

FIRST AMENDMENT
TO
TOWNHOME DECLARATION
FOR
PROSPECT POINT

This First Amendment to Townhome Declaration for Prospect Point (this "Amendment"), dated May 21, 1997, is executed by PROSPECT POINT LLC, a Colorado limited liability company.

Recitals

A. Declarant has heretofore executed a Townhome Declaration for Prospect Point (the "Declaration"), recorded in the real property records of Summit County, Colorado on December 30, 1996 at Reception No. 530984, and affecting property described as Lot 2, Prospect Point, Sections 23 and 26, T5S, R78W of the 6th PM, Town of Frisco, Summit County, Colorado. Capitalized terms used in this Amendment without definition shall have the meanings ascribed thereto in the Declaration, except as amended hereby.

B. Article 17 of the Declaration provides that the Declaration may be amended solely by Declarant at any time prior to the filing of the Map. As of the date hereof, the Map has not been filed and no Townhome Unit has yet been created.

C. Declarant now desires to amend the Declaration in certain respects.

Amendments

The Declaration is hereby amended as follows:

1. Amendments to Article 1. Article 1 of the Declaration is hereby amended as follows:

A. The definition of "Association" is hereby amended to read in its entirety as follows:

(c) "Association" means the Prospect Point Townhomes Homeowners Association, Inc., a Colorado nonprofit corporation, the members of which shall be all of the Owners. The Association shall be the record title holder of all of the General Common Elements and all of the Limited Common Elements.

B. The definition of "General Common Expenses" is hereby amended to read in its entirety as follows:

(n) "General Common Expenses" means: (i) all expenses expressly declared to be General Common Expenses by this Declaration or by the Bylaws; (ii) all other expenses of administering, servicing, conserving, managing,



maintaining, repairing or replacing the General Common Elements and maintaining and repairing the Exterior Maintenance Areas; (iii) insurance premiums for the insurance carried under Article 11; (iv) all real estate taxes and assessments against any of the General Common Elements or any of the Limited Common Elements; and (v) all expenses lawfully determined to be General Common Expenses by the Board of Directors. Notwithstanding the foregoing, any expense incurred by Declarant in connection with the initial construction of the Townhome Units shall not be a General Common Expense.

C. The definition of "Townhome Unit" is hereby amended to read in its entirety as follows:

(z) "Townhome Unit" means any Townhouse, together with all easements and rights-of-way appurtenant thereto, an undivided fifty percent (50%) interest in any party wall shared by such Townhouse and any adjacent improvements, and all Limited Common Elements allocated solely to such Townhouse, including any yard area, garage and driveways, as set forth on the Map."

D. A new definition of "Townhouse" is hereby added to Article 1 of the Declaration as follows:

(aa) "Townhouse" means an individually owned residential unit within the Project, including the structure thereof from foundation to roof in an unbroken vertical plain, and the land on which the foundation of such residential unit is constructed, together with all Limited Common Elements specifically allocated thereto, as set forth on the Map.

E. A new definition of "Limited Common Element" is hereby added to Article 1 of the Declaration as follows:

(ab) "Limited Common Element" means certain land adjacent to a Townhouse assigned for the exclusive use and enjoyment of the Owner of such Townhouse (subject, however, to any easements, agreements or licenses described in Section 2.4 hereof), which Limited Common Elements include, without limitation, yards, driveways and deck and patio areas. Limited Common Elements shall specifically include any landscaping, fencing, blacktopping, decking or similar improvements; provided that all improvements to Limited Common Elements shall be subject to the rules and regulations of the Association from time to time in effect. All Limited Common Elements shall be owned by the Association, subject to the exclusive rights of Owners herein described.

2. Amendments to Section 2.2. The first sentence of Section 2.2 is hereby amended to read in its entirety as follows:

The Premises shall be divided into: (i) separate Townhome Units, each consisting of a fee simple estate in a Townhouse, as defined herein, together with

a right to use all Limited Common Elements allocated thereto as herein described, all as set forth on the Map and on Attachment B hereto; and (ii) General Common Elements as set forth on the Map, together with all improvements thereon, all easements and rights-of-way located thereon or appurtenant thereto, as provided herein or therein.

3. Amendment to Article 3. A new Section 3.6 is hereby added to the Declaration as follows:

3.6 Use of Limited Common Elements. Any Owner shall have the exclusive right to use of the Limited Common Elements included in his Townhome Unit, subject to the terms and provisions of this Declaration. Notwithstanding anything herein to the contrary, no Owners shall be permitted to build or construct any type of structure upon any Limited Common Elements, specifically excluding fences around backyards, decks and patios within backyards, which may include hot tubs, barbecues and similar amenities. However, all construction of such items shall be subject to all applicable local ordinances, rules and regulations and all rules and regulations adopted by the Association from time to time. Every Owner shall be responsible for maintenance of all Limited Common Elements that are part of such Owner's Townhome Unit, subject, however, to the provisions of Section 9.3 hereof.

4. Amendment to Article 4.

A. Section 4.2 of the Declaration is hereby amended to read in its entirety as follows:

4.2 Subsequent to Recordation. Subsequent to the filing of this Declaration and the Map, every contract for sale, deed, lease, deed of trust, mortgage, will or other instrument affecting a Townhome Unit shall legally describe the Townhome Unit as follows:

Townhome Unit No. _____, Prospect Point Townhomes, according to the Townhome Declaration for Prospect Point, recorded on December 30, 1996 at Reception No. 530984 of the records of Summit County, Colorado, as amended from time to time, and the Map for Prospect Point Townhomes recorded on _____, 19____, at Reception No. _____ of the records of Summit County, Colorado, as amended from time to time.

B. The second sentence of Section 4.3 is hereby amended to read in its entirety as follows:

Each such description shall be construed to include the fee simple title to the Townhouse that is part of such Townhome Unit, the exclusive right to use all Limited Common Elements that are a part of such Townhome Unit as provided

in this Declaration and a non-exclusive right of ingress and egress through and for use of the General Common Elements, subject to rules and regulations adopted by the Association pursuant to Section 8.1 hereof.

5. No Other Amendment. Except as specifically set forth above, the Declaration remains unamended and in full force and effect.

IN WITNESS WHEREOF, Declarant has executed this Amendment as of the day and year first above written.

PROSPECT POINT LLC, a Colorado limited liability company

By: WINTERGREEN HOMES IV LLC, a Colorado limited liability company, Manager

By:

Name:

Jeffery M. Spanel

Its:

Manager

The undersigned holder of a deed of trust upon the property covered by the Declaration hereby subordinates its interest in such property to the provisions of the Declaration as amended by the foregoing Amendment.

COLORADO NATIONAL BANK, a national banking association

By:

Name:

Marcia Green

Title:

Vice President