

**FIRST AMENDMENT TO THE
FIRST AMENDED AND RESTATED
RECIPROCAL EASEMENT AND MAINTENANCE AGREEMENT
(Parking and Bicycle Locker License Agreement)**

THIS FIRST AMENDMENT TO THE FIRST AMENDED AND RESTATED RECIPROCAL EASEMENT AND MAINTENANCE AGREEMENT (this "First Amendment") is made this 27th day of August, 2015, by and between 210 Maple, LLC, a Colorado limited liability company ("210 Maple, LLC"), BPPL Penny Flats, LLC, a Colorado limited liability company ("BPPL Penny Flats, LLC") and Penny Flats Condominium Association, Inc., a Colorado nonprofit corporation (the "Association").

RECITALS

A. WHEREAS, this First Amendment amends that certain First Amended and Restated Reciprocal Easement and Maintenance Agreement dated November 15, 2010 and recorded in the Larimer County Clerk and Recorder's Records on November 18, 2010 as Reception No. 20100071717 (the "REMA").

B. WHEREAS, 210 Maple, LLC is the owner of that certain parcel of real property located at 210 Maple Street, Fort Collins, Colorado, known as Lot 1A, Penny Flats Subdivision, City of Fort Collins, Colorado ("Lot 1A", the diagram and legal description for which is set out at Exhibit A to the REMA);

C. WHEREAS, BPPL Penny Flats, LLC is the owner of that certain parcel of real property located at 311 N. Mason Street, Fort Collins, Colorado, known as Lot 1B, Penny Flats Subdivision, City of Fort Collins, Colorado ("Lot 1B", the diagram and legal description for which is set out at Exhibit B to the REMA);

D. WHEREAS, the Association is a condominium association charged with the maintenance of that certain parcel of real property and improvements located at 204 Maple Street, Fort Collins, Colorado, known as Lot 1, Penny Flats Subdivision, City of Fort Collins, Colorado more particularly described ("Lot 1" or the "Association Property", the diagram and legal description for which is set out at Exhibit C to the REMA). The Association Property, together with the Lot 1A and Lot 1B, are referred to herein jointly as the "Properties" or "Lots" or, individually as a "Property" or a "Lot");

E. WHEREAS, capitalized terms used herein shall have the same meaning as set forth or referenced in the REMA unless otherwise defined herein.

F. WHEREAS, the Parties desire to amend and replace the "Parking and Bicycle Locker License" which is referenced in the REMA and attached to the REMA as Exhibit G.

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, 210 Maple, LLC, BPPL Penny Flats, LLC and Association agree as follows:

1. Parking and Bicycle Locker License Agreement. Unless otherwise agreed unanimously by the owners of the Properties, the granting of any right to use Parking spaces and/or Lockers shall be effected by use of the **Parking and Bicycle Locker License Agreement** in substantially the form attached hereto as **Exhibit G**. Any reference to the "Parking and Bicycle Locker License" in the REMA shall hereafter be a reference to the "Parking and Bicycle Locker License Agreement" attached hereto.

This Agreement is intended to take effect as of the date set forth above.

IN WITNESS WHEREOF the Parties have set their hands effective the day and year first written above.

"Lot 1A Owner"

210 Maple, LLC,
a Colorado limited liability company

By: 
Kevin Brinkman, Manager

STATE OF COLORADO)
) ss.
COUNTY OF LARIMER)

The foregoing instrument was acknowledged before me this 27 day of August, 2015 by Kevin Brinkman, as Manager of 210 Maple, LLC, a Colorado limited liability company.

Witness my hand and official seal.
My commission expires: September 10, 2016





Notary Public

EXHIBIT G

PARKING AND BICYCLE LOCKER LICENSE AGREEMENT

THIS PARKING AND BICYCLE LOCKER LICENSE AGREEMENT (hereafter referenced as the "License" or "Agreement") is entered into this _____ day of _____, 20____, by _____ ("Grantor") and _____ ("Grantee"), for parking space(s) and/or bicycle lockers located within or above the underground parking garage, the driveway entrance for which is located at 204 Maple Street, Fort Collins, Colorado (the "Parking Garage").

WHEREAS, Grantee is purchasing (or has purchased, as the case may be) a condominium unit located at _____, Unit Number (s) _____ Fort Collins, Colorado (herein after referred to as the "Condominium Unit").

WHEREAS, Grantor is granting Grantee this License for the exclusive use of (____) parking space(s), 24 hours a day, seven days a week, located in the underground parking garage or alley (check one) located at _____, Fort Collins, Colorado (the "Property") bearing parking space number(s) _____ (the "Parking Space(s)"); and the exclusive use of (____) bicycle storage locker(s), bearing number(s) _____ (the "Locker(s)"), as identified as Exhibit A attached hereto and incorporated herein.

WHEREAS, this License is subject to the terms and conditions of the First Amended and Restated Reciprocal Easement and Maintenance Agreement recorded November 18, 2010 with the Larimer County Clerk and Recorder at Reception No. 20100071717, as the same may be amended from time-to-time (the "REMA"). The REMA establishes certain rights and obligations concerning the following properties:

Lot 1, Lot 1A and Lot 1B,

Penny Flats Subdivision First Replat per the plat recorded November 2, 2010 at Reception No. 20100067556, County of Larimer, State of Colorado

collectively the "Properties."

WHEREAS, a condominium building is located on Lot 1 and is subject to the Condominium Declaration For Penny Flats Condominiums recorded October 24, 2008 with the Larimer County Clerk and Recorder at Reception No. 20080067128 ("Declaration"). The Condominium Unit is located within the condominium project on Lot 1. An apartment building is located on Lot 1A, and a second apartment building is located on Lot 1B. Neither apartment building is subject to the Declaration and neither apartment building is part of the condominium project.

WHEREAS, the underground Parking Garage is located on Lot 1, Lot 1A and Lot 1B. The condominium building and both apartment buildings are constructed on top of the Parking Garage. The REMA establishes, among other terms, mutual easements for the benefit of various owners of the Properties for ingress and egress to the various parking spaces and lockers located throughout the

Parking Garage. The Parking Space(s) and Locker(s) subject to this License may be located within Lot 1, Lot 1A or Lot 1B dependent upon the order and manner in which the original grantor executed and granted license agreements to various parties that own an interest in the Properties. For example, the owner of a Condominium Unit located on Lot 1 may have a license for a parking space(s) or locker(s) located either in Lot 1, Lot 1A or Lot 1B. The REMA provides that parking spaces and lockers shall be licensed to the owners of the Properties pursuant to license agreements and not as real property interests such as limited common elements for a condominium unit owner, or as an easement or other real property interest of an owner of Lot 1A or Lot 1B.

WHEREAS, the intention of this Agreement is to provide flexibility to the Grantor, and the other parties to the REMA, in managing the Parking Garage, while simultaneously providing certainty to the Grantee and other owners of condominium units who purchase the right to use parking spaces and lockers in the Parking Garage that they will always retain such right during the period of their ownership of the condominium units, and that such right shall be assignable to any successor in interest of Grantee who purchases Grantee's interest in the Condominium Unit or to any successors in interest of other owners of condominium units.

WHEREAS, although parking spaces and lockers will not be considered real property interests of the Grantee, all parking spaces and lockers assigned to Grantee, regardless of legal principles and authorities generally applicable to real estate licenses, shall be for the exclusive use of the Grantee and any successor in interest of Grantee who purchases Grantee's interest in the Condominium Unit, and shall be assignable by the Grantee to any successor in interest of Grantee who purchases Grantee's interest in the Condominium Unit.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the License granted herein is subject to the following agreements, covenants, restrictions and conditions:

I. Parking:

1. Use of Parking Space(s): Grantee agrees that the License for the Parking Space(s) granted herein shall be for the sole purpose of parking the Grantee's operable passenger vehicles. The Parking Space(s) shall not be used for any other purpose such as long-term storage. Grantee shall have the exclusive use of the Parking Space(s) 24 hours a day, seven days a week. The expense for periodic numbering of the Parking Space(s) will be paid in accordance with the terms and conditions of the REMA.

2. Damage: Grantor shall not be liable for any damage to the Parking Spaces or any vehicle parked in the Parking Spaces unless the damage is caused by the negligence of Grantor, its employees or agents. Grantee shall be subject to all Rules and Regulations adopted by the parties to the REMA (i.e. the Penny Flats Owner's Association ("OA"), the Lot 1A owner and the Lot 1B owner) as further provided in the REMA, including, but not limited to, Section 10 of the REMA (the "REMA Regulations") with respect to the parking facilities, (as well as any rules and regulations related to parking that may be adopted by Grantor from time-to-time which do not unreasonably or materially interfere with the parties' respective rights and obligations hereunder), and Grantee shall

utilize such space(s) in a manner that does not unreasonably interfere with the use and enjoyment of parking spaces assigned to other grantees.

3. Re-Striping, etc.: The REMA provides that the Parking Spaces may be realigned, re-striped, and/or relocated as may be deemed necessary or advisable as provided in the REMA, so long as Grantee continues to retain the same number of underground spaces granted hereunder.

II. Lockers:

1. Use of the Locker: The Locker is to be used only for storage of personal property owned by Grantee. The Locker shall be used only for lawful storage purposes and shall not be used in a manner or for storage of property in violation of, or that is illegal under, any applicable law or ordinance. Grantee further agrees that the Locker will not be used for human or animal occupancy. Trash or other materials shall not be allowed in or near the Locker. The storage of welding or flammable, explosive, or other inherently dangerous materials is prohibited (except fuel contained within, in order to operate a motorcycle, motorized bicycle or equivalent). Grantee shall not be in violation of any order or requirement imposed by any board of health, sanitary department, police department, or other governmental agencies, or in violation of any other legal requirement, or do any act or cause to be done or permit any act which creates or may create a nuisance in or upon or connected with the Locker or any part of the Parking Garage or any structure or building located in or above the Parking Garage. The Grantee agrees not to store jewels, furs, heirlooms, art works, collectibles, or other irreplaceable items having special or emotional value to the Grantee. Grantee shall provide, at its own expense, a lock that Grantee deems sufficient to secure the Locker. Grantee agrees to place no more than one lock of his own choice on the Locker.

2. Restrictions on Use: Grantee agrees not to conduct any business out of the Locker or any part of the Locker, and further agrees that the Locker is not to be used for any type of workshop, for any type of repairs or for any sales, renovations, decoration, painting or other contracting. Unless given written permission by Grantor, violation of the prohibitions in this Section shall be deemed a default and shall be grounds for immediate suspension of Grantee's license to use the Locker.

3. Regulations and Relocation: Grantee and Grantee's use of the Locker shall be subject to all provisions of the Declarations of the OA ("Declarations") and the Rules and Regulations adopted by the Penny Flats Owner's Association from time to time with respect to the Locker (as well as any rules and regulations related to Lockers that may be adopted by Grantor from time-to-time which do not unreasonably or materially interfere with the parties' respective rights and obligations hereunder), and Grantee shall utilize the Locker in a manner that does not unreasonably interfere with the use and enjoyment of Lockers assigned to other grantees. Grantor reserves the right to relocate spaces assigned to Grantee hereunder as they may deem necessary or advisable in their discretion, so long as Grantee continues to retain the right to use the same number of Lockers, and the same or similar type of Lockers granted hereunder.

III. General:

1. Risk of Loss and Insurance: No bailment is created by this License. Grantor is not a warehouseman engaged in the business of storing, vehicles or goods for hire. The exclusive care, custody and control of any and all vehicles in Parking Space(s) and personal property stored in the Locker shall remain vested in the Grantee, and all property stored within the Locker or in any parked vehicle by Grantee shall be stored at Grantee's sole risk. Grantor and Grantor's agents and employees

shall not be liable for any loss of or damage to any personal property stored in any vehicle or in the Locker arising from any cause whatsoever and including, but not limited to, burglary, mysterious disappearance, fire, water damage, rodents, Acts of God, the active or passive acts or omissions or negligence of Grantor, Grantor's agents or employees. Grantee, at Grantee's expense, shall secure its own insurance to protect itself and its property against all perils of whatsoever nature. Insurance on Grantee's property is a material condition of this License. Grantee's failure to carry insurance is a breach of this License and Grantee assumes all risk of loss to stored property that would be covered by such insurance. Insurance carried by Grantor shall be for the sole benefit of Grantor and Grantee shall make no claim whatsoever against Grantor's insurance. Grantee agrees not to subrogate against or allow Grantee's insurer to subrogate against Grantor's insurer in the event of loss or damage of any kind or from any cost.

2. Indemnification of Grantor: Grantee will indemnify and hold harmless Grantor from and against any and all and any manner of claims for damages to or loss of property, or personal injury. Such indemnification and hold harmless includes Grantor's costs including legal fees arising from Grantee's occupancy of the Locker or Parking Space(s) or from any activity, work, or thing done, permitted or suffered by Grantee in or near the Parking Space(s) or the Locker or in or about any part of the Property. In the event of fire or other casualty, Grantor shall have the right to remove the contents of the Locker or Parking Space(s) and store it at Grantee's sole cost and expense without liability for any loss or damage whatsoever, and Grantee shall indemnify and hold Grantor harmless from and against any loss, cost, or expense of Grantor in connection with such removal and storage.

3. No Hazardous Substances: Grantee shall not cause or permit any hazardous substance to be stored, used, generated or disposed of on or in the Parking Space(s) or Locker by Grantee, Grantee's agents, employees, or invitees. Grantee shall indemnify and hold harmless Grantor from any and all claims, damages, fines, judgments, penalties, costs, liabilities or losses, and any and all sums paid for settlement of claims, attorney's fees, consultant and expert fees, arising during or after the term hereof and as a result of any contamination resulting from Grantee's use of the Parking Space(s) or the Locker. Without limiting the foregoing, if Grantee causes or permits the presence of any hazardous substance in or about the Parking Space(s) or the Locker and that results in contamination, Grantee shall promptly, at its sole expense, take any and all necessary action to return any and all contaminated areas to the condition existing prior to the presence of such hazardous substance on, in, or about such Parking Space(s) or the Locker.

4. Grantor's Right to Enter, Inspect, Repair: Upon the request of Grantor, its agents or employees, Grantee shall provide access to Grantor, its agents or employees, to enter the Parking Space(s) or Locker for the purpose of inspection, repair, alteration, improvement, or to supply necessary or agreed services. IN CASE OF AN EMERGENCY, GRANTOR OR THE OA, THEIR RESPECTIVE AGENTS OR EMPLOYEES, MAY ENTER THE LOCKER FOR ANY OF THE ABOVE STATED PURPOSES WITHOUT NOTICE TO OR CONSENT FROM GRANTEE, AND GRANTOR RESERVES THE RIGHT TO REMOVE THE CONTENTS OF THE LOCKER TO ANOTHER LOCKER OR FACILITY. For the purpose of this paragraph the term "emergency" means any sudden unexpected occurrence or circumstance which, in the discretion of Grantor, demands immediate action.

5. Perpetual License; Not a Real Property Interest: Subject to Grantee's compliance with the terms and conditions hereof and subject to the Grantor's rights hereunder, the License granted herein shall be a perpetual license, shall be for the exclusive use of the Grantee and any subsequent owner of the Condominium Unit, and shall be assignable by the Grantee, but only to any transferee

of the Condominium Unit. Notwithstanding the above, Grantee's interest herein is a license only and not a real property interest, and therefore this License shall not be recorded in the Larimer County Clerk and Recorder's Real Estate Records. In the event of such recording of this License, Grantor or the OA, (or their respective agents or employees) shall be deemed to have been granted a Power of Attorney on behalf of Grantee (or Grantee's heirs, successors or assigns) to execute such documents as may be necessary to terminate/release/remove such recording and any encumbrance thereby created. If Grantee leases their Condominium Unit, then Grantee's lessee shall be bound by the obligations and receive the benefits as outlined herein. No lease shall constitute a transfer of this License.

6. Liability Limitation: Nothing in this License shall be deemed to create any liability on the part of Grantor for any loss or damage to Grantee's property, regardless of cause.

7. Period of Occupancy: The period of occupancy created by this License shall be perpetual, subject to the rights or remedies of Grantor hereunder or under the REMA. Grantor may suspend this License for any default by Grantee under the provisions of this Agreement and the REMA, but only until such default has been cured by Grantee. Grantor may not suspend this License for the purpose of deriving any economic gain or advantage for Grantor, or for any owner of a another condominium unit, nor use the Parking Space(s) or Locker(s) for any purpose not associated with the Condominium Unit. Notwithstanding Grantor's right to suspend this License, and the stated intent that Grantee's interest herein is a license only and not a real property interest, it is also the intent that Grantee, and any successor in interest to Grantee who purchases Grantee's interest in the Condominium Unit, enjoy the exclusive benefit of the Parking Spacc(s) and Locker(s) set forth herein, subject only to the rights or remedies of Grantor hereunder or under the REMA. Grantee's right of occupancy hereunder shall automatically terminate upon the sale by Grantee of the Condominium Unit, at which time the exclusive right to use the Parking Space(s) or Locker(s) shall automatically be offered by Grantor to any successor in interest of Grantee who purchases Grantee's interest in the Condominium Unit. Any property left in the Parking Space(s) or Locker(s) after the effective date of a sale will be deemed abandoned by the Grantee. After said date, Grantor may remove any vehicle from the parking areas, remove any lock from the Locker(s) and dispose of the contents thereof in a manner within Grantor's sole discretion without notice or liability to Grantor.

8. Intentionally Deleted.

9. Delivery of Notice: Grantee's address shall conclusively be presumed to be the address provided by the Grantee herein. All notices required or permitted by the License shall be presumed delivered when either delivered in person or deposited with United States Postal Service properly addressed with postage prepaid, except as otherwise provided by law.

10. Lien: In addition to any liens afforded Grantor under Colorado law for payment of amounts due for storage or otherwise under this License, the OA shall be entitled to treat any and all amounts due hereunder as an Assessment pursuant to the Declarations, together with any amendments thereto and any other related governing documents for Grantor. As such, any amounts due Grantor hereunder may be included in any lien permitted to be assessed under the Declarations against Grantee's real property located within the Penny Flats Owner's Association, and Grantee shall be deemed an intended third party beneficiary of the rights and remedies of the OA hereunder or otherwise relative to any parking space or Locker.

11. Recovery of Attorney Fees, Court Costs, and Expenses: In the event any legal or equitable action must be instituted, or other proceedings taken, to enforce any of the terms, provisions, and conditions of this Agreement or the REMA, or to recover any License Fee or charge due, or to temporarily suspend the Grantee's right to use the Parking Space(s) or Locker(s) for any breach of this Agreement by Grantee, the prevailing party in such action or proceeding shall be entitled to recover his, her, or its reasonable attorney fees, court costs, and expenses in connection therewith.

12. Exclusion of all Warranties: The officers, individual directors, agents and employees of Grantor and the OA are not authorized to make warranties about the Parking Space (s) or Locker, or any aspect thereof. Grantor's officers, individual directors, agents and employees ORAL STATEMENTS DO NOT CONSTITUTE WARRANTIES, and shall not be relied upon by the Grantee, nor shall any of said statements be considered a part of this License. The entire License and understanding of the parties hereto is embodied in this writing and such documents as are referenced herein, and NO OTHER WARRANTIES ARE GIVEN HEREUNDER, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, OR ANY WARRANTY AS TO THE SECURITY OF THE PARKING SPACE(S) OR THE LOCKER THEREIN, AND ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, ARE EXCLUDED from this transaction and shall not apply to the Parking Space(s), the Locker(s), or any facility referred to herein. It is further understood and agreed that Grantee has been given an opportunity to inspect, and has inspected the Locker(s) and the Parking Space(s) and that Grantee accepts the same "AS IS" and "WITH ALL FAULTS."

13. Default by Grantee: Time is of the essence in the performance of obligations created by this License. Failure of the Grantee to perform in a timely manner any obligation or duty set forth in this License shall constitute default and Grantor may proceed to do any or all of the following:

- i) Provide written notice of the default. If Grantor or the OA (or their respective agents or employees) have taken possession of the contents in the Parking Space(s) and/or the Locker, such notice shall include an itemized statement of Grantor's claim, a brief and general description of the personal property subject to Grantor's lien against any stored personal property, notification of denial of access to the personal property, a demand for payment, and a statement that, unless the claim is paid within the time stated, the personal property will be sold or otherwise disposed of, as provided by law;
- ii) Suspend Grantee's right to use of any parking rights granted hereunder and right of possession of the Locker by any lawful means, until such default has been cured by Grantee; or
- iii) Take appropriate action to enforce Grantor's lien as is provided by law.
- iv) In addition to any amount of Grantor's lien, Grantee shall be obligated to Grantor for all costs, charges, fees or expenses associated with enforcement by Grantor of its rights, including without limitation, reasonable attorney fees, court costs, service of process fees, and any and all other costs, as provided by law.

IV. Miscellaneous

1. If any portion of this License for any reason is declared invalid, such invalidity shall not affect the validity of any remaining portion of the License.
2. All provisions hereof shall apply to, bind and obligate the heirs, personal representative, successors, assigns, agents and representative of the parties hereto.
3. The provisions of this License and the rights of the parties hereto shall be construed in accordance with applicable laws of the State of Colorado, but any legal principles and authorities generally applicable to real estate licenses to the effect that such licenses are revocable at the will of the grantor and are not assignable, shall have no applicability to the construction and operation of this Agreement.
4. No waiver by Grantor or the OA, their respective agents, representatives or employees, of any breach or default in the performance of any covenant, condition or term contained herein or in the REMA or the Declarations shall constitute a waiver of subsequent breach or default in the performance of the same or any other covenant, condition or term hereof.
5. No subletting of the Parking Spaces or Lockers or any portion thereof or assignment of this License by Grantee is permitted without Grantor's specific consent, which consent may be withheld in Grantor's sole discretion.
6. The headings of the various provisions of this License have been included only for the convenience of the parties and are not to be used in ascertaining the intentions of the parties.
7. This License is the only agreement of the parties and supersedes any prior written or oral agreement. No amendments or alterations shall be binding unless made in writing signed by both parties.
8. GRANTOR AND GRANTEE WAIVE THEIR RESPECTIVE RIGHTS TO TRIAL BY JURY OF ANY CAUSE OF ACTION, CLAIM, COUNTER-CLAIM OR CROSS CLAIM IN ANY ACTION BROUGHT BY EITHER GRANTOR AGAINST GRANTEE OR GRANTEE AGAINST GRANTOR FOR ANY MANNER ARISING OUT OF, OR IN ANY WAY CONNECTED WITH, THIS LICENSE, GRANTEE'S USE OR OCCUPANCY OF THE PARKING SPACE(S) OR THE LOCKER, ANY CLAIM FOR BODILY INJURY OR PROPERTY DAMAGE, OR ANY CLAIM ARISING FROM THE ENFORCEMENT OF ANY REMEDY HEREUNDER OR UNDER LAW, STATUTE OR REGULATION.

[SIGNATURES ON NEXT PAGE.]

IN WITNESS WHEREOF, the Grantor and Grantee have executed this document on the day
and year first above written.

GRANTOR:

By:

GRANTEE:
