

AMENDED AND RESTATED

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ARTICLES OF INCORPORATION  
OF  
SUMMIT HOUSE-EAST CONDOMINIUM ASSOCIATION, INC.

FILED 01-30-96 13:21  
SECRETARY OF STATE

Pursuant to the provisions of the Colorado Nonprofit Corporation Act, the undersigned nonprofit corporation adopts the following amended and restated Articles of Incorporation. These articles correctly set forth the provisions of the Articles of Incorporation, as amended, and supersede the original Articles of Incorporation and all amendments thereto.

**FIRST:** The name of the nonprofit corporation is Summit House-East Condominium Association, Inc. (the "Association").

**SECOND:** The following amended and restated Articles of Incorporation were adopted on September 30, 1995, by a quorum of members present at such meeting, and the amended and restated Articles of Incorporation received at least two-thirds of the votes which members present or represented by proxy were entitled to cast.

**THIRD:** The Articles of Incorporation are hereby amended and restated in their entirety as follows, and supersede the Association's original articles of incorporation and all prior amendments and supplements thereto:

**ARTICLE I**  
**NAME**

The name of the Association is Summit House-East Condominium Association, Inc.

**ARTICLE II**  
**DURATION**

The Association shall have perpetual existence.

**ARTICLE III**  
**REGISTERED OFFICE AND AGENT**

The address of the registered office of the Association is P.O. Box 3216 (035 Wheeler Place, Unit 102), Copper Mountain, Colorado 80443-3216. The name of the Association's registered agent at such address is Thomas J. Malmgren.

**ARTICLE IV**  
**DEFINITIONS**

4.01 Basic Definitions.

As used in these Amended and Restated Articles, the following terms have the following meanings:

(a) "Association Documents" means these Amended and Restated Articles, the Bylaws, the Declaration and the Rules and Regulations, as the same may be amended from time to time.

(b) "Bylaws" means the bylaws of the Association, as the same may be amended from time to time.

(c) "Common Elements" means the General Common Elements and the Limited Common Elements.

(d) "Condominium Lease" means any one of the leases of Condominium Units described on Exhibit A to the Declaration, as the same may be amended or assigned from time to time.

(e) "Condominium Map" means the Condominium Map for Summit House East Condominium recorded in the Summit County Records, on December 12, 1973, at Reception No. 138741, as the same may be amended or supplemented from time to time.

(f) "Condominium Unit" means a Unit, together with:

(i) the Interest in General Common Elements appurtenant to that Unit;

(ii) the right to the exclusive or nonexclusive use of Limited Common Elements, if any, appurtenant to that Unit; and

(iii) the Membership in the Association appurtenant to that Unit.

(g) "Declaration" means the Amended and Restated Declaration of Covenants, Conditions and Restrictions for Summit House East, recorded in the Summit County Records.

(h) "Director" means a duly elected member of the Executive Board.

(i) "Executive Board" means the board of directors of the Association.

(j) "General Common Elements" means all of the Project, other than the Units and the Limited Common Elements. Without limiting the generality of the preceding sentence, the General Common Elements include, without limitation:

(i) all of the Property, including, without limitation, the foundations, columns, girders, beams, supports, perimeter and supporting walls, utility systems, mechanical systems, roofs, chimneys, drainage facilities, stairways, exits and entrances, linen, laundry and sauna rooms, except for those Improvements that are designated as Units or Limited Common Elements; and

(ii) all yards, sidewalks, walkways, trails, paths, lawns, shrubbery, trees, gardens and landscaping located on the Property, other than those designated as Limited Common Elements.

If the Association holds record title to a leasehold or a fee simple interest in a Condominium Unit, such Condominium Unit shall not be considered a General Common Element. Instead, it shall be considered property owned by the Association under Section 2.08 of the Declaration.

(k) "Interest in General Common Elements" means the undivided interest in General Common Elements appurtenant to each Unit, as shown on Exhibit B to Declaration.

(l) "Lessee" means the record holder of legal title to the lessee's interest under a Condominium Lease. If there is more than one record holder of legal title to the lessee's interest under a Condominium Lease, each record holder shall be a Lessee.

(m) "Limited Common Elements" means those portions of the Common Elements allocated by the Declaration for the exclusive use of one or more Units, but fewer than all of the Units. Without limiting the generality of the foregoing, "Limited Common Elements" include, without limitation:

(i) any physical portion of the Project that is labeled on the Condominium Map as "LCE"; and

(ii) the right to use the parking space in the Project assigned to a Unit by the Association, except that Units 201, 202, 206 and 207 shall not be assigned or have the right to use such parking spaces; and

(iii) the ski storage area designated on the Map.

(n) "Membership" means the state of being a member in the Association appurtenant to and arising out of:

(i) ownership of fee simple title to a Condominium Unit that is not subject to a Condominium Lease; or

(ii) ownership of the Lessee's interest in a Condominium Unit under a Condominium Lease.

(o) "Owner" means the record holder of legal title to the fee simple interest in any Condominium Unit for which there is no Condominium Lease. If there is more than one record holder of legal title to such a Condominium Unit, each record holder shall be an Owner.

(p) "Person" means any natural person, corporation, partnership, limited liability company, association, trust or any other entity capable of owning real property under the laws of the State of Colorado.

(q) "Project" means Summit House East, consisting of the Units and the Common Elements.

(r) "Property" means the real property located in Summit County, Colorado, more particularly described as Lot 9, Block 3, Copper Mountain Filing No. 2, Summit County, Colorado, together with all buildings, structures of other improvements now or hereafter located thereon, and all other real property made subject to the Declaration from time to time.

(s) "Rules and Regulations" means any instruments adopted by the Association for the regulation and management of the Project, as the same may be amended from time to time.

(t) "Summit County Records" means the Office of the Clerk and Recorder for Summit County, Colorado.

(u) "Unit" means an individual airspace within the Project that:

(i) is designated for separate ownership under the Declaration;  
and

(ii) has boundaries that are described or shown on the Condominium Map.

4.02 Other Definitions.

Any capitalized terms used in these Amended and Restated Articles that are not defined in Section 4.01 above shall have the meanings given to them in the Declaration.

4.03 Gender and Number.

Wherever the context of these Amended and Restated Articles so requires:

- (a) words used in the masculine gender shall include the feminine and neuter genders;
- (b) words used in the neuter gender shall include the masculine and feminine genders;
- (c) words used in the singular shall include the plural; and
- (d) words used in the plural shall include the singular.

**ARTICLE V**  
**MEMBERSHIP AND VOTING**

5.01 Membership.

(a) There shall be one Membership appurtenant to each Unit. The Membership appurtenant to a Unit shall be held by the Owners or Lessees of that Unit and may not be separated from the Unit to which it is appurtenant.

(b) A Membership may be transferred or encumbered only in connection with the conveyance or encumbrance of a fee simple interest in the Unit to which such Membership is appurtenant or, if a Unit is subject to a Condominium Lease, assignment or encumbrance of the Lessee's interest under the Condominium Lease. Any transfer or encumbrance of a Membership other than as permitted in this paragraph 5.01(b) shall be void and have no force or effect. A Person automatically becomes a member of the Association upon becoming an Owner or a Lessee and remains a member for the period of his ownership or the term of his Condominium Lease.

5.02 Voting.

(a) The total number of votes allocated to all Memberships shall be 10,000. The number of votes to which a Membership is entitled shall be equal to the product obtained by multiplying:

(i) 10,000, by

(ii) the Interest in General Common Elements appurtenant to the Unit to which the Membership is appurtenant.

(b) If a Condominium Unit has more than one Owner or Lessee and such Owners or Lessees cannot agree among themselves how to cast the votes allocated to their Membership on a particular matter, they shall lose their right to vote on such matter. If any Owner or Lessee casts a vote representing a Membership having more than one Owner or Lessee, it will thereafter be presumed for all purposes that such Owner or Lessee was acting with the authority and consent of all other Owners or Lessees with whom such Owner or Lessee shares the Membership, unless objection thereto is made to the Person presiding over the meeting at the time the vote is cast. If a Membership is voted more than one way with regard to a particular matter, all of such votes shall be deemed null and void.

(c) In any election of Directors to the Executive Board, every Membership shall have a number of votes equal to the product obtained by multiplying:

(i) the number of Directors to be elected to the Executive Board by such election, by

(ii) the number of votes allocated to that Membership.

(d) Cumulative voting shall not be allowed in the election of Directors to the Executive Board or for any other purpose.

(e) Notwithstanding the terms and conditions of paragraph 5.02(a) above, the Association shall have no voting rights for any Membership appurtenant to any Unit owned or leased by the Association.

**ARTICLE VI**  
**PURPOSES AND POWERS**

6.01 Purposes.

The Association's purposes are as follows:

- (a) to acquire, own, lease, sell, encumber, manage, operate, construct, improve, repair, replace, alter and maintain the Common Elements;
- (b) to provide certain facilities, services and other benefits to the Owners and Lessees and their guests;
- (c) to administer and enforce the covenants, conditions, restrictions, reservations and easements created by the Declaration;
- (d) to levy, collect and enforce the assessments, charges and liens imposed pursuant to the Declaration;
- (e) to take any action that it deems necessary or appropriate to protect the interests and general welfare of the Owners and Lessees and their guests; and
- (f) to regulate and manage the Project with the goal of enhancing and protecting its value.

6.02 Powers.

(a) Unless expressly prohibited by law or any of the Association Documents, the Association may:

- (i) take any and all actions that it deems necessary or advisable to fulfill its purposes,
- (ii) exercise all powers conferred on it by any Association Documents, and
- (iii) exercise all powers that may be exercised in Colorado by nonprofit corporations.

(b) Without in any way limiting the generality of the foregoing, the Association may, but is not obligated to:

- (i) adopt and amend the Bylaws and the Rules and Regulations;

- (ii) adopt and amend budgets for revenues, expenditures and reserves and collect assessments and other charges levied by the Association;
- (iii) hire and fire managing agents and other employees, agents and contractors;
- (iv) institute, defend or intervene in litigation or administrative proceedings in its own name on behalf of itself or two or more Owners or Lessees on matters affecting the Project;
- (v) make contracts and incur liabilities;
- (vi) regulate the use, maintenance, repair, replacement and modification of the Common Elements;
- (vii) cause additional improvements to be made part of the Common Elements;
- (viii) acquire, hold, encumber, sell, convey, exchange and lease in its own name any right, title or interest in real or personal property;
- (ix) borrow money on such terms as the Executive Board or an officer or officers designated by the Executive Board deems acceptable;
- (x) grant easements, licenses, leases and concessions across, through, under or over the Common Elements;
- (xi) impose and receive payments, fees or charges for the use, rental or operation of the Common Elements;
- (xii) provide for the indemnification of the Association's officers and directors and maintain directors' and officers' liability insurance;
- (xiii) assign its right to receive future income, including its right to receive Assessments;
- (xiv) provide or procure any services necessary or appropriate for the safety, security or recreational enjoyment of the Property, Owners, Lessees, guests or visitors; and
- (xv) enter into partnerships as a limited or general partner, joint ventures and other associations for carrying out its purposes.

6.03 Restrictions on Purposes and Powers.

The purposes and powers of the Association described in Sections 6.01 and 6.02 above are subject to the following limitations:

(a) The Association shall be organized and operated exclusively for nonprofit purposes.

(b) No part of the net earnings of the Association shall inure to the benefit of any Owner or Lessee, except as expressly permitted in paragraph 6.03(c) and paragraph 6.03(d) below.

(c) The Association may pay reasonable compensation to and reimburse actual and reasonable expenses incurred by any member or manager of the Association who provides services to the Association, at the Association's request, in furtherance of its purposes.

(d) The Association shall not pay any dividends. No distribution of the Association's assets to Owners or Lessees shall be made until all of the Association's debts are paid, and then only upon the final dissolution of the Association as permitted in the Declaration. Upon payment of all of the Association's debts and final dissolution, any remaining assets of the Association shall be distributed among the Owners and Lessees in proportion to the respective Interest in General Common Elements appurtenant to each Unit.

**ARTICLE VII**  
**EXECUTIVE BOARD**

7.01 Executive Board.

(a) The business and affairs of the Association shall be controlled, conducted and managed by the Executive Board, except as otherwise provided by law or any Association Document.

(b) Except as provided by law or any Association Document, the Executive Board may act on behalf of the Association in all instances. The Executive Board may not however, act on behalf of the Association to:

- (i) amend the Declaration;
- (ii) terminate the Project;
- (iii) elect Directors to the Executive Board, other than to fill a vacancy for the unexpired portion of the term of a Director; or

(iv) determine the qualifications, powers and duties, or terms of office, of Directors.

(c) The Executive Board shall consist of five Directors, or such greater number of Directors as may be specified in the Bylaws from time to time.

## **ARTICLE VIII** **LIABILITY AND INDEMNIFICATION**

### 8.01 Limits on Directors' Liability.

To the fullest extent permitted by law, a Director shall not be liable to the Association or the Owners or Lessees for monetary damages for breach of fiduciary duty. Any repeal or modification of this Section 8.01 shall be prospective only and shall not adversely affect any right or protection of a Director existing at the time of such repeal or modification.

### 8.02 Indemnification.

To the fullest extent permitted by law, the Association shall indemnify each Director and each officer, employee, fiduciary and agent of the Association.

## **ARTICLE IX** **BYLAWS**

The Executive Board shall have the power to alter, amend or repeal the Bylaws from time to time in force and adopt new Bylaws. The Bylaws of the Association may contain any provisions for the regulation or management of the affairs of the Association that are not inconsistent with law, the Declaration or these Amended and Restated Articles.

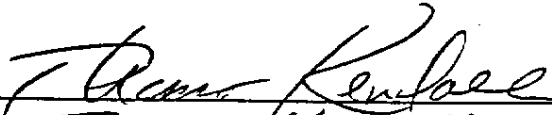
## **ARTICLE X** **AMENDMENT**

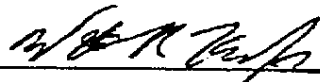
The Association reserves the right to amend, alter, change or repeal any provision contained in these Amended and Restated Articles by, unless a higher voting requirement is set forth herein with respect to any particular provisions, the vote of the holders of at least two-thirds of the votes of all members represented in person or by proxy at any regular or special meeting called for that purpose at which a quorum shall be represented. Notwithstanding the preceding sentence, the merger, consolidation or dissolution of the Association shall be approved by at least two-thirds of the votes allocated to all Memberships, except as may be provided to the contrary in the Declaration with respect to casualty, condemnation or other circumstance.

Association's right to amend, alter, change or repeal these Amended and Restated Articles is subject to the limitations thereon set forth in the Declaration.

Dated: December 14, 1995

SUMMIT HOUSE-EAST CONDOMINIUM ASSOCIATION,  
INC., a Colorado nonprofit corporation

BY:   
Name: THOMAS KENDALL  
Title: PRESIDENT

BY:   
Name: William R. Keen, Jr.  
Title: Secretary