction of business, but a lesser number may adjourn any meeting. The Executive Board may permit any Director to participate in a meeting, or may conduct a meeting, by any means of communication by which all Directors participating may hear each other during the meeting. A Director participating in a meeting by this means is deemed to be present in person at the meeting. When a quorum is present at any meeting, a majority of the Directors in attendance shall, except where a larger number is required by law, the Declaration, the Articles or these Bylaws, decide any question brought before such meeting.

#### 5.07 Waiver of Notice.

Before, at or after any meeting of the Executive Board, any Director may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Director at any meeting of the Executive Board shall be a waiver of notice by him or her except when such Director attends the meeting for the express purpose of objecting to the transaction of business because the meeting is not lawfully called or convened.

#### 5.08 Informal Action by Directors.

Any action required or permitted to be taken at a meeting of the Directors may be taken without a meeting if a written consent, setting forth the action so taken, shall be signed by all the Directors entitled to vote with respect to the subject matter thereof. Such consent shall have the same force and effect as a unanimous vote of the Directors.

#### 5.09 Executive Committee of Executive Board.

The Executive Board, by resolution adopted by a majority of the Directors in office, may designate and appoint an Executive Committee of the Executive Board. The number and identity of members of the Executive Committee shall be determined by the Executive Board but the number of such members shall not be fewer than two. Unless limited by resolution of the Executive Board, the Executive Committee shall have and exercise all the authority of the Executive Board, except that such Committee shall not have the authority of the Executive Board in reference to amending, altering, or repealing the Bylaws; electing, appointing or removing any member of such Committee or any officer or manager of the corporation; amending the Articles; restating the Articles; adopting a plan of merger or adopting a plan of consolidation with another corporation; authorizing the sale, lease, exchange or mortgage of all or substantially all of the property and assets of the corporation; authorizing the voluntary dissolution of the corporation or revoking proceedings therefore; adopting a plan for the distribution of assets of the corporation; or amending, altering or repealing any resolution of the Executive Board which by its terms provides that it shall not be amended, altered or repealed by such Committee. All of the provisions in these Bylaws with respect to notice of meetings of managers, quorum at such meetings, voting at such meetings and waivers of notice of such meetings shall be applicable to the meetings of the Executive Committee.

#### 5.10 Managing Agent.

In lieu of an Executive Committee, the Executive Board, by resolution adopted by a majority of the Directors in office, may designate and appoint a managing agent (the "Managing Agent") of the Association. Such Managing Agent shall be bestowed with all of the powers, duties and obligations of an Executive committee and shall always be responsible to the Executive Board. Nothing contained herein shall be construed as relieving the Board of its responsibilities under the Declaration. If, and to the extent that, the Executive Board delegates its powers relating to the collection, deposit, transfer or disbursement of Association funds to a manager or Managing Agent, or both, such manager or Managing Agent, or both shall:

(a) maintain fidelity insurance coverage or a bond in an amount not less than \$50,000 or such higher amount as the Executive Board may require;

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

(c) have prepared and present to the Association no less frequently than annually an accounting for Association funds and a financial statement, prepared in accordance with generally accepted accounting principles, and including at a minimum, balance sheets, statements of income and expense, statements of cash flow and changes in fund balances, which accounting and financial statement shall be prepared by the Managing Agent, a public accountant, or a certified public accountant.

#### 5.11 Compensation.

The Association shall not pay compensation to any member of the Executive Board for services provided in the capacity of a Director, but may reimburse Directors for out-of-pocket expenses incurred in that regard.

#### 5.12 Open Meetings.

All regular and special meetings of the Executive Board and all meetings of any committee of the Executive Board must be open to attendance by all members of the Association and their representatives in accordance with the Act.

## ARTICLE VI OFFICERS AND AGENTS

#### 6.01 General.

The officers of the Association shall be a President (who shall be chosen from among the members of the Executive Board), one or more vice presidents, a Secretary and a Treasurer each of whom shall be appointed from among the Board of Directors to serve for terms not exceeding three (3) years as prescribed by the Board. The Executive Board may appoint such other officers, assistant officers, committees and agent, including assistant secretaries and assistant treasurers, as they may consider necessary or advisable, which other officers and/or assistant officers shall be chosen in such manner and hold their offices for such terms and have such authority and duties as from time to time may be determined by the Executive Board. One person may hold any two offices, except that the President shall not hold any other office. In all cases where the duties of any officer, agent or employee are not prescribed by the Bylaw or by the Executive Board, such officer, agent or employee shall follow the orders and instructions of the President.

#### 6.02 Removal of Officers.

The Executive Board may remove any officer, either with or without cause, and elect a successor at any regular meeting of the Executive Board, or at any special meeting of the Executive Board called for such purpose.

#### 6.03 Vacancies.

A vacancy in any office, however occurring, shall be filled by the Executive Board for the unexpired portion of the term.

#### 6.04 President.

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

#### 6.05 Vice Presidents.

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

#### 6.06 Secretary.

The Secretary shall:

- (a) keep the minutes of the proceedings of the members and the Executive Board;
- (b) see that all notices are duly given in accordance with the provisions of these Bylaws, the Declaration and as required by law;
- (c) be custodian of the corporate records and of the seal of the Association and affix the seal to all documents when authorized by the Executive Board;
- (d) keep at the Association's principal offices a record containing the names and registered addresses of all Owners and Lessees, the designation of the Condominium Unit owned or leased by each Owner or Lessee, and, if such Condominium Unit is mortgaged, the name and address of all Mortgages; and
- (e) in general, perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned to him or her by the President or by the Executive Board. Assistant secretaries, if any, shall have the same duties and powers, in the event of the Secretary's death, absence, or inability or failure to act.

#### 6.07 Treasurer.

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

6.08 Compensation.

Officers, agent and employees of the Association shall receive such reasonable compensation for their services as may be authorized or ratified by the Executive Board. Notwithstanding the preceding sentence, appointment of an officer, agent or employee shall not, without written agreement of the Association, create a contractual obligation or entitlement with regard to compensation.

ARTICLE VII  
RIGHTS AND OBLIGATIONS OF THE OWNERS

Each Owner shall have the rights, duties and obligations set forth in the Association Documents.

ARTICLE VIII  
REGISTRATION OF MAILING ADDRESS

8.01 Registration By Owners and Lessees.

Each Owner and each Lessee shall register his mailing address with the Association. All notices or demands to be served upon an Owner or Lessee shall be delivered personally, by registered or certified mail or by overnight courier, postage prepaid, addressed to such Owner or Lessee at his registered address. Notwithstanding the foregoing, for a Condominium Unit for which there is more than one Owner or one Lessee, the Owners or Lessees of the Condominium Unit must designate one Owner or Lessee to receive notices and demands from the Association and registered the name and mailing address of that Owner or Lessee with the Association. Any notice or demand delivered by the Association to the registered Owner or Lessee for a Condominium Unit shall be deemed delivered to all of the Owners and Lessees with whom such Owner or Lessee shares the Condominium Unit.

8.02 Association Address.

All notices and demands to be served on the Association or its Executive Board shall be delivered personally, by registered or certified mail or by overnight courier, postage prepaid, to the following address or such other address as the Association designates for such purpose in a notice duly mailed to all Owners and Lessees: Owners Association for Ten Mile Condominiums, Ltd., 1720 14<sup>th</sup> Street, P.O. Box 1001, Boulder, Colorado 80306-1001.

ARTICLE IX  
SECURITY INTEREST IN MEMBERSHIP

Members entitled to vote shall have the right irrevocably to constitute and appoint a Mortgagee their true and lawful attorney-in-fact to vote their Membership in the Association at any and all meetings of the Association and to vest in the Mortgagee any and all rights, privileges and powers that they have as members under the Articles and these Bylaws or by virtue of the Declaration. Such proxy shall become effective upon the filing of notice by the Mortgagee with the Secretary of the Association at such time or times as the Mortgagee shall deem its security is in jeopardy by reason of the failure, neglect or refusal of the Association, the Executive Board or the members to carry out their duties as set forth in the Declaration. A release of the Mortgage covering a Condominium Unit shall operate to revoke such a proxy. Nothing herein contained shall be construed to relieve members, as mortgagors, of their duties and obligations as members or to impose the Mortgagee the duties and obligations of a member.

ARTICLE X  
ACCOUNTING PROCEDURES

10.01 Collections.

The Association collects Assessments from the members to provide for the operation, management maintenance and repair of the Project. The Association also collects from members the rent due under the Condominium Leases as agent for the lessor under the Condominium Leases.

10.02 Priority of Receipts.

All payments made by a member to the Association under the Declaration, the Articles, these Bylaws and a member's Condominium Lease shall be applied in the following order of priority:

(a) first, to costs and expenses of collection, enforcement and protection of the Association's rights including reasonable attorneys' and accountants' fees and disbursements;

(b) second, to Assessments levied for Common Expenses incurred by the Association to provide for the operation of the Association and for the operation, management, maintenance and repair of General Common Elements;

(c) third, to Assessments levied for Common Expenses incurred by the Association to provide for the operation, management, maintenance and repair of Limited Common Elements and other special Assessments levied in connection with expenses incurred by the Association for the benefit of fewer than all of the members; and

(d) fourth, to the rent payable by a member under a Condominium Lease.

10.03 Collection Procedure

Each owner is personally liable for, and the Association has a lien on each unit for, assessments, both regular and special, and all other charges, pursuant to Articles 5.01 and 5.04 of the Condominium Declarations. Colorado statutes provide that this lien is prior to and has first priority over the lien of any deed of trust or mortgage to the extent of six (6) months of assessments. (Colo. Rev. Stat. §38-33.3-316)

Each regular assessment is due on the first day of each calendar quarter (Jan. 1, April 1, July 1, and Oct. 1). Special assessments may become due at other times as stated in notice of such assessment. Each assessment is past due and delinquent if not paid within 30 days of the date it becomes due. Actual charges billed to the Association, including attorney's fees, will be added to any past due assessments.

The Association charges interest at the rate of 18% per annum on all past due assessments and charges including attorneys' fees. Declarations Art. 5.01(e). This interest is compounded monthly. Interest is computed from the date when the unpaid assessment or charge first becomes due.

When an assessment becomes past due the Association will notify the owner by email at the last known address. If payment is not made promptly a second notice will be sent by email and by U.S. Mail. Additional notices will be sent periodically. As stated, any charges including attorneys fees billed to the Association during this time will be added. Prior to the end of the 6<sup>th</sup> month after the assessment becomes due the Association will file a lien in the records of Summit County, send a copy of the lien to the owners, to any known holder of a deed of trust or lien on the unit, and to any known rental agent or manager of the unit. Additional lien notices may be filed as recommended by the Association's attorney. The costs, charges and attorneys fees will be added to the total amount due

If the total amount due is not paid within 60 days after the lien is filed the Association may, at its option, commence foreclosure proceedings.

The failure of the Association to assert any of the foregoing rights will not be deemed a waiver of such right, but only a temporary forbearance to enforce such right.

## ARTICLE XI CODE OF CONDUCT

The following principles and guidelines apply to all members of the Executive Board and to all individuals appointed to committees of the Board, in order to ensure that they maintain a high standard of ethical conduct in the performance of the business, and to ensure that the owners maintain confidence in and respect for the Association's leadership:

No individual shall use his/her position as a Board member for private gain.

No Board member shall solicit or accept, directly, or indirectly, any gifts, gratuity, **favor**, entertainment, loan, or any other thing of monetary value from a person who is seeking to obtain contractual or other business or financial relations with the Association.

No Board member shall accept a gift or favor made with the intent of influencing a decision or action on any matter before the Board.

No Board member shall engage in any writing, publishing, or speech making that defames any other member of the Board or member of our community.

No Board member will willingly misrepresent facts to the members of our community for the sole purpose of advancing a personal cause or influencing the members or owners to place pressure on the Board to advance a Board member's personal cause.

No Board member will seek to have a contract implemented that has not been duly approved by the Board.

No Board member will interfere with a contractor implementing a contract in progress. All communications with contractors will go through the manager, or as directed by the Board, to others, or be in accordance with policy.

No Board member will interfere with the system of management established by the Board.

No Board member will interfere with the duties of any staff member of the Association or of its manager.

No Board member will harass, threaten, or attempt through any means to control the manager or a member of the staff.

This Code of Conduct shall apply to all Committee Members of any Committee appointed by the Board.

Any Board member who violates this Code of Conduct agrees that the Association **may** seek injunctive relief against him/her and agrees to pay the attorney's fees incurred by the Association in that

enforcement effort. The Board member also agrees that the Association shall be relieved of posting bond as a condition to its injunctive remedy.

No provision of this Code of Conduct can be rescinded, altered, and/or amended without unanimous vote of the members of the Board of Directors.

## ARTICLE XII DISPUTE RESOLUTION POLICY

It is the policy of the Association that in any dispute between a member and the Association, the first attempt at resolution should be at a discussion with the Executive Board. Unless one party objects such discussion shall be at a public meeting. If such a discussion does not result in resolution, the parties shall engage an independent mediator, and each party shall present all facts to said mediator for a resolution. Any member requesting such mediation may do so in writing to the Board at any time. The parties agree that mediation shall be scheduled within 90 days of the date of request (with due regard for the time schedule of the mediator chosen). If the parties cannot select a mediator, each party shall appoint a representative and the two representatives shall agree upon a mediator. The losing party shall pay the cost of mediation and all reasonable attorneys fees and related costs incurred by the prevailing party.

If either party is dissatisfied with the decision of the mediator, that party may seek remedy in the appropriate courts of Summit County, Colorado, which shall have jurisdiction in all cases. In the event of litigation, the losing party shall pay all reasonable attorneys fees and related costs incurred by the prevailing party.

## ARTICLE XIII AMENDMENTS

### 13.01 By Directors.

Except as limited by law, the Articles, the Declaration or these Bylaws, the Executive Board shall have power to make, amend and repeal the Bylaws of the Association at any regular meeting of the Executive Board or at any special meeting called for that purpose at which a quorum is represented. If, however, members make, amend or repeal by Bylaw, the Directors shall not thereafter amend the same in such manner as to defeat or impair the object of the members in making such action.

### 13.02 Members.

The members may, by the vote of the holders of at least two-thirds of the votes of all Memberships entitled to vote and represented in person or by proxy, unless a greater percentage is expressly required by law, the Articles, the Declaration or these Bylaws, make, alter, amend or repeal the Bylaws of the Association at any annual meeting or at any special meeting called for that purpose at which a quorum shall be represented.

## ARTICLE XIV MISCELLANEOUS

### 14.01 Fiscal Year.

The fiscal year of the Association shall be June 1 to May 31, or such other period as may from time to time be established by the Executive Board.

#### 14.02 Notices

Whenever notice of a meeting is required to be given, electronic notice shall be deemed to satisfy such requirement.

Adopted: January 15, 1998

Amended May 17, 2008

Amended September 6, 2009 (§10.03)

Amended December 5, 2009 (§ 5.03)