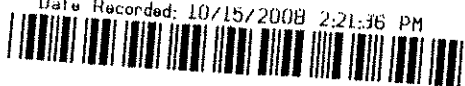


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**SECOND REVISED AND RESTATED  
DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS OF  
20<sup>TH</sup> HOLE TOWNHOME SUBDIVISION FILING NO. 1**

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THIS SECOND REVISED AND RESTATED DECLARATION, made on the date hereinafter set forth by 20<sup>th</sup> Hole Townhomes Association, Ltd. a Colorado nonprofit corporation (Association).

**WITNESSETH:**

WHEREAS, 20<sup>th</sup> Hole Townhomes, Inc., a Colorado corporation (Declarant) was the Owner of certain property in the County of Arapahoe, State of Colorado (Property), which is more particularly described as:

20<sup>th</sup> Hole Townhome Subdivision Filing No. 1 according to the Plat recorded with the Clerk and Recorder of Arapahoe County at Book 122, Page 50

WHEREAS, Declarant conveyed said Property subject to certain protective covenants, conditions, restrictions, reservations, liens, and charges as hereinafter set forth by amendment; and

WHEREAS, the original Declaration of Covenants, Conditions, and Restrictions of 20<sup>th</sup> Hole Townhome Subdivision filing No. 1 was duly executed and then recorded with the Clerk and Recorder of Arapahoe County at Book 8104 Page 55 on September 12, 1995 ("Original Declaration"); and

WHEREAS, the First Amendment to the Declaration of Covenants, Conditions, and Restrictions of 20<sup>th</sup> Hole Townhome Subdivision Filing No. 1 was duly executed and then recorded with the Clerk and Recorder of Arapahoe County at Reception No. A6005717 on January 17, 1996 ("First Amendment"); and

WHEREAS, the Revised and Restated Declaration of Covenants, Conditions and Restrictions of 20<sup>th</sup> Hold Townhome Subdivision Filing No. 1 was executed and then recorded with the Clerk and Recorder of Arapahoe County at Reception No. B7147217 on November 20, 2007; and

WHEREAS, for the purpose of complying with the Colorado Common Interest Ownership Act and to update the covenants the Association has determined it necessary to revise the previously recorded Declarations,

NOW, THEREFORE, the Association hereby declares that the Original Declaration, the First Amendment and the Revised and Restated Declaration are replaced and amended as follows and all of the Property described above shall be held, sold, and conveyed subject to the following easements, restrictions, covenants, and conditions, all of which are for the purpose of enhancing and protecting the value, desirability, and attractiveness of the real Property. These easements, covenants, restrictions, and conditions, as hereby revised and amended, shall run with the real Property and shall be binding upon all parties having or acquiring any right, title, or interest in the Property or any part thereof, and shall inure to the benefit of each Owner thereof.

## **ARTICLE I-Definitions**

### **Section 1.1 Defined Terms.**

Each capitalized term in this Declaration or in the Map shall have the meaning specified or as used in the Act, unless otherwise defined in this Declaration:

- (a) "Address" the address of the Association shall be the legal address of the registered agent as listed with the Colorado Secretary of State, or, in the event no such address is indicated, then the address of its counsel or president as designated by the Board of Directors.
- (b) "Act" shall mean the Colorado Common Interest Ownership Act, C.R.S. §38-33.3-101 et.seq., as it may be amended.
- (c) "Assessment" shall include all Common Expense Assessments, insurance assessments, utility assessments, and any other expense levied to a Lot or Lot Owner pursuant to this Declaration or the Act, including interest, late fees, attorney fees, fines, and costs.
- (d) "Association" shall mean and refer to 20<sup>th</sup> Hole Townhomes Association Ltd., a non-profit corporation organized under the Colorado Non-Profit Corporation Act.

(e) "Board" or "Board of Directors" shall mean the body, regardless of name, designated in the Governing Documents to act on behalf of the Association.

(f) "Common Area" shall mean all real Property owned by the Association for the common use and enjoyment of the Owners and includes that property described as follows:

Parcel A as depicted on the plat of the Property recorded with the Clerk and Recorder of Arapahoe County at Book 22, Page 50.

(g) "Common Elements" shall mean the Property within this Community other than the Units, which portion of the Property shall be co-owned by the Owners and as may be designated on the Map and in this Declaration. Common Elements shall consist of general common elements and limited common elements, The Common Elements shall be owned, as tenants in common, by the Owners of the separate Units, each owner of a Unit having an undivided interest in the Common Elements.

(h) "Community" shall mean the Community of 20<sup>th</sup> Hole Townhome Subdivision, which is a Condominium Community as defined in the Act and is also a Common Interest Community as defined in the Act.

(i) "Declarant" shall mean and refer to the 20<sup>th</sup> Hole Townhomes, Inc., a Colorado corporation.

(j) "Governing Documents" shall mean this Declaration, the Map, the Articles of Incorporation, the Bylaws, any adopted policies or procedures, and any Rules and Regulations of the Association as all of the foregoing may be amended from time to time.

(k) "Improvement(s)" shall mean structures constructed on any part of the Lots or Common Elements including but not limited to any building, structure,

fixture, landscaping or roadway located on any part of the Lot or Common Elements.

(l) "Limited Common Elements" shall mean those portions of the Common Elements, if any, which are limited to and reserved for the exclusive use of one or more, but fewer than all of the Owners, including door steps and cement porches..

(m) "Lot or Unit" shall mean and refer to a building site, together with the improvements thereon, constituting an individual residence, title to which is or will be conveyed in fee simple by reference to the numbered plots of land shown upon any recorded subdivision map of the Property, with the exception of the Common Area.

(n) "Map" shall mean the Map of 20<sup>th</sup> Hole Townhomes, which is an engineering survey (and any supplements and amendments thereto) of the 20<sup>th</sup> Hole Townhomes Community depicting and locating thereon the location of the buildings, the Lots, the Common Elements, the floors and elevations, and all of the land and improvements thereon, which Map is incorporated herein and made a part of this Declaration by reference.

(o) "Member" shall mean and refer to every person or entity entitled to membership as provided in the Bylaws as set forth herein.

(p) "Owner" shall mean and refer to the recorded Owner, whether one or more persons or entities, of a fee simple title to any Lot which is a party of the Property, including contract buyers, but excluding those having such interest merely as security for the performance of an obligation. If more than one person, or other legal entity or any combination thereof, holds the record title to any Lot, all of them shall be deemed a single record Owner and shall be a single Member of the Association by virtue of their ownership.

(q) "Party Wall or Common Wall" shall mean any common structural or non-structural separation wall separating any two (2) of the buildings on the Lots. The Owner of a Lot shall be deemed to own as a part of such Owner's Lot to the midpoint of the width of the Party (Common) Wall which separates such Owner's building from the adjoining building on the adjoining Lot which shares such wall.

(r) "Property" shall mean the property described in *Exhibit A* together with all easements, rights, and appurtenances thereto and the buildings and Improvements erected or to be erected thereon.

(s) "Rules and Regulations" shall mean any instruments, however denominated, which are adopted by the Association for the regulation and management of the Community and any policies or procedures required by the Act including any amendments to those instruments.

(t) "Special Assessment" shall mean any assessment as set forth in Article V, Section 5.3..

## **ARTICLE II - The Association**

### **Section 2.1 Membership.**

The Owner of each Lot shall be a Member of the Association. No owner shall have more than one membership. Membership shall be appurtenant to and may not be separated from ownership of any Lot. Ownership of such Lot shall be the sole qualification for membership.

### **Section 2.2 General Purposes and Powers of the Association.**

The Association, through its Board of Directors, shall perform functions and manage the Community as provided in this Declaration so as to protect the value and desirability of the Community and the Lots. Any purchaser of a Lot shall be deemed to



have assented to, ratified and approved such designation and management. The Association shall have all power necessary or desirable to effectuate such purposes including but not limited to such authority as set forth in the Act.

**Section 2.3 Authority of the Association.**

The business affairs of the Community shall be managed by the Association. The Association shall be governed by the Act, this Declaration, its Articles of Incorporation and Bylaws, and any Rules and Regulations adopted by the Board of Directors. The Board of Directors may, by written resolution, delegate authority to a manager or managing agent for the Association, provided no such delegation shall relieve the Board of final responsibility.

**ARTICLE III - Voting Rights**

**Section 3.1 Voting Rights.**

Members shall be entitled to one vote for each Lot. Fractional and cumulative voting are prohibited. When more than one person or entity holds such interest in any Lot, all such persons shall be Members; the vote for such Lot shall be exercised as they among themselves determine. In the event any conflicting votes are cast by owners of the same unit or such owners are unable to agree on a vote, the vote on a matter by that unit shall be null and void. In no event shall more than one vote be cast on behalf of any single Lot.

**ARTICLE IV - Property Rights**

**Section 4.1 Owners' Easements of Enjoyment.**

Every Owner shall have a right and easement of enjoyment in and to the Common Area and such easement shall be appurtenant to and shall pass with the title to every Lot. However, the Common Area shall be owned in common by all the Owners and shall remain undivided. By the acceptance of a deed or other instrument of conveyance or assignment, each Owner specifically waives his right to institute and/or maintain a partition action or any other action designed to cause a division of the Common Area.

#### **Section 4.2 Property for Common Use.**

The Association may acquire and hold for the use and benefit of all of the condominium owners real, tangible and intangible personal property and may dispose of the same by sale or otherwise, and the beneficial interest in any such property shall be for the common use and enjoyment of the condominium owners and occupants for so long as such ownership continues and the Association retains title to such property subject to any rules and regulations or limitations imposed by the Board of Directors.

### **ARTICLE V - Covenant for Maintenance Assessments**

#### **Section 5.1 Creation of the Lien and Personal Obligation of Assessments.**

The Declarant, for each Lot, hereby covenants, and each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in any such deed or other conveyance is deemed to covenant and agree to pay the Association: (1) annual assessments and (2) special assessments. Such assessments are to be fixed, established and collected from time to time as hereinafter provided. The annual and special assessments, together with such interest thereon and costs of collection thereof, as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the Property against which each assessment is made. Recording of this document shall constitute perfection of such lien and no further document need be recorded. Each such assessment, together with such interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successor in title unless expressly assumed by them.

#### **Section 5.2 Annual Assessments.**

The Annual Assessments may be made on an annual basis against all Lots in equal proportion. The Board of Directors shall base the Annual Assessments upon the Association's expected annual operating expenses for the calendar year of January 1<sup>st</sup> to December 31<sup>st</sup>, as well as the need to establish or maintain a reserve fund. The budget shall be prepared and provided to the Members as set forth in the Act. The assessments imposed by the Association shall be used for the purpose of promoting the recreation,

health, safety, and welfare of its Members and their guests; and for maintaining and insuring the Common Elements. The omission or failure of the Board of Directors to levy the assessment for any period shall not be deemed a waiver, modification, or release of the Lot Owners from their obligation to pay.

Annual Assessments shall be due and payable in monthly, quarterly, or annual installments, or in any other manner, as determined by the Board of Directors. The Association shall, within five business days of receiving written demand, furnish a certificate in writing setting forth whether the assessments on a specified Lot have been paid. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

### **Section 5.3 Special Assessments.**

The Association may impose Special Assessments, for the purpose of defraying in whole or in part, the cost of any previously unanticipated construction, repair, or replacement of the Common Area, including fixtures and personal property related thereto, or for any other unexpected expenses deemed necessary and appropriate by the Board of Directors; provided that any such assessment shall have the assent of three quarters (3/4) of the votes in the Association. All Special Assessments shall be fixed at uniform rates for all Lots. The due date of any special assessment shall be fixed in the Resolution authorizing the special assessment; however, such due date shall be at least forty-five (45) days after the date of such resolution is approved by the members.

### **Section 5.4 Notice and a Quorum for Certain Actions.**

For any action under Sections 5.2 or 5.3 requiring Membership approval, the Board of Directors shall hold a meeting and provide written notice to all Members not less than 10 days and no more than 30 days prior to such meeting. Furthermore, a quorum of 75% of the total votes in the Association must be present, in person or by proxy, at such meeting. If the required quorum is not present, another meeting may be called subject to the same notice requirement and the required quorum at the subsequent meeting shall be 50% of the total votes, in person or by proxy, in the Association.

**Section 5.5 Default Assessments.**

All monetary fines assessed against an Owner pursuant to the Governing Documents, or any expense of the Association which is the obligation of an Owner or which is incurred by the Association on behalf of the Owner pursuant to the Governing Documents shall be a Default Assessment and shall become a lien against such Owner's Lot which may be foreclosed or otherwise collected as provided in this Declaration. Notice of the amount and due date of such Default Assessment shall be sent to the Owner as set forth in the Association's policies.

**Section 5.6 Effect of Nonpayment of Assessments – Association's Remedies.**

Any assessment installment not paid within ten (10) days after the due date shall be considered delinquent; there shall be a late charge of not more than \$10.00 per month and the assessment installment shall bear interest from the date of the delinquency at the rate of twelve percent (12%) per annum. Thirty (30) days after the due date, the Association may bring action at law against the Owner personally obligated to pay the delinquent installments. In addition the Association may, but is not required to, file with the Clerk and Recorder of Arapahoe, County a Statement of Lien with respect to the Property, setting forth the name of the Association, and the amount of delinquent assessments then owing. At any time, the Association may proceed to foreclose its lien in the same manner as provided for the foreclosure of mortgages under the statutes of the State of Colorado. In either a personal or foreclosure action, the Association shall be entitled to recover the interest, costs, and reasonable attorney's fees incurred regardless of whether an action is commenced. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

**Section 5.7 Lien Priority.**

The lien of the Association is prior to all other liens and encumbrances on a Lot except: (1) liens and encumbrances recorded before January 17, 1996; (2) a first lien security interest on the Lot (except for an amount equal to the regular Annual Assessment installments that would have come due during the six months immediately preceding institution by either the association or any party holding a lien senior to any part of the

association lien created under this section of an action or a nonjudicial foreclosure either to enforce or to extinguish the lien); and (3) liens for real estate taxes and other governmental assessments or charges against the Lot. The lien of the Association under this Article is not subject to the provision of any homestead exemption as allowed under state or federal law and every Owner, by acceptance of a deed, hereby waives any rights thereto in favor of the Association. Sale or transfer of any Lot shall not affect the lien for said assessments or charges except that, upon proper notice to the Association and opportunity to cure or redeem by the Association, sale or transfer of any Lot pursuant to foreclosure of any first lien security interest, or any proceeding in lieu thereof, including deed in lieu of foreclosure, or cancellation or forfeiture shall only extinguish the lien of assessment charges as provided by applicable state law. No such sale, transfer, foreclosure, or any proceeding in lieu thereof, including deed in lieu of foreclosure, nor cancellation or forfeiture shall relieve any Lot from continuing liability for any assessment charges thereafter becoming due, nor from the lien thereof.

**Section 5.8 Reserves.**

The Association shall establish reserves for the maintenance, repair and replacement of those Common Elements that must be periodically maintained, repaired or replaced. Such reserves shall be funded through the Annual Assessments.

**ARTICLE VI - Party Walls**

**Section 6.1 Party Wall Easements.**

Mutual reciprocal easements are hereby established, declared and granted for all party walls between improvements constructed on Lots, which reciprocal easements shall be for mutual support and shall be governed by this Declaration and more particularly the succeeding Sections of this Article. Every Deed, whether or not expressly so stating, shall be deemed to convey and to be subject to such reciprocal easements.

**Section 6.2 General Rules of Law to Apply.**

Each wall which is built as a part of the original construction of the homes upon the Property and placed on the dividing line between the Lots shall constitute a party

wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and of liability for property damage due to negligence or willful acts or omissions shall apply thereto.

**Section 6.3 Sharing of Repair and Maintenance.**

An Owner and the Owner of the adjoining Lot shall be responsible, each in equal shares for the reasonable repair and maintenance of any party wall between their respective Lots unless the party wall repairs shall be necessitated by the negligence or intentional act of one Owner in which case that Owner shall be solely responsible for such repair. It shall be an affirmative obligation of the Owners thereof to maintain and keep the party wall structurally sound and in good condition.

**Section 6.4 Destruction by Fire or Other Casualty.**

If a Party Wall is destroyed or damaged by a catastrophic casualty such as a fire, the Association shall restore it. The proceeds of any insurance collected shall be available to the Association for the purpose of repair or reconstruction.

**Section 6.5 Weatherproofing.**

Notwithstanding any other provision of this Article, an Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing reasonably necessary protection against such elements.

**Section 6.6 Right to Contribution Runs with Land.**

The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

**Section 6.7 Arbitration.**

In the even of any dispute arising concerning a party wall, or under the provisions of this Article, the parties shall submit to dispute arbitration pursuant to the Uniform Arbitration Act, Colorado Revised Statutes §13-22-201 et. seq. In the event the parties are unable to agree to an arbitrator, each party shall choose an arbitrator, and such

arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all three arbitrators.

## **ARTICLE VII - Architectural Control**

### **Section 7.1 Architectural Control**

No building, fence, wall, or other structure shall be commenced erected, or maintained upon any Lot, nor shall any exterior addition to, or change, or alternations therein be made until the plans and all specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to the harmony of external design and location in relation to surrounding structures and topography by an architectural control committee composed of three (3) or more Owners appointed by the Association President. In the event said designated committee fails to approve or disapprove such design and location within thirty (30) days after said plans and all specifications have been submitted to it, the request shall be considered denied. The Board of Directors may adopt a guidelines regarding any structural, electrical, or aesthetic exterior alterations to any Lot or Common Element. In addition, the Board of Directors may appoint an Architectural Review committee to review any such changes, pursuant to such guidelines.

## **ARTICLE VIII - Maintenance Responsibilities**

### **Section 8.1 Common Elements:**

In addition to maintenance upon the Common Area, the Association shall provide exterior maintenance, repair, replacement and care for each Lot, the guest parking areas, asphalt and concrete driveways, roofs and skylights of Units, exterior lighting, including lighting located on Units, the exterior walls ~~and windows~~ of Units, including painting of stucco, siding and trim, exterior doors, door trim, window trim, metal railings, other improvements, Common Elements and Limited Common Elements.

*removed 1/28/01  
- home owners meeting*

### **Section 8.2 Exterior Surfaces.**

Owners shall maintain, repair and replace all utilities and utility lines that are located within the Unit boundary or which serve only one Unit, even if located outside

the Unit boundary (including exterior water spigots and air conditioners), Unit foundations, party walls, interior concrete slabs, interior structural floors, wooden decking and rear concrete patios, all exterior doors and the glass set inside the doors.

**Section 8.3 Owner's Negligence.**

In the event that the need for maintenance or repair is caused through the willful or negligent act of the Owner, an Owner's family, guests, or invitees, the cost of such maintenance or repairs shall be added to and become a part of the assessments to which such Lot is subject.

**ARTICLE IX - Use Restrictions**

**Section 9.1 Use/Occupancy.**

The Property is hereby restricted to residential dwellings for residential use and uses related to the convenience and enjoyment of such residential use. All buildings or structures erected upon the Property shall be of new construction and no building or structure shall be moved from other locations onto said premises. No structures of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuilding shall be used on any portion of the Property at any time as a residence or for storage, either temporarily or permanently.

Further, no business activity shall be conducted on any Lot or Common area that involves vehicular or pedestrian traffic including, but not limited to, pick ups, deliveries, or visits by customers or associates.

**Section 9.2 Common Area.**

No use shall be made of the Common Area which will in any manner violate the statutes, rules or regulations of any governmental authority having jurisdiction over the Common Area. No Owner shall place any structure whatsoever upon the Common Area, nor shall any Owner engage in any activity which will temporarily or permanently deny free access to any part of the Common Area to any Member. The use of the Common Area shall be subject to such rules and regulations as may be adopted from time to time by the Association through its Board of Directors. No use shall ever be made of the Common Area which will deny ingress and egress to those Owners having access to Lots



only over Common Area and the right of ingress and egress to said Lots by vehicle and otherwise is hereby expressly granted.

**Section 9.3 Lots to be Maintained.**

Owners are responsible for the maintenance, repair and replacement of the property located within their Lot boundaries. At all times, each Lot shall be kept in a clean, sightly, and wholesome condition. No garbage cans, trash, litter, junk boxes, containers, bottles, cans, clotheslines, equipment, lumber, or storage piles shall be permitted to remain exposed upon or within any Lot so that the same are visible from any neighboring lots, or any streets. All garbage cans or refuse receptacles shall have lids, and be put out the morning of scheduled pickup and removed in a timely manner. The Association, and its agents, shall have the authority to enter, replace, maintain, repair and clean-up Lots which do not conform to the provisions of this Section, and to charge and collect from the Lot Owners thereof all reasonable costs related thereto as a Damage Assessment.

**Section 9.4 Animals and Pets.**

No animals, livestock, reptiles, insects, or poultry of any kind shall be raised, bred, or kept on any Lot, except that dogs, cats, or other household pets may be kept, provided that they are not kept outdoors, bred, or maintained for any commercial purpose. No more than three (3) pets shall be maintained on any Lot. The owner shall at all times have them under control, whether within the Owner's Lot or any other location within the Community.

**Section 9.5 Signage.**

No advertising signs, billboards, unsightly objects or nuisances shall be erected, placed or permitted to remain on the Property nor shall the Property be used in any way or for any purpose which may endanger the health or unreasonably disturb the Owner of any Lot or any resident thereof. For Sale, For Lease and Political signs may be erected as authorized pursuant to the Act and under the terms of such policies or Rules and Regulations as may be adopted by the Board of Directors.

**Section 9.6 Antennae.**

Subject to federal statutes or regulations governing condominium communities, no exterior television or radio antennas, satellite dishes, or solar panels of any sort shall be placed, allowed, or maintained upon any portion of the Property or upon any Lot, except as may be approved, in writing, by the Association.

**Section 9.7 No Annoying Lights, Sounds, or Odors.**

No light shall be emitted from any portion of the Community that is unreasonably bright or causes unreasonable glare, and no sound or odor shall be emitted from any portion of the Community which would reasonably be found by others to be noxious or offensive.

**Section 9.8 Nuisances.**

No nuisance shall be permitted within the Community, nor any use, activity or practice that is the source of unreasonable annoyance or embarrassment to, or which unreasonably offends, disturbs, any Lot Owner or that may unreasonably interfere with the peaceful enjoyment of possession or the proper use of a Lot or Common Element, or any portion of the Community by Lot Owners. Further, no improper, offensive, or unlawful use shall be permitted within the Community or any portion thereof. All valid laws, ordinances and regulations of all governmental bodies having jurisdiction over the Community or a portion thereof shall be observed. Lot Owners shall be responsible for the conduct of their family, guests and invitees.

**Section 9.9 Vehicular Parking, Storage, and Repairs**

(a) Vehicular parking upon the Common Elements and Lots shall be regulated by the Board of Directors.

(b) Vehicles belonging to Lot Owners shall be kept in such Owner's Lot garage. Garages doors shall be kept closed when not in use. Guest parking,

located within the Common Elements, shall be reserved for guests of the Association.

(c) The following vehicles may not be parked or stored within the Community in such a manner that such vehicle or boat is visible from neighboring Lots, Common area or roads, unless authorized in writing by the Board of Directors of the Association: trucks, trailers, mobile homes, recreational vehicles, motorcycles, truck campers, boats, and commercial vehicles. The provisions of this paragraph shall not apply to temporary construction shelters or facilities maintained during and used exclusively in connection with the construction of any dwelling or other improvement. Commercial vehicles engaged in the delivery or pick-up of goods or services shall be exempted from the provisions of this paragraph providing that they do not remain within a Lot in excess of the reasonable period of time required to perform such commercial function.

(d) No abandoned or inoperable automobiles or vehicles of any kind shall be stored or parked within the Community. An "abandoned or inoperable vehicle" shall be defined by Colorado statutes governing inoperable or abandoned vehicles on public streets, or as defined by rule or regulation adopted by the Board of Directors. In the event that the Association shall determine a vehicle is an abandoned or inoperable vehicle, then a written notice describing said vehicle shall be delivered to the Lot Owner thereof or shall be conspicuously placed upon the vehicle. If the abandoned or inoperable vehicle is not removed within seventy-two (72) hours after providing such notice, the Association shall have the right to remove the vehicle, and the owner thereof shall be solely responsible for all towing and storage charges.

(e) No activity such as, but not limited to, maintenance, repair, rebuilding, dismantling, repainting, or servicing of any kind of vehicle, trailer, or boat may be performed or conducted on the Common Elements, except as permitted by written approval of the Board of Directors.

## **ARTICLE X - Easements**

### **Section 10.1 Easements.**

In addition to Lot Owner's Easement of Enjoyment described in Section 4.1, the easements over and across the Common Area shall be those shown or provided for upon the recorded plat of 20<sup>th</sup> Hole Townhome Subdivision Filing No. 1 and such other easements across and upon as may be necessary or required for drainage and construction, installation, repairing, and maintaining of all utilities, including, but not limited to, sewer, water, gas, telephone, and electricity and as may be established pursuant to the provisions of this Declaration.

## **ARTICLE XI - General Provisions**

### **Section 11.1 Enforcement.**

The Association, or any other Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter

### **Section 11.2 Membership Succession.**

Any person, firm, corporation, or other entity which shall succeed to the title of any Owner through foreclosure of a Deed of Trust or other type of security instrument or through other legal proceedings, shall upon issuance of the official deed to any Lot, become thereupon a Member of the Association as Owner and shall succeed to the rights, duties, and liabilities of the previous Owner as herein provided. Conveyance by such person, firm, corporation, or other entity shall pass membership in the Association to the Buyer as herein provided.

**Section 11.3 Amendment.**

The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, or the Owner of any Lot subject to this Declaration, their respective legal representatives, heirs, successors, and assigns, for a term of sixty (60) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years unless more than six (6) Owners vote to terminate it. The covenants and restrictions of this Declaration may be amended by an instrument approved by not less than five (5) of the Owners.

**Section 11.4 Severability.**

Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

**Section 11.5 Interpretation.**

The provisions of this Declaration shall be liberally construed to effectuate their purposes of creating a uniform plan for promoting and effectuating the fundamental concepts as set forth in the recitals of this Declaration. This Declaration shall be construed and governed under the laws of the State of Colorado.

**Section 11.6 Singular Includes the Plural.**

Unless the context otherwise requires, the singular shall include the plural, and the plural shall include the singular, and each gender referral shall be deemed to include the masculine, feminine and neuter.

**Section 11.7 Conflict of Provisions.**

In case of conflict between this Declaration and the Articles of Incorporation, Bylaws, or Policies and Regulations adopted by the Board of Directors, this Declaration shall control. In the case of conflict between the Articles of Incorporation and Bylaws or Policies and Regulations adopted by the Board, the Articles of Incorporation shall

control. In the case of conflict between the Bylaws and Policies or Regulations adopted by the Board, the Bylaws shall control.

## **ARTICLE XII - Damage, Destruction, or Condemnation**

### **Section 12.1 Owners' Obligation to Rebuild Lots.**

In the event that any structure or improvement on any Lot is damaged or destroyed by the Lot Owner, the Lot Owner will promptly repair and reconstruct to substantially the same condition in which the structure or improvement existed prior to the damage or destruction. The Association shall make available to the Lot Owner any insurance proceeds received by it for such casualty. However, the Lot Owner shall be responsible for paying any deductibles.

In the event any Lot Owner shall fail to perform his maintenance, repair or replacement obligation in a manner satisfactory to the Association, the Association shall repair or replace the damage and all cost will be considered an assessment to the Lot Owner.

### **Section 12.2 Condemnation of Common Areas.**

If at any time all or any part of the Common Area of the project shall be taken or condemned by any public authority or sold or otherwise disposed of in lieu of or in avoidance thereof, all compensation, damages, or other proceeds therefrom shall be payable to the Association. The Association shall be obligated to use these funds to put back the Common Area into its most useable form as determined by the Board of Directors.

## **ARTICLE XIII - Insurance**

### **Section 13.1 Insurance Carried.**

The Association shall obtain and maintain in full force and effect, to the extent reasonably available and at all times, the insurance coverage set forth herein and as set forth in the Act, which insurance coverage shall be provided by financially responsible and able companies duly authorized to do business in the State of Colorado. The

Association shall maintain, to the extent reasonably available, insurance policies with the following terms or provisions:

(a) All policies of insurance shall contain waivers of subrogation and waivers of any defense based on invalidity arising from any acts of any Lot Owner and shall provide that such policies may not be cancelled or modified without at least thirty days prior written notice to all the Lot Owners, holders of first lien security interests and the Association.

(b) If requested, duplicate originals of all policies and renewals thereof, together with proof of payments of premiums, shall be delivered to all Lot Owners within ten (10) days new or renewed policy becoming effective

(c) All liability insurance shall include the Association, the Board, the manager or managing agent, if any, the officers of the Association, holders of first lien security interests, their successors and assigns and Lot Owners as insured.

(d) In no event shall any casualty insurance policy contain a co-insurance clause.

(e) Lot Owners may carry and are advised to carry other insurance on the Improvements and personal property in their Lot for their personal benefit and at their expenses, provided that the liability of the carriers issuing insurance obtained by the Association shall not be affected or diminished by reason of any such insurance carried by Lot Owners and provided, further, that the policies of insurance carried by the Association shall be primary, even if a Lot Owner has other insurance that covers the same loss or losses as covered by policies of the Association. In this regard, the Association's insurance coverage, as specified hereunder, does not obviate the need for Lot Owners to obtain insurance for their own benefit.

(f) All policies of insurance shall provide that the insurance thereunder shall be invalidated or suspended only in respect to the interest of any particular Lot Owner guilty of a breach of warranty, act, omission, negligence or non-compliance of any provision of such policy, including the payment of the insurance premium applicable to the Lot Owner's interest, or who permits or fails to prevent the happening of any event whether occurring before or after a loss, which under the provisions of such policy would otherwise invalidate or suspend the entire policy, but the insurance under any such policy, as to the interests of all other insured Lot Owners not guilty of any such act or omission shall not be invalidated or suspended and shall remain in full force and effect.

**Section 13.2 Hazard Insurance on the Lots and Common Elements.**

The Association shall obtain adequate hazard insurance covering loss, damage or destruction by fire or other casualty to the Improvements, installed or made to Lots and to the Common Elements and other property of the Association, for the current full replacement value without deduction for depreciation. The Association shall be responsible for the replacement of doors, windows, decks, stairs, rear patios, foundations, interior concrete slabs, party walls, utilities and utility lines if the same need to be replaced as a result of a catastrophic loss such as a fire. If the Property is located in an area having special flood hazards and the sale of Flood Insurance has been made available, the Association shall obtain such coverage. Insurance obtained on the Lots is not required to include improvements and betterments installed by Lot Owners. If coverage purchased by the Association includes improvements and betterments installed by Lot Owners, the cost thereof may be assessed to each Lot in proportion to risk. All blanket hazard insurance policies shall contain a standard non-contributory mortgage clause in favor of each holder of first lien security interests, and their successors and assigns, which shall provide that the loss, if any thereunder, shall be payable to the Association for the use and benefit of such holders of first lien security interests, and their successors and assigns, as their interests may appear of record in the records of the office of the Clerk and Recorder of Arapahoe County, State of Colorado.



**Section 13.3 Liability Insurance.**

The Association shall obtain an adequate policy of general liability and property damage liability insurance covering the Common Elements, in such limits as the Board may determine from time-to-time, but not in any amount less than One Million Dollars (\$1,000,000.00) per injury, per person, and per occurrence, and in all cases covering all claims for bodily injury or property damage. Coverage shall include, without limitation, liability for personal injuries, operation of automobiles on behalf of the Association, and activities in connection with the ownership, operation, maintenance and other uses of the Community. All liability insurance shall name the Association as the insured.

**Section 13.4 Fidelity Insurance.**

The Association shall obtain adequate fidelity coverage or fidelity bonds to protect against dishonest acts on the parts of its officers, directors, trustees and employees and on the part of all others who handle or are responsible for handling the funds of the Association, including persons who serve the Association with or without compensation. The fidelity coverage or bonds should be in an amount sufficient to cover the maximum funds that will be in control of the Association, its officers, directors, trustees and employees.

**Section 13.5 Worker's Compensation and Employers' Liability Insurance.**

The Association shall obtain worker's compensation and employer's liability insurance and all other similar insurance with respect to its employees in the amounts and forms as may now or hereafter be required by law.

**Section 13.6 Officer's and Directors' Personal Liability Insurance.**

The Association shall obtain officers' and directors' personal liability insurance to protect the officers, directors, committee members and any person acting at the discretion of the Board from personal liability in relation to their duties and responsibilities in acting on behalf of the Association.

**Section 13.7 Other Insurance.**

The Association may obtain insurance against such other risks, as it shall deem appropriate with respect to the Association's responsibilities and duties.

**Section 13.8 Insurance Premium.**

Except as assessed in proportion to risk, insurance premiums for the above provided insurance shall be a Common Expense to be included as part of the Annual Assessments levied by the Association.

**Section 13.9 Managing Agent Insurance.**

The manager or managing agent, if any, shall be adequately insured for the benefit of the Association and shall maintain and submit evidence of such coverage to the Association. The Association may indemnify its managing agent, except for that agents' intentional acts or omissions or negligence outside the scope of their duties and obligations to the Association, or outside of direction from the Association.

**Section 13.10 Annual Insurance Review.**

The Board shall review the insurance carried by and on behalf of the Association at least annually, for the purpose of determining the amount of insurance required.

**Section 13.11 Adjustments by the Association.**

Any loss covered by an insurance policy described above shall be adjusted by the Association, and the insurance proceeds for that loss shall be payable to the Association and not to any holder of a first lien security interest. The Association shall hold any insurance proceeds in trust for the Association, Lot Owners and holders of first security interests as their interests may appear. Proceeds must be distributed first for the repair or restoration of the damaged property. The Lot Owners and holders of security interests are not entitled to receive payment of any portion of the proceeds. The Association, through the Board of Directors, may determine how a surplus of proceeds, if any, shall be utilized.

**Section 13.12 Duty to Repair.**

Any portion of the Community for which insurance is required under this Article, which is damaged or destroyed must be repaired or replaced promptly by the Association or Lot Owner.

**Section 13.13 Condemnation and Hazard Insurance Allocations and Distributions.**

In the event of a distribution of condemnation proceeds or hazard insurance proceeds to the Lot Owners, the distribution shall be as the parties with interests and rights are determined or allocated by record and pursuant to the Act.

**Section 13.14 Responsibility for Payment of Deductible Amount.**

Whether the Board, in its discretion, chooses to submit a claim under the Association's insurance policies or not, the payment of the deductible amount for claims which the Association is responsible for insuring shall be as follows:

(a) The Association shall pay or absorb the deductible amount for any work, repairs or reconstruction for damage to Common Elements unless the damage is caused by the negligent or willful act or omission of an Owner, an Owner's family, guests, or invitees, in compliance with and under Section 8.3 of the Declaration.

(b) Any loss falling within the deductible portion of the Association's policies to property for which Owners have repair and maintenance responsibility shall be paid or absorbed by the Owners of the Lots involved in the same proportion as each Owner's claim bears to the total amount of insurance proceeds paid for the occurrence.

IN WITNESS WHEREOF, the undersigned, being the President of 20<sup>th</sup> Hole Townhome Subdivision, Inc., hereby certifies that the Association has obtained approval of this Second Revised and Restated Declaration of Covenants, Conditions, and Restrictions of 20<sup>th</sup> Hole Townhome Subdivision from 7 Lot Owners.

**20<sup>TH</sup> Hole Townhomes Association, Ltd.**

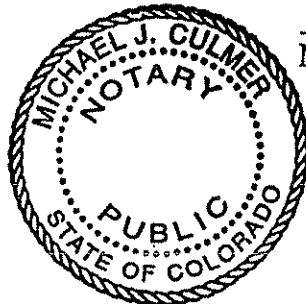
By: Midge B. Abel  
President

STATE OF COLORADO                    )  
  ) ss.  
COUNTY OF ARAPAHOE                )

I, the undersigned Notary Public in the State of Colorado, do certify that on this 15<sup>th</sup> day of OCT, 2008, Maryabel, appeared before me as President of 20<sup>th</sup> Hole Townhomes Association and after being duly sworn upon his oath, did affirm and verify above was true and correct to the best of his information and belief.

WITNESS my hand and official seal.

My commission expires: 10/25/2009



Michael J. Culmer  
Notary Public

ATTEST:

By: Candace Hol Webb  
Secretary

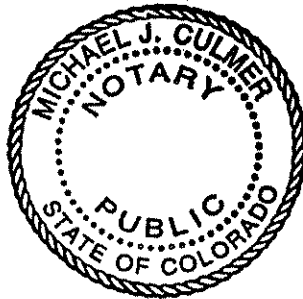
STATE OF COLORADO )  
 ) ss.  
COUNTY OF ARAPAHOE )

I, the undersigned Notary Public in the State of Colorado, do certify that on this 15<sup>th</sup> day of OCT, 2008, Candace Hol Webb, appeared before me as the Secretary of 20<sup>th</sup> Hole Townhomes Association, and after being duly sworn upon his oath, did affirm and verify above was true and correct to the best of his information and belief.

WITNESS my hand and official seal.

My commission expires: 10/25/2009

Michael J. Culmer  
Notary Public



**EXHIBIT A**

**DESCRIPTION OF REAL ESTATE**

20<sup>th</sup> Hole Townhome Subdivision Filing No. 1 according to the Plat recorded with the Clerk and Recorder of Arapahoe County at Book 122, Page 50.