



## REMODEL CONSTRUCTION POLICY & AGREEMENT

**The Montaneros Condominium Association, Inc.** (the "Association") has enacted policies as well as rules and regulations (collectively, the "Regulations") governing construction or renovation activities within or upon any residential unit ("Unit"). Prior to undertaking any construction or renovation activities, the **Owner(s)** of the affected Unit(s) must enter into this written Agreement (the "Agreement") to follow certain required procedures. This Agreement contains certain requirements and obligations to which Owners must adhere under these circumstances. By executing this Agreement, the Owner(s) agree to comply with the Regulations and the terms of this Agreement not only for their benefit but also for the benefit of the other owners and their guests and the Association itself. All of the other owners in the Association shall be deemed to be third-party beneficiaries of this Agreement.

Before construction or renovation work that touches any of the common elements or Units (unless excluded below) may be commenced, upon the recommendation of management, the Board must approve the proposed work in writing. If the scope of work requires such, the Project must also be approved by the Town of Vail and any other governmental entity or department having jurisdiction over the Project. In addition, this Agreement must be executed by the Owner(s) of the applicable Unit(s) and the Association's manager. The required fees and deposits, if any, must also be paid to the Association prior to commencement of any work upon the Project.

THIS AGREEMENT is executed as of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_ by and between the Montaneros Condominium Association and the Owner or Owners \_\_\_\_\_ of Unit(s) \_\_\_\_\_. Unless otherwise defined in this Agreement, all capitalized words and phrases shall have the same meaning ascribed to such words and phrases in the Condominium Declaration of the Association as recorded in the records of Eagle County, Colorado, as amended.

### RECITALS

- A. The Association wishes to encourage Unit owners to enhance their Units by repairing and maintaining the interior spaces as well as undertaking any remodeling and renovation that are consistent with the improvement of their Units. However, the Association is also mindful of the privacy and rights of owners and their guests as well as the need to prevent any unnecessary intrusions within the complex.
- B. In order to minimize the disruption of such activities and to control the impact of these activities upon the Common Elements and other owners and their guests, the Association has developed rules and requirements that must be followed by the Owner and by all persons or entities

performing construction work with the exception of minor repairs such as replacement of carpets or paint.

- C. The Owner, with the full understanding of the purposes and philosophy of the construction policy adopted by the Association, recognizes that a higher degree of responsibility falls upon the Owner to respect the rights and property of other owners and guests, has requested permission of the Board to undertake construction activities within and upon the Unit as more fully described in the summary attached hereto as Exhibit A (the "Work").
- D. The Board is willing to grant permission to Owner to undertake the Work, but only with the assurance that all construction and related activities will be conducted in accordance with the Regulations and the conditions set forth in this Agreement as well as any applicable conditions set by the Town of Vail, and with the additional assurance that any required deposits and fees will be paid to the Association. Accordingly, Owner is willing to enter into this Agreement with the Association as follows:
  - 1. Definitions. As used in this Agreement, the following capitalized words and phrases will have the specific meanings:
    - 1.1. "Manager" shall mean the General Manager of the Association as may be specifically approved by the Board.
    - 1.2. "Plans and Specifications" shall mean the final stamped architectural or other drawings or plans and specifications for the Work as approved by the Board or the Manager.
    - 1.3. "Construction Periods" shall mean the periods of time during any year beginning on the day following the end of the ski season until the third Friday in June and from the day after Labor Day until the Friday before Thanksgiving.
    - 1.4. "Construction Contract" shall mean the written Agreement of the Contractor to perform or cause the performance of the Work.
    - 1.5. "Project" shall mean the construction work and activities as described in Exhibit A attached hereto.
    - 1.6. "Construction Schedule" shall mean the written time schedule prepared by the Owner and approved by the Board or Manager indicating the beginning and ending dates for completion and appropriate milestones of the Project as described in Exhibit B attached hereto.
    - 1.7. "Common Elements" shall mean the Property within this Community other than the Units, which portion of the Property may be designated on the Map and in the Declaration. Common Elements shall include Limited Common Elements. The Common

Elements shall be owned, as tenants in common, by the Owners of the separate Units, each owner of a Unit having an undivided interest in the Common Elements.

2. Approval of Project. Upon recommendation of Manager, Owner shall submit to the Board a written request on the Unit Remodel Form outlining and describing the scope of the proposed Project accompanied by preliminary drawings for the Project. After reviewing the request, the Board may request additional information, may conditionally approve the request, or may unconditionally approve or disapprove the request. In the event of disapproval, the Board shall provide its reasons in writing. Any conditions attaching to any approval shall be described in Exhibit C attached hereto. The approvals, which are issued by the Board, shall be for the purpose of confirming the design of the contemplated work is consistent with and does not violate any Regulations or this Agreement, that Work affecting the exterior of the unit is aesthetically and architecturally compatible and consistent and harmonizes with Montaneros and overall design, and that the Work will not in any way adversely affect or impair any of the Common Elements or any of the systems comprising and including part of the Common Elements or any other Units, including their structural integrity.
3. Construction Schedule. Owner agrees that strict adherence to the Management approved Construction Schedule is mandatory and that Work may only be performed outside of the Construction Periods with prior written approval of the Board or the Manager. If circumstances arise that could result in any material delay in the schedule, Owner will notify the Manager immediately. Any extensions or changes in the Construction Schedule must be approved by the Board and/or Manager.
4. Project Plans and Specifications. The final Project Plans and Specifications, identified by date, number of pages and author (i.e. certified and signed by a Colorado licensed architect or mechanical or structural engineer) when necessary, must be stamped by a Colorado licensed architect or professional engineer and attached hereto as Exhibit D and will be incorporated herein by this reference. The Board may conditionally or unconditionally approve the Exhibit D documents or request additional information. The Board may also disapprove these documents if the Board determines that they are inconsistent with previously submitted and approved preliminary plans or otherwise do not comply with the Regulations or this Agreement. **NO WORK SHALL COMMENCE UNTIL THE BOARD HAS APPROVED THE FINAL PLANS AND SPECIFICATIONS IN WRITING AND COPIES OF THE FINAL PLANS AND SPECIFICATIONS HAVE BEEN RECEIVED BY THE MANAGER.** Owner agrees to perform all work and complete the Project substantially in accordance with the approved final Plans and Specifications. At the sole expense of Owner, the Board may retain the independent services of structural, electrical, or mechanical engineers or other consultants in order to assure or confirm that the Work will not adversely affect any component of the Common Elements and that the Work is being prosecuted in accordance with the Construction Schedule, the Regulations and this Agreement. The failure of the Board to retain these types of professional services shall in no way reduce or mitigate the responsibility and liability of Owner. Once final Plans and Specifications are approved by the Board, Owner agrees that no changes or additions will be made to the plans or scope of the Project, except for minor changes required by the Town of Vail or mandated by

field conditions, without additional prior written approval of the Board and notification to Manager.

- 4.1. The Montaneros is a wood structure building constructed in the early 1970's. The Montaneros was constructed in accordance with building codes and structural guidelines of that time. Due to changes in building materials and design standards, some new products or applications may not be appropriate at the Montaneros or may require structural reinforcement. Some remodels may require code upgrades to current standards. Of particular importance are any fireplace remodels, hard flooring applications, and plumbing and electrical changes. Owner is responsible for all costs associated with code upgrades.
- 4.2. In all projects in which a wood, tile or other hard surface floor is to be installed, or replaced, Owner should refer to and fully comply with the Montaneros' policy regarding hard surface flooring.
5. Completion Date. The Project shall be deemed to have been completed for all purposes under this Agreement at such time as the Town of Vail has completed all final inspections, and the Project and all affected common areas have been inspected and approved by the Manager. No approval by the Manager will be issued until excess materials and debris have been removed, all affected construction areas have been thoroughly cleaned, vacuumed and broom swept, and all common areas if damaged by the project or contractor have been repaired at the expense of Owner.
6. Construction and Other Fees. Owner shall be responsible for the payment of all permitting and other fees incurred in connection with the Project.
7. Construction Matters. Owner agrees that a building permit will be obtained from the Town prior to commencement of and at all times maintained during any of the Work. A copy of this permit is to be delivered to the Manager and the Board and the permit is to be on display on the Unit at all times. All Work shall be performed in accordance with all applicable governmental codes, laws, regulations, permits and approvals, including without limitation those of the Town, and the Declaration, Regulations and other governing documents of the Association.

Indemnification. To the fullest extent permitted by law, Owner shall indemnify, defend and hold harmless the Association, and the Manager and all of their respective agents, owners, officers, directors, assigns, affiliates, members, and employees, from and against any and all claims, liabilities, liens, encumbrances, costs, damages, citations, penalties, fines, royalties, license fees, attorneys' fees, payments, suits, actions, judgments, losses and expenses of whatever nature or kind (collectively "Claims") in any way arising out of or resulting from Project, and Owner's performance of or failure to perform under this Agreement, except to the extent such Claims are caused by the gross negligence or misconduct of a party indemnified hereunder, but only to the extent caused in whole or in part by breach of this Agreement or by the acts or omissions of the Owner, Owner's Contractor's contractors, subcontractors, workers,

suppliers and anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, including their respective agents, assigns, officers, directors, owners, shareholders, employees, suppliers and contractors. The indemnification obligation shall not be limited by a limitation on amount or type of damages, compensation, or benefits payable by or for the Owner, Owner's or Contractor's contractors or subcontractors under worker's compensations acts, disability benefit acts, or other employee benefit acts, or insurance. Owner's indemnity obligation shall be limited only to the extent necessary to comply with governing law and only to the extent any such governing law limits the indemnity provide herein, Owner's obligations shall be deemed to be limited so as to comply with such governing law.

8. Owner agrees, as a member of the common interest community, common elements including, but not limited to, central fire alarm system, fire sprinkler system, low voltage wiring system (including telephone, cable and internet), mechanical heat and hot water boiler system and other central or shared systems are under the exclusive control of the Association. Owner agrees they will only use Association approved/contracted companies for any work related to these systems even when the work is to be performed within the Owner's Unit.
9. Owner agrees that the domestic water serving the Unit is a common system for the building. Owner understands that any modifications to their plumbing fixtures may involve a shut off of water to the entire building and drain down of the system. Owner agrees to, at their sole expense, provide for and install water shut off valves for its Unit as part of their renovation if it involves work that requires a shutdown of the entire system. Any work that requires a shutdown of services to other units in the building must be scheduled and approved in advance by the Manager.
10. Owner agrees that the Project may require accessing or work in other units. The Owner agrees that if this is necessary for the Project that advance Management and Board approval and advance approval of the affected unit owner must be obtained. Prior to commencement of any such work, the Owner shall provide the Board with such written approval from the affected unit owner. Owner must work around the occupancy and use of the affected units and at the Owner's sole expense is required to promptly bring the affected unit back to its condition prior to the work. Owner agrees to properly protect all surfaces, personal property, and flooring in the affected unit and that the Owner is solely responsible and agrees to pay for the repair cost of any damage and/or cleaning that results from their work.
11. Owner agrees there will be no new openings, vents or modifications to any exterior walls or surfaces, including the roof of the building without prior written approval of the Board. If venting is required for fireplaces, clothes dryers or appliances, every effort will be made to use existing flues and venting.
12. During construction Owner agrees to take appropriate measures to minimize noise, vibration, fumes, odors and the like, so as not to interfere with the use and enjoyment of surrounding unit owners, tenants and guests. Specifically, Owner shall use reasonable commercial efforts to

minimize such impacts on adjoining units at all times when the owner or occupants of those units are in residence, including without limitation by working with Manager to schedule louder and more impactful work to be performed when those units are not occupied.

13. Owner agrees not to install any electronic sound systems that impact the use and enjoyment of surrounding units. Additional requirements may become necessary as situations arise to mitigate noise.
14. Owner agrees to pay and reimburse the Association within 30 days of request any and all amounts incurred by the Association under or as a result of this Agreement or the Project, including without limitation for legal fees, consultant and expert fees, damages, or fines. Any and all such amount, if not timely paid, shall also constitute default assessments against the Unit which the Association may enforce and collect like any other assessment, including without limitation through an assessment lien recorded against the Unit and foreclosure of such assessment lien.
15. Covenants and Obligations.
  - 15.1. Prior to undertaking any construction, all contractors engaged in construction work, including, but not limited to additions, repairs, alterations, or renovations of any structure, shall be registered with the Town of Vail under provision 4-7-2, Contractor Registration, Vail Town Code, as amended. Prior to commencement of any Work, Owner shall provide Management with a copy of The Town of Vail Contractor Registration.
  - 15.2. At their respective expense, the Contractor and Owner, as their interests may require, shall procure and maintain throughout the period of construction of the Work adequate employee liability, worker's compensation, liability, and other insurance as required by the Manager and Town of Vail as outlined in Ordinance No. 3, Series of 2011, Contractor Registrations or updated documents therein, as may be amended from time to time.
  - 15.3. The Owner shall provide the Contractor's certificate(s) of insurance coverage to the Manager prior to commencement of any Work confirming that all insurance is in full force and effect, and the certificate(s) shall further confirm, among other things, the amount of insurance, that there is no deductible portion, that the Association, Destination Residences, LLC., the Board, officers, owners and the Manager are all additional insured, and that the insurance coverage may not be cancelled or modified in any manner without 30 days prior written notice to the Manager. Each certificate shall also be accompanied by the procuring agent's written representation, addressed to all insured, that the carrier is duly authorized to do business in Colorado.
  - 15.4. If the scope of the Project warrants such, the Owner may be subject to State and Federal Regulations requiring an inspection for asbestos. Refer to the Town of Vail

Asbestos Abatement Policy (04.2019). If any asbestos is encountered, no further work shall be conducted upon the Project until such time as appropriate asbestos abatement or protection measures have been taken as required by federal and state law. If asbestos is found within the Unit, abatement is at the expense of the Owner.

15.5. In the course of constructing the Project, Owner agrees that Contractor shall supervise the work of all subcontractors and material suppliers. In addition, Contractor shall provide daily cleanup services at the construction site and shall keep all hallways and entrances clean and free from debris and the presence of construction materials and equipment. Contractor shall store materials and equipment only in such locations upon the Common Elements as may be designated by the Manager to insure the safety of other owners and guests.

16. Construction Rules. Owner agrees to abide by the following rules during all phases of construction of the Project, and **communicate such rules to their Contractor.**

16.1. All of Contractor's employees, subcontractors and agents shall enter and exit the property only through those entranceways or other locations and methods as designated by the Manager. All common areas except those necessary for access of construction personnel and equipment shall be off limits to construction personnel except to the extent the Manager may grant approval from time to time. When the Manager grants approval to use hallways, elevators or garage, the Contractor must provide complete and thorough protection of all hallway floors, walls, ceilings, and elevators, for any floor on which the Contractor works. This protection must be plastic or similar covering for the floors and hallways, Styrofoam or similar cover for all corners, elevator walls and all finished woodwork including the doors and wood trim.

16.2. Smoking shall not be permitted on Montaneros property.

16.3. Contractor, contractor's employees, subcontractors and agents are not permitted to have pets on Montaneros property.

16.4. Parking locations and times for construction personnel and deliveries will be strictly limited to those areas and times designated by the Manager.

16.5. The placement of the dumpster and the storage of any construction materials or equipment shall be determined by the Manager in all cases.

16.6. No construction activities of any nature shall be permitted outside of the Construction Periods or before 8:00 AM and after 6:00 PM without prior written approval from the Manager.

16.7. Owner shall obtain the requisite permission or authority to use or occupy any easement or right of way owned or controlled by a party other than Montaneros if it becomes

necessary to use or occupy such easement or right of way during the course of construction.

16.8. Upon completion of the Work, Owner shall cause the construction site and all affected Units and Common Elements to be thoroughly cleaned and vacuumed to the satisfaction of the Manager.

16.9. Owner shall pay the following schedule of charges to the Association:

16.9.1. After an initial verbal warning to any employee or agent of Contractor, \$100 for each initial violation of the construction rules or other provisions of this Agreement, and \$250 for each subsequent violation.

17. Remedies. In the event of any breach or violation of this Agreement or failure on the part of Owner to adhere to the provisions of the Regulations, the construction rules, or directions of the Manager or the terms of this Agreement, the Association shall be entitled to enforce any and all available remedies against Owner as may be appropriate including the following:

17.1. Association may file appropriate civil proceedings in the Eagle County District Court or any other proper court of jurisdiction seeking damages and injunctive relief as may be deemed necessary to enforce this Agreement. In this regard, Owner acknowledges and agrees that an action for civil damages may not be an adequate remedy for Association in certain circumstances involving a breach of this Agreement, and that Association should be entitled to equitable relief as necessary in order to carry out and enforce the terms and provisions of this Agreement, in which case the Owner waives any requirement for bonds or other security.

18. Notices. All notices shall be in writing and shall be deemed to have been given when presented personally, sent by facsimile transmission, sent by e-mail to a confirmed e-mail address, or when deposited in the United States mail, certified mail, return receipt requested, addressed as follows (or as contained in any amendments hereto):

If to Owners: \_\_\_\_\_

E-mail: \_\_\_\_\_

If to Association: President, Board of Directors  
Montaneros Condominium Association  
641 West Lionshead Circle  
Vail, CO 81657

With Copy to: Manager  
Montaneros Condominium Association  
641 West Lionshead Circle  
Vail, CO 81657



E-mail:

19. Miscellaneous.

- 19.1. Governing Law Venue. This Agreement has been executed in the State of Colorado and shall be governed by the laws of the State of Colorado. All parties agree that any and all actions arising out of these documents shall only be brought in the state courts of Eagle County, Colorado, and all parties consent to venue in such courts.
- 19.2. Assignment. Owners may not assign this Agreement without the prior written consent of the Association, which may be withheld in the Association's sole discretion. Any purported assignment without the Association's written consent shall be void at the option of the Association.
- 19.3. Binding Effect. The provisions of the construction contract or this Agreement will inure to the benefit of and be binding upon all of the parties and their respective heirs, representatives, successors, and permitted assigns.
- 19.4. Joint and Several Liability. If two or more persons are named in the construction contract or this Agreement as Owners, their obligation shall be joint and several.
- 19.5. Gender and Number. Any term of gender used in the construction contract or this Agreement shall include all genders and legal entities, and the plural shall include the singular and the singular shall include the plural.
- 19.6. Severability. The invalidity of any provisions of this Agreement shall not affect the validity or enforceability of any other provision set forth herein.
- 19.7. Section Headings. The section headings contained in this Agreement are for the purpose of identification only.
- 19.8. Attorney Fees and Costs. In the event of any litigation or arbitration between the parties arising out of this Agreement, the prevailing party shall be entitled to recover its costs and expenses relating to such proceeding, including, but not limited to costs and reasonable attorney fees.
- 19.9. Exhibits. All exhibits referenced in this Agreement are incorporated herein by such reference.
- 19.10. Recitals and Introductory Provisions. All recitals and introductory provisions on page one of this Agreement are incorporated hereby by reference.
- 19.11. Counterparts; Facsimile Signatures. This Agreement and any amendments may be executed in several counterparts, any one of which may be deemed an original. Signature pages bearing facsimile or electronic signatures shall be received in lieu of

original signatures, and such copies taken together shall be deemed to be a full and complete agreement between the parties.

19.12. Entire Agreement. This Agreement embodies all written and oral negotiations between the parties and may not be amended except in writing executed by all parties.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written.

**OWNERS:** Owner: \_\_\_\_\_  
Owner: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Date of Execution: \_\_\_\_\_  
Phone Number: \_\_\_\_\_  
Email: \_\_\_\_\_

**THE ASSOCIATION:** MONTANEROS CONDOMINIUM ASSOCIATION  
  
By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date of Execution: \_\_\_\_\_  
Phone Number: \_\_\_\_\_  
Email: \_\_\_\_\_

**MANAGEMENT:** By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date of Execution: \_\_\_\_\_  
Phone Number: \_\_\_\_\_  
Email: \_\_\_\_\_

**LIST OF EXHIBITS**

- Exhibit A Description of Project (Section 1.5)
- Exhibit B Construction Schedule (Section 1.6)
- Exhibit C Approval Conditions issued by Board (Section 2)
- Exhibit D Final Plans and Specifications (Section 4)