

**FIRST AMENDMENT TO THE CONDOMINIUM DECLARATION  
FOR WESTERMERE CONDOMINIUM**

This First Amendment to the Condominium Declaration for Westermere Condominium ("First Amendment") is made and executed to be effective as of the 1<sup>st</sup> Day of January, 2007, by the Westermere Condominium Owners Association, Inc., a Colorado non-profit corporation ("Association").

WHEREAS, the Condominium Declaration for Westermere Condominium ("Declaration") was recorded on September 19, 1991, in the records of the San Miguel County Clerk and Recorder in Book 482 at page 598;

WHEREAS, the First Supplement to the Condominium Declaration for Westermere Condominium ("First Supplement") was recorded on May 21, 1993, in the records of the San Miguel County Clerk and Recorder at Reception No. 284854;

WHEREAS, the Second Supplement to the Condominium Declaration for Westermere Condominium ("Second Supplement") was recorded on July 23, 1993, in the records of the San Miguel County Clerk and Recorder at Reception No. 286090;

WHEREAS, to amend the Declaration, Paragraph 13.3 of the Declaration requires the approval of owners representing seventy-five percent (75%) or more of the voting rights of the Association and the holders of first mortgages encumbering units, the aggregate fractional interest in common elements appurtenant to which is at least 75%.

WHEREAS, Senate Bill 05-100, which amends C.R.S. 38-33.3-217 (1)(a), effective as of January 1, 2006, provides that "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."

NOW THEREFORE, the Association does hereby publish and declare that the Declaration shall be amended as set forth below.

Common Elements. Paragraph 2.8 of the Declaration is hereby amended as follows:

"Common elements" or "general common elements" means all the property except the condominium units. ... including but not limited to the following: (1) all the property which is not located within a unit as shown on the condominium map including specifically the air space above and below the units and the land on which the building is located, and including the exterior windows and doors of each unit (but excluding the interior trim and surface finishes of such windows and doors);

Condominium Unit or Unit. Paragraph 2.11 of the Declaration is hereby amended as follows:

"Condominium Unit" or "Unit" means the individual air space within the interior unfinished surfaces of the perimeter walls, floors, ceilings, interior trim and surface finishes of exterior closed windows and exterior doors, as such units are shown on the condominium map to be recorded, together with all the fixtures and improvements contained therein but not including .... [the rest of the paragraph to remain unchanged]

Maintenance of Units and Limited Common Elements. Paragraph 4.15 of the Declaration is hereby amended as follows:

Each owner shall keep the interior of his or her unit and the limited common elements appurtenant to such unit, including without limitation, interior walls, interior trim and surface finishes of exterior windows and exterior doors, interior glass, ceilings, floors and permanent fixtures, in a clean, sanitary and attractive condition, and in a good state of repair free from accumulation of trash or debris and deterioration.

Board of Directors. The Second Supplement is hereby revoked in its entirety. Paragraph 6.6 of the Declaration is hereby amended in its entirety as follows:

The association shall be managed by a board of directors. The number, tenure and qualifications of the directors shall be determined in accordance with the Articles and Bylaws of the association.

Architectural Control. Paragraph 6.9 of the Declaration is hereby amended to add the following language:

... Notwithstanding anything to the contrary, if a Unit owner chooses to replace an exterior window or exterior door prior to the time the Association is planning to replace an exterior window or exterior door, then that owner may do so at that owner's expense so long as that owner obtains prior written Board approval. The Board may deny approval if the proposed new exterior window or exterior door does not match the old exterior window or exterior door in terms of design and specifications, or is not in harmony with the design of the other exterior windows and exterior doors of the building.

Limitations on Expenditures. Paragraph 7.14 of the Declaration is hereby deleted in its entirety and is of no further force and effect.

Separate Assessment of Residential and Commercial Units. Paragraph 9.2 of the Declaration is hereby deleted in its entirety and is of no further force and effect.

Apportionment of Expenses. Paragraph 9.6 of the Declaration is hereby amended to add the following language:

... Notwithstanding anything to the contrary, expenses to repair damage to a Common Element, including exterior windows and exterior doors, may be charged to a Unit owner to the extent that the Unit owner caused the damage.

Approval of Other Decisions Affecting the Property. Paragraph 13.3 of the Declaration is hereby amended as follows:

Notwithstanding anything to the contrary contained herein, the approval of owners representing seventy-five percent (75%) or more of the voting rights in the association, ~~or such other lower percentage as required by law, excluding units owned by the association, and the holders of first mortgages encumbering units,~~ the aggregate fractional interest in common elements appurtenant to which is at least 75% shall be required before any of the following decisions can be made. ...

~~If any first mortgagee should not agree with a decision made in accordance with this section, the association shall have the right, but not the obligation, to purchase the mortgage by payment in full of the amount secured thereby. The association shall obtain funds for such purpose by special assessments under article IX of this declaration.~~

All defined and capitalized terms herein shall have the same meaning as set forth in the Declaration.

Except as set amended as set forth herein, the provisions of the Declaration and the First Supplement shall continue in full force and effect.

### CERTIFICATION OF ADOPTION OF FIRST AMENDMENT TO DECLARATION

The undersigned certify that the Association has complied with C.R.S. § 38-33.3-217(1)(a), effective January 1, 2006, and Paragraph 13.3 and Article XVI of the Declaration by obtaining the approval of owners representing at least sixty-seven percent (67%) of the of the voting rights in the Association.

The undersigned certify that pursuant to C.R.S. § 38-33.3-217(b), the Association has complied with Paragraph 13.3 of the Declaration by obtaining the approval of holders of first mortgages encumbering units, the aggregate fractional interest in common elements appurtenant to which is at least 75%.

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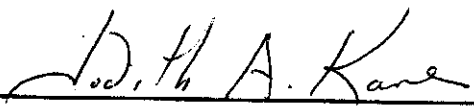
**WESTERMERE CONDOMINIUM OWNERS ASSOCIATION, INC.,**  
a Colorado non-profit corporation,

By:   
Bruce Crown, President

STATE OF Illinois )  
 )  
COUNTY OF Cook ) ss.

The foregoing instrument was acknowledged before me this 4<sup>th</sup> day of April, 2007, by Bruce Crown, President of the Westermere Condominium Owners Association, Inc., a Colorado non-profit corporation.

WITNESS MY HAND AND OFFICIAL SEAL

MY COMMISSION EXPIRES: 4/4/2009   
Notary Public

By: \_\_\_\_\_  
Margie Francis, Secretary



STATE OF \_\_\_\_\_ )  
 )  
COUNTY OF \_\_\_\_\_ ) ss.

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2007, by Margie Francis, Secretary of the Westermere Condominium Owners Association, Inc., a Colorado non-profit corporation.

WITNESS MY HAND AND OFFICIAL SEAL

MY COMMISSION EXPIRES: \_\_\_\_\_  
Notary Public