

Spyglass

ALTERNATE DISPUTE RESOLUTION POLICY

The Spyglass Association has adopted the following procedures as an addendum to the Bylaws at a regular meeting of the Board of Directors.

Declarant, the Association and its officers, directors, and committee Members, all Owners and persons subject to the Declaration (collectively, "Bound Parties"), agree that it is in the best interest of all concerned to encourage the amicable resolution of disputes without the emotional and financial costs of litigation. Accordingly, each Bound Party may not file suit in any court with respect to a Claim described below unless and until it has first submitted such Claim to the alternative dispute resolution procedures set forth below and engaged in a good faith effort to resolve such Claim.

- 1. Claims, as used in this policy, the term "Claim" refers to any claim, grievance, or dispute arising out of or relating to:**
 - a. The interpretation, application, or enforcement of the Governing Documents;**
 - b. The rights, obligations and duties of any Bound Party under the Governing Documents; or**
 - c. The design, modification or construction of improvements within the Spyglass, other than matters of aesthetic judgment, which shall not be subject to review,**
 - d. except that the following shall not be considered "Claims" unless all parties to the matter otherwise agree to submit the matter to the procedures set forth below:**
 - i. Any suit by the Association to collect assessments or other amounts due from any Owner;**
 - ii. Any suit by the Association to obtain a temporary restraining order (or emergency equitable relief) and such ancillary relief as the Court may deem necessary in order to maintain the status quo and preserve the Association's ability to enforce the provisions of the Governing Documents;**
 - iii. Any suit between Owners' which does not include the Association as a party, if such suit asserts a Claim which would constitute a cause of action independent of the Governing Documents;**
 - iv. Any suit in which any indispensable party is not a Bound Party;**

- v. Any suit as to which any applicable statute of limitations would expire within 60 days of giving the Notice required to assert a claim, unless the party or parties against whom the Claim is made agree to all the statute of limitations as to such Claim for such period as may reasonably be necessary to comply with this Article;
- vi. Any Covenant or Rule Enforcement action by the Association except that prior to commencement of any civil action Mediation will occur as provided below.

2. Alternative Dispute Resolution Procedures.

- a Notice. The Bound Party asserting a Claim ("Claimant") against another Bound Party ("Respondent") shall give written notice to each Respondent and to the Board stating plainly and concisely:
 - i. The nature of the Claim, including the Persons involved and the Respondent's role in the Claim;
 - ii. The legal basis of the Claim (i.e. the specific authority out of which the Claim arises);
 - iii. The Claimant's proposed resolution or remedy; and
 - iv. The Claimant's desire to meet with the Respondent to discuss in good faith ways to resolve the Claim-
- b. Negotiation. The Claimant and Respondent shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation. If requested in writing, accompanied by a copy of the Notice, the Board may appoint a representative to assist the parties in negotiating a resolution of the Claim.
- c. Mediation. If the parties have not resolved the Claim through negotiation within 30 days of the date of the notice (or within such other period as the parties may agree upon), the Claimant shall have 30 additional days to submit the Claim to mediation with an entity designated by the Association (if the Association is not a party to the Claim) or to an independent agency providing dispute resolution services in Colorado.
 - i. If the Claimant does not submit the Claim to mediation within such time, or does not appear for the mediation when scheduled, the Claimant Shall be deemed to have waived the Claim, and the Respondent shall be relieved of any and all liability to the Claimant on account of such Claim.
 - ii. If the Parties do not settle the Claim within 30 days after submission of the matter to mediation, or within such time as determined reasonable by the mediator, the mediator shall issue a notice of termination of the mediation proceedings indicating that the

parties are at an impasse and the date that mediation was terminated. The Claimant shall thereafter be entitled to file suit or to initiate administrative proceedings on the Claim, as appropriate.

iii. Each Party shall bear its own costs of the mediation, including attorneys' fees and each Party shall share equally all fees charged by the mediator.

- d. **Settlement.** Any settlement of the Claim through negotiation or mediation shall be documented in writing and signed by the parties. If any party thereafter fails to abide by the terms of such agreement, then any other party may file suit or initiate administrative proceedings to enforce such agreement without the need to again comply with the procedures set forth in this Section. In the event, the party taking action to enforce the agreement or award shall, upon prevailing, be entitled to recover from the non-complying party (or if more than one non-complying party, from all such parties in equal proportions) all costs incurred in enforcing such agreement or award, including, without limitation, attorneys' fees and court costs.
- e. **Litigation - Attorney Fees.** If a lawsuit is initiated to enforce or defend any provision of the Colorado Common Interest Ownership Act (CCIOA) or the Governing Documents, the court shall award the prevailing party reasonable attorney's fees and costs of collection. If a Lot Owner prevails in any civil action, the Association may not assess the successful litigant for attorney fees or costs incurred by the Association.

The undersigned officer of The Spyglass Association hereby certifies that the foregoing Resolution is true and correct as adopted by the Board of Directors.

The Spyglass Association

By: _____

Molly McFalls 10-7-17

President