

REVOCABLE LICENSE AGREEMENT

THIS REVOCABLE LICENSE AGREEMENT ("Agreement") is made and entered into at Dillon, Colorado this ____ day of _____, 2013, (the "Effective Date") by and between the TOWN OF DILLON, a Colorado municipal corporation ("Town") and LAKE DILLON CONDOMINIUMS, INC., a Colorado nonprofit corporation ("Licensee").

WHEREAS, Licensee is the governing homeowner association of the Lake Dillon Condominiums located on Lot 2, Block C, New Town of Dillon Subdivision according to the plat thereof recorded in the Summit County real property records on March 19, 1962, under Reception No. 94749, Town of Dillon, County of Summit, State of Colorado ("Licensee's Property"), also known as 401 West LaBonte Street, Dillon, Colorado; and,

WHEREAS, Town is the owner of the following real property situate in the County of Summit and State of Colorado, to wit: See Exhibit "A," attached hereto and incorporated herein by this reference ("Town's Property"); and,

WHEREAS, Town has concurrently with the entering into of this Agreement entered into a Maintenance Agreement ("Maintenance Agreement") with the Licensee wherein the Licensee is allowed to keep and maintain landscaping, water sprinkling and irrigation systems, sod, trees, and related personal property on the Town's Property, as more specifically set forth therein; and,

WHEREAS, The Town has agreed to grant to Licensee a revocable and non-exclusive personal privilege license to occupy and use, the Town's Property, all in accordance with, and subject to the terms, conditions and limitations of, this Agreement and the Maintenance Agreement.

NOW, THEREFORE, the Town and the Licensee agree as follows:

1. Grant of Revocable License. The Town hereby grants to the Licensee a revocable and non-exclusive personal privilege and permission ("License") to enter upon the Town's Property subject, however, to the terms, conditions and limitations of this Agreement and the Maintenance Agreement. The License herein granted shall be subject to all existing utility easements and Town improvements, if any, located on, over or under the Town's Property.
2. Term. This Agreement and the License granted to Licensee hereunder shall commence as of the Effective Date of this Agreement and shall automatically renew annually, unless otherwise terminated as provided for in Paragraph 9, below.
3. Consideration. The consideration to be paid by the Licensee to the Town for the License and privilege granted by this Agreement shall be Two Thousand Dollars (\$2,000.00), receipt of which is hereby acknowledged by the Town, and other good and valuable consideration as herein provided.
4. No Interest In Land. Licensee understands, acknowledges and agrees that this Agreement does not create an interest or estate in Licensee's favor in the Town's Property. The

Town retains legal possession of the full boundaries of Town's Property and this Agreement merely grants to the Licensee the personal privilege to enter upon the Town's Property throughout the term of this Agreement.

Notwithstanding the expenditure of time, money or labor by the Licensee on any improvements which Licensee may install on the Town's Property pursuant to the Maintenance Agreement, this Agreement shall in no event be construed to create an assignment coupled with an interest in favor of the Licensee. Licensee shall expend any time, money or labor at Licensee's own risk and peril.

5. Limited Scope of License. The License granted to the Licensee is limited in scope to the following permitted use or uses: to keep and maintain landscaping, water sprinkling and irrigation systems, sod, trees, and related personal property on the Town's Property in conformance with the rights granted to the Licensee under the Maintenance Agreement. Licensee shall not have the right to expand the License or Licensee's use of the Town's Property or to alter or change the Licensee's use of the Town's Property.

6. Use of Licensed Premises By Others. Licensee may permit Licensee's employees, business invitees, contractors, subcontractors, agents, residents and others to use the portion of the Town's Property for which this Agreement has been executed.

7. Transferability of License. Consent for the transfer to a subsequent owner of Licensee's Property of the License granted to the Licensee by this Agreement shall be at the sole discretion of the Town, which consent may be withheld by the Town in its sole discretion; provided, however, that in the event such consent is granted, such subsequent owner shall be required to assume in writing all of Licensee's obligations hereunder (in a form acceptable to Town) and such subsequent owner shall acquire nothing more than the personal privilege herein granted to Licensee. Further, the rights of any subsequent owner shall be subject to termination in accordance with the provisions of Paragraph 9 of this Agreement.

8. Default. In the event Licensee defaults in the performance of any of the covenants or agreements to be kept, done or performed by it under the terms of this Agreement, the Town shall notify the Licensee in writing of the nature of such default. Within fifteen (15) days following receipt of such notice the Licensee shall correct such default; or, in the event of a default not capable of being corrected within fifteen (15) days, the Licensee shall commence correcting the default within fifteen (15) days of receipt of notification thereof and thereafter correct the default with due diligence. If the Licensee fails to correct the default as provided hereinabove, the Town, without further notice, shall have the right to declare that this Agreement is terminated pursuant to Paragraph 9 hereof effective upon such date as the Town shall designate. The rights and remedies provided for herein may be exercised singly or in combination.

9. Termination. This Agreement and the License herein granted to Licensee is fully terminable in accordance with the following terms and conditions:

A. Termination Upon Notice To Licensee. This Agreement, and the License herein granted to Licensee, may be terminated by Town without liability for breach of this Agreement

by the giving of notice as hereafter provided. If notice of termination is given by the Town pursuant to this Paragraph 9, this Agreement, and the License herein granted to Licensee, shall terminate thirty (30) days from the date of the notice of termination. The notice provision established by this paragraph 9.A. shall conclusively be deemed to be reasonable.

B. Termination Upon Destruction Or Removal Of Improvements. In the event that Licensee's improvements which have been placed by Licensee on the Town's Property pursuant to the Maintenance Agreement are destroyed and Licensee has no intent to replace same, or are permanently removed by Licensee, this Agreement, and the License herein granted to Licensee, may be terminated by Town upon not less than thirty (30) days' advance written notice to Licensee.

C. Termination Upon Default. This Agreement and the License herein granted to Licensee may be terminated by the Town upon the default of the Licensee in the performance of the covenants or agreements of this Agreement, in accordance with the provisions of Paragraph 8 of this Agreement.

D. Recording Of Notice Of Termination. Upon termination of this Agreement the Town may cause to be recorded with the Clerk and Recorder of Summit County, Colorado a written Notice of Termination.

E. No Compensation To Licensee. In the event of termination of this Agreement for any reason, Licensee shall not be entitled to receive a refund of any portion of the consideration paid for this Agreement, nor shall Licensee be compensated for any improvements which must be removed from the Town's Property.

10. Removal Of Improvements Upon Termination; Condition. At such time as this Agreement and the License herein granted to Licensee is terminated the Licensee shall remove, at Licensee's sole expense, any and all personal property from the Town's Property, and re-seed the Town's Property with a native seed mixture approved in advance by the Town in order to achieve a condition equal to the condition of the Town's open space property adjacent to or in the vicinity of the Town's Property. The Licensee may abandon any water sprinkling and irrigation system in place, with pipes and sprinklers capped.

11. Insurance. Licensee shall obtain and maintain at all times during the term hereof, at Licensee's sole cost, a policy or policies of comprehensive general liability insurance with limits of coverage of not less than \$1,000,000 for injuries, damages or losses sustained by any one person in any one accident or event, and not less than \$1,000,000 for injuries, damages or losses incurred by two or more persons in any one accident or event. The Town shall be named as an additional insured on all such policies and Licensee shall furnish the Town with a copy of such policy or policies prior to the effective date hereof. Notwithstanding anything contained herein to the contrary, Town may terminate this Agreement, and the license herein granted to Licensee, in accordance with the provisions of Paragraphs 8 and 9 of this Agreement, if Licensee fails to procure and maintain the insurance required by this Paragraph 11. If at any time while the Agreement is in effect, the limits of liability for local governments under the Colorado Governmental Immunity Act, Section 24-10-101, *et seq.*, C.R.S., are raised above the limits of

liability provided hereinabove, Licensee's insurance requirement provided in this Paragraph 11 shall be increased accordingly.

12. Maintenance. During the term of this Agreement the Licensee shall, at Licensee's sole expense, maintain, in good condition and repair, the improvements and personal property which Licensee has placed or will place on the Town's Property in accordance with the Maintenance Agreement.

13. Licensee's Waiver Of Claims Against Town. As a part of the consideration paid by Licensee for this Agreement, Licensee hereby waives any and all claims which Licensee now has or may or might hereafter have or acquire against Town for loss or damage to the Licensee's improvements and personal property which Licensee has placed or will place on the Town's Property arising from the use by the Town, or the public, of the Town's Property for any purpose.

14. Indemnification. Licensee agrees to indemnify and hold harmless the Town, its officers, employees, insurers, and self-insurance pool, from and against all liability, claims, and demands, on account of injury, loss, or damage, including without limitation claims arising from bodily injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever, which arise out of or are in any manner connected with the Licensee's use of the Town's Property pursuant to this Agreement, if such injury, loss, or damage is caused in whole or in part by, or is claimed to be caused in whole or in part by, the actions or omissions of Licensee, any contractor or subcontractor of the Licensee, or any officer, employee, tenant, agent, customer, or representative of the Licensee, or of any person permitted or allowed to use the Town's Property by Licensee, or which arise out of any worker's compensation claim of any employee of the Licensee or of any subcontractor of the Licensee or of any tenant of Licensee; except to the extent such liability, claim or demand arises through the negligence or intentional malfeasance of Town, its officers, employees or agents. Licensee agrees to investigate, handle, respond to, and to provide defense for and defend against any such liability, claims or demands falling within the limitations provided herein at the sole expense of the Licensee. Licensee also agrees to bear all other costs and expenses related thereto, including court costs and attorney fees.

15. Mechanics' Liens. Licensee shall not allow any mechanics' or similar liens to be filed against the Town's Property arising from any work done by Licensee on the Town's Property, and Licensee shall indemnify and hold Town harmless with respect thereto, including any attorney's fees incurred by Town in connection with any such lien or claim. If any mechanics' or other liens shall be created or filed against the Town's Property by reason of labor performed by, or materials furnished for, the Licensee, the Licensee shall, within ten (10) days thereafter, at the Licensee's own cost and expense, cause such lien or liens to be satisfied and discharged of record together with any Notices Of Intention To File Mechanic's Lien that may have been filed. Failure to do so shall constitute a default hereunder for which the Town may terminate this Agreement in accordance with the provisions of Paragraphs 8 and 9 of this Agreement.

16. Notices. Any notice required or permitted under this Agreement shall be in writing and shall be sufficient if personally delivered or mailed by certified mail, return receipt requested, addressed to the following:

If to the Town:

Town Manager
Town of Dillon
275 Lake Dillon Drive
P.O. Box 8
Dillon, Colorado 80435

If to the Licensee:

Notices mailed in accordance with the provisions of this Paragraph shall be deemed to have been given upon mailing. Notices personally delivered shall have been deemed to have been given upon delivery. Either party may change its address by giving notice thereof to the other party in the manner provided in this Paragraph 16.

17. Attorney's Fees. If any action is brought in a court of law by either party to this Agreement concerning the enforcement, interpretation or construction of this Agreement, the prevailing party, either at trial or upon appeal, shall be entitled to reasonable attorney's fees as well as costs, including expert witness's fees, incurred in the prosecution or defense of such action.

18. Waiver. The failure of either party to exercise any of its rights under this Agreement shall not be a waiver of those rights. A party waives only those rights specified in writing and signed by the party waiving its rights.

19. Governmental Immunity. The parties hereto understand and agree that Town is relying on, and does not waive or intend to waive by any provision of this Agreement, the monetary limitations or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, Section 24-10-101, *et seq.*, C.R.S., as from time to time amended, or any other law or limitations otherwise available to Town, its officers, or its employees.

20. Entire Agreement. This Agreement constitutes the entire agreement and understanding between the parties hereto with regard to the subject matter contained herein and supersedes any prior agreement or understanding relating to the subject matter of this Agreement, with the exception of the Maintenance Agreement entered into between the Town and the Licensee of same date hereof, which shall remain in full force and effect. Any other such prior agreement shall be deemed to be null and void and of no further effect.

21. Modification. This Agreement may be modified or amended only by a duly authorized written instrument executed by the parties hereto.

22. Paragraph Headings. Paragraph headings are inserted for convenience only and in no way limit or define the interpretation to be placed upon this Agreement.

23. Terminology. Wherever applicable, the pronouns in this Agreement designating the masculine or neuter shall equally apply to the feminine, neuter and masculine genders. Furthermore, wherever applicable within this Agreement, the singular shall include the plural, and the plural shall include the singular.

24. Situs, Venue and Severability. The laws of the State of Colorado shall govern the interpretation, validity, performance and enforcement of this Agreement. For the resolution of any dispute arising hereunder, venue shall be in the District Court of the County of Summit, State of Colorado. If any provision of this Agreement shall be held to be invalid or unenforceable, the validity and enforceability of the remaining provisions of this Agreement shall not be affected thereby.

25. Authority Of Town. This Agreement is entered into pursuant to a Resolution of the Town Council of the Town of Dillon, Colorado adopted _____, 2013.

[Signatures on following page]

EXHIBIT "A "

(legal description of Town's Property)