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Contact: Pam Hurst, Register  
Hamilton County, Tennessee

This Instrument Prepared By and Return To:  
Thomas L. Hayslett, III, Esquire  
Miller & Martin PLLC  
Suite 1000, 832 Georgia Avenue  
Chattanooga, Tennessee 37402

**MASTER DEED AND DECLARATION OF  
COVENANTS AND RESTRICTIONS FOR  
COURCHEVEL CONDOMINIUMS**

THIS MASTER DEED AND DECLARATION OF COVENANTS AND RESTRICTIONS FOR COURCHEVEL CONDOMINIUMS (the "Master Deed") and the Exhibits which are attached hereto and made a part hereof, are made and executed as of the 2/5<sup>th</sup> day of November, 2007, by COURCHEVEL, LLC ("Developer"), a Tennessee limited liability company, which does hereby declare as follows:

**Background:**

A. Developer owns that certain parcel of land more particularly described in Exhibit "A" attached hereto and made a part hereof, including all buildings and other improvements and permanent fixtures as are thereon located (together with all rights and privileges belonging or in anywise appertaining thereto hereinafter collectively "Property").

B. Developer desires to establish the Property as a horizontal property regime pursuant to the Tennessee Horizontal Property Act, Tennessee Code Annotated §66-27-101, et seq., as now or hereafter amended (hereinafter "Act"), and pursuant to this Master Deed.

**Declaration:**

NOW, THEREFORE, the Developer declares that all of the Property is herewith established as a horizontal property regime pursuant to the Act and this Master Deed, and from the date of recording this Master Deed, the Property shall be held, converted, hypothecated, encumbered, leased, used, occupied, and improved subject solely to the provisions of the Act and to the following covenants, conditions, restrictions, uses, limitations and obligations contained herein, and the Charter, By-laws, and other exhibits attached hereto and made a part hereof, all of which are declared and agreed to be covenants both running with and burdening the Property, binding upon and benefitting the Association (herein defined), its successors and assigns, and each and every present or future Unit Owner of all or any interest in the Property and their respective grantees, successors, heirs, executors, administrators and other personal representatives, devisees and assigns.

The Developer hereby further declares as follows:

1. **NAME AND DESCRIPTION.** The Property and/or Building shall be named and may be commonly referred to as Courchevel Condominiums, and it shall be a mixed-use

condominium complex containing both residential space and commercial space for retail or other business activities.

2. **DEFINITIONS.** Certain terms as used in this Master Deed and the Charter, By-laws and other exhibits attached hereto and made a part hereof shall be defined as set forth hereinbefore and as follows, unless the context clearly indicates otherwise:

(a) "Assessments" means charges levied against Units and Unit Owners in accordance with this Master Deed and the By-laws for purposes of covering, retroactively or prospectively, Common Expenses. Assessments may include, but shall not be limited to, both Regular Assessments, Special Assessments, and Specific Assessments.

(i) "Regular Assessment" means a charge against each Unit Owner and the Unit Owner's Condominium representing that portion of the Common Expenses attributable to such Unit Owner and the Unit Owner's Condominium as provided for in this Master Deed, as more particularly described in Section 7(a)(i).

(ii) "Special Assessment" means a charge levied in accordance with Section 7(a)(ii).

(iii) "Specific Assessment" means a charge levied in accordance with Section 7(a)(iii).

(b) "Association" means Courchevel Owners Association, Inc., a Tennessee not-for-profit corporation.

(c) "Board" or "Board of Directors" means the Board of Directors of the Association.

(d) "Building" means the primary structure located and/or to be located on the Parcel, containing the Units.

(e) "Business" means and includes, without limitation, any occupation, work, or commercial activity undertaken on an ongoing basis which involves the merchandising, selling and promoting of goods and products and/or the rendering or providing of assistance, consultation or services to Persons for the purpose of generating a profit.

(f) "By-laws" means the By-laws of the Association attached hereto as **Exhibit "D"** and by this reference made a part hereof, as amended from time to time.

(g) "Charter" means the Charter of the Association attached hereto as **Exhibit "C"** and by this reference made a part hereof, as amended from time to time.

(h) "Commercial Unit" means the Units to be used and occupied for the purpose of conducting a Business. At the time of the recording of this Master Deed, the Commercial Units are to be located on the first floor of the Building. Developer may, but shall not be required to, hold the Commercial Units for lease.

(i) "Common Elements" means General Common Elements and Limited Common Elements.

(j) "Common Expenses" means the proposed or actual expenses of the administration, management, maintenance, operation, repair or replacement of and additions to the Common Elements (provided that the cost of repair and replacement of General Common Elements shall be apportioned amongst all Units, while the cost of repair and replacement of Limited Common Elements shall be apportioned amongst only those Units served by the Limited Common Element being repaired or replaced); the proposed or actual expenses incurred by the Association or the Board in the course of administering its duties and functions hereunder or under the By-laws, resolutions, or rules and regulations of the Association (including legal fees, accounting fees, and any other professional or consulting fees); and any other expenses incurred in conformance with the Act, this Master Deed and the By-laws, including reserves assessed by the Board, expenses agreed upon as Common Expenses by a Majority of the Unit Owners, and expenses declared to be Common Expenses by this Master Deed or in accordance with the By-laws.

(k) "Condominium" means an estate in real property in the Property consisting of a fractional undivided fee interest in common with the other Unit Owners in the Common Elements, together with a separate fee interest in a Unit and all appurtenant rights, title and interests (including, without limitation, the Limited Common Elements of the Unit). Such fractional undivided interest in common with each Unit Owner shall correspond to the Unit Owner's Percentage Interest (defined below) and shall not be changed except as provided in this Master Deed.

(l) "Director" means a member of the Board of Directors of the Association.

(m) "Easement" shall mean a grant of one or more property rights by a property owner to and/or for use by Developer, the Association, a Unit Owner, the public, or any other Person.

(n) "First Mortgage" means a Recorded Mortgage which constitutes a first in priority lien on the Property or any portion thereof or any interest of a Unit Owner in the Property or in a Unit and the Unit's appurtenant undivided interest in the Common Elements.

(o) "First Mortgagee" means a Lender that is the holder of a First Mortgage.

(p) "General Common Elements" means and includes all of the following items, to the extent same are not part of the definition of Unit or a Limited Common Element, roofs and foundations of any Building; perimeter walls, columns and girders, and interior wall framing and studs, to the point where the framing and/or studs meet the interior wallboard or sheetrock (but exclusive of any interior wallboard or sheetrock), regardless of location (including within the boundaries of a Unit) and whether exterior or interior, if existing on the date hereof; hallways, lobbies, elevators (unless serving only one Unit), mechanical equipment areas, storage areas, stairways, walkways, driveways, parking areas, gardens, recreational areas and facilities which are now or hereafter contained within the Property, to the extent same are not either Limited Common Elements or expressly designated as separate Units or parts of Units; pipes,

ducts, flues and chutes, conduits, wires, and other utility installations; the entirety of any improvements on the Property which do not contain Units (such as parking garages and maintenance buildings). For additional information regarding the scope of and responsibility for General Common Elements, see Exhibit "A-1" hereto attached and herein incorporated.

(q) "Institutional Lender" means a Lender (herein defined) that is a banking association or banking corporation organized under the laws of the United States or under the laws of any state, an insurance company, a mortgage company, a trust company, a credit union, a savings and loan association, any corporation with total assets in excess of \$50,000,000, or any organized entity holding or purchasing Mortgages in a recognized secondary market.

(r) "Insurance Trustee" means a lending institution in the metropolitan Chattanooga, Tennessee area with trust powers, designated by the Board to hold insurance proceeds in trust.

(s) "Lender" means any owner or holder, or any successor or assign thereof, of a Recorded Mortgage on the Property, or any portion thereof, or any interest of such Unit Owner, including an Institutional Lender.

(t) "Lender Approval" means the written consent from a number First Mortgagees holding not less than two-thirds (2/3) of the First Mortgages actually encumbering Units in the Building.

(u) "Limited Common Elements" means the following Common Elements, but only to the extent that they serve more than one Unit but less than all Units in a Building: any pipes, ducts, flues and chutes, conduits, wires, and other utility installations or any portion of same; vestibules, balconies or patios, decks, porches, entryways, stairways, walkways, and storage areas; windows (even if serving only a single Unit). For additional information regarding the scope of and responsibility for Limited Common Elements, see Exhibit "A-1" hereto attached and herein incorporated.

(v) "Managing Agent" means the management company or entity or individual manager, if any, hired by the Board to maintain, repair, replace, administer and operate the Property, or any part thereof, to the extent deemed advisable by the Board.

(w) "Master Deed" means this Master Deed, by which the Property is submitted to the provisions of the Act, as hereinafter provided, as the Master Deed may be amended from time to time.

(x) "Majority Approval" means the approval by vote in accordance with the By-laws of Unit Owners representing more than fifty percent (50%) of the Percentage Interests of the Association, or more than 50% of the number of Directors entitled to vote (in the case of action by the Board), subject to quorum and other voting procedures set forth in the By-laws.

(y) "Mortgage" means a mortgage or deed of trust covering a Unit and the undivided interest in the Common Elements appurtenant thereto.

(z) "Occupant" means a person or persons in lawful possession of a Unit, regardless of whether said person is a Unit Owner.

(aa) "Parcel" means the parcel or tract of land submitted as provided herein to the provisions of the Act and more particularly described on **Exhibit "A"**.

(bb) "Parking Area" means the parking garage located on the Parcel.

(cc) "Percentage Interest" means, as to any Unit Owner, that Unit Owner's undivided percentage interest in the Common Elements and that Unit Owner's pro rata share of Common Expenses, as determined by using the Unit Square Footage Method.

(dd) "Person" means a natural individual, corporation, partnership, trustee or other legal entity capable of holding title to real property.

(ee) "Plat" means the plats and drawings of all Units in the Property submitted to the provisions of the Act, said Plat being Recorded at Plat Book 88 Pages 22-23 in the Register's Office of Hamilton County, Tennessee, and being herein incorporated by reference (at the time of recording this Master Deed, it is known that an amendment to the Plat will be recorded hereafter to correct a scrivener's error with regard to the designation of Units 106 and 107). "Plat" also includes any future revisions of or supplements to the Plat. In interpreting the Plat or any deed or other instrument affecting a Building or Unit, the boundaries of the Building or Unit constructed or reconstructed in substantial accordance with the Plat shall be conclusively presumed to be the actual boundaries rather than the description expressed in the Plat, regardless of the settling or lateral movement of the Building and regardless of minor variances between boundaries shown on the Plat and those of the Building or Unit.

(ff) "Property" means all the land, property and space comprising the Parcel as described on **Exhibit "A"**, and all improvements and structures erected, constructed or contained therein or thereon, including the Buildings, Common Elements and all easements, rights and appurtenances belonging thereto, and all furniture, furnishings, fixtures and equipment intended for the mutual use, benefit or enjoyment of the Unit Owners, submitted to the provisions of the Act.

(gg) "Record", "Recording", "Recorded" or "Recordation" refers to the records or recording in the Office of the Register of Deeds in Hamilton County, Tennessee.

(hh) "Reserve Fund" shall have the meaning set forth in **Section 7(d)** of this Master Deed.

(ii) "Residential Unit" means a Unit to be used and occupied independently as a residence by a single person or by a family members, all of whom are related to each other by blood, adoption or marriage. At the time of the recording of this Master Deed, the Residential Units are to be located on the second floor of the Building.

(jj) "Two-Thirds Approval" means the approval by vote in accordance with the Bylaws of Unit Owners representing at least sixty-six and two-thirds percent (66.66%) of the

Percentage Interests of the Association, subject to quorum and other voting procedures set forth in the Bylaws.

(kk) "Unit" shall mean "Apartment" as defined in the Act, but shall not include the Common Elements. Specifically, "Unit" means a part of the Property designated and intended for any type of independent use so specified as a Unit and listed on Exhibit "B" attached hereto. The boundary lines of each Unit shall be the entirety of any interior sheetrock, plaster board or other wallboard material; the top surface of the uppermost unfinished floor (i.e., including the carpet, linoleum or other floor covering); the entirety of any sheetrock, plaster board or other ceiling-board material forming the ceilings; and all doors and door frames and trim associated with a specific Unit, whether interior or located in perimeter walls. The Unit shall include both the portions of a Building within such cubic boundary lines and the space so encompassed. A Unit shall not include the studs and framing of any walls which are located within the boundaries of a Unit and are existing on the date hereof. A Unit shall not include pipes, ducts, flues and chutes, wires, conduits and other utility installations running through any wall or partition, structural or otherwise, for the furnishing of utilities or other services, but shall include fixtures and finishings to the foregoing once same enter the boundaries of a Unit. The Unit shall include any furnace, hot water heater and air conditioning compressor exclusively serving only that Unit, if any, whether or not located within the boundaries of that Unit. A Unit shall include all improvements and decorating contained within the designated boundaries of a Unit including any plumbing, lighting, and electrical fixtures, wall and floor coverings, paneling, molding, tiles, wallpaper, paint, finished flooring, cabinets, countertops and any other materials constituting any part of the finished interior surfaces of the walls, floors and ceilings constituting the perimeter boundaries of such area. A Unit shall include balconies and patios serving only that Unit. For additional information regarding the scope of and responsibility for Units, see Exhibit "A-1" hereto attached and herein incorporated.

(ll) "Unit Owner" means the person or persons whose estates or interests, individually or collectively, have an aggregate fee simple ownership of a Unit and of the undivided interest in the Common Elements appurtenant thereto, but shall not include those having an interest in a Unit merely as security for the performance of an obligation. Unless specifically provided otherwise herein, the Association shall be deemed a Unit Owner so long as it is the legal title holder of any Unit.

(mm) "Unit Square Footage" means the square footage assigned by Association to a Unit for the purpose of establishing the undivided Percentage Interest in the Common Elements appurtenant to such Unit. The Association shall use the Unit Square Footage, as shown on Exhibit "B" attached hereto and made a part hereof, in all such assignments of the undivided Percentage Interest in the Common Elements and such factors as Units being located at different elevations, or having different views, or having different amenities or other characteristics that might result in differences in market value, will not be taken into consideration in determining the undivided interest in the Common Elements. In the event that the Board ever elects to re-measure the respective "Unit Square Footage", then the horizontal boundary line of a Unit will be deemed to be the outermost stud face of a perimeter wall of a Unit, exclusive of the square footage of that portion of the Unit, if any, comprising a bay window alcove and shall not include attic space, foundation or crawl space or leased storage space. Unit Square Footage shall include all enclosed deck, enclosed patio, or enclosed balcony space of a Unit and shall include the floor

space of any loft areas within a Unit. The Board shall determine the Unit Square Footage for each Unit, and the Board's determination in each instance, if reasonable, shall be conclusive. The Board shall maintain a registry of the "Unit Square Footage" assigned to each Unit.

(nn) "Unit Square Footage Method" means the method of arriving at the undivided Percentage Interest in the Common Elements to be assigned or reassigned to each Unit, which shall be accomplished by dividing (i) the Unit Square Footage of each Unit by, (ii) the sum of the Unit Square Footage of all of the Units submitted to the provisions of the Act.

### 3. DESCRIPTION AND USE OF UNITS.

(a) General Description. All Units are described in the Plat. Each Unit is identified by specific designation on the Plat, and no Unit bears the same Unit designation as any other Unit. Every deed, lease, Mortgage or other instrument shall legally describe a Unit by its identifying number as shown on the Plat and every such description shall be deemed good and sufficient for all purposes, as provided in the Act.

(b) General Use of Units. Units shall at all times be used in compliance with (i) applicable law including relevant zoning and land use ordinances from time to time adopted by the City of Chattanooga and any successor thereto, and (ii) this Master Deed and the By-laws, and (iii) rules and regulations adopted by Board from time to time.

(c) Commercial Activities Prohibited by Residential Unit Owners. Residential Units may be used only for single-family residential purposes. Residential Unit Owners shall not use their Units, the Common Elements or the Limited Common Elements for or in connection with the conduct of any trade, business, professional or commercial activity of any kind or nature whatsoever. No Residential Unit shall house a number of Occupants which exceeds twice the number of bedrooms contained in such Unit.

(d) Use of Commercial Units. Commercial Units may be used only for conducting a Business. The type of businesses that may be conducted within the Commercial Unit shall however be compatible with the "mixed-use" nature of the Property and such that the Business shall not significantly diminish the use and enjoyment of the Property by the residents. Such compatibility shall be determined by Developer, until Developer no longer owns a Unit or until Developer transfers his rights to the Association, and thereafter by the Association, in its sole and absolute discretion. Examples of compatible Businesses include: financial institutions, executive or professional offices, real estate brokerage or sales agencies, leasing companies, travel agencies, upscale restaurants and/or casual dining establishments, and upscale retail stores. In the event the present or future occupant of a Commercial Unit desires to engage in a type of Business not permitted by this Master Deed, then the occupant shall petition the Board for a waiver of such restriction, which waiver shall not be unreasonably withheld if such proposed Business is compatible with the other Business in the Commercial Units and the overall nature and quality of the Condominium Regime.

### 4. COVENANTS AND RESTRICTIONS.

(a) General Decorating. Each Unit Owner, at his own expense, shall furnish and be responsible for all decorating within his own Unit, as may be required from time to time,

including, but not limited to, painting, wall papering, washing, cleaning, paneling, floor covering, draperies, window shades, shutters, curtains, lighting and other furnishings and decorating. Each Unit Owner shall be entitled to the exclusive use of the interior surfaces of the perimeter walls, floors and ceilings of his Unit and all balconies, patios, decks, and terraces appurtenant thereto (to the extent same are not Limited Common Elements), and such Unit Owner shall maintain said interior surfaces in good condition at his sole expense as may be required from time to time. Said maintenance and use of interior surfaces shall be subject to the rules and regulations of the Association. Decorating of the Common Elements shall be furnished by the Association as part of the Common Expenses. No Unit Owner shall decorate window interiors, either with draperies, shutters, curtains, window shades or other coverings or accessories, in any manner which detracts from the appearance of the Building, and the determination of the Board on such matters shall be final. No Unit Owner shall decorate the portions of such balcony, deck, or patio visible from outside such Unit in any manner which detracts from the appearance of the Building, and the determination of the Board on such matters shall be final.

(b) Signs. Placement of all signage (other than conventional business signage on Commercial Units) shall be strictly limited to designated boards or areas established for such signage, if any. Otherwise, usage of and placement of signage on or around the Property and Units shall be subject to such other Rules and Regulations as may be adopted by the Board.

(c) Pets. Dogs, cats, and customary household pets which are kept entirely in enclosed containers (for example, fish, hamsters, and gerbils) are the only types of pets which may be kept at any Unit. Pets in excess of 75 pounds are prohibited. Aggressive breeds of dogs, as determined in the sole discretion of the Board, are prohibited. Pet owners shall not allow pets to roam unattended, and pets shall be leashed at all times that they are outside of a Unit. Pet owners shall be required to muzzle any pet which consistently barks or causes noise disturbances to other Unit Owners. The Board reserves the right to require nuisance pets to be removed from the Condominium Regime.

(d) Antennas. All television or other telecommunications antenna or dishes or similar devices must have their location of installation approved by the Board in advance of installation, and Unit Owners and the Board shall endeavor to minimize the visibility and obtrusiveness of all such devices. Notwithstanding the foregoing, in the event Developer elects to provide access to connections to cable television/internet service and/or satellite television/internet service through selected, designated providers, then all such "wired" connections to such services shall be exclusively through the selected providers and, in such case, all satellite dishes shall be prohibited.

(e) Laundry. No Unit Owner shall hang laundry from any balcony, deck, or other area outside of a Unit which is within the public view.

(f) Vehicle Parking; Cars and Vehicles. All vehicles at all times shall be parked within designated Parking Areas and within the striped parking spaces of the Condominium regime. The Board reserves the right to designate particular parking spaces as "visitor parking" and to designate particular parking spaces as serving particular Units, in which case all Unit Owners, and their guests and invitees, shall honor and adhere to such designated



parking. All vehicles at the Property shall be fully operational and in good working order. Vehicle maintenance may not be performed at the Property. Boats, trailers, and vehicles with more than two axles may not be stored or parked at the Property.

(g) General Maintenance. All Unit Owners shall maintain their Units in a condition of appearance and repair that is appropriate for a first-class condominium development. The Board reserves the right, subject to notice requirements hereinafter set forth, to enforce this provision through "self help" and to invoice the offending Unit Owner for the costs of such enforcement.

(h) Offensive Activity. No obnoxious or offensive activity (be it offensive as to sight, sound, smell, or otherwise) shall be carried on at or within any Unit or within any Common Properties, nor shall anything be done thereon which may be or may become an annoyance, discomfort, embarrassment or nuisance to the Condominium regime or which may disrupt the peaceful and quiet enjoyment of any other Unit Owner.

**5. ASSOCIATION OF UNIT OWNERS, THE BOARD, AND ADMINISTRATION OF THE PROPERTY.**

(a) The Association. There has been formed, pursuant to the Charter attached hereto and made a part hereof as Exhibit "C", the Association which Association shall be the governing body for the administration and operation of the Property, as provided in the Act, this Master Deed and the By-laws. The Association shall consist of all Unit Owners, and each Unit Owner shall be a member of the Association so long as he is a Unit Owner. The Association shall have and exercise all powers necessary or convenient to effect any or all of the purposes for which the Association is organized, and to do every other act not inconsistent with law which may be appropriate to promote and attain the purposes set forth in the Act, this Master Deed or the By-laws. All of the Unit Owners irrevocably constitute and appoint the Association, in their names, as attorney in fact to effectuate the above. This power is coupled with an interest and may not be revoked. The By-laws for the Association shall be the By-laws attached to this Master Deed and made a part hereof as Exhibit "D". The fiscal year of the Association shall be determined by the Board and may be changed from time to time as the Board deems advisable. The Association shall not be deemed to be conducting a business of any kind. All activities undertaken by the Association shall be for the sole benefit of the Unit Owners, and all funds received by the Association shall be held and applied by it for the use and benefit of Unit Owners in accordance with the provisions of the Master Deed and By-laws. A Unit Owner's membership shall automatically terminate when he ceases to be a Unit Owner. Upon the conveyance or transfer of a Unit Owner's ownership interest to a new Unit Owner, the new Unit Owner shall simultaneously succeed to the former Unit Owner's membership in the Association. The aggregate number of votes in the Association shall at all times be 100, with each Unit Owner's vote being equal to his Percentage Interest. Developer may vote for all Units it owns. Unless otherwise specified, all actions may be taken by Majority Approval. In the event of co-ownership of an individual Unit, the co-owners shall designate for the Association the person whose vote controls for such Unit.

(b) The Board; Developer as the Board. The Association shall be governed by the Board of Directors. Subject to the Act and this Master Deed, the Board shall have

standing to act in a representative capacity on behalf of the Association, exercising all rights and powers of the Association without a vote of the Association. Developer shall exercise the sole and exclusive authority of the Board and the Association, including the authority to enforce and/or amend the provisions of this Master Deed, until the Developer both (i) no longer owns any Residential Units, and (ii) has sold Units representing more than 80% of the total Percentage Interests, unless the Developer transfers his authority to the Board at an earlier date.

(c) Powers. In addition to such powers as may be necessary and convenient for the administration and governance of the Association and in addition to such powers as may be provided for in the Bylaws, the Association, acting by or through the Board, has the power and authority to:

(i) Maintain, repair, replace, construct, reconstruct, improve, and otherwise manage all of the Common Elements so as to keep them in good repair and condition and to conduct such other activities as may be determined by the Association to promote the health, safety, and welfare of the Unit Owners.

(ii) Contract for goods and/or services for all Common Elements and the Association in connection with the performance of the administrative and managerial duties of the Association.

(iii) Contract and pay for casualty, liability, property damage and other insurance on behalf of the Association to insure against claims which may arise against the Members, Association, Developer and Board.

(iv) Pay any real and personal property taxes and other assessments that are or could become a lien upon any of the Common Elements, unless separately assessed to the Unit Owners.

(v) Fix, levy, collect and enforce the collection of all charges, dues, or assessments made pursuant to the terms of this Master Deed and otherwise enforce the terms and provisions of this Master Deed.

(vi) Prepare and review-budgets and financial statements as prescribed in the By-laws and otherwise administer the financial affairs of the Association.

(vii) Delegate to committees, officers, employees or agents any of the Association's duties or powers under this Master Deed, the Charter, By-laws or Rules.

(viii) To approve the Businesses operating in the Commercial Units, as provided in **Section 3** of this Master Deed.

(ix) Employ professionals and consultants to advise and assist the officers and Board in the performance of their duties and responsibilities for the Association.

(x) Enter upon any Limited Common Elements as necessary in connection with construction, maintenance or emergency repair for the benefit of any of the Common Elements or the Unit Owners in common.

(xi) Maintain any property or facilities owned by Developer and made available, on a temporary or permanent basis, for the primary use and enjoyment of the Association and Unit Owners, such property and facilities to remain a part of the area to be maintained by the Association until such time as Developer revokes the privilege of use and enjoyment by written notice to the Association.

(xii) Purchase, hold, or dispose of any real or personal property in connection with the affairs of the Association; to borrow money in the name of the Association and cause to be executed and delivered, in the Association's name, promissory notes, or bonds in conjunction therewith and to pledge or mortgage any property of the Association as collateral for any such borrowings; to maintain and use bank accounts for purposes of the Association.

(xiii) Execute such documents and perform such acts as may be necessary or appropriate to accomplish its administrative or managerial duties.

(d) General Limitations on Powers. In limitation of the powers and duties delegated to the Association in the By-laws or this Master Deed, the Association shall be prohibited from taking any of the following actions except upon Majority Approval of the Association (Majority Approval of the Board alone being insufficient to authorize these actions):

(i) Incur aggregate capital expenditures in any fiscal year in excess of One Hundred Thousand and No/100Dollars (\$100,000.00).

(ii) Sell any property of the Association during any fiscal year having an aggregate fair market value greater than One Hundred Thousand and No/100 Dollars (\$100,000.00).

(iii) Pay compensation to Directors or officers of the Association for services performed in the conduct of the Association's business; provided, however, that the Board may cause a director or officer to be reimbursed for expenses incurred in carrying on the business of the Association.

(iv) Borrow money or incur indebtedness for the purposes of the Association, and/or to cause to be executed and delivered, in the Association's name, promissory notes, or bonds, which will individually or in the aggregate with all other loans then outstanding exceed Two Hundred Fifty Thousand and No/100 (\$250,000.00) Dollars.

(v) Increase the annual budget of the Association by more than 20% of the annual budget for the immediately preceding fiscal year (except that the Board shall not need Majority Approval of the Association to increase the annual budget to cover costs beyond the reasonable control of the Board, such as insurance).

(e) Rules. In addition to the use restrictions contained in this Master Deed and whether or not expressly contemplated herein, the Association shall have the power to adopt from time to time rules and regulations governing the use of the Common Elements and such other matters as the Association reasonably determines, provided that such rules and regulations shall not be inconsistent with this Master Deed (the "Rules"). No Rule may be adopted that would unreasonably interfere with or inhibit the operation of a Business in a Commercial Unit, so long as the Business is in compliance with this Master Deed and is compatible with the residential nature of the Property. The Rules shall have the same force and effect as if set forth herein. A copy of the Rules shall be retained by the secretary of the Association and shall be available for inspection by any Unit Owner during reasonable business hours.

(f) Managing Agent. The Board may, but shall not be required to, contract with an experienced professional management company to assist the Board in the management and operation of Courchevel and may delegate such of its powers and duties to the management company as it deems to be appropriate except as limited herein. Any contract with a management company, or any other contract to provide for services, shall have a term no longer than one (1) year (but may be renewable by agreement of the parties for successive one year periods) and shall be terminable by the Board without payment of a termination fee, with or without cause.

(g) Indemnification. The Association shall indemnify every officer, director, and committee member against all expenses, including counsel fees, reasonably incurred in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board) to which he or she may be a party by reason of being of having been an officer, director, or committee member. The officers, directors, and committee members shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers and directors shall have no personal liability with respect to any contract or commitment made or action taken in good faith on behalf of the Association. The Association shall indemnify and forever hold each such officer, director and committee member harmless from any and all liability to others on account of any such contract, commitment or action. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any present or former officer, director, or committee members may be entitled. The Association shall, as a Common Expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

(h) Nonliability. Neither the Association nor the Board, and its members, officers or persons serving on a board-appointed committee shall be liable to any Unit Owner or to any other Person for any loss, damage or injury arising out of or resulting' from their acts and omissions in performance of their respective powers and duties under this Master Deed.

6. OWNERSHIP OF THE UNITS AND APPURTENANT PERCENTAGE INTERESTS IN THE COMMON ELEMENTS. Each Unit shall be conveyed and treated as an individual property capable of independent use and fee simple ownership. Each Unit Owner shall, as an appurtenance to the ownership interest in each Unit, be entitled to the undivided Percentage Interest of ownership in the Common Elements allocated to the respective Unit by the Board, as set forth in Exhibit "B". Such undivided Percentage Interest has been computed

utilizing the Unit Square Footage Method and shall remain constant unless hereafter diminished or otherwise changed, adjusted or reallocated by amendment to this Master Deed. Said ownership interest in the Common Elements shall be an undivided interest, and the Common Elements shall be owned by the Unit Owners as tenants in common in accordance with their respective Percentage Interests. Except as provided in this Master Deed, the ownership interest in the Common Elements shall remain undivided, and no Unit Owner shall bring any action for partition or division of the Common Elements, and any agreement or covenant to the contrary shall be void. The undivided interest in the Common Elements declared to be an appurtenance to each Unit shall not be conveyed, devised, encumbered or otherwise dealt with separately from said Unit. The ownership of each Unit shall not be conveyed, transferred, encumbered or otherwise affected separate from the undivided percentage ownership in the Common Elements corresponding to said Unit. The undivided percentage ownership in the Common Elements corresponding to any Unit shall be deemed conveyed, transferred, encumbered or otherwise affected with that Unit, even though the legal description in the instrument conveying, transferring, encumbering or otherwise affecting said Unit may refer only to the fee title to that Unit and not expressly mention or describe the percentage ownership in the Common Elements corresponding to that Unit. Notwithstanding anything to the contrary herein, the Limited Common Elements shall be an appurtenance only to the Units which they serve, and only the Unit Owners of the served Units shall have an undivided percentage ownership interest in such Limited Common Elements, with the Percentage Interest being apportioned amongst all Unit Owners served by the Limited Common Elements.

7. **USE OF LIMITED AND GENERAL COMMON ELEMENTS.** Each Unit Owner and/or Occupant shall have the right to use the Common Elements (except for the Limited Common Elements and further except for any portion of the Property subject to leases, easements, licenses, and concessions made by or assigned to the Board) in common with all other Unit Owners, as may be required for the purposes of access, ingress to, egress from, use, occupancy and enjoyment of a Unit or the Property. Subject to Rules adopted by the Association or the Board, such right to use the Common Elements shall extend to not only each Unit Owner and/or Occupant of a Unit, but also their agents, tenants, family members, invitees and licensees. However, the Limited Common Elements designated as serving exclusively a single Unit or one or more adjoining Units are hereby assigned to such Unit or Units and the exclusive use and possession of such Limited Common Elements are reserved to the Unit Owners and Occupants of such Unit or Units. Such rights to use the Common Elements, including the Limited Common Elements, shall be subject to and governed by the provisions of the Act, Master Deed, By-laws and rules and regulations of the Association.

8. **COMMON EXPENSES AND ASSESSMENTS; LIEN PRIORITY.**

(a) **Prorata Sharing; Assessments.** Each Unit Owner shall be liable for its proportionate share of the Common Expenses, and the proportionate share of the Common Expenses for each Unit Owner shall be in the same ratio as his Percentage Interests in the Common Elements. The Association may impose Assessments upon Units and Unit Owners in such amounts and at such times as determined by the Board, in accordance with the By-laws, for purposes of paying Common Expenses, providing reserves for Common Expenses or for any other reasonable purpose determined by the Board or the Association. The monthly assessment payable with respect to each Unit may be adjusted by the Board as permitted in this Master Deed

and the By-laws with such adjustments (whether upward or downward) being customarily implemented by the Board at the beginning of the Association's next fiscal year. No Unit Owner shall be exempt from payment of any Assessment or any proportionate share of the Common Expenses by waiver or non-use or non-enjoyment of the Common Elements or by abandonment of his Unit, and such Assessments and proportionate share of the Common Expenses are a personal obligation of the Unit Owner for which such Unit Owner shall have personal liability.

(i) Regular Assessments. Prior to the beginning of each fiscal year, the Board shall prepare a budget covering the estimated Common Expenses to be incurred by the Association during such year in performing its functions under this Master Deed and the Charter and By-laws of the Association, including a reasonable provision for contingencies, less any expected income and any surplus from the prior year's fund. A Regular Assessment sufficient to pay such estimated net Common Expenses shall then be levied against all. If the sums collected prove inadequate for any reason, including nonpayment of any Special or Specific Assessments, the Board may, at any time and from time to time, levy Special Assessments to make up for such deficiency.

(ii) Special Assessments. In addition to the Regular Assessments authorized above, the Board may establish, levy and collect Special Assessments against the Units as follows:

(1) for the purpose of the defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair, replacement or addition of capital improvements for Common Elements, including the necessary fixtures and personal property related thereto, subject to the limitations of the powers of the Board set forth herein;

(2) to cover unbudgeted Common Expenses or Common Expenses in excess of those budgeted as part of the Regular Assessments under Section 7(a)(i) above; or

(3) to enable the Board to carry out the functions of the Association under this Master Deed and under the Charter and By-laws of the Association.

(iii) Specific Assessments. The Board shall have the power to levy Specific Assessments against a particular Unit or Units constituting less than all Units within the Property as follows:

(1) To cover costs of maintenance, repair, or replacement of Limited Common Elements servicing the Unit(s) subject to the specific assessment.

(2) to cover the costs, including overhead and administrative costs, of providing benefits, items, or services to the Unit or occupants thereof upon request of the Unit Owner pursuant to a menu of special services which the Board may from time to time authorize to be offered to Unit Owners (which

might include, without limitation, handyman service, pest control, etc.), which Assessments may be levied in advance of the provision of the requested benefit, item or service as a deposit against charges to be incurred by the Unit Owner.

(3) to cover costs incurred in bringing the Unit into compliance with the terms of this Master Deed, any applicable Supplemental Master Deed, the By-laws or Rules, or costs incurred as a consequence of the conduct of the Unit Owner or occupants of the Unit, their licensees, invitees, or guests; provided, the Board shall give the Unit Owner prior written notice and an opportunity for a hearing before levying a Specific Assessment under this subsection.

(b) Equitable Treatment Between Commercial and Residential Units.

Because Common Expenses associated with maintenance, repair and upkeep of certain Common Elements more closely associated either with the Commercial Units or with the Residential Units (such as lobbies, entry-ways, décor, parking areas) may more greatly impact one type of Unit than the other (for reasons of the level of use and human traffic, the level of finish quality, the type of services being provided, etc.) the Association shall use its best efforts to allocate equitably and fairly any such extraordinary expenses between the Commercial Units or the Residential Units (whichever is more greatly benefited, as the case may be), including through the use of Specific Assessments. Any such Specific Assessments shall be based on actual costs incurred by the Board.

(c) Liens.

(i) Lien for Assessments. Effective upon the Recording of this Master Deed there is then and thereafter a lien attached against each and every Unit for each and every Unit's Assessments and share of Common Expenses (and late fees, interest, and costs associated therewith), both payable and to be paid and whether or not any delinquency exists as of the time of Recording this Master Deed. If any Unit Owner shall fail or refuse to make any such payment of the Assessments or Common Expenses within ten (10) days of receipt of notice of such delinquency or within twenty (20) days of mailing of notice of such delinquency, whichever shall occur first, the amount thereof, together with such accelerated amounts as are provided in the By-laws, and together with late charges and interest in the amounts set forth in the By-laws or the rules and regulations of the Association, and together with all expenses, including attorneys' fees incurred by the Board in any proceeding brought to collect such unpaid amounts, shall be obligations of the Unit Owner and shall, without the necessity of Recording any lien instrument, automatically be enforceable as a lien in favor of the Association, enforceable by the Board, on the interest of such Unit Owner in the Property and his Unit; provided, however, that the Board, at its option, may Record a notice of such lien to provide public notice of its existence, and such notice of lien shall relate back to the date of Recording this Master Deed. The Board may assess the costs of Recording all liens against the associated Unit Owner. The Board may enforce a lien for Assessments or Common Expenses in accordance with the provisions of this Master Deed titled "Remedies," or as otherwise herein provided.

(ii) Priority with Institutional Lender. Any lien in favor of the Association for Assessments or Common Expenses (and late fees, interest, and costs associated therewith), which lien, for the purposes of this Master Deed and the By-laws, shall be deemed to attach on the date of Recording this Master Deed, shall be subordinate to the lien of any First Mortgage held by an Institutional Lender, provided that such First Mortgagee has requested an estoppel certificate as required by Section 7(e) hereof and further provided that all outstanding and unpaid Assessments or Common Expenses associated with the Unit are paid and brought current prior to Recording such First Mortgage. If such First Mortgagee obtains title to a Unit or any other interest in the Property by reason of foreclosure or deed in lieu of foreclosure, such First Mortgagee, its successors or assigns, shall take such Unit or other interest in the Property free of any claims for unpaid Assessments or Common Expenses, except for the amount of said Assessment or proportionate share of such Common Expenses which becomes due and payable from and after the date on which such First Mortgagee either takes possession of the Unit or the interest encumbered by such First Mortgage, or accepts a conveyance, transfer or assignment of the Unit or of any interest therein (other than as security) in lieu of any foreclosure of such First Mortgage, or forecloses or files suit to foreclose its First Mortgage or causes a receiver to be appointed to take possession of the Unit. Notwithstanding the foregoing, upon foreclosure of a Unit any proceeds realized in excess of the amount necessary to pay off the First Mortgage shall then be applied towards any lien for Assessments or Common Expenses until same are brought current. This Section shall not prevent the Association from enforcing any rights to which it is entitled against the prior Unit Owner. The priority given to certain First Mortgagees by this provision shall not be amended, modified or rescinded without Lender Approval. Notwithstanding anything to the contrary contained in this Master Deed, no Mortgage (whether a First Mortgage or otherwise) shall have priority over a lien for Assessments and Common Expenses if the Board or the Association has Recorded, separately from this Master Deed, a notice of lien for an actual delinquency prior to the recording of such Mortgage.

(iii) Priority with Non-Institutional Lender and Second Mortgages. The lien hereby created for Assessments and/or Common Expenses (and late fees, interest, and costs associated therewith), regardless of when or whether a separate notice of lien for an actual delinquency is Recorded, shall not be subordinate to but shall have priority over both any First Mortgage that is not held by an Institutional Lender and any Mortgage other than a First Mortgage, and any such Lender's interest in the Unit(s) shall be subject to the lien for Assessments and Common Expenses and upon foreclosure or any transfer in lieu of foreclosure the proceeds from same shall first be used to remove, by payment in full, the lien for Assessments and Common Expenses.

(iv) Removal of Liens Upon Transfer or Refinancing. Upon any sale, transfer, or other conveyance of a Unit, or upon the refinancing of any debt secured by a Mortgage encumbering a Unit, the Unit Owner is hereby required to remove, by payment in full, any and all liens for Assessments and Common



Expenses encumbering the Unit, and the Board is hereby authorized, without liability, to intervene into any such sale or refinancing to ensure compliance with this provision. If a Unit Owner fails to remove, by payment in full, any and all liens for Assessments and Common Expenses encumbering a Unit then such lien shall continue to encumber the Unit and the purchaser or transferee shall become liable for the unpaid amounts.

(d) Estoppel Certificates; Collection. A Unit Owner shall have the right to acquire from the Board an estoppel certificate showing the amount of unpaid Assessments or Common Expenses with respect to his Unit. Any Lender accepting a Mortgage against a Unit must request from the Board an estoppel certificate showing the amount of unpaid Assessments or Common Expenses with respect to such Unit prior to accepting the Mortgage. In the case of a First Mortgage held by an Institutional Lender, requesting such an estoppel certificate from the Board is hereby declared to be a condition precedent to obtaining priority over any liens, whether or not Recorded or then existing, for Assessments or Common Expenses. The Association may not enforce against a Lender who relies on such certificate any indebtedness as of that date in excess of the amount shown thereon. A purchaser of a Unit shall have the right to acquire from the Association an estoppel letter effective on the date of closing of the Unit, showing the amount of unpaid Assessments or Common Expenses with respect to the Unit and any such unpaid amounts shall, if not paid prior to closing, remain as an encumbrance against the Unit and the purchaser of the Unit shall as of closing, be jointly and severally liable with the transferor for such amounts. In addition the Board, upon request of a Unit Owner or a prospective purchaser of a Unit, shall prepare and deliver a letter stating either that there are no delinquent or unpaid Assessments, fees or other obligations outstanding in respect to such Unit, or enumerating any outstanding and unpaid delinquent Assessments, fees and other obligations. The Association shall have the right to exercise and to enforce any and all rights and remedies as provided or available at law or in equity for the collection of unpaid Assessments or other obligations owing to the Association by its former Unit Owners.

(e) Capital Reserve Fund. The Board may establish reserve funds ("Reserve Fund") for the improvement or replacement of Common Elements to be funded by Assessments.

(f) Assessments Paid in Advance Upon Purchase. Upon the purchase of a Unit the purchaser shall pay to the Association his first two (2) months Assessments in advance. The closing agent administering the purchase/sale is hereby directed to collect this amount at closing and to disburse such amount to the Association; however if such closing agent fails to adhere to this subsection, the Association may immediately collect such amount from the purchaser. In order to facilitate this advance payment of Assessments, all Unit owners must notify the Association in writing of a pending sale of a Unit not less than five (5) days prior to such sale.

(g) Applicability of Assessments to Units Owned by Developer. Notwithstanding anything to the contrary herein contained, (i) Residential Units owned by Developer shall not be subject to Assessments of any nature, and (ii) each Commercial Unit owned by Developer shall only be subject to Assessments after such time as Developer enters into a lease for any such Commercial Unit with a third party for the use and occupancy thereof.

9. **MORTGAGES AND OTHER LIENS.**

(a) **Liens on Units and Property.** Each Unit Owner shall have the right, subject to the provisions herein, to make or create, or cause to be made or created, one or more Mortgages or other liens on or affecting his respective Unit together with his respective ownership interest in the Common Elements, provided however that, from the date this Master Deed is Recorded, no Unit Owner shall have the right or authority to make or create, or cause to be made or created, any Mortgage or other lien on or affecting the Property or any part thereof, except to the extent of his own Unit and the respective percentage interest in the Common Elements appurtenant thereto. If requested by the Association, a Unit Owner must provide the name of any and all Lenders holding a Mortgage against his Unit(s).

(b) **Mechanic's Liens.** Subsequent to the Recording of this Master Deed, no liens of any nature shall be created or arise against any portion of the Property except liens against any individual Unit or Units and except liens created by Developer or the Association in the development of the Property and the reconstruction of or repairs to the Building Units or Common Elements. No labor performed or materials furnished with the consent or at the request of a particular Unit Owner shall be the basis for the filing of a mechanic's lien claim against any Unit other than the Unit on which the labor was performed or to which materials were furnished. If the performance of the labor or furnishing of the materials is expressly authorized by the Board, each Unit Owner shall be deemed to have expressly authorized and consented to such performance of labor and furnishing of materials, and each Unit Owner shall be liable for the payment of his Unit's proportionate share of any due and payable indebtedness, as set forth in the Act.

10. **SEPARATE REAL ESTATE TAXES.** Real estate taxes, special assessments, and any other special taxes or charges of the State of Tennessee or of any political subdivision thereof, or other lawful taxing or assessing body, which are authorized by law to be assessed and levied upon real property, shall be separately assessed upon each Unit, and its corresponding Percentage Interest in the Common Elements, as provided in the Act. In the event that such taxes, special assessments or charges for any year are assessed and levied upon the Common Elements, then each Unit Owner shall pay his proportionate share thereof in accordance with his respective Percentage Interest in the Common Elements and in said event such taxes shall be a Common Expense. Without limiting the authority of the Board provided for elsewhere herein, the Board acting on behalf of all Unit Owners shall have the power to seek relief from or to collect from the Unit Owners their proportionate shares of any such taxes, special assessments or charges, whether assessed and levied on each Unit separately or on the Property as a whole, and to charge and collect all expenses incurred in connection therewith as a Common Expense.

11. **INSURANCE.** The expense of all insurance maintained by the Association shall be a Common Expense.

(a) **Hazard Insurance.** The Board shall have the authority to and shall obtain insurance for the Property, including the Common Elements, but exclusive of Units, against loss or damage by fire, vandalism, malicious mischief and such other hazards as are covered under standard "all-risk" coverage provisions, for the full insurable replacement cost of same, as a Common Expense, and against such other hazards and for such amounts as the Board may deem

advisable. Insurable replacement cost shall be deemed the cost of restoring the foregoing to substantially the same condition in which they existed prior to damage or destruction; except that neither the Association nor the Board shall be obligated to insure against lost rental income of any Unit Owner. Insurance coverage maintained by the Board or the Association shall be written in the name of the Association, for the benefit of each of the Unit Owners in direct ratio to said Unit Owner's respective percentage of ownership interest in the Common Elements, as set forth in the Master Deed, and for the holders of Mortgages on each Unit, if any. Each such policy of insurance shall also contain, if possible, a waiver of subrogation rights by the insurer against the Association, its employees and agents, and against individual Unit Owners, their servants, agents and guests. Each such policy also shall contain, if possible, a waiver of any rights of the insurer to contributions from hazard insurance purchased by a Unit Owner covering the contents and furnishings of his Unit. The Board shall notify all Persons insured under such policy in the event of any cancellation thereof.

(b) Liability Insurance. The Board shall have authority to and shall obtain comprehensive public liability insurance, in such amounts as it deems desirable, and worker's compensation and other liability insurance as it deems desirable, insuring the Unit Owners (except as limited in this subsection), individually and severally, any mortgagee of Record, the Association, its officers, Directors and the Board, and the Managing Agent, if any, and their respective employees and agents and all Persons acting as their respective agents, against liability in connection with the ownership, existence, use or management of the Property. The Unit Owners shall be included as additional insureds but only with respect to the Common Elements. Each such policy of insurance shall cover claims of one or more insured parties against other insured parties and shall also contain a waiver of subrogation rights by the insurer against such insured Persons or entities. Each such policy also shall contain, if reasonably possible in the determination of the Board, a "severability of interest" endorsement which shall preclude the insurer from denying the claim of a Unit Owner because of negligent acts of the Association or any other Unit Owner.

The comprehensive public liability insurance shall cover all the Common Elements, public ways and commercial spaces owned by the Association whether or not the same are leased to a third party. Coverage shall be for at least \$2,000,000 for bodily injuries, including deaths of persons, in any single occurrence, \$300,000 for property damage arising out of a single occurrence and \$3,000,000 annual aggregate. Coverage under this policy shall include, without limitation, legal liability of the insureds for property damage, bodily injuries and deaths of persons in connection with the operation, maintenance or use of the Common Elements, and legal liability arising out of lawsuits related to employment contracts of the Association. Such policies must provide that they may not be canceled or substantially modified by any party without at least ten (10) days prior written notice to the Association and to each holder of a First Mortgage which is listed as a scheduled holder of a First Mortgage in the insurance policy.

(c) Fidelity Insurance. The Board shall have authority to and may obtain fidelity coverage to protect against dishonest acts on the part of officers, Directors, trustees, and employees of the Association and all others who handle or are responsible for handling funds of the Association, including the Managing Agent. Such insurance shall name the Association as

the insured and shall be in an amount sufficient to provide protection which is in no event less than one and one-half times the Association's estimated annual operating expenses and reserves.

(d) Other Insurance. The Board shall also have authority to and may obtain such insurance and for such amounts as it deems desirable, including without limitation, directors' and officers' liability insurance for the Board and officers of the Association, and to increase insurance limits in such amounts, from such sources and in such forms as it deems desirable, insuring the Property and each member of the Board and officer of the Association, and each member of any committee appointed pursuant to the By-laws of the Association against liability arising from the fact that said person is or was a Director or officer of the Association, or a member of such a committee.

(e) Flood Insurance. If the Property is located in an area identified by the U.S. Secretary of Housing and Urban Development or his successor as an area having special flood hazards and flood insurance has been made available under the National Flood Insurance Act of 1968, and if such insurance is available for the Property, the Board shall obtain a "blanket" policy of flood insurance on the Property in an amount which is the lesser of the maximum amount of insurance available under the Act or the aggregate of the unpaid principal balances of the first Mortgages on the Units comprising the Property.

(f) Miscellaneous Coverage. The Board shall also have authority to and may obtain such other insurance as the Board deems desirable or necessary for the Property or any aspect of the ownership, operation or management thereof, in such amounts, from such sources and in such forms as the Board deems desirable.

(g) Insurance Policy Provisions. The Board in its sound business judgment, shall consider obtaining insurance with the following provisions or endorsements:

(i) That the exclusive authority to adjust losses with insurers under policies in force on the Property shall be vested in the Board;

(ii) That in no event shall the insurance coverage obtained and maintained by the Board hereunder be brought into contribution with insurance purchased by Unit Owners or their respective mortgagees;

(iii) That each Unit Owner may obtain additional insurance at his own expense;

(iv) That there be a waiver of subrogation by the insurer as to any claims against the Board, Unit Owners, and their respective members of the household, lessees, servants, agents and guests;

(v) That the insurance cannot be canceled, invalidated or suspended because of the conduct of any one or more Unit Owners, or their respective members of the household, lessees, servants, agents and guests;

(vi) That the master policy on the Property cannot be canceled, invalidated, or suspended because of the conduct of any officer or employee of

the Board or the Association or their agents without prior demand in writing that the Board or its agents cure such conduct and the same is not cured within thirty (30) days thereafter;

(vii) That any "no other insurance" clause in the master policy for the Property not apply to policies placed by Unit Owners covering their respective Units;

(viii) That the hazard insurance includes the increased cost of reconstruction resulting from building code upgrades.

(h) Unit Owners' Insurance. Each Unit Owner shall be responsible for obtaining, at his option, his own (i) property insurance covering the Unit, the contents of his own Unit, and personal property therein, and personal property stored elsewhere on the Property, (ii) liability insurance covering bodily injury, including death, and damage to property that results from actions, events, or circumstances occurring within his Unit, including but not limited to water damage resulting from a leak, defect, or malfunction originating other than from a Common Element, (iii) insurance against personal liability and loss or damage by fire or other hazards above and beyond the extent that his liability, loss or damage is covered by the liability insurance and insurance against loss or damage by fire and such other hazards obtained by the Board for all of the Unit Owners as part of the Common Expenses, as above provided, except that no Unit Owner shall be entitled to exercise his right to maintain insurance coverage in such a way as to decrease the amount that the Board, on behalf of all of the Unit Owners, may realize under any insurance policy which the Board may have in force on the Property at any particular time, and (iv) rental loss or other business income loss insurance.

(i) Insurance Trust. All physical damage insurance policies purchased by the Board shall be for the benefit of the Association, the Unit Owners, and their Lenders, as their interests may appear, and shall provide that the proceeds thereof shall be paid in trust to the Insurance Trustee designated or to be designated for that purpose by the Board.

The Board shall enter into an insurance trust agreement with the Insurance Trustee ("Insurance Trust Agreement") which shall provide that the Insurance Trustee shall not be liable for payment of premiums, the renewal of the policies, the sufficiency of the coverage, the form or contents of the policies, the correctness of any amounts received on account of the proceeds of any insurance policies nor for the failure to collect any insurance proceeds. The sole duty of the Insurance Trustee shall be to receive such proceeds as are paid to it and to hold the same in trust for the purposes elsewhere stated in this Master Deed and the By-laws, for the benefit of the insureds and their beneficiaries thereunder. The Board shall pay, as a Common Expense, a reasonable fee to the Insurance Trustee for its services rendered in such capacity, and shall pay the costs and expenses which said Insurance Trustee may incur in the performance of any duties or obligations imposed upon it in such capacity. Said Insurance Trustee shall be liable only for its willful misconduct, bad faith, or gross negligence, and then only for such money which comes into the possession of said Insurance Trustee. Whenever the Insurance Trustee may be required to make distribution of insurance proceeds to Unit Owners and their Lenders, as their respective interests may appear, or to any other party for repair, replacement or reconstruction of property, the Insurance Trustee may rely upon a Certificate of the President or

Secretary of the Association, executed under oath, which Certificate will be provided to said Insurance Trustee upon request of said Insurance Trustee made to the Board, such Certificate to certify unto said Insurance Trustee the name or names of the Unit Owners of each Unit, the name or names of each Lender that may hold a Mortgage encumbering each Unit, and the respective percentages of any distribution which may be required to be made to the Unit Owner of any Unit and such Unit Owner's respective Lenders as his or their respective interests may appear, or to certify the name or names of the party or parties to whom payments are to be made for repair, replacement or reconstruction of property. In the event any insurance proceeds are paid to the Insurance Trustee for any fire or casualty loss, a Lender shall not have the right to determine or participate in the determination of repair or replacement of any loss or damage, and shall not have the right to elect to apply insurance proceeds to the reduction of any Mortgage or Mortgages, unless such insurance proceeds are to be paid or distributed directly to the Unit Owners and their respective Lenders, as herein authorized.

Notwithstanding any provision herein set forth to the contrary, with respect to any single loss, if the loss or damage has been established as being \$100,000 or less, regardless of the amount which may be available under any applicable insurance policy or policies to pay for the repair, replacement and/or reconstruction of the property lost or damaged, then all such proceeds shall be paid to the Board to be applied pursuant to the terms contained herein, as more particularly set forth in **subsection 11(e)**. The Board is hereby irrevocably appointed the trustee for each Unit Owner, each Lender, other named insureds and their beneficiaries and any other holder of a lien or other interest in the Property to file proofs of loss and to adjust and settle all claims arising under insurance policies purchased by the Board and to execute and deliver releases upon the payment of claims. All such action by the Board shall be binding upon each Unit Owner, each Lender, other named insureds and their beneficiaries, and any other holders of a lien or other interest in the Property.

(j) Selection of Insurance Companies. The Board shall have the right to select the insurance company or companies with whom insurance coverage may be placed and shall have the right to designate the Insurance Trustee, and all parties beneficially interested in such insurance coverage shall be bound by the selection so made from time to time, provided that the companies selected shall have a minimum Best's Key Rating Guide rating of A- and shall be licensed to do business in Tennessee.

(k) Mortgage Rights. No provision contained herein shall give a Unit Owner or any other party (except the Association, in the case of liens for unpaid Assessments and Common Expenses) priority over a First Mortgagee holding a First Mortgage of a Unit in the event of a distribution to Unit Owners of the insurance proceeds covering losses from damage or destruction to a Unit, Units or the Common Elements.

## 12. CASUALTY LOSSES.

(a) Election to Reconstruct. In the event of a casualty loss causing damage solely to the Common Elements, the damaged Common Elements shall be reconstructed or repaired pursuant to the terms of this Master Deed. In the event of a casualty loss rendering untenable two-thirds (2/3) or less of the Units, then the damaged Units and Common Elements shall be reconstructed or repaired pursuant to the terms of this Master Deed. In the

event of a casualty loss rendering untenable more than two-thirds (2/3) of the Units, the damaged Units and Common Elements shall not be repaired or reconstructed, and the horizontal property regime declared by this Master Deed shall be terminated, unless the Association obtains Two-Thirds Approval to have such repairs and reconstruction completed and to continue the horizontal property regime declared by this Master Deed.

(b) Proceeds from Association Insurance. In the event of the loss of or damage to the Property, or any portion thereof, which loss or damage is required to be covered by the fire and casualty insurance maintained by the Board pursuant to **Section 10** of this Master Deed, the insurer shall pay insurance proceeds to the Insurance Trustee to cover such loss or damage, and the Board shall apply such proceeds, in conjunction with the Insurance Trustee, to the repair, replacement or reconstruction of the loss or damage. If the insurance proceeds are in excess of the cost of the repair, replacement or reconstruction, then such excess insurance proceeds shall be paid by the Insurance Trustee to the Board for the benefit of the Association with such proceeds to be placed in the Reserve Fund. If it appears that the insurance proceeds covering the fire and casualty loss or damage payable to the Insurance Trustee are insufficient to pay for the repair, replacement or reconstruction of the loss or damage, or that the insurance proceeds when collected will be insufficient, then the Board shall deposit with the Insurance Trustee, a sum which, together with the insurance proceeds received or to be received, will enable the Insurance Trustee to completely pay for the repair, replacement or reconstruction of any loss or damage. The monies deposited by the Board with the Insurance Trustee may be paid by the Board out of its Reserve Fund, and if the sum in such Reserve Fund is insufficient, then the Board shall levy and collect a Special Assessment against all of the Unit Owners in an amount which shall provide the funds required to pay for said repair, replacement or reconstruction. Notwithstanding the foregoing, in the event of a casualty loss whereupon the Units and Common Elements are not rebuilt or repaired, any insurance proceeds payable to the Association shall be disbursed by the Board to the Unit Owners on a pro-rata basis, subject to the Association's application of such proceeds to the costs and expenses of administering the casualty loss and terminating and winding down the horizontal property regime.

(c) Proceeds from Insurance Maintained by Unit Owners. Unit Owners shall be individually responsible for adjusting and settling insurance claims for loss or damage to items other than the Common Elements and for receiving and using any resulting insurance proceeds.

(d) Procedures. In the event of loss of or damage to the Building or Common Elements covered by such fire and casualty insurance maintained by the Board, the Board shall, within sixty (60) days after any such occurrence, obtain reliable and detailed estimates of the cost to place such damaged items in a condition as good as that before such loss or damage, such estimates to contain and include the cost of any professional fees and premiums for such bonds as the Board may deem to be in the best interests of the Board. Whenever it shall appear that the insurance proceeds payable for such loss or damage will be insufficient to defray the cost of the repair, replacement or reconstruction, the additional monies required to completely pay for such repair, replacement or reconstruction shall be deposited with the Insurance Trustee not later than thirty (30) days from the date on which the Insurance Trustee shall receive the monies payable under the policy or policies of fire and casualty insurance.

(e) Small Losses; Personal Property. Notwithstanding anything hereinabove set forth to the contrary, in the event of loss of or damage to Building or Common Elements, and the loss or damage has been established as being \$100,000.00 or less, regardless of the amount which may be available under any applicable insurance policy or policies to pay for the repair, replacement and/or reconstruction of the items lost or damaged, then and in said event the insurance proceeds shall be paid directly to the Board (whether by the insurer or by the Insurance Trustee), as trustee for the Association, and the Board shall thereafter hold such proceeds in trust for the repair, replacement and reconstruction of the items lost or damaged. In the event of loss of or damage to Common Elements which are personal property, and in the event that the Board determines not to replace all of such personal property as may be lost or damaged, then the insurance proceeds applicable thereto shall be held by the Board for the future and placed in the Reserve Fund, or may be used for the purpose of reducing the Common Expense of the Board, or may be used as the Board shall deem advisable.

(f) Contracts for Repairs. Contracts for repair, replacement or reconstruction of loss or damage shall be let by the Board, in its sole discretion, in the name of the Board, and the Board shall authorize payments to be made thereunder by the Insurance Trustee in accordance with the terms of the Insurance Trust Agreement. The Board may enter into such agreements with the Insurance Trustee as it may deem in the best interest of the Board for purposes of effectuating the intent hereof. If appropriate, the Board may retain an architect to supervise the repair, replacement, or reconstruction.

(g) Insurance Trustee's Disbursements. The terms and provisions of the Insurance Trust Agreement shall control the disbursement of funds by the Insurance Trustee. The Insurance Trustee shall not disburse any funds for repair, replacement, or reconstruction until such funds on deposit with the Insurance Trustee equal the estimated cost of repair, replacement, or reconstruction.

(h) Board Disbursements. If the Board receives insurance proceeds, it shall hold the proceeds as trustee for the Association and the Board shall not disburse any proceeds for repair, replacement, or reconstruction until such proceeds on deposit with the Board equal the estimated cost of repair, replacement, or reconstruction. The Board shall require with each request for a disbursement to a contractor for such repair, replacement, or reconstruction the following:

(i) Proof of payment of all costs of labor and materials except for those costs for which the disbursement is requested;

(ii) A statement certifying (i) that the repair, replacement, or reconstruction (as the case may be) to the date of the certificate is in compliance with the plans and specifications therefor; (ii) the percentage of completion to the date of the certificate; (iii) that the remaining funds will be sufficient to complete the repair, replacement, or reconstruction;

(iii) If an architect has been retained, the approval of the architect for the disbursement.



(i) Non-Abatement of Common Expenses. In the event of a casualty loss that renders one or more Units untenable, Assessments against each and every Unit Owner displaced as a result of the casualty nonetheless shall not abate as a result of such casualty or associated damage or destruction.

13. EMINENT DOMAIN.

(a) Procedures. If all or any part of the Property (excluding personalty) is taken or threatened to be taken by eminent domain, the Board is authorized and directed to proceed as follows:

(1) To obtain and pay for such assistance from attorneys, appraisers, architects, engineers, expert witnesses and other persons as the Board in its discretion deems necessary or advisable to aid and advise it in all matters relating to such taking and its effect, including, but not limited to (i) determining whether or not to resist such proceedings or convey in lieu thereof, (ii) defending or instituting any necessary proceedings and appeals, (iii) making any settlements with respect to such taking or attempted taking, and (iv) deciding if, how and when to restore the Property;

(2) To negotiate with respect to any such taking, to grant any permits, licenses and releases, to convey all or any portion of the Property, and to defend or institute, and appeal from, all proceedings as it may deem necessary or advisable in connection with the same;

(3) To have and exercise all such powers with respect to such taking or proposed taking and such restoration as those vested in boards of directors of corporations with respect to corporate property, including but not limited to purchasing, improving, demolishing and selling real estate.

(b) Unit Owners and Lenders. Each Unit Owner and each Lender shall be given reasonable written advance notice of all final offers before acceptance, proposed conveyances, settlements and releases contemplated by the Board, legal proceedings and final plans for restoration, and reasonable opportunity to be heard with respect to each of the same, and to participate in and be represented by counsel in any litigation and at all hearings, at such Unit Owner's or Lender's own expense.

(c) Compensation Fund. The Board shall be reimbursed for all attorneys', engineers', architects' and appraisers' fees, costs and expenses paid or incurred by it in preparation for, and in connection with, or as a result of, any such taking out of the compensation, if any, by whomsoever received, for any such taking, or for any conveyance in lieu thereof, and the net amount of such compensation shall be deposited with the Insurance Trustee in trust for the Unit Owners and pooled. Such compensation, together with any amounts added thereto as provided hereinafter, is sometimes hereinafter called the "Compensation Fund" and shall be allocated and used, or distributed by, or at the direction of, the Board as follows:

(1) Any portion of such Compensation Fund specifically designated and determined by the court having jurisdiction over the eminent

domain proceedings (the "Court"), or, if not, by the Board, to have been paid by the condemnor for reasonable and necessary moving expense, additional refinancing expense, relocation expense, attorneys' fees, litigation costs and expenses, or other costs or expenses, individually incurred by any Unit Owner or lienor, shall first be allocated and paid to the persons who incurred same.

(2) If all of the Property is taken, this horizontal property regime shall terminate as of the date of taking and the balance of the Compensation Fund shall be distributed among the Unit Owners in proportion to their respective undivided percentage interests in the Common Elements at the time of the taking by, or conveyance to, the condemnor. If there is a Recorded Mortgage on any Unit to secure any indebtedness, distribution with respect to such Unit shall be by check payable jointly to the Unit Owner of the Unit and the Lender holding the Recorded Mortgage.

(3) If not all of the Property is taken and the remainder thereof cannot, or, in the opinion of Unit Owners owning not less than sixty-six and two-thirds percent (66-2/3%) of the Units, should not be continued as a common enterprise, whether for physical reasons, lack of sufficient remaining Units, expense or other reasons, this horizontal property regime shall terminate as of the date of taking, except to the extent necessary to wind up the affairs of the regime as provided herein, and the remaining Units and Common Elements shall be sold by the Board for the best prices reasonably obtainable, at public or private sale, and the amount thus obtained, less sales expense, shall be deposited with the Insurance Trustee, pooled and added to the Compensation Fund, the balance of which shall then be distributed among the Unit Owners and their Lenders, if any, in the proportions and manner specified in this Section. The respective Unit Owners of Units, or portions thereof, thus to be sold shall have a first refusal option to purchase, and thus, if practicable, retain their own Units and purchase fee simple interests in Common Elements of sufficient nature and extent to enable their respective Units to be reasonably tenantable and habitable. Such first refusal option shall be given and exercised as follows:

The Board shall notify each such Unit Owner in writing, sent by certified mail to his last address known to the Board, of the price at which it will offer the Unit Owner's Unit or what is left of it, of what former Common Elements will be sold with such Unit as appurtenances thereto, and any other substantive matters relating to the proposed sale, and such Unit Owner shall have the right within fifteen (15) days after the mailing of such notice to exercise his option to purchase such Unit and appurtenances at a specific price by notice of such acceptance delivered to the Board, accompanied by a deposit of ten percent (10%) of the offering price, whereupon such Unit Owner shall be entitled and obliged to purchase, and the Board shall be entitled and obliged to sell to him, such Unit and appurtenances at said price and upon the terms specified in the notice. If such Unit Owner shall not exercise such option as aforesaid, the Board shall be free to sell the Unit and such appurtenances to whomsoever it elects without any further option or other rights in favor of such Unit Owner but shall not sell the same at any lower price or more favorable terms without again giving such Unit Owner the same right of refusal in the same manner.

(4) If, in the opinion of the Board, the remainder of the Property can be and should be continued as a common enterprise, the following provisions shall be applicable:

(i) The respective net amount by which the fair cash market value of each Unit has been diminished, if any, at the time of and by reason of such taking shall be determined. The amount of such diminution, and the value of any remainder interest in any such Unit, if not determined by the Court, shall be determined by the Board.

(ii) The amount allocated to each Unit which in the judgment of the Board is not restorable or replaceable shall be distributed from the Compensation Fund (together with the fair cash market value, at time of taking by the condemnor, of the remainder of such Unit, and any remaining interests appertaining to such Unit in any portion of the Property) by joint check, to each Unit Owner of, and Lender or Lenders with a Recorded Mortgage on, each such Unit in return for conveyance of such remainder and remaining interests to the Board which shall hold same for and on behalf of the Unit Owners. Such conveyance shall convey good and marketable title, free and clear of any encumbrances.

(iii) The balance of the Compensation Fund shall next be used to such extent and in such manner as the Board shall determine for the restoration and replacement of Common Elements and then for the restoration and replacement of the affected Units, all in keeping with the character of the Property as a whole, and the Board is authorized and directed to hire, and be reimbursed out of the Compensation Fund for payment to, all such architects, engineers, builders and other persons, if any, whom it deems necessary or advisable to plan and effectuate such restoration and replacement. The remaining amount, if any, in the Compensation Fund after payment for such restoration and replacement shall be distributed to the Unit Owners of, and Lenders with a Recorded Mortgage on, the Units that have not been eliminated and which have suffered diminution as above determined, to compensate such Unit Owners for any diminution remaining, after taking into account the effects of such restoration or replacement in the market value of their Units and, so that as near as may be possible, each remaining Unit Owner will be proportionately as well off as before the taking; provided that compensation distributed to a Unit Owner for diminution in value shall in all such cases be made only upon a simultaneous and equitable adjustment in such Unit Owner's undivided percentage interest in the Common Elements, utilizing the Unit Square Footage Method.

(5) If any Unit shall have been specially benefitted by the taking, or by any such restoration or replacement, the Unit Owner thereof and his Unit shall be debited, charged or assessed by the Board in favor of the Compensation Fund for the amount by which, in the Board's judgment, the fair cash market value of his Unit has been enhanced due to such taking or due to such restoration or replacement. Thereafter, the Unit Owner and his Unit shall receive

and accept a correspondingly acceptable adjustment in such Unit Owner's undivided percentage interest in the Common Elements, utilizing the Unit Square Footage Method.

(6) If, after all such payments, distributions, replacement and restoration costs, and other expenses and all such debits, charges and assessments, there should remain any surplus in the Compensation Fund, the same shall be placed in the Reserve Fund or at the option of the Board, distributed to the Unit Owners in proportion to their respective percentage interests in the Common Elements. If there is any shortage, the same shall be assessed to the remaining Unit Owners in the same manner as Common Expenses.

(d) Board's Powers. The Board is hereby appointed as attorney-in-fact for each Unit Owner to convey any Unit Owner's and Lender's interest in lieu of condemnation or in connection with restoration and replacement and to make any other conveyances and to execute, acknowledge, deliver and Record any and all instruments deemed necessary or advisable in connection with the subject matter of this Section, including without limitation amendments to this Master Deed and/or the Plat to reflect a taking and its resulting effect on the remaining Unit Owners' undivided percentage interests in the Common Elements, and is hereby authorized and empowered to take all such steps and do all such things as in its judgment may be necessary or advisable to effectuate and implement the powers granted to it hereunder.

(e) Execution of Documents. Each Unit Owner and Lender shall upon request execute, acknowledge and deliver to the Board or to such person(s) as the Board may specify, all such instruments and documents as may be reasonably necessary to effectuate and implement this Section, and shall do all such other things reasonably necessary or incidental to the specific requirements of this Section.

(f) Determinations of Value. All determinations of value, changes in value, restorability, replaceability, damages, benefits, proper proportions, allocations and other matters necessary for the administration of the provisions of this Section shall, to the extent not finally determined by the court in the applicable condemnation proceedings, if any, be made impartially, reasonably and in good faith by a majority of the Board who shall act as fiduciaries and shall endeavor at all times to deal equitably with each respective Unit Owner, any Lender and other person having any legal or equitable interest in the Property, or any portion thereof. No member of the Board shall vote on the amount to allocate to his own Unit, any amount to be paid, credited or charged to him, or shall vote on whether or not a Unit owned by him shall be restored or replaced. Any Unit Owner, Lender, or other person dissatisfied with any determination or action of the Board, insofar as adversely affecting any Property in which he has a legal or equitable interest, shall be entitled to seek a determination by the Board, and after such determination, to seek other remedies provided by law.

(g) Termination of Regime. In the event of termination of the horizontal property regime as herein provided, the filial estates shall be deemed merged into and become a part of the "Property" and the Property shall be subject to partition at the suit of any Unit Owner, and with the exception for the first refusal rights of Unit Owners hereunder, the Master Deed, By-Laws and Plat shall cease to apply.

14. ALTERATIONS, ADDITIONS OR IMPROVEMENTS.

(a) Alterations and Improvements. Except as provided in this section, no alteration of any Common Elements or Units, or any additions or improvements thereto, shall be made without the prior written approval of the Board.

(1) Alterations by the Board. The Board may perform or contract for such alterations, additions, and improvements to the Common Elements as the Board may deem appropriate in its sole discretion. The costs and expenses for such alterations, additions, and improvements may be paid by the Board from the Reserve Fund or may be deemed a Common Expense for which the Board may levy an Assessment.

(2) Alterations by a Unit Owner. Only with the prior written approval of the Board, which may be withheld in the Board's discretion, a Unit Owner, at his sole expense, may make structural alterations, additions or improvements to his Unit, or alterations, additions or improvements (structural or non-structural) to the Limited Common Elements serving such Unit or to the General Common Elements. Any Unit Owner may make non-structural alterations (i.e., changes to interior finishes, such as countertops or flooring), additions or improvements within the Unit of the Unit Owner without the prior written approval of the Board, but such Unit Owner shall be responsible for any damage to other Units, the Common Elements, the Property, or any part thereof, resulting from such alterations, additions or improvements.

(b) Conditions for Alterations. The Board, in approving alterations, additions and improvements to a Unit or the Common Elements, generally shall require that:

(1) the Board determines that such alteration is permitted under the Act and that the Unit Owner(s) requesting such alteration shall pay all construction and other expenses associated therewith, including insurance premiums applicable to such alterations, improvements and additions;

(2) such alterations shall not weaken, impair, or endanger any of the Common Elements or any Unit;

(3) not later than thirty (30) days prior to the scheduled commencement of work, the Unit Owner or Unit Owners desiring to make such alterations shall notify the Board of the nature thereof and provide, if required by the Board, plans and specifications for such work and shall receive written approval of the plans and specifications from the Board prior to the commencement of such work;

(4) the cost of builder's risk and other insurance as reasonably required by the Board shall be paid in full by the Unit Owner or Unit Owners making such alterations, and if required by the Board such work shall be bonded, and evidence of such insurance shall be provided to the Board prior to commencement of construction;

(5) if required by the Board, the mechanics and materialmen supplying labor and materials for the alterations shall agree in writing to limit their lien rights to the Unit or Units being altered;

(6) the Board shall determine that such alterations will not result in an increase in tax assessments or insurance premiums against other Units or the Common Elements;

(7) the Board determines that the construction of the alterations shall not unreasonably interfere with the use and enjoyment of any Common Elements by other Unit Owners or Occupants, and the Unit Owner or Unit Owners performing the alterations shall pay in full the expense of restoring such Common Elements to their condition prior to such alterations;

(8) such alterations, in the opinion of the Board, shall be compatible with the architectural design and quality of construction of the affected Buildings and Units and shall not interfere with or be detrimental to the reasonable use and enjoyment of the Property by other Unit Owners; and

(9) all alterations, improvements, or repairs must be done in a good and workmanlike manner, using materials and craftsmanship of a quality at least as good as then makes up the Unit, and in full compliance with all applicable building codes.

15. **THIRD PARTY PROPERTY RIGHTS; EASEMENTS.** Each Unit Owner shall take title to his Unit subject to, and the rights of the Unit Owners to use the Common Elements shall be subject to, the following:

(a) Third Party Rights to or Use of Common Elements. The Board shall have the authority to lease, grant easements or grant licenses with respect to parts of the General Common Elements, subject to the provisions of the Master Deed and By-laws, and such rights to use the General Common Elements shall be subject to the provisions of any such lease, license and easement. All income, if any, derived by the Association from such leases, easements or licenses shall be held and used for the benefit of the members of the Association, pursuant to such rules, resolutions or regulations as the Board may adopt or prescribe. Further the Board shall have the authority to permit Persons other than Unit Owners to use portions of the General Common Elements, including clubrooms and recreational facilities, upon such terms as the Board shall deem advisable. All income, if any, received from such use of the General Common Elements shall be used to defray Common Expenses in such manner as the Board shall determine.

(b) Utility Easements. All suppliers of utilities, including cable TV and internet connections, serving the Property may be granted easements (exclusive or non-exclusive) at the discretion of the Board to install, lay, construct, operate, maintain, renew, repair and replace conduits, ducts, cables, pipes and wires and other equipment or structural components in, to, over, under, across and through any portion of the Common Elements or any portion of the walls, floors, or ceilings of a Unit (whether or not such walls lie in whole or in part within

the Unit boundaries) for the purpose of providing the Property with utility services, together with the reasonable right of ingress to and egress from the Property or any part thereof for said purpose.

(c) Reservation of Easement to Facilitate Expansion. The Association reserves transferable easements in, on, over, across, through and under the Common Elements for the purpose of making such improvements to the Property as the Association may from time to time elect to make.

(d) Additional Covenants and Easements. Developer may unilaterally subject any portion of the Property submitted by this Master Deed and any additional land that may later be submitted by Supplemental Master Deed to additional covenants and Easements, including covenants obligating the Association to maintain and insure such Property on behalf of the Unit Owners and obligating such Unit Owners to pay the costs incurred by the Association. Such additional covenants and Easements shall be set forth in a Supplemental Master Deed filed either concurrent with or after the submission of the subject property.

(e) Easements to Serve Additional Property. Developer hereby reserves for itself and its duly authorized agents, representatives, employees, successors, assigns, licensees, and mortgagees, an Easement over the drives, parking areas, sidewalks, and other ways of ingress, egress, and access (the "Common Areas") for the purposes of enjoyment, use, access, and development of any additional land, whether or not such property is made subject to this Master Deed or any subsequent Supplemental Master Deed. Developer agrees that it and its successors or assigns shall be responsible for any damage caused to the Common Areas as a result of other activities connected with development of any additional land.

(f) Easements for Utilities. Etc.

(1) There are hereby reserved unto Developer (so long as Developer owns a Unit), the Association, and the successors and assigns of each, access and maintenance Easements upon, across, over, and under all of the Property to the extent reasonably necessary for the purpose of installing, replacing, repairing, and maintaining all sewer, water, power and telephone, pipes, lines, mains, conduits, poles, transformers, heating or air conditioning systems, ventilation systems, cable television systems, master television antenna systems, security and similar systems, computer systems, roads, walkways, irrigation systems, drainage systems, lights, light fixtures, appliances, signage, and any and all other appurtenances, equipment or machinery necessary or incidental to the proper functioning of the same which serve the Property, any Unit thereon, or any adjacent property of Developer, and the Improvements thereto, including the right of ingress and egress. Should any governmental agency or utility company finishing one of the foregoing services hereafter request a specific Easement by a separate recordable instrument in connection with the furnishing of any such service, Developer shall have the right to grant such Easement without payment of any consideration and without the prior consent of any Unit Owners. Any damage to a Unit resulting from the exercise of this Easement shall promptly be repaired by, and at the expense of, the Person

exercising the Easement. The exercise of this Easement shall not unreasonably interfere with the use of any Unit and, except in an emergency, entry into any Unit shall be made only after reasonable notice to the Unit Owner or occupant.

(2) In addition to the above provisions, upon the recording of this Master Deed, Developer specifically grants to the local water supplier, electric company, telephone company, cable television company, and natural gas supplier Easements across the Property for ingress, egress, installation, reading, replacing, repairing, and maintaining utility meters and boxes. However, the exercise of this Easement shall not extend to permitting entry to any Unit, nor shall any utilities be installed or relocated on the Property, except as approved by Developer.

(3) Developer, the Unit Owners and their respective successors and assigns shall have a blanket, perpetual and non-exclusive Easement in common in, upon, over, under, across and through the Property for surface water run-off and drainage caused by natural forces and elements, grading, and/or the Improvements located on the Property.

(4) Every Unit Owner shall also have a perpetual non-exclusive Easement to use and maintain all pipes, wires, ducts, cables, conduits and public utility lines which serve the Unit Owner and are located within the boundaries of his Unit.

(g) Developer's Maintenance Easement. During the period of initial development of the Property, Developer may utilize portions of the Common Area to maintain such facilities and conduct such activities as, in the sole opinion of Developer, may be reasonably required, convenient, or incidental to the construction or sale of such Units, including but not limited to signs, model units, and sales offices. Developer's right to use the Common Area for the purposes stated in this Section shall not unreasonably interfere with use of such Common Areas by Unit Owners.

(h) Easements for Common Elements Maintenance. Perpetual non-exclusive Easements for ingress and egress over, under, across, in and upon the Property (but not so as to interfere with improvements on the Property located in accordance with an approved parcel site plan) are hereby declared created and reserved by Developer for the benefit and use of itself and/or the Association, as the case may be, their respective successors and assigns, agents and employees, to provide reasonable access to Common Elements and to enter upon the Property for the purposes of performing the maintenance and related activities.

(i) Easements of Encroachment. There shall be reciprocal appurtenant Easements of encroachment, and for maintenance and use of any permitted encroachment, between each Unit and any adjacent Common Element and between adjacent Units due to the unintentional placement or settling or shifting of the improvement constructed, reconstructed, or altered thereon (in accordance with the terms of these restrictions) to a distance of not more than three (3) feet, as measured from any point on the common boundary along a line perpendicular to such boundary. However, in no event shall an Easement for encroachment exist if such



encroachment occurred due to willful and knowing conduct on the part of, or with the knowledge and consent of, a Unit Owner, occupant, or the Association.

(j) Effect of Easements. All Easements provided for in this Master Deed shall run with the land and bind all Unit Owners, their successors, assigns and successors in title, and the rights, reservations and privileges for the use and benefit of Developer shall continue until they expire by their terms.

16. LEASE OF A UNIT.

(a) Leasing of Commercial Units. All Unit Owners, other than Developer, desiring to Lease a Unit(s) to an Occupant(s) must obtain the Board's prior written consent to the proposed tenant, the basic terms of the lease, and the Business (in the case of commercial Units) to be conducted at the Unit in question, such consent not to be unreasonably withheld, conditioned, or delayed. The Association shall be a co-signatory on all leases for the sole purpose of having the right to enforce rights under the lease, and, with or without such co-signature, the Unit Owners hereby vest in the Board the right to evict any tenant, with or without Unit Owner consent, who violates the lease, this Master Deed, the Bylaws, or applicable law. The Association reserves the right to require the use of the Association's form lease and associated documentation. The Board may retain a copy of any lease of a Unit. Subject to the allocation of liability for Assessments and other monetary obligations as contained in the lease, the lessee under every such lease shall be bound by and subject to all of the obligations under the Master Deed and By-laws of the Unit Owner making such lease, and the lease, if any, shall expressly so provide. The Unit Owner making such lease shall not be relieved thereby from any of said obligations. Upon the expiration or termination of such lease, or in the event of any attempted assigning or subleasing thereunder, the provisions of this Section shall again apply to said Unit or interest therein.

(b) Notice of Lease. Whenever a Unit Owner, other than the Developer, shall propose to lease his Unit, or any interest therein, whether or not pursuant to arms length negotiations, said Unit Owner shall give the Board not less than five (5) days prior written notice thereof prior to the proposed lease, which notice shall include a copy of the lease proposed by the Unit Owner and shall state the name, address, and Business of the proposed lessee.

(c) Rules and Regulations. The Board has the absolute right and authority from time to time to adopt rules and regulations not inconsistent with the provisions of this Section for the purpose of implementing and effectuating said provisions.

(d) Available Remedies. If any lease of a Unit is made or attempted without complying with the provisions of this Section, such lease shall be subject to each and all of the rights and options of and remedies and actions available to the Association hereunder and otherwise.

17. RESTRICTIONS AGAINST FURTHER SUBDIVIDING OF UNITS AND SEPARATE CONVEYANCE OF APPURTENANT COMMON ELEMENTS, ETC. No Unit may be divided or subdivided into a smaller Unit or smaller Units or separated into separate tracts or parcels, whether by deed, plat, court decree or otherwise, nor shall any Unit, or portion

thereof, be added to or incorporated into any other Unit. The Common Elements shall remain undivided and shall not be subject to an action for partition or division of the co-ownership thereof so long as the Common Elements are used for a horizontal property regime. Further, the undivided interest in the Common Elements declared to be an appurtenance to each Unit shall not be conveyed, devised, encumbered or otherwise dealt with separately from said Unit and the undivided interest in Common Elements appurtenant to each Unit shall be deemed conveyed, devised, encumbered or otherwise included with the Unit even though such undivided interest is not expressly mentioned or described in the instrument conveying, devising, encumbering or otherwise dealing with such Unit. Any instrument conveying, devising, encumbering, or otherwise dealing with any Unit, which describes said Unit by the Unit numerical designation assigned thereto in the Plat, shall be deemed and construed to affect the Unit and its appurtenant undivided interest in the Common Elements. The description in any instrument conveying, devising, encumbering, or otherwise dealing with any Unit and describing the Unit by its Unit numerical designation and identifying this Master Deed shall be deemed to include any and all amendments and supplements to this Master Deed and to the Plat and By-Laws herein identified, and it shall not be necessary for such description specifically or generally to refer to any such amendment or supplement. Nothing herein contained shall be construed as limiting or preventing ownership of any Unit and its appurtenant undivided interest in the Common Elements by more than one person or entity as tenants in common, joint tenants, or as tenants by the entirety.

#### 18. REMEDIES.

(a) General Provisions. In the event of any violation of, or default under, the provisions of the Act, Master Deed, By-laws or Rules by any Unit Owner (either by his own conduct or by the conduct of any Occupant of his Unit), and the failure to cure such violation or default within fifteen (15) days after mailing such notice of default to the Unit Owner (which shall include any cure period elsewhere provided), the Association, or the Board, or its agents, shall have each and all of the rights and remedies which may be provided for in the Act, Master Deed, By-laws, the Rules or the laws of the State of Tennessee, or which may be provided or permitted at law or in equity, and may prosecute an action or other proceedings against such defaulting Unit Owner and/or others (i) for enforcement of any lien and the appointment of a receiver for the Unit and ownership interest of such Unit Owner, or (ii) for damages or injunction or specific performance, or (iii) for judgment for payment of money and collection thereof, or the right to take possession of the Unit and such Unit Owner's interest in the Property, and to sell the same, as hereinafter in this section provided, or (iv) for any combination of remedies, or (v) for any other relief. Any and all such rights and remedies may be exercised at any time and from time to time, cumulatively or otherwise, by the Board.

(b) Emergency Dispossession By the Board. In the event of (i) criminal activity, or danger or threat to the health, safety, or welfare of the person or property of other Unit Owners or Occupants caused by a Unit Owner or Occupant, and (ii) written notice to the offending Unit Owner or Occupant of the complaints or allegations and an opportunity for the offending Unit Owner or Occupant to be heard at a regular or special meeting of the Board, then the Board shall be entitled to, and is hereby empowered to, issue to the Unit Owner (even if the offending activity is being committed by an Occupant) a notice in writing terminating the rights of the said Unit Owner to continue as a Unit Owner and to continue to occupy, use or control his

Unit, and thereupon (x) to dispossess the Unit Owner or Occupant and to take such other actions as may be appropriate to affect or facilitate such dispossession (including but not limited to changing locks on the Unit, withholding maintenance services, and interrupting utility service to the Unit) until such time as a hearing may be held before a court of competent jurisdiction on a request by the Board for temporary or permanent relief from the offending activity, and/or (y) to institute an action in equity against said Unit Owner or Occupant for a decree of mandatory injunction declaring the termination of said Unit Owner's or Occupant's right to occupy, use or control the Unit owned by him on account of said offending activity and ordering that all the right, title and interest of said Unit Owner in the Property shall be sold (subject to any existing liens) at a judicial foreclosure sale upon such notice and terms as the court shall determine or at foreclosure sale conducted by the Association in accordance with this Section, except that the court shall enjoin and restrain the said Unit Owner from reacquiring his interest at such sale.

(c) Lien Enforcement by Foreclosure. If any Unit Owner fails to pay any Assessment, Common Expense or any other amount arising hereunder when due subject to any cure periods provided in this Section, then the Association may enforce through foreclosure or through available judicial process the lien created hereby (regardless of whether a separate notice of such lien is hereafter recorded).

(d) Miscellaneous Additional Enforcement Measures. The violation of, or default under, any provisions of the Act, this Master Deed, the By-laws or the Rules by any Unit Owner (either by his own conduct or by the conduct of any Occupant of his Unit), if not cured within the time periods provided herein, shall give the Board, and its employees and agents, the right, in addition to any other rights provided for in this Master Deed:

(1) to impose, in the case of a non-monetary default, a reasonable fine for a single violation or default, or reasonable daily fines for any offense of a continuing nature, with the same treated as an Assessment against the Unit Owner's Unit. The amount of such fine or fines, as the case may be, shall be set forth in Association rules and regulations adopted by the Board from time to time; and/or

(2) to enter upon the Unit, or any portion of the Property upon which or as to which such default exists and to correct such default, and to do whatever may be necessary for such purpose, and all expenses in connection therewith shall be charged to and assessed against such defaulting Unit Owner as an Assessment, and the Board, or its employees or agents, shall not thereby be deemed guilty in any manner of trespass; and/or

(3) to bar the defaulting Unit Owner or Occupant from using and enjoying the Common Elements; and/or

(4) to pursue any other remedies provided by law or equity.

(e) Expenses in Enforcement; Interest. All expenses of the Board in connection with pursuing any remedies herein provided, including court costs and attorneys' fees and other fees and expenses, whether or not such enforcement requires litigation, shall be

charged to and assessed against such defaulting Unit Owner and shall be added to and deemed an Assessment of such Unit Owner's respective share of the Common Expenses, and the Board shall have a lien for all of the same upon the Unit of such Unit Owner, which lien shall be enforceable in accordance with the provisions of this Section. In the event of monetary obligations (including but not limited to Assessments and Common Expenses) that remain unpaid after such cure periods as are herein provided, such unpaid amounts shall bear interest at the highest rate allowed under applicable law and such interest shall be part of the monetary obligation and shall be part of such Unit Owner's respective share of the Common Expenses, and the Board shall have a lien for all of the same.

(f) Security Interest in Rent. Each and every Unit Owner hereby grants to the Association a security interest in any and all rents and income derived from any Unit for the purpose of securing the full and faithful performance of all obligations contained in this Master Deed and the payment of all sums owing hereunder. Accordingly, the Association shall have such rights in and to such rents and income as are provided in Article 9 of the Uniform Commercial Code as adopted from time to time in Tennessee, including but not limited to the right to collect such rent and income and apply same against amounts owing hereunder.

19. AMENDMENT.

(a) Procedure. Subject to the requirements of this Section and of other sections of this Master Deed, and except as otherwise provided elsewhere herein, the provisions of this Master Deed may be amended, modified or rescinded by an instrument in writing setting forth such amendment, modification or rescission, and receiving Two-Thirds Approval. No such amendment, modification or rescission shall change the boundaries of any Unit, the undivided interest in the Common Elements appurtenant to any Unit, the number of votes in the Association allocated to any Unit, or the liability for Common Expenses appertaining to any Unit, except to the extent authorized by this Master Deed or by the Act. Any such instrument shall be executed by an officer of the Association and Recorded along with a certification by the Secretary of the Association of Two-Thirds Approval.

(b) Amendment by Developer. Developer unilaterally may amend this Master Deed at any time without any additional vote or approval so long as Developer continues to own any Unit.

(c) Effective Date. Any amendment, modification, or rescission of this Master Deed pursuant to this Section or any other provision of this Master Deed or of the Act shall be valid and effective only upon the Recording thereof. This Master Deed may not be amended, modified, or rescinded so as to conflict with the provisions of the Act.

20. RIGHTS RESERVED TO ASSOCIATION. The Unit Owners' rights of enjoyment of the Common Elements as herein created shall be subject to:

(a) Suspension of Enjoyment Rights. The right of the Association to suspend the enjoyment rights of any member thereof in utilities, ingress and egress, and all other rights in the Common Elements for any period during which any Assessment is delinquent and remains

unpaid, and for such period as it considers appropriate for any infraction of its published rules and regulations; and

(b) Fees for Use of Common Elements. The right of the Association to charge reasonable fees, consistently applied, for the use of any portion of the Common Elements; and

(c) Dedication of Common Elements. The right of the Association to diminish in any way or to dedicate or transfer all or any part of the Common Elements to any public agency or authority for such purposes and subject to such conditions as may be agreed to by the Board, provided that no such diminution, dedication, transfer, or determination as to the purposes or as to the conditions thereof, shall be effective unless the Association obtains Majority Approval for such diminution, dedication, transfer, purpose or condition.

21. **RIGHTS RESERVED TO DEVELOPER.**

(a) Right to Modify. Developer hereby reserves the right, exercisable at its sole option, to combine, expand, modify or reconfigure any unsold Units. Upon any modification or reconfiguration of the unsold Units, Developer shall accordingly readjust the Percentage Interest for the modified or reconfigured Units. The total undivided Percentage Interest assigned to all Units in Courchevel will, upon such modification or reconfiguration, continue to equal one hundred percent (100%). The readjusted Percentage Interest of a modified or reconfigured Unit shall be derived using the Unit Square Footage Method. Upon any modification or reconfiguration, Developer shall record an amended plat or a supplemental or amended Master Deed, whereby the revised schedule of undivided Percentage Interests set forth therein shall automatically become effective for all purposes and shall fully supersede the schedule presently set forth in this Master Deed, or in supplemental or amended Master Deed, prior plat or supplemental plat.

(b) Re-designation of Common Elements. With respect to each Building now or hereafter constructed on the Property, as it now exists or as it may hereafter be expanded, Developer reserves the right to designate and redesignate Limited Common Elements as appurtenant to each Unit within a Building until such time as a deed from Developer to a purchaser of such Unit is recorded. Developer reserves the right to convert Common Elements into Limited Common Elements and to redesignate Limited Common Elements as Common Elements, provided that Developer shall first amend any plat previously recorded, or the Master Deed, to effect such designations and redesignations, if necessary. Developer reserves the right to convert Units into Common Elements until any such Unit is sold. In no event shall this Section confer upon Developer the right to alter Limited Common Elements assigned to previously deeded Units.

(c) Use of Common Elements. Developer reserves the right, in perpetuity, to use any and all Common Elements such as entry ways, hallways, corridors, and lobbies for the placement of kiosks, carts or similar items owned by Developer for the conducting of Business which is not incompatible with the mixed-use nature of the Property.

22. **RIGHTS OF LENDERS AND UNIT OWNERS TO INFORMATION.**

(a) **Actions Requiring Approval.** Each of the following actions shall require Lender Approval as of the date such action is taken:

(1) Removal of the Property from the provisions of the Act, except for removal provided by law, in the case of destruction by fire or other casualty or in the case of a taking by condemnation or eminent domain;

(2) Execution of any amendment to this Master Deed which changes the provisions of this subsection or any other provision in this Master Deed which specifically grants rights to the Lenders.

(b) **Requests for Notice and Reports.** Upon written request to the Board, any Lender shall be entitled to:

(1) inspect the books and records relating to the Property, including the Bylaws and Rules and Regulations of the Association, during normal business hours, upon reasonable notice;

(2) receive a copy of the annual financial statement of the Association which is prepared for the Association and distributed to Unit Owners;

(3) receive written notice of all meetings of the Association and designate a representative to attend all such meetings;

(4) receive written notice of any default in the obligations hereunder of the Unit Owner or Unit Owners of such Unit or Units encumbered by such Mortgage lien not cured within the time periods provided in **Section 18** hereof;

(5) receive written notice of any material amendment to this Master Deed, the By-laws or the Charter of the Association;

(6) receive notice of any condemnation action affecting the Property or any lapse of hazard/casualty insurance maintained by the Association.

The Association's failure to provide any of the foregoing to a Lender who has so requested same, however, shall not affect the validity of any action or decision which is related to the foregoing, nor shall the Association have any liability on account of its good faith failure to so provide.

(c) **Notice of Casualty or Condemnation.** Upon written request to the Board, a Lender shall be entitled to timely written notice in the event of any substantial damage to or destruction of the Unit or Units, or any part of the Common Elements or, if such Unit or Units or any portion thereof, or the Common Elements or any portion thereof is made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority. No Unit Owner or other party shall be entitled to priority over a First

Mortgagee with respect to the distribution to such Unit Owner or other party, as to such Unit, of any insurance proceeds payable by reason of such damage or destruction or of the proceeds of any such condemnation award or settlement.

(d) Additional Rights. The provisions hereof are in addition to all other rights of Lenders herein contained or under law.

(e) Unit Owner's Access to Information. Upon written request to the Board, any Unit Owner shall be entitled to:

(1) Inspect the books and records relating to the Property, including the Bylaws and the rules and regulations of the Association, during normal business hours, upon reasonable notice; provided however, that in no event shall any Unit Owner be entitled to review, without prior approval of the Board, the phone numbers of other Unit Owners, payroll or other employee files or employee information maintained by the Association, or the actual monetary balance of delinquent Assessments;

(2) receive a copy of the annual financial statement of the Association which is prepared for the Association and distributed to Unit Owners;

(3) receive written notice of all meetings of the Association and designate a representative to attend all such meetings;

(4) receive written notice of any material amendment to this Master Deed, the By-laws or the Charter of the Association;

(5) receive notice of any condemnation action affecting the Property or any lapse of hazard/casualty insurance maintained by the Association.

The Association's failure to provide any of the foregoing to a Unit Owner who has so requested same, however, shall not affect the validity of any action or decision which is related to the foregoing, nor shall the Association have any liability on account of its good faith failure to so provide. The provisions hereof are in addition to all other rights of Unit Owner's herein contained or under law.

23. TRUSTEE AS UNIT OWNER. In the event title to any Unit is conveyed to a trust which holds title to a Unit under the terms of which all powers of management, operation and control of the Unit remain vested in the trust beneficiary or beneficiaries, then the beneficiaries thereunder shall be considered Unit Owners for all purposes and shall be responsible for payment of all obligations, liens or indebtedness and for the performance of all agreements, covenants and undertakings chargeable or created under this Master Deed against such Unit. No claim shall be made against any such titleholding trustee personally for payment of any lien or obligation hereunder created and the trustee shall not be obligated to sequester funds or trust property to apply in whole or in part against such lien or obligation. The amount of any such lien or obligation shall continue to be a charge or lien upon the Unit and the beneficiaries of such trust, notwithstanding any transfers of the beneficial interest of any such trust or any transfer of title to such Unit.

24. **HEADINGS.** The headings of sections and subsections in this Master Deed and the By-laws are for convenience or reference only and shall not in any way limit or define the content or substance of such sections and subsections.

25. **NUMBER AND GENDER.** As used in this Master Deed, the singular shall include the plural, and masculine, feminine, and neuter pronouns shall be fully interchangeable, where the context so requires.

26. **SEVERABILITY.** If any provision of this Master Deed, or By-laws, or other exhibit hereto, or any section, sentence, clause, phrase, word or the application thereof in any circumstances is held invalid, the validity of the remainder of this Master Deed and the By-laws and the other exhibits and of the application of any such provision, section, sentence, clause, phrase, or word in any other circumstances shall not be affected thereby, and the remainder of this Master Deed or the By-laws shall be construed as if such invalid part was never included therein.

27. **RIGHTS AND OBLIGATIONS.** Each Unit Owner accepts all restrictions, conditions, covenants, reservations, easements, liens and charges, and the jurisdiction, rights and powers created or reserved by this Master Deed. All rights, benefits and privileges of every character hereby imposed shall be deemed and taken to be covenants running with the land, and shall bind any person having at any time any interest or estate in the Parcel, the Property, or any portion thereof, and shall inure to the benefit of such Unit Owner as grantee in like manner as though the provisions of this Master Deed were recited and stipulated at length in each and every deed of conveyance or contract for conveyance.

28. **NOTICES.** Notices provided for in the Act, the Master Deed or the By-laws shall be in writing, and, if to the Board, shall be addressed to the Association or the Board, at 9298 Apison Pike, Box 12, Ooltewah, Tennessee 37363, Attention: Manager; and if to a Unit Owner, shall be addressed to such Unit Owner at the mailing address of the Unit Owner's Unit or such other address as hereinafter provided. The Association or the Board may designate a different address or addresses for notices to them, respectively, by giving written notice of such change of address to all Unit Owners. Any Unit Owner may designate a different address for notices to him by giving written notice to the Association. Notices addressed as above shall be deemed delivered (i) two (2) business days after mailing by United States first class, registered or certified mail, if mailed, or (ii) when delivered in person, if personally delivered.

Upon written request to the Board, a Lender shall be given a copy of all notices permitted or required by this Master Deed, the By-laws or the Act to be given to the Unit Owner or Unit Owners whose Unit or Units are subject to such Mortgage.

29. **EXHIBITS.** Exhibits "A" through "D" which are attached hereto are made a part of this Master Deed as fully as if set forth in their entirety in this Master Deed.

*[Signatures on Following Page]*



IN WITNESS WHEREOF, the parties have caused this instrument to be executed as of the ✓ day of November, 2007.

COURCHEVEL, LLC, a Tennessee limited liability company

By: [Signature]  
Darren Kennedy, President/Chief Manager

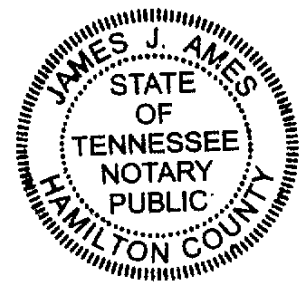
STATE OF TENNESSEE )  
  )  
COUNTY OF HAMILTON )

Before me, ✓, of the state and county aforementioned, personally appeared the within named Darren Kennedy, to me known (or proved to me on the basis of satisfactory evidence), and who acknowledged to me that he is the President/Chief Manager of COURCHEVEL, LLC, the within named bargainor, a Tennessee limited liability company, and that for and on behalf of said bargainor, being first duly authorized so to do by bargainor, he/she executed and delivered the within instrument on the date and in the year therein mentioned, for the purpose therein contained, by personally signing the name of the company as President/Chief Manager.

WITNESS my hand and official seal, at office, this 21<sup>st</sup> day of November, 2007.

[Signature]  
Notary Public

My Commission Expires: 5/19/2010



**EXHIBIT "A"**

That certain real property situated in the City of Chattanooga, Hamilton County, Tennessee:

LOCATED IN THE SECOND CIVIL DISTRICT OF HAMILTON COUNTY, TENNESSEE:

Lot Four (4) resubdivision of Lot One-A (1-A), Final Plat of Lot 1, Collegedale Medical Plaza, Hamilton County, Tennessee, as shown by plat recorded in Plat Book 50, Page 123, and revised in Plat Book 73, page 45, in the Register's Office of Hamilton County, Tennessee.

TOGETHER WITH a non-exclusive permanent, perpetual easement for access and utilities to, from, under and across the western Fifty (50) feet of Lot No. Two (2), running 50-feet from and parallel with the western boundary of Lot 2 from Messinger Lane, as designated on said plat, to Apison Pike, and the southern Fifty (50) feet of Lot No. One-B (1-B), running 50 feet from and parallel with the southern boundary of Lot 1-B, referenced to as Messinger Lane, as shown on said plat. Provided that said Easement shall terminate as to the southern portion of said lot upon dedication of said portion to the City of Collegedale.

For prior title and last instrument of record affecting title to the above described property, see deed recorded in Book 7707, Page 190, in the said Register's Office.

**EXHIBIT "A-1"**

This Exhibit as set forth on the succeeding pages is intended to illustrate some common maintenance, cleaning, repair, replacement, insurance and restoration responsibilities and whether those responsibilities are to be undertaken by the Association or the Unit Owner. The illustrations cover routine and normal repair, maintenance, replacement and insurance obligations and are not intended to cover repairs or replacements necessitated by actions of Unit Owners, occupants or guests, other than normal wear and tear. The categories and responsibilities in this list are not intended to be exhaustive of all areas of responsibility and are not intended to supersede the applicable provisions of either the Master Deed or the Bylaws.

Items	I General Common Elements Under Association Responsibility	II Limited Common Elements; Association maintains and repairs, but invoices benefited Unit Owners for reimbursement	III Unit Owner Responsibility
1. Decoration of Unit, including but not limited to, floor and wall coverings, interior window treatment, molding, etc.			X
2. Plumbing, (excluding hot water heaters) and components thereof: Insurance, maintenance, repair, replacement, etc.  (a) Portions serving an entire Building  (b) Portions serving less than a whole Building or located within the walls or beyond the boundaries of a Unit.  (c) Portions located within the boundaries of a	X	X	

	Unit.			X
3.	Hot water heater wherever located			X
4.	Heating and Air Conditioning compressor or furnace (excluding pipes, ducts and wiring external to the compressor or furnace): Insurance, maintenance, repair, replacement, etc., regardless where located.			X
5.	Electrical Wiring and Other Utility Installations (to the outlets): Insurance, maintenance, repairs, replacement, etc.  (a) Wiring and Installations serving an entire Building.  (b) Wiring and Installations serving less than an entire Building but located beyond the boundaries of a Unit.  (c) Fixtures within a Unit's boundaries.	X	X	X
6.	Garbage removal from Property	X		
7.	Pest Control	X		
8.	Landscaping: Insurance, maintenance, repair, replacement, etc., except areas maintained by individual Unit Owners with Board approval	X		
9.	Parking areas: Insurance, maintenance, repair,			



cleaning				
14.	Decks and Balconies			
(a)	If open and accessible to all Unit Owners	X		
(b)	If shared by more than one, but less than all, Units		X	
(c)	If open and accessible to only a single Unit			X
15.	Bathroom fixtures, including, but not limited to, soaking tubs, toilet, ceramic tile, shower, vanities:			
(a)	Insurance and replacement upon casualty			X
(b)	Routine maintenance, repair, replacement other than casualty, etc.			X
16.	Kitchen fixtures, including, but not limited to, appliances, cabinets, and floor coverings:			
(a)	Insurance and replacement upon casualty			X
(b)	Routine maintenance, repair, replacement other than casualty, etc.			X
17.	Walls, floors and ceilings::			
(a)	Finished but undecorated plaster, sheetrock or wallboard making up ceiling and walls: Insurance and replacement upon			X

	casualty			
	(b) Finished but undecorated plaster, sheetrock or wallboard making up ceiling and walls: Routine maintenance and repair			X
	(c) Uppermost unfinished floor, lowermost unfinished ceiling, wall framing and studs.	X		
	(d) Carpet, linoleum, or other floor covering			X
18.	Water damage to innocent, third-party Units:			
	(a) Water damage from water emanating from plumbing or pipes, whether Common Elements or part of another Unit	X		
	(b) Water damage from water emanating from appliances of another Unit			X (being the Unit that is the source of the damage)


**EXHIBIT "B"**

<u>Unit No. (Suite No.)</u>	<u>Unit Square Footage</u>	<u>Percentage Interest</u>
1 - (Suite 118)	1,721	12.7%
2 - (Suite 114)	1,396	10.3%
3 - (Suite 110)	894	6.6%
4 - (Suite 106)	1,032	7.5%
5 - (Suite 100)	2,095	15.4%
6 - (Suite 200)	1,432	10.5%
7 - (Suite 204)	1,743	12.8%
8 - (Suite 210)	1,604	11.8%
9 - (Suite 208)	1,686	12.4%
Total:	13,603	100.00%



**EXHIBIT "C"**

**CHARTER  
OF  
COURCHEVEL OWNERS ASSOCIATION, INC.**

 <p><b>State of Tennessee</b>  <b>Department of State</b>      Corporate Filings      312 Eighth Avenue North      6th Floor, William R. Snodgrass Tower      Nashville, TN 37243</p>	<p><b>CHARTER</b>  <b>(Nonprofit Corporation)</b></p>	<p>For Office Use Only</p> <p style="text-align: center;">RECEIVED      STATE OF TENNESSEE      2007 MAY -9 AM 8:09      RILEY DARNELLE      SECRETARY OF STATE</p>
<p>The undersigned acting as incorporator(s) of a nonprofit corporation under the Tennessee Nonprofit Corporation Act adopts the following Articles of Incorporation.</p>		
<p>1. The name of the corporation is: <u>Courchevel Owners Association, Inc.</u></p>		
<p>2. Please complete all of the following sentences by checking one of the two boxes in each sentence:          This corporation is a <input type="checkbox"/> public benefit corporation / <input checked="" type="checkbox"/> mutual benefit corporation.          This corporation is <input type="checkbox"/> a religious corporation / <input checked="" type="checkbox"/> not a religious corporation.          This corporation will <input checked="" type="checkbox"/> have members / <input type="checkbox"/> not have members.</p>		
<p>3. The name and complete address of the corporation's initial registered agent and office in Tennessee is:  <u>Darren W. Kennedy</u>      <u>9325 Apison Pike, Suite 106</u>      <u>Ooltewah</u>      <u>TN 37363</u>      <u>Hamilton</u>          Name                                      Street Address                                      City                                      State, Zip Code      County</p>		
<p>4. List the name and complete address of each incorporator:  <u>Darren W. Kennedy</u>      <u>9325 Apison Pike, Suite 106</u>      <u>Ooltewah, TN 37363</u>          Name                                      (Include Street Address, City, State, and Zip Code)          _____          Name                                      (Include Street Address, City, State, and Zip Code)          _____          Name                                      (Include Street Address, City, State, and Zip Code)</p>		
<p>5. The complete address of the corporation's principal office is:  <u>9325 Apison Pike, Suite 106</u>      <u>Ooltewah</u>      <u>TN</u>      <u>37363</u>          Street Address                                      City                                      State/Country                                      Zip Code</p>		
<p>6. The corporation is not for profit.</p>		
<p>7. If the document is not to be effective upon filing by the Secretary of State, the delayed effective date and time are:          Date _____, Time _____ (Not to exceed 90 days.)</p>		
<p>8. Insert here the provisions regarding the distribution of assets upon dissolution:          In the event of liquidation, dissolution or winding up of the corporation, whether voluntary, involuntary or by operation of law, the residual assets of the corporation shall be distributed to the members in accordance with their respective interests in the corporation.</p>		
<p>9. Other provisions:  <u>See attached page</u></p>		
<p><u>5/4/07</u>          Signature Date</p>	<p><u>[Signature]</u>          Incorporator's Signature  <u>Darren W. Kennedy</u>          Incorporator's Name (typed or printed)</p>	<p>SS-4418 (Rev. 9/04)      Filing Fee: \$100      RDA 1678</p>

10-31-'07 13:36 FROM-Advantage Financial

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Members:

The members shall be such persons who are authorized to be members of the corporation under the Master Deed creating the The Courchevel Condominium, a condominium development located in Ooltewah, Tennessee, and filed or to be filed of record in the Register's Office of Hamilton County, Tennessee (the "Master Deed").

8054.1133

**EXHIBIT "D"**

**BY-LAWS  
OF  
COURCHEVEL OWNERS ASSOCIATION, INC.**

**ARTICLE I  
The Association**

**Section 1.1. Name and Description.** Courchevel Condominium Owners Association, Inc. (the "Association") has been or will be organized as a Tennessee non-profit corporation as set forth in the Master Deed and Declaration of Covenants, Conditions and Restrictions (the "Master Deed") to be recorded in the Register's Office, Hamilton County, Tennessee. The Association shall be responsible for the management, maintenance, operation and administration of Courchevel Condominium regime and the Common Elements associated with the condominium regime in accordance with the Tennessee Horizontal Property Act, Sections 66-27-101, et seq. (the "Act"), the Master Deed, these By-laws, the Charter, and the rules and regulations of the Association as adopted from time to time (the "Rules"). Members and all persons using, entering upon or acquiring any interest in a Unit, the Common and Limited Common Elements shall be subject to the provisions of these documents.

**Section 1.2. Definitions.** The definitions contained in the Master Deed, including without limitation, those in Article I entitled "Definitions" of the Master Deed, are incorporated herein by this reference.

**ARTICLE II  
Members**

**Section 2.1. Membership.** Upon becoming a Unit Owner within Courchevel Condominium regime, a person or entity shall automatically become a member of the Association (a "Member") and shall be subject to the provisions of these By-laws, the Charter, Master Deed and the Rules. Such membership shall terminate without any action by the Association whenever such person or entity ceases to own a Unit; but such termination shall not relieve or release any such former Unit Owner from any liability or obligation incurred from the application of the provisions of these By-laws, the Charter, the Master Deed and the Rules during the period of such ownership and membership in the Association, nor shall such termination impair any rights or remedies which the Board of Directors of the Association may have against such former Unit Owner. The Board of Directors may, if it so elects, issue a membership card to the Members which membership card shall be surrendered whenever ownership of the Unit designated thereon has terminated. Developer will be deemed to be the Unit Owner of each Unit contemplated to be constructed within the condominium regime until the Unit is conveyed or is transferred to a third party purchaser. Accordingly, Developer will be a Member of the Association until Developer no longer owns a Unit. The term "Unit Owner" will be used interchangeably with the term "Member" when the context may require or be more appropriate.

Section 2.2. First Meeting and Annual Meetings of Members. The first meeting of the Members of the Association shall be held within sixty (60) days after Developer has sold the last Residential Unit, such that Developer no longer owns any Residential Units. Each subsequent regular annual meeting of the Members shall be held on the first Wednesday of October of each year, or such other date as may be selected by the Board of Directors. Regular meetings of the Members shall be held not less frequently than once each calendar year.

Section 2.3. Initial Control of Association and Board by Developer. Until the first meeting of Members, all business and affairs of the Association shall be managed by Developer. Subsequent to the first meeting of the Association, the Developer shall continue to control and manage all business and affairs of the Association until Developer has sold Units representing more than 80% of the total Percentage Interests as shown on a schedule of the Unit Owners' Percentage Interests (the "**Schedule of Unit Owners' Percentage Interests**") maintained by the Association and updated from time to time. Once Developer (i) has sold all Residential Units, and (ii) has sold Units representing more than 80% of the total Percentage Interests, then Developer shall commence transition of control of the Association and the Board as provided in Article III of these Bylaws.

Section 2.4. Place of Meetings. Meetings of the Members shall be held at the principal office of the Association or at such other suitable place convenient to the Members as may be designated by the Board of Directors.

Section 2.5. Notice of Meetings. At least five (5) but not more than twenty (20) days prior to a meeting, the Secretary shall mail or personally deliver to each Member of record a notice of each annual or special meeting of the Members at the address of the Unit or at such other address as such Member shall have designated in writing to the Association. The notice shall state the purpose of the meeting as well as the time and place where the meeting is to be held. The mailing of a notice of a meeting in the manner provided in this Section shall be considered service of notice.

Section 2.6. Special Meetings. Special meetings of the Members may be called by the President, a majority of the Directors, or by Members having at least fifty percent (50%) of the Percentage Interests. All references hereafter to "total voting power" shall mean Members of the Association who collectively own one hundred percent (100%) of the Percentage Interests. Notice of any special meeting shall state the time, place, and purpose of the meeting. No business shall be transacted at a special meeting except as stated in the notice.

Section 2.7. Quorum and Adjournment. The presence in person or by proxy of Members entitled to exercise not less than a majority of the total voting power of the membership shall constitute a quorum for the transaction of business. The Members present at a duly called or held meeting at which a quorum is present may continue to transact business until adjournment. If a quorum is present, the meeting may be adjourned from time to time by the vote of a majority of the total voting power present in person or by proxy and entitled to vote thereat. No meeting may be adjourned for more than forty-five (45) days. If, after the adjournment, a new record date is fixed for the adjourned meeting, notice of the adjourned meeting shall be given as in the case of an original meeting. At any adjourned and re-called meeting, the Association may transact any business which might have been transacted at the original meeting. If the required quorum is not

present or represented at the original meeting, the Members entitled to vote thereat may adjourn the meeting (but may not transact any other business) without notice, to a time not less than five (5) days nor more than thirty (30) days from the time the preceding meeting was called.

Section 2.8. Voting.

(a) Except as otherwise provided by these By-laws, each Member shall be entitled to the number of votes equal to the total of the Percentage Interests allocated to the Unit or Units owned by a Member as set forth in Schedule of Unit Owners' Percentage Interests. The vote of each Member may only be cast by such Member or by a proxy given by such Member to his duly authorized representative. If title to a Unit shall be in the name of two or more persons as Unit Owners (the "Joint Unit Owners"), anyone of such Joint Unit Owners may vote as the Unit Owner at any meeting of the Association, and such vote shall be binding on such other Joint Unit Owners who are not present at such meeting. If two or more of such Joint Unit Owners are present at any meeting of the Association, their unanimous consent shall be required to cast their vote as a Member.

(b) When a quorum is present at any meeting of the Association, the vote by Members having more than fifty percent (50%) of the Percentage Interests of those Members qualified to vote who are present, in person or by proxy, at such meeting shall decide any question brought before such meeting, unless the question is one upon which a different vote is required by an express provision of the Act, the Master Deed, or these By-laws, in which case such express provision shall govern.

Section 2.9. Proxies. Votes may be cast in person or by proxy. Proxies shall be in writing and the signature of the person or persons executing the proxy must be witnessed or acknowledged. Proxies must be filed with the Secretary before the appointed time of each meeting. No proxy shall be valid for a period longer than eleven (11) months after the date of its execution, unless otherwise provided in the proxy.

Section 2.10. Waiver of Notice. Whenever the Members are authorized to take any action after notice to any person or persons, or after the lapse of a prescribed period of time, such action may be taken without such notice and without the lapse of such period of time if at any time before or after such action is completed each person entitled to such notice or entitled to participate in the action to be taken, or his attorney-in-fact or proxy holder, submits a signed waiver of notice of such requirement. A Member's attendance at a meeting shall also constitute a waiver of notice, except where a Member at the beginning of the meeting objects to holding the meeting or transacting business at the meeting.

Section 2.11. Action by Consent. Whenever Members are required or permitted to take any action by vote, such action may be taken without a meeting if all Members entitled to vote on the action consent to considering such action without a meeting. If such consent is obtained, the affirmative vote of the number of Members necessary to authorize or take such action at a meeting shall be the act of the Members. Actions taken without a meeting must be evidenced by one or more written consents setting forth the action so taken, signed by all of the persons entitled to vote and indicating each signing Member's vote or objection on the action.

Section 2.12. Transfer. The membership held by any Unit Owner shall not be transferred, pledged or alienated in any way except upon the Unit Owner's sale of his Unit and then only to the purchaser of the Unit. Any attempt to make a prohibited transfer will be void and will not be reflected upon the books or records of the Association. In the event any Unit Owner shall fail or refuse to transfer the membership registered in his name to the purchaser of his Unit, the Association shall have the right to record the transfer upon the books and records of the Association.

Section 2.13. Obligations of Members. The Association, all present or future Members, tenants or future tenants, or any other persons using the Common Elements and the facilities of Courchevel Condominium regime are subject to and shall comply with the Act, the Master Deed, these By-laws, the Charter, and the Rules of the Association, and the acceptance of a deed of conveyance, or the execution of a lease, or the act of occupancy of any Unit in the condominium regime shall constitute an acceptance of and agreement to comply with the provisions of all such documents. As more fully provided in the Master Deed, each Member shall pay regular, special and specific assessments levied by the Association to meet the financial requirements of the Association. A Member shall not be a Member in good standing and the Board of Directors may suspend such Member's voting rights and any other rights and privileges possessed by Members during any period or periods which such Member has not paid when due any assessment or any other charges made or levied against the Unit or has failed to comply with or perform other obligations provided for under these By-laws, the Master Deed or the Rules.

### **ARTICLE III** **Board of Directors**

Section 3.1. Appointment or Election and Term of Office. In accordance with the provisions of the Master Deed, Developer will control and act as, or will appoint a person or persons to control and act as, the Board of Directors of the Association until such time as Developer both (i) no longer owns any Residential Units, and (ii) has sold Units representing more than 80% of the total Percentage Interests, unless the Developer transfers his authority to the Board at an earlier date. Within sixty (60) days of items (i) and (ii) occurring, Developer shall call a special meeting of the Association to elect the first Board of Directors. Prior to the occurrence of items (i) and (ii) Developer, at its option, may appoint Members to serve on the Board and may assign to such appointees and to itself such number votes on the Board as Developer so desires, so long as the total number of votes assigned does not exceed three (3); any such appointees shall serve at the will of Developer until the election of the first Board. The Board of Directors shall consist of three (3) Directors, all of whom shall be natural persons. The Directors shall be elected by a Majority Approval of the Members of the Association; provided that, at all times, at least one Director must be an owner of a Residential Unit and at least one Director must be an owner of a Commercial Unit. The first Board of Directors elected shall serve until the first scheduled annual meeting of the Members. Thereafter, Directors shall be elected at the annual meeting of Members each year and shall hold office until the next annual meeting of Members, or until their successors have been elected and shall have qualified.

Section 3.2. Nominations. Nomination for election to the Board shall be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting or special meeting as the case may be. The Nominating Committee shall consist of a Chairman,

who shall be a Member of the Board, and two or more Members of the Association. The Nominating Committee shall be appointed by the Board prior to each annual meeting to serve until the close of such annual meeting. The Nominating Committee shall make as many nominations for election to the Board as it shall in its discretion determine. Except for Directors appointed by Developer, every Director must at all times be a Member of the Association.

Section 3.3. Vacancies. After members of the Board of Directors are elected by the membership, a vacancy in any Director position elected by the Members shall be filled by the majority vote of the remaining Directors, even though they may constitute less than a quorum of the Board of Directors. A Director elected or appointed to fill a vacancy shall serve for the unexpired term of his predecessor in office and shall hold such office until his successor is duly appointed or elected and shall qualify.

Section 3.4. Removal of Directors. Any Director elected by the Members may be removed at any regular meeting or a special meeting of the Members called for that purpose, with or without cause, by Majority Approval of the Members. A successor may then and there be elected to fill the vacancy thus created.

Section 3.5. Resignations. Any Director may resign effective upon giving written notice to the President, the Secretary or the Board, unless the notice specifies a later time for the effectiveness of such resignation. If the resignation of a Director is effective at a future time, a successor may be elected by the Board to take office when the resignation becomes effective. A Director shall be deemed to have automatically resigned at such time as the Director's membership in the Association has terminated.

Section 3.6. Committees. The Board of Directors may appoint committees from time to time as it may deem necessary or appropriate in carrying out the purposes and functions of the Association. Such Committees shall perform the duties provided for in the Board's resolutions in which the Committees are created.

Section 3.7. Compensation. No Director shall receive compensation for any service he or she may render to or on behalf of the Association as a Director, provided, however, that nothing contained herein shall be construed to preclude any Director of the Association from serving the Association as agent, counselor in any capacity other than as Director, and receiving compensation therefor, and it shall not be construed to preclude Directors from being reimbursed for their actual expenses incurred in the performance of their duties.

Section 3.8. Fidelity Bonds. The Board of Directors may obtain fidelity bonds for all Directors, Officers, employees of the Association or any other person handling or responsible for Association funds. The premiums for such bonds shall constitute a common expense of the Association.

Section 3.9. Managing Agent. The Board of Directors may employ for the Association a professional manager or Managing Agent, for such compensation as may be established by the Board, to exercise such powers and perform such duties and services as the Board shall authorize, including but not limited to, the powers and duties listed in Section 3.11 hereof. The



employment of a Managing Agent shall not relieve the Board of Directors from its responsibilities as provided herein or as provided in the Master Deed.

Section 3.10. Personal Liability of Directors. The personal liability of each Director of the Association for monetary damages for breach of fiduciary duty as a Director shall be eliminated to the full extent permitted by Section 48-52-102(b)(3) of the *Tennessee Code Annotated*.

Section 3.11. Powers and Duties. All corporate powers of the Association shall be exercised by or under the authority of the Board of Directors, which is charged with the responsibility of conducting, managing and controlling all business and affairs of the Association. Without limiting the generality of the powers and duties delegated to the Board by the Charter, Master Deed, and as otherwise provided in these By-laws, the Board shall have the following additional powers and duties:

(a) Elect and appoint Officers of the Association and to delegate such authority to them as the Board shall deem necessary and appropriate to serve the purposes of the Association.

(b) Hire, employ, appoint and discharge all employees, agents and contractors to perform services for the Association consistent with its purposes as provided for in the Charter, Master Deed or these By-laws, and to fix the compensation and fees for the performance of their services.

(c) Adopt and publish Rules which may, among other matters, govern the use of the Common Elements and any property, facilities and improvements of the Association, as well as the personal conduct of the Members and their tenants, guests, invitees and licensees, which Rules may establish sanctions and fines for infractions thereof.

(d) Establish the principal office of the Association within the Property or such other place which is as close thereto as possible for the transaction of the Association's business.

(e) Cause to be kept a complete record of all of its acts and business affairs.

(f) Supervise all Officers, employees, agents and contractors of the Association, and see that their duties are properly performed.

(g) Issue to any Unit Owner upon demand a certificate in writing signed by an Officer or authorized agent of the Association setting forth whether said assessments, or any portion thereof, levied against the Unit have been paid. Such certificate shall be conclusive evidence of payment of any Assessments stated to have been paid.

(h) Review, on at least a quarterly basis, the latest account statements prepared by the financial institutions where the Association has its operating and reserve accounts.

(i) Review, on at least a quarterly basis, an income and expense statement for the Association's operating and reserve accounts.

(j) Review, on at least a quarterly basis, the current years actual operating and reserve revenues and expenses compared to the current year's budget

(k) Perform all other duties as may later be required by the Members, or by the Master Deed, these By-laws or the laws of the State of Tennessee, as the same may be amended from time to time.

Section 3.12. Association Rules: Enforcement.

(a) The following provisions shall govern the creation and adoption of the Association's Rules. All Rules proposed by the Board shall be consistent with and in furtherance of existing law, the Master Deed, the Charter and these Bylaws and may include the establishment of a system of fines and penalties. The proposed rules and regulations receiving the vote or written assent of a majority of the members of the Board shall take effect as the Association Rules.

(b) The specific fines and penalties for the first breach or violation of the Association's Rules may include, without limitation, suspensions, for a period not to exceed sixty (60) days, of (i) the use or enjoyment of any facilities within the Common Elements of the Property; (ii) any services the Association may be providing to the Unit or Unit Owner, and/or (iii) the right to vote as a Member of the Association. The Board may also impose and assess a monetary fine not to exceed the amount of the then applicable one month Regular Assessment. Subsequent breaches or violations of the Association's Rules by a Member or a Member's violation or breach of the Master Deed or these By-laws may include suspensions of one or more of the above stated membership rights for a period not to exceed one hundred fifty (150) days, a monetary fine not to exceed twice the then applicable one month Regular Assessment, or both.

(c) Any Rules adopted pursuant to this Section may provide such procedural safeguards as the Board deems appropriate.

Section 3.13. Suspension of Membership. Notwithstanding the provisions hereabove, the voting rights, the use or enjoyment of the Common Elements or of the facilities therein by a Member or his family, guests or tenants, and any services the Association may be providing to any Member may be suspended by action of the Board for any period during which any assessment, or any portion thereof, levied against his Unit remains unpaid and delinquent. In the event of such suspension, the Member's rights and privileges shall be automatically restored upon his payment in full of such delinquent assessments, including interest and late charges.

Section 3.14. Abatement and Enjoining of Violations. In addition to any other rights set forth in these By-laws, the Association, through the Board, and any Member shall have the right to prosecute any proceedings at law or in equity against any person or persons for the breach or violation of any of the provisions of these By-laws or of the Master Deed and to obtain relief by way of injunction, money damages, or both. In the event that any provision of these By-laws shall be held invalid by judgment or court order, it shall not be deemed to affect any of the other provisions herein, which shall continue and remain in full force and effect. In the event that any

provision hereof shall be declared void by a court of competent jurisdiction by reason of the period of time for which the same shall be effective, then the term of such provisions shall be reduced by the maximum period of time allowed by the laws of the State of Tennessee.

**ARTICLE IV**  
**Meetings of the Board of Directors**

Section 4.1. Organization Meeting. Immediately following each annual meeting of Members, the Board shall hold a regular meeting for the purpose of organization, election of Officers, and the transaction of other business.

Section 4.2. Other Regular Meeting. Other regular meetings of the Board shall be held at least once every month at such time as may be fixed from time to time by resolution of the Board; provided, however, such meetings may be held less frequently than monthly (but not less frequently than every six months) if the Board determines by resolution that the business to be transacted by the Board does not justify monthly meetings. Should said meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day ensuing that is not a legal holiday.

Section 4.3. Place of Meeting. Regular and special meetings of the Board shall be held at any place within the Property which has been designated from time to time by resolution of the Board or by written consent of all members of the Board; provided, however, such meetings may be held outside the Property, but as close to the Property as reasonably possible, if the Board determines by resolution, or by such written consent, that a larger meeting room is required than exists within the Property.

Section 4.4. Notice of Meetings. Notice of each meeting of Directors, whether regular or special, shall be given to each Director. If such notice is given either by personally delivering written notice to a Director or by personally telephoning such Director, it shall be so given at least three (3) days prior to the meeting (except in the case of emergency). If such notice is given by depositing a written notice in the United States mail, postage prepaid, directed to such Director at his residence or place of business, it shall be given at least five (5) days prior to the meeting (except in the case of emergency). Notice of all meetings shall state the place, date and hour thereof, but need not, unless otherwise required by statute, state the purpose or purposes thereof.

Section 4.5. Special Meetings. Special meetings of the Board of Directors may be called by or at the request of the President or any two Directors.

Section 4.6. Telephone Meetings Permitted. Members of the Board may participate in a meeting of the Board by means of a conference telephone or similar communications equipment which enables all persons participating in the meeting to hear each other at the same time, and participation by such means shall constitute presence in person at such meeting.

Section 4.7. Adjournment. A majority of the Directors present, whether or not constituting a quorum, may adjourn any meeting to another time. If the meeting is adjourned for more than five (5) days, notice of any adjournment to another time or place shall be given prior

to the time of the adjourned meeting to the Directors who were not present at the time of the adjournment.

Section 4.8. Waiver of Notice. Any Director may, at any time, waive notice of any meeting of the Board of Directors in writing, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Director at any meeting of the Board shall constitute a waiver of notice by him of the time and place thereof unless he protests lack of notice prior to or at the commencement of the meeting. If a sufficient number of Directors are present at any meeting that constitutes a quorum of the Board and who have not protested lack of notice, any business may be transacted at such meeting. Business may be transacted and approved by the Board in the form of a written consent in lieu of a regular or special meeting provided all of the members of the Board shall have executed such written consent. All such waivers, consents or approvals shall be or made a part of the minutes of the meeting and filed with the corporate records.

Section 4.9. Quorum. A majority of the authorized number of Directors shall constitute a quorum for the transaction of business.

Section 4.10. Action Without Meeting. Any action required or permitted to be taken by the Board may be taken without a meeting if all members of the Board shall individually or collectively consent in writing to such action. Such written consent or consents shall be filed with the minutes of the proceedings of the Board. Such action by written consent shall have the same force and effect as a unanimous vote of such Directors. If the Board resolves to take any action by unanimous written consent, an explanation of the action taken shall be posted in a prominent place or places within the Common Elements promptly after the unanimous written consent or consents of all the members of the Board have been obtained.

Section 4.11. Voting. The Majority Approval of the Directors shall be required for any action by the Board of Directors, unless a different number expressly is required by law or by these By-laws.

Section 4.12. Presumption of Assent. A Director who is present at a meeting of the Board, or any committee thereof, shall be presumed to have concurred in any action taken at the meeting, unless his dissent to such action shall be entered in the minutes of the meeting or unless he shall submit his written dissent to the person acting as the Secretary of the meeting before the adjournment of the meeting or shall deliver such dissent personally or by certified mail to the Secretary of the Association promptly after the adjournment of the meeting. Such right to dissent shall not apply to a Director who voted in favor of such action. A Director who is absent from a meeting of the Board, or from a meeting of any committee thereof, at which such action is taken shall not be presumed to have concurred in the action taken.

## ARTICLE V Officers

Section 5.1. Designation of Officers. The Officers of the Association shall be a President and a Secretary. The President and Secretary shall be members of the Board. The Board of Directors may elect or appoint such other Officers, who need not be members of the

Board, including one or more Vice Presidents, Assistant Secretaries, Treasurers, and Assistant Treasurers, as it shall deem desirable, such Officers to have the authority and perform the duties prescribed, from time to time, by the Board of Directors. Any two or more offices may be held by the same person, except the offices of President and Secretary.

Section 5.2. Election and Term of Office. The Officers of the Association shall be elected at the first meeting of the Board of Directors following the first meeting of the Members, and thereafter be elected at the regular meeting of the Board of Directors following each annual meeting of the Members. If the election of Officers shall not be held at such meeting, such election shall be held as soon thereafter as conveniently may be arranged. Each Officer shall hold office until his successor shall have been duly elected and shall have qualified.

Section 5.3. President. The President shall be the chief executive officer of the Association and shall preside at all meetings of the Members of the Association and of the Board of Directors. The President shall have all of the general powers and duties which are usually vested in the office of the president of a nonprofit corporation, including but not limited to the power to sign and execute, on behalf of the Association, all deeds, agreements, contracts, notes, checks and all other written documents which may require the signature of the Association.

Section 5.4. Vice President. A Vice President shall have all of the powers and authority and shall perform all of the functions and duties of the President in the absence of the President or his or her inability for any reason to exercise such powers or perform such duties.

Section 5.5. Secretary. The Secretary shall keep the minutes of meetings of the Board of Directors and minutes of meetings of the Members of the Association. The Secretary shall have charge of such books and papers as the Board of Directors may direct, and shall in general perform all the duties incident to the office of Secretary. The Secretary shall compile and keep up-to-date at the principal office of the Association a complete list of Members and their current mailing addresses. The Secretary shall share with the President the power to sign and execute, on behalf of the Association, all deeds, agreements, contracts, notes, checks and all other written documents which may require the signature of the Association.

Section 5.6. Treasurer. The Treasurer shall have responsibility for Association funds and shall be responsible for keeping full and accurate financial records and books of account of the Association. The Treasurer shall be responsible for the deposit of all monies and other valuable effects in the name and to the credit of the Association in such depositories as may from time to time be designated by the Board of Directors. The Treasurer may also serve as Secretary in the event the Secretary is absent.

Section 5.7. Removal. Any Officer elected or appointed by the Board of Directors may be removed by the Board of Directors whenever in its judgment the best interests of the Association would be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the Officer so removed.

Section 5.8. Vacancies. A vacancy in any office because of death, resignation, removal, disqualification or otherwise, may be filled by the Board of Directors for the unexpired portion of the term.

Section 5.9. Compensation. No Officer shall receive any compensation for acting as such; provided, however, Officers may be reimbursed for any reasonable expenses incurred on behalf of the Association at the direction of the Board.

## **ARTICLE VI** **Assessments**

Section 6.1. Levy of Assessments. The Assessments levied and collected by the Association shall be used exclusively for the purpose of promoting the health, safety, and welfare of the Association, the Members and Occupants of the Units, and in particular for the improvement and maintenance of the Common Elements and the facilities located therein and for providing services to enhance the use and enjoyment of the Common Elements.

Section 6.2. Regular Assessments. The Board of Directors shall prepare an annual budget in advance for each fiscal year of the Association to establish a Regular Assessment to be levied for the forthcoming year to cover the projected common expenses that will be required for the proper operation, management and maintenance of Courchevel Condominium regime, including a reasonable allowance for contingencies and reserves.

Section 6.3. Special Assessments. Special Assessments may be made from time to time to pay for capital improvements, to cover unbudgeted expenses or expenses in excess of the budget, all as provided for more specifically in the Master Deed.

Section 6.4. Specific Assessments. The Board shall have the power to levy Specific Assessments against particular Units to cover overhead and administrative costs of providing benefits or services to the Units or to maintain, repair, or replace Limited Common Elements benefiting such Units. The Board also may levy Specific Assessments against a Unit to cover the expense of bringing the Unit into compliance with the provisions of the Master Deed, these By-laws or the Rules, or the costs incurred by the Association as a consequence of the conduct of the Member or Occupants of the Unit, their licensees, invitees, or guests.

Section 6.5. Allocation and Payment of Assessments. All Regular and Special assessments levied against the Members to cover Association expenses shall be apportioned among and paid by the Members in accordance with the Percentage Interest allocated to each Unit in the Master Deed. Assessments levied against a Unit of a Member shall be due and payable at such time as provided for in the notices sent by the Association to the Members.

Section 6.6. No Exemption for Assessments. No Member may exempt himself from liability for his contribution toward the expenses of the Association by waiver of the use or enjoyment of any of the Common Elements or by the abandonment or sale of his Unit.

## **ARTICLE VII** **Indemnification**

Section 7.1. Indemnification of Directors and Officers. The Association shall indemnify every Director and Officer, and his or her heirs, executors and administrators, against all loss, costs, and expenses, including counsel fees reasonably incurred by him or her in connection with any action, suit or proceeding to which he or she may be made a party by reason of his or her

being or having been a Director or Officer of the Association, to the fullest extent permitted by and consistent with the provisions of the Tennessee Nonprofit Corporation Act. The indemnification provision of this Section shall also apply to any person appointed by Developer to serve on the Board or as an Officer during any time that Developer has the right to appoint all members of the Board of Directors. All liability, loss, damage, costs and expenses incurred or suffered by the Association by reason or arising out of or in connection with the foregoing indemnification provisions shall be treated and handled by the Association as a common expense of the Members of the Association, which shall be assessed to and paid by the Members as provided in the Master Deed. Nothing contained in this Section 7.1 shall, however, be deemed to obligate the Association to indemnify any Member or Owner of a Unit who is or has been a Director or Officer of the Association with respect to any Assessments or other obligations assumed or liabilities incurred by him or her or as a Member or Owner of a Unit under the provisions of the Master Deed.

Section 7.2. Nonexclusively of Rights. The right to indemnification and the payment of expenses incurred in defending a proceeding in advance of its final disposition conferred in this Article shall not be exclusive of any other right which any person may have or hereafter acquire under any statute or by a provision of the Charter, Master Deed, these By-laws, or by a vote of the Members or disinterested Directors, or otherwise.

Section 7.3. Insurance Contracts and Funding. The Association may maintain insurance as a common expense of the Association to protect itself, Developer, and any Director, Officer, employee or agent of the Association against any expense, liability or loss, whether or not the Association would have the power to indemnify such persons against such expense, liability or loss under the Tennessee Nonprofit Corporation Act.

Section 7.4. Indemnification of Employees and Agents of the Association. The Association may, by action of its Board of Directors from time to time, provide indemnification and pay expenses of employees and agents of the Association with the same scope and effect as the provisions of this Article with respect to the indemnification and advancement of expenses of Directors and Officers of the Association or pursuant to rights granted pursuant to, or provided by, the Tennessee Nonprofit Corporation Act, or otherwise.

## **ARTICLE VIII**

### **General Provisions**

Section 8.1. Amendment. These By-laws may be amended by Developer at any time prior to the sale or transfer of all Units. Thereafter, these By-laws may be amended at a regular or special meeting of the Members by Majority Approval; provided, however, no provision of these By-laws that requires the affirmative vote of a higher percentage of the total voting power of the Members to take action shall be amended unless the vote to amend any such provision receives at least the same higher percentage or more of the total voting power of the Members. Notwithstanding the recording of these Bylaws as an Exhibit to the Master Deed, subsequent amendments or restatements of these Bylaws need not be recorded.

Section 8.2. Mortgagee Rights. The Board of Directors, whenever so requested in writing by a mortgagee of a Unit, shall promptly report any then unpaid dues or assessments, or

other default by the Unit Owner of the mortgaged Unit. The Board of Directors, when giving notice to a Unit Owner of a default in paying dues or assessments or other default, shall send a copy of such notice to each mortgagee of a Unit whose name and address has been furnished to the Board.

Section 8.3. Books and Records. The Board of Directors shall keep reasonably detailed records of the actions of the Board, minutes of the meetings of the Board of Directors, minutes of the meetings of the Members, and financial records and books of account of the Association, including a separate account for each Unit which, among other things, shall contain the Percentage Interest allocated to the Unit, the amount of assessments levied against the Unit, the date when due, the amounts paid thereon, and the balance remaining unpaid. A written report summarizing all receipts and expenditures of the Association shall be rendered by the Board of Directors to all Members at least annually.

Section 8.4. Inspection Rights. The Master Deed, the Charter, these By-laws, the Rules and the books, records and papers of the Association shall be available for inspection by any Member or his designated representative, at all times during reasonable business hours at the principal office of the Association, where copies may be purchased at a reasonable cost.

Section 8.5. Nonprofit Corporation. As set forth in the Charter, this Association is a nonprofit corporation formed pursuant to the Tennessee Nonprofit Corporations Act. No Member, member of the Board of Directors or any other person from whom the Association may receive any property or funds shall receive or be lawfully entitled to receive any pecuniary profit from the operations of the Association; and in no event shall any part of the funds or assets of the Association be paid as a salary or compensation to or be distributed to, or inure to the benefit of, any member of the Board of Directors. The foregoing, however, shall in no way prevent or restrict the following:

(a) Reasonable compensation may be paid to any Member or Director while acting on behalf of the Association for services rendered in effecting one or more of the purposes of the Association; and

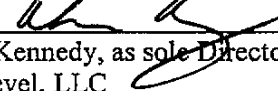
(b) Any Member or Director may, from time to time, be reimbursed for his actual and reasonable expenses incurred in connection with the administration of the affairs of the Association.

Section 8.6. Conflict Between Documents. In the event of a conflict in any of the provisions of the Act, Charter, Master Deed, these By-laws, or the Rules of the Association, then said documents shall govern or control in the following order of preference (1) the Act, (2) Master Deed, (3) Charter, (4) these By-laws and (5) the Rules of the Association.



Section 8.7. Fiscal Year. The fiscal year of the Association shall begin on the first day of January and end on the thirty-first (31st) day of December of every year, except that the first fiscal year shall begin on the date of incorporation.

Adopted by Courchevel Owners Association, Inc.

By:   
Darren Kennedy, as sole Director appointed by  
Courchevel, LLC

**BY-LAWS  
OF  
COURCHEVEL OWNERS ASSOCIATION, INC.**

**ARTICLE I  
The Association**

Section 1.1. Name and Description. Courchevel Condominium Owners Association, Inc. (the "**Association**") has been or will be organized as a Tennessee non-profit corporation as set forth in the Master Deed and Declaration of Covenants, Conditions and Restrictions (the "**Master Deed**") to be recorded in the Register's Office, Hamilton County, Tennessee. The Association shall be responsible for the management, maintenance, operation and administration of Courchevel Condominium regime and the Common Elements associated with the condominium regime in accordance with the Tennessee Horizontal Property Act, Sections 66-27-101, et seq. (the "**Act**"), the Master Deed, these By-laws, the Charter, and the rules and regulations of the Association as adopted from time to time (the "**Rules**"). Members and all persons using, entering upon or acquiring any interest in a Unit, the Common and Limited Common Elements shall be subject to the provisions of these documents.

Section 1.2. Definitions. The definitions contained in the Master Deed, including without limitation, those in Article I entitled "Definitions" of the Master Deed, are incorporated herein by this reference.

**ARTICLE II  
Members**

Section 2.1. Membership. Upon becoming a Unit Owner within Courchevel Condominium regime, a person or entity shall automatically become a member of the Association (a "**Member**") and shall be subject to the provisions of these By-laws, the Charter, Master Deed and the Rules. Such membership shall terminate without any action by the Association whenever such person or entity ceases to own a Unit; but such termination shall not relieve or release any such former Unit Owner from any liability or obligation incurred from the application of the provisions of these By-laws, the Charter, the Master Deed and the Rules during the period of such ownership and membership in the Association, nor shall such termination impair any rights or remedies which the Board of Directors of the Association may have against such former Unit Owner. The Board of Directors may, if it so elects, issue a membership card to the Members which membership card shall be surrendered whenever ownership of the Unit designated thereon has terminated. Developer will be deemed to be the Unit Owner of each Unit contemplated to be constructed within the condominium regime until the Unit is conveyed or is transferred to a third party purchaser. Accordingly, Developer will be a Member of the Association until Developer no longer owns a Unit. The term "Unit Owner" will be used interchangeably with the term "Member" when the context may require or be more appropriate.

Section 2.2. First Meeting and Annual Meetings of Members. The first meeting of the Members of the Association shall be held within sixty (60) days after Developer has sold the last Residential Unit, such that Developer no longer owns any Residential Units. Each subsequent

regular annual meeting of the Members shall be held on the first Wednesday of October of each year, or such other date as may be selected by the Board of Directors. Regular meetings of the Members shall be held not less frequently than once each calendar year.

Section 2.3. Initial Control of Association and Board by Developer. Until the first meeting of Members, all business and affairs of the Association shall be managed by Developer. Subsequent to the first meeting of the Association, the Developer shall continue to control and manage all business and affairs of the Association until Developer has sold Units representing more than 80% of the total Percentage Interests as shown on a schedule of the Unit Owners' Percentage Interests (the "**Schedule of Unit Owners' Percentage Interests**") maintained by the Association and updated from time to time. Once Developer (i) has sold all Residential Units, and (ii) has sold Units representing more than 80% of the total Percentage Interests, then Developer shall commence transition of control of the Association and the Board as provided in Article III of these Bylaws.

Section 2.4. Place of Meetings. Meetings of the Members shall be held at the principal office of the Association or at such other suitable place convenient to the Members as may be designated by the Board of Directors.

Section 2.5. Notice of Meetings. At least five (5) but not more than twenty (20) days prior to a meeting, the Secretary shall mail or personally deliver to each Member of record a notice of each annual or special meeting of the Members at the address of the Unit or at such other address as such Member shall have designated in writing to the Association. The notice shall state the purpose of the meeting as well as the time and place where the meeting is to be held. The mailing of a notice of a meeting in the manner provided in this Section shall be considered service of notice.

Section 2.6. Special Meetings. Special meetings of the Members may be called by the President, a majority of the Directors, or by Members having at least fifty percent (50%) of the Percentage Interests. All references hereafter to "total voting power" shall mean Members of the Association who collectively own one hundred percent (100%) of the Percentage Interests. Notice of any special meeting shall state the time, place, and purpose of the meeting. No business shall be transacted at a special meeting except as stated in the notice.

Section 2.7. Quorum and Adjournment. The presence in person or by proxy of Members entitled to exercise not less than a majority of the total voting power of the membership shall constitute a quorum for the transaction of business. The Members present at a duly called or held meeting at which a quorum is present may continue to transact business until adjournment. If a quorum is present, the meeting may be adjourned from time to time by the vote of a majority of the total voting power present in person or by proxy and entitled to vote thereat. No meeting may be adjourned for more than forty- five (45) days. If, after the adjournment, a new record date is fixed for the adjourned meeting, notice of the adjourned meeting shall be given as in the case of an original meeting. At any adjourned and re-called meeting, the Association may transact any business which might have been transacted at the original meeting. If the required quorum is not present or represented at the original meeting, the Members entitled to vote thereat may adjourn the meeting (but may not transact any other business) without notice, to a time not less than five (5) days nor more than thirty (30) days from the time the preceding meeting was called.

Section 2.8. Voting.

(a) Except as otherwise provided by these By-laws, each Member shall be entitled to the number of votes equal to the total of the Percentage Interests allocated to the Unit or Units owned by a Member as set forth in Schedule of Unit Owners' Percentage Interests. The vote of each Member may only be cast by such Member or by a proxy given by such Member to his duly authorized representative. If title to a Unit shall be in the name of two or more persons as Unit Owners (the "Joint Unit Owners"), anyone of such Joint Unit Owners may vote as the Unit Owner at any meeting of the Association, and such vote shall be binding on such other Joint Unit Owners who are not present at such meeting. If two or more of such Joint Unit Owners are present at any meeting of the Association, their unanimous consent shall be required to cast their vote as a Member.

(b) When a quorum is present at any meeting of the Association, the vote by Members having more than fifty percent (50%) of the Percentage Interests of those Members qualified to vote who are present, in person or by proxy, at such meeting shall decide any question brought before such meeting, unless the question is one upon which a different vote is required by an express provision of the Act, the Master Deed, or these By-laws, in which case such express provision shall govern.

Section 2.9. Proxies. Votes may be cast in person or by proxy. Proxies shall be in writing and the signature of the person or persons executing the proxy must be witnessed or acknowledged. Proxies must be filed with the Secretary before the appointed time of each meeting. No proxy shall be valid for a period longer than eleven (11) months after the date of its execution, unless otherwise provided in the proxy.

Section 2.10. Waiver of Notice. Whenever the Members are authorized to take any action after notice to any person or persons, or after the lapse of a prescribed period of time, such action may be taken without such notice and without the lapse of such period of time if at any time before or after such action is completed each person entitled to such notice or entitled to participate in the action to be taken, or his attorney-in-fact or proxy holder, submits a signed waiver of notice of such requirement. A Member's attendance at a meeting shall also constitute a waiver of notice, except where a Member at the beginning of the meeting objects to holding the meeting or transacting business at the meeting.

Section 2.11. Action by Consent. Whenever Members are required or permitted to take any action by vote, such action may be taken without a meeting if all Members entitled to vote on the action consent to considering such action without a meeting. If such consent is obtained, the affirmative vote of the number of Members necessary to authorize or take such action at a meeting shall be the act of the Members. Actions taken without a meeting must be evidenced by one or more written consents setting forth the action so taken, signed by all of the persons entitled to vote and indicating each signing Member's vote or objection on the action.

Section 2.12. Transfer. The membership held by any Unit Owner shall not be transferred, pledged or alienated in any way except upon the Unit Owner's sale of his Unit and then only to the purchaser of the Unit. Any attempt to make a prohibited transfer will be void and will not be reflected upon the books or records of the Association. In the event any Unit Owner

shall fail or refuse to transfer the membership registered in his name to the purchaser of his Unit, the Association shall have the right to record the transfer upon the books and records of the Association.

Section 2.13. Obligations of Members. The Association, all present or future Members, tenants or future tenants, or any other persons using the Common Elements and the facilities of Courchevel Condominium regime are subject to and shall comply with the Act, the Master Deed, these By-laws, the Charter, and the Rules of the Association, and the acceptance of a deed of conveyance, or the execution of a lease, or the act of occupancy of any Unit in the condominium regime shall constitute an acceptance of and agreement to comply with the provisions of all such documents. As more fully provided in the Master Deed, each Member shall pay regular, special and specific assessments levied by the Association to meet the financial requirements of the Association. A Member shall not be a Member in good standing and the Board of Directors may suspend such Member's voting rights and any other rights and privileges possessed by Members during any period or periods which such Member has not paid when due any assessment or any other charges made or levied against the Unit or has failed to comply with or perform other obligations provided for under these By-laws, the Master Deed or the Rules.

### **ARTICLE III** **Board of Directors**

Section 3.1. Appointment or Election and Term of Office. In accordance with the provisions of the Master Deed, Developer will control and act as, or will appoint a person or persons to control and act as, the Board of Directors of the Association until such time as Developer both (i) no longer owns any Residential Units, and (ii) has sold Units representing more than 80% of the total Percentage Interests, unless the Developer transfers his authority to the Board at an earlier date. Within sixty (60) days of items (i) and (ii) occurring, Developer shall call a special meeting of the Association to elect the first Board of Directors. Prior to the occurrence of items (i) and (ii) Developer, at its option, may appoint Members to serve on the Board and may assign to such appointees and to itself such number votes on the Board as Developer so desires, so long as the total number of votes assigned does not exceed three (3); any such appointees shall serve at the will of Developer until the election of the first Board. The Board of Directors shall consist of three (3) Directors, all of whom shall be natural persons. The Directors shall be elected by a Majority Approval of the Members of the Association; provided that, at all times, at least one Director must be an owner of a Residential Unit and at least one Director must be an owner of a Commercial Unit. The first Board of Directors elected shall serve until the first scheduled annual meeting of the Members. Thereafter, Directors shall be elected at the annual meeting of Members each year and shall hold office until the next annual meeting of Members, or until their successors have been elected and shall have qualified.

Section 3.2. Nominations. Nomination for election to the Board shall be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting or special meeting as the case may be. The Nominating Committee shall consist of a Chairman, who shall be a Member of the Board, and two or more Members of the Association. The Nominating Committee shall be appointed by the Board prior to each annual meeting to serve until the close of such annual meeting. The Nominating Committee shall make as many

nominations for election to the Board as it shall in its discretion determine. Except for Directors appointed by Developer, every Director must at all times be a Member of the Association.

Section 3.3. Vacancies. After members of the Board of Directors are elected by the membership, a vacancy in any Director position elected by the Members shall be filled by the majority vote of the remaining Directors, even though they may constitute less than a quorum of the Board of Directors. A Director elected or appointed to fill a vacancy shall serve for the unexpired term of his predecessor in office and shall hold such office until his successor is duly appointed or elected and shall qualify.

Section 3.4. Removal of Directors. Any Director elected by the Members may be removed at any regular meeting or a special meeting of the Members called for that purpose, with or without cause, by Majority Approval of the Members. A successor may then and there be elected to fill the vacancy thus created.

Section 3.5. Resignations. Any Director may resign effective upon giving written notice to the President, the Secretary or the Board, unless the notice specifies a later time for the effectiveness of such resignation. If the resignation of a Director is effective at a future time, a successor may be elected by the Board to take office when the resignation becomes effective. A Director shall be deemed to have automatically resigned at such time as the Director's membership in the Association has terminated.

Section 3.6. Committees. The Board of Directors may appoint committees from time to time as it may deem necessary or appropriate in carrying out the purposes and functions of the Association. Such Committees shall perform the duties provided for in the Board's resolutions in which the Committees are created.

Section 3.7. Compensation. No Director shall receive compensation for any service he or she may render to or on behalf of the Association as a Director, provided, however, that nothing contained herein shall be construed to preclude any Director of the Association from serving the Association as agent, counselor in any capacity other than as Director, and receiving compensation therefor, and it shall not be construed to preclude Directors from being reimbursed for their actual expenses incurred in the performance of their duties.

Section 3.8. Fidelity Bonds. The Board of Directors may obtain fidelity bonds for all Directors, Officers, employees of the Association or any other person handling or responsible for Association funds. The premiums for such bonds shall constitute a common expense of the Association.

Section 3.9. Managing Agent. The Board of Directors may employ for the Association a professional manager or Managing Agent, for such compensation as may be established by the Board, to exercise such powers and perform such duties and services as the Board shall authorize, including but not limited to, the powers and duties listed in Section 3.11 hereof. The employment of a Managing Agent shall not relieve the Board of Directors from its responsibilities as provided herein or as provided in the Master Deed.

Section 3.10. Personal Liability of Directors. The personal liability of each Director of the Association for monetary damages for breach of fiduciary duty as a Director shall be

eliminated to the full extent permitted by Section 48-52-102(b)(3) of the *Tennessee Code Annotated*.

Section 3.11. Powers and Duties. All corporate powers of the Association shall be exercised by or under the authority of the Board of Directors, which is charged with the responsibility of conducting, managing and controlling all business and affairs of the Association. Without limiting the generality of the powers and duties delegated to the Board by the Charter, Master Deed, and as otherwise provided in these By-laws, the Board shall have the following additional powers and duties:

(a) Elect and appoint Officers of the Association and to delegate such authority to them as the Board shall deem necessary and appropriate to serve the purposes of the Association.

(b) Hire, employ, appoint and discharge all employees, agents and contractors to perform services for the Association consistent with its purposes as provided for in the Charter, Master Deed or these By-laws, and to fix the compensation and fees for the performance of their services.

(c) Adopt and publish Rules which may, among other matters, govern the use of the Common Elements and any property, facilities and improvements of the Association, as well as the personal conduct of the Members and their tenants, guests, invitees and licensees, which Rules may establish sanctions and fines for infractions thereof.

(d) Establish the principal office of the Association within the Property or such other place which is as close thereto as possible for the transaction of the Association's business.

(e) Cause to be kept a complete record of all of its acts and business affairs.

(f) Supervise all Officers, employees, agents and contractors of the Association, and see that their duties are properly performed.

(g) Issue to any Unit Owner upon demand a certificate in writing signed by an Officer or authorized agent of the Association setting forth whether said assessments, or any portion thereof, levied against the Unit have been paid. Such certificate shall be conclusive evidence of payment of any Assessments stated to have been paid.

(h) Review, on at least a quarterly basis, the latest account statements prepared by the financial institutions where the Association has its operating and reserve accounts.

(i) Review, on at least a quarterly basis, an income and expense statement for the Association's operating and reserve accounts.

(j) Review, on at least a quarterly basis, the current years actual operating and reserve revenues and expenses compared to the current year's budget

(k) Perform all other duties as may later be required by the Members, or by the Master Deed, these By-laws or the laws of the State of Tennessee, as the same may be amended from time to time.

Section 3.12. Association Rules: Enforcement.

(a) The following provisions shall govern the creation and adoption of the Association's Rules. All Rules proposed by the Board shall be consistent with and in furtherance of existing law, the Master Deed, the Charter and these Bylaws and may include the establishment of a system of fines and penalties. The proposed rules and regulations receiving the vote or written assent of a majority of the members of the Board shall take effect as the Association Rules.

(b) The specific fines and penalties for the first breach or violation of the Association's Rules may include, without limitation, suspensions, for a period not to exceed sixty (60) days, of (i) the use or enjoyment of any facilities within the Common Elements of the Property; (ii) any services the Association may be providing to the Unit or Unit Owner, and/or (iii) the right to vote as a Member of the Association. The Board may also impose and assess a monetary fine not to exceed the amount of the then applicable one month Regular Assessment. Subsequent breaches or violations of the Association's Rules by a Member or a Member's violation or breach of the Master Deed or these By-laws may include suspensions of one or more of the above stated membership rights for a period not to exceed one hundred fifty (150) days, a monetary fine not to exceed twice the then applicable one month Regular Assessment, or both.

(c) Any Rules adopted pursuant to this Section may provide such procedural safeguards as the Board deems appropriate.

Section 3.13. Suspension of Membership. Notwithstanding the provisions hereabove, the voting rights, the use or enjoyment of the Common Elements or of the facilities therein by a Member or his family, guests or tenants, and any services the Association may be providing to any Member may be suspended by action of the Board for any period during which any assessment, or any portion thereof, levied against his Unit remains unpaid and delinquent. In the event of such suspension, the Member's rights and privileges shall be automatically restored upon his payment in full of such delinquent assessments, including interest and late charges.

Section 3.14. Abatement and Enjoining of Violations. In addition to any other rights set forth in these By-laws, the Association, through the Board, and any Member shall have the right to prosecute any proceedings at law or in equity against any person or persons for the breach or violation of any of the provisions of these By-laws or of the Master Deed and to obtain relief by way of injunction, money damages, or both. In the event that any provision of these By-laws shall be held invalid by judgment or court order, it shall not be deemed to affect any of the other provisions herein, which shall continue and remain in full force and effect. In the event that any provision hereof shall be declared void by a court of competent jurisdiction by reason of the period of time for which the same shall be effective, then the term of such provisions shall be reduced by the maximum period of time allowed by the laws of the State of Tennessee.



**ARTICLE IV**  
**Meetings of the Board of Directors**

Section 4.1. Organization Meeting. Immediately following each annual meeting of Members, the Board shall hold a regular meeting for the purpose of organization, election of Officers, and the transaction of other business.

Section 4.2. Other Regular Meeting. Other regular meetings of the Board shall be held at least once every month at such time as may be fixed from time to time by resolution of the Board; provided, however, such meetings may be held less frequently than monthly (but not less frequently than every six months) if the Board determines by resolution that the business to be transacted by the Board does not justify monthly meetings. Should said meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day ensuing that is not a legal holiday.

Section 4.3. Place of Meeting. Regular and special meetings of the Board shall be held at any place within the Property which has been designated from time to time by resolution of the Board or by written consent of all members of the Board; provided, however, such meetings may be held outside the Property, but as close to the Property as reasonably possible, if the Board determines by resolution, or by such written consent, that a larger meeting room is required than exists within the Property.

Section 4.4. Notice of Meetings. Notice of each meeting of Directors, whether regular or special, shall be given to each Director. If such notice is given either by personally delivering written notice to a Director or by personally telephoning such Director, it shall be so given at least three (3) days prior to the meeting (except in the case of emergency). If such notice is given by depositing a written notice in the United States mail, postage prepaid, directed to such Director at his residence or place of business, it shall be given at least five (5) days prior to the meeting (except in the case of emergency). Notice of all meetings shall state the place, date and hour thereof, but need not, unless otherwise required by statute, state the purpose or purposes thereof.

Section 4.5. Special Meetings. Special meetings of the Board of Directors may be called by or at the request of the President or any two Directors.

Section 4.6. Telephone Meetings Permitted. Members of the Board may participate in a meeting of the Board by means of a conference telephone or similar communications equipment which enables all persons participating in the meeting to hear each other at the same time, and participation by such means shall constitute presence in person at such meeting.

Section 4.7. Adjournment. A majority of the Directors present, whether or not constituting a quorum, may adjourn any meeting to another time. If the meeting is adjourned for more than five (5) days, notice of any adjournment to another time or place shall be given prior to the time of the adjourned meeting to the Directors who were not present at the time of the adjournment.

Section 4.8. Waiver of Notice. Any Director may, at any time, waive notice of any meeting of the Board of Directors in writing, and such waiver shall be deemed equivalent to the

giving of such notice. Attendance by a Director at any meeting of the Board shall constitute a waiver of notice by him of the time and place thereof unless he protests lack of notice prior to or at the commencement of the meeting. If a sufficient number of Directors are present at any meeting that constitutes a quorum of the Board and who have not protested lack of notice, any business may be transacted at such meeting. Business may be transacted and approved by the Board in the form of a written consent in lieu of a regular or special meeting provided all of the members of the Board shall have executed such written consent. All such waivers, consents or approvals shall be or made a part of the minutes of the meeting and filed with the corporate records.

Section 4.9. Quorum. A majority of the authorized number of Directors shall constitute a quorum for the transaction of business.

Section 4.10. Action Without Meeting. Any action required or permitted to be taken by the Board may be taken without a meeting if all members of the Board shall individually or collectively consent in writing to such action. Such written consent or consents shall be filed with the minutes of the proceedings of the Board. Such action by written consent shall have the same force and effect as a unanimous vote of such Directors. If the Board resolves to take any action by unanimous written consent, an explanation of the action taken shall be posted in a prominent place or places within the Common Elements promptly after the unanimous written consent or consents of all the members of the Board have been obtained.

Section 4.11. Voting. The Majority Approval of the Directors shall be required for any action by the Board of Directors, unless a different number expressly is required by law or by these By-laws.

Section 4.12. Presumption of Assent. A Director who is present at a meeting of the Board, or any committee thereof, shall be presumed to have concurred in any action taken at the meeting, unless his dissent to such action shall be entered in the minutes of the meeting or unless he shall submit his written dissent to the person acting as the Secretary of the meeting before the adjournment of the meeting or shall deliver such dissent personally or by certified mail to the Secretary of the Association promptly after the adjournment of the meeting. Such right to dissent shall not apply to a Director who voted in favor of such action. A Director who is absent from a meeting of the Board, or from a meeting of any committee thereof, at which such action is taken shall not be presumed to have concurred in the action taken.

## **ARTICLE V**

### **Officers**

Section 5.1. Designation of Officers. The Officers of the Association shall be a President and a Secretary. The President and Secretary shall be members of the Board. The Board of Directors may elect or appoint such other Officers, who need not be members of the Board, including one or more Vice Presidents, Assistant Secretaries, Treasurers, and Assistant Treasurers, as it shall deem desirable, such Officers to have the authority and perform the duties prescribed, from time to time, by the Board of Directors. Any two or more offices may be held by the same person, except the offices of President and Secretary.

Section 5.2. Election and Term of Office. The Officers of the Association shall be elected at the first meeting of the Board of Directors following the first meeting of the Members, and thereafter be elected at the regular meeting of the Board of Directors following each annual meeting of the Members. If the election of Officers shall not be held at such meeting, such election shall be held as soon thereafter as conveniently may be arranged. Each Officer shall hold office until his successor shall have been duly elected and shall have qualified.

Section 5.3. President. The President shall be the chief executive officer of the Association and shall preside at all meetings of the Members of the Association and of the Board of Directors. The President shall have all of the general powers and duties which are usually vested in the office of the president of a nonprofit corporation, including but not limited to the power to sign and execute, on behalf of the Association, all deeds, agreements, contracts, notes, checks and all other written documents which may require the signature of the Association.

Section 5.4. Vice President. A Vice President shall have all of the powers and authority and shall perform all of the functions and duties of the President in the absence of the President or his or her inability for any reason to exercise such powers or perform such duties.

Section 5.5. Secretary. The Secretary shall keep the minutes of meetings of the Board of Directors and minutes of meetings of the Members of the Association. The Secretary shall have charge of such books and papers as the Board of Directors may direct, and shall in general perform all the duties incident to the office of Secretary. The Secretary shall compile and keep up-to-date at the principal office of the Association a complete list of Members and their current mailing addresses. The Secretary shall share with the President the power to sign and execute, on behalf of the Association, all deeds, agreements, contracts, notes, checks and all other written documents which may require the signature of the Association.

Section 5.6. Treasurer. The Treasurer shall have responsibility for Association funds and shall be responsible for keeping full and accurate financial records and books of account of the Association. The Treasurer shall be responsible for the deposit of all monies and other valuable effects in the name and to the credit of the Association in such depositories as may from time to time be designated by the Board of Directors. The Treasurer may also serve as Secretary in the event the Secretary is absent.

Section 5.7. Removal. Any Officer elected or appointed by the Board of Directors may be removed by the Board of Directors whenever in its judgment the best interests of the Association would be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the Officer so removed.

Section 5.8. Vacancies. A vacancy in any office because of death, resignation, removal, disqualification or otherwise, may be filled by the Board of Directors for the unexpired portion of the term.

Section 5.9. Compensation. No Officer shall receive any compensation for acting as such; provided, however, Officers may be reimbursed for any reasonable expenses incurred on behalf of the Association at the direction of the Board.

**ARTICLE VI**  
**Assessments**

Section 6.1. Levy of Assessments. The Assessments levied and collected by the Association shall be used exclusively for the purpose of promoting the health, safety, and welfare of the Association, the Members and Occupants of the Units, and in particular for the improvement and maintenance of the Common Elements and the facilities located therein and for providing services to enhance the use and enjoyment of the Common Elements.

Section 6.2. Regular Assessments. The Board of Directors shall prepare an annual budget in advance for each fiscal year of the Association to establish a Regular Assessment to be levied for the forthcoming year to cover the projected common expenses that will be required for the proper operation, management and maintenance of Courchevel Condominium regime, including a reasonable allowance for contingencies and reserves.

Section 6.3. Special Assessments. Special Assessments may be made from time to time to pay for capital improvements, to cover unbudgeted expenses or expenses in excess of the budget, all as provided for more specifically in the Master Deed.

Section 6.4. Specific Assessments. The Board shall have the power to levy Specific Assessments against particular Units to cover overhead and administrative costs of providing benefits or services to the Units or to maintain, repair, or replace Limited Common Elements benefiting such Units. The Board also may levy Specific Assessments against a Unit to cover the expense of bringing the Unit into compliance with the provisions of the Master Deed, these By-laws or the Rules, or the costs incurred by the Association as a consequence of the conduct of the Member or Occupants of the Unit, their licensees, invitees, or guests.

Section 6.5. Allocation and Payment of Assessments. All Regular and Special assessments levied against the Members to cover Association expenses shall be apportioned among and paid by the Members in accordance with the Percentage Interest allocated to each Unit in the Master Deed. Assessments levied against a Unit of a Member shall be due and payable at such time as provided for in the notices sent by the Association to the Members.

Section 6.6. No Exemption for Assessments. No Member may exempt himself from liability for his contribution toward the expenses of the Association by waiver of the use or enjoyment of any of the Common Elements or by the abandonment or sale of his Unit.

**ARTICLE VII**  
**Indemnification**

Section 7.1. Indemnification of Directors and Officers. The Association shall indemnify every Director and Officer, and his or her heirs, executors and administrators, against all loss, costs, and expenses, including counsel fees reasonably incurred by him or her in connection with any action, suit or proceeding to which he or she may be made a party by reason of his or her being or having been a Director or Officer of the Association, to the fullest extent permitted by and consistent with the provisions of the Tennessee Nonprofit Corporation Act. The indemnification provision of this Section shall also apply to any person appointed by Developer to serve on the Board or as an Officer during any time that Developer has the right to appoint all

members of the Board of Directors. All liability, loss, damage, costs and expenses incurred or suffered by the Association by reason or arising out of or in connection with the foregoing indemnification provisions shall be treated and handled by the Association as a common expense of the Members of the Association, which shall be assessed to and paid by the Members as provided in the Master Deed. Nothing contained in this Section 7.1 shall, however, be deemed to obligate the Association to indemnify any Member or Owner of a Unit who is or has been a Director or Officer of the Association with respect to any Assessments or other obligations assumed or liabilities incurred by him or her or as a Member or Owner of a Unit under the provisions of the Master Deed.

Section 7.2. Nonexclusively of Rights. The right to indemnification and the payment of expenses incurred in defending a proceeding in advance of its final disposition conferred in this Article shall not be exclusive of any other right which any person may have or hereafter acquire under any statute or by a provision of the Charter, Master Deed, these By-laws, or by a vote of the Members or disinterested Directors, or otherwise.

Section 7.3. Insurance Contracts an Funding. The Association may maintain insurance as a common expense of the Association to protect itself, Developer, and any Director, Officer, employee or agent of the Association against any expense, liability or loss, whether or not the Association would have the power to indemnify such persons against such expense, liability or loss under the Tennessee Nonprofit Corporation Act.

Section 7.4. Indemnification of Employees and Agents of the Association. The Association may, by action of its Board of Directors from time to time, provide indemnification and pay expenses of employees and agents of the Association with the same scope and effect as the provisions of this Article with respect to the indemnification and advancement of expenses of Directors and Officers of the Association or pursuant to rights granted pursuant to, or provided by, the Tennessee Nonprofit Corporation Act, or otherwise.

## **ARTICLE VIII**

### **General Provisions**

Section 8.1. Amendment. These By-laws may be amended by Developer at any time prior to the sale or transfer of all Units. Thereafter, these By-laws may be amended at a regular or special meeting of the Members by Majority Approval; provided, however, no provision of these By-laws that requires the affirmative vote of a higher percentage of the total voting power of the Members to take action shall be amended unless the vote to amend any such provision receives at least the same higher percentage or more of the total voting power of the Members. Notwithstanding the recording of these Bylaws as an Exhibit to the Master Deed, subsequent amendments or restatements of these Bylaws need not be recorded.

Section 8.2. Mortgagee Rights. The Board of Directors, whenever so requested in writing by a mortgagee of a Unit, shall promptly report any then unpaid dues or assessments, or other default by the Unit Owner of the mortgaged Unit. The Board of Directors, when giving notice to a Unit Owner of a default in paying dues or assessments or other default, shall send a copy of such notice to each mortgagee of a Unit whose name and address has been furnished to the Board.

Section 8.3. Books and Records. The Board of Directors shall keep reasonably detailed records of the actions of the Board, minutes of the meetings of the Board of Directors, minutes of the meetings of the Members, and financial records and books of account of the Association, including a separate account for each Unit which, among other things, shall contain the Percentage Interest allocated to the Unit, the amount of assessments levied against the Unit, the date when due, the amounts paid thereon, and the balance remaining unpaid. A written report summarizing all receipts and expenditures of the Association shall be rendered by the Board of Directors to all Members at least annually.

Section 8.4. Inspection Rights. The Master Deed, the Charter, these By-laws, the Rules and the books, records and papers of the Association shall be available for inspection by any Member or his designated representative, at all times during reasonable business hours at the principal office of the Association, where copies may be purchased at a reasonable cost.

Section 8.5. Nonprofit Corporation. As set forth in the Charter, this Association is a nonprofit corporation formed pursuant to the Tennessee Nonprofit Corporations Act. No Member, member of the Board of Directors or any other person from whom the Association may receive any property or funds shall receive or be lawfully entitled to receive any pecuniary profit from the operations of the Association; and in no event shall any part of the funds or assets of the Association be paid as a salary or compensation to or be distributed to, or inure to the benefit of, any member of the Board of Directors. The foregoing, however, shall in no way prevent or restrict the following:

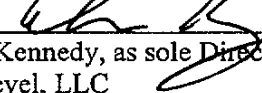
(a) Reasonable compensation may be paid to any Member or Director while acting on behalf of the Association for services rendered in effecting one or more of the purposes of the Association; and

(b) Any Member or Director may, from time to time, be reimbursed for his actual and reasonable expenses incurred in connection with the administration of the affairs of the Association.

Section 8.6. Conflict Between Documents. In the event of a conflict in any of the provisions of the Act, Charter, Master Deed, these By-laws, or the Rules of the Association, then said documents shall govern or control in the following order of preference (1) the Act, (2) Master Deed, (3) Charter, (4) these By-laws and (5) the Rules of the Association.

Section 8.7. Fiscal Year. The fiscal year of the Association shall begin on the first day of January and end on the thirty-first (31st) day of December of every year, except that the first fiscal year shall begin on the date of incorporation.

Adopted by Courchevel Owners Association, Inc.

By:   
Darren Kennedy, as sole Director appointed by  
Courchevel, LLC