

**FOURTH AMENDMENT TO CONDOMINIUM DECLARATION FOR
ARRABELLE AT VAIL SQUARE RESIDENTIAL CONDOMINIUMS**

THIS FOURTH AMENDMENT TO CONDOMINIUM DECLARATION FOR ARRABELLE AT VAIL SQUARE RESIDENTIAL CONDOMINIUMS (the "Fourth Amendment") is made effective as of September 9, 2008, by the Owners of Units to which at least 80% of the votes in the Association are allocated, as each of those capitalized terms not defined herein are defined in the Condominium Declaration for Arrabelle at Vail Square Residential Condominiums dated December 31, 2007 (as amended, the "Declaration")

RECITALS

- A. Arrabelle at Vail Square, LLC, a Colorado limited liability company filed a Declaration which was recorded in the real property records of Eagle County, Colorado on December 31, 2007 at Reception No. 200733764. All capitalized terms used in this Fourth Amendment without further definition have the meanings ascribed to those terms in the Declaration.
- B. The Declaration was amended by a First Amendment to Condominium Declaration for Arrabelle at Vail Square Residential Condominiums recorded on January 18, 2008 as Reception No. 200801783 and a Second Amendment to Condominium Declaration for Arrabelle at Vail Square Residential Condominiums recorded on August 25, 2008 as Reception No. 200817859, in the real property records of Eagle County, Colorado. A Third Amendment to Condominium Declaration for Arrabelle at Vail Square Residential Condominiums is currently in the process of being presented to and approved by Owners within the Project.
- C. The Declarant Control Period ended on September 8, 2008.
- D. Pursuant to Section 16.1(h) of the Declaration, the Declaration may be amended by the affirmative vote or written consent of the Owners of Units to which more than 50% of the votes in the Association are allocated, except as otherwise expressly set forth in the Declaration. As certified by the written certification of the Association attached hereto, Owners of Units to which more than 80% of the votes in the Association are allocated have approved this Fourth Amendment.

AMENDMENT

NOW THEREFORE, the Owners of Units to which more than 80% of the votes in the Association are allocated amend the Declaration as follows:

1. Recital F. The following paragraph is hereby added as Recital F of the Declaration:

Neither the Association nor the Owners have approved the RECA. To the extent the RECA conflicts with the Act, the Association and the Owners expressly reject the RECA and its effect on the Units in the Project. For example, certain provisions of the RECA providing for the allocation of expenses may be prohibited by Sections 207 and 315 of the Act, and the Association and Owners deny the enforceability of such provisions which conflict in any way with the Act. The Association and the Owners are relying on the provisions of the Act whenever there is a conflict between the Act and the RECA.

2. Recital G. The following paragraph is hereby added as Recital G of the Declaration:

Under Colorado law, an implied easement of necessity arises when the owner of a tract of land conveys part of that tract to another party, leaving either the part conveyed or the part retained without access except over the other part. Each of the Units is without access, parking, or utility service of any kind unless access, parking, and utility lines are provided through the Commercial Project. Thus, the Units are dependent on access, utilities, parking, storage, and other amenities through the Commercial Project, and have a legal right to the use of the Commercial Property for such purposes by means of an implied easement of necessity, regardless of the validity or invalidity of the RECA.

3. Section 1.1 The definitions of "Easements", "Parking Rights, and "RECA" in Section 1.1 of the Declaration are hereby deleted and replaced in their entirety by the following:

"Easements" means all easements that burden or benefit the Condominium Project or a portion of it, including (i) easements established or granted under this Declaration; (ii) easements established or granted under the RECA; (iii) easements which first burdened or benefited the Property before the recording of this Declaration; (iv) easements which first burden or benefit the Property after this Declaration is recorded, and (v) any easements which exist at common law, including any easements by necessity.

"Parking Rights" means those rights granted to the "Airspace Lot Owner" under Section 2(a)(iii) of the RECA to park up to 91 "Motor Vehicles" (as defined in the RECA) in the Commercial Project from time to time which are referred to in the RECA as the "Parking Rights" and which include the Year Round Parking Rights, on terms and conditions set forth in the RECA, together with all parking rights which inure to the benefit of the Owners through an easement by necessity or as established by court order.

"RECA" means the Reciprocal Easements and Covenants Agreement recorded December 31, 2007 at Reception Number 200733763 of the real property records of Eagle County, Colorado, as that agreement may be modified by future recorded amendment or court order, but only to the extent that agreement is not inconsistent with the Act.

4. Section 3.11 The following Section 3.11(c) is hereby added after Section 3.11 (b) of the Declaration:

The recitation of easements in this Declaration and the creation of easements under the RECA is not intended to waive any other easements rights which may benefit the Owners under common law or otherwise.

5. Section 6.4. Section 6.4 of the Declaration is hereby deleted and rendered void and of no effect.

6. Assessments. The following Section 9.1(d) is hereby added after Section 9.1(c) of the Declaration:

Utilities. To the extent possible, assessments for utilities shall be apportioned according to actual use of utilities.

Furthermore, Section 9.9 of the Declaration is hereby deleted and replaced in its entirety by the following:

Declarant's Responsibility for Assessments. Until the Association levies Assessments, Declarant will pay the Association's costs and expenses. After Assessments commence as provided in Section 9.1, Declarant's obligations for Assessments will be satisfied in the form of cash or other good funds. Pursuant to Section 307 (2) of the Act, Declarant is responsible and liable for all expenses in connection with real estate within the Property which is subject to Development Rights, and Declarant is subject to the provisions of Section 307 (2) of the Act with respect to its Development Rights.

7. Severability. The invalidity of any provision of this Fourth Amendment or the application of any provision hereof to any person or circumstance will not impair or affect the validity, enforceability or effect of the rest of this Fourth Amendment, or the application of any provision hereof to any other person or circumstance. The provisions of this Fourth Amendment are severable for all purposes.

8. Effect of Fourth Amendment. Except as expressly amended by this Fourth Amendment, the Declaration is not modified by this Fourth Amendment and remains in full force and effect in accordance with its terms.

9. Approval of Fourth Amendment. Consent to this Fourth Amendment may be established for all purposes in counterparts, each page evidencing such consent bearing the original, faxed, or other electronically verified signature of one or more Owners.

**ACKNOWLEDGMENT AND CONSENT
TO FOURTH AMENDMENT TO CONDOMINIUM DECLARATION
FOR ARRABELLE AT VAIL SQUARE RESIDENTIAL CONDOMINIUMS**

The undersigned hereby acknowledges and agrees that:

1. The undersigned is the owner of Unit _____ of Arrabelle at Vail Square Residential Condominiums.

 2. The undersigned has received and reviewed, and does hereby consent to, the Fourth Amendment to Condominium Declaration for Arrabelle at Vail Square Residential Condominiums to be made effective as of September 9, 2008, a copy of which is attached hereto.
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