

BYLAWS OF

MT. CRESTED BUTTE-TIMBERLINE CONDOMINIUMS, INC.

BYLAWS adopted by Mt. Crested Butte-Timberline Condominiums, Inc., a Colorado nonprofit corporation (the "Association"), as of January 17, 1980 and amended by the Board of Directors on September 25, 2009, January 13 and February 15, 2013 and January 2, 2014.

1. GENERAL PURPOSE AND POWERS.

- A. **PURPOSES:** The Association has been organized to provide for governance of Common Elements and Limited Common Elements of Timberline Condominiums at Mt. Crested Butte (the "Project") as the term is defined in the plan of condominium ownership (the "Declaration") for Project which has been filed on the office of public records in the jurisdiction where the Project is located.
- B. **POWERS:** The Association shall have all of the powers of nonprofit corporations under the laws of Colorado necessary or desirable to effectuate its purposes.
- C. **DEFINITIONS:** The definitions of the terms referred to in these Bylaws, if not defined herein, are set forth in the Declaration.

2. MEMBERSHIPS

- A. **CATEGORIES:** There shall be one Permanent Membership for each Unit in the Project and one Temporary Membership for the Project.

EXHIBIT D

- B. **PERMANENT MEMBERSHIPS:** A Permanent Membership shall be one of the appurtenances of ownership of a Unit in the Project. The Owner of a Unit shall automatically be the holder of a Permanent Membership and the rights to the Permanent for such Unit. Each Owner of a Unit shall automatically pass with fee simple title to such Unit. Each Owner of Unit shall automatically be entitled to the benefits and be subject to the burdens relating to Permanent Membership. If fee simple title to a Unit is held by more than one person or entity, the Permanent Membership appurtenant to the Unit shall be shared by all such persons or entities in the same proportionate interest and by the same type of ownership as fee simple title to the Unit is held. No person other than an Owner of a Unit may hold a Permanent Membership in the Association.
- C. **TEMPORARY MEMBERSHIP:** The Declarant shall hold a Temporary Membership in the Association for a period beginning on the date the Association is incorporated and ending on the earlier of the third annual meeting of the Owners or the date when Declarant no longer owns any Units in Project. As the holder of a Temporary

Membership, a Declaration, the Articles of Incorporation of Association, these Bylaws, and any merger, consolidation or dissolution of Association. Such rights shall terminate upon expiration of period of Declarant's Temporary Membership.

- D. VOTING RIGHTS FOR PERMANENT MEMBERSHIPS: The voting rights of each Owner shall correspond to such Owner's percentage of undivided interest in the Common Elements of the Project as set forth in the Declaration. No Owner shall be entitled to vote on a matter to come before the Association either as an Owner or as a member of the Board of Directors if such Owner is in default in the payment of assessments levied pursuant to Declaration.
- E. FIRST MEETING OF MEMBERS: The first meeting of the Owners shall be held at the call of the President of the Association as soon as practicable after completion of construction of the Project.
- F. ANNUAL MEETINGS: The annual meeting date of the Owners shall be determined by a vote of the majority during the prior annual meeting. The meeting shall be held at a location to be specified by the President or Secretary in the notice of such meeting. At the annual meeting, the Owners shall elect a Board of Directors to serve until the next annual meeting, or until their successors are elected and qualified, if later, and shall transact any other business authorized to be transacted by Owners.
- G. SPECIAL MEETINGS: Special meetings of the Owners may be called at any time by the President or by the Board of Directors and shall be called by President in any event upon receipt of a written request for a special meeting signed by those Owners entitled to vote holding 50% or more of the Total Vote of the Project.
- H. NOTICES: Notice of all meetings of the Owners, stating the time, place, and in the case of a special meeting, the purposes therefore, shall be given by the President or Secretary unless waived in writing. Such notice shall be writing, 14days in advance of any annual or regularly scheduled meeting and at least seven days in advance of any other meeting.
- I. MANNER OF HOLDING MEETING: Owners may participate in any annual or special meeting of Owners by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other and participation in a meeting pursuant to this paragraph shall constitute presence in person at such meeting.
- J. QUORUM: A quorum shall consist of the attendance, in person or by proxy, of 10% of the Owners eligible to vote at an annual or special meeting of the Owners.

- K. **MANAGER OF CASTING VOTES:** Votes may be cast in person or proxy. Proxies must be filed with the Secretary before the appointed time of the meeting and shall be valid until eleven months after the date of its execution or such later date as may be specified in the proxy. Cumulating voting shall not be permitted.
- L. **ACTION BY OWNERS WITHOUT MEETING:** Any action required by law to be taken at a meeting of Owners, or any action which may be taken at a meeting of the Owners, may be taken without a meeting by a written instrument setting forth the action so taken and signed by all of the Owners of Units in the Project who are entitled to vote. The Owners may also vote by mail for election of Directors if so permitted in the Notice of the meeting. In the event voting by mail is permitted, majority of Owners entitled to vote shall be necessary for the election of a Director.
- M. **MANNER OF ACTING:** When a quorum or present at any meeting, any question brought before the meeting shall be described by a simple majority of the Owners entitled to vote and present in person or proxy.

3. BOARD OF DIRECTORS

- A. **FIRST BOARD OF DIRECTORS:** The first Board of Directors of the Association shall consist of the persons whose names are set forth in the Articles of Incorporation.

Said first Directors shall serve until their successors have been duly elected and have qualified. Said first Directors shall hold an organizational meeting as soon as practicable after the completion of construction of Project.

- i. **NUMBER AND QUALIFICATIONS OF DIRECTORS:** Subject to Declarant's rights under Paragraph 2.c hereof, the second Board of Directors and all successive Boards shall consist of not less than three or more than nine Owners of Units in the Project. The Directors shall receive no compensation for their services, but may be reimbursed for all of their out-of-pocket expenses incurred in connection with Association business. Owners interested in serving on the Board of Directors must submit a resume and letter of interest to the Association and/or the Property Manager no less than 7 days prior to the annual meeting. This requirement may be waived at the discretion of the Officer presiding at the annual meeting and is not a requirement for Board members seeking re-election.

- B. TERM: The term of Directors shall expire on the day of the annual meeting of Directors or when their successors have been elected and have qualified, whichever occurs later.
- C. REMOVAL: Any Director may be removed by the affirmative vote of those Owners entitled to vote holding more than 50% of the Total Vote of Project at a special meeting called for such purpose.
- D. VACANCIES: Any vacancy in a directorship shall be filled at a special meeting called for such purpose, and a Director so elected to fill such vacancy shall serve for the unexpired term of its predecessor in office or until its successor has been elected and has qualified.
- E. REGULAR MEETINGS: Regular meetings of Board of Directors may be held at such time and place as shall be determined from time to time by directors. Notice of regular meetings shall be given to each Director, personally or by mail, telephone, or telegraph at least seven days prior to the day designated for such meeting unless such notice is waived.
- F. SPECIAL MEETING: Special meetings of the Directors may be called by the President and shall be called by the Secretary at the written request of three or more Directors. Not less than three days' notice of such special meeting shall be given personally by mail, telephone, or telegraph. Such notice shall state the time, place and purpose of such meeting.
- G. WAIVER OF NOTICE: Any Director may waive notice of a meeting, either regular or special, before or after such meeting, and such waiver shall be deemed to have waived notice of a meeting by his attendance, unless his attendance at the meeting is special and for sole purpose of objecting to the holding of the meeting.
- H. Quorum: Attendance by 1/3, but not less than two, members of Board of Directors shall constitute a quorum for the transaction of business at any meeting of Board.
- I. MANNOR OF ACTING: Each Director shall be entitled to one vote, and act of a majority of Directors presents at a meeting at which a quorum is present shall constitute the act of Board of Directors.
- J. BOARD ACTION WITHOUT MEETING: Any action required by law to be taken at a meeting of Board of Directors, or any action which may be taken at a meeting of Board of Directors, or any action which may taken at a meeting of the Board, may be taken without a meeting by a written instrument setting forth the action so taken and signed by all the Directors.

- K. **PRESIDENCE OFFICER:** The Presiding officer at meeting of Board of Directors shall be the President, and in his absence, the Directors present shall designate one of their number to preside.
- L. **POWER AND DUTIES OF THE BOARD OF DIRECTORS:** All of the powers and duties of the Association shall be exercised by the Board of Directors. In addition to those powers existing under common law and statutes, the Articles of Incorporation, the Declaration and the Act, the Board of Directors shall be authorized:
1. To Elect annually the officers of the Association;
 2. To prepare and mail to each Owner on or before January 1st of each year, beginning with the year 1982, the following documents: a proposed budget for the fiscal year beginning with 1982, showing anticipated income and operating expenses, including reasonable reserves; a statement of any capital expenditures in excess of \$1,000.00 anticipated by the Association during such fiscal year; a statement of the status and amount of any replacement reserve fund and any portion of the fund designated for any specified project by Board; a statement of the status of any pending suits or judgments in which the Association has been or is a party; a statement of insurance coverage provided by the Association; and a statement of any unpaid assessments due and payable to the Association, identifying the Unit number and the amount of the unpaid assessment;
 3. To submit at each annual meeting of the Owners a statement of any business transacted during the preceding year and a report of the general financial condition of Association;
 4. To determine, establish, and collect assessments in accordance with the Declaration for the purpose of providing for the expenses of the Common Elements and Limited Common Elements of the Project;
 5. To use all assessments collected in the proper exercise of its powers and duties;
 6. To operate, maintain, repair and replace the Common Elements and Limited Common Elements;
 7. To restore the Common Elements and Limited Common Elements after damage thereto except as provided for in the Declaration;

8. To establish and amend rules and regulations respecting the use of the Common Elements and Limited Common Elements and Project as a whole;
9. To enforce by legal means the provisions of the Declaration, the Articles of Incorporation, the Act, and the rules and regulations adopted from time to time;
10. To carry insurance for the protection of the Owners and Association against casualty and liability as provided in the Declaration;
11. To contract for the management of the Project or provision of the services referred to in the Declaration and to delegate to such manager all powers and duties of the Association excepting those which are specifically required by the Declaration and the Act to be approved by Owners of the association;
12. To employ personnel in accordance with law for reasonable compensation to perform the services required to be carried out by the Association and to provide for the proper care and maintenance of the Common Element and Limited Common Elements;
13. To perform such other acts as may be delegated to the Board of Directors by the Owners, the Declaration or Act, and to perform such other acts as may be incidental to or necessary in the performance of the foregoing; and
14. To adopt rules and regulations for the governance of the Project.

4. OFFICERS:

- A. DESIGNATION OF OFFICERS: The officers of the Association shall be President, secretary, and Treasurer. Each of these officers shall be a member of the Board of Directors. Each officer of the Association shall be elected at the annual meeting of the Board. Each officer shall serve until his successor has been elected and has qualified. Any officer may be removed, with or without cause, by a majority vote of the Directors at any meeting of the Board, and at any special meeting of the Owners where notice has been given of said proposal, by those Owners entitled to vote holding 50% or more of the Total Vote of the Project. Any vacancy in an office of the Association shall be filled by the Board of Directors, and an officer elected to fill a vacancy shall serve for the unexpired term of his predecessor in office and until his successor has been elected and has qualified.
- B. PRESIDENT: The President shall be chief executive officer of the Association. He shall have all of the powers and duties which are usually vested in the office of the

president of a corporation, meeting of the Board of Directors and of the members at which he is present and general supervision over other officers in the management of the business and affairs of Association. He shall see that all actions and resolutions of the Board of Directors are carried into effect and shall be authorized by his sole signature to execute all contracts, obligations, deeds; as such authority may be otherwise delegated by action of the Board of Directors.

- C. SECRETARY: The secretary shall keep minutes of all proceedings of Directors and the members. He shall attend to giving and serving of all notices to the members and Directors and all other notices required by law. He shall keep the records of the Association, issue certificates as to the status of the Owner's assessment accounts, and perform all other duties incident to the office of secretary of a corporation and as may be required by the Directors or the President.
- D. TREASURER: The treasurer shall have custody of all intangible property of the Association, including funds, securities and evidence of indebtedness and shall give bond in such sum and with such sureties as the Directors may require. He shall keep the books of the Association in accordance with good accounting practices and principles and shall submit them together with all his vouchers, receipts, records, and other papers to the Directors for their examination and approval as often as they may require. He shall deposit all monies and other valuable effects in the name of or to the credit of the Association in such depositories as may be designated from time to time by Board of Directors and shall disburse the funds of the Association as ordered by Board of Directors and shall perform all other duties incident to the office of a treasurer of a corporation. If a managing agent be employed, the Board of Directors may designate some or all of the foregoing functions to be entrusted to such agent subject to bonding and general supervision by the Treasurer.
- E. ADDITIONAL OFFICERS: The Board of Directors may from time to time elect other officers to manage the affairs of the Association.
- F. INDEMNIFICATION: Each Director and officer of Association shall be indemnified and held harmless by the association from all costs and expenses, including reasonable attorneys' fees, which may be imposed upon or reasonably incurred by such Director or officer in connection with or arising out of the defense or settlement of any claim, action, suit or proceeding brought against him by reason of his being or having been a Director or officer of the Association, whether or not he is a Director or officer at the time of incurring such expenses, and each such Director or officer shall be indemnified and held harmless by the Association against any judgment that may be rendered against him in such action; provide, however, that no Director or officer shall be indemnified by the Association with respect to matters as to which he is finally adjudged in any such action, suit or proceeding to

have been guilty of willful or fraudulent conduct detrimental to the best interest of the Association. The Foregoing right of indemnification shall not be exclusive of other rights to which any such Director or officer may be entitled as a matter of law and shall inure to the benefit of his heirs, executors, administrators, and personal representatives.

5. PROJECT MANAGEMENT:

- A. FUNDS AND PROPERTIES: All funds and the titles to all properties acquired by Association, and the proceeds thereof, after deducting therefrom the costs incurred by the Association in acquiring and disposing of the same, shall be held for the benefit of the Owners for the purpose stated in the Declaration.
- B. DEPOSITORY: The depository of the Association shall be such bank or banks as from time to time shall be designated by the Board of Directors and in which the monies of the association shall be deposited. Withdrawal of monies from such accounts shall be by checks signed by any two officers of the association or any persons as may from time to time be authorized by the Board of Directors.
- C. BOOKS AND RECORDS: The books, accounts, and records of the Association shall be open to inspection by any Owner and any Mortgagee at all reasonable times.
- D. REVIEW OF ACCOUNTS: A review of the accounts of the Association shall be made annually by a certified public accountant and a copy of his report shall be furnished to each Owner not later than the date of the annual meeting of the Owners for the year following the year in which the report is made.
- E. FIDELITY BONDS: Fidelity bonds may be required by the Board of Directors or by the Owners from each officer, employee and agent of the Association and from any manager or contractor handling or responsible for the Association funds. The amount of such bond shall be determined either by the Board of Directors or Owners, whichever required such bonds. The premiums on such bonds shall be paid by the Association.
- F. FISCAL YEAR: The fiscal year of the Association shall be the calendar year.
- G. OFFICE: The location of the principal office of the Association is P.O. Box 4003, Crested Butte, CO 81224.

6. AMENDMENTS.

- A. NOTICE: These Bylaws may be amended upon the affirmative vote of two-thirds, but not less than two Directors, of the Directors present at any regular, special or annual meeting.

- B. RECORD AMENDMENT: Any amendment to these Bylaws, together with a Certificate of the Secretary of the Association certifying that such amendment was duly adopted according to these Bylaws, shall be filed with the appropriate government.

7. MISCELLANEOUS PROVISIONS.

- A. RULES AND REGULATIONS: The board of Directors of the Association may promulgate such rules and regulations as deems reasonable and necessary from time to time governing the administration, management, operation, and use of the Common Elements and Limited Common Elements to promote the common use thereof by the Owners and for the protection and preservation thereof. Copies of all such rules and regulations and any amendments thereto shall be furnished to all Owners and a copy shall be posted or otherwise made available to members at the office of the Association.
- B. DELINQUENCIES: In the event that a Timberline unit is both rented to tenants and managed by a third party, the unit owner must include in their third party management agreement that if the owner falls more than one month behind in HOA dues, then the rental income will be directly paid or forwarded to the Timberline HOA until such time as the arrearage is cleared.
- C. COLLECTION POLICY: Effective January 1, 2014 and in compliance with HB-1276, the interest rate imposed on delinquent homeowner accounts will be 21% (twenty-one percent per annum). Additionally, a late fee in the amount of \$25 (twenty-five dollars) will be charged each month in which the account is in arrears. Exhibit 1 details the complete policy.
- D. PARLIAMENTARY AUTHORITY: Robert's Rules of Order shall govern the conduct of the Association proceeding when not in conflict with the Declaration, these Bylaws, or any laws of the state of Colorado. The President shall have the authority to appoint a parliamentarian if he deems it necessary to do so.
- E. COMPLIANCE WITH ACT: These Bylaws are established in compliance with the Act, and should any of the terms, conditions, provisions, paragraphs, or clauses of these Bylaws conflict with any of the provisions of said Act, the provisions of said Act shall control. If any such term, provision, limitation, paragraph, or clause of these Bylaws is judicially held to be invalid, such determination shall not affect the enforceability, validity or effect of the remainder of these Bylaws.
- F. CORPORATE SEAL: The Association shall have no corporate seal.

Adopted at Mt. Crested Butte, Colorado,

EXHIBIT 1

**MT. CRESTED BUTTE – TIMBERLINE CONDOMINIUMS, INC.,
a Colorado nonprofit corporation**

COLLECTION POLICY

The following Collection Policy was adopted on the 2nd day of January, 2014, by the Board of Directors of Mt. Crested Butte – Timberline Condominiums, Inc., a Colorado nonprofit corporation ("Association") pursuant to §§ 38-33.3-209.5, 38-33.3-316 & 38-33.3-316.3, C.R.S.

NOW, THEREFORE, IT RESOLVED that the Association does hereby adopt its Collection Policy, which shall be effective on the 1st day of January, 2014, as follows:

1. Assessments. For purposes of this Policy, unless specifically stated otherwise, "assessments" or "regular assessments" include regular and special assessments and any associated fees, charges, late charges, attorney's fees, fines and interest. Assessments shall be paid in equal monthly, quarterly, bi-annual or annual installments, as determined by the Board of Directors. Regular assessments shall be due on or before the tenth day of the month when such assessment is due. If a regular assessment is not paid by the 10th day of the month when the assessment is due, the assessment is delinquent. Any special assessment levied by the Association which has not been paid by the 30th day after payment is due, shall on the 31st day be delinquent.

2. Late Fees & Interest. At such time when an assessment is delinquent pursuant to Section 1 above, a late charge of \$25.00 shall be assessed to the delinquent account. Delinquent assessments shall bear interest at the rate of twenty-one percent (21%) per annum from the date of delinquency until paid in full. The Association may also charge a \$25.00 fee for any bounced or returned check.

3. Prior to Referral to Legal Counsel. Prior to referring a delinquent account to the Association's legal counsel or to a collection agency, the Association shall mail the delinquent owner, via certified mail return-receipt requested, at the mailing address on file with the Association's managing agent, a notice of the delinquency that specifies:

- a. The total amount due with an accounting of how the total was determined;
- b. Whether the opportunity to enter into a payment plan exists pursuant to Section 4 below, and instructions for contacting the Association to enter into a payment plan;

c. The name and contact information for the individual the unit owner may contact to request a copy of the unit owner's ledger in order to verify the amount of the debt; and

d. That action is required to cure the delinquency and that failure to do so within thirty (30) days may result in the following:

i. The unit owner's delinquent account being turned over to the Association's attorney or a collection agency;

ii. A lawsuit being filed against the owner;

iii. The filing and foreclosure of a lien against the unit owner's property;

iv. The Association applying for a court-ordered receivership over the property; and/or

v. Any other remedies available under Colorado law.

4. Payment Plans.

a. *Eligibility.* A unit owner is entitled to enter into a payment plan with the Association so long as the unit owner has not previously entered into a payment plan pursuant to this Collection Policy. If a unit owner has previously entered into a payment plan with the Association pursuant to this Collection Policy, it is at the discretion of the Association whether to permit such unit owner to enter into another payment plan, or whether to pursue the legal remedies permitted under Colorado law for collection of delinquent Association accounts.

b. *Terms.* Any payment plan shall be offered in writing by the Association to the unit owner and shall permit the unit owner to pay off the delinquency in equal installments over a period of at least six (6) months. The unit owner must also remain current with regular or special assessments as they come due during the payment plan time period. A unit owner's failure to remit payment of an agreed-upon payment plan installment, or to remain current with regular or special assessments as they come due during the payment plan period, constitutes a failure to comply with the terms of the payment plan. If a unit owner fails to comply with terms of a payment plan, the Association may pursue the legal remedies permitted under Colorado law for collection of delinquent Association accounts.

5. Application of Payments. Payments received by the Association shall be applied in the following order, as may be applicable:

a. Attorney's fees and legal costs and expenses;

- b. Fines, late charges and interest;
- c. Returned check charges and other costs owing or incurred with respect to such owner; and
- d. Assessments due or to become due with application to the most long-standing delinquent assessment first.

6. Legal Remedies. In the event a unit owner does not comply with a payment plan or is not eligible for a payment plan, the legal remedies available to the Association to collect a unit owner's delinquent account pursuant to the Association's governing documents and Colorado law are as follows:

- a. A lawsuit by the Association against the delinquent owner;
- b. The filing and foreclosure of a lien against the unit owner's property, but only if:
 - i. The balance of the assessments and charges secured by the lien equals or exceeds six (6) months of common expense assessments based on a periodic budget adopted by the Association; and
 - ii. The Association's Board of Directors has formally resolved, by a recorded vote, to authorize the filing of a legal action against the specific unit on an individual basis. The Board of Directors may not delegate its duty to act under this subsection to any attorney, insurer, manager, or other person, and any legal action filed without evidence of the recorded vote authorizing the action must be dismissed.
- c. Referral of the delinquent account to the Association's attorney or a collection agency;
- d. The Association may apply to be the court-appointed receiver of the subject unit; and/or
- e. Any other legal remedies available under Colorado law.

7. Exceptions. This Collection Policy does not apply if the unit owner does not occupy the unit and has acquired the unit as a result of:

- a. A default of a security interest encumbering the unit; or
- b. Foreclosure of an Association lien.

8. Conflict of Laws. In the event of a conflict between this Collection Policy and the Association's Declaration, Bylaws, or any other policy, rule or regulation of the Association, this Collection Policy shall control.

**Mt. Crested Butte – Timberline Condominiums, Inc.,
a Colorado nonprofit corporation**