



**AMENDED AND RESTATED BYLAWS OF  
W.M.O. ASSOCIATION, INC.**

A NOT-FOR-PROFIT CORPORATION

**ARTICLE I – NAMES AND PURPOSES OF CORPORATION**

**Section 1**

This corporation shall be known as the W.M.O. Association, Inc.

**Section 2**

The Corporation is bound by the “Declaration of Restrictions by the Windham Mountain Club, Inc.” as recorded in the Greene County Clerk’s Office in Liber 448 page 131, and the First Amendment recorded in Liber 465 page 604, the Second Amendment recorded in Liber 480 page 88, the Third Amendment recorded in Liber 496 page 668, the Fourth Amendment recorded in Liber 506 page 701, the Fifth Amendment recorded in Liber 594 page 299, and the Extension of Declaration recorded in Liber 964 page 75, as now in effect or hereafter amended (the “Declaration of Restrictions”) and to other declarations, covenants, easements and restrictions of record which may affect the premises and including a stipulation dated 1981 known as the Amster Stipulation entitled Morton Amster, et ano vs. Ski Roundtop, Inc. n/k/a Snow Time, Inc. et ano, Greene County Supreme Court Index #13,911 (the “Original Amster Stipulation”), as amended by an Amendment Agreement between Snow Time, Inc., successor in interest to Ski Roundtop, Inc. and W.M.O. Association, Inc., successor to the Windham Mountain Club, Inc. dated August 24, 2004, and recorded in the Greene County Clerk’s Office on February 2, 2005 in Liber 1152 at Page 323 (the “First Amster Amendment”), as further amended by the 2007 Second Amendment Agreement between Windham Mountain Partners, LLC (“WMP”), as successor to Ski Roundtop, Inc. and W.M.O. Association, Inc. as successor to the Windham Mountain Club, Inc. (the “Second Amster Amendment”; the Original Amster Stipulation, the First Amster Amendment, and the Second Amster Amendment are collectively referred to as the “Amster Stipulation.”)

### **Section 3**

The purposes for which the Corporation is formed are:

(a) To exercise, promote and protect the common interests and privileges of the property owners of property within a residential subdivision shown on a subdivision map entitled "Subdivision Layout for Windham Mountain Club, Windham, New York," dated February 2, 1969 and recorded in the Greene County Clerk's Office on August 4, 1970, in Drawer 169 and related subdivision maps, together with the property described in the First Amster Amendment, and the property described in the Second Amster Amendment (the "Subdivision"); to own, maintain, improve and keep the community property, if any, within the Subdivision at Windham Mountain, in the Town of Windham, Greene County, New York, for the benefit of such property owners and the general public.

(b) To provide water supply, waste and sewage disposal, security, road maintenance, snow plowing, pruning and other landscaping, and other such services, if necessary or desirable for the Subdivision, as set forth in the Declaration of Restrictions and the Amster Stipulation, at the discretion of the Board of Directors.

(c) To do any other act or things incidental to or connected with the foregoing purposes or in advancement thereof, but not for the pecuniary profit or financial gain of its Members, Directors or Officers except as permitted under Article V of the New York Not-for-Profit Corporation Law.

In furtherance of its corporate purposes, the Corporation shall have all general powers enumerated in Section 202 of the Not-for-Profit Corporation Law ("NPCL") other than in connection with a conveyance or other disposition of fee, ownership of property in the Subdivision subject to the Declaration of Restrictions and/or Amster Stipulation.

## **ARTICLE II – MEMBERSHIP**

### **Section 1**

Membership in the Corporation shall be open to all owners of fee simple title to any lot or unit within the Subdivision (each a "Lot") on the terms set forth herein. Multiple or joint owners of a single Lot shall be collectively granted one membership in the Corporation and shall collectively be referred to herein as a "Member."

### **Section 2**

The membership of any Member shall automatically terminate upon the sale or other transfer of the fee simple title in the Lot.

### **Section 3**

The rights and privileges of a Member shall not be assignable other than in connection with a conveyance or other disposition of fee ownership of property in the Subdivision.

#### **Section 4**

In each and all elections held by the Corporation, each Member shall have one (1) vote, which vote may be exercised by the individual or entity who (a) holds fee simple title to said Lot, and (b) is in good standing as of the date of the vote; provided that, in the Alpine Units, where there are multiple apartments, separately titled, on one Lot, each separately titled apartment shall each have one (1) vote. When there are multiple owners of a single Lot (or single Alpine Unit apartment), the one (1) vote attributable to such Lot (or Alpine Unit apartment) shall be exercised as such persons mutually determine and only one (1) vote may be cast with respect to any such Lot (or Alpine Unit Apartment). Lot (or Alpine Unit Apartment) owners shall be permitted to split or divide the Member's single vote on any motion, resolution or ballot. If any one individual or entity that is a Lot (or Alpine Unit Apartment) owner is not in good standing as of the date of the vote then that entire Lot (or Alpine Unit Apartment) and the Member rights associated with that Lot (or Alpine Unit Apartment) shall be deemed not in good standing as of the date of the vote.

### **ARTICLE III – MEETINGS**

#### **Section 1**

The annual meeting of Members of the Corporation shall be held on the fourth Saturday in January of each year.

#### **Section 2**

Special meetings of Members shall be called by the President at any time on his own initiative or upon resolution of the Board of Directors; and shall be called by the President or Secretary upon request of twenty (20) Members to such Officer made in writing. At each special meeting there shall be considered only such business as is specified in the notice of meeting.

#### **Section 3**

Notice of the time and place of holding each meeting shall be mailed, by regular or electronic mail, to each Member at least ten (10) days prior to the scheduled meeting.

#### **Section 4**

At each annual or special meeting of Members, one-tenth (1/10) of all Members in good standing, present in person or by proxy, shall constitute a quorum. If a quorum is not present, the presiding officer shall adjourn the meeting to a day and hour fixed by the presiding officer.

#### **Section 5**

Every Member of the Corporation entitled to vote at any meeting thereof may vote by proxy as provided in this Section. A Member may execute a written document

authorizing another person or persons to act for that Member as proxy at a meeting of the Members. A proxy shall be in writing and revocable at the pleasure of the Member executing it. Each proxy shall be duly executed by all of the individuals or entities who are owners of the Lot for which they may cast a (or Alpine Unit Apartment) as a single Member. Unless the duration of the proxy is specified, it shall be invalid after six (6) months from the date of its execution. Every proxy shall be valid only if filed with the Secretary of the Corporation prior to the commencement of voting on the matter in regard to which said proxy is to be voted.

#### **Section 6**

At each annual meeting of Members of the Corporation, the order of business shall be as follows:

1. Reading of minutes of last meeting
2. Reports of officers
3. Reports of committees
4. Election of directors
5. Unfinished business
6. New business

#### **Section 7**

A regular meeting of the Board of Directors shall be held immediately following the annual meeting of Members for the election of Officers and any other business, without additional notice of said meeting.

#### **Section 8**

Special meetings of the Board of Directors shall be called by the President at any time on his own initiative or by the Secretary upon request of any two (2) Directors of the Board. Ten (10) days prior notice of meetings of the Board shall be sent by regular or electronic mail to all Directors and shall be deemed sufficient notice of such meetings.

#### **Section 9**

Whenever the Board of Directors or any committee thereof are required or permitted to take any action by vote, such action may be taken without a meeting on written consent setting forth the action so taken, signed by all the Directors or committee members entitled to vote thereon.

#### **Section 10**

Any number of Directors of the Board or members of any committee thereof may participate in and vote at any meeting of the Board of Directors of any committee thereof by conference telephone or similar communications equipment allowing all participants in the meeting to hear each other at the same time.

#### **Section 11**

The presence of five (5) Directors of the Board at a meeting shall constitute a quorum for the transaction of business if the number of directors making the whole Board is seven (7). A quorum shall be six (6) if there be eight (8) or nine (9) directors; seven (7) if there be ten (10) or eleven (11); and eight (8) if there be twelve or more directors. In the absence of a presiding officer designated by these Bylaws, the quorum present may choose a chairman for the meeting. If a quorum is not present, the meeting shall be adjourned to a later date, not more than seven (7) days thereafter.

## **ARTICLE IV – ELECTION OF OFFICERS AND DIRECTORS**

### **Section 1**

At the annual meeting of members there shall be an election by ballot for seven (7) directors of the Corporation, two (2) of whom shall be elected for a term of one year, two (2) for two years and three (3) for three years. The number of directors making up the Board of Directors may be determined by the Directors from time to time by resolution provided that there shall not be less than seven (7), nor more than fifteen (15) Directors. Any newly created directorship or any decrease in directorships shall be so apportioned as to make all classes of directors as nearly equal in number as possible;

If newly created directorships are filled by the Board of Directors, there shall be no classification of the additional directors with regard to the length of their term until the next annual meeting of members.

Each director elected to fill a vacancy shall hold office until the next annual meeting at which time the election of Directors is in the regular order of business and until the Director's successor is elected and qualified. Each director must be a Member of the Corporation in good standing.

### **Section 2**

Each Member in good standing shall be entitled to vote in accordance with Article II, Section 4 of these Bylaws, to elect a director or directors to fill any vacancies at a meeting of Members and the candidates receiving a plurality of the votes cast in person or by proxy shall be declared elected.

### **Section 3**

The Officers of the Corporation shall consist of a President, a Vice President, a Secretary, and Treasurer and shall be elected by the Board of Directors. The Secretary and Treasurer may be the same person. Each Officer must be a Member of the Corporation in good standing.

### **Section 4**

In accordance with Section 713 of the NY NPCL, the Officers of the Corporation shall be elected annually to serve one (1) year terms and each such officer shall hold office until

the next annual meeting of the Board of Directors and until the election of that Officer's successor.

**Section 5**

An Officer shall be elected if the Officer receives the vote of a majority of the Directors of the full Board and a quorum is present.

**ARTICLE V – DUTIES OF OFFICERS**

**Section 1**

The President shall preside at the meetings of the Corporation and of the Board of Directors and of the Executive Committee, and shall be a member ex-officio, with right to vote, of all committees. The President shall also, at the annual meeting of the Corporation and such other times as the President deems proper, communicate to the corporation or to the Board of Directors such matters and make such suggestions as may, in the President's opinion, tend to promote the best interests of the Corporation and shall perform such duties as are necessarily incidental to the office of President.

**Section 2**

In the absence of the President, the Vice President shall perform the President's duties, and in the absence of both President and Vice President, the Treasurer shall preside and assume the duties of President.

**Section 3**

It shall be the duty of the Secretary to see to the giving of notice of all meetings, not otherwise noticed by the President, of the Corporation, the Board of Directors and all committees and keep a record of their doings, to keep a list of the Members of the Corporation; to notify the Officers and Members of the Corporation of their election; to notify Members of their appointment on committees; and generally to devote best efforts to forwarding the business and advancing the interest of the Corporation. In case of absence or disability of the Secretary, the Executive Committee may appoint a Secretary *pro tem*.

**Section 4**

The Treasurer shall keep an account of all monies received and expended for the use of the Corporation, and shall make disbursements only upon vouchers approved in writing by any member of the Executive Committee. The Treasurer shall deposit all sums received in a bank, or banks, or trust company approved by the Executive Committee, and make a report at the annual meeting or when called upon by the President. Funds may be drawn only upon the signature of the Treasurer or otherwise as may be authorized and directed by the Board of Directors.

The Corporation's funds, books and vouchers shall at all times be under the supervision of the Executive Committee and subject to its inspection and control. At the expiration of the Treasurer's term of office, the Treasurer shall deliver over to the successor Treasurer all books, monies and other property of the Corporation. In the absence or disability of the Treasurer, the Executive Committee may appoint a Treasurer *pro tem*. The Treasurer shall, if required by the Board of Directors, give to the Corporation such security for the faithful discharge of the Treasurer's duties as the Board may direct.

#### **Section 5**

All leases, contracts or other instruments in writing shall be signed by such Officer or Officers as the Board of Directors may direct.

### **ARTICLE VI – DUTIES AND POWERS OF THE BOARD OF DIRECTORS**

#### **Section 1**

The Board of Directors shall have general charge and management of the affairs, funds and property of the Corporation and shall do and have the power to do all things necessary or desirable to carry out the purposes for which the Corporation was formed.

#### **Section 2**

The Board of Directors may make rules for the conduct of the Members and the use of the Corporation's property (each a "Rule" and collectively the "Rules") not inconsistent, however, with anything set forth in the Bylaws, Declaration of Restrictions and/or the Amster Stipulation. The Rules shall apply to all Members, owners, occupants or guests of the Lot. A Member shall be deemed responsible for any Rule violation whether as a result of the Member's own actions or the actions of the Member's family, guest, owner, occupant, tenant or other person permitted on the Lot. The Rules shall be published, electronically and/or in print, and made accessible to the Members.

If Member is deemed to be in violation of any Rule, the Member will receive a notice of violation by regular and/or electronic mail. If the Member fails to correct the violation within the time set forth in the notice, the Member automatically will no longer be deemed a Member "in good standing" for purposes of these Bylaws. The Rules, and the fines and penalties imposed for a violation, may be modified by the Board of Directors from time to time by resolution adopted in the same manner as a Rule.

If a Member disputes the fine or violation, the Member shall have thirty (30) days within which to request a hearing from the Board of Directors. If the Member does not request a hearing within this time frame, or otherwise provide a reasonable explanation for missing this deadline, to the satisfaction of the Board of Directors, the Member's right to dispute the fine or violation shall be deemed waived. If the Member timely requests a hearing, the Board shall conduct a hearing in accordance with the Rules of the Corporation, and the decision at the hearing shall be final and binding.

Any fines shall be due and payable by the Member within thirty (30) days of the date of the notice of fines. Any unpaid fines shall be deemed Obligations and shall be handled in accordance with Article IX. The imposition of fines shall be an additional remedy available to the Corporation and shall not preclude injunctive relief, actual damages or other relief available to the Corporation or other party under the law. Upon receipt by the Corporation of all outstanding fines and Obligations of a Member, that Member will be deemed reinstated as a Member “in good standing” for purposes of these Bylaws.

**Section 3**

The Board of Directors may vote the expenditure of money as it may deem necessary or advisable; and may contract for lease or purchase of property, real or personal, in the name of the Corporation; provided, however, that no purchase, sale, mortgage or lease of real property may be made by the Corporation unless authorized by the vote of two-thirds of the entire Board of Directors in accordance with Section 509 of the NY NPCL.

**Section 4**

The Board of Directors is authorized to purchase and maintain insurance for indemnification of Directors and Officers of the Corporation.

**Section 5**

The Board of Directors may hold meetings at such times and places in the State of New York or elsewhere.

**Section 6**

A vacancy occurring on the Board of Directors may be filled by the Board of Directors, but only until the next annual meeting of Members at which time the vacancy shall be filled by election of a Director for the unexpired term.

**Section 7**

Any Director or Officer may be removed either with or without cause, at any time, by vote of two-thirds of the Directors present at any special meeting called for that purpose, a quorum being present.

**ARTICLE VII – COMPENSATION**

**Section 1**

No Officer or Director shall receive any salary or compensation for his/her services in such capacity, but nothing herein shall prevent the Corporation from paying reasonable fees or compensation for services rendered in any other capacity by any Officer, Director of any affiliate or any of them.

**Section 2**



The Board of Directors may hire an Executive Director, who need not be a Member, to perform such services and for such compensation as the Board of Directors may from time-to-time determine.

## **ARTICLE VIII – COMMITTEES**

### **Section 1**

There shall be elected annually by the Board of Directors one (1) Member thereof who, with the President and Vice President, shall constitute an Executive Committee. The Executive Committee shall hire such employees as may be necessary to conduct the business of the Corporation; it may act on behalf of the Corporation in any matter when the Board of Directors is not in session, reporting to the Board of Directors for ratification of its action at each regular meeting or a special meeting called for that purpose. Two (2) members of the committee shall constitute a quorum for the transaction of business. The Executive Committee shall have the Treasurer's accounts audited at least once each year by an accountant and report thereon to the Board of Directors.

### **Section 2**

The Board of Directors shall authorize and fix the membership of other committees.

### **Section 3**

The various committees shall have the power to fill vacancies in their membership subject to ratification by the Board of Directors.

### **Section 4**

Each committee may determine its rules of procedures by a majority vote subject always to ratification or modification by the Board of Directors; provided that every committee shall act in accord with and not act in violation of these Bylaws of the Corporation.

## **ARTICLE IX – DUES & OBLIGATIONS**

### **Section 1**

Each Member shall be required to pay dues and assessments for each calendar year or for any part of a calendar year, when membership begins ("Dues"). The initial Dues and other fees set forth in the this Article IX shall be determined by the Board as is set forth at Section 2 below; provided, however, that the amount of dues or other fees may be modified by the Board of Directors at any time by resolution without the necessity of an amendment to these Bylaws. The Dues shall be payable annually or at such more frequent intervals as the Board of Directors may determine from time-to-time.

### **Section 2**

Dues for each Member shall be determined by the Board of Directors taking into account the operating expenses of the Corporation, the number of Lots owned by a Member, the

number of living units built or authorized for the Lot, and such other factors as the Board of Directors shall consider appropriate.

### **Section 3**

If the Corporation shall, under the Declaration of Restrictions or Amster Stipulation, undertake to provide water supply, waste and sewage disposal, security, road maintenance, road repair, snow plowing, pruning, and landscaping, or other such services in the Subdivision, each Member shall pay to the Corporation a charge for such services as determined by the Board of Directors of the Corporation, on a monthly or quarterly basis (the "Service Charge").

### **Section 4**

In the event a Members fails or refuses to pay the Dues or an other Obligation associated with the Member's Lot, within thirty (30) days of the due date, such Member shall no longer be "in good standing" for purposes of these Bylaws; and the following penalties shall be assessed against the said Member. There shall be a late charge of twenty-five (\$25.00) dollars for each month or partial month that the Dues or Service Charge are not paid on or before the due date (the "Late Fee.") In addition to the Late Fee, the Board of Directors may, in their discretion, charge interest on the unpaid balance of the Dues, Service Charges and late fees owed. To the extent permitted by law and at all times that a Member is delinquent in the payment of the Service Charge, the Corporation retains the right to withhold or suspend any of the benefits and privileges of Membership offered by the Corporation and/or WMP to the Member under Article IX, Section 3 above.

### **Section 5**

In order to cover bank charges and administrative expenses, Members will be assessed a twenty (\$20.00) dollar fee for each returned check.

### **Section 6**

The Corporation may collect any unpaid Dues, Late Fees, Service Chares, Fines, interest charges or any other amounts owing to the Corporation (the "Obligations") by instituting any action in law or equity against the defaulting Member whose Obligations are be delinquent for sixty (60) days or more.

### **Section 7**

In accordance with the Declaration of Restrictions, Obligations that are delinquent for ninety (90) days shall constitute a lien on the Lot of the Member, which lien shall be subordinated only to the lien of any first mortgage on the premises, and the Corporation shall be entitled to record such lien. For each lien recorded by the Corporation, the Member owning the Lot for which such Dues and/or Obligations are not paid shall be assessed an additional One Hundred Fifty (\$150.00) Dollars as a lien processing fee. Such lien may be enforced by foreclosure and sale by the Corporation, in accordance with applicable law, and the Corporation shall be entitled to recover from the defaulting Member all fees and costs, including but not limited to reasonable attorneys' fees,

incurred by the Corporation in that regard; provided that if there are multiple owners of an individual Lot who comprise the Member, that each of the owners shall be liable to the Corporation for the fees and costs jointly and severally and the Corporation, in its sole discretion, may pursue recovery of the fees and costs against any one or more of the owners. As an alternative to foreclosure and sale, the Corporation may elect to bring an action to recover a money judgment for the unpaid Obligations and all fees and costs of such action, including but not limited to reasonably attorneys' fees, incurred by the Corporation and the Corporation shall not be required to foreclose or waive the lien in order to bring such action.

**Section 8**

Upon a Member paying the Obligations, fees and costs (including attorneys' fees) in full, the benefits and privileges of membership in the Corporation shall be automatically reinstated and the Member shall be deemed a Member "in good standing" for purposes of these Bylaws.

**ARTICLE X – AMENDMENTS**

**Section 1**

Any provision of these Bylaws may be amended or repealed by the Board of Directors provided, however, that any Bylaw provision adopted by the Board may be amended or repealed by a majority of the Members present, in person or by proxy, at the next annual meeting of the Members of the Corporation or at a special meeting if called for that purpose.

**ARTICLE XI – SEAL**

**Section 1**

The seal of the Corporation shall be that adopted on November 20, 1980 as shown on the minutes of incorporators' organization meeting.

Adopted as of \_\_\_\_\_, 2009

\_\_\_\_\_  
\_\_\_\_\_, Secretary