



AMENDED TOWNHOME DECLARATION

FOR

FAIRWAY PARK AT SKYLAND

THIS AMENDED TOWNHOME DECLARATION FOR FAIRWAY PARK AT SKYLAND ("Amended Declaration"), shall be effective upon recordation and is made and adopted by the Fairway Park at Skyland Association, a Colorado nonprofit corporation (the "Association"), to amend, supersede, and replace the Townhome Declaration for Fairway Park at Skyland recorded on August 18, 1999 at Reception No. 495494 of the Gunnison County real property records and the First Amendment to Townhome Declaration for Fairway Park at Skyland recorded on June 30, 2004 at Reception No. 543561 of the Gunnison County real property records (collectively referred to herein as the "Original Declaration").

RECITALS

A. Fairway Park at Skyland is a planned common interest community and consists of the real property located in the County of Gunnison, State of Colorado as described on Exhibit A, attached hereto and incorporated herein by this reference.

B. Fairway Park at Skyland Association, a Colorado nonprofit corporation, is incorporated under the laws of the State of Colorado as a common interest community association for the purpose of exercising the functions of a common interest community association as set forth in this Amended Declaration and the Colorado Common Interest Ownership Act, C.R.S. § 38-33.3-101, *et seq.* (the "Act").

ARTICLE 1. NAME, TYPE, PURPOSES, REAL ESTATE AND DEFINITIONS

1.1 Name and Type. The common interest community is a planned community. The community's name is Fairway Park at Skyland ("Community"). The homeowners' association's name is Fairway Park at Skyland Association, a Colorado nonprofit corporation (the "Association").

1.2 Purposes. One of the Community's and the Association's goals, as well as a goal of this Amended Declaration, is to preserve the value and desirability of the Community and the Lots. Additionally, this Amended Declaration serves to define the character, duration, rights, duties, obligations and limitations for the use and ownership of the Property as a Townhome Community and to provide for the benefit of all Owners of Lots/Units located within the Property. Additional goals and purposes are as set forth in this Amended Declaration and in other Governing Documents of the Community, including the goal of furthering the interests of the Community's Owners.

1.3 Real Estate.

(a) The Community consists of the real property described on Exhibit A (the "Real Estate"), as such exhibit may be amended, together with all easements, rights, and appurtenances, and the buildings and improvements erected, or to be erected, thereon, all of which are subject to the covenants, terms and conditions of this Amended Declaration.

(b) All of the Real Estate, as described on Exhibit A, shall be and is held or sold, and conveyed subject to the easements, restrictions, covenants and conditions set out in this Amended Declaration.



(c) This Amended Declaration runs with the Real Estate and shall be and is binding on all Persons and parties having any right, title or interest in the Real Estate or any part therein, their heirs, legal representatives, successors, and assigns, and shall inure to the benefit of each Owner and the Association.

1.4 Definitions.

(a) "*Act*" means the Colorado Common Interest Ownership Act, C.R.S. § 38-33.3-101, *et seq.*, as may be amended from time to time.

(b) "*Allocated Interests*" mean the Common Expense liability and votes in the Association.

(c) "*Amended Declaration*" means this Amended Declaration, as may be amended and supplemented from time to time.

(d) "*Assessment*" includes all Common Expense Assessments and any other expense levied to a Lot/Unit pursuant to this Amended Declaration or the Act.

(e) "*Association*" means Fairway Park at Skyland Association, a Colorado nonprofit corporation and its successors.

(f) "*Board*" or "*Board of Directors*" means the body responsible for management and operation of the Association. The term has the same meaning as executive board as defined in the Act.

(g) "*Bylaws*" mean the Bylaws of the Association.

(h) "*Common Elements*" or "*Common Areas*" means all portions of the Property subject to this Amended Declaration and the Plat, other than the Lots, all of which are co-owned by the Owners as tenants-in-common. The Common Elements include, but are not limited to, those areas labeled as Open Space, roads, parking lots, and any other common areas owned by the Association as identified on the Plat.

(i) "*Common Expense Assessment*" means an Assessment levied for Common Expenses.

(j) "*Common Expenses*" mean the expenses and liabilities incurred or anticipated to be incurred by the Association including, but not limited to, those expenses incurred for maintaining, repairing, replacing, and operating the Common Elements, and for fulfilling any of the Association's additional maintenance obligations and liabilities hereunder and pursuant to the Act.

(k) "*Community*" means the Fairway Park at Skyland common interest community consisting of all the property as more particularly described on Exhibit A.

(l) "*Director*" or "*Board Member*" means any person serving as a member of the Board of Directors.

(m) "*Duplex*" means a Townhome consisting of two single family residences sharing a common wall with each side of the Duplex being appurtenant to its own Lot, meaning a Duplex may only be built on two contiguous Lots with each Owner of the Duplex owning their own Lot.

(n) "*First Lien Holder*" means a holder, insurer or guarantor of a first Mortgage, subject to the Association's priority lien as allowed by the Act and this Amended Declaration.

(o) "*Governing Documents*" means this Amended Declaration, the Association's Articles of Incorporation, Bylaws, Plat, Rules and Regulations, Design Guidelines (if any) and Policies and Procedures (if any), all as may be supplemented or amended from time to time.



(p) *"Improvement(s)"* mean all Townhomes, Duplexes, buildings, structures, parking areas, fences, walls, driveways, sidewalks, signs, excavation, site work, grading, road construction, utilities, Landscaping, lawns, trees, shrubbery, grass, decorative devices and any exterior construction or exterior improvements constructed, completed or maintained within the Community.

(q) *"Landscaping"* means all planted areas and plant materials, including lawns, trees, shrubbery, ground cover, all underground lawn watering systems, all driveways, parking areas and sidewalks and any other decorative materials or decorative devices forming a part of any landscaping area within the Community.

(r) *"Lot"* shall mean a Lot as shown on the Plat.

(s) *"Managing Agent"* means the management company, manager and/or bookkeeper engaged by the Association to assist in the operations, administration and governance of the Community.

(t) *"Mortgage"* means any mortgage, deed to secure debt, deed of trust, or other transfer or conveyance for the purpose of securing the performance of an obligation including, but not limited to, a transfer or conveyance of fee title for such purpose.

(u) *"Mortgage Holder"* means the holder of any Mortgage.

(v) *"Officer"* means any person serving as an officer of the Association in accordance with the Bylaws.

(w) *"Open Space"* means any area or tract or parcel of land owned by the Association and denominated as Open Space on the Plat.

(x) *"Original Declaration"* means, collectively, the Townhome Declaration for Fairway Park at Skyland recorded on August 18, 1999 at Reception No. 495494 of the Gunnison County real property records and the First Amendment to Townhome Declaration for Fairway Park at Skyland recorded on June 30, 2004 at Reception No. 543561 of the Gunnison County real property records.

(y) *"Owner"* or *"Lot Owner"* or *"Unit Owner"* or *"Member"* means the record titleholder of a Unit/Lot within the Community, but does not include a Mortgage Holder.

(z) *"Person"* means any individual, corporation, limited liability company, firm, association, partnership, trust, or other legal entity.

(aa) *"Plat"* means the Townhome Plat of Fairway Park at Skyland, Phase I, recorded on August 18, 1999 at Reception No. 495495 in the Gunnison County real property records and any and all amendments or replats related thereto.

(bb) *"Policies and Procedures"* mean any instrument, however denominated, as a part of any of the Governing Documents, and/or separately adopted by the Association, as required under the Act as responsible governance policies, and other policies as may be legally adopted by the Association. Policies and Procedures may include the Rules and Regulations and Governance Policies.

(cc) *"Property"* means and includes all property subject to this Amended Declaration, as more particularly described on Exhibit A.

(dd) *"Real Estate"* means the property described on Exhibit A, together with all easements, rights, and appurtenances and improvements erected or to be erected thereon.



(ee) *"Rules and Regulations"* mean any instrument, however denominated, adopted by the Association, as allowed for under this Amended Declaration and the Act, for the regulation and management of the Community and/or the Lots/Units and Townhomes or Duplexes thereon, including any amendments or revisions.

(ff) *"Townhome"* means a single family residence, or Duplex, together with appurtenances, constructed on any Lot, or in the case of a Duplex, on any two Lots.

(gg) *"Unit"* means a physical portion of the Real Estate in the Community designated for individual or separate ownership and use as more particularly described in this Amended Declaration and identified on the Plat as a Lot, and includes the allocated interests assigned to a Unit/Lot by this Amended Declaration.

(hh) *"Utility Easements"* or *"Easements for the Installation and Maintenance of Public Utilities"* means and includes the entirety of the Common Elements, which may be used for the installation and maintenance of public utilities and the plowing and storage of snow, utility easements across Lots as shown on the Plat, and utility and snow plowing easements within all the Common Elements.

ARTICLE 2. NUMBER OF LOTS/UNITS, BOUNDARIES, COMMON ELEMENTS AND EASEMENTS

2.1 Number of Lots/Units. The Community consists of nineteen (19) Lots/Units.

2.2 Lots/Units and Boundaries. The Community consists of Lots/Units and Common Elements and each Lot's/Unit's Allocated Interest in the Common Elements as shown and described on the Plat. Each Lot is conveyed as a separately designated and legally described Unit subject to the Act and the Governing Documents. Each Unit includes that part of the Townhome, which lies within the boundaries of a Lot. Duplexes shall consist of two (2) Units with each Unit being appurtenant to its own separate Lot (i.e. a Duplex requires two Lots for development). Each side of the Duplex shall be a legally separate Unit hereunder and pursuant to the Act. Each Unit includes the spaces and Improvements lying within the Owner's Lot.

2.3 Common Elements. The Common Elements are to remain undivided, and no Owner or any other Person may bring any action for partition or division of the whole or any part thereof.

2.4 Easements for Use and Enjoyment.

(a) Owners, their families, guests, invitees and assigns have a right to and non-exclusive easement of ingress and egress, and use and enjoyment in and to the Common Elements, which are appurtenant to and pass with the title to a Unit, subject to the following provisions:

(i) The Association's (including its agents, employees and contractors) right of access to the Common Elements to discharge its rights and obligations under the Governing Documents, including without limitation, the Association's maintenance responsibilities;

(ii) The Association's right to grant easements, leases and licenses across the Common Elements;

(iii) The Association's right to dedicate or transfer all or any portion of the Common Elements, subject to approval of Owners holding 67% of the total Association vote; and

(iv) The Association's right to change the use of portions of the Common Elements or to close portions of the Common Elements.



(b) If a Townhome is leased, the Owner is deemed to have delegated the rights in this Section 2.4 to the tenants of their Unit.

2.5 Easement for Entry.

(a) Each Lot, Townhome and Duplex is subject to an easement in favor of the Association (including its agents, employees and contractors) to allow for its performance of its obligations in this Amended Declaration.

(b) Except in an emergency situation, entry shall only occur during reasonable hours. For the purposes of this Section, an emergency justifying immediate entry onto a Lot, Townhome, Duplex, or the Common Elements includes, but is not limited to, the following situations: a water or other utility leak, fire, strong foul odor, obvious insect infestation or sounds indicating that a Person or animal might be injured or sick and require immediate medical attention.

(c) The failure to exercise the easement rights in the event of emergency, security, or safety purposes does not create liability to the Association, it being agreed that no duty exists to enter the Common Elements, a Lot, Townhome or Duplex for such purposes.

2.6 Encroachments. To the extent that any Unit, Lot, Townhome, Duplex or Common Element encroaches on any other Lot or Common Element, a valid easement for the encroachment exists. This easement does not relieve an Owner of liability in case of willful misconduct in causing the encroachment.

2.7 Utilities. To the extent that any utility line, pipe, wire, or conduit serving any Unit(s) or the Common Elements lies wholly or partially within the boundaries of another Unit or Lot or the Common Elements, the other Unit(s) or Lot(s) or the Common Elements are burdened with a non-exclusive easement for the use, maintenance, repair and replacement of the utility line, pipe, wire or conduit, the non-exclusive easement to be in favor of the Unit(s) or Lot(s) or Common Elements served by the same and of the Association.

2.8 Utility and Plat Easements. Easements for utilities and other purposes over and across the Lots and Common Elements may be as shown upon the Plat and may be established pursuant to the provisions of this Amended Declaration, the Original Declaration or granted by authority reserved in any recorded document.

2.9 Emergency Easements. A nonexclusive easement for ingress and egress is hereby granted to all police, sheriff, fire protection, ambulance, and other similar emergency agencies or persons, now or hereafter servicing the Community, to enter upon any part of the Community in the performance of their duties.

**ARTICLE 3. ASSOCIATION MEMBERSHIP, ALLOCATION OF INTERESTS
AND THE ASSOCIATION**

3.1 Membership.

(a) Every Person who is a record Owner of a fee interest in any Unit/Lot subject to this Amended Declaration is a Member of the Association.

(b) Membership is appurtenant to and may not be separated from ownership of any Unit/Lot.

(c) Ownership of a Unit/Lot is the sole qualification for membership.

(d) No Owner, whether one or more Persons, has more than one membership per Unit/Lot owned.



(e) Membership is not intended to include Persons who hold an interest merely as security for the performance of an obligation, and the giving of a security interest does not terminate an Owner's membership.

3.2 Allocated Interests.

(a) Voting. The Owner, or collective Owners of a Unit/Lot, is entitled to one Association vote for the Unit/Lot. When more than one Person holds an ownership interest in any Unit/Lot, the vote for the Unit/Lot is to be exercised as those Owners determine among themselves, otherwise the Unit's/Lot's vote shall be suspended and not counted if more than one Person seeks to exercise it.

(b) Common Expenses. Except as provided below or elsewhere in the Governing Documents, the amount of all Common Expenses shall be assessed equally against all the Units/Lots.

(c) Ownership Interests in the Common Elements. The percentage of ownership interest in the Common Elements is divided equally between the Units/Lots.

3.3 General Purposes, Powers, Authority and Restrictions On and Of the Association.

(a) The Association, acting solely through its Board of Directors, is to perform functions and manage the Community, including its business affairs as provided in the Governing Documents and the Act so as to serve the purposes of the Community as set forth in the Governing Documents.

(b) Any purchaser of a Unit/Lot is deemed to have assented to, ratified and approved this Amended Declaration and the terms hereof.

(c) The Association has all power necessary or desirable to effectuate the purposes of the Community and the purposes of the Association.

(d) The business affairs of the Community shall be managed by the Association, acting through the Board. Unless a particular power is expressly reserved to the Owners, all powers, business, and affairs of the Association are to be conducted and managed by the Board of Directors.

(e) The Association is governed by the Governing Documents, the Act, and any other applicable laws.

(f) The Board may, by written resolution, delegate authority to a Managing Agent or bookkeeper for the Association, provided no such delegation relieves the Board of final responsibility.

3.4 Association Agreements. Any agreement for professional management of or bookkeeping for the Community or any contract providing for services of the Association may not exceed one (1) year. Any such agreement must provide for termination by either party without cause and without payment of a termination fee or penalty upon 30 days written notice.

3.5 Open Meetings of the Association and Board.

(a) All meetings of the Association and the Board are open to every Owner, or to any person designated by an Owner in writing as the Owner's representative.

(b) All Owners, or their designated representatives, so desiring are permitted to attend, listen and speak at an appropriate time during the deliberations and proceedings of the Board.

(c) The Board may place reasonable time restrictions on those persons speaking during a meeting, but must permit an Owner, or their designated representative, to speak before the Board takes formal action on an item under discussion, in addition to any other opportunities to speak.



(d) The Board may provide for a reasonable number of persons to speak on each side of an issue.

(e) Upon the final resolution of any matter for which the Board receives legal advice or that concerns pending or contemplated litigation, the Board may elect to preserve the attorney-client privilege in any appropriate manner, or it may elect to disclose such information, as it deems appropriate.

3.6 Governance Policies. The Association is to adopt and maintain written Governance Policies to guide governance and operation of the Community and the Association as required by the Act.

3.7 Elections of Board Members. Board positions are to be filled by vote of the Owners and as allowed for in the Bylaws and the Act.

3.8 Indemnification. To the fullest extent permitted by law, each Officer and member of the Board of Directors shall be indemnified by the Owners and the Association.

ARTICLE 4. ASSESSMENTS

4.1 Power and Purposes of Assessments. The Association has the power to levy Assessments as provided for in this Amended Declaration and under the Act.

4.2 Common Expense Assessments. The Common Expense Assessments are used to fulfill the Association's obligations pursuant to this Amended Declaration and to promote the common benefit and enjoyment of the Owners as may be more specifically defined and authorized from time to time by the Association.

4.3 Specific Unit/Lot Assessments. The Association has the power to levy specific Assessments against a specific Unit/Lot pursuant to this Section 4.3 as follows:

(a) Any expense or liability incurred by the Association as a result of the willful, negligent or wrongful act of an Owner, their family, guests or other residents of the Unit, or any breach by any of these parties of any of the provisions of the Governing Documents, may be an assessment against the Unit/Lot.

(b) Any expense benefiting fewer than all of the Units/Lots, or significantly disproportionately benefiting all Units/Lots, may be assessed equitably against those Units/Lots according to the benefit received. Except as provided in subsection (a) above, expenses incurred for the maintenance, repair or replacement of the Common Elements may not be assessed as specific Unit/Lot assessment.

4.4 Personal Obligation for Assessments.

(a) Each Owner is deemed to covenant and agree to pay to the Association:

- (i) Common Expense Assessments or charges;
- (ii) Special Assessments;
- (iii) Specific Unit/Lot Assessments which are established pursuant to the terms of this Amended Declaration; and
- (iv) Any other Assessment authorized under this Amended Declaration or the Act.

(b) Assessments are the personal obligation of the Person(s) who was the Owner of the Unit/Lot at the time the Assessment fell due. The personal obligation to pay any past due sums to the Association shall pass to a successor in title, unless released by the Association.



4.5 Lien. All Assessments, together with charges, interest, costs, and reasonable attorney's fees actually incurred (including post-judgment attorney fees, costs and expenses), up to the maximum amount permitted by law, shall be a charge on the Unit/Lot and a continuing lien upon the Unit/Lot against which each Assessment is made. The Association has the authority to record a notice of lien in the Gunnison County, Colorado real property records evidencing the lien created under this Amended Declaration as provided by the Act. The Association's lien under this article is not subject to the provision of any homestead exemption as allowed under state or federal law. The lien has the priority as set forth in the Act.

4.6 Payment of Assessments. Assessments are to be paid in the manner and on the dates as may be fixed by the Association. Unless otherwise provided by resolution, the Common Expense Assessments are to be paid in equal monthly installments due on the tenth (10th) day of each calendar month. No Owner may exempt himself from liability for or otherwise withhold payment of Assessments for any reason whatsoever, including, but not limited to, nonuse of the Common Elements, the Association's failure to provide services or perform its obligations required hereunder, or inconvenience or discomfort arising from the Association's performance of its duties.

4.7 Delinquent Assessments. All Assessments and related charges not paid on or before the due date are delinquent, and the Owner is then in default.

(a) If any Assessment, any part or installment thereof or any other fine, special Assessment or charge is not paid in full within ten (10) days of the due date, or any later date as may be set forth in the Association's collection policy:

(i) A late charge in an amount not to exceed 5% of the total amount owed may be imposed without further notice or warning to the delinquent Owner; and

(ii) Interest at the rate of 1.5% per month may be imposed without further notice or warning to the delinquent Owner.

(b) If Assessments, fines or other charges, or any part thereof, remain unpaid more than ten (10) days after the Assessment payments first become delinquent, the Owner's right to vote is automatically suspended until all amounts owed are paid in full, and the Association may institute suit to collect all amounts due pursuant to the provisions of the Amended Declaration, the Bylaws, and Colorado law, including reasonable attorney's fees actually incurred. Enforcement under this Section is not dependent upon or related to other restrictions and/or other actions.

(c) If partial payment of Assessments or other charges are made, the amount received is to be applied against the Owner's account.

(d) Further, the Association may bring an action at law or in equity, or both, against any Owner personally obligated to pay the overdue Assessments or related charges, or monthly or other installments thereof, and may also proceed to foreclose its lien against the Owner's Unit/Lot. An action at law or in equity by the Association against an Owner to recover a money judgment for unpaid Assessments or related charges, or monthly or other installments thereof, may be commenced and pursued by the Association without foreclosing, or in any way waiving, the Association's lien against the Unit/Lot.



(e) The Association's foreclosure or attempted foreclosure of its lien is not deemed to preclude the Association from thereafter again foreclosing or attempting to foreclose its lien for any subsequent Assessment or related charges, or monthly or other installments thereof, which are not fully paid when due. The Association has the power and right to bid on or purchase any Unit/Lot at foreclosure or other legal sale, and to acquire and hold, lease, mortgage, convey or otherwise deal with the same. If a foreclosure action is filed to foreclose any Assessment lien, and an Owner abandons or leaves vacant their Unit/Lot, Townhome or Duplex, the Association may take possession and rent the same or apply for the appointment of a receiver without prior notice to the Owner.

4.8 Budget and Common Expense Assessments.

(a) Prior to the beginning of each fiscal year, the Association is to prepare a proposed budget covering the estimated costs of operating the Community during the coming year, including an annual reserve contribution for replacement or maintenance of Improvements that are the Association's responsibility and establish the annual Assessment or installments for the coming year.

(b) The Association is to deliver a summary of the proposed budget to each Owner within 90 days after adopting the proposed budget and set a date for a meeting of the Owners to consider the proposed budget, which meeting is to occur within a reasonable time after delivery of the proposed budget summary.

(c) The proposed budget and the Assessments from it become effective unless disapproved at a duly called Association meeting by a majority of the total Association Owner vote; provided, however, if a quorum of the Owners is not obtained at the annual or other meeting called to ratify the budget, the budget becomes effective even though a vote to disapprove the budget could not be called at this meeting.

(d) If the Owners disapprove a proposed budget, or the Association fails for any reason to determine the budget for the succeeding year, then and until a new budget is determined, the budget in effect for the current year continues for the succeeding year. In such case, the Association may propose a new budget at any time during the year. The approval procedure set forth in this Section for budgets applies to a new budget proposed by the Association.

(e) A ratified or approved budget does not operate as a limitation on expenditures by the Association, but, rather, the budget is merely an estimate of Common Expenses.

4.9 Special Assessments. In addition to the Common Expense Assessment provided for above, the Association may, at any time, and in addition to any other rights it may have, propose a special Assessment against all Owners in accordance with the meeting and notice procedures set forth above. In order to be effective, any special Assessment (except as provided in this Amended Declaration regarding repair or reconstruction of casualty damage to or destruction of all or part of the Community) becomes effective unless disapproved at a duly called Association meeting by a vote of a majority of the total Association membership; provided, however, if a quorum is not obtained at the meeting, the special Assessment becomes effective even though a vote to disapprove the special Assessment could not be called at this meeting.



4.10 Statement of Account. The Association is to furnish to an Owner, or the Owner's designee, or to a holder of a security interest, or its designee, a statement setting forth the amount of unpaid Assessments then levied against the Unit/Lot in which the Owner, designee or holder of a security interest has an interest. The Association is to deliver the statement personally or by certified mail, first class postage prepaid, return receipt requested to the inquiring party within fourteen (14) calendar days after the Association's registered agent receives the request by personal delivery or by certified mail, first class postage prepaid, return receipt requested. The information contained in the statement, when signed by the Association's treasurer or managing agent, if any, binds the Association, the Board, and every Owner as to the Person(s) to whom the statement is issued and who rely on it in good faith. The Association may establish a reasonable fee relating to the statement, which may incorporate any fees imposed by a managing agent.

4.11 Surplus Funds. Surplus funds from whatever source are to be applied to the payment of Common Expenses. Any funds remaining after application are to, at the Association's option, be: (a) added to the Association's capital reserve account; (b) distributed to the Owners; or (c) credited to the next Assessment chargeable to the Owners in proportion to the liability for Common Expenses attributable to each Unit/Lot.

4.12 Borrowing. The Association has the power to borrow money and assign future income, including the right to assign its right to receive Common Expense Assessments, but only upon the consent of a majority of the Unit Owners.

ARTICLE 5. MAINTENANCE RESPONSIBILITIES

5.1 Owner Maintenance Responsibilities.

(a) Each Owner is obligated to maintain, repair, replace, improve and keep in good repair all portions of their Townhome or Duplex and Lot, except any portion thereof which is expressly made the Association's maintenance obligation as set forth in Section 5.2 below. This Owner maintenance responsibility includes the responsibility to maintain, repair, replace or improve the roofs, chimneys, doors, windows, structural components and utility services of the Townhome or Duplex. In addition to all regular repairs and maintenance or replacements by such Owner, the Owner shall be responsible to replace a roof in its entirety in the event the Association determines that due to time and deterioration, such roof needs to be replaced in its entirety. The repair or replacement of any roof shall be in a manner pre-approved by the Association. If, after 30 days written notice to an Owner, the Owner fails to properly maintain, repair and replace any roof, door, window, chimney, structural components or utility service, then the Association shall have the authority to do such maintenance, repair or replacement and to assess the Owner for all costs, fees and expenses incurred therefore. The cost of any repair or replacement of a Duplex by the Association pursuant to this Section shall be assessed equally between the two Units that make up the Duplex.

(b) In addition, each Owner has the responsibility:

(i) To keep their Lot in a neat, clean and sanitary condition;

(ii) To perform their maintenance responsibility in a manner so as not to unreasonably disturb other Persons in other Units/Lots;

(iii) To promptly report to the Association, or its Managing Agent, any defect or need for repairs for which the Association is responsible;



(iv) To pay for the cost of repairing, replacing, or cleaning up any component of the Community which, although the responsibility of the Association or another Owner, is necessitated by reason of the willful or negligent act of the Owner, their family, tenants, invitees or guests, with the cost thereof to be added to and become part of the Owner's Assessment obligation;

(v) To repair incidental damage to another Lot, Townhome, Duplex or the Common Elements, resulting from performance of work that is the Owner's responsibility. Such repair and subsequent cleaning is to be performed based upon a reasonableness standard, as determined by the Association; and

(vi) Properly maintain the interior of any Townhome or Duplex in the same condition as when constructed, reasonable wear and tear excepted. The Owner shall at all times be solely responsible for all personal property, furniture, fixtures and appliances within the Townhome or Duplex, and the Association shall have no responsibility or liability therefore unless the same is damaged or destroyed due to the negligence of the Association, its agents and employees.

5.2 Maintenance by the Association.

(a) The Association has the following authority, duties and obligations, all of which shall be a Common Expense:

(i) Maintain, repair and replace, as needed, the Common Elements, which includes, but is not limited to, all Open Spaces, roads owned by the Association, parking areas and sidewalks, including snow plowing and snow removal therefrom. The Association shall also maintain and remove snow from the driveways that serve each Lot/Unit.

(ii) Properly maintain, repair and paint the exterior surfaces, including but not limited to decks, rails and log surfaces, of any Townhome or Duplex in an attractive and quality condition and to at all times keep the same in the condition and repair as when originally constructed, but specifically excluding from such maintenance, repair, painting and upkeep of the roofs, chimneys, doors, windows and structural components of the Townhome or Duplex.

(iii) At all times be responsible for the care, maintenance and upkeep of all Landscaping on the Lots.

(b) In the event any maintenance, repair, replacement, painting or upkeep to any Townhome or Duplex or the Landscaping of any Lot are required due to the negligence, misuse or deliberate act of the Owner, the Owner's family, guests, invitees or tenants, then such expense shall be the liability of the Owner and charged to the Owner by the Association.

(c) The foregoing maintenance obligations of the Association are to be performed consistent with the standards and specifications as the Board may determine.

(d) The Association has the right, with the approval of 67% of those Owners voting in person or by proxy at a meeting called for such purpose, to assume additional maintenance, repair or replacement responsibilities on any limited basis it determines, as a Common Expense. By way of example, with the requisite approval, the Association may undertake a Community-wide window replacement without assuming the future responsibility for window maintenance, repair and replacement.

(e) If the Association determines that the need for maintenance or repair of the Common Elements is caused through the willful or negligent act of any Owner, their family, guests, lessees, or invitees, then the Association may assess the cost of the maintenance, repair, or replacement against the Owner's Unit/Lot, which also becomes the Owner's personal obligation, a lien against the Unit/Lot, and is to be collected as provided in this Amended Declaration for the collection of Assessments.



5.3 Maintenance Standards and Interpretation. The maintenance standards and enforcement and interpretation of maintenance obligations under this Amended Declaration may vary from one term of the Board to another term of the Board. These variances shall not constitute a waiver by the Board of the right to adopt and enforce maintenance standards under this Article. No decision or interpretation by the Board shall constitute a binding precedent with respect to subsequent decisions or interpretations of the Board.

5.4 Liability for Damage.

(a) The Association shall repair any incidental damage to any Lot, Townhome or Duplex resulting from performance of work that is the Association's responsibility, and the costs for such repairs shall be a Common Expense. Such repair and subsequent cleaning is to be performed based on a reasonableness standard. In performing its responsibilities hereunder, the Association has authority to delegate any of its duties to Persons, firms or corporations it chooses.

(b) The Association is not liable for injury or damage to Person(s) or property caused by the elements or by any Owner, or any other Person. The Association is not liable to any Owner, or any Owner's tenant, guest, invitee or family member for any damage or injury caused in whole or in part by the Association's failure to discharge its responsibilities under this Article where the damage or injury is not a foreseeable, natural result of the Association's failure to discharge its responsibilities. No diminution or abatement of Assessments may be claimed or allowed by reason of any alleged failure of the Association to take some action or perform some function required to be taken or performed by the Association under this Amended Declaration, or for inconvenience or discomfort arising from the making of repairs or improvements which are the Association's responsibility, or from any action taken by the Association to comply with any law, ordinance, or with any order or directive of any court, municipal or other governmental authority.

5.5 Failure to Maintain.

(a) If the Association determines that any Owner has failed or refused to discharge properly their obligations with regard to the maintenance, repair, or replacement of items for which the Owner is responsible hereunder, then it shall give the Owner written notice of the Owner's failure or refusal and of the Association's right to provide necessary maintenance, repair, or replacement at the Owner's sole cost and expense. The notice is to set forth with reasonable particularity the maintenance, repair, or replacement deemed necessary by the Association.

(b) Unless the Association determines that an emergency exists, the Owner has thirty (30) days within which to complete maintenance or repair, or if the maintenance or repair is not capable of completion within this time period, to commence replacement or repair within ten (10) days. If the Association determines that: (i) an emergency exists, or (ii) that an Owner has not complied with the demand given by the Association, then the Association may perform the maintenance, repair, or replacement at the Owner's sole cost and expense, and the costs are to be added to and become a part of the Assessment to which the Owner is subject, becomes the personal obligation of the Owner and a lien against the Unit/Lot, and may be collected as provided in this Amended Declaration for the collection of Assessments.

ARTICLE 6. ARCHITECTURAL CONTROLS

6.1 Architectural Covenants. Except as otherwise provided herein, by the Rules and Regulations or by law, no Owner, tenant, or any other Person may, without first obtaining the Association's written approval:

(a) Construct a new Townhome or Duplex;



- (b) Make any encroachment onto the Common Elements;
- (c) Make any exterior change, alteration, or construction to a Unit/Lot, Townhome or Duplex (including painting and Landscaping);
- (d) Construct an exterior addition or alteration to a Townhome or Duplex;
- (e) Construct a fence, wall, structure, deck, patio or decorative devices on a Lot;
- (f) Mount radio, television or other communication antenna or dishes on any Townhome, Duplex or Lot;

6.2 Architectural Standards.

(a) Interpretation, application and enforcement of the architectural standards for Improvements may vary as members of the Board change.

(b) The standard for approval of Improvements includes, but is not limited to:

(i) Aesthetic considerations;

(ii) Materials to be used;

(iii) Consistency with the design guidelines promulgated pursuant to the authority in the Declaration of Protective Covenants, Skyland, Initial Filing, recorded on November 17, 1981 at Reception No. 363853 in the Gunnison County real property records, as amended ("Skyland Declaration");

(iv) Consistency with this Amended Declaration, and further design guidelines which may be adopted by the Association;

(v) Harmony with the external design of the existing Townhomes, Duplexes, Lots/Units and other structures, and the location in relation to surrounding structures and topography;

(vi) Visibility and location of the proposed Improvement in the Community; and

(vii) Any other matter the Board deems to be relevant or appropriate.

6.3 Authority of Association to Engage Consultants. The Association has the authority to select and engage professional consultants to assist in reviewing applications and/or to inspect any of the work performed in the Community. The costs of any consultants are to be paid by the submitting Owner whether or not the application is approved. Prior to incurring consultant costs, the Association is to notify the Owner of its belief that review and/or inspections by consultants are necessary and the estimated costs thereof. The Owner is to then have the right to withdraw the submission. The Association may require payment of costs prior to approval.

6.4 Conditions of Approval. As a condition of approval for a requested architectural change, modification, addition, or alteration, an Owner, on behalf of himself/herself and their successors-in-interest, assumes all responsibilities for maintenance, repair, replacement and insurance of the change, modification, addition, or alteration, unless the Association otherwise agrees in writing. As a further condition of approval, an Owner may be required to execute an agreement setting forth the conditions of approval to be recorded in the Gunnison County real property records.



6.5 Required Action by the Association. The Association is the sole arbiter of the application and may withhold approval for any reason, including purely aesthetic considerations, provided the Association's decision may not be arbitrary or capricious. Applications for approval of Improvements, including but not limited to architectural modifications, must be in writing and provide any information as the Association reasonably requires. If the Association fails to approve or to disapprove the application within 45 days after the application and all required supplemental information have been submitted, then the submitting Owner may send written notice to the Association president and the Association's Managing Agent, regarding the Owner's intent to proceed with the modification as identified in the application. Unless the Association issues a written disapproval of the application within ten (10) days of receipt of the Owner's notice, this Section's requirements are satisfied, and the Association's formal approval is not be required as to the items specifically identified in the application. However, no Owner may construct or maintain any Townhome, Duplex or other Improvement that otherwise violates this Amended Declaration, the design guidelines, or the Rules and Regulations, or any applicable governmental requirements or laws.

6.6 Variances. The Association may grant reasonable variances or adjustments from any conditions and restrictions imposed by this Amended Declaration to overcome practical difficulties and unnecessary hardships with respect to topography, natural obstructions or aesthetic or environmental considerations arising from application of conditions and restrictions contained in this Amended Declaration or in any design guidelines, provided that such variance is not materially detrimental or injurious to other Lots/Units or the Common Elements and is based on unique circumstances. All variances are to be in writing. For purposes of this Section, the inability to obtain approval of any governmental agency, the issuance of any permit, or the terms of any financing are not considered a hardship warranting a variance.

6.7 Commencement and Completion of Construction. All changes, modifications, and new construction approved by the Association must be commenced within six (6) months from the date of approval, unless the Association otherwise agrees in writing. If not commenced within this time, then approval is deemed revoked, unless the Association gives a written extension for commencing the work. All work approved by the Association must be completed in its entirety within ten (10) months from the date of commencement, unless the Association otherwise agrees in writing. All approved changes, modifications, and new construction must be completed in their entirety.

6.8 Limitation of Liability. Neither the Association, nor its directors, officers, attorneys or agents bear any responsibility for the design, quality, structural integrity or soundness of approved construction or modifications, nor for compliance with building codes, zoning regulations, and other governmental requirements. The Association, its directors, officers, attorneys, and agents are not liable for any injury, damages or loss arising out of the manner, design, or quality of approved construction on or to modifications to any Lot/Unit, Townhome or Duplex. No lawsuit, action or claim may be brought against any of the foregoing for any injury, damage or loss.

6.9 No Waiver of Future Approvals. The Association's approval of any proposals, plans and specifications for any work done or proposed, or in connection with any other matter requiring the Association's approval, is not a waiver of any right to withhold approval as to any similar proposals, plans and specifications.

6.10 Enforcement. The Association is entitled to stop any construction that does not conform to the approved plans. The Association is further entitled to stop any construction if the Owner fails to submit plans and specifications and/or obtain written approval prior to commencing construction. The Association may require any Owner to remove any Improvement or modification, whether partial or completed, and restore the property to its prior condition, if the Owner fails to obtain prior written approval or constructs in a manner that does not conform to the approved plans. These remedies are in addition to all other remedies available at law or in equity, including but not limited to the authority to levy a fine.



ARTICLE 7. COVENANTS AND USE RESTRICTIONS

7.1 General Terms on Covenants and Restrictions of this Amended Declaration. All Real Estate within the Community is held, used and enjoyed subject to the covenants, limitations and restrictions of this Amended Declaration and the Skyland Declaration. The strict application of the Association's governing documents, limitations and restrictions in any specific case may be modified or waived, in whole or in part, by the Board or by an appropriate committee (subject to review by the Board) if such strict application would be unreasonable or unduly harsh under the circumstances. Any such modification or waiver must be in writing or must be contained in written guidelines or Rules and Regulations.

7.2 Owner Responsibility for Compliance. Each Owner is responsible for ensuring that the Owner's family, guests, invitees, and tenants comply with all provisions of the Governing Documents. Each Owner and tenant is to always endeavor to observe and promote the cooperative purposes for which the Association was established. In addition to any rights the Association may have against the Owner's family, guests, invitees or tenants as a result of the Person's violation of the Governing Documents, the Association may take action under this Amended Declaration against the Owner as if the Owner committed the violation in conjunction with the Owner's family, guests, invitees or tenants.

7.3 Use of Units/Lots.

(a) Residential and Business Use Covenants and Restrictions.

(i) Each Unit/Lot, Townhome and Duplex is to be used primarily for residential purposes. No trade or business of any kind may be conducted in or from the same or any part of the Community, except that Owners or tenants may conduct ancillary business activities within the Townhome or Duplex so long as the business activity:

(A) Is not apparent or detectable by sight, sound, or smell from outside of the Unit/Lot;

(B) Does not involve visitation by employees, clients, customers, suppliers or other business invitees in greater volume than would normally be expected for guest visitation to a residential Unit/Lot without business activity;

(C) Is legal and conforms to all zoning requirements for the Community;

(D) Does not increase traffic in the Community in excess of what would normally be expected for residential Units/Lots in the Community without business activity (other than by a reasonable number of deliveries by couriers, express mail carriers, parcel delivery services and other similar delivery services);

(E) Does not increase the insurance premium paid by the Association or otherwise negatively affect the Association's ability to obtain insurance coverage;

(F) Is consistent with the Community's residential character, and does not constitute a nuisance or a hazardous or offensive use, or threaten the security or safety of other residents, as determined by the Association; and

(G) Does not result in a materially greater use of Common Element facilities or Association services.



(ii) The terms "business" and "trade," as used in this Section, have their ordinary, generally accepted meanings, and include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to Persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (A) the activity is engaged in full or part-time; (B) the activity is intended to or does generate a profit; or (C) a license is required for the activity.

(b) Occupancy. If an Owner is a corporation, partnership, trust or other legal entity which is not a natural person, the entity is to designate in writing to the Association the name(s) of the natural person(s) who may occupy the Unit.

(c) Clothesline Prohibited. No clotheslines or incinerators shall be permitted on any Lot.

(d) Storage On Lots. The storage of all equipment, tools and personal property shall be stored indoors. Provided, however, properly maintained furniture, decorative devices and personal use items may be maintained within any deck or patio in accordance with the Rules and Regulations of the Association.

(e) No Subdivision or partition. No Unit/Lot may be subdivided or partitioned into a smaller Unit(s)/Lot(s).

7.4 Leasing. The Community is intended to be an owner-occupied community. However, any Owner has the right to lease or allow occupancy of a Unit upon terms and conditions the Owner deems advisable, subject to restrictions of this Amended Declaration, any other restrictions of record, and the Rules and Regulations of the Association.

7.5 Restrictions on Exterior Townhome and Duplex Changes & Structural Alterations. No Owner may construct any Improvement, Townhome or Duplex, or make any change to the building's exterior, or make structural alterations to any Townhome or Duplex, or to any portion of the Common Elements, without the Association's prior written approval as provided for in this Amended Declaration.

7.6 Use of Common Elements. There may be no obstruction of the Common Elements, nor may anything be kept or stored on or removed from any part of the Common Elements without the Association's prior written consent, except as specifically provided for in the Governing Documents, but excepting therefrom construction, service and delivery vehicles parked on a street for such period of time as is reasonably necessary to make a delivery or provide service or construction to a Lot/Unit or the Common Areas during daylight hours. The Association is not liable to the Owner or their tenants, residents, guests, family members OR invitees, for loss or damage, by theft or otherwise, of any property which may be stored in or upon any of the Common Elements.

7.7 Compliance with Laws and Insurance Requirements. Nothing may be done or kept in the Community, or any part thereof, that would increase the rate of insurance on the Community or any Unit or part thereof, which would be in violation of any statute, rule, ordinance, regulation, permit or other validly imposed requirements of any governmental body, or which would increase the Common Expenses.

7.8 Prohibition of Nuisance.

(a) The Lots in the Community are in close proximity to one another. As a result, noise and vibration may be detectable between Lots or between Lots and the Common Elements. Therefore, an Owner or tenant may not conduct activities on a Lot or within a Townhome or Duplex that unreasonably interferes with or causes unreasonable disruption to another Owner's or tenant's use and quiet enjoyment of their Lot.



(b) Noxious, destructive, offensive or unsanitary activity may not be carried on within the Community. No Owner or tenant may use or allow the use of the Unit/Lot, Townhome or Duplex, or any portion of the Community, at any time, in any way, which may endanger persons or property, unreasonably annoy, disturb or cause embarrassment or discomfort to other Owners or tenants, or constitute a nuisance.

(c) The intention of this Section 7.8 is to grant the Association and aggrieved Owners and tenants a right of redress for actions, activities or conduct which unreasonably disturbs or impairs the peaceful and safe enjoyment by Owners and tenants. Nothing in this Section may be construed to affect the rights of an aggrieved Owner to proceed individually against a violator hereof for relief from interference with their property or personal rights, and the Board may, in its discretion, require aggrieved individuals to seek redress personally for interference with their rights before the Association intervenes and commences an enforcement action hereunder. No claim for any loss, damage or otherwise exists by an aggrieved Owner or tenant against the Association for failure to enforce the provisions hereof if the aggrieved Owner or tenant has not personally pursued all available remedies against the violator for redress provided under Colorado law.

7.9 No Damage or Waste. No Owner, tenant or agent of either may do any work which would jeopardize the soundness or safety of any structure within the Community, or would impair any easement or other interest in the Community. No damage to or waste of the Common Elements, or any part thereof, is permitted by any Owner or tenant, or the Owner's or tenant's guests, family members or invitees. Each Owner hereby indemnifies and holds the Association and the other Owners harmless against all loss to the Association and/or the other Owners resulting from such damage or waste caused.

7.10 Vehicles and Parking.

(a) General. Parking within the designated parking lots as shown on the Plat are subject to the Rules and Regulations adopted by the Board. Each Unit has, or shall have, one two-car garage appurtenant to the Unit. The driveway or access to the garage of any Lot may be used for the parking of any motor vehicle (automobile, sport utility vehicle, van, or pick-up truck) of the Owner, the Owner's guests, tenants and invitees.

(b) Recreational vehicles. No mobile homes, golf carts, snowmobiles, ATVs, house trailers, travel trailers, camping trailers, motor homes, tents, campers, trailers, motorcycles, motorbikes, boats or other similar type vehicle or device may be parked, stored or maintained on any Lot, unless within the garage of the Lot. Provided, however, a guest of an Owner may temporarily park any of the above defined recreational vehicles or recreational equipment on the driveway of the Lot for a period of time not to exceed 48 hours.

(c) Garage Doors. Garage doors shall remain closed at all times except when entering or exiting the garage.



(d) **Enforcement.** If any vehicle is parked on any portion of the Community in violation of this Section or in violation of the Rules and Regulations, the Board or agent of the Association may place a notice on the vehicle specifying the nature of the violation and stating that after 24 hours the vehicle may be towed. The notice must include the name and telephone number of the person or entity that is to do the towing and the name and telephone number of a person to contact regarding the alleged violation. If 24 hours after such notice is placed on the vehicle the violation continues, or occurs again within six months of such notice, the Board or agent of the Association may have the vehicle towed in accordance with the notice, without further notice to the vehicle owner or user. If a vehicle located in the Community is blocking another vehicle or garage, is obstructing the flow of traffic, is parked on any grassy area, is parked in a designated handicapped space without the proper state-issued identification, or otherwise creates a hazardous condition, no notice is required and the vehicle may be towed immediately in accordance with applicable governmental regulations. If a vehicle is towed in accordance with this Section, neither the Association nor any director, officer or agent of the Association is liable to any Person for any claim of damage as a result of the towing. Notwithstanding anything to the contrary herein, the Board may elect to impose fines or use other available sanctions, rather than exercise its authority to tow.

7.11 Signs. Except as may be provided for in this Amended Declaration or as may be required by state law or legal proceedings, no signs, advertising posters, political placards or billboards of any kind may be erected, placed, or permitted to remain in the Community without the Association's prior written consent, except the display of a political sign by the Owner or occupant of a Unit within the boundaries of the Unit/Lot, but no earlier than forty-five (45) days before the day of an election and no later than seven (7) days after an election day, and the sign shall be no larger than thirty-six (36) inches by forty-eight (48) inches. As used in this Section, "political sign" means a sign that carries a message intended to influence the outcome of an election, including supporting or opposing the election of a candidate, the recall of a public official, or the passage of a ballot issue.

7.12 Unsightly or Unkempt Conditions. Activities which cause disorderly, unsightly, or unkempt conditions must not be pursued or undertaken on any part of the Property, including but not limited to, the Lots and Common Elements.

7.13 Personal Property on Common Elements. Personal property (other than vehicles as otherwise permitted in this Amended Declaration) may not be stored, kept, or allowed to remain for more than 24 hours upon any portion of the Common Elements without prior written Association permission. If the Association determines that a violation exists, then, after two (2) days written notice is placed on the personal property and/or on the front door of the property owner's Townhome or Duplex, if known, the Association may remove and either discard or store the personal property in a location which the Association or its agent may determine. Neither the Association nor its agent has any obligation to return, replace or reimburse the owner of the property. The notice is to include the name and telephone number of the person or entity who is to remove the property and the name and telephone number of a person to contact regarding the alleged violation. The Association, in its discretion, may determine that an emergency situation exists and may exercise its removal rights hereunder without prior notice to the property owner. In this case, the Board is to give the property owner, if known, notice of the removal of the property and the location of the property within three (3) days after the property is removed. Neither the Association nor its directors, officers or agents is liable to an Owner or tenant, guest, invitee, or family member, for loss or damage, by theft or otherwise, of any property which may be stored in or upon any of the Common Elements or for any claim of damage resulting from the removal activity in accordance with this Section. The Association may elect to impose fines or use other available remedies, rather than exercise its authority to remove property hereunder.

7.14 Rules and Regulations. The Association may adopt, amend and repeal Rules and Regulations concerning and governing the Lots/Units, Townhomes, Duplexes, and Common Elements in furtherance of the provisions of this Amended Declaration, subject to the following:



(a) Uniformity/Equal Treatment. The Rules and Regulations, Policies and Procedures and any other governance policies adopted by the Association are to be reasonable and uniformly applied. Similarly situated Owners must be treated similarly.

(b) Copies. Copies must be made available to each Owner and/or tenant upon request.

(c) Required Compliance. Each Owner and tenant must comply with the Rules and Regulations, Policies and Procedures and governance policies.

(d) Authority of the Rules and Regulations. The Bylaws, Rules and Regulations, Policies and Procedures and governance policies have the same authority, force and effect as if they were stated in full in this Amended Declaration. In the event of conflict, this Amended Declaration prevails.

7.15 Skyland Community Association. Notwithstanding any other provision herein to the contrary, it is specifically understood and agreed that:

(a) The Community is at all times subject to the terms and conditions of the Declaration of Protective Covenants, and any amendments thereto, the Design Guidelines, the Rules and Regulations and the Articles of Incorporation and Bylaws of the Skyland Community Association.

(b) In the event of any conflict between the terms and conditions of this Amended Declaration and the documents referenced in Subsection 7.15(a) above, the documents referenced in subsection 7.15(a) above shall prevail.

ARTICLE 8. INSURANCE

8.1 Association's Property & Liability Insurance.

(a) The Association must obtain and maintain at all times, as a Common Expense, insurance as follows:

(i) Property insurance on the Common Elements. The total amount of insurance must be not less than the full insurable replacement cost of the insured property less applicable deductibles at the time the insurance is purchased and at each renewal date, exclusive of land, excavations, foundations, and other items normally excluded from property policies.

(ii) Commercial general liability insurance against claims and liabilities arising in connection with the ownership, existence, use, and management of the Common Elements and the Association's maintenance obligations of the Townhomes, Duplexes and Lots, as provided by this Amended Declaration, in an amount deemed sufficient in the judgment of the Board. Such insurance shall insure the Board, the Association, the Management Agent, and their respective employees, agents, and all Persons acting as agents.

(iii) Workers' compensation insurance if and to the extent necessary to meet the requirements of law.

(iv) Directors' and officers' liability insurance in such amounts as the Board may determine.

(b) If any of the insurance described above is not reasonably available, or if any policy of such insurance is cancelled or not renewed without a replacement policy therefore having been obtained, the Association promptly shall cause notice of that fact to be hand delivered or sent prepaid by United States mail to all Owners.



(c) The Association may carry any other insurance it considers appropriate, including insurance on Units/Lots, Townhomes and Duplexes it is not obligated to insure, to protect the Association and/or the Unit Owners.

(d) Insurance policies carried by the Association must provide that:

(i) Each Unit Owner is an insured person under the policy with respect to liability arising out of such Unit Owner's interest in the Common Elements or membership in the Association;

(ii) The insurer waives its rights to subrogation under the policy against any Unit Owner or member of the Unit Owner's household;

(iii) No act or omission by any Unit Owner, unless acting within the scope of such Unit Owner's authority on behalf of the Association, will void the policy or be a condition to recovery under the policy; and

(iv) If, at the time of a loss under the policy, there is other insurance in the name of a Unit Owner covering the same risk covered by the policy, the Association's policy provides primary insurance.

(v) They are with a company licensed to do business in Colorado. The company is to provide insurance certificates to each Owner and Mortgage Holder upon request. The Association's Board of Directors has the exclusive authority to adjust losses under the Association's policies.

8.2 Association Insurance Deductibles. Unless otherwise specified in written guidelines or a written Board resolution, any required deductible on the Association's policy is a maintenance expense to be paid by the person(s) who would be responsible for the repair or maintenance of the loss in the absence of insurance. If the loss affects more than one Unit/Lot, Townhome or Duplex, or a Unit/Lot, Townhome or Duplex and the Common Elements, the Board may equitably apportion the cost of the deductible among the parties suffering loss in proportion to the total cost of repair. However, if the insurance policy provides that the deductible applies to each Unit separately or to each occurrence, each Owner is responsible for paying the deductible pertaining to their Unit, if any. If any Owner(s) fail to pay the deductible when required under this Section, then the Association may pay the deductible and assess the cost to the Owner pursuant to this Amended Declaration.

8.3 Owners' Insurance.

(a) Every Owner is obligated to obtain and maintain at all times insurance covering those portions of the Unit/Lot, Townhome and Duplex to the extent not insured by the Association's policies, which shall include, but not be limited to, fire and extended coverage in an amount equal to the full replacement value of the Lot and Townhome or Duplex, without deduction for depreciation. The Association shall be named as an additional insured under such Owner's policy of insurance as its interest may appear. The Owner shall furnish to the Association upon request current certificates of insurance verifying that such fire and extended coverage is in full force and effect. In the event that a Unit Owner shall fail to keep and maintain in full force and effect such fire and extended coverage, the Association shall have the right to obtain such insurance coverage as to the Lot and the Townhome or Duplex and assess the Owner for all costs to obtain such insurance.

(b) Each Owner is also responsible for obtaining insurance covering their personal property and coverage for liability arising within the Townhome or Duplex.

(c) The Association has no liability for failure to maintain insurance required of the Owners.



8.4 Owner's Right to Review Association Insurance Policies. The Association must make a copy of its insurance policies available for review by Owners to assess their personal insurance needs. Each Owner has the right to obtain additional coverage at their own expense as they deem fit.

8.5 Source and Allocation of Proceeds. If insurance proceeds are not sufficient to defray the costs of reconstruction and repair (due to failure of the Association to maintain coverage as provided in this Amended Declaration, or due to the insurance policy's deductible), the additional cost is a Common Expense. If, for any other reason, the proceeds of insurance are not sufficient to defray the costs of reconstruction and repair, as determined by the Association, the additional costs are assessed against the Owners of the Unit(s) damaged in proportion to the damage to the Units, or against all Owners, in the case of insufficient funds to cover damage to the Common Elements. These Assessments are not considered a special Assessment as provided in this Amended Declaration. If there are surplus funds after repair and reconstruction is completed, those funds are common funds of the Association to be used as directed by the Association.

8.6 Claims and Adjustments by the Association. Any loss covered by an Association insurance policy is to be adjusted by the Association. The insurance proceeds for a loss are payable to the Association and not to any First Lien Holder on a Unit. The Association must hold any insurance proceeds for the repair or restoration of the damaged property. The Association is not entitled to use insurance proceeds for other purposes unless there is a surplus after the damaged property has been completely repaired or restored.

8.7 Managing Agent's Insurance. The Managing Agent, if any, must maintain insurance for the benefit of the Association, and must maintain and submit evidence of said coverage to the Association. Insurance must include professional liability or errors and omissions insurance, workers' compensation, unemployment and fidelity coverage (unless the Association otherwise provides fidelity coverage).

ARTICLE 9. MORTGAGE HOLDER'S RIGHTS

9.1 Liability for Assessments. Where a Mortgage Holder or a First Lien Holder of record, or other purchaser of a Unit obtains title pursuant to judicial or non-judicial foreclosure of a Mortgage, it is not liable, nor is the Unit subject to a lien, for the share of the Common Expenses Assessments or other applicable Assessments by the Association chargeable to the Unit which became due prior to acquisition of title, except as provided in the Act. The acquirer is responsible for all charges accruing subsequent to the passage of title, including, but not limited to, all charges for the month in which title is passed. Any unpaid Assessments are deemed to be Common Expenses collectible from Owners of all the Units, including the acquirer, its successors and assigns.

9.2 Notice to Mortgage Holders. Upon written request to the Association, identifying the name and address of the holder and the Unit number or address, any First Lien Holder is entitled to timely written notice of:

- (a) Any condemnation loss or any casualty loss which affects a material portion of the Community or any Unit on which there is a First Lien Holder;
- (b) Any delinquency in the payment of Assessments or charges owed by an Owner of a Unit subject to a First Lien Holder which remains unsatisfied for a period of 60 days, and any default in the performance by an Owner of any other obligation under the Governing Documents which is not cured within 60 days; and
- (c) Any lapse, cancellation, or material modification of any insurance policy maintained by the Association.



9.3 Notice to Association. Upon request, each Owner is obligated to furnish to the Association the name and address of any First Lien Holder encumbering the Owner's Unit.

9.4 Failure of Mortgage Holder to Respond. Any Mortgage Holder who receives a written request from the Association to respond to any action is deemed to have approved the action if the Association does not receive a written response from the Mortgage Holder within 60 days of the date of the Association's request, provided the request is delivered to the Mortgage Holder by certified or registered mail, return receipt requested.

ARTICLE 10. CONSTRUCTION OR DESIGN CONTROVERSIES

10.1 Purpose. One of the purposes of this Amended Declaration is to establish a harmonious Community. Because the prompt, efficient and fair resolution of any construction or design dispute is desirable, any construction or design controversy arising out of or relating to the Units and/or the Common Elements must be resolved as set forth in this Article.

10.2 Direct Communication. The parties to the disagreement over a construction or design controversy must set forth their respective positions in the dispute in correspondence. Each party must respond within 14 days after receipt of a letter from the other until agreement is reached, but no more than two letters from each party are required. If an agreement is not reached, the next section of this Amended Declaration applies.

10.3 Mediation. If a construction or design controversy cannot be resolved through direct communication of the parties, either party may request appointment of a neutral and properly credentialed mediator. In the event the parties cannot agree on a mediator, the Association shall appoint a neutral mediator. The parties must participate in the mediation in good faith until the dispute is resolved for a period not to exceed 60 days with the consent of all parties. The cost of the mediation must be divided equally among the parties. If mediation does not resolve the construction or design controversy, the next section of this Amended Declaration applies.

10.4 Court Action. If a construction or design controversy cannot be resolved through mediation, either party may then file an appropriate legal action with the Gunnison County State District Court, which shall maintain exclusive jurisdiction and shall be the venue for cases and controversies arising under this Amended Declaration.

ARTICLE 11. AUTHORITY AND ENFORCEMENT

11.1 Compliance With and Enforcement of Governing Documents.

(a) Compliance Required. Every Owner and tenant must comply with the applicable provisions of the Governing Documents. Any aggrieved Owner has the right to take action to enforce the terms of the Governing Documents against another Owner.

(b) Association Remedies. The Association, and/or the Skyland Community Association, may enforce all applicable provisions of the Governing Documents and may impose sanctions for their violation. Sanctions may include, without limitation:

(i) Imposing reasonable monetary fines, after notice and opportunity for a hearing, which may be a lien upon the violator's Unit;

(ii) Suspending the Owner's right to vote on Association matters;

(iii) Suspending any services provided by the Association to an Owner or the Owner's Unit if the Owner is more than 30 days delinquent in paying any Assessment or other charge owed to the Association;



(iv) Exercising self-help or an action to abate any violation of the Governing Documents in a non-emergency situation, subject to any requirements as may be set forth in this Amended Declaration, including those related to maintenance, repair or replacement;

(v) Requiring an Owner, at the Owner's expense, to remove any structure or Improvement on the Owner's Lot or the Common Elements in violation of the Governing Documents and to restore the Lot or Common Elements to its previous condition and, upon the Owner's failure to do so, the Association has the right to enter the Lot or Common Elements, remove the violation and restore the Lot or Common Elements to substantially the same condition as previously existed and any action is not deemed a trespass;

(vi) Recording in the real property records a notice of violation identifying any uncured violation of the Governing Documents; and

(vii) Any other remedies provided for in this Amended Declaration or by applicable law.

(c) Emergencies and Legal Action. In addition, the Association may take the following enforcement procedures to seek compliance with the Governing Documents:

(i) Exercise self-help in any emergency situation (specifically including, but not limited to, towing vehicles that are in violation of any parking Rules and Regulations); and/or

(ii) Institute any civil action to enjoin any violation or to recover monetary damages or both.

(d) Remedies Are Cumulative. All remedies set forth in the Governing Documents are cumulative of any remedies available at law or in equity.

(e) Costs Incurred By Association. If the Association exercises any of its rights pursuant to this Article, all costs may be assessed against the violating Owner and may be a lien against the Owner's Unit. Additionally, subject to the Act, the Association is entitled to reasonable attorney fees actually incurred, which may be collected as an Assessment.

11.2 Failure to Enforce. The Association has the discretion to pursue enforcement in any particular case, except that the Association may not be arbitrary and capricious. The Association's failure to enforce any provision of the Governing Documents is not deemed a waiver of its right to do so thereafter. No claim or right of action exists against the Association for failure of enforcement where: (a) the Association determines that its position is not strong enough to justify taking enforcement action; (b) a particular violation is not of such a material nature as to be objectionable to a reasonable person or justify the expense and resources to pursue; or (c) the Owner or party requesting enforcement possesses an independent right to bring an enforcement action at law or in equity and has failed to do so.

ARTICLE 12. AMENDMENTS & TERMINATION

12.1 Amendment by Owners.

(a) This Amended Declaration and/or the Plat may be amended by the affirmative vote, written agreement, or any combination of affirmative vote and written agreement of the Owners holding at least 67% of the total Association vote.

(b) If a proposed amendment is to be considered at an Owner meeting, notice of the meeting must state the general subject matter of the proposed amendment.



(c) No amendment is effective until certified by the president of the Association and recorded in the County of Gunnison, Colorado's real property records.

12.2 Validity. Any action to challenge an amendment's validity must be brought within one (1) year of the effective date of the amendment.

12.3 Termination. This Amended Declaration and the Community may be terminated in the manner as provided for and allowed for in the Act.

ARTICLE 13. GENERAL PROVISIONS

13.1 Security. The Association may, but is not required to, from time to time, provide measures or take actions which directly or indirectly improve security in the Community. However, each Owner, for himself and their guests, tenants, licensees, and invitees, acknowledges and agrees that the Association is not a provider of security and the Association does not have a duty to provide security in the Community. Furthermore, the Association does not guarantee that non-Owners and non-tenants may not gain access to the Community and commit criminal acts in the Community nor does the Association guarantee that criminal acts in the Community are not committed by other Owners or tenants. Each Owner is responsible to protect their person and property and all responsibility to provide security lies solely with each Owner. The Association is not liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of measures undertaken.

13.2 Implied Rights. The Association may exercise any right or privilege given to it expressly by this Amended Declaration, the Bylaws, the Articles of Incorporation, any use restriction or Rule and Regulation, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it or reasonably necessary to effectuate any of its rights or privileges.

13.3 Interpretation. The provisions of this Amended Declaration are to be liberally construed to effectuate their purposes of providing a uniform plan for the Community and of promoting and effectuating the fundamental concepts set forth in this Amended Declaration. This Amended Declaration is to be construed and governed under the laws of the State of Colorado.

13.4 Electronic Records, Notices and Signatures. Notwithstanding any other portion of this Amended Declaration, records, signatures and notices shall not be denied validity or effectiveness hereunder solely on the grounds that they are transmitted, stored, made or presented electronically. The relevant provisions of the Bylaws and/or the Act, as is applicable and enforceable, govern the giving of all notices required by this Amended Declaration.

13.5 Duration. The covenants and restrictions of this Amended Declaration run with and bind the Community perpetually unless otherwise terminated as provided in C.R.S. § 38-33.3-218, as it may be amended from time to time.

13.6 Severability. Invalidation of any one of the covenants or restrictions in this Amended Declaration by judgment or court order or otherwise does not in any way affect the application of the provision to other circumstances or affect any other provision(s) of this Amended Declaration, which shall remain in full force and effect.

13.7 Conflicts. In case of any conflict between this Amended Declaration and the Articles of Incorporation, Rules and Regulations or Bylaws of the Association, this Amended Declaration shall control. In case of any conflict between the Articles of Incorporation and the Bylaws of the Association, the Articles of Incorporation shall control. In case of any conflict between this Amended Declaration and the Act, the Act shall control.



13.8 Captions. All captions and titles used in this Amended Declaration are intended solely for convenience of reference and do not enlarge, limit or otherwise affect that which is set forth in any paragraph, section or article.

13.9 Singular Includes the Plural; Gender. Unless the context otherwise requires, the singular includes the plural, and the plural includes the singular, and each gender referral is deemed to include the masculine, feminine and neuter.

**FAIRWAY PARK AT SKYLAND ASSOCIATION,
a Colorado nonprofit corporation**

By: Bill West
Bill West, President

Date: July 12, 2018

CERTIFICATION

I, GENE CORDES, serve as the Secretary of Fairway Park at Skyland Association, a Colorado nonprofit corporation, and hereby certify that pursuant to § 38-33.3-217, C.R.S., 67% of the owners of Fairway Park at Skyland Association, a Colorado nonprofit corporation, have approved the foregoing Amended Declaration and such Amended Declaration was properly voted on and adopted.

**FAIRWAY PARK AT SKYLAND ASSOCIATION,
a Colorado nonprofit corporation**

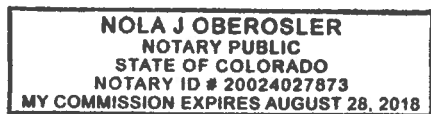
By: Gene Cordes
GENE CORDES, Secretary

Date: 12 July, 2018

STATE OF Colorado)
) ss.
COUNTY OF Gunnison)

The foregoing instrument was acknowledged and signed before me on this 12th day of July, 2018, by Bill West as President and by Gene Cordes as Secretary of Fairway Park at Skyland Association, a Colorado nonprofit corporation.

Witness my hand and official seal.
My commission expires: 08/28/2018



Nola J. Oberosler
Notary Public



EXHIBIT A

Legal Description of the Real Estate

Lots 4A, 5A, 6A, 7A, 8A, 9A, 10A, 11A, 3B, 4B, 5B, 6B, 7B, and 8B, FAIRWAY PARK AT SKYLAND, PHASE 1, according to the plat thereof recorded on August 18, 1999 at Reception No. 495495, as amended,

County of Gunnison,
State of Colorado,

and

Lots 1, 2, 3, 4, and 5, FAIRWAY PARK AT SKYLAND, PHASE I, according to the Replat of Lot 1A, Lot 2A, Lot 3A, Lot 1B, and Lot 2B of the Townhome Plat of Fairway Park at Skyland, Phase 1, recorded June 11, 2004 and bearing Reception No. 543060,

County of Gunnison,
State of Colorado,

and including any and all open spaces, parking lots, roadways, common areas and other property in the name of Fairway Park at Skyland Association, as provided on the Townhome Plat of Fairway Park at Skyland, Phase 1, recorded June 11, 2004 and bearing Reception No. 543060,

County of Gunnison,
State of Colorado.