

FOURTH AMENDED BYLAWS
OF
VAN AIRE SKYPORT CORPORATION
Ratified _____, 2020

Introduction.

These Amended and Restated Bylaws are adopted for the regulation, management and governance of the affairs of the Association (“Bylaws”). The Association was organized as a Colorado nonprofit corporation under Colorado law to act as the Association for the Van Aire Skyport community.

Purposes.

The purposes for which the Association is formed are set forth in the Articles, as clarified and supplemented by the following:

1. To promote, encourage and develop private airplane use by Corporation members in a residential setting ensuring the welfare and safety of the members of the Corporation.
2. To engage in the operation of a private airfield for the landing, taking-off, and parking of private aircraft, to maintain and repair the runway of said airfield, to maintain and repair any taxiways in connection therewith, to formulate rules and regulations concerning the use of the airfield by members of the corporation, to assess costs of the operation of said airfield to the members of the corporation, to maintain policies of insurance in connection with the operation of the airfield, and to engage in any and all other functions necessary and proper to the operation of said airfield not for profit.
3. To protect the value and desirability of the Van Aire Skyport community and the Lots.
4. To further the aviation interests of the residents of the community and Members of the Association.
5. To operate and govern the community.
6. To provide for the administration, maintenance, preservation and architectural review of the Lots and Common Areas within the community; and
7. To promote the health, safety, welfare and recreation of the Owners within the community.

ARTICLE I
Name and Location

In accordance with the requirements and guidance provided by C.R.S. §38-33.3-301, and the Colorado Revised Nonprofit Corporation Act, Van Aire Skyport Corporation, hereinafter referred to as the “Corporation”, is constituted as a nonprofit corporation. The principal office address of the Corporation is registered with the Colorado Secretary of State. The mailing address of the Corporation is the mailing address registered with the Colorado Secretary of State.

ARTICLE II
Definitions

Section 1. “Assessments” shall mean those annual rates (due and payable quarterly commencing with January 1st of each year) established by the Board of Directors. Such assessments shall be used to carry out the purposes of the Association and as otherwise allowed for under the Declaration or under the Colorado Common Interest Ownership Act, *C.R.S. §38-33.3-101 et. seq.*

Section 2. “Association” or “Corporation” shall mean and refer to Van Aire Skyport Corporation, a Colorado nonprofit corporation, its successors and assigns.

Section 3. “CCIOA” shall mean the Colorado Common Interest Ownership Act, *C.R.S. §38-33.3-101 et. seq.*, as it may be amended.

Section 4. “Common Area” shall mean all real property including but not limited to leases, improvements, easements, right of way and mineral interests, owned by the Corporation for the common use and enjoyment of the Owners, and any easements, not including the Lots.

Section 5. “Declaration” or “Protective Covenants” shall mean and refer to the Protective Covenants of Van-Aire Subdivision as amended, and recorded _____, 2020.

Section 6. “Director” shall mean a Member of the Board of Directors.

Section 7. “Executive Board” or “Board of Directors” shall mean the body, regardless of name, designated in the Governing Documents to act on behalf of the Association.

Section 8. “Governing Documents” shall mean the Declaration, the Maps, the Articles of Incorporation, the Bylaws and Rules and Regulations of the Corporation, as they may be amended

Section 9. “Lot” shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area.

Section 10. “Member” shall mean any Owner and refers to every person or entity which holds a Membership in the Corporation as provided in Article III of these Bylaws. “Member” and “Owner” may be used interchangeably.

Section 11. “Owner” shall mean the owner of record title, whether one or more persons or entities, to any Lot which is a part of the Property, including contract sellers, but excluding those having an interest merely as security for the performance of an obligation.

Section 12. “Properties” shall mean and refer to that certain real property described in the Declaration and such additions thereto as may hereafter be brought within the jurisdiction of the Corporation.

Section 13. “Eligible Voter” shall mean any titled owner(s) of property within the geographic boundary of Van Aire Skyport Subdivision as recorded with Adams County, Colorado, and being current with all Van Aire Skyport Corporation assessments.

ARTICLE III **Membership and Rights Thereof**

Section 1. Membership and Voting. Every person who is an Owner shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot. Ownership of a Lot shall be the sole qualification for Membership. Votes shall be allocated as follows: Each Member shall be entitled to one vote. However, when more than one person holds an interest in any Lot or Lots, all such persons shall be Members of the Corporation, but the vote for such Lot or Lots shall be exercised as they among themselves determine, but in no event shall they be entitled to more than one vote, even if they own more than one Lot. Fractional and cumulative voting are prohibited.

Section 2. Right to Enjoyment. Each Member shall be entitled to the use and enjoyment of the Common Area and facilities as provided in the Protective Covenants. Any Member may delegate her/his rights of enjoyment of the Common Area and facilities to Members of her/his family who reside with her/him or to her/his tenants or contract purchasers who reside on her/his Lot, provided that no Member shall be reimbursed for any privilege which s/he may delegate or grant to others by virtue of her/his Membership.

Section 3. Rights and Duties of Members.

- (a) Each Member of the Corporation shall have the right to attend any and all Board meetings. If a Member wishes to present a particular matter to the Board at such meeting, s/he may submit a request to place such matter on the agenda at least two (2) days prior to the Board meeting, or s/he may speak regarding the topic in open forum.
- (b) Each Member of the Corporation shall have the right to examine the corporation’s financial records and books upon request made under Section 317 of CCIOA or as part of the Association annual disclosures required pursuant to Section 209.4 of CCIOA.
- (c) Each Member of the Corporation shall have the right to petition the Board of Directors for redress of any problem which results from disregard or violation of any express provisions contained in the Protective Covenants.

(d) Each Member of the Corporation shall have the right to vote for the Board of Directors at a general election held annually for vacancies, unless her/his voting privileges have been suspended pursuant to these Bylaws. Further, each Member shall be entitled to vote exclusively for one Director who must live within a geographical section (Section 1a consisting of Lot numbers 1 through 23; Section 1b consisting of Lot numbers 24 through 46; and Section 2a consisting of Lot numbers 1 through 20, and Section 2b consisting of Lot numbers 21 through 40, per Van Aire Skyport Corporation Plat map dated January 26th, 2020) established in these Bylaws and for one at-large Board Director when their vacancies arise. Voting Members may exercise their right to recall a Director of the Board by obtaining a petition with 20% of the voting Members' signatures calling for a Director's resignation. A recall election shall then take place.

(e) Each Member of the Corporation shall have the right to full enjoyment and use of her/his individual Lot and the Common Areas and facilities. This right shall only exist to the point at which such activity by a Member infringes upon the rights of other Member's use or enjoyment her/his premises, or Common Areas, or violates rules and regulations, the Declaration and Protective Covenants, or Bylaws of this Corporation. No noxious or offensive trade or activity shall be carried on within the Common Areas or within any Lot situated within the community, nor shall anything be done thereon which may be or may become an annoyance to the neighborhood or the other owners.

(f) The Board of Directors shall have only those rights and powers granted in these Governing Documents and Colorado law. All other rights are specifically reserved to the Members of the Corporation.

(g) Members' Duty to Inform. Any Member of the Corporation who conveys her/his Lot to another entity shall have the duty to inform the Board of such transaction, and to provide the name and address of the new Owner.

ARTICLE IV **Meeting of Members**

Section 1. Annual Meetings. In accordance with the requirements and guidance provided by C.R.S. §38-33.3-308 (1), Annual meetings of the Members shall be in the month of January of each year, at a time, date, and location to be announced by written notice per Article IV. Section 4 of these bylaws. If the day for the annual meeting of the Members is a legal holiday, the meeting will be held at the same hour on the first weekend day following which is not a legal holiday.

Section 2. Order of Business. The Board may establish the order of business for all meetings of the Members. Failure to strictly follow Robert's Rules of Order shall not invalidate any action taken at a meeting of the Members. A typical order of business would be:

- (a) Roll call and certification of proxies
- (b) Proof of Notice of Meeting (or Waiver of Notice)
- (c) Review and approval of minutes of preceding meeting

- (d) Reports of Officers, if any
- (e) Reports of Committees, if any
- (f) Unfinished business
- (g) Election or appointment of Election Officials*
- (h) Election of Directors*
- (i) New business
- (j) Adjournment

*If applicable to the particular meeting.

Section 3. Special Meetings. Special meetings of the Members may be called at any time by the President, by any two (2) Directors, or upon written request of 20% of the Members. Notice of such special meetings shall be provided to the voting Membership as specified in Section 4 of this Article below.

Section 4. Notice of Meetings. The Corporation Secretary, at the direction of the Board President, or her/his representative, will post notice of each annual or special meeting of the voting Membership on the Van Aire Skyport website at least ten (10) calendar days and no more than fifty (50) calendar days prior to any meeting of the Membership. The Secretary shall also cause such notice to be hand delivered or sent prepaid by United States mail to the mailing address of each unit or to any other mailing address designated in writing by the unit owner. The notice of any meeting of the unit owners shall be physically posted in a conspicuous place, to the extent that such posting is feasible and practicable, in addition to any electronic posting or electronic mail notices sent to the email address of record of all voting Members contemporaneous with the posting of notice on the website. The notice shall state the time and place of the meeting and the items on the agenda, including the general nature of any proposed amendment to the declaration or bylaws, any budget changes, and any proposal to remove an officer or member of the executive board.

Section 5. Quorum.

(a) A quorum is required for any meeting of the Membership at which any formal action is taken. A quorum shall consist of no fewer than twenty-five (25%) percent of the Membership eligible to vote in person or by proxy except as specified in (b) below.

(b) Any increase in annual assessment of more than 3% or more than the increase in the most recent Consumer Price Index published by the U.S. Department of Labor or any successor index thereto shall require a quorum of fifty percent (50%) of the membership eligible to vote in person or represented by proxy.

Section 6. Voting. In accordance with the requirements and guidance provided by C.R.S. §38-33.3-310, if only one of the multiple Owners of a Lot is present at a meeting of the Association, such Owner is entitled to cast the vote allocated to that Lot. If more than one of the multiple Owners are present, the vote allocated to that Lot may be cast only in accordance with the agreement of a majority of the Owners, unless the Declaration expressly provides otherwise. There is majority agreement if any one of the multiple Owners casts the votes allocated to that

Lot without protest being made promptly to the person presiding over the meeting by any of the other Owners of the Lot.

(a) Amendments to these Bylaws, must, in accordance with Article VII of the First Amended Articles of Incorporation of Van Aire Skyport Corporation, dated January 20, 1976, be approved by no less than fifty percent (50%) of the eligible voting membership by voting in person or by proxy.

(b) Amendments to the Protective Covenants of Van Aire Skyport Corporation shall require approval by no less than sixty-seven percent (67%) of the eligible voting Membership of this Corporation in person or by proxy.

(c) No contract with any person, corporation, government or institution, which involves the sale, acquisition or encumbrance of real property owned by the corporation shall be valid until approved by sixty-seven percent (67%) of the eligible voting members of this corporation in person or by proxy.

(d) If the number of eligible members present, in person or by proxy, at any meeting at which issues specified in Paragraphs (a) and (b) above is insufficient to achieve the required number of affirmative votes as specified in Paragraphs (a) and (b) above, the members entitled to vote thereat shall have power to adjourn the meeting without notice other than announcement at the meeting, until such time as the aforesaid requirements can be met.

(e) Votes for contested positions on the Executive Board shall be taken by secret ballot.

(f) At the discretion of the Board or upon the request of twenty percent (20%) of the Lot Owners who are present at the meeting or represented by proxy, if a quorum has been achieved, a vote on any matter affecting the common interest community on which all Lot Owners are entitled to vote shall be by secret ballot.

(g) Ballots shall be counted by a neutral third party or by a committee of volunteers. Such volunteers shall be Lot Owners who are selected or appointed at an open meeting, in a fair manner, by the chair of the Board or another person presiding during that portion of the meeting. The volunteers shall not be Board Members and, in the case of a contested election for a Board position, shall not be candidates.

(h) The results of a vote taken by secret ballot shall be reported without reference to the names, addresses, or other identifying information of Owners participating in such vote.

(i) The Association is entitled to reject a vote, consent, written ballot, waiver, proxy appointment, or proxy appointment revocation if the secretary or other officer or agent authorized to tabulate votes, acting in good faith, has reasonable basis for doubt about the validity of the signature on it or about the signatory's authority to sign for the Lot Owner.

(j) The Association and its officer or agent who accepts or rejects a vote, consent, written ballot, waiver, proxy appointment, or proxy appointment revocation in good faith and in accordance with the standards of this section are not liable in damages for the consequences of the acceptance or rejection.

(k) Any action of the Association based on the acceptance or rejection of a vote, consent, written ballot, waiver, proxy appointment, or proxy appointment revocation under this section is valid unless a court of competent jurisdiction determines otherwise.

(l) Proxies. Votes allocated to a Lot may be cast pursuant to a proxy duly executed by a Lot Owner. A proxy shall not be valid if obtained through fraud or misrepresentation. Unless otherwise provided in the Governing Documents, appointment of proxies may be made substantially as provided in Colorado Revised Statutes Title 7-127-203. No voting member may hold, or vote more than two (2) proxies at any single meeting.

(m) If a Lot is owned by more than one person, each Owner of the Lot may vote or register protest to the casting of votes by the other Owners of the Lot through a duly executed proxy. A Lot Owner may not revoke a proxy given pursuant to this section except by actual notice of revocation to the person presiding over a meeting of the Association. A proxy is void if it is not dated or purports to be revocable without notice. A proxy terminates eleven months after its date, unless it provides otherwise.

(n) Suspension of Voting Rights. Voting rights may be suspended for non-payment of Assessments. If, after the 25th day of the quarterly assessment month, or the date on which a fine is formally levied and the offending Member notified; the Member shall be considered delinquent. Written notice of such delinquency shall be sent to the delinquent Member. If the Member fails to bring the assessment up to date within 15 days after being notified of the delinquent status, the account shall be considered in default, and her/his voting rights shall be suspended until such assessment has been paid. Written notice of the suspension shall be given to the affected Member.

Section 7. Conduct of Meetings. All meetings of the Corporation may, but shall not be required to be conducted with reference to Robert's Rules of Order (most recently revised). At an appropriate time determined by the Board, but before the Board votes on an issue under discussion, Unit Owners or their designated representatives, shall be permitted to speak regarding that issue. The Board may place reasonable time restrictions on persons speaking during the meeting. If more than one person desires to address an issue and there are opposing views, the Board shall provide for a reasonable number of persons to speak on each side of the issue.

Section 8. Minutes. The Secretary/Treasurer will be responsible to ensure that complete and accurate minutes of every meeting of the Corporation are recorded. The minutes shall include all topics discussed, regardless of whether any action, or no action, was taken regarding such topic. The meeting minutes will be approved prior to adjournment of the meeting. The approved meeting minutes shall be posted to the Membership on the corporate website, and via email no later than fifteen (15) business days following the date of each meeting.

Section 9. Budget Meetings. Meetings to consider proposed budgets shall be called in accordance with the CCIOA as follows:

- (a) The Board is to prepare a proposed budget at least annually based upon the anticipated cash requirements of the Association for the upcoming fiscal year. For approval, the proposed budget must be adopted by a majority of a quorum of eligible voters at a special or annual meeting, unless the proposed budget increases the annual assessment in excess of the amount specified in Section 5. Paragraph (b) above, i.e., more than three percent (3%), or more than the increase in the Consumer Price Index published by the U. S. Department of Labor or any successor index thereto, which shall require approval by the majority of a quorum of no less than fifty percent (50 %) of eligible voters.

- (b) The Board shall be responsible to ensure that all excess and/or reserve funds are invested in a variety of long and short-term investments so as to provide maximum return consistent with maximum security. A reasonable fraction amount to be determined by the Board shall be placed in relatively liquid investments to provide for unplanned contingencies.

- (c) Within 90 days after the Association's adoption of the proposed budget, or such longer time as allowed by the CCIOA, the Association must provide copies of the approved budget in accordance with the delivery methodology specified in Section 4 above.

- (d) Notice for the special or annual meeting at which the budget will be considered must be mailed not less than 10 days nor more than 50 days before the meeting, or such longer time as allowed by the Act, in conformance with Section 4. above.

- (e) In the event the proposed budget is rejected by a majority vote, the budget last ratified is continued until such time as a subsequent budget proposed by the Association is ratified.

Section 10. Action by the Members. The Board shall be elected by the Members, from the candidates submitted pursuant to the nomination procedures set forth in ARTICLE VI of these Bylaws. On all other proposed actions of the Members, the vote of Members holding a majority of the votes cast shall be binding upon all Members for all purposes except where a higher percentage vote is required in the Governing Documents, as amended, or by law. Prior to such vote, the Members shall use good faith efforts to reach a consensus on any item before the Members for consideration.

ARTICLE V
Board of Directors – Selection – Term of Office

Section 1. Number. The affairs of this Corporation shall be managed by a Board of five (5) Directors. In the case where through removal or resignation, the total number of Board Members is less than five, the Board will be considered properly constituted until such vacancies are filled.

All Directors shall be Members of the Corporation, but no more than one (1) Member may serve from any one Lot at any time and geographical Director's seats may only be voted upon by voting Members residing in each geographical division of the Van Aire Skyport Subdivision. Those geographic divisions are known as Section 1A, Section 1B, Section 2A, and Section 2B, as described in ARTICLE III, Section 3, Paragraph (d), of these Bylaws. In the event a Lot Owner holds a Lot or Lots in more than one geographical section, he must elect to vote, one vote, in one geographical section. Depending on the number of geographical sections set by the Membership, all other Board Members shall be Members-at-large, voted on by all eligible voting Members.

Section 2. Term of Office. The Members of the Board of Directors shall have staggered terms to permit the election of at least one Director at each annual meeting. Each Director shall serve a term of two years.

Section 3. Removal and Term of Successor. Any Director (geographical or at-large) may be removed from the Board, with or without cause, by a majority vote of the Members of the Corporation at an annual or special meeting of the voting Members of the Corporation at which there is a quorum. In the event of death, resignation, or removal of a Director, her/his successor may be appointed by the Board to serve the remainder of the absent Director's term. Alternatively, the Board may choose to hold an election at a special meeting by the voting Members of the Corporation from a list supplied by the Nomination Committee or from nominations from the floor. The newly elected Board Member shall serve the unexpired term of his predecessor.

Section 4. Compensation. No Director shall receive compensation in any form or fashion for any service s/he may render to the Corporation. However, any Director may be reimbursed for her/his actual costs for expenses incurred in the performance of her/his duties.

Section 5. Action Taken Without Meeting. The Directors shall not have the right to take any action in the absence of a properly called Board meeting unless such action is required by an emergency situation, in which case said emergency action shall be ratified at a later regular Board meeting. Any action approved without such a meeting shall be deemed an unauthorized and ultra vires action for which the Directors so approving shall be personally responsible.

ARTICLE VI **Nomination and Election of Directors**

Section 1. Nomination. Nomination for election of Directors at-large shall be made by a Nominating Committee. Nominations for Directors at-large may also be made from the floor at the annual or special meeting, and all geographical Board Members shall be nominated from the floor by eligible geographically qualified voting Members. The Nominating Committee shall consist of a Chairman, who shall be a Member of the Board of Directors, and two (2) or more Members of the Corporation. The Nominating Committee shall be appointed by the Board of Directors at each annual meeting of the Members, to serve from the close of such annual meeting until the appointment of a new Nominating Committee at the next annual meeting, and such appointment shall be announced at each annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall, in its discretion,

determine, but not less than the number of vacancies that are to be filled. Such nominations must be made from among Members of the Corporation and may only be made from Members of the geographical sections for those Directors who are to hold a geographical seat.

Section 2. Election. Election to the Board of Directors shall be by secret written ballot, unless the position is uncontested. At such election the voting Members or their proxies may cast, in respect to each vacancy, only the number of votes they are entitled to exercise under the provisions of the Protective Covenants and by Article III., Section 3., Paragraph (d), of these Bylaws. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

ARTICLE VII **Meeting of Directors**

In accordance with the requirements and guidance provided by C.R.S. §38-33.3-308 Section (2), and Section (3), meetings of the Board of Directors shall be conducted as follows:

Section 1. Regular Meetings. Regular meetings of the Board shall be held within the first month of each Quarter commencing at a date, time, and location to be set by the President, on the premises of the Corporation. The Board shall post upon the bulletin Boards, the website, and via email to the Membership of the Corporation, the place of the regular Board meetings, at least three (3) days in advance. In the event said meeting falls on a legal holiday, the date of the meeting shall be the next day which is not a legal holiday. All meetings of the Board shall be open to the Members of the Corporation.

Section 2. Special Meetings of the Board of Directors. Special meetings of the Board shall be held when called by the President of the Corporation, or by any two (2) Directors, after not less than three (3) days written or emailed notice to each Director. The Board shall give notice of the special meeting as set forth in Section 1 above, unless the special meeting is of an emergency nature, in which case the Board shall post the place and time of said meeting without regard to the three-day advance notice rule.

Section 3: Quorum. A majority of the number of Directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the Directors present at a duly held meeting at which a quorum is present shall be regarded as an action of the Board. Any absent or abstaining Director who disagrees with such action of the Board may file with the Secretary a written dissent to the action within five (5) days after the Board decision.

Section 4: Electronic Participation:

(a) Except as required otherwise by law, the Articles of Incorporation, or these Bylaws, Directors may participate in a regular or special meeting through the use of any means of communication by which all Directors participating may simultaneously hear each other during the meeting, including in person, internet video meeting, or by telephonic conference call.

(b) Any action required or permitted to be taken by the Board at a meeting may be taken without a face-to-face meeting if consent in writing, setting forth the action so taken, shall be agreed upon by the majority of a quorum. For purposes of this section an email transmission from an email address on the corporate record constitutes a valid writing. The intent of this provision is to allow the Board to use email to approve actions, as long as a quorum of Directors gives consent. This provision shall not be used as a means of avoiding regularly scheduled quarterly meetings of the Board.

ARTICLE VIII
Powers and Duties of the Board of Directors

Section 1. Powers: The Board may act in all instances on behalf of the Association, except as provided in the Governing Documents or CCIOA. Each Director must exercise such powers and perform his or her duties as a Director in good faith, prudently, and in the best interest of the Association. The Board shall have, subject to the limitations contained in the Governing Documents, the powers and duties necessary for the administration of the affairs of the Association and of the community, and for the operation and maintenance of the common areas, including the following powers and duties:

(a) Adopt and amend and rules and regulations; The Board shall send copies of any proposed rules and regulations, unless they are necessary to cover an emergency situation, to each voting Member of the Corporation as the first step toward adoption. This notification shall be in accordance with the methodology prescribed in ARTICLE IV, Section 4 of these Bylaws. Thirty (30) days thereafter, said rules and regulations shall become effective unless written objection(s) thereto is/are made by ten (10) or more voting Members. Upon receipt of ten (10) or more objections, the Board shall immediately provide for a balloting procedure, which procedure may be by mail or ballot box and thereby will enable all voting Members to decide by majority whether the proposed, challenged rules, or regulations shall be adopted

(b) Adopt and amend budgets for revenues, expenditures, and reserves, and collect assessments for common expenses from Lot Owners; such expenditures shall remain within the terms of the most recently approved budget. Annual spending increases may be increased not more than three percent (3%) per year, or not more than the annual increase in the Consumer Price Index published by the U. S. Department of Labor or any successor index thereto annually, whichever is greater, commencing upon the first anniversary of the approval of these Bylaws. The annual budget may not be increased more than five thousand (\$5000) dollars above the budget approved for the year prior to the year in which these Bylaws are ratified. Any increase in the annual budget in excess of the limitations specified above must be approved by a majority of a quorum of fifty percent (50%) of eligible voters present at an annual meeting or a special meeting convened for this purpose.

(c) Hire and terminate managing agents and other employees, agents, and independent contractors;

(d) Institute, defend, or intervene in litigation or administrative proceedings in its own name on behalf of itself or two or more Lot Owners on matters affecting the common interest community;

(e) Make contracts and incur liabilities;

(f) 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 an opportunity to be heard, levy reasonable fines for violations of the Declaration, Bylaws, and rules and regulations of the Association.

(g) Impose reasonable charges for the preparation and recordation of amendments to the Declaration or statements of unpaid assessments;

(h) Provide for the indemnification of its officers and Executive Board and maintain Director's and officers' liability insurance;

(i) Exercise any other powers conferred by the Declaration or Bylaws;

(j) Exercise all other powers that may be exercised in this state by legal entities of the same type as the Association; and

(k) Exercise any other powers necessary and proper for the governance and operation of the Association.

(l) Subject any managing agent, employee, independent contractor, or other person acting on behalf of the Association in the same manner as the Association itself would be.

(m) Make decisions concerning the approval or denial of an Owner's application for architectural or landscaping changes in accordance with standards and procedures set forth in the Declaration or in duly adopted rules and regulations or Bylaws of the Association. Such decisions shall not be made arbitrarily or capriciously.

(o) Regulate the use, maintenance, repair, replacement, and modification of common elements;

(p) Declare the office of a Member of the Board to be vacant for the following reasons only: malfeasance or misfeasance in office, absence from three (3) consecutive, duly called, regular Board meetings or for any other reason permitted by law.

(q) Employ independent contractors for the ordinary maintenance and upkeep of the Common Areas. If the contracted cost of such work exceeds the amount of five thousand dollars (\$5000), the budget limitations specified in Paragraph (b) of this section shall apply.

(r) To carry out in a reasonable and competent manner the duties enumerated in Section 2 herein so as to protect the fiscal and ownership interests of the Corporation Members and provide for safe and proper use of the runways and aircraft operation.

(s) Post an expenditure and balance of account statement bi-monthly within 10 days of each Board meeting and each annual Membership meeting on the Corporation bulletin Board, or corporate website, and via email as applicable.

(t) Notwithstanding the provisions of Article IX, Section 8 (c) (2), below, the Board may from time to time commission an external audit of the Corporation's books by an accredited CPA firm.

Section 2. Executive Session: The Members of the Board of Directors, or any committee thereof, may hold an executive or closed-door session and may restrict attendance to Executive Board Members and such other persons requested by the Executive Board during a regular or specially announced meeting or a part thereof. Matters for discussion in executive or closed session are limited to:

(a) Matters pertaining to employees of the Association or the managing agent's contract or involving the employment, promotion, discipline, or dismissal of an officer, agent, or employee of the Association;

(b) Consultation with legal counsel concerning disputes that are the subject of pending or imminent court proceedings or matters that are privileged or confidential between attorney and client;

(c) Investigative proceedings concerning possible or actual criminal misconduct;

(d) Matters subject to specific constitutional, statutory, or judicially imposed requirements protecting particular proceedings or matters from public disclosure;

(e) Any matter the disclosure of which would constitute an unwarranted invasion of individual privacy;

(f) Review of or discussion relating to any written or oral communication from legal counsel.

ARTICLE IX **Officers and Their Duties**

Section 1. Enumeration of Officers. The officers of this Corporation shall be a president and vice-president who shall at all times be Members of the Board of Directors; a secretary, and a treasurer, and such other officers as the Board may from time to time by resolution create, provided that any and all officers must be Members of the Corporation during their term.

Section 2. Appointment of Officers. The appointment of officers shall take place at the first meeting of the Board of Directors after the annual meeting of the Members of the Corporation following the election of the Board of Directors.

Section 3. Term. The officers of this Corporation shall be appointed annually and each shall hold office for one (1) year unless he shall sooner resign, or shall be removed, or shall otherwise be disqualified to serve.

Section 4. Special Appointments. The Board may appoint such other incidental officers as the affairs of the Corporation may require, each of whom shall hold office for such period, have such limited authority, and perform such duties as the Board may, from time to time, determine.

Section 5. Resignation and Removal. Any officer may be removed from office only for cause by the Board, or by 51% of the voting Members. Any officer may resign at any time by giving written notice to the Board, the president or the secretary/treasurer. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified, the acceptance of such resignation shall not be necessary to make it effective.

Section 6. Vacancies. A vacancy in any Director's office shall be filled by a majority vote at a special meeting for that geographic region following the procedures as defined in Article VI, Sections 1 and 2. A special meeting for officers-at-large will include the full voting Membership. An elected Director shall serve the remaining term of the Director he replaced. Officers who are not Directors shall be appointed to a vacancy and shall serve for the remainder of the term of the officer he replaces.

Section 7. Multiple Offices. No person shall simultaneously hold more than one office.

Section 8. Duties. The duties of the officers are as follows:

(a) President. The president shall preside at all meetings of the Board of Directors; shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds, and other written instruments involving the Common Areas or facilities and shall cosign all checks and promissory notes.

(b) Vice President. The vice-president shall act in the place and stead of the president in the event of the president's absence or inability to act, and shall exercise and discharge such other duties as may be required of him by the Board.

(c) Secretary.

1. The Secretary shall accurately record the votes and accurately keep the minutes of all meetings and proceedings of the Board and of the Membership. Approved minutes shall be posted no later than fifteen (15) days after they are approved. He/she shall also serve notice of meetings of the Board and of the Membership as is required by these Bylaws; keep appropriate current records showing the Members of the Corporation together with their addresses; and shall perform such other duties as required by the Board, the

Governing Documents, applicable Colorado Revised Statutes, and applicable Federal Law.”

2. Treasurer. The treasurer shall receive and deposit in appropriate bank accounts all monies of the Corporation and shall disburse such funds as directed by resolution of the Board of Directors; shall sign all checks and promissory notes of the Corporation; keep proper books of account; prepare and post bimonthly, fully itemized statements of income and expenditures; cause an annual audit of the Corporation books to be made either by a public accountant or a three (3) person Committee composed of Members of the Corporation who are not presently serving on the Board of Directors. The method of the audit and or the Members of the audit committee are to be chosen at each annual meeting. The Audit shall be made at the completion of each fiscal year. The treasurer shall prepare an annual budget to be represented to the Membership at its regular annual meeting, and deliver copies of each to the Members at the meeting.

ARTICLE X **INDEMNIFICATION OF DIRECTORS AND OFFICERS**

Section 1. Indemnification. Any person who was or is a party or is threatened to be made a party to any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative, and whether formal or informal, by reason of the fact that they are or were a Director, officer, fiduciary, or agent of the Corporation or is or were serving at the request of the Corporation as a Director, officer, fiduciary, or agent of the Corporation (hereinafter a "Proper Person"), shall be indemnified by the Corporation against expenses (including attorney's fees and costs), judgments, penalties, fines and amounts paid in settlement reasonably incurred in connection with such action, suit or proceeding if it is determined as set forth below that they conducted themselves in good faith and that they reasonably believed, in the case of conduct in their official capacity with the Corporation, that their conduct was in the Corporation's best interest, or

- (a) In all other cases (except criminal cases) believed that their conduct was at least not opposed to the Corporation's best interest, or with respect to criminal proceedings had no reasonable cause to believe that their conduct was unlawful.
- (b) A person will be deemed to be acting in their official capacity while acting as a Director or officer of the Corporation.
- (c) No indemnification shall be made under this Article to a Director with respect to any claim, issue or matter in connection with a proceeding by or in the right of a Corporation in which the Director was adjudged liable to the Corporation or in connection with any proceeding charging improper personal benefit to the Director, whether or not involving action in their official capacity, in which they are adjudged liable on the basis that personal benefit was improperly received.

Section 2. Right to Indemnification. The Corporation shall indemnify any Proper Person who

has been wholly successful on the merits or otherwise, in defense of any action, suit, or proceeding referred to in Article IX, Section 1 above against expenses (including attorney's fees and costs) reasonably incurred by them in connection with the proceeding without the necessity of any action by the Corporation other than the determination that the defense has been wholly successful.

Section 3. Effect of Termination of Action. The termination of any action, suit or proceeding by judgment, order, settlement or conviction, or upon a plea of nolo contendere or its equivalent shall not of itself create a presumption that the person seeking indemnification did not meet the standards of conduct described above.

Section 4. Insurance. The Corporation shall purchase and maintain insurance on behalf of any person who is, or was, a Director or officer of the Corporation against any liability asserted against such person and incurred by such person in any such capacity, or arising out of such person's status as such, whether or not the Corporation would have the power to indemnify the Director or officer against liability.

ARTICLE XI **Committees**

The corporation shall appoint a Nominating Committee, and an Architectural Control Committee as provided in these Bylaws. In addition, the Board of Directors shall appoint other ad hoc committees as deemed appropriate in carrying out its purpose.

ARTICLE XII **Books and Records**

Section 1. The books and records, and papers of the Corporation kept by the Secretary and Treasurer respectively and shall at all times, during reasonable hours, be subject to inspection by any Member. The Protective Covenants, the Articles of Incorporation, and the Bylaws of the Corporation shall be available for inspection by any Member at the principal office of the Corporation, where copies may be purchased at a reasonable cost to cover duplication only.

ARTICLE XIII **Assessments**

In accordance with the requirements and guidance provided by C.R.S. §38-33.3-209.5 Section (5) and C.R.S. §38-33.3-315, the Corporation shall utilize the following process in levying and collecting assessments.

Section 1. Assessments are those annual rates (due and payable quarterly commencing with January 1st of each year) established by the Board of Directors, and approved by the Membership as prescribed in Sections 2. and 3. below. Such assessments shall be used to carry out the purposes of the Association and as otherwise allowed for under the Declaration or under the Colorado Common Interest Ownership Act, *C.R.S. §38-33.3-101 et. seq.* Each Member is obligated to pay to the Corporation such annual and special assessments. No Owners may waive

or otherwise avoid liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 2. The annual assessment may be determined by the Board of Directors without approval by the Membership, provided that each annual assessment is not increased more than

- 1) five thousand dollars (\$5000) above the annual assessment of the previous year; or
- 2) more than three percent (3%) above the annual assessment of the previous year; or
- 2) more than the percentage increase over the previous year's assessment as established by the Consumer Price Index most recently published by the U.S. Department of Labor, Washington, D.C., or any successor index thereto; whichever increase is greater.

Section 3. The annual assessment may be increased by a majority vote of a quorum as specified in ARTICLE IV, Section 5. above, unless the proposed budget increases the annual assessment in excess of the amount specified in Section 2. above, which shall require approval by the majority of a quorum of no less than fifty percent (50 %) of eligible voting Members.

Section 4. In addition to the annual assessment authorized above the Corporation may levy in an assessment year, a special assessment applicable to that fiscal year only for the purpose of defraying in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto and necessary legal fees, provided that any such assessment shall have the assent of fifty percent (50%) of the voting Members present at the meeting.

Section 5. Written notice of any meeting called for the purpose of taking any action authorized under Sections 3. or 4. shall be sent to all Members not less than ten (10) days nor more than fifty (50) days in advance of the meeting. No such subsequent meeting shall be held more than fifty (50) days following the preceding meeting.

Section 6. Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on a quarterly basis.

ARTICLE XIV **Disciplinary/Grievance Procedures**

Section 1. "Suspension of voting Rights". Corporation or Voting Membership as distinguished from Corporation membership may be suspended for the following reasons.

- (a) Non-payment of Assessments; Fines: In accordance with the requirements and guidance provided by *CRS 38-33.3-209.5 (CCIOA) Sections (1) (a) (II), (IV), and (VIII), and Section (2) (a), (b) (II), and Section (3)* any assessments which are not paid prior to the twenty-fifth (25th) day of the quarterly assessment month, shall be considered delinquent. Written notice of a determination of such delinquency shall be sent via registered mail to the Lot Owner at that time. If the Member fails to pay within fifteen (15)

days after the written notice was mailed, the account shall be considered in default, and collection procedures will be initiated. Concurrently, her/his voting rights and her/his right to use the recreational facilities shall be suspended until such assessment has been paid. The assessment shall accrue interest from the date of delinquency at the rate of eight percent (8%) per annum. The Corporation may bring an action at law against the Owner to pay the same, or foreclose the assessment security lien against the property. Additionally, accrued interest, costs and reasonable attorney's fees of any such action shall be added to the amount of such assessment.

(b) Alleged Violations; Disputes: In accordance with the requirements and guidance provided by *CRS 38-33.3-124 (CCIOA) Section (2) (a), (b), (c), and Section (3), and CRS 38-33.3-209.5 Section (1) (a) (II), (IV), and (VIII), and Section (2) (a), (b) (II), and Section (3)* the Corporation shall utilize the following process in resolving disputes between the Corporation and Members, and disputes between Members of the Corporation.

1. Protective Covenants: In the event that a violation of the Covenants is alleged, the member complained against shall receive written notice of the alleged violation, together with the complainant's name and allegation(s). Within 15 days after delivery of the written complaint, a hearing shall be held before an ad hoc grievance committee.

A. The grievance committee shall consist of the following persons, all of whom must be Members of the Corporation; One member selected by the complaining member; one member selected by the charged member; and one disinterested member of the Board of Directors, which member shall be selected by the Secretary of the Board from a hat containing the names of the Board members.

B. If either the complaining member or the member complained against does not select a grievance committee person, the Board member chosen by the draw of the hat shall select a non-board member to accompany him on the grievance panel.

C. The grievance committee shall have as its remedies the following:

- (1) Dismissal of the complaint as unmeritorious;
- (2) Private reprimand of the member charged and an order to the member to carry out specific actions to correct the situation;
- (3) Suspension of voting and/or common area privileges for a period not to exceed 60 days.
- (4) Recommendation of the Board of Directors that appropriate legal action be sought.

D. In the event the charged member does not appear but submits good cause why s/he cannot appear before the grievance hearing, the committee shall hear the facts and render a decision. If the charged member does not appear and does not submit good cause for her/his absence, the committee shall consider such absence prima facie evidence that the charged member no

longer contests the allegation.

E. A copy of the decision must be sent to the affected members (the Board, or complaining member as appropriate, and member complained against) within fifteen (15) days of the Committee's decision. All participants in a grievance proceeding, including hearing officers, shall keep secret all allegations, facts, and results of said proceeding, unless litigation to enforce a grievance proceeding is deemed necessary and said need for enforcement is brought to the attention of the Board in executive session.

F. In the event the Board, or complaining member chooses litigation as the necessary enforcement mechanism, prior to such litigation, the dispute may be submitted to mediation by agreement of the parties prior to the commencement of any legal proceeding. The mediation agreement, if one is reached, may be presented to the court as a stipulation. Either party to the mediation may terminate the mediation process without prejudice. If either party subsequently violates the stipulation, the other party may apply immediately to the court for relief.

G. Alternatively, the parties may seek resolution by binding arbitration under the uniform arbitration act, part 2 of article 22 of title 13, C.R.S., or by another means of alternative dispute resolution under the "Dispute Resolution Act", part 3 of article 22 of title 13, C.R.S.

ARTICLE XV **Amendments**

These Bylaws may be amended, in accordance with Article IV, Section 6, Paragraph (a) of these Bylaws, i.e., in compliance with Article VII of the First Amended Articles of Incorporation of Van Aire Skyport Corporation, dated January 20, 1976, be approved by no less than fifty percent (50%) of the eligible membership by voting in person or by proxy.

ARTICLE XVI **Miscellaneous**

Section 1. Waiver of Notice: Whenever notice is required by law, by the Articles of Incorporation or by these Bylaws, a waiver in writing signed by the Director or other person entitled to said notice, whether before, at or after the time stated therein, shall be equivalent to such notice.

Section 2. Fiscal Year: The fiscal year of the Corporation shall be established by the Board of Directors.

Section 3. Conflicts: In case of any conflict between the Articles of Incorporation and these Bylaws, the Articles shall control; and in the case of any conflict between the Protective

Covenants and these Bylaws, the Protective Covenants shall control; and in the case of any conflict between CCIOA and these Bylaws, CCIOA shall control.

Section 4. Definitions: Except as otherwise specifically provided in these Bylaws, all terms used shall have the same definition as in the Colorado Revised Nonprofit Corporation Act.

CERTIFICATION

By signature below, the Secretary of the Board of Directors certifies these Amended and Restated Bylaws were approved by majority vote of voting Members as defined in Article III, Section 2. of the Third Amended Bylaws of the Van Aire Skyport Corporation dated January 21, 1990.

VAN AIRE SKYPORT CORPORATION,
a Colorado nonprofit corporation

By: _____
Secretary

Date