

DECLARATION OF PROTECTIVE COVENANTS
FOR TELEMAR TOWNHOUSES

KNOW EVERYONE BY THESE PRESENTS that the undersigned owners of townhouses located at The Village at Smugglers' Notch (formerly Madonna Village) in the Town of Cambridge, County of Lamoille and state of Vermont desire to subject their properties known as Telemark Townhouses numbers T1 - T8, (being designated as Lots B-1 through B-8 at The Village at Smugglers' Notch as shown on a plan of maps in Volume IV at Pages 6 through 10 of the Land Records of the Town of Cambridge) to certain protective covenants, restrictions and conditions that are for the benefit of said premises and the purpose of protecting the value and desirability thereof, and which shall run with the land and be binding on all parties having any right, title or interest in and to the premises or any portion thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

1. Each and every lot hereinabove referenced shall be well maintained with healthy grass and appropriate shrubs and trees.

2. The exterior of each and every townhouse situated on any of the above referenced lots shall be well maintained so that all roofs, gutters, downspouts, exterior building surfaces and other exterior improvements are sound, attractive and in harmony with those townhouses situated on other lots hereinabove referenced.

3. Prior to changing the color of any exterior surface or roof of any townhouse situated on any of the lots hereinabove referenced, the owner or owners of the said lot shall obtain the written consent of the owners of at least Fifty Percent (50%) of all the other lots hereinabove referenced.

4. No new building, fence, wall or other structure of any kind shall be commenced, erected or maintained on any of the lots hereinabove referenced, nor shall any addition to or change in any existing structure thereon be made without the proponent thereof first obtaining the written approval of the owners of at least six (6) other Telemark Townhouse lots.

5. To the extent that any structure on any Telemark Townhouse lot currently encroaches on any other lot, an easement for the encroachment shall exist.

6. The reasonable cost of repair and maintenance of a party wall shall be shared by the owners who make use of the wall in proportion to such use. If a party wall is destroyed or damaged by fire or other casualty, any owner who has used the wall may restore it, and if the other owners thereafter make use of the wall they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however to the right of any such owners to call for a larger contribution from the others under any rule of law regarding the liability for negligent or willful acts or omissions. The foregoing notwithstanding, an owner who by his negligent or willful act causes a party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements. The right of any owner to contribution from any other owner under this covenant shall be appurtenant to the land and shall pass to such owners' successors in title.

7. Except in cases where resort to a court of law is absolutely necessary to avoid irreparable injury, any owner of any Telemark Townhouse seeking to enforce any of these covenants shall refrain from instituting any action at law or in equity until the owner seeking enforcement has given written notice to those owners against whom he wishes to enforce

covenant(s) stating clearly the provisions sought to be enforced and the corrective action desired. In the event that the matter has not been satisfactorily resolved within fifteen (15) days thereafter, or within any other period of time stipulated to by all parties in interest, then the matter may be submitted to a court of law and the prevailing party shall be entitled to reasonable attorney's fees and costs.

8. The person(s) or entity owning each of the above referenced Townhouses shall be a member of the Telemark Townhouse Association, a Vermont non-profit, unincorporated association. Each of the said townhouses shall be subject to the ByLaws, rules and regulations of the Telemark Townhouse Association. Membership in the Association shall be a benefit to the real property, running with the land perpetually for the benefit of each member and each member's heirs, executors, administrators, personal representatives and successors in title.

9. Maintenance, repair and replacement of each Telemark Townhouse roof, all exterior surfaces of each Telemark Townhouse, and any structural elements of any Telemark Townhouse damaged by fire or other casualty shall be the ultimate responsibility of each Townhouse owner, but shall be made under the control and direction of the Association. Each Townhouse owner shall afford to the Association and to its agents or employees access into and across his townhouse property as reasonably necessary for these purposes. If in the opinion of not less than a majority of the Board of Directors of the Association any expense is necessitated by the negligence, misuse or neglect of any townhouse owner, then such expense shall be assessed to that townhouse owner, rather than to the Association as a whole. All assessments made by the Association shall constitute liens identical to the lien created by Title 27 V.S.A., Section 1323 for assessment of common expenses for condominiums.

10. The Association may employ one or more persons or entities to manage the Association's business.

11. In the event of destruction or substantial damage to one or more of the Townhouses the property or properties shall be promptly repaired or replaced as required by majority vote of the directors of the Association.

12. The owner or owners of each townhouse shall keep the same at all times fully insured against fire and other casualty as well as general liability all with broad form property insurance coverage, which policy or policies of insurance shall name The Association as Loss Payee for said owners. The Association shall receive insurance proceeds in the event of any loss, and apply the same to the costs of repair and replacement of the damaged or destroyed property. In the event that available insurance fails to pay the full cost of such repair or replacement the Association shall assess the owner(s) of each townhouse for additional costs of repair and replacement. Such cost may include administrative costs incurred by The Association, and all such costs shall constitute a lien against each townhouse identical to the lien created by Title 27 V.S.A. Section 1323 for condominium expenses.

13. All repairs and replacements to townhouses shall be of first-class quality.

14. In any proceeding arising because of an alleged failure of any party to comply with the terms of this Declaration, or the ByLaws or rules and regulations of the Telemark Townhouse Association, the prevailing party shall be entitled to recover the costs of the proceeding and such reasonable attorneys' fees as may be awarded by the Court. The Telemark Townhouse Association shall have the right to enforce, by any proceeding at law or in equity, all of the restrictions, conditions, covenants, liens and charges now or hereinafter be amended. Failure by

the Telemark Townhouse Association to enforce any provision of this Declaration shall in no event be deemed a waiver of the Association's right to enforce the same thereafter.

15. This Declaration may be amended only by vote of at least seventy-five percent (75%) of all members of the Telemark Townhouse Association. Every amendment shall be prepared, executed, recorded and certified by the Telemark Townhouse Association, and shall be effective only when recorded in the Land Records of the Town of Cambridge.

16. These Protective Covenants are in addition to all prior covenants currently of record.

17. If any portion of this Declaration is held invalid, the invalidity thereof shall not affect other provisions of this Declaration which can be given effect without the invalid provisions. To this end, the provisions of this Declaration are severable.

18. Owners of Telemark townhouses at The Village at Smugglers' Notch who are not signatories to this Declaration of Protective Covenants may subject their properties to this Declaration at any time by referencing the volume and page at which this Declaration shall be recorded in the Land Records of the town of Cambridge in a separate declaration which incorporates the provisions hereof by reference.