



VAN TUYL TOWNHOMES DECLARATION

This Van Tuyl Townhomes Declaration (this "Declaration") is made this 18th day of July, 2016 by SW Ventures, LLC, a Colorado limited liability company ("Declarant")

Recitals

A. Declarant is the owner of certain improved real property situated in the County of Gunnison, State of Colorado, which is more particularly described on attached **Exhibit A** (the "Property").

B. Declarant desires to divide the Property and the Expansion Property, as defined below, and the improvements thereon into a planned community consisting of up to 103 separate townhome parcels (the "Units") which are, and will be, more particularly described on the Plat of Van Tuyl Townhomes, recorded in the real property records of Gunnison County, Colorado at reception number 640642, and any and all Supplemental Plats of Van Tuyl Townhomes that are subsequently recorded in the real property records of Gunnison County, Colorado (collectively the "Plats").

C. Declarant will convey Townhome Units as townhomes subject to certain protective covenants, conditions, restrictions, reservations, lien rights and charges as set forth in this Declaration and on the Plats.

D. This project is a planned community, as defined in the Colorado Common Interest Ownership Act, C.R.S. § 38-33.3-101, *et seq.* (the "Act").

Now therefore, Declarant hereby declares that all of such Units shall be held, sold, and conveyed subject to the following easements, reservations, restrictions, liens, charges, covenants and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the Property and be binding on all parties having any right, title or interest in the Units or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE 1 **Description of Unit**

1.1 Each Unit is, or will be shown, on the Plats and consists of the land identified as a Unit on the Plats and the residential dwelling structure and other improvements located thereon. The Units will be added or constructed in up to 18 phases, with the first phase, Van Tuyl



Townhomes Building 77, containing Units A, B, C, D, and E. Declarant reserves the right to construct two or more phases simultaneously.

1.2 Declarant, for a period of time set forth in section 10.1 of this Declaration, expressly reserves for Declarant or Declarant's representatives, successors or assigns, the right to expand this project by adding or constructing up to 98 additional Units in up to 17 additional buildings on one or more of the lots described on attached **Exhibit B** ("Expansion Property"). Such expansion shall be accomplished by Declarant filing for recording in the office of the Clerk and Recorder of Gunnison County, Colorado, a Supplemental Plat and Supplemental Declaration for each building containing such information with respect to each building as the City of Gunnison ("City") requires. The definitions and provisions in this Declaration shall automatically be expanded to encompass and refer to the project as so expanded. Each additional Unit and the land upon which it is located shall be subject to all the terms and conditions of this Declaration with all the incidents pertaining thereto as specified herein, upon the recording of each Supplemental Plat and Supplemental Declaration in the office of the Clerk and Recorder of Gunnison County, Colorado. Lots comprising the Expansion Property shall not be deemed to be part of Van Tuyl Townhomes and may be conveyed free and clear of this Declaration until such time as Declarant records a Supplemental Plat and Supplemental Declaration for such lots.

1.3 Declarant reserves the right to expand the project in any sequence.

1.4 Every instrument affecting the title to a Unit may describe that Unit as follows:

Unit ____, Van Tuyl Townhomes Building ____, according to the Plat [or the Supplemental Plat] thereof bearing Reception No. ____, and the Van Tuyl Townhomes Declaration [or the Supplemental Declaration] thereof bearing Reception No. ____ of the Gunnison County, Colorado records, County of Gunnison, State of Colorado.

Such method of description shall be sufficient for all purposes to sell, convey, transfer and encumber or otherwise affect the Unit and all other appurtenant properties and property rights and incorporate all of the rights, duties, limitations and burdens incident to ownership of a Unit as described in this Declaration.

1.5 Resubdivision of any Unit is prohibited.

1.6 Upon prior written approval by the Association, two contiguous Units may be combined, on condition that the structural integrity of the building will not be diminished. The Unit owner's responsibility for assessments shall not be affected by such combination.

1.7 If less than all Units in a building are damaged or destroyed, the damaged or destroyed Units shall be reconstructed within the land shown on the Plat in compliance with the same development plan, including architectural and structural plans, previously approved by the City of Gunnison.



1.8 An owner of a Unit is referred to herein as an "Owner".

ARTICLE 2

Administration and Management

2.1 The operation and management of Van Tuyl Townhomes and the ownership of all land not part of a Unit shall be undertaken by Van Tuyl Townhomes Association, a Colorado non-profit corporation, which has been formed to operate as a Unit owners' association on behalf of all Owners (the "Association"). The Association shall have all of the powers, authority and duties permitted of an Association pursuant to the Act including without limitation all powers, authority and duties necessary or convenient to manage the business and affairs of the Van Tuyl Townhomes and Van Tuyl Townhomes Association. An Owner shall automatically become a member of the Association and shall remain a member for the period of his, her or its ownership. Except for members of the executive board appointed by Declarant during the period of Declarant control, all executive board members shall be elected by Owners. Each Owner, including Declarant while Declarant owns any Unit, is subject to all the rights and duties assigned to Owners under this Declaration. The Association shall have the right to adopt and enforce reasonable rules and regulations regarding the use of Units and common areas and facilities on the condition that such rules and regulations are not inconsistent with this Declaration, the Plat, any Supplemental Plat, or any Supplemental Declaration. The Association may adopt such rules, regulations, policies and procedures as are permitted or required by the Act.

2.2 The Association shall be responsible for managing Van Tuyl Townhomes and for levying assessments for common expenses which may include but not be limited to roof and exterior maintenance, common area and Unit landscaping, care of grounds, snow plowing and removal, common utilities and common facilities, driveway/parking area maintenance and plowing, liability insurance, fire and extended insurance, common lighting, wages, legal and accounting fees, management fees and all expenses and liabilities incurred under or by reason of this Declaration and/or the Act.

2.3 The Association shall levy assessments on a building by building basis for maintenance of landscaping, the roof and exterior of each building, for insuring each building and for any other expense allocable to such building.

2.4 The Association shall levy periodic or special assessments to cover common expenses, the payment of any deficit remaining from a previous period and the creation of a reasonable contingency fund or other reserve or surplus fund as well as payment of all other costs and expenses relating to Van Tuyl Townhomes.

2.4.1 Initially, common expenses shall be estimated by the Association for the period from the date that the project was created to the end of the then calendar year and each owner shall be assessed his pro rata share thereof at such date. Thereafter common expenses



shall be estimated by the Association annually for the ensuing calendar year and each owner shall be assessed for his pro rata share thereof in advance of the commencement of each such year. The assessments shall be made pro rata according to each owner's allocated share of common expenses as set forth herein. The Association may establish any reasonable system for periodic collection of assessments, in advance or arrears, as deemed desirable. At the end of each calendar year the Association shall determine actual expenses versus actual income, apply any surplus balance to the reserve fund and fix the assessment for the following year. In the absence of a dedicated reserve fund, the reserve fund for the Association will be the Association's equity balance on its balance sheet. The failure of the Association to fix the assessment for any assessment period shall not be deemed a waiver, modification or a release of the owners from their obligation to pay the common expenses.

2.4.2 In addition to the annual assessments, the Association may levy in any fiscal year one or more special assessments, payable over such a period as the Association may determine, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of common areas or improvements within the project or for any other expense incurred or to be incurred by the Association or as provided in this Declaration. Any amounts assessed pursuant to this section shall be assessed to owners according to their allocated share of common expenses, subject to the right of the Association to assess only against the owners of affected Units any maintenance, repair or restoration work on fewer than all of the Units which shall be borne by the owners of those affected Units only, and any insurance costs incurred as a result of the value of a particular owner's Unit or the actions of a particular owner or owner's guests or invitees, which shall be borne by that owner. Notice in writing of the amount of such special assessments and the time for payment of the special assessments shall be given promptly to the owners, and no payment shall be due less than thirty (30) days after such notice shall have been given.

2.5 The Association shall have the right to utilize the lien provisions of Article 7, below, and to initiate all reasonable efforts, in court or otherwise, to collect assessments for common expenses from owners, who shall be personally responsible for such commons expenses and the assessments therefor.

2.6 The grantee of a Unit shall be jointly and severally liable with the grantor for all unpaid assessments against such Unit for his proportionate share of the common expenses up to the time of the grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor.

2.7 The Association, the owner of any Unit and/or the City of Gunnison shall have the authority to enforce any provision of this Declaration and/or any rule or regulation adopted by the Association.

2.8 If any Unit is owned by more than one person, or by a limited liability company, partnership, joint venture, corporation or other entity, the owner(s) thereof shall designate to the Association, in writing, the name and address of the agent of the owner to whom all legal or official assessments, liens, levies or other such notices may be mailed. Upon failure to so



designate an agent, the Association shall be deemed to be the agent for receipt of notices to such owners. Notice of matters affecting Van Tuyl Townhomes may be given to Owners by United States Mail sent to the last known address of each Owner. Each Owner shall inform the Association in writing of each address change, failing which, the Association may mail notices to the mailing address for the Owner(s) of the Unit as shown by the Gunnison County, Colorado Assessor's website. If an Owner provides an email address to the Association, the Association may provide any notice that may be mailed to such email address for the Owner in lieu of mailing and such emailing shall be of the same force and effect as mailing as permitted above.

2.9 The common expense liability and votes in the Association allocated to each Unit are set forth in **Exhibit C**. The interests allocated to each Unit have been calculated as follows:

2.9.1 the share of liability for common expenses, on the basis of the number of Units; and

2.9.2 the number of votes in the Association, on the basis of the number of Units.

2.10 The budget shall be submitted to the Owners, pursuant to Section 303(4) of the Act. Common expense assessments shall be due and payable annually or in periodic installments, or in any other manner. Common expense assessments may begin on the first day of the month in which conveyance of the first Unit to an Owner other than the Declarant occurs. The omission or failure of the executive board to levy the assessment for any period shall not be deemed a waiver, modification, or a release of the Owners from their obligation to pay.

2.10.1 The books and records of the Association shall be subject to an audit no less frequently than as required by law.

2.10.2 Copies of an audit or review under paragraph 2.10.1 shall be made available upon request to any Owner beginning no later than thirty days after its completion.

2.11 Except as provided in the bylaws and the Act, the executive board may act in all instances on behalf of the Association, to:

2.11.1 Adopt and amend bylaws and rules and regulations;

2.11.2 Adopt and amend budgets for revenues, expenditures and reserves and collect assessments;

2.11.3 Hire and terminate management agents and other employees, agents, and independent contractors;

2.11.4 Institute, defend or intervene in litigation or administrative proceedings in its own name on behalf of itself or two or more Owners on matters affecting the project.



2.11.5 Make contracts and incur liabilities, except that any contract providing for the services of Declarant may not exceed three years and must provide for termination by either party without cause and without payment of a termination fee on ninety days or less written notice.

2.11.6 Regulate the use, maintenance, repair, replacement and modification of common elements;

2.11.7 Grant easements, leases, licenses and concessions through or over the common elements;

2.11.8 Impose charges for late payment of assessments, recover reasonable attorney fees and other legal costs for collection of assessments and other actions to enforce the power of the Association, regardless of whether or not suit was initiated, and after notice and opportunity to be heard, levy reasonable fines for violations of the Declaration, bylaws and rules and regulations;

2.11.9 Provide for indemnification of its officers and executive board and maintain directors' and officers' liability insurance;

2.11.10 Assign its right to future income, including the right to receive assessments;

2.11.11 Insure the Units;

2.11.13 Exercise all other powers that may be exercised in this state by legal entities of the same type as the Association, including without limitation the adoption of rules, regulations, policies, procedures and the imposition of fines for the violation of this Declaration or any other governing document of the Association; and

2.11.14 Exercise any other powers necessary, proper, convenient or otherwise permitted by law relating to the governance and operation of the Association.

2.12 Notwithstanding any other provision of this Declaration, any common expense associated with the maintenance, repair, or replacement of a limited common element shall be assessed against the Units to which that limited common element is assigned, equally. Notwithstanding any other provision of this Declaration, any common expense or portion thereof benefiting fewer than all of the Units shall be assessed exclusively against the Units benefited. Notwithstanding any other provision of this Declaration, at the election of the Association's board of directors, the costs of insurance may be assessed in proportion to the risk and the costs of utilities may be assessed in proportion to usage.

ARTICLE 3

Insurance



3.1 The Association shall pay for and maintain at all times:

3.1.1 Insurance coverage against loss or damage by fire and extended coverage perils in an amount not less than the full replacement value of all Van Tuyl Townhomes improvements, including all common areas and facilities; and

3.1.2 Liability insurance with a combined single limit of at least \$2,000,000.00.

3.1.3 The Association shall furnish proof of such insurance coverage to any Owner upon request.

3.2 In addition, an owner may, if he desires at his own expense, carry insurance for homeowner's liability, theft, and other insurance covering personal property damage or less.

ARTICLE 4 **Architectural Control**

4.1 No landscaping, building, fence, structure or improvement of any kind shall be erected, placed, painted or altered anywhere on the Property until the building plans, specifications and plans showing the nature, kind, shape, height, color, materials and location of such landscaping, building, fence, structure or other improvement shall have been submitted to and approved in writing by the Association, which approval shall not be unreasonably withheld.

4.2 To the extent reasonably practicable, the Association shall maintain a consistent exterior appearance for the entire Van Tuyl Townhomes project.

4.3 The selection of color, stain, type of pain, exterior decoration, and any exterior materials shall be subject to the written approval of the Association, which approval shall not be unreasonably withheld.

4.4 Each Owner shall at all times maintain the exterior of his or her Unit in a good, neat and attractive condition and not allow any deterioration.

ARTICLE 5 **Use Restrictions**

5.1 The Units shall be used for residential purposes only. Time sharing and all use as a time share is prohibited. No short term rentals shall be permitted. A rental is a short term rental if the rental is for a period of one month or less. No structures of a temporary character, trailer, tent, shack, garage, barn or other out building shall be used on any portion of said Property at any time as a residence, either temporarily or permanently, or for storage of materials or equipment or any other property, except upon Association approval to the extent such materials or equipment or other property may be required for the repair of a building or other work being performed on the Property.



5.2 No animals, livestock, or poultry of any kind shall be raised, bred or kept on the Property, except that dogs, cats or other household pets may be kept, provided that they are not kept, bred or maintained for any commercial purposes. No more than two domestic pets of the same species shall be allowed in any Unit. Such pets shall be adequately maintained and cared for in order to avoid constituting a nuisance to another owner, a neighbor or the Association.

5.3 Owners of dogs shall:

5.3.1 Not allow their dogs to bark or otherwise disturb, threaten, scare, injure or otherwise bother any person or animal;

5.3.2 Immediately clean up the dog's waste;

5.3.3 At all times control their dogs by leash or voice command;

5.3.4 Comply with all applicable City of Gunnison ordinances and all rules, regulations, policies and procedures of the Association; and

5.3.5 Not leave their dogs tied up outside unless a person remains present in the Unit.

5.4 No Unit shall be used in any way or for any purpose that may endanger the health or unreasonably disturb, by noise, dust, fumes, vibration or otherwise, the owner or occupant of another unit or a neighbor.

5.5 All fixtures and equipment installed within a townhome, commencing at a point where the utility lines, pipes, wires, conduits or systems enter the exterior walls of a townhome, shall be maintained and kept in repair by the owner thereof. An owner shall not commit any act nor perform any work that will impair any easement or hereditament or do any act or allow any condition to exist that will adversely affect the Association or any other townhome or its owner.

5.6 The exterior of each Unit shall be kept and maintained by the Unit owner in a neat, clean and orderly condition and appearance at all times. No personal property shall be stored on a balcony, patio or outside of any Unit, except for one barbecue grill and patio furniture.

5.7 The Association shall remove snow from around the ground floor windows of each Unit with sufficient frequency to maintain at all times unrestricted emergency egress through each such window.

5.8 Parking of vehicles is permitted only within parking garages or designated parking spaces. No vehicles shall be parked in a common area.



5.9 The following are absolutely prohibited from Van Tuyl Townhomes, unless parked or stored within a fully enclosed garage:

- 5.9.1 Motor homes, recreational vehicles (RVs) and campers mounted on pickups;
- 5.9.2 Pick-up campers not mounted on a pickup;
- 5.9.3 All terrain vehicles (ATVs);
- 5.9.4 Trailers of any kind;
- 5.9.5 Snowmobiles;
- 5.9.6 Boats, kayaks and inflatable rafts;
- 5.9.7 Inoperable vehicles (a vehicle which has not been driven under its own power for a period of one week, or longer);
- 5.9.8 Skis, snowboards, sleds and other recreation equipment;
- 5.9.9 Construction equipment, tools, snowblowers and other tools and equipment; and
- 5.9.10 Trucks larger than 1 ton trucks.

5.10 If an owner or his guest or invitee violates any provision of the Plats, this Declaration or any Association rule or regulation, the Association shall have the right to correct such violation and levy a default assessment in accordance with Article 8, below.

ARTICLE 6

Easements

6.1 Each Unit shall be subject to an easement for encroachment created by construction, settling and overhang as designed or constructed by Declarant, and a valid easement for such encroachment and for the maintenance of same shall and does exist. If a townhome building is partially or totally destroyed and then rebuilt, minor encroachments due to construction shall be permitted and a valid easement for said encroachment and the maintenance thereof shall exist.

6.2 There is hereby created a nonexclusive blanket easement upon, across, over and under all of the Units and the improvements situated thereon in favor of the Association for the benefit of all Owners for the installation, replacement, repair and maintenance of all utilities and common facilities including but not limited to water, sewer, gas, telephone, electricity and cable television, together with the lawn sprinkler system and parking areas.



6.3 There is hereby created in the Association a blanket easement for drainage over the entire Property, except the Units.

6.4 Declarant reserves an easement for construction, landscaping maintenance, utilities, drainage, ingress and egress over, in, upon, under, and across any Unit and/or common area together with the right to store materials on such common area and to make such other use of such common area as may be reasonably necessary or incident to the construction of improvements on the Property. However, Declarant may not exercise such rights in a way which unreasonably interferes with the occupancy, use, enjoyment, or access to Units by Owners. Such easement includes the right to store material.

ARTICLE 7

Remedy for Nonpayment

7.1 If any common expense of an Owner or any assessments or other charge levied by the Association is not paid within thirty (30) days after notice thereof is given, such amount shall become a lien upon the Unit of the nonpaying Owner and shall continue to be such a lien until fully paid. This lien shall be superior to the lien of any first mortgage or first deed of trust to the fullest extent set forth by the Colorado Common Interest Ownership Act and shall be enforceable in an action for the collection of a debt and to enforce the aforesaid lien by all methods available for the enforcement of such lien, including foreclosure by an action brought in the name of the Association in a like manner as foreclosure on a mortgage under the statutes of the State of Colorado.

7.2 Any assessment, charge or fee provided for in this Declaration, or any monthly or other installment thereof, which is not fully paid within (10) days after the due date thereof shall bear interest at the rate of 18% per year or at such other rate as determined by the executive board, and the Association may assess a late charge thereon. Further, the Association may bring an action at law or in equity, or both, against any owner personally obligated to pay such overdue assessments, charges or fees, or monthly or other installments thereof, and may also proceed to foreclose its lien against such Owner's Unit. An action at law or in equity by the Association against an Owner to recover a money judgment of unpaid assessments, charges or fees, or monthly or other installments thereof, may be commenced and pursue by the Association without foreclosing, or in any way waiving, the Association's lien therefor.

7.3 The first Owner of each Unit, except for Declarant, shall make a non-refundable payment to the Association in an amount equal to one-fifth of the annual common expense assessments against that Unit in effect at the closing thereof, which sum shall be held, without interest, by the Association as a working reserve fund. Said working reserve fund shall be collected and transferred to the Association at the time of closing of the sale by Declarant of each Unit, as aforesaid, and shall be maintained for the use and benefit of the Association. Such payment shall not relieve an Owner from making regular payments of assessments as the same become due.



7.4 The Association shall furnish to an Owner or such Owner's designee or to a holder of a security interest or its designee, a written statement setting forth the amount of unpaid assessments currently levied against such Owner's Unit. Except to the extent otherwise provided by law, the failure to provide such a statement upon such a request shall not impair, invalidate or otherwise impede or delay the Association's lien or enforcement thereof.

7.5 The lien provisions of this Declaration shall not bar the Association or an Owner from seeking such other injunctive or monetary relief as may be allowed at law or in equity. All remedies shall be cumulative.

7.6 The Association shall be awarded all costs, including reasonable attorneys' fees and costs, incurred in collecting any assessments or charges levied by the Association or in enforcing any provision of this Declaration or the rules and regulations of the Association.

ARTICLE 8

Default Assessments

8.1 All monetary fines, penalties and enforcement costs, including reasonable attorneys' fees and costs, assessed against an Owner or any expense of the Association which is the obligation of an Owner which is incurred by the Association on behalf of the Owner pursuant to this Declaration, including without limitation, attorneys fees incurred by the Association, shall be a default assessment and shall become a lien against such Owner's Unit which may be foreclosed or otherwise collected as provided in this Declaration. Notice of the amount and due date of such default assessment shall be sent to the Owner subject to such assessment at least ten (10) days prior to the due date.

8.2 Without limiting the generality of the preceding paragraph, in the event that the need for maintenance, repair or replacement of all or any portion of a townhome building or the common area is caused by the negligent or willful act or omission of an Owner or his guest or invitee or if misconduct or failure to maintain his Unit by an Owner otherwise results in the Association incurring some expense, then the expenses incurred by the Association for such maintenance, repair or replacement or otherwise caused by the misconduct shall be the personal obligation of such Owner. If the Owner fails to repay the expenses incurred by the Association within 30 days after notice to the Owner of the amount owed, then the failure to so repay will be a default by the Owner under this Declaration, and such expense will automatically become a default assessment enforceable in accordance with all provisions of this Declaration.

ARTICLE 9

Miscellaneous

9.1 If any portion of this Declaration is declared invalid or unenforceable, such invalidity or unenforceability shall in no way affect any other provisions of this Declaration.

9.2 The singular wherever used herein shall be construed to mean the plural when applicable and necessary grammatical changes required to make the provisions hereof apply



either to corporations or other entities or individuals, male or female, shall in all cases be amended as though in each case fully expressed.

9.3 None of the terms, conditions or covenants contained in this Declaration shall be deemed to be for the benefit of any person not a party hereto, and no such person shall be entitled to rely hereon in any way or manner. For purposes of this section, "party" shall include Declarant, the Owners, and their heirs, successors and assigns.

9.4 This Declaration shall not be amended except by an instrument signed in writing by the Owners of Units having at least sixty-six percent (66%) of the common expense responsibility in Van Tuyl Townhomes, which instrument shall be recorded in the office of the Gunnison County Clerk and Recorder. In addition, no Plat, Supplemental Plat or Supplemental Declaration shall be amended without the written approval of the Owners of at least sixty-six percent (66%) of the Units described on such Plat, Supplemental Plat, or Supplemental Declaration. Approval by holders of deeds of trust, mortgages and/or other liens or encumbrances shall not be required. No amendment which alters Unit Owners' proportional responsibility for common expenses or voting rights, except through the addition of new Units as provided herein, shall be effective except upon the written approval of the Owners of all Units plus the holders of all deeds of trust and/or mortgages encumbering such Units.

9.5 This Declaration shall be interpreted in accordance with the law of the State of Colorado. Any litigation to enforce or interpret the provision of this Declaration, the Plats and/or the Association rules and regulations shall be brought in a court of competent jurisdiction in Gunnison County, Colorado, and the prevailing party in such litigation or in any arbitration shall be awarded all reasonable attorneys' fees and costs incurred, including expert witness fees and costs.

9.6 A Unit may not be conveyed pursuant to any time-sharing or fractional ownership arrangement, including those described in Sections 38-33-110 to 113, Colorado Revised Statutes.

9.7 All leases and rental agreements shall be in writing and subject to the requirements of the Plats, this Declaration and the Association rules and regulations. Copies of all Leases and rental agreements shall be filed with the Association.

9.8 All easements and licenses to which the project is presently subject are recited in **Exhibit A**. In addition, the project may be subject to other easements granted by the Declarant and as shown on the Plats.

9.9 The covenants and restrictions in this Declaration shall run with and bind the Property in perpetuity, subject to the termination provisions in the Colorado Common Interest Ownership Act, Sections 38-33.3-101, *et. seq.*, Colorado Revised Statutes.

ARTICLE 10

Rights Reserved to Declarant



10.1 The Declarant specifically reserves the right to exercise in any order all Development Rights and Special Declarant Rights as set forth in the Colorado Common Interest Ownership Act and this Declaration for the maximum time limit allowed by law or for fifty (50) years following the recording hereof, whichever occurs first, including without limitation, the following:

10.1.1 Declarant shall be entitled to appoint and remove the members of the Association's executive board and officers of the Association during the term of Declarant Control. "Declarant Control" begins with the appointment of the initial executive board. The period of Declarant Control shall terminate at the earlier of the time period set forth in paragraph 10.1 above or upon termination of Declarant Control as set forth in the Act, whichever occurs first.

10.1.2 The right to complete or make any improvements as set forth on the Plats, or as required by the City of Gunnison, including all Units.

10.1.3 The right to maintain signs to advertise the project.

10.1.4 The right to dedicate a future public or private easement as shown on the Plats and to utilize all easements reserved in this Declaration.

10.1.5 The right to construct the project in phases.

10.1.6 The right to maintain a sales office in the project.

10.1.7 The right, without consent of any Owner or mortgagee or lienholder being required, at any time and from time to time to: (a) complete improvements indicated on the Plats, (b) maintain and relocate sales offices, management offices, signs advertising the project and models, of any size within one or more Units, (c) amend the Plats to (i) ensure that the language and all particulars that are used on the Plats and contained in the Declaration are consistent; (ii) establish and relocate utility easements, access easements, and parking spaces; and (iii) as may be otherwise permitted by the Act; and (d) to exercise any other Declarant rights or development rights provided for herein.

10.1.8 The right to use the statutory easement(s) through the common elements as may be reasonably necessary for the purpose of discharging Declarant's obligations or exercising special declarant rights as provided in C.R.S. § 38-33.3-216(1).

10.1.9 The right to use common areas during construction of the Units.

10.1.10 The right to expand the project, add new Units, and record Supplemental Plats, as provided herein.

10.1.11 The right to amend the Declaration and Plats, as provided herein and as otherwise may be permitted by the Act.



10.1.12 The fact that Declarant may exercise one or more of Declarant's Development Rights or other Special Declarant Rights on one portion of the property will not operate to require Declarant to exercise a Development Right or other Special Declarant Right with respect to any other portion of the Property.

10.1.13 Declarant reserves the right to unilaterally amend this Declaration and any Plat in connection with the exercise of any Development Rights or any other Special Declarant Rights to the extent permitted by the Act.

10.1.14 Notwithstanding any other provision of this Declaration, all development rights and other special declarant rights reserved under this Declaration to the Declarant apply to not only the Property, but also to the Expansion Property.

10.1.15 Notwithstanding any other provision of this Declaration: (i) Declarant may exercise its development rights with respect to all or any portion of the Expansion Property at different times, including without limitation the right to add new units; (ii) no assurances are made with respect to which portions, if any, of the Expansion Property will be the subject of Declarant's exercise of its development rights; (iii) no assurances are made with respect to the order in which those portions, if any, of the Expansion Property will be the subject of Declarant's exercise of its development rights; and (iv) if any development right is exercised in any portion of the Expansion Property, that development right need not, but may, be exercised in all or any other portion of the remainder of the Expansion Property.

10.1.16 Those rights reserved in Section 1.2 of this Declaration.

Executed as of the day and year first above-written.

DECLARANT

SW Ventures, LLC,
a Colorado limited liability company

By: [Signature]
Karen Stock, Manager

[illegible]

The foregoing instrument was acknowledged before me this 18th day of July, 2016 by Karen Stock as Manager of SW Ventures, LLC, a Colorado limited liability company. Witness my hand and official seal.
My commission expires Jan 15 2020 .

Notary Public

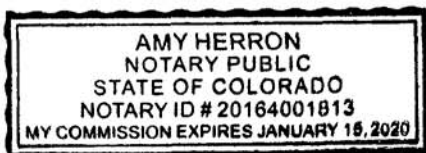




EXHIBIT A

Property

Lot 77, VANTUYL SUBDIVISION, according to the Plat thereof recorded November 15, 2006 bearing Reception No. 570968, County of Gunnison, State of Colorado

Easements

1. All rights to any and all minerals, ore and metals of any kind and character and all coal, asphaltum, oil, gas and other like substances in or under said land, the right of ingress and egress for the purpose of mining, together with enough of the surface of the same as many be necessary for the proper and convenient working of such minerals and substances, and less 4.31 acres under Denver and Rio Grande Western Railroad right of way No. 92 as reserved in Patent from the State of Colorado, recorded June 1, 1936 in Book 248 at Page 506.
2. Right of way and easement 30 feet in width for the construction, maintenance and operation of any electrical power line with the city of Gunnison having the right to install the necessary power poles, power lines, anchors, guy wires and other equipment, together with the right of ingress and egress for the repaired, maintenance and replacement of said power line, and incidental purposes, as granted to the city of Gunnison by instrument dated November 24, 1959, recorded in Book 344 at Page 150.
3. All right to any and all minerals, ores and metals of any kind and character, and all coal, asphaltum, oil, gas and together like substances in or under said land and geothermal resources, the right of ingress and egress for the purpose of mining, together with enough of the surface of the same as many be necessary for the proper and convenient working of such minerals and substances as reserved to the State of Colorado in patent recorded January 3, 1980 in Book 545 at Page 840 affecting that portion of the subject property located within the old Denver and Rio Grande Western Railroad right of way.
4. Easement and right of way as conveyed to the Mountain States Telephone and Telegraph Company by Raymond P. Van Tuyl and Louis F. Van Tuyl in Right of Way easement recorded January 14, 1982 in Book 576 at Page 193 affecting the following described property:



Beginning at a point which bears East a distance of 40 feet from the Southwest corner of the NW1/4NW1/4 of Section 36, Township 50 North, Range 1 West, N.M.P.M., thence East 10 feet; thence South 10 feet; thence West 10 feet to the Point of Beginning.

5. Right of Way Easement between the Van Tuyl Bros. and the Gunnison County Electric Association, Inc., a Colorado corporation, recorded March 4, 2005 as Reception No. 551473.
6. Water rights, claims or title to water, whether or not shown by the public records.
7. Any and all easements, notes, building setbacks and other matters disclosed on the Plat of Van Tuyl Village Subdivision recorded November 15, 2006 as Reception No. 570968.
8. Easements as shown on the Plat of Van Tuyl Townhomes



EXHIBIT B

Expansion Property

**Lots 62 through 76, both inclusive, and Lots 78 and 79, VANTUYL
SUBDIVISION, according to the Plat thereof recorded November 15, 2006
bearing Reception No. 570968, County of Gunnison, State of Colorado;**

EXHIBIT C
Table of Interests

<u>Unit</u>	<u>Share of Common Expenses</u>	<u>Vote in the Affairs of Association</u>
77A	1/5	1
77B	1/5	1
77C	1/5	1
77D	1/5	1
77E	1/5	1
TOTAL		5