

52 PAGE DOCUMENT

**AMENDED DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS AND EASEMENTS FOR
THE MASTER SUBDIVISION OF THE SEASONS AT TIARA RADO**

Table of Contents

ARTICLE 1. DEFINITIONS1

ARTICLE 2. USE RESTRICTIONS APPLICABLE TO ALL LOTS IN THE SUBDIVISION6

ARTICLE 3. USE RESTRICTIONS SPECIFIC TO FILING ONE, LOTS 1-1414

ARTICLE 4. USE RESTRICTIONS SPECIFIC TO FILING TWO, LOTS 1-1815

ARTICLE 5. USE RESTRICTIONS SPECIFIC TO FILING THREE, LOTS 2-16..... 16

ARTICLE 6. USE RESTRICTIONS SPECIFIC TO FILING FOUR, LOTS 1-1816

ARTICLE 7. USE RESTRICTIONS SPECIFIC TO FILING FOUR, LOTS 19-4018

ARTICLE 8. USE RESTRICTIONS SPECIFIC TO FILING FIVE, LOTS 1-18 AND TRACT A.....20

ARTICLE 9. USE RESTRICTIONS SPECIFIC TO FILING SIX, Lots 1-34 and Tracts A-F..... 24

ARTICLE 10. DESIGN REVIEW COMMITTEE..... 32

ARTICLE 11. CONSTRUCTION MAINTENANCE.....35

ARTICLE 12. PROPERTY RIGHTS IN THE COMMON AREA..... 36

ARTICLE 13. EASEMENTS AND RESERVATIONS.....37

ARTICLE 14. MEMBERSHIP AND VOTING RIGHTS37

ARTICLE 15. ASSESSMENTS.....38

ARTICLE 16. DURATION OF AMENDED DECLARATION42

ARTICLE 17. REGISTRATIONS OF MAILING ADDRESS AND LEASES42

ARTICLE 18. INSURANCE43

ARTICLE 19. GENERAL PROVISIONS AND MISCELLANEOUS.....48

RECITALS

THIS AMENDED DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS, AND EASEMENTS (hereafter the "Amended Declaration") for The Master Subdivision of The Seasons of Tiara Rado formerly "The Master Subdivision of the Seasons at Tiara Rado South" and hereafter referred to as the "Subdivision"), a subdivision of land located in Mesa County, Colorado, supersedes and entirely replaces the Declaration of Covenants, Conditions, and Restrictions and Easements of The Master Subdivision of Tiara Rado South of April, 24, 1990 and recorded at Book 1786, Page 241 of the records of the Mesa County, Colorado Clerk's Office and all supplements and amendments thereto, whether applicable to the entire Subdivision or to specific filings therein (the "Former Declaration").

The Owners of the Lots within the Subdivision desire to subject the Subdivision to this Amended Declaration as a part and in furtherance of the general plan or scheme of development represented by the Former Declaration and the existing improvements located in the Subdivision, for the purpose of, among other things, maintaining the value of the property, the aesthetic qualities of the Subdivision, and access to the Common Area.

All property in the Subdivision shall be held, sold, and conveyed subject to the following covenants, conditions, restrictions, and easements, and they shall be binding on all Owners, their heirs, successors, and assigns of all parties having any right, title, or interest in any part of the Subdivision.

ARTICLE 1. DEFINITIONS

Section 1.01 The following words, as used in this Amended Declaration or in any amendment or supplement thereto, or in any other Governing Document or any amendments thereto, unless clearly inconsistent with the context, shall have the following meanings:

(a) "Amended Declaration" shall mean and refer to this Amended Declaration of Covenants, Conditions, Restrictions, and Easements for The Master Subdivision of the Seasons at Tiara Rado.

(b) "Articles" (when not an internal reference to the article divisions of this Amended Declaration) shall mean and refer to the Articles of Incorporation of the Association, as the same may be amended from time to time.

(c) "Association" shall mean and refer to The Seasons at Tiara Rado Homeowners' Association, a Colorado non-profit corporation, its successors and assigns.

(d) "Board" shall mean and refer to the governing Board of Directors of the Association.

(e) "Building" shall mean and refer to any physical structure, including all fixtures, attachments, and accessions thereto, which is designed, intended, or used for human habitation.

(f) "Building Envelope" means the area within a Lot upon which Buildings may be constructed without violating the requirements of any applicable Site Plan, or the local building codes and regulations, including, without limitation, applicable setback requirements.

(g) "Bylaws" shall mean and refer to the Bylaws of the Seasons at Tiara Rado Homeowners' Association as adopted by the Board and as may be amended from time to time.

(h) "Common Area" shall mean and refer to all real property (including the Improvements thereto) owned by the Association, or acquired subsequently to the adoption of this Amended Declaration, for the common use and enjoyment of the Owners. The Common Area includes, without limitation:

The two (2) out lots designated as "common" as shown on the plat of the Seasons at Tiara Rado Filing No. 2 recorded in the records of the Mesa County Clerk and Recorder Plat Book 13, Page 40.

Lots A, B, C, D, and E as shown on the plat of the Seasons at Tiara Rado Filing No. 3 recorded in the records of the Mesa County Clerk and Recorder in Plat Book 14, Page 84.

Lots A, B, C, D, E, and F as shown on the plat of the Seasons at Tiara Rado Filing No. 4 recorded in the records of the Mesa County Clerk and Recorder in Plat Book 14, Page 229.

Lot A as shown on the plat of the Seasons at Tiara Rado Filing No. 5 recorded in the records of the Mesa County Clerk and Recorder in Plat Book 17, Page 241; and

Tracts A, B, C, D, E, and F as shown on the plat of the Seasons at Tiara Rado Filing No. 6 recorded in the records of the Mesa County Clerk and Recorder in Plat Book 18, Page 109.

(i) "Completion of Construction" shall mean the earlier of the receipt of a certificate of occupancy from the local building authority or substantial completion of the work necessary for use or occupation of the Building or Improvement, as the case may be, as described on a plan or plans approved by the DRC.

(j) "Common Expenses" means (1) all expenses expressly declared to be common expenses by this Amended Declaration; (2) all other expenses of administering, servicing, conserving, managing, maintaining, repairing, or replacing the common elements; (3) insurance premiums; (4) utilities not separately metered to specific Lots; (5) a reasonable and adequate contingency or reserve fund for insurance deductibles and general routine maintenance, repairs and replacement of improvements within the Common Area on a periodic basis, as needed; (6) all expenses lawfully determined to be common expenses by the Board; and (7) other costs including, but not limited to, costs of collection, fines, fees, interest, and attorneys' fees.

(k) "DRC" is an acronym standing for "Design Review Committee" and shall mean and refer to the standing committee of the Board created pursuant to the provisions of Article 9 of this Amended Declaration.

(l) "Directors" shall mean and refer to those individuals serving on the Board.

(m) "Governing Documents" shall mean and refer to the Maps, Site Plans, Articles, Bylaws, Amended Declaration, and all Policies, Procedures, Rules, Resolutions and Regulations of the Association as the same may be amended from time to time.

(n) "Improvement" shall mean and refer to any and all exterior elements, fixtures, utilities services, outlets, and related facilities, awnings, parking areas, fences, screening fences, retaining walls, stairs, decks, hedges, windbreaks, plantings, trees, shrubs, signs, objects of art, mailboxes, and other facilities, such as pumps, pipes and sprinklers and other structures or things of every type and kind not naturally occurring situated or to be situated on the Lots, except Buildings, as defined above.

(o) "Lot" shall mean and refer to any plot of land shown upon any recorded Map, including all or a portion of the Subdivision, except the Common Area.

(p) "Maps" shall mean and refer to those certain maps and plats of the Subdivision showing the Lots recorded in the records of the Mesa County Clerk and Recorder including, without limitation, the document entitled The Seasons at Tiara Rado Filing No. 1, recorded in Plat Book 13 at Page 469, the document entitled The Seasons at Tiara Rado Filing No. 2, recorded in Plat Book 14 at Page 40, the document entitled The Seasons at Tiara Rado Filing No. 3, recorded in Plat Book 14 at Page 84, the document entitled The Seasons at Tiara Rado Filing No. 4, recorded in Plat Book 14 at Page 229, the document entitled The Seasons at Tiara Rado Filing No. 5, recorded in Plat Book 17 at Page 241, and the document entitled The Seasons at Tiara Rado Filing No. 6, recorded in Plat Book 18 at Page 109.

(q) "Member" shall mean and refer to each and every separate Owner. A Member that is not a natural person may be represented in the affairs of the Master

Association by any member, partner, trustee, officer, director or owner having at least twenty-five percent (25%) ownership or beneficial interest in such Member.

(r) "Membership" shall mean and refer to the state of being a Member or where the context requires otherwise, the group of all Members.

(s) "Owner" shall mean and refer to the owner of the fee simple title to any Lot in the Subdivision as reflected in the records of the Mesa County Clerk and Recorder whether one or more natural persons, limited liability companies, partnership(s), unincorporated association(s), or any other natural or legal entity or combination thereof.

(t) "Policies", "Procedures", and "Rules" and "Regulations," used together or separately, shall mean and refer to those resolutions adopted by the Board to amplify and assist with the implementation and enforcement of the Governing Documents.

(u) "Secretary" means the individual duly appointed under the terms of the Governing Documents to the corporate office of Secretary, enumerated and described with its duties and responsibilities in the Governing Documents.

(v) "Start of Construction" shall mean the earlier of the date on which the first work was performed in the process of constructing or installing any Building or Improvement or the date an application was made with the DRC or the local building authority for permission to begin such work.

(w) "Site Plans" means and refers to those documents appearing in the records of the Mesa County Clerk and Recorder designed with the words "Site Plan" and that show and define, among other things, the Building Envelopes on certain Lots. The Site Plans include, without limitation:

The Seasons at Tiara Rado Subdivision Filing No. 4 Site Plan, recorded in the records of the Mesa County Clerk and Recorder in Book 14, at Page 276.

The page entitled "Site Plan" attached to the plat map of the Seasons at Tiara Rado Filing No. 5 appearing in the records of the Mesa County Clerk and Recorder in Plat Book 17, at Page 241.

The page entitled "Site Plan" attached to the plat map of the Seasons at Tiara Rado Filing No. 6 appearing in the records of the Mesa County Clerk and Recorder in Plat Book 18, at Page 109.

(x) "Subdivision" shall mean and refer to that certain real property in the County of Mesa, State of Colorado, which is described and platted as The Master Subdivision of The Seasons at Tiara Rado and additions thereto, as shown on the Maps.

ARTICLE 2. USE RESTRICTIONS APPLICABLE TO ALL LOTS IN THE SUBDIVISION

Section 2.01 Use of Lots. The Lots in the Subdivision shall all be used solely for residential purposes and home occupations incidental to residential use. No trade, craft, business, profession, commercial or similar activity of any kind shall be conducted on or from any Lot. For purposes of this Section, "home occupations incidental to residential use", shall mean an occupation by the resident of a Lot conducted entirely within the Building thereon (including the storage and use of any goods, equipment, materials, and/or supplies), which does not entail employment of third persons on, visits from customers to, or the delivery of goods or services to the Lot in such quantity, with such frequency, or at such times as would present to the casual observer, in the opinion of the Board, that commercial activities take place upon premises. Each Lot shall not contain more than one (1) Building and no Building shall contain more than one (1) kitchen or cooking facility.

Section 2.02 Use of Common Area.

(a) 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.

(b) Use of the Common Area shall be subject to the Governing Documents.

(c) No use shall be made of the Common Area which would deny ingress and egress to those Owners having access to Lots only over the Common Area, and the right of ingress and egress to said Lots by vehicles and otherwise is hereby expressly granted and reserved.

Section 2.03 Drainage and Grading. The actual construction, and all plans and specifications for the construction, of any Building or Improvement shall maintain all drainage easements and rights-of-way within the Subdivision clear and unobstructed. All grading on a Lot shall be done with a minimum of disruption to the Lot and shall not drain surface water to adjoining Lots unless along a natural drainage path, nor shall grading be permitted to cause soil erosion. Grading shall be confined to each Lot, and shall be subject to review by the DRC.

Section 2.04 Exterior Lights. All Buildings, except those located in Filing 2, shall maintain at least two exterior lights on the facade on which the main entry is located. Unless previously approved, at least one light must illuminate the Building's address numbers. Each light will be operated by a photocell which turns the lights on at approximately dusk and turns them off at approximately dawn and which operates seven (7) nights a week. The lights on any Building shall have matching light shades to one another and shall not be unreasonably bright or cause glare when viewed from the street, nearby Lots, or the Common Area.

Section 2.05 Animals. No pure breed or mix breeds of horses, cattle, sheep, goats, pigs, rabbits, poultry, or other animals of any description shall be kept or maintained on any Lot except as expressly provided in this section. Owners may keep two domestic pets so long as such pets are not kept for commercial purposes and do not make objectionable noises or otherwise constitute a nuisance or inconvenience to any of the residents of the Subdivision. Owners shall not permit their pets to roam within the Subdivision and will remove all pet waste from the Lots, Common Areas, and other portions of the Subdivision, including public streets and sidewalks, promptly. Pets off an Owner's property must be on leash.

Section 2.06 Temporary Structures and Uses. No temporary Building, trailer, tent, garage, or other structure of any kind or description shall be placed or erected upon any Lot nor shall any of the foregoing be occupied at any time. No Building placed or erected upon any Lot shall be occupied in any manner at any time prior to its being fully completed in accordance with approved plans. During the actual construction or alteration of a Building or Improvement on any Lot, necessary temporary or mobile structures for the purpose of storing materials may be erected and maintained by the person(s) doing such work until Completion of Construction, however, such temporary or mobile structures shall not be occupied in any manner at any time.

Section 2.07 Signs. Political signs shall be permitted to be placed upon the Lots only in accord with City ordinances. Standard real estate signs not greater than 30 inches by 18 inches are permitted. Such signs must be removed within 10 days after transfer of ownership occurs or a lease has been signed. All signs must be free standing and cannot be placed on any wall, fence, building, tree, bush or other structure. Signs no larger than 9 inches by 11 inches relating to a home security and alarm system are permitted. A general building contractor constructing a new residence on a Lot is permitted one sign no larger than 9 square feet in sign area. The general contractor can permit subcontractors or suppliers to use space within the 9 square foot area. No separate subcontractor or supplier signs are permitted. Signs of contractors or suppliers performing maintenance or repair work in the subdivision are not permitted. No advertising, billboards, or signs of any character shall be erected, placed, permitted or maintained on the Common Area without the Association's express written consent. All signage must be kept in good repair and appearance or it may be removed at the discretion of the Board.

Section 2.08 Property to be Maintained. Each Lot, all Buildings, and all Improvements shall at all times be kept in a clean, well-maintained condition. No trash, dirt piles, gravel piles, litter, junk, boxes, containers, bottles, cans, implements, machinery, lumber or other junk, trash, rubbish, or building materials shall be permitted to remain exposed upon any Lots so that same are visible from any neighboring Lot or street. Owners shall not allow noxious weeds to grow on their property. No garbage, refuse, rubbish or cuttings shall be deposited on any street except for designated trash pickup days. Trash containers shall be kept in clean and

sanitary condition. Prior to disposal, all garbage, rubbish and trash shall be stored in appropriate trash receptacles and shielded from view.

Section 2.09 Underground Utility Lines. All electricity, television, cable, radio, telephone and other utility line installations and connections from the property line of a Lot to the corresponding Building or other structure shall be placed underground.

Section 2.10 No Noxious or Offensive Activity. No noxious or offensive activity shall be carried on upon any Lot nor within any Building; nor shall any material be placed on any Lot or within any Building which is or may become a nuisance or disturbance to others.

Section 2.11 No Hazardous Activities. No activities shall be conducted within or upon a part of the Subdivision, including on any Lot, which are or may be unreasonably hazardous to any person or property. No Owner shall use or permit its Lot to be used for the manufacture, storage, use, or disposal of any substance classified or categorized as hazardous by federal, state or local law or regulation ("Hazardous Material"), nor will any Owner do or permit any act or omission anywhere within the Subdivision that is in violation of any federal, state or local law or regulation. No Owner shall do or permit any act or omission anywhere within the Subdivision that would or may cause the cancellation of any insurance policy or any increase in the premium associated with any such policy. Each Owner shall indemnify and hold each other Owner, and the Association, harmless from and against all costs, including attorneys fees and other expert or professional consultant's fees, expenses, losses, liabilities, and damages of any nature, including personal injury, property damage, and remediation costs, which result or arise, in whole or in part, from their manufacture, storage, use, or disposal of any Hazardous Material within the Subdivision. Without limiting the generality of the foregoing, no firearms shall be discharged in the Subdivision and no open fires shall be lighted or permitted in the Subdivision. Fires are permitted in appropriate containers while attended and in use for cooking purposes or within safe and well-designated interior fireplaces or in other devices intended for the containment of open flame.

Section 2.12 No Annoying Light, Sounds or Odors. No light shall be emitted from any Lot or Building which is unreasonably bright or causes unreasonable glare; no sound shall be

emitted from any Lot or Building which is unreasonably loud or annoying to other Owners; and no odor shall be emitted from any Lot or Building which is unreasonably noxious or offensive to other Owners.

Section 2.13 Storage and Parking.

(a) All motor vehicles shall be parked, kept and stored in garages, driveways, or areas specifically designed and intended for the parking of vehicles only. Garages, driveways and parking areas are for the parking of vehicles and shall not be converted to living, recreational or business spaces.

(b) No Lot, street, private street, drive or parking area, unless specifically designated by the Association therefore, shall be used as a parking, storage, display or accommodation for any type of recreational vehicle, horse trailer, camping trailer, boat trailer, hauling trailer, boat or accessories thereto, or any type of motor home, except during a period of temporary expedience, described in Section 2.33 below.

(c) Regardless of anything to the contrary in this section, emergency and other vehicles shall be permitted to park within the Subdivision in accordance with state, local, or other applicable law. Nothing in this section shall restrict trucks or other commercial vehicles within the Subdivision necessary for the construction of utilities, for the maintenance of structures, maintenance of yards and the Common Area, or for delivery of goods.

(d) Parking may be further described, limited or restricted by the Governing Documents.

Section 2.14 Construction Completion. The construction of any Building including painting and all exterior finish, shall be substantially completed and capable of the designed or intended use or occupation within nine (9) months from the Start of Construction.

Section 2.15 Fences, Walls and Hedges. All fences and walls, whether attached to a Building or located away from a Building, must be compatible with the Building and in locations

and constructed of materials as approved by the DRC. Permitted fence and wall exterior material are rock, stucco, wood and brick. Chain link fences are prohibited. Dog runs or enclosures for other pets shall be architecturally compatible with the Building. No fence, wall or hedge shall be permitted to stand higher than six (6) feet from the finished grade of the Lot immediately adjacent to the fence, wall, or hedge. Lots bordering the retention pond shall not have walls or fences higher than four (4) feet along the rear of the Lot and such walls shall not be closer than ten (10) feet from the berm or bank of the pond.

Section 2.16 Re-subdivision. Lots may not be further subdivided or combined with one another and the legal boundaries between Lots may not be changed or altered in any way from those shown on the Maps without the written consent of the Board

Section 2.17 Driveways. Concrete surfaces are required on all driveways unless topographic or soil conditions of a Lot preclude the use of concrete. Culverts, if necessary to facilitate proper drainage patterns around, or under driveways, are required. No graveled or otherwise unpaved driveway or parking area shall be permitted.

Section 2.18 Tree Heights. Landscaping must not unreasonably interfere with distant views from other Lots.

Section 2.19 Wood Piles. No woodpiles may be stored out of doors where they may be visible from any street or where they create an objectionable view from neighboring Lots.

Section 2.20 Manufactured Housing. No manufactured housing, mobile home, modular home or trailer shall be permitted to be used as the Building on a Lot, regardless of quality.

Section 2.21 Roof Materials. Any pitched roof surface must be covered with tile or slate material. Wood, asphalt and composite shakes, shingles or other styles of roofing materials are specifically prohibited for pitched roofs.

Section 2.22 Wildlife. No hunting, shooting, trapping or otherwise killing or harming of wildlife shall be permitted in the Subdivision, it being the intent hereof to conserve and

protect all wildlife to the fullest extent possible. Regardless of this section, Owners shall be permitted to trap and kill rodents, bugs, and other pests found on their property.

Section 2.23 Mining. No mining, quarrying, drilling, boring or exploring for or removing water, oil, gas or other hydrocarbons, minerals, rocks, stones, gravel or earth shall be permitted on any Lot.

Section 2.24 Plants and insects. No Owner shall permit to exist upon his Lot any noxious weeds or any plant harboring infectious disease or noxious insects.

Section 2.25 Swimming, Wading and Jetted Pools. No above ground-level swimming, wading, jetted or other pool intended for human use that is in excess of eight (8) feet in diameter shall be permitted. Ground level pools are permitted. All permitted swimming, wading, and jetted pools shall be reasonably hidden from public view. Decorative water features that are not intended for human use are permitted.

Section 2.26 Recreational and Sports Equipment. Recreational equipment such as basketball goals, volleyball nets, badminton nets, bicycles, children's toys and such similar equipment must be stored away from public view overnight or any extended periods of the day when not in use. Permanent recreational equipment such as "jungle gyms", swing sets, etc., must be approved by the DRC.

Section 2.27 Height Restriction. No structure shall be erected or maintained on any Lot which is in excess of the height restrictions set forth in Articles 3,4,5, and 6. Building height is measured from the building corner with the highest natural grade to the highest point on the Building. Natural grade means the grade of the Lot after roads, utilities and rough grades are completed but before any Owner or other person makes any modifications to the grade of the Lot.

Section 2.28 Clothes Lines and Storage. No clothes lines, drying yards, service yards or storage areas shall be visible from a street or from the Common Area.

Section 2.29 Repair. With the exception of exterior maintenance required by section 2.08, or properly approved construction of Buildings or Improvements, no activity, such as, but not limited to, maintenance, repair, rebuilding, dismantling, or servicing of any kind may be performed on any Lot unless it is done within completely enclosed garages or other structures located on the Lot which screen the sight and, to a reasonable degree, the sound of the activity from the street, from the Common Area, and from neighboring Lots. The foregoing restriction shall not be deemed to prevent washing and polishing of any motor vehicle together with those activities normally incident and necessary to such washing and polishing.

Section 2.30 Tanks. No tanks of any kind, elevated or buried, shall be erected, placed or permitted upon any Lot.

Section 2.31 Utilities. Each Building shall connect with the water and sanitation facilities provided by the appropriate governmental or quasi-governmental entity, and no private wells or private sewage systems shall be allowed in the Subdivision.

Section 2.32 Mechanical Equipment.

(a) All boilers, air conditioning equipment, and other mechanical equipment shall be concealed from public view from ground level whenever possible. Evaporative coolers and air conditioning equipment shall not be permitted on pitched roofs.

(b) Over-the-air reception devices regulated by the Federal Communications Commission, including satellite reception dishes less than one (1) meter in diameter, are permitted within the Subdivision; provided, however, that the Association may place restrictions on the location where such devices are installed, and require painting or other screening of such devices to the extent that such requirements do not unreasonably delay or prevent installation, unreasonably increase the cost of installation, maintenance or use, or preclude the reception of an acceptable signal.

(c) Protrusions from the roof of any Building must be painted so as to minimize their visibility.

Section 2.33 Temporary Expedience For Recreational Vehicles and Trailer. Owners are permitted to park Recreational Vehicles and Trailers within the Subdivision only as Temporary Expedience in support of loading or unloading. As used in this section a "Temporary Expedience" is a period of 24 hours, with no consecutive 24-hour periods allowed, the term "Recreational Vehicle" is as defined by Colorado statutes, and the term "Trailer" means any wheeled, non-self propelled means of transport, designed primarily for the transport of goods or materials or for the temporary living area for humans or animals. A variance may be granted by the Board.

Section 2.34 Vehicles in Extreme State of Disrepair. No Owner shall permit any vehicle which is in an extreme state of disrepair to remain parked upon any Lot or on any Common Area or on any street for a period of time in excess of forty-eight (48) hours except within the garage area of a Building. A vehicle shall be deemed to be in an extreme state of disrepair when it is not capable of self-propulsion, is missing major parts, including but not limited to wheels, fenders, bumpers, windshields or windows, or is otherwise so unsightly as to present a nuisance to the Subdivision.

Section 2.35 Nuisances and Determinations Regarding Use Violations. In the event a dispute arises under any provision of this Amended Declaration as to whether a particular use of a Lot constitutes a nuisance or annoyance so as to violate any provision hereof, the Association, acting through the Board, shall determine the matter in its sole and absolute discretion, exercised in accordance with the Governing Documents.

ARTICLE 3. USE RESTRICTIONS SPECIFIC TO FILING ONE, LOTS 1-14

Section 3.01 The following restrictions are applicable only to Lots 1-14, inclusive, of Filing One, according to the Plat thereof. Where a conflict exists between the following provisions and the provisions of Article 2, above, the provisions of this Article shall control with respect to the Lots to which it applies. In addition, Lots 1-14, inclusive, of Filing One are subject

to the Declaration of Covenants, Conditions, Restrictions and Easements of The Seasons at Tiara Rado Filing No. 1, recorded in book 1786 at Page 248, as amended by the Amendment 3/05/2007 recorded in Book 4369 at Page 202, all in the records of the Mesa County Clerk and Recorder (collectively, the "Filing 1 Documents"). This Amended Declaration does not change, alter, amend or supersede the Filing 1 Documents in any way and they remain in full force and effect.

(a) **Height Restrictions.** Maximum structure heights are eighteen (18) feet.

ARTICLE 4. USE RESTRICTIONS SPECIFIC TO FILING TWO, LOTS 1-18

Section 4.01 The following restrictions are applicable only to Lots 1-18, inclusive, of Filing Two, according to the Plat thereof. Where a conflict exists between the following provisions and the provisions of Article 2, above, the provisions of this Article shall control with respect to the Lots to which it applies. In addition, lots 1-18, inclusive, of Filing Two are subject to the Declaration of Covenants, Conditions, Restrictions and Easements of The Seasons at Tiara Rado Filing No. 2, recorded in Book 1883 at Page 717, as amended by the Amendment 4/20/92 recorded in book 1894 at Page 246 all in the records of the Mesa County Clerk and Recorder (collectively, the "Filing 2 Documents"). This Amended Declaration does not change, alter, amend or supersede the Filing 2 Documents in any way and they remain in full force and effect.

(a) **Height Restrictions.** Maximum structure heights are twenty-six (26) feet.

(b) **Building Size.** The ground floor area of a one-story Building shall not be less than 2,200 square feet. In the case of a two-story Building, the ground floor living level shall be not less than 1,400 square feet. Building size is exclusive of open porches, garages, and unfinished areas.

(c) **Building Setbacks.** No Building shall be located within 20 feet of any property line or such greater distance as may be required by the appropriate governmental entity.

(d) **Driveways.** Concrete surfaces will be required on all driveways with the exception of Lot 10. Lot 10 shall be permitted either a concrete driveway or asphalt driveway.

(e) **Mailboxes.** Mailboxes shall be installed and provided for by the Owner.

(f) **Roof Design.** Roof design must be approved by the DRC.

ARTICLE 5. USE RESTRICTIONS SPECIFIC TO FILING THREE, LOTS 2-16

Section 5.01 The following restrictions are applicable only to Lots 2-16, inclusive, of Filing Three, according to the Plat thereof. Where a conflict exists between the following provisions and the provisions of Article 2, above, the provisions of this Article shall control with respect to the Lots to which it applies. In addition, Lots 2-16, inclusive, of Filing Three are subject to the Declaration of Covenants, Conditions, Restrictions and Easements of The Seasons at Tiara Rado Filing No. 3, recorded in book 1977 at Page 890, as amended by the Amendments 12/4/07 recorded in book 4567 at Page 341, all in the records of the Mesa County Clerk and Recorder (collectively, the "Filing 3 documents"). This Amended Declaration does not change, alter, amend or supersede the Filing 3 documents in any way and they remain in full force and effect.

(a) **Height Restrictions.** Maximum structure heights are thirty-five (35) feet.

ARTICLE 6. USE RESTRICTIONS SPECIFIC TO FILING FOUR, LOTS 1-18

Section 6.01 The following restrictions are applicable only to Lots 1-18, inclusive, of Filing Four, according to the Plat thereof. Where a conflict exists between the following

provisions and the provisions of Article 2, above, the provisions of this Article shall control with respect to the Lots to which it applies. In addition, Lots 1-18, inclusive, of Filing Four are subject to the Declaration of Covenants, Conditions, Restrictions and Easements of The Seasons at Tiara Rado Filing No. 4, recorded in Book 2075 at Page 215, as amended 3/13/95 by the Amended and Restated Declaration of Covenants, Conditions, Restrictions and Easement of The Seasons at Tiara Rado Filing No. 4 Lots 1-18 in Book 2132 at Page 620, as amended 6/7/2007 the Second Amendment to the Declaration of Covenants, Conditions, Restrictions and Easements of The Seasons at Tiara Rado Filing No. 4 (Lots 1-18) in Book 4442 at Page 3, as amended 3/12/2009 the Third Amendment to the Declaration of Covenants, Conditions, Restrictions and Easements of The Seasons at Tiara Rado Filing No. 4 (Lots 1-18) in book 4811 at Page 367, and as amended 6/14/2011 the Fourth Amendment to the Declaration of Covenants, Conditions, Restrictions and Easements of The Seasons at Tiara Rado Filing No. 4 (Lots 1-18) in Book 5166 at Page 958, all in the records of the Mesa County Clerk and Recorder (collectively, the "Filing 4 Documents"). This Amended Declaration does not change, alter, amend or supersede the Filing 4 (Lots 1-18) Documents in any way and they remain in full force and effect.

(a) **Height Restrictions.** Maximum structure heights are eighteen (18) feet.

(b) **Walls Adjoining Berm and Golf Course.** Walls may be constructed at the rear of any Lot where such Lot abuts the Tiara Rado Golf Course or the common area located on Lot C immediately to the rear of Lots 10 through 18, inclusive. If such a wall is built, it shall be no higher than 4 feet above the average finished grade on both sides of the finished wall and uniform in design, material and color as may be specified by the DRC. All such walls must be within the boundaries of the Lot and may not be closer than ten (10) feet, measured perpendicularly, from the property line of Lot C, if applicable.

(c) **Mailboxes.** No Owner shall place or install a mailbox or newspaper delivery box on any Lot.

(d) Plans Applicable to Courtyard Residences. Construction on any Lot shall be in strict accordance with the Site Plan, Wall and Fence Plan, and the Drainage Plan for Filing No. 4, Lots 1-18. Building design shall be substantially similar to the homes constructed in Filing No. 1, provided that the rear wall may be extended up to four (4) feet and the front bedroom wall may be extended by two (2) feet. The Buildings on Lots 1, 2, and 7 may have a concrete pad or additional attached living areas on the side of the garage in the area shown on the Site Plan.

(e) Parking. Each Lot, including any garages constructed thereon, shall provide for enough off-street parking to accommodate at least four (4) vehicles.

(f) Windows and Doors. No doors or windows capable of being opened are permitted in any walls or fences that are located on the setback line in the exclusive easement areas shown on the Plat. Fixed, obscure glass or acrylic windows are permitted but no "see-through" glass is permitted unless the bottom of the glass is at least 72 inches above the finished floor of the main living level of the Building.

ARTICLE 7. USE RESTRICTIONS SPECIFIC TO FILING FOUR, LOTS 19-40

Section 7.01 The following restrictions are applicable only to Lots 19-40, inclusive, of Filing Four, according to the Plat thereof. Where a conflict exists between the following provisions and the provisions of Article 2, above, the provisions of this Article shall control with respect to the Lots to which it applies.

(a) Building Setbacks. Building setbacks shall be in accordance with the setbacks shown on the Plat as recorded for Filing 4, The Seasons at Tiara Rado Subdivision.

(b) Setbacks for Walls, Hedges and Fences. Fences, hedges and walls shall be no higher than six (6) feet unless previously approved and shall not be closer than fifteen (15) feet from any front property line unless previously built as approved. Setbacks are described in Plat Book 14 at page 229 of Mesa County Clerk and

Recorder. No fence, wall or hedge shall be closer than ten (10) feet to the edge of the pond berm or bank located behind Lots 34-40. All rear walls must be within the boundary of the Lot. Each proposed wall is subject to DRC approval.

(c) **Building Size.** The ground floor area of two-story Buildings on Lots 19-33 shall be not be less than 1,300 square feet, outside measurements. Building size is exclusive of open porches, garages, and unfinished areas. Only detached, single-family Buildings may be constructed on any Lot, and only one per Lot. Every Building shall have a private garage for no less than 2 cars.

(d) **Building Height and Living Level Limitations.** Maximum building height limitations shall be twenty-six feet (26') for Lots 19 through 33; and 18 feet for Lots 34- 40. Lots 19-33 shall be limited to two living levels above the natural grade of the Lot. This provision is exclusive of basements. Lots 34-40 shall be limited to one living level above the natural grade of the Lot. This provision is exclusive of basements. Basements shall not extend more than 3 feet above the natural grade of the Lot.

(e) **Irrigation Water.** Reasonable amounts of available Irrigation water shall be made available to each Lot for use thereon through a system to be maintained by the Association. The Association shall have the right to assess the Owner(s) of each Lot a tap fee not to exceed \$500.00 at the time of hook-up to the irrigation system. The Association shall have the right to assess the Owner(s) of each Lot a pro rata share of the cost of operation and maintenance of the said irrigation system.

(f) **Sand Wash.** The sand wash along the rear of Lots 28 through 33 shall not be disturbed and shall be kept in its natural state provided that flora indigenous to this area may be planted and cared for.

(g) Pond. Owners are not permitted to take water from the pond. No waste, trash, or hazardous chemicals or materials shall be permitted to enter the Pond. Employees, contractors, managers and representatives of the Association shall have access to and around the Pond at any time for the maintenance and care of the Pond. An area at least 10 feet from the edge of the Pond berm bank shall be kept clear of obstructions so as to provide access for maintenance of the Pond.

(h) Lot G. Permitted uses on a non-exclusive basis of this Lot G are as follows:

Residential driveway for up to two residential lots to be located on the east side of the canal outside of the Subdivision subject to an easement agreement; and,

Irrigation, drainage and utility easement; and,

Redlands Water and Power Canal easement; and,

Pedestrian and non-motorized bikeway easement for the purpose of accessing a proposed trail from the limited easement in the southeast corner of Filing 4 via Lot B.

(i) Rear of Lots 21 through 28. The Redlands Water and Power Company has a non-exclusive easement 50 feet wide measured 25 feet either side of the centerline of the canal. Lot Owners for Lots 21-28 are permitted to have a fence or wall no closer than 10 feet from the west edge of the canal wall.

(j) Lot 29 Mailbox. The Owner of Lot 29 shall be permitted to construct and maintain a personal mailbox on the north side of Whitetail Lane.

ARTICLE 8. USE RESTRICTIONS SPECIFIC TO FILING FIVE, LOTS 1-18 AND TRACT A

Section 8.01 The following restrictions are applicable only to Lots 1-18, inclusive, of Filing Five, according to the Plat thereof. Where a conflict exists between the following provisions and the provisions of Article 2, above, the provisions of this Article shall control with respect to the Lots to which it applies.

(a) Basements and Foundations. Basements are permitted. Engineered foundations are recommended on all Lots and are required on all Lots where basements are to be constructed. Owners should verify that sewer service is available to the basement. For Lots 1-13, no exterior door access to basements is permitted and basement windows or window wells are not permitted on the easterly side of the Building (the side of the building that is offset 4 feet from the property line).

(b) Living Level Limitations. Building heights are measured from the building corner with the highest natural grade to the top of the highest ridgeline or top of the highest parapet. All Buildings shall be limited to one living level above the natural grade of the Lot. This provision is exclusive of basements. The finished floor elevation is limited to a maximum height of 24 inches above the natural grade from the building corner at the highest natural grade. Ledgering of floor joists in foundation walls on the high side of the Building Envelope is encouraged so as to minimize foundation wall heights on the low side of the Building Envelopes. Refer to the Site Plan for minimum finished floor elevations for Lot 14-18 and to the Drainage and Grading Plan, The Seasons at Tiara Rado Filing No. 5 for recommended finished floor elevations for Lots 1-13.

(c) Irrigation Water. Reasonable amounts of available irrigation water shall be made available to each of the Lots 14-18 and one 1/5th of a share to each of the Lots 1-13, for use thereon through a system owned by the Association. The Association shall have the right to assess the Owners of each Lot a pro rata share of the cost of operation and maintenance of the said irrigation system. Each of the Lots 14-18 shall be allowed a maximum of 4,500 square feet of irrigated area; and Lots 1-13 shall be allowed a maximum of 3,000 square feet of irrigated area. All Lots shall be irrigated in such a manner so as to minimize any water run-off.

(d) Sand Wash. The sand wash along the rear of Lots 14 -18 shall not be disturbed except for retaining walls as provided below and shall be kept in its natural

state provided that flora indigenous to this area may be planted and cared for. Retaining walls to stabilize the natural banks of the sand wash may be constructed in the same location as the natural banks.

(e) **“Reduced-Lot Line” Design Requirements - Lots 1-13.** The following design requirements are provided so as to create private side yards for adjoining lots:

Location of Easterly Building Walls. The east walls for Buildings on Lots 1 -12 shall be set a distance of 4 feet from the respective east property lines. The Building for Lot 13 shall be set 7 feet from its east property line. The Building shall include at least 50 lineal feet of building wall along these easterly building setback lines. Roof eaves or overhangs are permitted to extend into the Exclusive Easement no more than 2 feet beyond the 4 foot or 7 foot setback line.

Location of Easterly Stucco Walls and Fences - Lots 1- 7. For each of Lots 1- 7, a stucco wall, 5 feet in height and without openings, shall be constructed from the southeast corner of the Building, 4 feet from the easterly property line, to the front Multi-purpose Easement Line. For each said Lot, a solid wood fence or stucco wall, 6 feet in height shall be constructed from the northeast corner of the Building, 4 feet from the easterly property line, to the rear property line. The fence shall step down to 4 feet in height within four feet of the rear property line. A stucco wall is permitted along the rear (northerly) property line that is no more than 4 feet in height. All other walls, fences or enclosures must be located within the building envelope.

Location of Easterly Stucco Walls and Fences -Lots 8- 13. For each of Lots 8-13, a stucco wall, 5 feet in height and without openings, will be constructed from the northeast corner of the principal building, 4 feet from the easterly property line (7 feet for Lot 13), to the front Multi-purpose Easement Line. For each said Lot, a solid wood fence or stucco wall, 6 feet in height, will be constructed from the southeast corner of the principal building, 4 feet from the easterly property line (7 feet for Lot 13), to the rear fence that will be constructed by the developer on Tract A. Any additional walls or fences in the rear of these said Lots must be at least 10 feet from the fence on Tract A.

Windows and Doors. No doors or windows capable of being opened are permitted on the easterly Building wall or on any other walls or fences that are located on the 4-foot (or 7-foot for Lot 13) easterly setback line. Fixed, obscure glass or acrylic windows are permitted in the easterly Building wall. No "see-through" windows are permitted on the easterly Building wall unless the bottom of the glass in the window is at least 72 inches above the finished floor of the easterly main living level of the Building.

Drainage. Roof drains such as scuppers or canals, downspouts, driveways, walkways, decks and patios are not permitted to drain directly onto the Exclusive Easement that is on the easterly side of the Lot. The easterly property line on each Lot will be the approximate centerline of a drainage swale that will run approximately north and south along the property line. Since the swale will be in the Exclusive Easement and in the Lot to the east of the Exclusive Easement, the Owner having the exclusive use of the Exclusive Easement shall be responsible for maintaining the drainage swale so as to keep water away from both foundations.

Foundation Apron. Each owner constructing a Building on Lots 1- 13 will construct a 3-foot wide and 4-inch thick concrete apron the entire length of the easterly side of the Building. The apron will be constructed against the easterly foundation wall of the Building and extend into the Exclusive Easement. The apron shall slant at an approximate 2 percent grade so as to effectively drain water away from the foundation wall.

Easterly Walls and Fences. No Owner, tenant, or other persons shall place any light, ornament, bird feeder, vegetation, or similar attachment to the top or to the easterly side of the Building walls, stucco walls or fences.

Foundation Vents and Parapet Roof Wall Vents. All foundation and parapet vents that are located in the easterly wall of the Building must be painted the same color as the principal color of the easterly Building wall. No fan-driven foundation or parapet vents are permitted in the easterly Building walls.

Exhaust Vents. No exhaust vents such as dryer vents, fireplace vents, bathroom vents, kitchen vents, or such similar mechanical vents are permitted in the easterly Building walls, stucco walls or fences.

Mechanical Equipment in the Exclusive Easement. No heating or cooling units, fans, or other such mechanical equipment shall be placed in the Exclusive Easement described on the Plat other than customary electric meters, gas meters, and equipment for telephone and cable service.

Foundations. Uncovered foundations on the easterly side of the Buildings are to be painted the same color as the dominant color of the building exterior or such other color as may be approved.

ARTICLE 9. USE RESTRICTIONS SPECIFIC TO FILING SIX, LOTS 1-34 AND TRACTS A-F

Section 9.01 The following restrictions are applicable only to Lots 1-34 inclusive of Filing Six, according to the Plat thereof. Where a conflict exists between the following provisions and the provisions of Article 2, above, the provisions of this Article shall control with respect to the Lots to which it applies.

(a) Basements and Lower Walkouts. Basements and lower walkouts are permitted. Owners should verify that sewer service is available to the basement or lower walkout. For Lots 26 through 34, no exterior doors, windows or window wells to basements or lower walkouts are permitted on the side of the building that is offset 4 feet from the property line.

(b) Building Height and Living Level Limitations. Building height limitations are measured from the building corner with the highest natural grade to the top of the highest ridgeline or top of the highest parapet, except that chimneys, flues, vents or similar structures may extend above the specified maximum height limit subject to approval by the DRC. All Lots shall be limited to one living level (the "Main Level") above the natural grade of the Lot. This provision is exclusive of

basements or lower walkouts. The finished floor elevation of the Main Level shall not be higher than the greater of 24 inches above the natural grade from the building corner at the highest natural grade, or the minimum finished floor elevation as set forth on the Drainage and Grading Plan prepared for Filing 6 by Westwater Engineering. The "as built" elevation of the top of the sidewalk for Lots 7,8,9, and 10 will be used for the 24 inch and 22 foot rules. The particular point on the sidewalk will be the point that is perpendicular to the building corner with the highest natural grade. The finished floor elevation cannot be lower than that required by the city mandated drainage plan. Ledgering of floor joists in foundation walls on the high side of the Building Envelope is encouraged so as to minimize foundation wall heights on the low side of the Building Envelope. Copies of the Grading and Drainage Plan shall be kept on file with the Association and shall be available to Owners. The Association is permitted to charge a reasonable fee for the copies of the Grading and Drainage Plan. Modifications to the minimum finish floor elevation as shown on the Grading and Drainage Plan can be approved by the DRC based upon advice from the DRC's civil engineer.

(c) **Sand Wash.** The Sand Wash, as defined by the 100 year floodplain through, or along, the boundaries of Lots 1 through 3 shall not be disturbed except for retaining walls as provided below and shall be kept substantially in its natural state. Retaining walls to stabilize the banks of the Sand Wash may be constructed in the same location of the natural banks using materials and design approved by the DRC. Other than retaining walls, no building, wall, fence or other structure shall be permitted to be placed any closer than 10 feet from the natural banks of the Sand Wash.

(d) **"Reduced-Lot Line" Design Requirements -Lots 26- 34.** The following design requirements are provided so as to create private side yards for adjoining lots:

Location of Easterly Building Wall. The southeast wall for the Buildings on Lots 26 - 34 shall be set a distance of 4 feet from the respective east property lines. The Buildings shall include

at least 50 lineal feet of building wall along these easterly building setback lines. Roof eaves or overhangs are permitted to extend no more than 2 feet beyond the 4-foot setback line into the Exclusive Easement indicated on the plat.

Location of South Easterly Stucco Walls and Fences. Stucco walls, 5 feet in height and without openings, will be constructed from the southeast corners of the principal buildings, 4 feet from the southeasterly property lines, to the front Multi-purpose Easement Lines. Stucco walls, 6 feet in height will be constructed from the northeast corners of the principal buildings, 4 feet from the easterly property line, to the rear property lines. The fences will step down to 4 feet in height within four feet of the rear property lines. A stucco wall is permitted along the rear (northerly) property line that is no more than 4 feet in height. A gate or opening in the rear wall no wider than 5 feet is permitted. All other walls, fences or enclosures must be located within the Building Envelopes.

Windows and Doors. No doors or operable windows are permitted on the southeasterly Building wall or on any other walls or fences that are located on the 4-foot easterly setback line. Fixed, obscure glass or acrylic windows are permitted in the southeasterly Building wall. No "see-through" windows are permitted on the southeasterly Building wall unless the bottom of the glass in the window is at least 72 inches above the finished floor of the southeasterly main level (non- basement) rooms.

Drainage. Roof drains such as scuppers or canales, downspouts, driveways, walkways, decks and patios are not permitted to drain directly onto the Exclusive Easement that is on the southeasterly side of the Lot. The southeasterly property line on each Lot will be the approximate centerline of a drainage swale that will run approximately northeast and southwest along the property line. Since the swale will be both in the Exclusive Easement and in the Lot to the southeast of the Exclusive Easement, the Owner having the exclusive use of the easement shall be responsible for maintaining the drainage swale so as to keep water away from both foundations.

Southeasterly Walls and Fences. No Owner, Tenant, or other persons shall place any light, ornament, bird feeder, vegetation, or similar attachment to the top or to the southeasterly side of the Building walls, stucco walls or fences.

Foundation Vents and Parapet Vents. All foundation and parapet vents that are located in the southeasterly wall of the Building must be painted the same color as the principal color of the southeasterly Building wall. No fan-driven foundation or parapet vents are permitted in the southeasterly Building walls.

Exhaust Vents. No exhaust vents such as dryer vents, fireplace vents, bathroom vents, kitchen vents, or such similar mechanical vents are permitted in the easterly Building walls, stucco walls or fences.

Mechanical Equipment in the Exclusive Easement. No heating or cooling units, fans, or other such mechanical equipment shall be placed in the Exclusive Easement shown on the Plat or on the southeasterly wall of the Building other than customary electric meters, gas meters, and equipment for telephone and cable service.

Foundations. Uncovered foundations on the easterly side of the Building are to be painted the same color as the dominant color of the building exterior or such other color that is acceptable to the DRC.

(e) Trees. Specific plantings of trees should consider visual sightlines to and from the Golf Course and the Colorado National Monument, while allowing for the safety and privacy of Owners. Trees should not be planted that at maturity will overhang a property line or exceed 22 feet in height.

(f) Outbuildings and Recreational Structures. Garden tool sheds, pool and spa houses, play houses and shade shelters, such as gazebos, must be approved by the DRC and may be located within the Building Envelope. These structures must be architecturally related to the residence. Metal sheds are prohibited. Swing sets and

similar play structures are subject to review by the DRC. Appropriate landscape screening will be required for some structures if they will be visually prominent from adjacent properties or the street. Swimming pools must be below ground or integrated into a raised deck that includes visual screening between deck level and the ground. Dedicated ball courts such as tennis, paddleball, and sport courts are not allowed.

(g) Mechanical Equipment. No heating, evaporative ("swamp") coolers, or refrigeration units shall be mounted on any roof. Such mechanical equipment that is mounted on the side of a Building must be totally enclosed and screened from view. Ground mounted mechanical equipment must be visually screened from view from the street and adjacent Buildings.

(h) Roofs. Since roofs in Filing 6 may be visible to properties in other Filings as a result of elevation changes, care should be taken as to roof design, pitch, color and materials. Roof pitches in excess of 6/12 will not be allowed. Roofs include overhangs, patio and deck covers. Pitched roofs other than those of southwest design behind parapet walls, shall be of masonry tile material. Asphalt or wood shake shingles are not allowed. Roof surfaces on flatter southwest style roofs shall be a non-reflective color acceptable to the DRC. Gravel and sod materials on roofs are not permitted. Roof vents, flues, chimneys and similar structures must be painted a color that blends with the roof tile, or in the case of flat, parapet-type roofs, the field color of the Building. Roof vents shall be of the minimum height as permitted by applicable building codes. Chimney vents shall be framed or otherwise encased in a material that is compatible with the dominant exterior material of the main structure to the extent permitted by local building codes. Roofs for buildings on Lots 22, 23 and 24 shall be pitched and covered with masonry tile material unless approved otherwise by the DRC.

(i) Parapet Walls. Parapet walls shall have such variation in height and design to avoid a "big box" appearance. The top of a parapet wall shall be at least 24 inches above the surface of the roof. The exterior wall material, typically stucco, and the

exterior color shall be extended to the backside of the parapet walls (roof side) to no more than 12 inches above the surface of the roof.

(j) Garage Doors. Garage bays for three-cars wide is the maximum permitted of which one or two garage doors for two cars wide is the maximum that can face the street. The maximum size for a garage door opening is 18 feet in width and 10 feet in height. No more than a total of 28 feet in garage door width is allowed. No windows are permitted in garage doors.

(k) Lot 28 Storm Drain Utility Easement. No permanent structure may be placed in the 20 foot wide Storm Drain Utility Easement located on Lot 28. Fences and walls may cross the easement but may not be installed to run the length of the Easement. Landscaping is permitted in the easement, however, the Owner shall be responsible for any damage caused by the Owner to the storm drain structure.

(l) Lot 1 Window and Door Restriction. In order to improve the privacy for the Building on Lot 1, Filing 6 and Lot 18, Filing 5, windows and doors will be restricted for the area in the northeast corner of the Building to be constructed on Lot 1, Filing 6. An area described as the first 20 lineal feet of the Building going west from the northeast corner and the first 20 lineal feet of the Building going south from the northeast corner shall be referred to as the "Lot 1 Restricted Area". No clear, see-through, or operable windows will be permitted unless the bottom of the window glass is at least 72 inches above the finished floor of the Building within the Lot 1 Restricted Area. Obscure glass or acrylic block windows are permitted in the Lot 1 Restricted Area. Doors are not permitted within the Lot 1 Restricted Area. The DRC will have the authority to modify this Lot 1 Restricted Area based substantially on these guidelines.

(m) Geotechnical Summary Information. A Summary Letter from Geotechnical Engineering Group, Inc. dated November 25, 2000 is on file with the Association. Each Owner in Filing 6 should obtain a copy of this letter. Engineered foundations are required for each lot in Filing 6. Given the elevation changes on most of the Lots in Filing 6, Owners should pay close attention to lot drainage and perimeter drainage so

as to mitigate both above-ground and below-ground drainage from other lots. Owners should be careful not to over-irrigate their lot so as not to impact structures on their lot as well as other lots.

(n) Foundation Walls. Any exposed foundation walls shall be painted or finished to match the upper exterior field color of the Building.

(o) Site Drainage. Planning Clearance for building permits by the City of Grand Junction will require drainage and storm-water management plans for individual Lots. To the extent practical, drainage will not be permitted onto adjoining lots, but instead should be diverted to defined drainage areas or streets. Typical lot drainage will include swales between building envelopes to divert runoff from adjacent lots away from building envelopes. Private fences or walls, landscaping, etc. shall not inhibit runoff from higher lots onto lower lots. After construction has commenced on any lot, owners will be responsible for controlling runoff and treatment of sediment loadings prior to discharge to the street, other lots, or any other off-lot drainage ways.

(p) Shared Drive and Path Access. No parking at any time shall be permitted on the shared drive and path access that is adjacent to Lots 21, 22, 23 and 24. The Association shall be entitled to place appropriate signs that prohibit parking and shall be entitled to fine violators and have violators towed. The Association will not be required to remove snow from or clean the shared drive.

(q) Non-Building and Non-Disturbance Areas--Lot 22. The portion of Lot 22 that is northwest of the 20 foot Ute Water Conservancy District Easement and bordered by Lot 10, Filing 2, The Seasons at Tiara Rado Subdivision; U.S. Government land; and the Tiara Rado Wash (Tract C) is designated as a "non-building and non-disturbance" area.

(r) Driveway Curb Cuts. Driveway curb cuts have not been provided in the street plans for Filing 6 for Lots along sections of "vertical curbs" so that the Owner can determine the best location for the applicable driveway(s). All driveway locations must be approved by the DRC and by planning clearance for the City of Grand Junction.

(s) Sediment Trap. The Association shall be responsible for the maintenance and periodic cleaning of the storm sewer sediment trap located in the cul-de-sac of Snow Mesa Court unless the City of Grand Junction agrees to assume this responsibility.

(t) Wall and Fence Heights. Walls and fences are limited to a maximum height of six (6) feet above the finished grade measured from either side of the wall or fence. Notwithstanding the above, no more than eight (8) feet of wall or fence is to be exposed on the side opposite of the side where a maximum of six feet is exposed unless the DRC has approved a portion of the wall or fence to be used as a retaining wall.

(u) Monument Boundary Fence. The existing Colorado National Monument fence is owned by the U.S. government and cannot be removed without its written approval. In order to afford the owners of Lots 1 through 6 of Filing 6 more privacy from the Government land, the owners of these lots are permitted to construct a stucco wall up to seven (7) feet in height just inside their property line(s) that adjoins the Government land. The actual design and color of the wall shall be approved by the DRC.

(v) Shared Culvert. The shared culvert that serves Lots 1 and 2 shall be maintained by the Association and the Association shall have a general easement onto Lots 1 and 2 for the repair and maintenance of the culvert. The maintenance of the driveway surface on top of, and across, the culvert is the responsibility of the Owners of Lots 1 and 2.

(w) Common Area Tracts A Through F. The Association shall maintain the Common Area Tracts labeled on the Plat as A through F for the purposes set forth on the Plat. Buildings, shelters or other vertical structures are not permitted unless required for the purposes of these Tracts as set forth in the Plat.

ARTICLE 10. DESIGN REVIEW COMMITTEE

Section 10.01 Purpose. The purpose of the DRC is to help ensure that the Subdivision is attractive and consists of aesthetically pleasing and compatible structures and landscaping, to protect the investment of Owners, and to uphold the Amended Declaration.

Section 10.02 Composition of the Design Review Committee. The DRC is a standing committee of the Board and shall consist of five persons who shall be appointed by the Board. Present members will serve the balance of the calendar year in which this Amended Declaration is adopted. The Board will then appoint 3 members to serve an initial 2 year period and 2 members to serve an initial 4 year period. All terms shall be for 4 years beginning on January 1. A DRC member may resign at any time by providing written notice of such resignation to the Board. The Board may remove a member of the DRC with or without cause by a majority vote at any regular or special meeting of the Board and replace that member by the process provided in this section. Any member appointed to fill a vacancy in the DRC shall finish the term of the removed or resigned members.

Section 10.03 Review by the DRC. No Building or Improvement of any kind, including, without limitation, all structures, any attachment to an existing structure, whether a residence, an accessory building, a tennis court, a swimming pool, a fence, a wall, a barrier, an exterior lighting facility, or an athletic facility shall be constructed within the Subdivision, no alteration of the exterior of any Building or Improvement shall be made, and no change in the final grade, nor the installation of any landscaping shall be performed, unless complete plans and specifications therefore (said plans and specifications to show exterior design, height, materials, color, location of the structure or addition to the structure, plotted horizontally and vertically, location and size of driveways, general plan of landscaping, fencing, walls, windbreaks, and the grading plan) shall have been first submitted to and approved in writing by the DRC. The DRC shall exercise its best judgment under the restrictions imposed by this Amended Declaration and the restrictions imposed by the original documents including Maps and Site Plans to the end that all attachments, improvements, heights of improvements, construction, landscaping

and alterations to structures within the Subdivision conform to and harmonize with existing surroundings and structures.

Section 10.04 Application Requirements.

(a) The DRC may propose and the Board may adopt Rules, Regulations, Policies and Procedures clarifying or establishing additional requirements for applications, including, without limitation the adoption of forms, checklists, or guidelines, including guidelines for certain types of Improvements that are approved by the DRC without application.

(b) Review of an application by the DRC will not be scheduled until the DRC determines that the application is complete under this Amended Declaration and any Rules, Regulations, Policies and Procedures adopted under sub-section (a) of this section.

Section 10.05 Review Procedures. The DRC shall approve or disapprove all complete applications, within the meaning of section 9.04(b), within (30) days after submission. In the event that the DRC fails to approve or disapprove such application within the thirty (30) day period, such application will be deemed approved. The application must be resubmitted for approval if the Start of Construction has not occurred within six (6) months from the date of application approval by the DRC.

Section 10.06 Method of Action. The DRC acts by majority vote of its members taken at a meeting of the DRC or in some cases by email. Requests to modify existing construction and/or landscaping may be conducted by email between the DRC and the applicant. A face-to-face meeting may be requested by the DRC or the applicant. If a face-to-face meeting is scheduled, homeowners will be notified. Members may attend and speak at all meetings of the DRC or address the committee by email. Notice of time, place, date, and agenda of all DRC face-to-face meetings shall be given to the Members in accordance with the Governing Documents. A majority vote of the DRC is required to approve an application and all subsequent changes to the plans and representations made in the application.

Section 10.07 Records. DRC shall maintain written records of all applications submitted to it and of all action taken by it thereon, and shall deliver such records to the Association to be maintained in Association records in accordance with the Governing Documents.

Section 10.08 Liability. The DRC and the members thereof shall not be liable for damages to any person submitting requests for approval or to any Owner by reason of any action, failure to act, approval, disapproval, or failure to approve or disapprove in regard to any matter. In addition, the DRC specifically disclaims any liability arising from any express or implied warranty based upon approval of any applications hereunder.

Section 10.09 Variances. The DRC may grant reasonable variances or adjustments from any conditions and restrictions imposed by this Amended Declaration in order to overcome practical difficulties and prevent unnecessary hardships arising by reason of the application of the restrictions contained herein. Such variances or adjustments shall be granted only in case the granting thereof shall not be materially detrimental or injurious to the other property, Buildings, or Improvements in the neighborhood and shall not violate the general intent and purpose hereof.

Section 10.10 Fees. The DRC, upon approval of the Board, shall be authorized to levy and collect reasonable fees or expenses to cover the actual costs incurred by the DRC in the review of an application, including, without limitation, the costs of retaining any third-party professional to assist with review, to be paid as determined by the DRC.

Section 10.11 Landscaping. In order to receive approval of the DRC, landscape plans must:

- (a) Minimize disruption of the natural terrain by grading;
- (b) Provide for re-vegetation and restoration of ground cover disturbed by construction;
- (c) Use only those man-made elements that blend with, or complement the natural landscape;

- (d) Use existing or natural drainage paths whenever possible;
- (e) Provide for adequate snow storage and control of surface runoff;
- (f) Conserve and protect topsoil, vegetation, rock formations, and unique landscape features;
- (g) Use native/low water plants, and

Section 10.12. Replacement. Replacement of a tree or plant with the same tree or plant does not require DRC approval. Approval is not required for replacement of a dead plant with another plant that does not exceed four (4) feet at maturity.

ARTICLE 11. CONSTRUCTION MAINTENANCE

Section 11.01 Failure to Maintain. Upon the Owner's failure to maintain the exterior of any structure or grounds on his Lot in good repair and appearance, the Board may, at its option, after giving the Owner thirty (30) days' prior written notice, make repairs and improve the appearance in a reasonable and workmanlike manner.

Section 11.02 Completion of Landscaping. Each Owner must complete the landscaping of its Lot, in accordance with the plans approved by the DRC, within four (4) months of Completion of Construction of the Building on the Lot. If any Owner fails to complete the landscaping in a timely manner, the Association, after giving the Owner thirty (30) days written notice, may undertake and complete the landscaping of the Lot.

Section 11.03 Assessment of Cost. The cost of such maintenance or landscaping referred to in Sections 10.1 and 10.02 of this Article shall be assessed against the Lot upon which such maintenance or landscaping is performed and shall be added to and become part of the regular assessment or charge to which such Lot is subject until paid.

Section 11.04 Access at Reasonable Hours. For the purposes of performing the maintenance or landscaping referred to in Sections 10.01 and 10.02 of this Article, the Association, through its duly authorized agents or employees, shall have the right, after

reasonable notice to the Owner, to enter upon any Lot at reasonable hours to perform such maintenance or landscaping. The Association shall also have the right to enter upon any Lot, after reasonable notice to the Owner and at reasonable hours, to repair and maintain fences and other improvements owned by the Association and located on or near property lines.

Section 11.05 Construction Procedures. The following provisions apply to any construction taking place within the Subdivision:

(a) Building materials are permitted to be exposed during the period of construction so long as they are stacked in a neat manner on the Lot. The Board may require construction materials, equipment, supplies and trash containers be removed from the Lots if, in its sole opinion, it is creating a nuisance to the neighborhood or construction is not progressing as quickly as is reasonable.

(b) During the construction of a Building temporary overhead utility lines may be utilized. Such temporary overhead lines shall be promptly removed upon Completion of Construction.

(c) Construction fencing shall be used on Lots under construction so as to keep building debris from neighboring Lots. Construction trash containers must be kept on the Lot where the construction is taking place and must not be placed on any street or sidewalk unless the Board grants permission in writing.

ARTICLE 12. PROPERTY RIGHTS IN THE COMMON AREA

Section 12.01 Owner's Easements of Enjoyment. Subject to rules and regulations enacted by the Board, every Owner shall have a non-exclusive right and easement of enjoyment in and to the Common Area as limited by Section 6.01 (m) Berm Common Area. Such easement shall be appurtenant to and shall pass with the title to every Lot and Building.

Section 12.02 Extent of Owner's Easements. The rights and easements of enjoyment created hereby shall be subject to the following:

(a) The right of the Association to take such steps as are reasonably necessary to protect the Common Area against foreclosure; and,

(b) The right of the Board to promulgate and publish Rules, Regulations, Policies Procedures and Resolutions relating to the use or restricting the use of Common Area; and,

(c) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, utility or private party for such purposes and subject to such conditions as may be approved by the Board; and,

(d) The right of the Board to close or limit the use of the Common Area while maintaining, repairing and making replacements in the Common Area.

Section 12.03 Declaration of Use. Any Owner may delegate, in accordance with the Bylaws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside in his Building.

ARTICLE 13. EASEMENTS AND RESERVATIONS

Section 13.01 Recorded Easements. The Subdivision, and all portions thereof, shall be and remain subject to all easements shown on any Map affecting any portion of the Subdivision and to all other easements of record or existing as a matter of use as of the date of the recording of the Former Declaration, or arising thereafter under the laws of the State of Colorado.

Section 13.02 Emergency Access Easement. A general easement is hereby granted to all police, sheriff, fire protection, ambulance, and other similar emergency agencies or persons to enter the Common Area in the proper performance of their duties.

ARTICLE 14. MEMBERSHIP AND VOTING RIGHTS

Section 14.01 Membership. By acceptance of a deed to a Lot, each Owner shall be a Member of the Association. There shall be one (1) vote in the affairs of the Association for each

Lot. When more than one (1) Member is associated with a single lot, as when more than one (1) person holds an ownership interest in any Lot, the vote for such Lot shall be exercised as the Owners of that Lot may determine among them, but in no event shall more than one (1) vote be cast with respect to any such Lot.

Section 14.02 Classes of Membership. The Association shall have one (1) class of voting Membership.

Section 14.03 Suspension of Voting Rights. The Association may suspend the voting rights of a Member for any period during which any Assessment against his Lot or Building remains unpaid or fine assessed by the Association remains unpaid.

ARTICLE 15. ASSESSMENTS

Section 15.01 Creation of the Lien and Personal Obligation for Assessments. By accepting a deed to any Lot each Owner agrees to pay to the Association the following assessments, to be fixed and levied from time to time as provided below and in the Governing Documents. Such assessments, together with interest accruing thereon and the costs of collection in the event of a delinquency of payment, shall be the personal obligation of the Owner(s) at the time the assessment was made. 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 or Building.

(a) **General Annual Assessments.** The Association may levy, annually, General Annual Assessments to cover Common Expenses attributable, in equal shares, to all of the Lots in the Subdivision and shall be based upon the advance estimate of the cash requirements by the Association to provide for the payment of all Common Expenses growing out of or connected with the operation of the Association, including maintenance of the Common Area, and administration of Association, which sums may include, among other things, sewer and water fees, expenses of management, taxes and special assessments, premiums for all insurance which the Association is required or permitted to maintain, landscaping and care of

grounds, common lighting and heating, repairs and renovations, legal and accounting fees, management fees, expenses and liabilities incurred by the Association under or by reason of this Amended Declaration, any deficit remaining from a previous period, the creation of a reasonable contingency or other reserve or surplus fund and any other expenses and liabilities which may be incurred by the Association for the benefit of the Owners, less an amount equal to the anticipated balance (exclusive of any reserves) in the operating fund at the start of such year which is attributable to the General Annual Assessments levied the prior year. The sum or net advanced estimate so determined shall be assessed to the Owners by allocating each Lot an equal share of such expenses.

(b) Specific Annual Assessments. The Association may levy, annually, Specific Annual Assessments to cover Common Expenses attributable to less than all of the Lots in the Subdivision based upon the advance estimate of the cash requirements by the Association to provide for the payment of such expenses, any deficit remaining from a previous period, and the creation of a reasonable contingency or other reserve or surplus fund, less an amount equal to the anticipated balance (exclusive of any reserves) in the operating fund used to cover such expenses at the start of such year which is attributable to the Specific Annual Assessments levied the prior year. The sum or net advanced estimate so determined shall be assessed to the Owners by allocating each Lot that, in the determination of the Board reflected in an adopted budget for the Specific Annual Assessment, benefits from the operational or administrative expenses covered by that assessment an equal share of such expenses.

(c) Special Assessments. If at any time during the fiscal year the assessments levied pursuant to sub-sections (a) and/or (b), above, proves inadequate for any reason other than the determination to perform capital improvements, including, without limitation, nonpayment of any Owner's share of such assessments, the Association may levy a Special Assessment in the amount of such actual or estimated inadequacy. Any Special Assessment so levied shall be assessed to the

Owners according to each Lot's allocated interest under sub-sections (a) and/or (b) as the case may be. Such special assessment shall be paid as the Association directs.

(d) Reimbursement Assessment. The Board may levy a Reimbursement Assessment against any Owner as a result of such Owner's failure to restore or maintain his or her Lot or to do any other thing required by this Amended Declaration for which the Association incurs any cost, charge or fee of any kind. Such Reimbursement Assessment shall be for the purpose of reimbursing the Association for its actual costs and expenses incurred and shall be due and payable as the Association directs.

Section 15.02 Lien for Assessments.

(a) The Association has a lien on a Lot for any assessment, described above, levied against that Lot. Fees, charges, late charges, attorney fees, fines and interest charged pursuant to this Amended Declaration are enforceable as assessments. If an assessment is payable in installments, each installment is a lien from the time it becomes due, including the due date set by any valid acceleration of installment obligations.

(b) Recording of a Notice of Lien constitutes record notice and perfection of the lien. No further recordation of any claim of lien for assessments is required. However, the Board may prepare and record a written notice setting forth the amount of the unpaid indebtedness, the name of the Owner of the Lot, and a description of the Lot. If a lien notice is filed, the costs and expenses thereof shall be added to the assessment and collected as a part thereof. The Association's lien may be foreclosed in like manner as a mortgage on real estate. In any such foreclosure, the Owner shall be required to pay the costs and expenses of such proceedings, the costs and expenses for filing the notice or claim of lien, and all reasonable attorneys' fees.

Section 15.03 Effect of Non-Payment of Assessments; Remedies of the Association.

Any assessment not paid within thirty (30) days after the due date thereof shall bear interest from the due date at the rate of twenty-one percent (21%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against such Owner's Lot or Building, and in the event a judgment is obtained, such judgment shall include interest on the assessment as above provided and reasonable attorney's fees to be fixed by the court together with the costs of the action. If an assessment installment becomes delinquent, the Association, acting through the Board, may take any or all of the following actions:

(a) Assess a uniform late charge for each delinquency in such amount as the Association deems appropriate.

(b) Suspend the voting rights of the Owner during any period of delinquency.

(c) Suspend the right of the Owner to request a Special Meeting of the Owners during any period of delinquency.

(d) Accelerate all remaining assessment installments so that unpaid assessments for the remainder of the fiscal year shall be due and payable at once.

(e) Bring an action at law against any Owner personally obligated to pay the delinquent assessments; and

(f) File a statement of lien with respect to the Lot and Building and proceed with foreclosure as set forth in more detail below.

Any of the above actions that are taken by the Association must be consistently applied to all delinquent accounts and shall become effective immediately, without prior notice, when implemented by the Association. The Association shall give general notice by regular mail to all members when any of the above actions that is implemented or ceased within 20 days of such implementation or suspension by the Association. The failure of the Association to give notice

shall not be deemed a waiver, modification, or release of the Owners from the actions implemented by the Association.

ARTICLE 16. DURATION OF AMENDED DECLARATION

Section 16.01 Term. The provisions of this Amended Declaration shall run with and bind the land until December 31, 2022 after which time they shall be automatically extended for successive periods of time of 10 years each, subject to the following provisions.

Section 16.02 Amendment. This Amended Declaration may be amended at any time after adoption by an instrument signed by Owners holding not less than 60% of the eligible votes possible to be cast under this Amended Declaration. Any amendment must be recorded in the office of the Mesa County Clerk and Recorder, and approval of such amendment may be shown by attaching a certificate of the Secretary to the recorded instrument certifying that signatures of a sufficient number of Owners approving the amendment are on file in the office of the Association.

Section 16.03 Revocation. This Amended Declaration shall not be revoked without the consent of sixty percent (60%) of the Owners evidenced by a written instrument duly recorded.

ARTICLE 17. REGISTRATIONS OF MAILING ADDRESS AND LEASES

Section 17.01 Registration by Owner of Mailing Address. Each Owner shall register his mailing address and email address, if available, with the Association, and except for statements and other routine notices, all other notices or demands intended to be served upon an Owner shall be sent by either registered or certified mail, postage prepaid, addressed in the name of the Owner at such registered mailing address. All notices, demands, or other notices intended to be served upon the Board or the Association shall be sent by certified mail, postage prepaid, to 477 Seasons Drive, Grand Junction, Colorado, 81507 until such address is changed by a notice of change of address.

Section 17.02 Leases. Any lease agreement between an Owner and a lessee for a Lot and/or Building shall provide that the terms of such lease shall be subject in all respects to the

provisions of the Governing Documents, and that any failure by the lessee to comply with the terms and provisions of such Governing Documents shall be a default under the lease. All leases shall be in writing. The Owner of the Building shall be jointly liable with the lessee for any fine or penalty imposed for violations.

ARTICLE 18. INSURANCE

Section 18.01 Insurance to Maintain. The Association shall maintain the types of insurance listed below on the Common Area and the components owned by the Association to the extent that such insurance is reasonably available, considering the cost and risk coverage provided by such insurance. The cost of said coverage shall be paid by the Association as a Common Expense. In addition, the Association may maintain such insurance on such other property as the Board may determine at its discretion from time to time, or as may be hereinafter required. Notwithstanding any of the specific insurance requirements specified in this Article, the Association may also consider, in determining the types and amount of insurance it needs to obtain, the then-existing requirements of any governmental agencies with respect to their insurance, guaranty or purchase of security interests.

(a) **Property** insurance for broad form coverage causes of loss; except that the total amount of insurance must not be less than the full insurable replacement cost of all the insured property less applicable deductibles at the time the insurance is purchased and at each renewal date, exclusive of land, foundations, excavations and other matters normally excluded from property policies.

(b) **Commercial** general liability insurance against claims and liabilities arising in connection with the ownership, existence, use or management of the Common Area, insuring the Association, the Board, any managing agent, and their respective employees, agents and all persons acting as agents in an amount not less than one million dollars (\$1,000,000). The Owners shall be included as additional insureds, but only for claims and liabilities arising in connection with the ownership, existence, use or management of the Common Area. The insurance shall cover claims of one or more insured parties against other insured parties.

(c) **Comprehensive Fidelity** insurance or fidelity bonds to protect against dishonest acts on the part of Directors and employees of the Association and/or any independent contractor employed by the Association for the purpose of managing the property and/or or any Owner who controls or disburses funds of the Association, in an amount at least equal to the estimated maximum of funds, including maintenance reserves, in the custody of the Association at any given time; provided, however, that such fidelity coverage or fidelity bonds shall not be an amount less than two (2) months aggregate assessments, plus such reserve funds as calculated from the current budget of the Association. The Association may carry fidelity insurance in amounts greater than required above and may require any independent contractor employed for the purposes of managing the property to carry more fidelity insurance coverage than required above. In the event the Association has delegated some or all of its responsibility for the handling of funds to a managing agent, the Association may require the managing agent to purchase, at its own expense, a policy of fidelity insurance or bond which fully complies with the provisions of the sub-section.

(d) If any parcels of the Common Area are or should become identified by the Federal Emergency Management Agency as having special flood hazards, and flood insurance coverage on such parcels has been made available under the National Flood Insurance Program, then such a policy of flood insurance on such parcels in an amount at least equal to the lesser of:

The maximum coverage available under the National Flood Insurance Program for all Association buildings and other insurable property located within a designated flood hazard area; or

One hundred percent (100%) of current replacement cost of all Association buildings and other insurable property located within a designated flood hazard area shall be obtained by the Association.

(e) The Association may also obtain insurance against such other risks, as it shall deem appropriate, to the extent that such coverage is reasonably available, including, but not limited to, personal liability insurance to protect Directors from personal liability in relation to their duties and responsibilities in acting as Directors, and coverage on fixtures, equipment and other personal property inside Lots.

Section 18.02 General Provisions of Insurance Policies. All policies of insurance shall be carried in blanket policy form naming the Association as insured, or its designee as trustee and attorney-in-fact for all Owners, and each Owner shall be an insured person under such policies with respect to liability arising out of any Owner's membership in the Association. The policy or policies shall contain a standard non-contributory Security Interest Holder's clause in favor of each Security Interest Holder and a provision that it cannot be canceled or materially altered by either the insured or the insurance company until at least thirty (30) days' prior written notice thereof is given to the insured and each Security Interest Holder, insurer or guarantor of a Security Interest. The Association shall furnish a certified copy or duplicate original of such policy or renewal thereof, with proof of premium payment and a certificate identifying the interest of the Owner in question, to any party in interest, including Security Interest Holders, upon request. Any such Owner's policy shall also contain waivers of subrogation. All policies shall contain waivers of any defense based on invalidity arising from any acts or neglect of an Owner where such Owner is not under the control of the Association.

Section 18.03 Deductibles. The Association may adopt and establish written nondiscriminatory policies and procedures relating to the submittal of claims, responsibility for deductibles, and any other matters of claims adjustment.

(a) **Assess Negligent Owners.** To the extent the Association settles claims for damages, it shall have the authority to assess negligent Owners causing loss or benefiting from repair or restoration all deductibles paid by the Association. In the event that more than one (1) Lot or Building is damaged by a loss, the Association, in its reasonable discretion, may assess each Owner a pro rata share of any deductible paid by the Association.

(b) Any loss to any Common Area, which the Association has the duty to maintain, repair and/or reconstruct, which falls within the deductible portion of such policy, shall be borne by the person who is responsible for the repair and maintenance of the property which is damaged or destroyed. In the event of a joint duty of repair and maintenance of the damaged or destroyed property, then the deductible may be apportioned among the persons sharing in such joint duty or may be partly or wholly borne by the Association, at the discretion of the Board. Notwithstanding the foregoing, after notice and hearing, the Association may determine that a loss, either in the form of a deductible to be paid by the Association or an uninsured loss, resulted from the act or negligence of an Owner, the Owner's tenants, family members, guests or invitees. Upon said determination by the Association, any such loss or portion thereof may be assessed to the Owner in question and the Association may collect the amount from said Owner in the same manner as any assessment.

Section 18.04 Payment of Insurance Proceeds. Any loss covered by an insurance policy must be adjusted with the Association, but the insurance proceeds for that loss shall be payable to any insurance trustee designated for that purpose, or otherwise to the Association. The proceeds must be disbursed first for the repair or restoration of the damaged property; the Association and the Owners are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the property has been completely repaired or restored or the Subdivision is terminated.

Section 18.05 Association Insurance as Primary Coverage. If at the time of any loss under any policy which is in the name of the Association, there is other insurance in the name of any Owner and such Owner's policy covers the same property loss, or any portion thereof, which is covered by such Association policy, such Association policy shall be primary insurance not contributing with any of such other insurance. An Owner shall be liable to the Association for the amount of any diminution of insurance proceeds to the Association as a result of policies of insurance of an Owner, and the Association may collect the amount from said Owner

in the same manner as any assessment. Any such Owner's policy shall also contain waivers of subrogation.

Section 18.06 Acceptable Insurance Companies. Each insurance policy purchased by the Association must be written by an insurance carrier who is authorized by law to do business in the State of Colorado. The Association shall not obtain any policy where (a) under the terms of the insurance company's charter, bylaws, or policy, contributions or assessments may be made against the mortgagor or mortgagee's designee, or (b) under the terms of the carrier's charter, bylaws, or policy, loss payments are contingent upon action by the carrier's board, policy holders or members, or (c) the policy includes any limiting clauses (other than insurance conditions) which could prevent mortgagees or any Owner from collecting insurance proceeds.

Section 18.07 Insurance to be Maintained by Owners. An insurance policy issued to the Association does not obviate the need for Owners to obtain insurance for their own benefit. The Association is not obligated to and shall not provide insurance covering the Lots, Buildings, or anything in or on any Lot. Insurance coverage on each Lot and/or Building, and furnishings and other items of personal property on or in the Lot and/or Building shall be the responsibility of each Owner.

Section 18.08 Annual Review of Insurance Policies. All insurance policies carried by the Association shall be reviewed at least annually by the Board to ascertain that such policies adequately cover those risks intended to be insured by the Association. In making the aforesaid determination, the Board or the managing agent of the Association may obtain a written appraisal from a duly qualified real estate or insurance appraiser, or seek other advice or assistance.

Section 18.09 Notice of Cancellation. If the insurance that is required by of this article, is not reasonably available, or if any policy of such insurance is cancelled or not renewed without a replacement policy having been obtained, the Association promptly shall cause notice of that fact to be hand delivered, or sent prepaid by US mail or electronic mail, to all Owners.

ARTICLE 19. GENERAL PROVISIONS AND MISCELLANEOUS

Section 19.01 Golf Course. Owners understand and acknowledge that the Subdivision is located adjacent to the Tiara Rado Golf Course (the "Golf Course"), owned and operated by the City of Grand Junction, and that the Association has no interest in, or control over the operation of, the Golf Course. In owning, renting, or otherwise occupying real property adjacent to the Golf Course, the Owners assumes certain risks, including, but not limited to, the risk of damage to property and personal injury from errant golf balls and trespass on the subject property by golfers looking for balls. The Owners acknowledge that they knowingly assume such risks, and all others appurtenant to ownership and occupation of property adjacent to the Golf Course, and waive and release the Association, its agents, representatives, insurers, successors and assigns, from any and all claims, losses, damages, and liabilities of any kind, arising out of, or resulting from, the Owners' ownership and occupation of the subject property adjacent to the Golf Course.

Section 19.02 Non-Disturbance and Non-Building. The terms "non-disturbance and non-building area" as it applies to Tract A, Filing 6 shall mean that:

(a) No structures of a permanent or temporary nature shall be constructed upon or moved to Tract A.

(b) No use of motorized vehicles or wheeled conveyances including but not limited to bicycles, mountain bicycles, wheelbarrows or infant carriers shall be allowed on Tract A.

(c) Nothing in this article prohibits foot traffic upon Tract A by residents of The Seasons at Tiara Rado and their guests.

(d) Persons crossing the property on foot may be accompanied by their dogs, provided the dogs are leashed and under the control of their owners.

(e) Any necessary maintenance of Tract A will continue to be provided by the Association.

Section 19.03 Enforcement. The Association, or any Owner, shall have the right to enforce by any proceeding at law or in equity all Governing Documents, liens and charges now or hereafter imposed by the provisions of this Amended Declaration. Failure by the Association or by any Owner to enforce any such provision herein contained shall in no event be deemed a waiver of the right to do so thereafter, or a waiver of any other or subsequent breach of any such provision herein contained.

Section 19.04 Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall not affect any other provisions, which shall remain in full force and effect.

Section 19.05 Limitation on Association. Any action, resolution or attempted action of the Association in conflict with any term or provision of this Amended Declaration shall be void and of no force and effect whatsoever.

Certification of Adoption

IN WITNESS of the vote of the Owners held at a meeting called pursuant to proper notice for, among other things, consideration of approving the above Amended Declaration, where a quorum of the Owners appeared in person or by proxy and Owners representing at least sixty-seven percent (67%) of the votes allocated under the Former Declaration voted in favor of the above Amended Declaration, the Association, through its president, sets its hand and seal the 17 day of June, 2013

The Seasons at Tiara Rado Homeowners'
Association

a Colorado non-profit corporation

Mary Linda Jost
MARY LINDA JOST, President

STATE OF COLORADO)

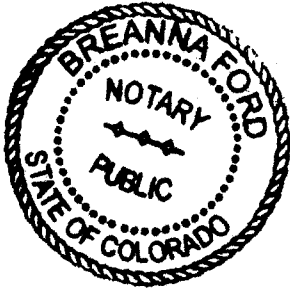
) ss.

COUNTY OF MESA)

The foregoing instrument was acknowledged before me this 17 day of June, 2013 by Mary Jost, President of the Master Subdivision of the Seasons at Tiara Rado Owners Association, a Colorado non-profit corporation.

My commission expires: 06/04/2014.

Witness my hand and official seal.



Breanna Ford
Notary Public