



Kissing Camels Townhomes Homeowners Association

(A Colorado Non-Profit Corporation & Covenant Protected Community)

Clerk & Recorder – Please record these documents in the following indexes:

Property Index

Grantor Index – Condominium Homeowners Association of Kissing Camels Townhomes

Grantee Index – Condominium Homeowners Association of Kissing Camels Townhomes

Grantor Index – Kissing Camels Townhomes LLC

Grantee Index – Kissing Camels Townhomes LLC

**SECOND AMENDMENT TO AMENDED AND RESTATED CONDOMINIUM
DECLARATION
FOR
KISSING CAMELS TOWNHOMES**

THIS SECOND AMENDMENT to the Amended and Restated Condominium Declaration for Kissing Camels Townhomes (the “Amended Declaration”) is made and entered into effective this 20th day of MARCH 2013.

LEASING

RECITALS:

- A. The Amended and Restated Condominium Declaration for Kissing Camels Townhomes (aka The Condominium Homeowners Association of Kissing Camels Townhomes Inc.) was recorded in the real property records of El Paso County Colorado on February 14, 2008 at Reception No. #208017489.

- B. Article 4, Section 4.2 Residential Use. In order to protect and enhance the residential character of the Project, each Condominium Unit shall be used and occupied solely for the purpose of lodging or as a single-family residential dwelling by the Owner or by the Owner’s family, guests, agents, employees, invitees and tenants. With the exception of a Mortgagee in possession of the Condominium Unit following a default in a first mortgage or first deed of trust, a foreclosure proceeding or any deed or another arrangement in lieu of foreclosure of a first mortgage or first deed of trust, no Owner shall be permitted to lease a Unit for transient or hotel purposes. No Owner may lease less than the entire Unit. Any lease agreement shall be required to provide

that the terms of the lease shall be subject in all aspects to the provisions of this Declaration and the By-Laws of the Association, and that any failure by the lessee to comply with the terms of such document shall be a default under the lease. All leases shall be required to be in writing. Other than that set forth above, there are no restrictions on the right of any Owner to lease his unit.

- C. §38-33.3-217(1)(a)(I) C.R.S. "...Any provision in the declaration that purports to specify a percentage larger than sixty-seven percent is hereby declared void as contrary to public policy, and until amended, such provision shall be deemed to specify a percentage of sixty-seven percent...."
- D. The Owners of Units in The Condominium Homeowners Association of Kissing Camels Townhomes Inc. desire to restrict leasing of the Units within the project.
- E. Whereas a total of 38 ballots (76%) have been returned with 33 Unit Owners (67.3%) having voted in the AFFIRMATIVE.
- F. There are no First Mortgagees who have requested notice in accordance with §38-33.3-217(1) (b) (I) C.R.S.

NOW THEREFORE, the Amended and Restated Condominium Declaration for Kissing Camels Townhomes is hereby amended as follows:

4.2 **Leasing.** In order to protect the equity of the individual Owners of the Project, to carry out the purpose for which the Project was formed by preserving the character of the Project as a residential community of predominantly owner-occupied Units and by preventing the Project from assuming the character of a renter-occupied, multi-family apartment complex, and to enhance compliance and eligibility requirements for financing in the secondary mortgage market insofar as such criteria provide that the Project be substantially owner-occupied, leasing of Units shall be governed by the restrictions imposed by this Section.

- (a) **Definition.** "Leasing," for purposes of this Declaration, is defined as regular exclusive occupancy of a Unit by any person or persons other than the Owner; provided, however, leasing shall not include exclusive occupancy by the child or parent of an Owner. For purposes hereof, occupancy by a roommate of an Owner who occupies the Unit as such Owner's primary residence shall not constitute leasing hereunder.
- (b) **Percentage of Units that may be Leased.** No more than 12 Units (12 Leasing Permits) (24%) (12/49) of the Units in the Project may be leased at one time, except as provided in subparagraph (d) below for cases of undue hardship.
- (c) **Leasing Permits.** An Owner's written request for a leasing permit shall be approved if not more than 24% of the Units have been issued a current leasing permit. Only one leasing permit will be issued per Owner. In the event a single Owner is presently

leasing more than one (or more) unit(s) at the time of the adoption of this amendment, said Unit Owner shall be deemed as being grandfathered under this section until such time as a lease (or leases) in more than one of the Units expires. At which time said restrictions contained within this section shall take effect.

A leasing permit shall expire or be automatically revoked upon the happening of any of the following events: 1) the sale or transfer of the Unit to a third party (excluding sales or transfers to (a) an Owner's spouse, (b) a person cohabitating with the Owner, (c) a corporation, partnership, company, or legal entity in which the Owner is principal); 2) the sublease or assignment of a lease without the written approval of the Board of Directors; 3) the failure of an Owner to lease his or her Unit within 90 days of the leasing permit having been issued; or 4) the failure of an Owner to have his or her Unit leased for any consecutive 90-day period thereafter; provided, however, an Owner may seek approval for additional time in the event of renovation or other work to a Unit that may take longer than 90 days. In the event leasing permits have been issued for 30% of the Units, no additional leasing permits shall be issued (except for hardship leasing permits) until the outstanding current leasing permits expire or are revoked. Owners who have been denied a leasing permit shall automatically be placed on a waiting list for a leasing permit and shall be issued the same if they so desire when there are leasing permits for less than 30% of the Units. The issuance of a hardship leasing permit to an Owner shall cause the Owner to be removed from the waiting list for a leasing permit.

- (d) **Hardship Permit.** If the failure to lease will result in an undue hardship, the Owner may seek to lease on a hardship basis by applying to the Board of Directors for a hardship leasing permit. At its discretion, and in accordance with Section (5) below, one (1) Hardship Leasing Permit may be issued by the Board of Directors per Unit. At no time shall the combined total of Leasing Permits and Hardship permits exceed 30% (14 Units). By way of illustration, and not by limitation, examples of circumstances that would constitute "undue hardship" are those in which; (1) an Owner must relocate his/her residence for employment purposes and cannot, within 90 days from the date the Unit was placed on the market, sell the Unit for a price no greater than the current appraised market value, having made reasonable effort to do so; 2) where the Owner dies and the Unit is being administered by his or her estate; and 3) where the Owner takes a leave of absence or temporarily relocates and intends to return to reside in the Unit.

The Board of Directors shall have the authority to issue or deny requests for hardship leasing permits in its sole discretion after considering the following factors: (1) the nature, degree, and likely duration of the hardship, (2) the harm, if any, which will result to the Project if the permit is approved, (3) the number of hardship leasing permits which have been issued to other Owners, (4) the Owner's ability to cure the hardship, and (5) whether previous hardship leasing permits have been issued to the Owner. Hardship leasing permits shall be valid for a term not to exceed one (1) year. Owners may apply for additional hardship leasing permits. Hardship leasing permits

shall automatically be revoked if during the term of the permit the Owner is approved for and receives a leasing permit.

(e) **Leasing Provisions.** Such leasing as is permitted at Kissing Camels Townhomes (aka the Condominium Homeowners Association of Kissing Camels Townhomes Inc.) shall be governed by the following provisions:

(1) **Notice.** At least ten (10) days prior to entering into the lease of a Unit, the Owner shall provide the Board of Directors with a copy of the proposed lease, the name, address, and home and business telephone numbers of the proposed lessee and the names of all other people occupying the Unit, the Owner's address other than at the Unit, and such other Emergency Contact Information as the Board of Directors and/or the managing agent may reasonably require. The Board of Directors shall approve or disapprove the form of said lease. In the event a lease is disapproved, the Board shall notify the Owner of the requisite action to be taken in order to bring the lease in compliance with the Amended and Restated Condominium Declaration, and any Rules and Regulations adopted pursuant thereto. Within thirty (30) days from the execution of the approved lease by both parties, the Owner shall provide the Board of Directors or managing agent with a file copy of the executed lease agreement.

(2) **General.** Unit may be leased only in their entirety; no fraction or portion may be leased. There shall be no subleasing of Units or assignment of leases unless approved in writing by the Board of Directors. No transient tenants may be accommodated in a Unit. All leases shall be in writing and in a form approved by the Board prior to the effective date of the lease. All leases shall be for a period of at least one year, except with written Board approval. Leases of one year or more may be renewed with the same tenant on a month-to-month basis if the lease so provides. The Owner must provide the tenant copies of the Declaration, Bylaws, and Association Rules and Regulations, and the signed lease agreement shall provide an addendum stating that the Owner has done so.

(3) **Compliance with Declaration, Bylaws, and Rules and Regulations.** Any lease of a Unit in the Project shall be deemed to contain the following provisions, whether or not expressly therein stated, and each Owner covenants and agrees that any lease of a Unit shall contain the following language and agrees that if such language is not expressly contained therein, then such language shall be incorporated into a lease by existence of this covenant on the Unit. Any lessee, by occupancy of a Unit, agrees to the applicability of this covenant and incorporation of the following language into the lease:

(i) Lessee agrees to be personally obligated for the payment of any assessments of other charges against the Owner which become due as

a consequence of the lessee's activities, including but not limited to, activities which violate provisions of the Declaration, the Bylaws, or the Rules and Regulations or damage to any Common Area elements. The above provisions shall not be construed to release the Owner from any obligation, including the obligation for assessments, for which he or she would otherwise be responsible.

- (ii) When an Owner who is leasing his or her Unit fails to pay any Annual or Special Assessment or any Other Charge for a period of more than thirty (30) days after it is due and payable, then the delinquent Owner hereby consents to the assignment of any rent received from the lessee during the period of delinquency, and, upon request by the Board of Directors, lessee shall pay to the Association all unpaid Annual and Special Assessments and Other Charges, as lawfully determined and made payable during the term of the lease and any other period of occupancy by lessee; provided, however, lessee need not make such payments to the Association in excess of, or prior to the due dates for monthly rental payments unpaid at the time of the Board's request. All such payments made by lessee shall reduce, by the same amount, lessee's obligation to make monthly rental payments to Lessor.
- (iii) Lessee shall abide by and comply with all provisions of the Declaration, Bylaws, and Rules and Regulations and shall control the conduct of all occupants and guests in order to ensure compliance with the foregoing. Lessee acknowledges that the violation by lessee or any occupant living with lessee of any provision of the Declaration, Bylaws, or Rules and Regulations shall constitute a default under this lease. Owner shall cause all occupants of his or her Unit to comply with the Declaration, Bylaws, and the Rules and Regulations, and is solely responsible for all violations and losses caused by such occupants, notwithstanding the fact that such occupants of the Unit are fully liable and may be sanctioned for any violation of the Declaration, Bylaws, or Rules and Regulations. If the lessee, or other occupant, violates the Declaration, Bylaws, or a Rule and Regulations for which a fine is imposed, such fine may be assessed against the lessee and/or the Unit Owner; provided, however, if a fine is not paid by the lessee within the time period established by the Board of Directors, the Owner shall pay the fine upon formal written notice from the Board of the lessee's failure to do so. Unpaid fines constitute a lien against the Unit as provided for in the Declaration. Any lessee charged with a violation of the Declaration, Bylaws, or Rules and Regulations is entitled to the same procedure(s) to which a Unit Owner is entitled prior to the imposition of a fine or other sanction.

Any violation of the Declaration, Bylaws, or Rules and Regulations by

lessee or any occupant is deemed to be a violation of the terms of the lease and authorizes the Owner to terminate the lease without liability and to evict the lessee in accordance with Colorado law. If Owner fails to begin eviction proceedings after written notice from the Association Board of Directors or its managing agent to do so, the Owner hereby delegates and assigns to The Condominium Homeowners Association of Kissing Camels Townhomes Inc., acting through the Board, the power and authority of enforcement against the lessee for breaches resulting from violation of the Declaration, Bylaws, and the Rules and Regulations, including the power and authority to evict the lessee on behalf and for the benefit of the Owner, in accordance with the terms hereof, or to require the Owner to do so. In the event the Association proceeds to evict the tenant, any costs, including attorney's fees and court costs, associated with the eviction shall be assessed against the Unit and Owner thereof.

- (4) **Use of Common Area Elements.** The Owner transfers and assigns to the lessee, for the term of the lease, any and all rights and privileges that the Owner has to use the Common Area Elements.
 - (5) **Investment Properties.** At no time shall the total number of Leasing Permits and/or Hardship Permits for investor owned units (excluding an investor's primary residence) exceed a total of one (1) additional Unit.
- (f) Applicability of this Article 4, Section 4.2. Those Unit Owners who are leasing their Units upon the effective date of this Declaration may continue to lease their Units and shall not be required to obtain a leasing permit until the lease expires or is extended, renewed or modified. However, upon any conveyance or transfer of the Unit, any grantee thereof shall be subject to the provisions of this Article 4, Section 4.2, in addition to all other provisions of the Declaration, Bylaws, and Rules and Regulations adopted pursuant thereto.

Leases executed after the date on which this Declaration is recorded in the El Paso County, Colorado records are subject to the terms of Article 4, Section 4.2 (e) above. Leases existing on the date which this Declaration is recorded in the El Paso County, Colorado records shall not be subject to the terms of Article 4, Section 4.2(e); such leases may continue in accordance with the terms of the Declaration as it existed prior to the recording of this Amendment. However, any assignment, extension, renewal, or modification of any lease agreement, including, but not limited to, changes in the terms or duration of occupancy, shall be considered a termination of the old lease and commencement of a new lease on the effective date of this Amendment shall place on file with the Board of Directors a copy of the lease agreement in effect within thirty (30) days of the date on which this Amendment is recorded.



Kissing Camels Townhomes HOA, Inc.
(A Colorado Non-Profit Corporation & Covenant Protected Community)

RESOLUTION
Leasing Restrictions
GENERAL RESOLUTION NUMBER 2012-01

WHEREAS, Article VII, Section 7.1 of the Amended and Restated Condominium Declaration for Kissing Camels Townhomes (the "Amended Declaration") dtd. January 21, 2008 grants the Board of Directors authority "...to exercise all powers, duties and authority vested in or obligated to or by the Association."; and

WHEREAS, Article VII Section 7.2.3 grants the Board of Directors "The right to engage a professional property manager"; and

WHEREAS, Article VII Section 7.2.4 grants the Board of Directors "Any and all powers necessary to govern, manage, maintain, repair, administer and regulate the Project and to perform all of the duties required of it. Notwithstanding the above, the Association shall be granted all of the powers necessary to govern, manage, maintain, repair, administer and regulate the Project and to perform all of the duties required of it...."; and

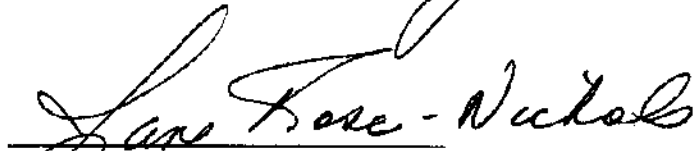
WHEREAS, Article 4, Section 4.2 Residential Use. In order to protect and enhance the residential character of the Project, each Condominium Unit shall be used and occupied solely for the purpose of lodging or as a single-family residential dwelling by the Owner or by the Owner's family, guests, agents, employees, invitees and tenants. With the exception of a Mortgagee in possession of the Condominium Unit following a default in a first mortgage or first deed of trust, a foreclosure proceeding or any deed or another arrangement in lieu of foreclosure of a first mortgage or first deed of trust, no Owner shall be permitted to lease a Unit for transient or hotel purposes. No Owner may lease less than the entire Unit. Any lease agreement shall be required to provide that the terms of the lease shall be subject in all aspects to the provisions of this Declaration and the By-Laws of the Association, and that any failure by the lessee to comply with the terms of such document shall be a default under the lease. All leases shall be required to be in writing. Other than that set forth above, there are no restrictions on the right of any Owner to lease his unit. And,

WHEREAS, the Board of Directors of Kissing Camels Townhomes Inc., at a regularly scheduled meeting of the Board of Directors on May 17th, 2012, upon discussion with Association members present, believe that the amending of Article 4, Section 4.2 is necessary in order to protect the equity of the individual Owners of the Project, to carry out the purpose for which the Project was formed by preserving the character of the Project as a residential community of predominantly owner-occupied Units and by preventing the Project from assuming the character of a renter-occupied, multi-family apartment complex, and to enhance compliance and eligibility requirements for financing in the secondary mortgage market insofar as such criteria provide that the Project be substantially owner-occupied, leasing of Units shall be governed by the restrictions imposed by this Section.

THEREFORE, BE IT RESOLVED, the Board of Directors of the Kissing Camels Homeowners Association, Inc. recommends that Article 4, Section 4.2 of the Amended and Restated

Condominium Declaration for Kissing Camels Townhomes (aka The Condominium Homeowners Association of Kissing Camels Townhomes Inc.) as recorded in the real property records of El Paso County Colorado on February 14, 2008 at Reception No. #208017489 be amended and a proposal delivered to each Unit Owner for the purposes of obtaining Owner consideration and approval.

Signed this 17th day of May, 2012.

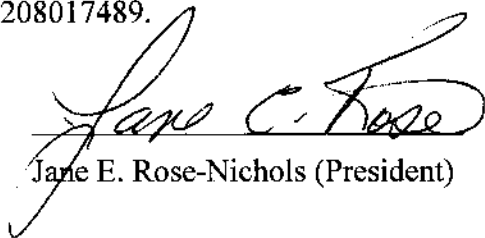

Jane Rose-Nichols, President


Colleen Bagley, Secretary

IN WITNESS WHEREOF; The Association and the undersigned Officers have approved and signed this Amendment in accordance with the Association Bylaws and the Amended and Restated Condominium Declaration for Kissing Camels Townhomes Inc.

CERTIFICATION

WE, THE UNDERSIGNED Board of Director members and officers of the Condominium Homeowners Association of Kissing Camels Townhomes, Inc., having reviewed the ballots received, do hereby authorize, conform, and consent to this Second Amendment of the Amended and Restated Condominium Declaration for Kissing Camels Townhomes, Inc, recorded on February 14, 2008 in the office of the El Paso County Clerk and Recorder at Reception #208017489.


Jane E. Rose-Nichols (President)

Margaret Froehlich (Vice President)

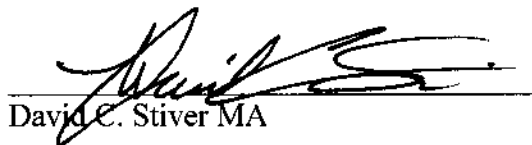
Colleen Bagley (Secretary)

Sheryl Opitz (Treasurer)

Mark Nichols (At-Large)

ATTEST: I David C. Stiver, Managing Agent of the Condominium Homeowners Association of Kissing Camels Townhomes, do hereby affirm and attest that the above signatures contained within this document are true and correct to the best of my knowledge.

Signed this 20th day of March, 2013.


David C. Stiver MA

STATE OF COLORADO)

IN WITNESS WHEREOF; The Association and the undersigned Officers have approved and signed this Amendment in accordance with the Association Bylaws and the Amended and Restated Condominium Declaration for Kissing Camels Townhomes Inc.

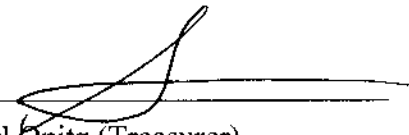
CERTIFICATION

WE, THE UNDERSIGNED Board of Director members and officers of the Condominium Homeowners Association of Kissing Camels Townhomes, Inc., having reviewed the ballots received, do hereby authorize, conform, and consent to this Second Amendment of the Amended and Restated Condominium Declaration for Kissing Camels Townhomes, Inc, recorded on February 14, 2008 in the office of the El Paso County Clerk and Recorder at Reception #208017489.

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Margaret Froehlich (Vice President)

Colleen Bagley (Secretary)



Sheryl Opitz (Treasurer)

Mark Nichols (At-Large)

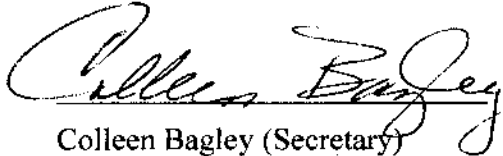
IN WITNESS WHEREOF; The Association and the undersigned Officers have approved and signed this Amendment in accordance with the Association Bylaws and the Amended and Restated Condominium Declaration for Kissing Camels Townhomes Inc.

CERTIFICATION

WE, THE UNDERSIGNED Board of Director members and officers of the Condominium Homeowners Association of Kissing Camels Townhomes, Inc., having reviewed the ballots received, do hereby authorize, conform, and consent to this Second Amendment of the Amended and Restated Condominium Declaration for Kissing Camels Townhomes, Inc, recorded on February 14, 2008 in the office of the El Paso County Clerk and Recorder at Reception #208017489.

Jane E. Rose-Nichols (President)

Margaret Froehlich (Vice President)

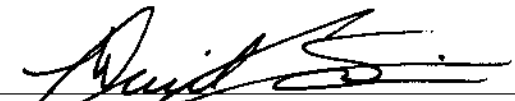

Colleen Bagley (Secretary)

Sheryl Opitz (Treasurer)

Mark Nichols (At-Large)

ATTEST: I David C. Stiver, Managing Agent of the Condominium Homeowners Association of Kissing Camels Townhomes, do hereby affirm and attest that the above signatures contained within this document are true and correct to the best of my knowledge.

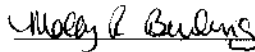
Signed this 20th day of March, 2013.



David C. Stiver MA

STATE OF COLORADO)
)ss.
COUNTY OF EL PASO)

The foregoing instrument was acknowledged before me this 20 day of
March, 2013.



MOLLY R. BURLING
NOTARY PUBLIC
STATE OF COLORADO
My Commission Expires 10/31/2013