

**NINTH AMENDMENT TO  
DECLARATION OF GRANTS, COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR HERITAGE CROSSING AT THE GONDOLA CONDOMINIUMS**

THIS NINTH AMENDMENT TO DECLARATION OF GRANTS, COVENANTS, CONDITIONS AND RESTRICTIONS FOR HERITAGE CROSSING AT THE GONDOLA CONDOMINIUMS (the "Amendment") shall be effective (the "Effective Date") upon recordation in the office of the Clerk and Recorder of San Miguel County, State of Colorado (the "Official Records"). Unless otherwise defined herein, all capitalized words shall have the meaning ascribed in the Declaration (as hereinafter defined).

**RECITALS**

A. Wildair, L.P, a Texas limited partnership ("Declarant") previously filed that certain Declaration of Grants, Covenants, Conditions and Restrictions for Heritage Crossing at the Gondola Condominiums on March 26, 2002, under Reception No. 347962 of the Official Records, First Amendment to Declaration of Grants, Covenants, Conditions and Restrictions for Heritage Crossing at the Gondola Condominiums on April 19, 2002, under Reception No. 348542 of the Official Records, Second Amendment to Declaration of Grants, Covenants, Conditions and Restrictions for Heritage Crossing at the Gondola Condominiums on May 30, 2002, under Reception No. 349375 of the Official Records, Third Amendment to Declaration of Grants, Covenants, Conditions and Restrictions for Heritage Crossing at the Gondola Condominiums on July 2, 2002, under Reception No. 350115, Fourth Amendment to Declaration of Grants, Covenants, Conditions and Restrictions for Heritage Crossing at the Gondola Condominiums on October 29, 2002, under Reception No. 352669, Fifth Amendment to Declaration of Grants, Covenants, Conditions and Restrictions for Heritage Crossing at the Gondola Condominiums on November 22, 2002, under Reception No. 353289, Sixth Amendment to Declaration of Grants, Covenants, Conditions and Restrictions for Heritage Crossing at the Gondola Condominiums on December 6, 2002, under Reception No. 353563, Seventh Amendment to Declaration of Grants, Covenants, Conditions and Restrictions for Heritage Crossing at the Gondola Condominiums on December 23, 2002, under Reception No. 353965 and Eighth Amendment to Declaration of Grants, Covenants, Conditions and Restrictions for Heritage Crossing at the Gondola Condominiums on January 29, 2003, under Reception No. 354749 (collectively, the "Declaration").

B. Declarant desires to amend the Declaration in certain respects and, pursuant to the Rights Reserved by Declarant, Declarant has the right to amend the Declaration for the purposes stated herein.

**AMENDMENT**

1. **Division Into Units.** Section 3.1.2 of the Declaration is amended by deleting the first grammatical sentence thereof and substituting the following therefor:

Declarant reserves the right to create additional Commercial Units, Parking Units and/or Storage Units within the Project and/or to subdivide or convert the same. Residential Units shall not be subdivided or converted, and the number of Residential Units shall not exceed ten (10) (the "Maximum Number of Units").

2. **Assessments.** Section 17.3.5(C) of the Declaration is hereby deleted and the following is substituted therefor:

Each Parking Unit shall bear a General Assessment at an annual rate established by the Association in its annual budget or an amendment thereto.

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3. **Special Declarant Rights.** Section 24.1 of the Declaration is amended by deleting subsection 24.1.4 thereof.

4. **Additional Reserved Rights.** Notwithstanding the provisions of Section 24.2.1 of the Declaration, Declarant shall not have the right to reallocate the ski storage area currently designated as a Limited Common Element on the Condominium Map to a General Common Element.

5. **Development Rights.** Section 24.3 of the Declaration is amended as follows:

A. Subsection 24.3.1 thereof is hereby deleted and the following is substituted therefor:

24.3.1 The right (each a "Development Right" and, collectively, the "Development Rights") to:

A. Create or designate Common Elements within the Project; or

B. Provided that the number of Residential Units does not exceed the Maximum Number of Units, subdivide Units or convert Units.

B. Subsection 24.3.2 thereof is hereby deleted in its entirety.

6. **No Other Amendments.** Except as otherwise provided herein, all other terms and provisions of the Declaration shall remain in full force and effect.

7. **Severability.** If any of the provisions of this Amendment or any paragraph, sentence, clause, phrase or word or the application thereof in any circumstances be invalidated, such invalidity shall not affect the validity of the remainder of this Amendment and the application of any such provision, paragraph, sentence, clause, phrase or word in any other circumstances shall not be affected thereby.

8. **Conflicts.** In the event of any conflict between the terms and provisions of this Amendment and the Declaration, the terms and provisions of this Amendment shall control.

9. **Number and Gender.** Unless the context otherwise requires, the singular shall include the plural, and the plural shall include the singular, and the use of any gender shall include all genders.

10. **Applicable Law.** This Amendment is filed in the Official Records, and it is agreed that the proper jurisdiction and venue of any action pertaining to the interpretation or enforcement of this Amendment shall be in the District Court of San Miguel County, Colorado.

11. **Interpretation.** The provisions of this Amendment shall be liberally construed to effectuate the purposes set forth in the Recitals hereof. This Amendment shall be construed and governed under the Laws of the State of Colorado.

12. **Captions.** All captions and titles used in this Amendment are intended solely for convenience of reference and shall not enlarge, limit or otherwise affect the meaning of the text set forth in any paragraph, section or article hereof.

13. **Binding Agreement.** The provisions of this Amendment shall run with the Project and shall be binding on Declarant, its successors and assigns.

14. **Exhibits.** All exhibits attached to this Amendment are a part of, and are hereby incorporated into, this Amendment.

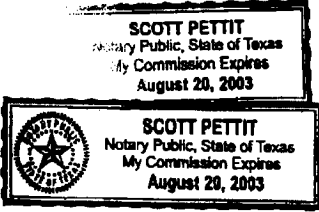
IN WITNESS WHEREOF, Declarant has executed this Declaration effective as of March 13, 2003.

WILDAIR, LP,  
a Texas limited partnership  
By: Wildair Management, LLC,  
a Texas limited liability company, General Partner

By: Trish Kunz  
Trish Kunz, Vice President

THE STATE OF TEXAS     §  
  §  
COUNTY OF TRAVIS     §

This instrument was acknowledged before me on the 13<sup>th</sup> day of March, 2003, by Trish Kunz, Vice President of Wildair Management, LLC, a Texas limited liability company, General Partner of Wildair, LP, a Texas limited partnership, known to me by her Texas drivers license, on behalf of said partnership.



Scott Pettit  
Notary Public in and for the State of Texas  
SCOTT PETTIT  
(Printed Name of Notary)  
My Commission Expires: 8-20-03