



**SECOND AMENDED AND RESTATED CONDOMINIUM DECLARATION
OF
WESTWALL LODGE AT MT. CRESTED BUTTE**

This Second Amended and Restated Condominium Declaration (Declaration) is executed with an effective date of the ____ of _____, 2012, by WestWall Lodge at Mt. Crested Butte Condominium Association, Inc., a Colorado nonprofit corporation (Association), with approval by the Owners of Units within the Property pursuant to the Colorado Common Interest Community Act, C.R.S. §§ 38-33.3-101, *et seq.*, (Act).

RECITALS

WHEREAS, WestWall Lodge at Mt. Crested Butte, a common interest community (Condominium Project), was created by the recording of the Condominium Declaration for WestWall Lodge at Mt. Crested Butte on May 12, 2006 at Reception No. 565088 (Original Declaration), and the Condominium Map WestWall Lodge at Mt. Crested Butte on even date therewith at Reception No. 565090 in the official records of the Gunnison County Clerk and Recorder's Office, Gunnison County, Colorado.

WHEREAS, Declarant WestWall Partners, LLC (Declarant), dedicated the following legally described real property to condominium ownership pursuant to the terms and conditions of the Original Declaration, and as laid out and platted according to the Condominium Map WestWall Lodge at Mt. Crested Butte recorded at Reception No. 565090:

The T-Bar Tract, according to the official plat thereof bearing Reception No. 455247, Town of Mt. Crested Butte, County of Gunnison, State of Colorado, subject to all covenants, restrictions, exceptions, easements and rights of way of record (Land).

WHEREAS, Declarant filed Amendment to Condominium Declaration for WestWall Lodge at Mt. Crested Butte on May 24, 2006 in the official records of the Gunnison County Clerk and Recorder's Office, Gunnison County, Colorado at Reception No. 565451.

WHEREAS, on July 26, 2006, Declarant recorded Second Amendment to Condominium Declaration for WestWall Lodge at Mt. Crested Butte at Reception No. 567301 and Condominium Map WestWall Lodge at Mt. Crested Butte First Supplemental at Reception No. 567302 in the official records of the Gunnison County Clerk and Recorder's Office, Gunnison County, Colorado.

WHEREAS, on May 21, 2007, Declarant recorded WestWall Lodge at Mt. Crested Butte First Amended and Restated Condominium Declaration in the official records of the Gunnison County Clerk and Recorder's Office, Gunnison County, Colorado at Reception No. 575429.

WHEREAS, on November 8, 2007, Declarant recorded Amendment to the First Amended and Restated Condominium Declaration for WestWall Lodge at Reception No. 580141 and the Condominium Map WestWall Lodge at Mt. Crested Butte Second Supplemental at Reception No. 580142 in the official records of the Gunnison County Clerk and Recorder's Office, Gunnison County, Colorado.



WHEREAS, collectively, the Original Declaration recorded at Reception No. 565088 and its amendments recorded at Reception Nos. 565451, 567301, 575429 and 580141 shall be referred to as Original Declaration.

WHEREAS, as of October 2010, Declarant divested itself of any interest in the Property, and as of September 9, 2011, the Association became the owner of the Alpine Club Unit and the development rights and space located in Building C, within the Condominium Project.

WHEREAS, the Owners desire to amend and restate the Original Declaration, including any and all amendments thereto, and have approved the subject Second Amended and Restated Declaration as required by the Act, and further desire to repeal in its entirety the Original Declaration, and replace it with the Second Amended and Restated Declaration for WestWall Lodge at Mt. Crested Butte recorded at Reception No. 616754 in the official records of the Clerk and Recorder's Office of Gunnison County, Colorado.

WHEREAS, the Owners desire to amend and restate the Condominium Map WestWall Lodge at Mt. Crested Butte Second Supplemental at Reception No. 580142, and have approved the subject Amended and Restated Second Supplemental Condominium Map WestWall Lodge at Mt. Crested Butte as required by the Act, and further desire to repeal in its entirety the Condominium Map WestWall Lodge at Mt. Crested Butte Second Supplemental at Reception No. 580142, and replace it with this Amended and Restated Second Supplemental Condominium Map WestWall Lodge at Mt. Crested Butte recorded at Reception No. _____ in the official records of the Clerk and Recorder's Office of Gunnison County, Colorado.

NOW THEREFORE, the Association and the Owners, for themselves, their successors and assigns, do hereby publish, establish and declare that the following terms, covenants, conditions, easements, restrictions, uses, reservations, limitations and obligations shall be deemed to run with the Land and Condominium Project, shall be a burden and a benefit to the Association and the Owners, and binding upon any person or entity having any right, title, and interest in and to the Condominium Project, or any part thereof, and their heirs, successors and assigns, and shall inure to and be for the benefit of each Owner within WestWall Lodge at Mt. Crested Butte.

ARTICLE I PURPOSE AND PLAN

Section 1.1. Purpose. The purpose of this Declaration is to create a Condominium Common Interest Community pursuant to the Colorado Common Interest Community Act, C.R.S. §§ 38-33.3-101, *et seq*, as amended. The Association and the Owners intend to provide residential and limited commercial use, and ownership of the Property, and to create a "common interest community" as defined by the Act. The Association and Owners desire to establish a means to ensure the proper use and maintenance of the Property as a high-quality, aesthetically pleasing, common interest community by means of mutually beneficial covenants, conditions and restrictions imposed on the Property it benefits, and all current and future Owners of any portion of the Property.



Section 1.2 Plan. The Association and the Owners, as hereinafter defined, are the owners of the Land, the Buildings, the Units, and the Common Elements, as shown on the Map. The Association and the Owners hereby declare that the Land, Buildings, Units and Common Elements shall be held, sold and/or conveyed subject to the easements, restrictions, covenants and conditions set forth in this Declaration, the purpose of which is to protect the value thereof, and which shall run with the land and be binding on any and all parties having any right, title and interest in the Land or any part thereof, their heirs, personal and legal representatives, successors and assigns, and shall inure to the benefit of each Owner thereof

Section 1.3 Name of the Common Interest Community and Association. The name of the common interest community, as the same is defined by the Act, is WestWall Lodge at Mt. Crested Butte. WestWall Lodge at Mt. Crested Butte is a Condominium, comprised of three Buildings, Common Elements, and Units, as depicted on the Map, and is located at 14 Hunter Hill Road, Mt. Crested Butte, Colorado. The name of the Association is WestWall Lodge at Mt. Crested Butte Condominium Association, Inc., a Colorado nonprofit corporation.

Section 1.4 Declaration. This Declaration hereby supersedes in entirety and thereby replaces and revokes in entirety the Original Declaration, and is executed in accordance with the Act.

ARTICLE II GRANT AND SUBMISSION

Section 2.1 Grant and Submission. The Association and Owners hereby grant and submit to condominium ownership all of the Land, the Buildings thereon, related or incidental thereto as located on the Land, the Units and the Common Elements, and the improvements, equipment, materials and other property which are affixed to the Land or appurtenant thereto. The Association and Owners furthermore submit the Land, Buildings, Units and Common Elements to the provisions of the Act, as it may be amended from time to time.

Section 2.2 Allocated Interests. The undivided interests in the Common Elements, the Common Expense liability, and the voting interest in the Association allocated to each Unit are set forth in **EXHIBIT A**. The interests allocated to each Unit have been calculated using the pro rata square footage basis of each Unit.

ARTICLE III DEFINITIONS

The following definitions shall apply to this Declaration, unless the context shall expressly provide otherwise:

Section 3.1 The Act. The Act means the Colorado Common Interest Community Act, as set forth in C.R.S. §§ 38-33.3-101, *et seq.*, as amended from time to time.

Section 3.2 Alpine Club and Alpine Club Unit. The Alpine Club and Alpine Club Unit mean the athletic and social gathering place in and at WestWall Lodge at Mt. Crested Butte and is platted as a separate Unit on the Map.



Section 3.3. Assessments. Assessments mean any assessments, whether regular, special, or otherwise, levied pursuant to the Association Documents to provide for the necessary funds for all obligations and requirements thereunder and of the Association.

Section 3.4 Association. The Association means WestWall Lodge at Mt. Crested Butte Condominium Association, Inc., a Colorado nonprofit corporation. The Association is comprised of the Unit Owners at WestWall Lodge, who shall be Members of the Association during their period of Ownership.

Section 3.5 Association Documents. Association Documents means the Declaration for WestWall Lodge at Mt. Crested Butte, Articles of Incorporation, Bylaws, Policies, Rules and Regulations, and resolutions adopted by the Association.

Section 3.6 Building. Building means any or all of the buildings constructed upon the Land, which contain the Units and Common Elements as depicted on the Map.

Section 3.7 Bylaws. Bylaws mean the Amended and Restated Bylaws of WestWall Lodge at Mt. Crested Butte Condominium Association, Inc., as the same may be amended from time to time.

Section 3.8 Common Elements or General Common Elements. Common Elements or General Common Elements mean all portions of the Condominium, other than the Units, which exist for the common use of the Owners, and as depicted on the Map.

Section 3.9 Common Expenses. Common Expenses mean and include the expenditures or liabilities incurred by or on behalf of the Association necessary for the repair, operation, maintenance, improvement, upgrading, management and administration of the Common Elements and the Association as more fully described in the Act and the Declaration. Common Expenses includes any allocations to reserves for the above purposes. Common Expense liability means the liability for Common Expenses allocated to each Unit.

Section 3.10 Condominium or Condominium Project. Condominium or Condominium Project means WestWall Lodge at Mt. Crested Butte, and the entity created by this Declaration and the Map, and shall include the Buildings, Units, Land, and Common Elements.

Section 3.11 Condominium Unit or Unit. Condominium Unit or Unit means the fee simple interest in and to a Unit at WestWall Lodge at Mt. Crested Butte, together with the undivided percentage interest in the Common Elements, as defined in the Act and the Declaration. Condominium Unit or Unit also means the physical portion and individual air space designated for separate ownership, together with all fixtures and improvements therein, pursuant to the boundaries as described in this Declaration, and the Map. All finished flooring and any other materials constituting any part of the finished surfaces within the Unit, including plaster, paneling, tiles, wallpaper, paint and any other materials constituting any part of the finished surface are a part of the Unit.

Section 3.12 Declaration. Declaration shall mean this Second Amended And Restated Condominium Declaration for WestWall Lodge at Mt. Crested Butte, as it may be amended from time to time.



Section 3.13 Executive Board. Executive Board means the board of directors duly elected by the Owners for the management and administration of the Condominium and Association.

Section 3.14 Land. Land means the legally described real property dedicated and conveyed to condominium ownership on the Map as follows:

The T-Bar Tract, according to the official plat thereof bearing Reception No. 455247, Town of Mt. Crested Butte, County of Gunnison, State of Colorado, subject to all covenants, restrictions, exceptions, easements and rights of way of record.

Section 3.15 Limited Common Elements. Limited Common Elements mean those Common Elements which are limited in exclusive use to at least one Unit, but less than all of the Units. All such areas are shown on the Map or described in this Declaration as Limited Common Elements and allocated thereby to the appropriate Unit or Units.

Section 3.16 Managing Agent. Managing Agent means WestWall Property Management, LLC, or such agent, agents or employees of a management company appointed by the Executive Board, if any, to manage the Condominium, pursuant to this Declaration. WestWall Property Management, LLC is a Colorado limited liability company, whose sole member is the Association.

Section 3.17 Map or Condominium Map. Map or Condominium Map shall mean the Condominium Maps recorded at Reception No. 565090 and 567302 and the Amended and Restated Second Supplemental Condominium Map WestWall Lodge at Mt. Crested Butte recorded on _____ at Reception No. _____ in the official records of the Clerk and Recorder's Office, Gunnison, County, Colorado.

Section 3.18. Member. Member shall mean every person or entity who holds membership in the Association by virtue of owning a Unit at WestWall Lodge at Mt. Crested Butte.

Section 3.19 Owner. Owner shall mean the owner(s) in fee simple of a Unit at WestWall Lodge at Mt. Crested Butte.

Section 3.20 Property. Property means the Land and the Buildings as shown on the Map.

Section 3.21 Rules and Regulations. Rules and Regulations mean the Rules and Regulations of the Association as adopted and amended from time to time by the Executive Board.

Section 3.22 WestWall Lodge at Mt. Crested Butte. WestWall Lodge at Mt. Crested Butte shall mean the Condominium and the common interest community.



**ARTICLE IV
LEGAL DESCRIPTION**

Section 4.1 Legal Description. Every instrument affecting title to a Unit shall be legally described as follows:

Unit ____, together with the use of Parking Space No. ____, WestWall Lodge at Mt. Crested Butte, according to the Condominium Map WestWall Lodge at Mt. Crested Butte recorded at Reception No. 565090, Condominium Map WestWall Lodge at Mt. Crested Butte First Supplemental recorded at Reception No. 567302, and Amended and Restated Second Supplemental Condominium Map WestWall Lodge at Mt. Crested Butte recorded at Reception No. _____, and Second and Amended Restated Condominium Declaration for WestWall Lodge at Mt. Crested recorded at Reception No. 616754, Town of Mt. Crested Butte, County of Gunnison, State of Colorado.

Such description includes the Allocated Interests appurtenant to a Unit as described in the Act and this Declaration, those being a percentage of the undivided interest in the Common Elements, in the Common Expenses of the Association and pursuant to the Bylaws and this Declaration, a voting interest in the Association. Such Allocated Interests shall transfer without any reference thereto in the conveyance instrument. Allocated Interests are set forth in the attached **EXHIBIT A**.

Section 4.2 Sufficient Description. Such method of description shall be sufficient to sell, transfer, convey, encumber, and other affect the title of a Unit, and all appurtenant property rights pertaining thereto, and shall incorporate all of the rights, duties, limitations and burdens incident to ownership of a Unit as described in this Declaration, and each such description shall so be construed..

**ARTICLE V
UNITS AND VOTING**

Section 5.1. Division into Units. WestWall Lodge at Mt. Crested Butte is divided into 45 fee simple estates known as Condominium Units which are shown on the Map.

5.1.1 Each Unit shall be considered a separate parcel of real property and shall be separately taxed and assessed.

5.1.2 Each residential Unit shall be assigned one designated parking space in the parking garage as set forth in the conveyance instrument, and one storage space as shown on the Map. Owners shall have exclusive use of the designated parking and storage space as licensed to them in the conveyance instrument during their period of ownership. Said use is not transferable, except that Owner's guests and renters, if any, shall be permitted to use Owner's parking space.

5.1.3 Each Unit shall have one vote in Association matters in accordance with the Allocated Interests set forth in **EXHIBIT A**.



5.1.4 Each Owner shall have the right to encumber his or her interest in his or her Unit by a deed of trust, mortgage, or other security instrument.

Section 5.2 Inseparable. Each Unit and the undivided interest in the Common Elements set forth in **EXHIBIT A** and appurtenant thereto shall be inseparable.

Section 5.3 Unit Boundaries. The Unit boundaries are defined by the unfinished interior surfaces of the perimeter walls, floors, and ceilings of the Unit.

Section 5.4 Title to Unit. A Unit may be owned by more than one individual, or held or owned by an entity. A representative of the Owner of each Unit shall register his or her address with the Association along with other contact information, including but not limited to email address, home/business/cellular or mobile telephone number, or facsimile number. All notices, invoices, assessments, and communications from the Association may be sent to an Owner by using the registered mailing address, or by any of the additional contact information provided by the Owner's representative to the Association.

Section 5.5 Parking. No Owner shall convey, encumber, lease, or assign his or her rights to the parking space provided for his or her use.

Section 5.6 No Partition. No Owner shall commence or bring any action in partition upon any Unit, the Land, or any of the Common Elements.

ARTICLE VI OCCUPATION AND USE

Section 6.1 Residential Use. Each Unit, with the exception of the Alpine Club Unit, shall be used only for residential use, including but not limited to short term and long term rental use.

Section 6.2 Home Occupation. Each Unit may be used for a home occupation business as the same shall be defined in the Town of Mt. Crested Butte Code, subject to the following restrictions.

- 6.2.1 An Owner who intends to run a home occupation business in his or her Unit shall comply with the Town of Mt. Crested Butte's Town Code regulating the same.
- 6.2.2 An Owner must give written notice to the Association of his or her home occupation business, for the Executive Board's review and approval.
- 6.2.3 A home occupation business shall:
 - a. be incidental to the primary residential use of the Unit;
 - b. be conducted primarily by telephone, internet, computer or mail order;
 - c. be conducted within the Owner's Unit and shall not require client or customer/consumer appointments on site;
 - d. not generate traffic of any kind that would impact the Property or the Association;
 - e. not be advertised on the Property;
 - f. not exceed one-fourth of the gross residential floor area of the Unit;
 - g. not sell inventory, supplies or products on the Property;
 - h. not require storage of material outside the Unit for use in the home occupation business;



- i. not require any employees; and
- j. not create noise, dust, fumes, vibration, odor, smoke, or heat within the Unit or the Property;

Section 6.3 Interval Use. No time-sharing, interval or fractional ownership or use or similar interest, whereby ownership of a Unit is established on a time basis shall be permitted or established on any Unit.

Section 6.4 Nuisance. No Unit shall be used in any way or for any purposes that may endanger the health, or unreasonably disturb by noise, dust, fumes, vibration or otherwise the Owners of other Units. No Owner shall commit any action which would create a nuisance, in the discretion of the Executive Board, to any other Owners or Units.

Section 6.5 Dogs and Households Pets. Domesticated pets shall be limited to three (3) household pets per Unit, comprised of no more than two (2) dogs and one (1) other household pet.

6.5.1 Owners of dogs shall:

- a. keep their dogs under control at all times, and on a leash;
- b. shall not permit their dogs to create a nuisance to other Owners or occupants;
- c. shall not allow their dogs to bark, disturb, threaten, scare or otherwise injure any person or other animal;
- d. shall clean up their dogs' waste; and
- e. shall be charged for any cleaning and repair necessitated by their dog.

6.5.2 Dogs or any other pets shall not be permitted to enter the pool or hot tub at any time. Pets doing so shall be removed and the Owner thereof subject to the costs of cleaning and the repair of any damage caused thereby. Dogs are further not permitted in the exercise facility of the Alpine Club at any time. Dogs are permitted in the Alpine Club lounge area on a leash.

6.5.3 Service and seeing-eye dogs are permitted pursuant to the Americans with Disabilities Act.

6.5.4 Dogs are only permitted on the Property when their Owners are residing at or staying at WestWall Lodge at Mt. Crested Butte.

ARTICLE VII CONDOMINIUM MAP

Section 7.1 Condominium Map. The Condominium Map (and any amendments thereto) is a part of this Declaration and is filed for record in the records of Gunnison County, Colorado. The Condominium Map shall contain all of the required information pertaining to the Condominium Project as required by the Act.

Section 7.2 Amendment of the Map. The Map may be amended only by the affirmative vote or agreement by the Unit Owners to which sixty percent (60%) of the votes are allocated in the Association. No amendment shall be effective until placed on record in the office of the Clerk and Recorder of the County of Gunnison, Colorado.



ARTICLE VIII EASEMENTS AND LICENSES

Section 8.1 Easements for Encroachments of Common Elements and Units. If any portion of the Common Elements now or hereafter encroaches upon a Unit or Units, a valid easement for the encroachment and for the maintenance of the same shall exist so long as the Buildings do exist. For title and other purposes, such encroachments and easements shall not be considered or determined to be encumbrances either upon the Common Elements or the Units, and such easement shall be appurtenant to and pass with the title to every Unit.

Section 8.2 Recorded Easements. The Condominium shall be subject to all recorded easements as shown on the Map, and as set forth on the attached **EXHIBIT B**.

Section 8.3 Alpine Club. The Nonresident Members of the Alpine Club as defined in Article XX. of the Alpine Club shall have an easement across the Common Elements to access the Alpine Club as set forth in Article XX. The Nonresident Members of the Alpine Club shall have a license to use the restrooms and locker room adjacent to the Alpine Club in connection with their use of the Alpine Club facilities.

Section 8.4. Parking and Storage Space. Each Owner by conveyance instrument by which he or she takes title to a Unit has an irrevocable license to park in the designated parking space and using the designated storage space during the period of his or her Unit ownership.

ARTICLE IX GENERAL COMMON ELEMENTS

Section 9.1 Ownership. The General Common Elements shall be owned in common by all of the Owners of the Units, and shall remain undivided. By acceptance of a deed or other instrument of conveyance or assignment, each Owner specifically waives his or her right to institute or maintain a partition action or any other action designed to cause a division of the General Common Elements.

Section 9.2 Use. Each Owner may use the General Common Elements in accordance with the purpose for which they are intended, without hindering or encroaching upon the lawful rights of any other Owners. In no event shall an Owner's use of the General Common Elements create a nuisance to other Owners or guests.

ARTICLE X LIMITED COMMON ELEMENTS

Section 10.1 Limited Common Elements. A portion of the General Common Elements is allocated and reserved for the exclusive use of the Owners of respective Units. Such areas are depicted on the Map as Limited Common Elements.

Section 10.2 Other Limited Common Elements. Any Common Elements outside the Unit's boundaries, as defined in Section 5.3, but meant to serve only that Unit are Limited Common Elements allocated exclusively to that Unit. Exterior windows and doors are Limited Common Elements allocated to each Unit served thereby. If any



chute, flue, wire, conduit, bearing wall, bearing column, or other fixture lies partially within and partially outside the designated boundaries of a Unit, any portion thereof serving only that Unit is a Limited Common Element allocated solely to that Unit, and any portion thereof serving more than one Unit or any portion of the Common Elements is part of the Common Elements.

ARTICLE XI MAINTENANCE AND ALTERATIONS

Section 11.1 Owner Responsibility. Each Owner shall maintain and keep in good repair and condition the interior surfaces of the floors, walls and ceilings, including any finishing or covering thereon, fixtures, appliances, and as set forth in and subject to Article X, any Limited Common Elements allocated thereto. Owners shall be responsible for maintenance, repair, and alteration of any chute, flue, duct, wire, conduit, line or utility systems at that point where such utility enters the Unit, thereby becoming a Limited Common Element.

Section 11.2 Decks, Patios, and Windows. Decks and patios are Limited Common Elements, appurtenant to respective Units as shown on the Map. An Owner shall keep such Limited Common Element deck or patio maintained on a daily basis in a clean and tidy fashion, and shall further be responsible for snow, ice, dirt and debris removal on a daily basis, at Owner's expense, when in residence at their Unit. When not in residence, the Association shall be responsible for daily snow removal, which shall be performed at Owner's expense. Any seasonal maintenance and cleaning of the decks and patios, such as a deep cleaning or power washing of such Limited Common Elements shall be the responsibility of the Association. An Owner is responsible for cleaning the interior surfaces of the windows. The Association shall be responsible for the cleaning and maintenance of the exterior windows of each Unit, unless the need for maintenance or repair is caused by the Owner, or his or her guests and invitees. Each Owner shall notify the Association of his or her periods of absence for the purposes set forth herein.

Section 11.3 Negligence. An Owner shall be responsible for the expense of any repair and maintenance of the Building, or Limited or General Common Elements, the cause of which shall be due to the Owner's, or Owner's guests' or invitees' acts, omissions, negligence, unlawful misconduct, willful or wanton behavior or intentional actions.

Section 11.4 Association Responsibility. The Association shall maintain and keep in good repair all General Common Elements, subject to Section 11.3 above, and Limited Common Elements as set forth herein, but only those Limited Common Elements not required to be maintained by the Owners. Any damage caused to a Unit by the Association, which work is the responsibility of the Association, shall be repaired by the Association, at its expense.

Section 11.5 Right and Reservation for Access. The Association shall have the reservation and right to access each Unit and its appurtenant Limited Common Elements from time to time during reasonable hours as may be necessary for the maintenance, repair or replacement of the Limited Common Elements, or at any time deemed necessary for the making of emergency and other repairs or to prevent damage to the Common Elements, the Unit or to another Unit or Units. For the limited purpose articulated herein, the Association or its Managing Agent shall have a key for each Unit.



In the event an Owner changes the lock to his or her Unit, said Owner shall deliver to the Association a copy of the new key.

11.5.1. In the event an Owner does not perform his or her obligations set forth in Section 11.1, the Association has the right to enter the subject the Unit and make such repairs as may be necessary to prevent damage to the Common Elements and other Units.

Section 11.6 Alterations.

11.6.1 In the event an Owner owns two adjacent Units on the same floor, it may be permissible for such Owner to combine such Units into one area, subject to Executive Board/Architectural Control Committee review, by creating doorways and entries between such Units, even if the creation of such involves Common Elements, so long as such changes do not affect load-bearing walls or utility, electrical or mechanical services to any other Unit or the Building. An Owner must obtain prior written approval from the Executive Board or Architectural Control Committee, as defined hereafter, and must comply with reasonable conditions placed on the Owner by the Executive Board or Architectural Control Committee with regard thereto, including but not limited to an engineer's opinion of said effect on the Building. Allocated interests shall remain as originally allocated per Unit, and the Owner shall continue to be assessed for two Units. Additionally, the Owner shall have two votes in Association matters.

11.6.2 An Owner desiring to remodel, alter or modify the interior of his or her Unit shall first submit a written application tendered to the Executive Board for review. The application shall include plans and drawings of proposed alterations and shall be delivered by electronic mail or certified return receipt requested United States Postal Service mail..

11.6.3. An Owner shall not alter or modify the exterior of the Building, unless the subject of the alteration is a Limited Common Element appurtenant to his or her Unit, without the prior written approval of the Executive Board. Such a proposed alteration shall be closely scrutinized by the Executive Board/Architectural Control Committee, and further shall be subject to public comment by other Unit Owners. In such event, if approved, the modification approval may be subject to certain defined conditions. In any event, the Owner shall bear all expenses related thereto. Additionally, any exterior limited common element modifications shall remain limited common elements.

11.6.4 In no event shall an Owner commit any act that impairs the structural integrity or soundness, affect load-bearing walls, utility, electrical or mechanical systems of the Property or impairs any easement or hereditament.

Section 11.7 Architectural Control Committee. The Architectural Control Committee shall be appointed by the Executive Board. The Architectural Control Committee shall be at least three members but no more than five, and may be comprised of members of the Executive Board or of Unit Owners or both. There shall be at least one member of the Architectural Control Committee who sits on the Executive Board. In the absence of an Architectural Control Committee, the Executive Board has the authority to perform all duties and obligations of the Architectural Control Committee hereunder. The Architectural Control Committee may publish architectural standards for review.

11.7.1. Within 45 days of receiving the application, the Architectural Control Committee, or the Executive Board if the Committee has not been appointed, shall take



written action on the application. Such action shall be either approval, disapproval or request for additional information. The Executive Board or the Committee, if one has been appointed, shall tender such action to the Owner in writing, delivered by electronic mail or by certified return receipt requested United States Postal Service mail. However, in no event, shall an Owner construct or maintain any improvement or structure in violation of Sections 11.6.3 and/or 11.6.4.

11.7.2 Any oral representations by a member of the Architectural Control Committee or Executive Board are not final or binding as action on the subject application. Only the written approval, disapproval or request for additional information shall be considered the action of the Architectural Control Committee or the Executive Board.

11.7.3 As a condition of approval, the Executive Board or Committee shall require the Owner submitting the application to indemnify the Association for damages and claims relating to the alteration or modification, and reasonable attorneys fees incurred by the Association in processing or reviewing such application, including but not limited to drafting any necessary documents.

11.7.4 In addition to any standards published by the Architectural Control Committee, the standard for approval of any alteration shall be aesthetic consideration, materials to be used, harmony with the Building, Units and Property as a whole, and the location in relation to the surrounding environment and structures. In no event shall a modification or alteration depart from the overall appearance of the Unit or Building, interior and exterior, in relation to the surrounding Buildings, location and topography of the area.

11.7.5 Each Owner acknowledges that the members of the Executive Board or Architectural Control Committee change from time to time and that the interpretation, application and enforcement of any proposed alteration or modification and this Article XI may vary accordingly. Any proposals, plans or drawings for any completed or proposed alteration or modification shall not be deemed a waiver of any right for the Executive Board or Architectural Control Committee to withhold approval as to any similar proposals for other alterations or modifications. By the acceptance of a deed for title to a Unit, an Owner acknowledges and understands this Section 11.7.5.

Section 11.8 Aesthetic Considerations. Review and approval of any application pursuant to this Article is based on aesthetic considerations only. Neither the Association, nor the Executive Board or Architectural Control Committee shall bear any liability with respect to the structural integrity of such alterations or modifications. Neither the Association, the Executive Board nor the Architectural Control Committee shall be held liable for any injury, damage, loss, or claim arising out of the manner or quality of the approved alteration or modification to any Unit. All liability and risk shall be borne by the Owner completing such alteration or modification. In addition, the action by the Architectural Control Committee or Executive Board is not to be treated and does not serve as a substitute for the opinion of a qualified professional.

Section 11.9 Qualified Professional. All alterations, changes, modifications, and remodels must be performed under the supervision of a qualified professional, such as an architect, engineer, and/or bonded general contractor, approved by the Executive Board or Architectural Control Committee, and performed in a good and workmanlike



manner. In addition, the Owner must obtain all permits and approvals of any governmental authority having jurisdiction thereover.

Section 11.10 Insurance. In the event an Owner's proposed alteration is approved, the Owner shall thereafter provide to the Association proof of liability insurance, insuring the contractor performing the work, and any other qualified professionals, and naming the Owner and the Association as co-insureds. The limits of coverage shall be determined by the Executive Board.

Section 11.11 Expense and Owner Responsibility. The Owner putting forth the application for alteration, addition, change or modification shall bear the entire expense therefore, including any expenses arising from conditions required by the Executive Board or Architectural Control Committee or attorney fees and costs incurred by the Association with regard thereto. An Owner shall assume all responsibility for the maintenance, repair, replacement, and insurance, only to the extent not required to be insured by the Association, to and on such alteration, addition, change or modification. Furthermore, the Owner shall ensure said alteration or modification is in compliance with the Mt. Crested Butte Town Code.

Section 11.12 Enforcement. Any alteration, change, remodel, or modification done in violation of this Article XI shall be deemed nonconforming. Upon written request from the Executive Board or the Architectural Control Committee, the Owner shall, at his or her expense, remove the nonconforming work and restore the subject property to its original condition, or re-submit the written application to the Executive Board or Committee for the purpose of correcting the non-conforming work. In addition to, or in the alternative, the Owner shall be fined in an amount taking into account the extent of the alteration and resulting violation. In the event the Association deems it necessary to perform any action to ensure that the modification shall not impair any utility, electrical, mechanical services, or structural integrity of the Building, the Owner shall be solely responsible for any expense related thereto. The Executive Board shall have the sole discretion to determine whether restoration or a fine is appropriate for each violation. All costs thereof, including reasonable attorney fees and costs, may be specifically assessed against the Unit, as well as the Owner, and collected as an Assessment pursuant to this Second Amended and Restated Declaration. In addition to the foregoing, the Association, through its Executive Board, shall have the authority and standing to pursue all legal and equitable means and remedies available to enforce this Article and the Association's decisions with regard thereto.

**ARTICLE XII
WESTWALL LODGE AT MT. CRESTED BUTTE
CONDOMINIUM ASSOCIATION, INC.**

Section 12.1 The Association. The Association shall be responsible for the administration, operation and management of the Condominium and Property, which shall be governed by this Declaration, the Articles of Incorporation, the Bylaws, Rules and Regulations and policies, as they all may be amended from time to time. The Association shall have all the duties, powers and authority pursuant to the Act, this Declaration, and the Bylaws necessary and convenient to manage the business and affairs of the Property. The Association, acting through its Executive Board, shall also have the authority to adopt, amend and modify Rules and Regulations governing the use



of the Common Elements and Units which shall be not be inconsistent with this Declaration.

Section 12.2 Membership. Each Owner shall have automatic membership in the Association. Such Membership shall terminate upon conveyance of the Unit.

Section 12.3 Managing Agent. The Association shall have the authority to hire a Managing Agent to handle the affairs of the Association and the Condominium. The Association further is authorized to self-manage the affairs of the Association and Condominium using the services of Westwall Property Management, LLC. The Managing Agent shall have the authority to conduct the general management, administration and operation of the Property and the Association, and shall have the authority to bind all Owners with respect to matters within the scope of its duties and responsibilities as defined and directed by the Executive Board.

Section 12.4 Responsible Governance. The Association shall make, adopt, and amend as needed responsible governance policies as required under the Act.

Section 12.5 Public Disclosures. The Association shall make available to Owners the mandatory public disclosures as required by the Act.

Section 12.6 Budget.

12.6.1 At least sixty (60) days before the beginning of each fiscal year, the Executive Board shall prepare an annual budget of the estimated Common Expenses for the ensuing fiscal year. The budget shall reflect the sources and estimated amounts of funds to cover such expenses, which may include any surplus to be applied from the previous year, and any income from other sources other than Assessments and dues.

12.6.2 Within thirty (30) days after the adoption by the Executive Board of any proposed budget for the Association, the Executive Board shall mail by postal service or electronic means a summary of the budget to all Owners, to be considered at the annual meeting or special meeting of the Association. The Executive Board shall give notice to the Owners of the meeting as required by the Bylaws. Unless at that meeting, a majority of the Members reject the budget, the budget shall be deemed ratified. In the event a proposed budget is rejected, the periodic budget last ratified shall be continued until such a time as the Owners ratify a subsequent budget proposed by the Executive Board.

12.6.3. The Executive Board shall adopt a budget and submit the proposed budget to the Owners for ratification no less than annually.

Section 12.7 Notice. Notice of matters affecting the common interest community shall be delivered to Unit Owners in the manner set forth in the Bylaws, or by posting the same in a conspicuous place at WestWall Lodge, or on the Association website. If a Unit Owner desires to give notice to other Unit Owners on matters affecting the common interest community, such Owner shall make a request for Owner addresses to the Association, and the reason for such request, pursuant to the Bylaws.



**ARTICLE XIII
COMMON EXPENSES AND ASSESSMENTS**

Section 13.1 Common Expenses. Common Expenses shall be used for the purpose of promoting the health, safety and welfare of the Owners and guests of the WestWall Lodge, including the overhead expenses of the Association, managing the Condominium and Association, costs of maintenance, repair and operation of the Common Elements, taxes, special assessments, utilities unless separately assessed, insurance premiums for insurance coverage as deemed desirable or necessary by the Association, landscape maintenance and snow removal if appropriate, janitorial service, professional fees, management fees, and the creation of a reasonable contingency or other reserve, as the Association sees fit.

Section 13.2 Payment of Common Expense Assessments. The Owners, for each residential Unit, shall be deemed to covenant and agree, and each of them, by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance instrument, to pay to the Association all Common Expense Assessments made by the Association for purposes provided in this Declaration.

Section 13.3 Personal Obligation of Residential Unit Owners. Such Assessments, including fees, charges, late charges, attorneys fees, fines and interest charged by the Association, shall be the personal obligation of the residential Unit Owner at the time when the Assessment or other charges becomes due. Each Unit Owner is liable for the Assessments made against the Unit of that Unit Owner during the period of ownership of such residential Unit. No residential Unit Owner shall be exempt from liability for payment of Assessments by waiver of the use or enjoyment of any of the Common Elements or abandonment of the Unit against which the Assessments are made. The Association shall have the right to maintain judicial proceedings to recover a money judgment for all unpaid Assessments without foreclosing or waiving the lien for such Assessments. In any legal action for a money judgment, the Association may recover all late charges and interest to the date of payment, all costs of collection and reasonable attorneys fees and costs.

Section 13.4 Determination of Assessments. The annual assessments made for the Common Expenses shall be based upon the annual budget adopted by the Association for each fiscal year.

Section 13.5 Apportionment. The Assessments shall be made in accordance with each residential Owner's Allocated Interests as set forth on **EXHIBIT A**.

Section 13.6 Reserve Funds. The Association shall establish a Reserve Fund for the maintenance, repair or replacement of the Common Elements, or as permitted by law. Such Reserve Fund shall be funded through quarterly payments of Common Expenses Assessments and held by the Association in a restricted account and accounted for separately.

13.6.1 Any excess operating funds at the end of each fiscal year may be allocated as Reserve Funds or as operating funds as the Executive Board may determine.

Section 13.7 Special Assessments. In addition to Assessments for Common Expenses



as above set forth, the Association acting through its Executive Board may at any time and from time to time determine, levy and assess any Special Assessment for the purpose of paying, in whole or in part, the costs, fees or expenses of any construction, reconstruction, restoration or repair, replacement, maintenance or improvement of the Common Elements, Condominium, or facilities located thereon, including fixtures, personal property belonging to the Association, or any other lawful purpose contemplated by this Declaration, the Articles of Incorporation, Bylaws, or permitted by the Act or by law. Such Special Assessment shall be assessed to each residential Unit Owner in accordance with the Allocated Interests as set forth in attached **EXHIBIT A** and shall be due and payable in the manner set forth in the notice of such Special Assessment.

13.7.1 For any Special Assessments in excess of \$2500.00 for any residential Unit for a particular assessment year, such Special Assessment shall be subject to a majority vote of the Owners, except for emergency repairs and maintenance which shall not be subject to a vote.

Section 13.8 Special Apportionment of Certain Assessments and Expenses. The following expenses shall be assessed and allocated as follows:

13.8.1 Any Common Expenses associated with the maintenance, repair or replacement of a Limited Common Element due to an Owner's actions or inactions, as the case may be, shall be assessed against the Unit(s) to which that Limited Common Element is assigned, except for maintenance, repair and replacement which is the responsibility of the Association.

13.8.2 Any Common Expenses or portion thereof benefiting fewer than all of the Units shall be assessed exclusively against the Unit(s) so benefited.

Section 13.9 Default Assessments. All monetary fines and other enforcement costs assessed against an Owner pursuant to the Association Documents, or any expense of the Association which is the obligation of any Owner or which is incurred by the Association on behalf of the Owner pursuant to the Association Documents, including without limitation attorneys fees incurred by the Association, shall be a Default Assessment and shall become a lien against such Owner's Unit which may be foreclosed or otherwise collected as provided in this Declaration. Notice of the amount and due date of such Default Assessment shall be sent to the Owner subject to such Assessment at least fourteen (14) days prior to the due date.

Section 13.10 Payment of Utilities. Each Unit Owner shall be obligated to pay all charges for any separately metered utilities servicing his or her Unit. In the event that any utility is master metered to the Association, then such utility service shall be a part of the Common Expenses as above provided. In the event of the failure of any Unit Owner to pay any utility charges and any Common Element charges in accordance with Association Documents, the same shall be the obligation of and paid by the Association. Upon such payment, the Association shall then have the same rights of collection thereof from such Unit Owner as is provided for herein for the collection of unpaid Assessments.



Section 13.11 No Waiver. The failure of the Association to fix the Assessment for any assessment period shall not be deemed a waiver, modification or a release of the Owners from their obligation to pay the Common Expenses.

ARTICLE XIV STATEMENTS AND PAYMENTS FOR ASSESSMENTS

Section 14.1 Payable Quarterly. Unless the Executive Board of the Association otherwise determines, regular Assessments shall be payable quarterly by the Unit Owners in advance due on or before the last day of the first month of each quarter. Delinquent Assessments shall bear interest as established by the Executive Board.

Section 14.2 Interest and Late Charges. The Association may establish the rate of interest to be charged as to any past due Assessment, not to exceed 21% per year. Until otherwise established by the Association, if any assessment is not paid by the date it becomes due and payable, a late charge of ten percent (10%) of the payment then due, or as established by the Executive Board, to cover the extra costs and expenses involved in handling such delinquent payment shall be imposed.

Section 14.3. Attorneys Fees. If any Unit Owner fails to timely pay Assessments or any money or any sums due to the Association, the Association may require reimbursement for collection costs, reasonable attorneys fees and costs incurred as a result of such failure without the necessity of commencing such legal action.

ARTICLE XV NON-PAYMENT OF ASSESSMENTS AND LIEN

Section 15.1 Non-Payment of Assessments. Any sums assessed but unpaid for the Common Expenses, or Special Assessments provided for in this Declaration, chargeable to any Owner shall constitute a lien on such Owner's Unit, superior to all other liens and encumbrances except for: i) liens for real estate taxes and other governmental assessments or charges against the Unit; ii) liens and encumbrances recorded before the recordation of this Declaration; or iii) the lien for a first mortgage or deed of trust (First Security Interest), provided however a lien for assessments of Common Expenses based upon the duly adopted budget of the Association which would have been due, in the absence of any acceleration, during the six months immediately preceding institution by either the Association or any party holding a lien senior to any part of the lien of the Association of an action or non-judicial foreclosure to enforce or extinguish the lien for Common Expenses shall be prior to the lien of the First Security Interest, or any greater priority for a lien for Common Expenses as may hereafter be provided by the Act.

Section 15.2 Effect of Non-Payment of Assessments. In addition to the imposition of interest and late charges set forth in Section 14.2 above, the Association may bring an action at law or in equity, or both, against any Owner personally obligated to pay such overdue Assessment, charges or fees, or monthly or other installments thereof, and may also proceed to foreclose its lien against such Owner's Unit. An action at law or in equity by the Association or Owner against another Owner to recover a money judgment for unpaid Assessments, charges or fees, or monthly or other installments thereof, may be



commenced and pursued by the Association without foreclosing, or in any way waiving, the lien therefore.

Section 15.3 Lien for Assessment. The Association shall have a statutory lien pursuant to C.R.S. § 38-33.3-316 on any Unit for any Assessment levied against that Unit or fines imposed against that Unit Owner. All fees, charges, late charges, attorneys fees, fines and interest as provided by this Declaration are enforceable as Assessments.

Section 15.4 Notice of Lien. The recording of this Declaration constitutes record notice and perfection of any lien for Assessments by the Association and no further recordation of any claim of lien for Assessments is required. Provided, however, the Association may further record a lien for Assessments in the official records of Gunnison County, Colorado. Any costs and fees associated therewith shall be the responsibility of the Unit Owner against whose Unit said lien is recorded.

Section 15.5. Enforcement of Lien. The lien for Assessments of the Association may be enforced by foreclosure by the Association in the same manner as a foreclosure of a mortgage on real estate. In such foreclosure, the Unit Owner shall be required to pay the costs and expenses for such proceedings, the cost and expenses for filing the notice of lien and all reasonable attorneys fees and costs. The Unit Owner shall also be required to pay to the Association the Assessments for the Unit during the period of foreclosure, and the Association shall be entitled to a receiver appointed by the Court to collect the same. The Association shall have the power to acquire the Unit at the foreclosure sale and to acquire and hold, lease, mortgage and convey the same. The Association's lien shall be superior to any Homestead Exemption now or hereafter provided by the laws of the State of Colorado or any Homestead Exemption now or hereafter provided by the laws of the United States. The acceptance of a deed to any Unit subject to the Declaration shall constitute a waiver of the Homestead Exemption and any other exemption as against said Assessment lien.

Section 15.6 Payment by Holder of Security Interest. Any holder of a security interest on a Unit may pay, but shall not be required to pay, the amount secured by such lien, and upon such payment the holder of such security interest shall have a lien on such Unit for the amounts paid of the same rank as the lien of its security interest.

Section 15.7 Liability for Common Expense upon Transfer of a Unit. Upon the request of an Owner, mortgagee, or prospective mortgagee or grantee of a Unit, and the payment of a reasonable fee not to exceed ten dollars, the Association or its designee, shall issue a written statement setting forth the amount of unpaid Common Expenses for the subject Unit, the amount of the current quarterly Assessment and the date that such Assessment becomes due, credit for any advanced payments or for prepaid items, which statement shall be conclusive upon the Association in favor of all persons who rely thereon in good faith. Unless such request for a statement for indebtedness shall be delivered personally or by certified mail, first class postage prepaid, return receipt requested, to the inquiring party within fourteen (14) business days, all unpaid Common Expenses which become due prior to the date of making such request shall be subordinate to the lien of a mortgagee which acquired its interest in the Unit subsequent to requesting such statement, and any prospective grantee shall not be liable for, nor shall the Unit be conveyed subject to the lien, any unpaid assessments against the subject Unit.



15.7.1 Subject to Section 15.7 above, the grantee of a Unit, except for any first mortgagee who comes into possession of Unit pursuant to a foreclosure of its mortgage or by taking a deed in lieu of foreclosure, shall be jointly and severally liable with the grantor for all unpaid assessments against the latter up to the time of the grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefore.

Section 15.8 Costs and Fees. The Association shall be entitled to costs and reasonable attorneys fees incurred by the Association in a judgment or decree in any action or suit brought by the Association under this Article.

Section 15.9 Suspension of Voting Rights. The voting rights of the Unit Owner, as well as the Owner's ability to serve on an Association board or committee during the period of his or her delinquency may be suspended by the Association, as well as any other of the Owner's Association privileges, during any period of delinquency.

ARTICLE XVI INSURANCE

Section 16.1 Property Insurance. The Association shall procure and maintain property insurance on the Building and Common Elements and related improvements in an amount equal to the maximum insurable replacement value thereof and pursuant to the Act, affording protection against loss or damage by fire and other hazards covered by a standard extended coverage endorsement.

Section 16.2 Commercial General Liability Insurance. The Association shall procure and maintain commercial general liability insurance for claims and liabilities arising in connection with the ownership, use, existence or management of the Common Elements and the Association, in an amount, if any, deemed sufficient in the discretion of the Executive Board, insuring the Executive Board, the Association, the Managing Agent, if any, and their respective employees and agents in an amount to be determined by the Executive Board. The Owners shall be additional insureds but only to the extent for claims and liabilities arising in connection with the ownership, use, existence or management of the Common Elements. The insurance shall cover claims of one or more insured parties against other insured parties.

Section 16.3 Fidelity Insurance. The Association shall procure and maintain fidelity insurance to protect against dishonest acts on the part of its officers, directors, managers, and employees and on the part of all others who handle or are responsible for the handling of funds belonging to or administered by the Association in an amount 1) not less than \$50,000.00, or 2) two months' current Assessments plus reserves as calculated from the current budget of the Association, whichever is greater.

Section 16.4 Directors and Officers Insurance. The Executive Board shall procure and maintain a directors and officers liability policy to provide protection to directors and officers of the Association in the performance of their duties and obligations on behalf of the Association. The coverage limits of said insurance shall be determined by the Executive Board.

Section 16.5 Workers' Compensation Insurance. The Association shall carry workers' compensation insurance for its employees, as required by law.



Section 16.6 Common Expense. All such premiums for insurance policies described above shall be a Common Expense.

Section 16.7 Other Insurance. The Association may carry other such insurance as the Executive Board deems appropriate.

Section 16.8 Owner Insurance. All Owners are required to procure and maintain property/contents insurance for their Units, naming the Association as an additional co-insured. Upon request, Owners shall provide such certificate of coverage to the Association for its files.

ARTICLE XVII DAMAGE AND REPAIR

Section 17.1 Power of Attorney. This Declaration hereby appoints the Association as the irrevocable attorney-in-fact for all Owners to deal with the Building upon its damage and repair.

Section 17.2 Repair or Reconstruction After Damage. For the purposes of this Article XVII, total damage is defined as such damage as to render, in the judgment of the Association, all Units in the Building as untenable. Any damages less than total damage as defined herein is partial damage for the purposes of this Article. Repair or reconstruction as used in this Article means restoration of improvements to substantially the same condition which they existed prior to the damage with each Unit and the Common Elements having substantially the same vertical and horizontal boundaries as before.

Section 17.3 Insurance Proceeds Sufficient to Repair. In the event that proceeds from insurance coverage are sufficient to cover the cost of repair or reconstruction after damage to the Building or any part thereof, then such repair or reconstruction shall be promptly performed by the Association, as attorney-in-fact for the Owners.

Section 17.4 Insurance Proceeds Insufficient to Repair. If the insurance proceeds are insufficient to repair the damaged Building, the following provisions shall govern:

- 17.4.1 A partial damage to the Building shall be repaired as promptly as possible under the direction of the Association, and any cost of such repair in excess of insurance proceeds shall be assessed against all Owners as a Common Expense, except as otherwise required under Article XI, Section 11.3
- 17.4.2 In the event of total damage to the Building, a special meeting of the Owners shall be held for the purpose of determining whether reconstruction should be performed. If a super majority of the Owners vote in favor of reconstruction, then all Owners shall be bound and the cost of reconstruction in excess of insurance proceeds shall be assessed against all Owners as a Common Expense, subject to Article XI, Section 11.3. If the Owners do not vote in favor of reconstruction, then the Association shall forthwith sell the entire Condominium as attorney-in-fact for the Owners. In such case, the insurance proceeds, if any, payable as a result of the damage shall be collected by the Association and after payment of costs of collection thereof and of other outstanding obligations and charges owed by



the Association as a result of the damage, the Association shall disburse the insurance proceeds and the proceeds of sale to the Owners in accordance with each Owner's Allocated Interests as to the Common Elements as set forth in **EXHIBIT A**. Such proceeds as may be necessary to satisfy any lien, mortgage or deed of trust against a Unit shall be paid by the Owner out of such Owner's share of proceeds. In the event that an Owner's negligence causes such damage, such negligent Owner shall be responsible for any and all uncompensated loss suffered by the Association or other Owners.

**ARTICLE XVIII
TERMINATION OF MECHANICS' LIENS RIGHTS AND INDEMNIFICATION**

If any Owner shall cause material to be furnished to his or her Unit, or any labor performed thereon, the Association and/or other Owners shall not be liable under any circumstances for the payment of any expense incurred or for the value of any work done or material furnished. All such work shall be at the expense of the Owner or Owners causing it to be done, and such Owner(s) shall be solely responsible to contractors, laborers, materialmen and other persons furnishing labor, supplies, or material to his or her Unit. No labor performed or supplies or materials furnished due to the consent or request of a Unit Owner shall be the basis of filing a mechanics lien against the Unit or the Limited or General Common Elements. Each Owner shall indemnify and hold harmless the Association and each of the other Owners from and against all liability arising from the claim of any mechanics lien against the Unit of any other Owner or against the Limited or General Common Elements for construction or labor performed, materials or services incorporated into the Unit at the direction of said Owner. Any and all expenses incurred by the Association as a result of the violation of this Article shall be borne by the Unit Owner(s) responsible for such violation.

**ARTICLE XIX
PERSONAL AND REAL PROPERTY FOR COMMON USE**

Section 19.1 Personal and Real Property. The Association, as attorney-in-fact for all Owners, may acquire and hold for the benefit of all Unit Owners tangible and intangible personal and real property and may dispose of the same by sale or otherwise, pursuant to the Act. The beneficial interest in any such property shall be owned by all of the Owners in the same proportion as their Allocated Interests in the General Common Elements, with such interest being transferable only with the transfer of a Unit. Each Owner may use such property in accordance with the purpose for which it is intended without hindering or encroaching upon the lawful rights of other Owners.

Section 19.2 Right to Mortgage. The Association, acting through its Executive Board, may mortgage or encumber real property of the Association subject to the limitations of the Act. In addition, the Executive Board specifically shall have the right to assign the Association's future income including the right to receive Common Expenses Assessments, for the obligations of the Association.



**ARTICLE XX
THE ALPINE CLUB
AND THE ALPINE CLUB UNIT**

Section 20.1 The Alpine Club. The Alpine Club and the Alpine Club Unit (Club) is social and athletic facility, platted as a separate Unit, owned by The Alpine Club at WestWall Lodge, LLC, a Colorado limited liability company, wherein the Association is the sole member. The users of the Alpine Club are comprised of Members in the Association (Resident Members), by virtue of being Owners of Units, and a limited number of individuals who have purchased or may purchase memberships to use the Club, who are not Unit Owners (Nonresident Members). The facility contains a lounge and fitness/exercise room, and may offer a ski valet service for its Members. Limited Common Elements appurtenant to the Alpine Club are as shown on the Amended and Restated Second Supplemental Condominium Map WestWall Lodge at Mt. Crested Butte recorded at Reception No. _____.

Section 20.2 Use. Resident and Nonresident Members shall have use of the Club, subject to Rules and Regulations, and Club Membership Documents, as applicable, so long as such Resident Members are in good standing with the Association and the Club, and Nonresident Members in good standing with the Club. Resident Members are only permitted to use the Club as long as the Resident Member's Unit is not occupied by a guest, tenant, or visitor.

Section 20.3 Rules and Regulations. Each Member, whether Resident or Nonresident, shall comply with the Rules and Regulations adopted by the Association to govern the Club. Each Member, whether Resident or Nonresident, may be required to execute a release and waiver of liability and indemnification agreement in order to use the Club.

Section 20.4 Club Membership Documents. Resident and Nonresident Members shall comply with Club Membership Documents, adopted by the Association.

Section 20.5 Easement. Nonresident Members shall have an easement to go upon the General Common Elements for the limited purpose of accessing and using the Club during their period of membership, with those Common Elements being comprised of but not limited to the parking garage, if such parking is appurtenant to the Nonresident Membership, locker room, restrooms, and the lobby area of WestWall Lodge.

Section 20.6 Guests. Guests of Members may use the Club subject to the Rules and Regulations and other related Club Membership documents.

Section 20.7 Parking. Nonresident Members who have paid to park in the parking garage at WestWall Lodge shall do so in only the designated parking spaces for the Alpine Club. A Nonresident Member who has paid to park in the parking garage shall only do so if he or she is in good standing with the Club. Nonresident Members shall not disturb or interfere with Unit Owners' use of their designated parking spaces.

Section 20.8 Dues. Nonresident Members shall be required to pay dues for use of the Club and its amenities, as determined by the Association.

Section 20.9 Good Standing. For the purposes of this Article XX, "good standing" means current on all dues, if applicable, and in compliance with the Alpine Club Rules



and Regulations, and other Alpine Club documents. Members, whether resident or Nonresident, who are not in good standing shall have their Alpine Club privileges revoked until such a time the default is cured.

Section 20.10 Sole Discretion. The Association retains the sole discretion and authority to determine the use of the Club in accordance with the wishes of its Resident Members.

ARTICLE XXI RESORT ACTIVITIES

Section 21.1. Resort Activities. Each Owner is hereby advised and acknowledges the following matters affecting the Property and the Owner's use and enjoyment thereof:

21.1.1. The Property is located adjacent to a public ski area facility and resort area currently known as Crested Butte Mountain Resort (CBMR) which may generate an unpredictable amount of visible, audible, and odorous disturbances as a result of the development, operation and maintenance thereof. Such activities generally associated with CBMR include, but are not limited to:

21.1.2 Vehicular traffic and machine use, such as buses, vans, snowmobiles, snow cats, groomers, trucks, chain saws, excavators, and construction and maintenance vehicles and equipment on, around and about CBMR, and any and all activities related to actual use of CBMR, such as skiing, sledding, tubing, zip-lining, snowboarding, outdoor concerts and musical events, outdoor fundraising events, mountain-biking, special event activities, horseback riding, hiking, and other recreational, competitive, and organized events permitted by CBMR.

Section 21.2 Acknowledgment. Each Owner by accepting a deed to a Unit acknowledges the above resort activities and the potential impact created thereby, and forever waives and releases any claims an Owner might have against the Association and the operator of CBMR with regard to nuisance and disturbance caused thereby.

ARTICLE XXII DEVELOPMENT RIGHTS

The Association owns the development space and rights associated with the unfinished subterranean space in Building C. Pursuant to the Original Declaration, the development rights are to be exercised by May 21, 2017. If not exercised, said rights shall lapse. The Association shall determine the use of said space and the development thereof, consistent with the needs and operation of the Association and the Condominium. Upon development of said space, the Association shall cause, pursuant to the Act, an amended map to be recorded, and an amendment to this Declaration, if necessary.

ARTICLE XXIII MISCELLANEOUS PROVISIONS

Section 23.1 Nuisance. Every violation of the Association Documents shall be deemed to be a nuisance and is subject to all the remedies provided for the abatement thereof, pursuant to the Act or permitted by law.



Section 23.2 Compliance with Declaration. Each Owner shall comply strictly with the provisions of this Declaration, Bylaws, Rules and Regulations, policies, and resolutions of the Association and any management agreement entered into by the Association as the same may from time to time be in force and effect. Failure to comply with any of the same shall be grounds for an action to recover damages, for injunctive relief, specific performance or for any other relief available in law or at equity, including any combination of the foregoing, maintainable by the Association on behalf of the Owners, or by an aggrieved Owner.

Section 23.3 The Act. The provisions of this Declaration shall be in addition and supplemental to the Act, and to all other provisions of applicable law.

Section 23.4 Severability. If any of the provisions of this Declaration or any Article, sentence, clause, phrase, word or section, or the application thereof in any circumstance be invalidated, such invalidity shall not affect the validity of the remainder of this Declaration, and the application of any such provision, article, sentence, clause, phrase, word or section in any other circumstances shall not be affected thereby.

Section 23.5 Context. Whenever used herein, unless the context shall otherwise provide, the singular number shall include the plural, the plural the singular, and the use of any gender shall include all genders.

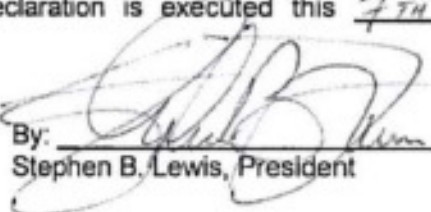
Section 23.6 Amendment of Declaration. This Declaration may be amended only by the affirmative vote or agreement of the Unit Owners of Units to which sixty percent (60%) of the votes are allocated in the Association. No amendment shall be effective until placed on record in the office of the Clerk and Recorder of the County of Gunnison, Colorado.

Section 23.7 Termination. Except in the case of a taking of all Units by eminent domain, or in case of foreclosure of a security interest that has priority over the Declaration, the Condominium may only be terminated by agreement of the Unit Owners of Units to 67% of the votes in the Association are allocated. An agreement of the Unit Owners to terminate must be evidenced by their execution of a termination agreement or ratifications thereof in the same manner as a deed.

Section 23.8 Attorneys Fees. It is agreed that if any action is brought in a court of law as to the enforcement or interpretation or construction of this Declaration or any document provided for herein, the prevailing party in such action shall be entitled to reasonable attorneys fees as well as all costs incurred in the prosecution or defense of such action.

Section 23.9 Binding Agreement. This Declaration shall bind and inure to the benefit of the parties hereto and their respective representative, heirs, successors and assigns.

IN WITNESS WHEREOF, this Declaration is executed this 7TH day of NOVEMBER, 2012.

By: 
Stephen B. Lewis, President



STATE OF ILLINOIS)
) ss.
County of Cook)

The foregoing Second Amended and Restated Condominium Declaration of WestWall Lodge at Mt. Crested Butte was acknowledged before me this 7th day of November, 2012, by Stephen B. Lewis, President of the WestWall Lodge at Mt. Crested Butte Condominium Association, Inc., a Colorado nonprofit corporation.

Witness my hand and official seal.

(SEAL)



Brenda J. Macon

Notary Public
My commission expires: 2/23/2013



Exhibit A
 ALLOCATED INTERESTS

Building	Residence	Description	Size	Ownership of	Voting Interests &
				Common Elements	Common Expense Liability
1	A	Alpine Club Unit	2402	2.6177%	0.0000%
2	A	101 1 Bedroom / 1 Bath	1131	1.2325%	1.2657%
3	A	102 2 Bedroom / 2.5 Bath	1707	1.8603%	1.9103%
4	A	103 2 Bedroom / 2.5 Bath	1560	1.7001%	1.7458%
5	A	104 2 Bedroom / 2.5 Bath	1882	2.0510%	2.1061%
6	A	201 1 Bedroom / 1 Bath	737	0.8032%	0.8248%
7	A	202 2 Bedroom / 2.5 Bath	1714	1.8679%	1.9181%
8	A	203 3 Bedroom / 3.5 Bath	1952	2.1273%	2.1844%
9	A	204 2 Bedroom / 2.5 Bath	1880	2.0488%	2.1039%
10	A	205 1 Bedroom / 1 Bath	729	0.7945%	0.8158%
11	A	206 3 Bedroom / 3.5 Bath	2237	2.4379%	2.5034%
12	A	207 3 Bedroom / 3.5 Bath	1953	2.1284%	2.1856%
13	A	208 2 Bedroom / 2.5 Bath	1874	2.0423%	2.0972%
14	A	301 2 Bedroom / 2.5 Bath	1932	2.1055%	2.1621%
15	A	302 2 Bedroom / 2.5 Bath	1693	1.8450%	1.8946%
16	A	303 3 Bedroom / 3.5 Bath	2073	2.2591%	2.3199%
17	A	304 2 Bedroom / 2.5 Bath	1853	2.0194%	2.0737%
18	A	306 3 Bedroom / 3.5 Bath	2327	2.5359%	2.6041%
19	A	307 3 Bedroom / 3.5 Bath	2060	2.2450%	2.3053%
20	A	308 2 Bedroom / 2.5 Bath	1858	2.0248%	2.0793%
21	A	401 2 Bedroom / 2.5 Bath	1920	2.0924%	2.1486%
22	A	402 2 Bedroom / 2 Bath	1568	1.7088%	1.7547%
23	A	403 3 Bedroom / 3.5 Bath	2873	3.1310%	3.2151%
24	A	405 3 Bedroom / 3.5 Bath	2956	3.2214%	3.3080%
25	A	406 2 Bedroom / 2 Bath	1615	1.7600%	1.8073%
26	B	201 4 Bedroom / 4.5 Bath	2572	2.8029%	2.8783%
27	B	202 3 Bedroom / 3.5 Bath	2272	2.4760%	2.5426%
28	B	301 4 Bedroom / 4.5 Bath	2564	2.7942%	2.8693%
29	B	302 3 Bedroom / 3.5 Bath	2261	2.4640%	2.5302%
30	B	401 4 Bedroom / 4.5 Bath	3484	3.7968%	3.8989%
31	C	101 4 Bedroom / 4.5 Bath	2380	2.5937%	2.6634%
32	C	102 3 Bedroom / 3.5 Bath	2090	2.2777%	2.3389%
33	C	103 3 Bedroom / 3.5 Bath	1964	2.1403%	2.1979%
34	C	104 2 Bedroom / 2.5 Bath	1501	1.6358%	1.6797%
35	C	201 4 Bedroom / 4.5 Bath	2467	2.6885%	2.7608%
36	C	202 3 Bedroom / 3.5 Bath	2094	2.2820%	2.3434%
37	C	203 2 Bedroom / 2.5 Bath	1585	1.7273%	1.7737%
38	C	204 2 Bedroom / 2.5 Bath	1502	1.6369%	1.6809%
39	C	205 3 Bedroom / 3.5 Bath	2945	3.2094%	3.2957%
40	C	301 4 Bedroom / 4.5 Bath	2395	2.6100%	2.6802%
41	C	302 3 Bedroom / 3.5 Bath	2087	2.2744%	2.3355%
42	C	303 2 Bedroom / 2.5 Bath	1536	1.6739%	1.7189%
43	C	304 2 Bedroom / 2.5 Bath	1517	1.6532%	1.6976%
44	C	305 3 Bedroom / 3.5 Bath	2563	2.7931%	2.8682%
45	C	401 4 Bedroom / 4.5 Bath	3496	3.8099%	3.9123%

91761 100.0000% 100.0000%



**EXHIBIT B
EASEMENTS**

1. Any easements as disclosed on the Plat of the T-Bar Tract bearing Reception No. 455247;
2. Utility Easement Gunnison County Electric Association bearing Reception No. 464545 in Book 775 at page 213;
3. Utility Easement Gunnison County Electric Association bearing Reception No. 465017;
4. Easement Agreement T-Bar Lift & Peachtree Lift bearing Reception No. 539156 and re-recorded bearing Reception No, 539212;
5. Easement and Memorandum Agreement bearing Reception No. 604333;
6. Amended and Restated Easement Agreement bearing Reception No. 614568; and
7. All other easements as shown on the Condominium Map.