



**THIRD SUPPLEMENT TO THE  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF  
EDGEMONT HIGHLANDS**

**THIS THIRD SUPPLEMENT TO THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF EDGEMONT HIGHLANDS** (the "Supplemental Declaration") is made and entered into this 6<sup>th</sup> day of JAN., 2006, by **HIGHLANDS DEVELOPMENT II, LLC**, a Colorado Limited Liability Company, of La Plata County, Colorado (hereinafter referred to as the "Declarant").

**RECITALS**

A. **Phase 2C, Edgemont Highlands.** Declarant is the owner of that real property located in the County of La Plata, State of Colorado, more particularly described as follows (hereinafter referred to as "Phase 2C"):

SEE EXHIBIT A, ATTACHED HERETO AND MADE A PART HEREOF BY THIS REFERENCE.

B. **Edgemont Highlands Governing Documents.** Declarant is the successor declarant to Highlands Development I, LLC under the Amended and Restated Declaration of Covenants, Conditions and Restrictions of Edgemont Highlands recorded on the 11th day of May, 2004 as Reception No. 884350 (the "Amended and Restated Declaration"), First Supplement to the Declaration of Covenants, Conditions and Restrictions of Edgemont Highlands recorded November 3, 2004 as Reception No. 896541 (the "First Supplement"), Second Supplement to the Declaration of Covenants, Conditions and Restrictions of Edgemont Highlands recorded April 11, 2005 as Reception No. 906547 (the "Second Supplement"), First Amendment to the Amended and Restated Declaration of Covenants, Conditions and Restrictions for Edgemont Highlands recorded 1/10/06 as Reception No. 925868 and the Governing Documents of Edgemont Highlands.

C. **Plats of Edgemont Highlands - Phase 1, Phase 2A and Phase 2B.** EDGEMONT HIGHLANDS, PHASE 1, Project No. 2003-290, was platted according to the plat thereof filed January 20, 2004 as Reception No. 877022, La Plata County, Colorado ("Phase 1"). EDGEMONT HIGHLANDS, PHASE 2A, Project No. 2004-221, was platted according to the plat thereof filed November 3, 2004 as Reception No. 896542, La Plata County, Colorado ("Phase 2A"). EDGEMONT HIGHLANDS, PHASE 2B, Project No. 2004-222, was platted according to the plat thereof filed April 11, 2005 as Reception No. 906548, La Plata County, Colorado ("Phase 2B").

D. **Declaration Definitions.** Except to the extent expressly defined otherwise herein, the terms used in this Supplemental Declaration shall have the same meaning as set forth in the Amended and Restated Declaration. Specifically, the Amended and Restated Declaration provides the following pertinent definitions in Article II thereof:

"Supplemental Declaration": An instrument Recorded pursuant to Article IX which subjects additional property to this Declaration, identifies phases and neighborhoods, and/or creates or imposes additional easements, restrictions and obligations on the land described in such instrument.

E. **Expansion of Edgemont Highlands.** The Amended and Restated Declaration provides in Article 9 as follows:

**9.1 Expansion by Declarant.**

Declarant may subject to the provisions of this Declaration all or any portion of the property described in Exhibit "B" by Recording a Supplemental Declaration describing the additional property to be subjected. A Supplemental Declaration Recorded pursuant to this Section shall not require the consent of

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any Person except the owner of such property, if other than Declarant.

It is the desire and intention of Declarant to supplement the Amended and Restated Declaration for the purpose of subjecting Phase 2C to the provisions of the Amended and Restated Declaration and the Governing Documents of Edgemont Highlands and to provide for the division of Phase 2C into Lots according to the supplemental plat filed for record under Reception No. 925871, (the "Phase 2C Supplemental Plat") and as defined and described by the Amended and Restated Declaration and this Supplemental Declaration.

**NOW, THEREFORE,** Declarant hereby supplements the Declaration as follows:

1. **Supplemental Declaration.** Declarant hereby declares that all of Phase 2C is to be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied, and improved subject to the limitations, restrictions, easements, conditions and covenants of the Governing Documents, the Plat of Phase 1 of Edgemont Highlands, the Plat of Phase 2A, the Plat of Phase 2B and the Supplemental Plat, all of which are declared and agreed to be in furtherance of a plan for the protection, subdivision, maintenance, improvement and sale of Phase 2C for the purpose of enhancing the value, desirability and attractiveness of Phase 2C and for the purpose of establishing a common interest planned community pursuant to the Colorado Common Interest Ownership Act (the "Act"). All provisions of this Supplemental Declaration, including without limitation the easements, uses, obligations, covenants, conditions, and restrictions hereof, are hereby imposed as equitable servitudes upon Phase 2C. All of the limitations, restrictions, easements, conditions and covenants herein shall run with the land and shall be binding on and for the benefit of all of Phase 2C and all parties having acquired any right, title or interest in Phase 2C, or any part thereof, and their successive owners or assigns.

2. **Division Into Lots - Allocated Interests - Voting.** Phase 2C is hereby divided into lots (the "Lots"), each consisting of a fee simple interest in a Lot as shown on the Supplemental Plat, and the improvements and fixtures located thereon. All Units under Edgemont Highlands Phase 1, Edgemont Highlands Phase 2A and Edgemont Highlands Phase 2B and the Lots created by this Supplemental Declaration (also defined as "Units" under the Amended and Restated Declaration) shall be assessed equally pursuant to Article 8 of the Amended and Restated Declaration. Each owner of a Unit or Lot within Phase 2C shall be a Member of the Association and shall have one equal vote for each Unit in which they hold the interest required for membership under Section 6.2 of the Amended and Restated Declaration, except that there shall be only one vote per Unit. No vote shall be exercised for any property that is exempt from assessment under Section 8.8 of the Amended and Restated Declaration. All Class "A" votes shall be cast as provided in Section 6.3.3 of the Amended and Restated Declaration.

3. **Incorporation of Provisions of the Declaration.** All provisions of the Amended and Restated Declaration and Governing Documents are incorporated herein by this reference to the extent not inconsistent herewith. It is the purpose of incorporation of the terms of the original Amended and Restated Declaration and Governing Documents to have the provisions thereof construed to apply to and govern the management and administration of the Lots created by this Supplemental Declaration as a part of a singular common interest community consisting of the combination of the Lots established by the original Amended and Restated Declaration together with the Lots created by this Supplemental Declaration and previous Supplemental Declarations, except as may be otherwise expressly set forth herein. This includes, but is not limited to, the provisions of the Amended and Restated Declaration concerning the following subjects:

- a. Assessments and Assessment procedures;
- b. HOA Reserve Payment requirements by initial Lot Owners other than Declarant
- c. Reserved Declarant Rights and Development Rights;
- d. General Easements, in addition to those expressly set forth on the Supplemental Plat or by this Supplemental Declaration;

- e. Membership in the EDGEMONT HIGHLANDS Community Association, Inc.
- f. Amendment and Enforcement procedures;
- g. Association powers;
- h. Provisions regarding Common Area

4. **Legal Description.** Every deed, lease, mortgage, will or other instrument shall legally describe a Lot created by this Supplemental Declaration by its identifying Lot letter or number on the recorded plat as follows:

Lot \_\_\_\_, of Edgemont Highlands, Phase 2C, Final Plat, Project No. 2004-0261 according to the plat thereof filed for record 1/10/2006 under Reception No. 925871, County of La Plata, State of Colorado.

Every instrument of conveyance, mortgage, deed of trust, or other instrument affecting the title to a Lot which legally describes said Lot in the manner set forth in this Section shall be construed to describe the Lot, together with all fixtures and improvements therein contained, and to incorporate all the rights incident to ownership of a Lot and all the limitations of ownership as described in the covenants, conditions, restrictions, easements, reservations, rights-of-way, and other provisions contained in this Supplemental Declaration, including the owner's membership in the EDGEMONT HIGHLANDS Community Association, Inc., and the easement of enjoyment to use the Common Area.

5. **Common Area/Open Space.** Declarant shall convey the initial Common Area/Open Space shown on the Supplemental Plat to the Association prior to the conveyance of a Unit to any Person other than a Builder. Such Common Area/Open Space shall, in all respects, be subject to the same terms, conditions, provisions, restrictions and obligations as set forth in the Amended and Restated Declaration and Governing Documents with respect to Common Area/Open Space within Phase 1, Phase 2A and Phase 2B.

6. **Effective Date.** Pursuant to Section 9.4 of the Amended and Restated Declaration, Declarant hereby declares the Effective Date of this Supplement Declaration with respect to assignment of voting rights and assessment liability shall be delayed until a date certain stated by Declarant in a supplemental instrument recorded in the real estate records of La Plata County, Colorado, which makes reference to this instrument.

7. **Incorporation of Consistent Terms of Declaration.** To the extent not inconsistent herewith, all other terms and conditions of the Declaration shall remain the same.

8. **General Provisions.**

a. If any of the provisions of this Supplemental Declaration or any paragraph, sentence, clause, phrase or word, or the application therein in any circumstance be invalidated, such invalidity shall not affect the validity of the remainder of this Supplemental Declaration, and the application of any such provisions, paragraph, sentence, clause, phrase or word in any other circumstances shall not be affected thereby.

b. That whenever used herein, unless the context shall otherwise provide, the singular number shall include the plural, the plural the singular, and the use of any gender shall include all genders.

c. In the event of any inconsistency between the terms of this Supplemental Declaration and the Amended and Restated Declaration, the terms and provisions of this Supplemental Declaration shall be controlling.



## Exhibit A

### EDGEMONT HIGHLANDS - PHASE 2C

**Legal Description:**

A tract of land located in Section 7, Township 35 North, Range 8 West, N.M.P.M., in La Plata County, Colorado, being Lots 159, 160, 161 and 162 of Edgemont Highlands, Phase 2A, Final Plat, Project No. 2004-221 recorded in the Office of the La Plata County, Colorado, Clerk and Recorder under Reception No. 896542.