

AMENDED AND RESTATED CONDOMINIUM DECLARATION FOR CHAMPIONS' RUN CONDOMINIUM

WHEREAS, ALTA ENTERPRISES, as Declarant, filed that certain Declaration of Condominiums for TRIPLE CROWN CONDOMINIUMS (the "Declaration"), on May 3, 1985, said Declaration being recorded in Book 99, Pages 539 through 581, both inclusive, of the Miscellaneous Records of Lincoln County, New Mexico; and

WHEREAS, subsequent to the filing of the Declaration, said Declaration was amended and supplemented, from time to time, pursuant to the provisions of the following documents:

1. Amendment to Declaration of Triple Crown Condominiums dated May 30, 1985, recorded June 6, 1985 in Book 100, Pages 19 through 21. Both inclusive, of the Miscellaneous Records of Lincoln County, New Mexico;
2. Supplemental Declaration of Time Share Covenants, Conditions and Restrictions dated May 31, 1985, recorded June 6, 1985, in Book 100, Pages 22 through 34, both inclusive, of the Miscellaneous Records of Lincoln County, New Mexico;
3. Amendment to Supplemental Declaration of Time Share Covenants, Conditions and Restrictions of Triple Crown Condominiums dated July 10, 1985, recorded July 18, 1985, in Book 100, Pages 966 through 967, both inclusive, of the Miscellaneous Records of Lincoln County, New Mexico;
4. Amendment to Supplemental Declaration of Time Share Covenants, Conditions and Restrictions of Triple Crown Condominiums dated October 11, 1985, recorded November 26, 1985 in Book 103, Pages 92 and 93, both inclusive, of the Miscellaneous Records of Lincoln County, New Mexico;
5. Articles of Amendment of Condominium Declaration for Triple Crown Condominiums dated July 31, 1990, recorded August 20, 1990, in Book 1990-9, Pages 809 through 810, both inclusive, Miscellaneous Records of Lincoln County, New Mexico;
6. Articles of Amendment of Condominium Declaration for Champions' Run Condominiums dated July 31, 1990, recorded August 20, 1990 in Book 1990 – 9, Pages 811 through 814, both inclusive, Miscellaneous Records of Lincoln County, New Mexico;
7. Articles of Amendment of Condominium Declaration for Champions' Run Condominiums dated April 16, 1991, and recorded April 19, 1991, in Book 1991 – 4, pages 799 through 800, both inclusive, of the Records of Lincoln County, New Mexico;
8. Amendment to Supplemental Declaration of Timeshare Covenants, Conditions, and Restrictions of Champions' Run Condominiums dated April 16, 1991, recorded April 19, 1991, in Book 1991 – 4, Pages 793 through 798, both inclusive, of the Records of Lincoln County, New Mexico;

9. Amendment to Supplemental Declaration of Timeshare Covenants, Conditions and Restrictions of Champions' Run Condominiums (formerly Triple Crown Condominiums), dated April 16, 1991, recorded April 19, 1991, both inclusive, of the Records of Lincoln County, New Mexico.
10. Amendment to the Declaration of Champions' Run Condominium Association (formerly Triple Crown Condominium Association), dated November 30, 2017, recorded November 30, 2017, in Book 2017, page 6806, both inclusive, of the Records of Lincoln County, New Mexico.
11. Amended and restated Condominium Declaration for Champions' Run Condominiums dated July 20, 2021, recorded August 16, 2021, recorded in Book 2021, Page 5965, both inclusive, of the records of Lincoln County, New Mexico.

WHEREAS, the Owners representing more than sixty seven per cent (67%) of the votes in the Champions' Run Condominium Association, (the "Owners") have, by appropriate meeting and vote on or about May 18, 2024, resolved and voted to amend and restate the Declaration, Supplements and Amendments thereto;

NOW, THEREFORE, the Owners hereby amend and restate the Declaration, its supplements and amendments, as herein provided. In the event that any term or provision of the Declaration, its supplements or amendments as described herein above is in conflict with any of the terms or provisions hereof, the terms and provisions hereof shall control, it being the intent of the Owners that this Amended Declaration shall, in future, supersede the terms and provisions of all previous Declaration, Supplements and Amendments and shall be the operative Condominium Declaration.

## ARTICLE I

### General Matters

- Section 1.1     Name of Condominium           The name of the Condominium shall be "Champions' Run Condominiums".
- Section 1.2     Name of the Association           The name of the Association shall be "Champions' Run Condominium Association", or other such name as it may validly adopt under the laws of the State of New Mexico, (the Association").
- Section 1.3     Location                    The condominiums are located entirely in Lincoln County, New Mexico.
- Section 1.4     Legal Description            The legal description of the real estate included in the condominium is contained in Exhibit "A" attached hereto and made a part hereof for all purposes.
- Section 1.5     Number of Units            The number of Units created is one hundred four (104).

Section 1.6 Unit Boundaries The Units within the condominiums shall be numbered as indicated on Exhibit "B". Each Unit shall be bounded by its ceiling, floor and walls, as is more particularly described in Section 2.1(z) and Exhibit "B".

Section 1.7 Allocation The allocation to each Unit of undivided interests in the common elements, the common expenses of the Association, and in the voting of the Association ("allocated interests") is contained in Exhibit "C" attached hereto and made a part hereof for all purposes. If units are added or withdrawn from the Condominium, the formula for reallocation of the percentage interest in common elements, common expenses, and association voting shall be the same as that described in Exhibit "C".

## ARTICLE II

### DEFINITIONS

Section 2.1 Unless the context otherwise requires, the terms used in this Declaration of Condominium and its exhibits shall have the meaning stated in the New Mexico Condominium Act or as defined in this paragraph. In the event of a conflict between the definitions contained in the New Mexico Condominium Act and those contained herein, the definitions set forth herein shall control.

- (a) Allocated Interests – the undivided interest in the common elements, the common expense liability and votes in the association allocated to each Unit.
- (b) Association – The Champions' Run Condominium Association, a New Mexico non-profit corporation, formed in accordance with the New Mexico Condominium Act, the members of which shall be composed of the Owners of Units ~~and Interval Owners~~ as those terms are defined herein, within the Condominium Regime during their respective ownerships, and the successors and assigns of such Owners ~~and Interval Owners~~.
- (c) Board – The Board of Directors of the Champions' Run Condominium Association.
- (d) Buildings – The buildings herein described, and all other improvements now or hereafter placed on the Land. The location of the Buildings on the Land is more particularly described in Exhibit "B".
- (e) Bylaws – The Bylaws of the Champions' Run Condominium Association, those are or shall be adopted by the Board.
- (f) General Common Elements – the General Common Elements shall be and include all of the Land and Buildings except such Units as defined herein and shall include, without limiting the generality of the foregoing, any and all foundations; supporting columns; girders; beams; slabs; supports; dividing walls between two or more Units or between Units and General Common Elements; roofs; fences; patio walls or fences; walkways; stairs, stairways; fire escapes; entrances and exits of the Building; basements; grounds, gardens; Parking Area; swimming pool; managerial offices; areas use for storage other than those adjacent and contiguous to Units; maintenance equipment and materials; installations of all central services, including power, light, water and waste collection; tanks; pumps; motors; fans; compressors, ducts; driveway; and in general all apparatus and installation existing for the common use or necessary or convenient to the operation, maintenance and use of

the property as a condominium including those which have been designated as Common Areas on the plats and plans attached hereto; and all repairs and replacements of or additions to any of the foregoing, The hallways, stairs, walkways, Land and other Common Elements intended to be used for passage or temporary occupancy by persons are sometimes referred to herein as "Common Areas". The "General Common Elements" shall have the same meaning as the term "Common Element" as defined in the New Mexico Condominium Act.

- (g) Common Expense Charge – The assessment made and levied against each Owner of a Unit, ~~and each Owner of a Time Share Interest~~ for management and operation of the Condominium and for repairs, maintenance and operation of the General Common Elements (including reserves for replacements) in accordance with the provisions hereof.
- (h) Common Expense Fund – The accumulated Common Expense Charges collected or received by and due and payable to the Association for use in the administration and operation of the Condominium, the maintenance, repair, additions, alterations or reconstruction of all or any portion of the General Common Elements and Limited Common Elements.
- (i) Condominium- The Land, the Buildings and all improvements and structures thereon, and all rights, easements, and appurtenances belonging thereto, known as Champions" Run Condominiums. The components of the Condominium are further herein classified as "General Common Elements", "Limited Common Elements" and "Units". The legal rights and duties of ownership, use and administration created by the terms of the New Mexico Condominium Act, this Declaration, the Bylaws and/or operative documents and Rules and Regulations promulgated here under are also a part of the Condominium and are sometimes referred to as the Condominium Regime. The term "Condominium" as used herein is not intended to alter or modify the term "Condominium" as used in the New Mexico Condominium Act. "Condominium Unit" or "Unit" means a unit together with the undivided share in the common elements and limited common elements, if any, which are appurtenances to the Unit.  
~~Interval Interest – A form of ownership of a Condominium Unit in which the purchaser receives a one fifty second (1/52<sup>nd</sup>) interest in a designated Condominium Unit and designated Unit Week(s) in fee simple as tenant in common with all other purchasers of Use Periods in such designated Condominium Unit.~~
- (j) Land – The real property more particularly described on Exhibit "A".
- (k) Legal Documents – The legal documentation for this condominium which consists of the Declaration, the Articles of Incorporation and Bylaws of the Association, and all amendments, modifications and supplements thereto, and all Rules and Regulations promulgated hereunder.
- (l) Limited Common Elements – Those portions of the General Common Elements reserved in this Declaration for the exclusive use of the Owners of Units, which are limited to the items in Section 47-7B-2, New Mexico Statutes Annotated.
- (m) Management Company – A professional management company or firm with whom the Association has contracted from time to time to provide management services to the condominium, and if no such contract exists, then the Association.
- (n) Mortgage – A pledge of or a security interest in a Unit given to a creditor as security for the payment of a loan made to an Owner.

- (o) Mortgagee – The person or entity that holds a pledge of or security interest in a Unit to secure the payment of a debt.
- (p) New Mexico Condominium Act – Section 47-7A-1 to 47-7D-20 of the New Mexico Statutes Annotated (NMSA) 1978, and all amendments thereto which permits the creation of condominium regimes and provides the basic rules of their operation, sometimes referred to herein as the Act.
- (q) Owner – A person, firm, corporation, partnership, association or other legal entity, or any combination thereof, who owns one or more Units, provided, however, that anyone who holds a pledge of or security interest in any such Unit solely as security for the payment of a debt shall not be deemed an Owner solely on account of such security.
- (r) Parking Area – That part of the Land designated for the parking of vehicles and designated “Parking Area” on Exhibit “B”.
- (s) Patio – The concrete or wood deck area adjacent and contiguous to Units on the ground level of the Building, whether now or hereafter existing.
- (t) Patio Areas – The fenced or walled area adjacent or contiguous to Patios on the ground level of a Building, whether now or hereafter existing.
- (t) Balcony – The area contiguous to a Unit, located above the garage or elsewhere, contained within a metal railing, accessible only to the occupants of the Unit.
- (u) Percentage Ownership Interests – The undivided interest in and to the Common Areas and Facilities associated with and appurtenances to each Unit as set forth on Exhibit “C” attached hereto and made a part hereof for all purposes.
- (u) Permitted User – Any person occupying a Unit with the permission of the Owner ~~or Interval Owner~~, including without limitation, tenants, licensees, guests, assignees of the Owner ~~or Interval Owner~~ and persons with whom the Owner, ~~Interval Owner or~~ has exchanged occupancy rights through a company providing exchange services to Owner ~~or Interval Owner~~.
- (v) Unit – One or more of the condominium units, each of which shall consist of the enclosed space consisting of one (1) or more floors or stories for condominium ownership, having as its boundaries the interior surfaces of the perimeter walls, floors, and ceilings, the interior surfaces of the perimeter walls, floors, ceilings of the storage areas adjacent and contiguous to each Unit, and the exterior surfaces of Balconies and Patios, if any, and Units shall include the portions of the Buildings so described and the air space so encompassed, excepting General Common Elements. Included within the boundaries of each Unit, without limitation, shall be any finishing materials applied or affixed to the interior surfaces of the interior walls, floors, or ceilings (such as, but without limitation, paint, wallpaper, vinyl wall or floor coverings, and carpets); interior walls; and all utility pipes, lines, systems fixtures, flues, chimneys, appliances or heating and air conditioning equipment servicing only that Unit (whether or not within the boundaries of that Unit). The boundaries of each Unit shall be the interior surfaces of perimeter windows and doors and sliding doors, perimeter windows and doors shall be part of each Unit and shall not be General Common Elements. Unless otherwise provided by law, the “exterior surfaces of Balconies” as used in this definition and its own space encompassed therein shall mean the space enclosed by (i) those horizontal planes being the top of the floor surface of the balcony in question and the plane of the ceiling of the Unit of which such balcony is a part, and by (ii) those vertical planes which contain the vertical exterior edges of the balcony. Further, unless otherwise

provided by law, the “exterior surfaces of Patio Areas” as used in this definition and its own space encompassed therein shall mean the space enclosed by (i) those horizontal planes being the top of the surface of the patio in question and the plane of the interior surface of the first floor ceiling of the Unit of which each patio is a part and in (ii) those vertical planes or surfaces which contain the vertical planes or surfaces which contain the vertical exterior surfaces of the fence or wall enclosing the patio in question.

- (w) Rules and Regulations – The rules adopted by Champions’ Run Condominium Association concerning the management and administration of the Regime and the use of the General Common Elements in order to assure to all Owners ~~and Interval Owners~~ the pleasures and benefits of ownership of a Unit and use of the Common General Elements.
- (x) Short Term Rental – Rental of a Unit, ~~with the exception of a Timeshare Unit,~~ for less than ~~30 days~~ **six (6) months** per rental period.
- (y) Special Assessment – Any assessment over and above the Common Elements Charge necessary for the preservation, management, and administration of the Condominium.
- ~~(cc) — Time Share Interest — An undivided one fifty second (1/52<sup>nd</sup>) fee simple interest in a Condominium Unit.~~
- ~~(dd) — Time Share Ownership — The ownership of an Interval Interest in a Condominium Unit.~~
- ~~(ee) — Time Share Unit — A Condominium Unit Committed to Time Share Ownership.~~

### ARTICLE III

#### Restrictions on Use, Occupancy and Alienation

Section 3.1 Use of Units All Units shall be used only for residential purposes. For the purpose of this provision, a Unit shall be deemed to be used for residential purposes when it is used to house persons and their belongings, without regard to whether the persons are owners of the Unit or occupy the Unit pursuant to a rental, leasing or other arrangement. Except for the leasing or rental of any Unit, no Unit shall be used for any commercial, business or professional purpose.

Section 3.1.1 Business Use Allowable Exceptions:

- a. The existence or operation of the business activity is not apparent or detectible by sight, sound or smell from the exterior of the unit.
- b. The business activity ~~only involves very limited~~ **does not involve** visitation by employees, clients, customers, suppliers or other business invitees.
- c. The business activity does not increase vehicular traffic in the condominium.
- d. Any other business activity approved by the Board.

Section 3.2 Nuisances No noxious or offensive activities of any sort shall be permitted, nor shall anything be done in any Unit or in any General Common Element which shall be or may become an annoyance or nuisance to the other Owners ~~or Interval Owners~~. This includes loud noise and dog complaints.

Section 3.3 Use The provisions of this Article shall not prohibit the use by the Association of all General Common Elements in any reasonable manner necessary in connection with the operation and maintenance of the Condominium.

Section 3.4 Insurability Nothing shall be done in or kept in or on any Unit, Patio, Patio Area, Balcony, Parking Space or General Common Element which will increase the rate of Insurance on the Condominium or any other Unit over that generally applicable to residential buildings with respect to the Units, or would result in uninsurability of the Condominium or any part thereof, or the cancellation, suspension, modification or reduction of insurance in or on or covering the Condominium or any part thereof. If, by reason of the occupancy or use of any Unit by any Owner, the rate of insurance on all or any portion of the Condominium shall be increased, such Owner shall be personally liable to the Association at the same time and in the same manner as provided for the payment of the Common Expense Charge.

Section 3.5 Wiring and Installation No Unit Owner ~~or Interval-Owner~~ shall install, attach or hang or allow to be installed, attached or hung any equipment or wiring or electrical installations, television or radio transmitting or receiving antennas, air conditioning units or any other like equipment or wiring, clothing or clothesline's in or across any portion of any General Common Element; protruding from any balcony, over any fence or patio wall or fence or through or from any wall, floor, ceiling, window or door which is a General Common Element, except as approved by the Association. All radios, televisions, electrical equipment or appliances of any kind or nature and the wiring therefore installed or used in a Unit shall fully comply with all the rules, regulations or requirements of all state and local public authorities having jurisdiction.

Section 3.6 Compliance with Laws Each Owner ~~and Interval-Owner~~, shall promptly and fully comply with any and all applicable laws, rules, ordinances, statutes, regulations, or requirements of any governmental agency or authority with respect to the occupancy and use of their Unit and with the provisions hereof, and the Bylaws and Rules and Regulations promulgated hereunder.

Section 3.7 Obstructions There shall be no obstruction of the General Common Elements. Nothing shall be stored in the General Common Elements without the prior consent of the Board or the Association.

Section 3.8 Animals No exotic animals, livestock or poultry of any kind shall be raised, bred or kept in any Unit or in the General Common Elements with the exception of pets limited to not more than two dogs and/or two cats except as approved by the Board.

Section 3.9 Signs No sign of any kind shall be displayed to the public view on or from any Unit or the General Common Elements without prior written approval of the Board.

Section 3.10 Common Areas Nothing shall be altered or constructed in or removed from the Common Areas and Facilities, without the prior written approval of the Board.

Section 3.11 Mobile Homes No mobile homes, recreational vehicle, trailer or similar vehicle which may be parked at the Condominiums shall be used for any type of habitation or accommodation.

Section 3.12 Owner Decoration Any Owner (~~other than Interval-Owners~~) may decorate and redecorate their Unit and may make any Improvements or alterations within their Unit (but not to the

General Common Elements) and shall have the right to paint, repaint, tile, wax, paper or otherwise furnish or decorate any interior surfaces of walls, partitions, ceilings and floors within the Units. Any item that is visible to the outside must be clean, unbroken and in good repair, including windows, draperies, blinds and shades. Nothing contained herein shall be deemed to permit an Owner, without having first obtained the written consent of the Board, to remove or alter a partition or bearing wall or column located within their Unit which would damage, destroy weaken or endanger the structural integrity of the Building.

**Section 3.13 Owner Maintenance** Each Owner ~~(other than Interval Owner)~~ shall, at their own cost and expense, maintain their Unit, all General Common Elements servicing only their Unit (whether or not within the boundaries of the unit), and those Limited Common Elements designated for the exclusive use of such Owner. This includes windows, garages, balconies, patios and exterior doors. All items must be kept in good repair and upon inspection by management the owner may be required to make necessary repairs. For example, replace windows if seal has broken, repair balcony decking or steps, paint railings and all outside doors with approved color. In coordination with the Owner, the association will provide the Owner notice and a timeline for repairs. All paint colors and additions must be approved by the Board.

If repairs have not been completed by the agreed upon timeline, The Owner will be contacted by phone and email and given an additional 30 days to complete the repairs. If the repairs have not been completed after the additional 30 days, the association may hire an independent contractor to complete repairs. That cost will be charged back to the owners, along with a \$100 fine. If the fine and the repair charges are not paid within 30 days, TV/wireless/cable services will be turned off and a lien may be assessed against the property.

**Section 3.14 Patio Restrictions** No Owner ~~or Interval Owner~~ shall paint, remodel or enclose any Balcony, Patio or Patio Area or store objects or things on such Balcony, Patio or Patio Area or dry clothing or place other materials on such Balcony, Patio or Patio Area in any manner which is likely to impair the uniform appearance of the exterior of the Buildings. Any Owner ~~(other than Interval Owners)~~ may furnish the Balcony, Patio or Patio Area with outdoor furniture in keeping with the provisions of this Declaration and the Rules and Regulations promulgated hereunder. No Owner shall remove or alter the fence or wall of their Patio Area or the railing of the Balcony.

**Section 3.15 Rules and Regulations** The Association, by provisions of its Bylaws or by Rules and Regulations enacted pursuant to the provisions hereof, may provide such additional rules and regulations for use of the General Common Elements, Parking Spaces and the Units as are necessary or desirable in the judgment of the Board for the operation of the Condominium provided such Rules and Regulations and Bylaws are not in conflict with the provisions of this Declaration. Such Bylaws and Regulations shall be applicable to the General Common Elements and the Units as though set forth herein at length.

**Section 3.16 Rental of Units** Short term rentals, ~~especially nightly, are discouraged. and of less than six (6) months are prohibited. All rental owners must register with the HOA Office. Failure to do so will result in a \$75.00 fine each month until they are registered—~~Rental of units for six (6) months or more is allowed. Renter information must be on file with the HOA Office.



## ARTICLE IV

### Plats and Plans

Section 4.1 Plats and Plans Plats and Plans of the Condominium are attached hereto as Exhibit "D" and made a part hereof for all purposes. The Buildings, and Units, the number of the Units and location on each floor, and the floor plan designations, are set forth in Exhibit "D", which is attached hereto and made a part hereof for all purposes. The remaining portion of the entire premises, referred to as the General Common Elements, shall be held in common by the Owners ~~and Interval Owners~~. The percentage Ownership Interests in the General Common Elements attributable to and appurtenant to the respective condominium Units is set out in Exhibit "C", each such undivided interest being appurtenant to one of the condominium Units covered hereto as scheduled.

## ARTICLE V

### Rights and Responsibilities

Section 5.1 Rights of Owners Each Owner shall be entitled to exclusive ownership and possession of their Unit, the exclusive use of their Limited Common Elements, if any, and shall have the common right to share, with all other Owners, in the use of the General Common Elements in accordance with the purpose for which they are intended and the provisions hereof, without hindering or encroaching upon the lawful rights of the other Owners.

~~Section 5.2 Rights of Interval Owners Each Interval Owner in a unit Committed to Time Share Ownership, shall have exclusive ownership of the Unit, together with non-exclusive ownership of the General Common Elements, during their Unit Week(s). The Percentage Ownership in the General Common Elements, and of the remainder interest, shall be one fifty second (1/52<sup>nd</sup>) of the percentage appertaining to the Unit (as set forth in Exhibit "C") multiplied by the number of Unit Weeks owned by such Interval Owner. The percentage of undivided interest of each Interval Owner shall be permanent in character; shall not be altered without the consent of all owners, shall not be separated from the Unit or Unit Week to which it appertains; and, shall be deemed conveyed, encumbered, or released with the Unit Week even though not expressly mentioned or described in the conveyance or other instrument. Nothing herein shall be deemed to create any rights or ownership or use during any period except during such Interval Owners Unit Week(s).~~

Section 5.3 "Owner" as Including Others Where the term "Owner" ~~or "Interval Owner"~~ is used in the granting of licenses, easements or rights to use Units or General Common Elements, the family of such Owner ~~or Interval Owner~~ and each member thereof, such Owner's ~~or Interval Owner's~~ guests, tenants, servants, employees and invitees shall also be entitled to the rights, easements or licenses so granted.

Section 5.4 Unit Boundaries The existing physical boundaries of each Unit, as constructed in accordance with the original plans therefore shall be conclusively presumed to be its boundaries regardless of the settling, rising or lateral movement of the Buildings and regardless of variances between boundaries shown on the plat and those of the Buildings. None of the rights and obligations of the Owners or Interval Owners created herein or by any deed delivered to any Owner or Interval Owner shall be altered in any way by encroachments due to the settlement or shifting of structures or any

other abuse. There shall be valid easements for the maintenance of said encroachments so long as the same shall exist; provided, however, that in no event shall a valid easement for encroachment be created in favor of Owners or Interval Owners if said encroachment occurred due to the willful conduct of said Owners or Interval Owners.

Section 5.5 Patio Access Patio areas, if any, shall be Limited Common Elements for the exclusive use of the Owner of the Unit ~~or the Interval Owner of the Unit during their Use Periods,~~ to which Units they are adjacent and contiguous. Such Patio Areas, being Limited Common Elements, shall be perpetually appurtenant to such Unit to which the same are adjacent and contiguous, except as provided herein for the transfers among Owners ~~or Interval Owners.~~ Any conveyance of any such Unit shall be deemed to also convey such Patio Areas even though made without specific or particular reference to the same. The Patio Areas shall be deemed encumbered by and subject to any mortgage or any claim thereafter encumbering such Unit to which they are assigned.

## ARTICLE VI

### Time Sharing Plans

~~ARTICLE VI OF THE Amended and Restated Condominium Declaration for Champions' Run Condominium dated December 31, 1991 Article VI titled Time Sharing Plan Section 6.1 "Disclosure" is hereby deleted and replaced by the following statement:~~

~~WHEREAS said Owners have instructed the Board of Directors of the Association to cease offering for sale any additional units at CHAMPIONS' RUN to be classified as a "TIMESHARE. The existing units that are already classified as such will not be affected by this ruling. The existing units which will not be affected are: #303, #402, #407, #502, #504, #505, #507, #508, #510.~~

- ~~1. This amendment to the Declaration was formally approved by Owners representing the requisite percentage of votes in the Association through a mail out conducted on September 29, 2017.~~
- ~~2. This amendment to the declarations was formally approved by unanimous vote of the Board of Directors of the Association at a special meeting of the Board of Directors on September 29, 2017.~~
- ~~3. Except as specifically modified or amended hereby, the Declaration of the Association shall remain in full force and effect.~~

## ARTICLE VII

### Association of Owners

**Section 6.1** Authority to Manage The Association shall be organized as a membership non-profit corporation under the laws of the State of New Mexico, the name of which association shall be the "Champions' Run Condominium Association", and it shall be and constitute the governing and

administrative body for all Unit Owners ~~and Interval Owners~~, for the protection, preservation, upkeep, maintenance, repair, restoration, operation and replacement of the General Common Elements, and the government, operation and administration of the Condominium Regime hereby established in accordance with its Bylaws, and for such purposes the Board is hereby irrevocably appointed as attorney-in-fact for all Owners ~~and Interval Owners~~, subject to the provisions of Section 47-7A-4 (NMSA 1978).

The Association may appoint a Management Company to administer the Condominium in accordance with the provisions of this Declaration and the Bylaws. The Management Company shall have such powers as may be granted to it from time-to-time by the Association and may be granted any and all powers, rights and duties granted to the Association in the Declaration, or its Bylaws, unless expressly prohibited by the New Mexico Condominium Act or this Declaration.

**Section 6.2**     Organization and Membership   Each Owner shall by virtue of such ownership automatically be a member of the Association and shall remain a member thereof until such time as their total ownership ceases for any reason, at which time the membership in the Association shall also automatically follow the ownership, how so ever caused or brought about, the new Owner shall automatically be and become a member of the Association.

**Section 6.3**     Voting of Members Deemed Owners   Each Owner shall be entitled to one (1) vote per unit owned. ~~Timeshare Owners must designate one interval owner to represent all interval owners of a specific timeshare Unit for their one (1) vote. The designated representative must register with the Association Manager prior to the meeting.~~ In the event that ownership interests in a Unit are owned by more than one member of the Association, the members who own fractional interests in such Unit aggregating more than fifty per cent (50%) of the whole ownership thereof shall appoint one (1) member who shall be entitled to the one vote. Such designation shall be made in writing to the Board and shall be revocable at any time by actual notice to the Board or upon the death or judicially declared incompetence of a majority of the members. In the event that a Unit is owned by more than one (1) member and no single member is designated to vote on behalf of the members having an ownership interest in such Unit, then none of such members shall be allowed to vote. However, if one (1) of the multiple Owners of a Unit is present at a meeting of the Association, such owner is entitled to cast the vote allocated to that Unit. All members of the Association may be present at any meeting of the Association and may act at such meetings either in person or by proxy.

**Section 6.5**     Board of Directors         The affairs of the Association shall be managed by a Board of Directors. All activities, rights, powers, duties, obligations, functions and responsibilities of the Association shall be performed, exercised, discharged and accomplished through its Board of Directors, except in any particular case where the laws of the State of New Mexico or the Bylaws of the Association require that action be taken by vote of the members. The Board of Directors May employ the services of a Management Company as provided for herein.

The Board of Directors shall consist of not less than three (3) persons who are members of the Association or spouses of member, or in the event that a Unit is owned by a corporation or other business entity, an officer or director of such entity. No more than one owner of a Unit may serve on the board for a term. The Board shall have the power to increase its number at any meeting, provided further that the Board may not increase its number to more than nine (9) Directors and if the number of the Board is increased, the members shall have the right to vote for such new Directors at the next annual meeting. The Directors shall be elected by the members thereafter except as otherwise provided

in the Bylaws of herein. The candidates receiving the highest number of votes up to the number of vacancies of the Board to be elected shall be deemed elected. All votes shall be cast by written ballot. Members shall not vote cumulatively for the election of Directors. The presence of a majority of Directors at a meeting of Directors shall constitute a quorum for the transaction of business. The action of a majority of Directors present at the meeting at which there is a quorum shall be as the act of the Board. The annual meeting of the Board shall be held each year immediately following the annual meeting of the members, at the place of such annual meeting of members, for the election of officers and the consideration of any other business that may properly be brought before such meeting. Regular meetings of the Board shall be held at any time upon call of the President or upon call by two (2) Directors and may be held telephonically or by a virtual presence. Notice of such special meetings shall be given in the manner provided in the Bylaws.

The members of the Board shall serve for a term of two (2) years commencing at the time of their election until their successor is elected, their death, resignation, removal or until they are no longer members of the Association, whichever is earlier. Any member of the Board may be removed from membership on the Board, with or without cause, by the affirmative vote of two-thirds (2/3<sup>rd</sup>) of the votes represented at a meeting of the members of the Association called to consider such action at which a quorum is present.

**Section 6.6** Rights, Functions and Obligations of the Association In addition to all other rights, functions and obligations of the Association under the provisions of the Act, this Declaration or the Bylaws, the Association, acting by and through the Board (it being stipulated and understood that any action permitted to be taken by the Association may be taken by the Board if such right, function or obligation has been delegated thereto) shall have the following rights, functions and obligations:

- (a) Right to Non-exclusive Easement – The Association shall have a non-exclusive right and easement to make such use of the General Common Elements as may be necessary or appropriate for it to perform the duties and functions which it is obligated or permitted to perform under the Act, this Declaration or the Bylaws, and a non-exclusive right of entry, after reasonable notice to the Owner ~~or Interval Owner~~ then occupying their Unit, during reasonable hours, into any Unit as may be necessary for the operation of this Condominium, or for making emergency repairs therein necessary to prevent damage to any such Unit or General Common Elements or any part thereof, or to abate any nuisance or any dangerous, unauthorized, prohibited or unlawful activity being conducted or maintained in a Unit, except that no notice shall be required in cases of emergency.
- (b) General Common Elements Maintenance – The Association shall be obligated to provide, as a common expense of all Owners, ~~or Interval Owners~~, for the care, operation, management, maintenance, repair, replacement and restoration of the General Common Elements. Without limiting the generality of the foregoing, said obligations shall include keeping the General Common Elements in good, clean, attractive and sanitary condition, order and repair, keeping the General Common Elements safe, attractive and maintained in a manner desirable as residential community, and making necessary or desirable alterations, additions, betterment or improvements to or on the General Common Elements.
- (c) Other Association Functions – The Association may undertake or contract for any lawful activity, function or service for the common benefit or to further the common interests of all Owners ~~or Interval Owners~~. Such activities, functions or services may include, but shall not be limited to, the providing of insurance, police, patrol or similar service, grounds maintenance or landscaping services, the providing of utilities or services which may be required for the enjoyment or betterment of the General Common Elements, the sewage

- disposal services and other services for each of the individual Units, the providing of legal and accounting services necessary or desirable in connection with the operation of the Condominium Regime or the enforcement of the provisions of the Act, this Declaration or the Bylaws, and any other services for the benefit and enjoyment of all of the Owners and Interval Owners. Electricity, telephone, and other utility services separately metered or charged shall be paid by the Owner of the Unit serviced by such utility services.
- (d) Labor and Services – The Association may, as a common expense of the Owners ~~and Interval Owners~~, obtain and pay for the services of any person or entity as a manager or management company to manage, supervise and look after the day to day operations of this Condominium, as well as the services of other such personnel as the Association shall determine to be necessary or desirable for the proper operation of this Condominium, whether such personnel are furnished or employed directly by the Association or by any person or entity with whom it contracts.
- (e) Acquisition of Personal Property -The Association may acquire as a common expense and hold for the common use or benefit of all Owners ~~and Interval Owners~~ any tangible or intangible personal property and may dispose of the same by sale or otherwise. Subject to the rules and regulations of the Association, each Owner ~~or Interval Owner~~ and their respective guests or tenants may use such property. All such property so acquired and owned by the Association shall be deemed to be part of the General Common Elements for all purposes.
- (f) Borrowing Funds and Granting Liens – The Association may borrow money on behalf of the Condominium (including money secured by an assignment of future income) when required for the continuing operations, care, upkeep and maintenance of the Common Elements provided, however, that the consent of a majority of the Owners shall be required to borrow any sum in excess of Ten Thousand Dollars (\$10,000). Such borrowings may be with interest at a market rate, and upon terms consistent with prevailing market loan terms. If any sum borrowed by the Association is not repaid by the Association by one or more (but less than all) of the Owners, then they shall have a claim against the Association to the extent their payment shall exceed their pro rate share of such amount if fully assessed under the provisions of Article VIII.
- (g) Rules and Regulations – The Association may make and enforce reasonable and uniformly applied Rules and Regulations covering the use of the Units, the General Common Elements and the Limited Common Elements. Such Rules and Regulations may, without limitation: (i) regulate the use of the General Common Elements to assure the equitable and proper use and enjoyment thereof by all persons entitled thereto; (ii) prohibit any such conduct or activity in any Unit or on any part of the General Common Elements, which constitutes a nuisance in law or in fact or which would not be consistent or in keeping with the peaceful, quiet and reasonable use and enjoyment of any such Unit or the General Common Elements, (iii) prohibit, restrict or regulate the use of any portion of the General Common Elements by the guests of any Owner ~~or Interval Owner~~ and (iv) regulate and control vehicular traffic and parking areas of the Condominium. The Association shall furnish each Owner ~~and the Timeshare Management Company~~ with a written copy of the Rules and Regulations or shall post the same on the Champions’ Run website and in a conspicuous place on the General Common Elements; provided, however, failure to furnish or post any copy shall not be deemed to invalidate any rule or regulation to any extent. The Association shall have the right to enforce any of the Rules and Regulations of the Association and the obligations of any Owner ~~or Interval Owner~~ under this Declaration or Bylaws.

Nothing herein shall authorize the Board to furnish to any person services primarily for the benefit or a convenience of any Owner, Interval Owner or any occupant or occupants of any Unit other than services customarily rendered to all Owners, and Interval Owners and occupants of such Units. The Board shall have the exclusive right and obligation to contract for all goods, services and insurance in connection with the administration of the Condominium, payment for which is to be made from the Common Expense Fund,

**Section 6.7**    Actions Without Meeting        Any action required by this Declaration or Bylaw to be taken at a meeting of the Association or at a meeting of the Board may be taken without a meeting if a consent in writing setting forth the action so taken, shall be signed by such members of the Association as would have constituted a majority entitled to vote with respect to the subject matter thereof or signed by a majority of the members of the Board, as the case may be. Such consent shall have the force and effect as a unanimous vote at a meeting.

**Section 6.8**    Officers                    The Officers of the Association shall be elected by the Board and shall consist of a President, a Secretary ~~and a Treasurer~~ and such Vice Presidents, ~~and~~ Assistant Secretaries, ~~and Assistant Treasurers~~ as may be convenient or necessary in the judgment of the Board for the administration and operation of the Condominium.

**Section 6.9**    Meeting of the Members

- (a) An annual meeting of the members of the Association shall be held at such place as may be designated by the Board at 1:30 P.M. on the third Saturday in May of each calendar year (or the first business day thereafter if such day is a governmental or religious holiday). At the discretion of the Board, the annual meeting of the members of the Association may be held at such other reasonable date and time as may be designated by written notice of the Board delivered to the members not less than ten (10) nor more than sixty (60) days prior to the date fixed for said meeting.
- (b) At the annual meeting, the Board shall present an accounting of all funds administered by the Board and the estimated Common Expense Charges for the coming calendar year.
- (c) Special meetings of the members may be called by the President at any time or may be called upon petition to the President by members having twenty per cent (20%) of the votes in the Association or by a majority of the Board of Directors. A written or printed notice stating the place, day and hour of such special meeting and the purposes for which the meeting is called shall be delivered to each member not less than ten (10) nor more than sixty (60) days before the date of such meeting.
- (d) For the purpose of determining the members eligible to notice of a meeting and to vote at any meeting, the membership of the Association shall be determined as of the close of business on the twenty-fifth (25<sup>th</sup>) day preceding such meeting.

**Section 6.10**    Accounting and Audit    The Board shall keep or cause to be kept books of detailed account of the receipts and expenditures affecting the Condominium and its administration and specifying the maintenance and repair expenses of the General Common Elements and any other expenses incurred by the Board or Association on behalf of the

Condominium or the Association. Both the books of accounts and all vouchers supporting the entries made therein shall be available for examination at the office of the Association by all Owners and their mortgages at convenient hours on working days and the Board shall cause to be established and announced for general knowledge the days and hours within which such books shall be available for inspection. All such books and records shall be kept in accordance with historically accepted accounting practices, consistently applied, and shall be reviewed at least once a month by the Board of Directors.

**Section 6.11** Notices Any notice permitted or required to be given to a member of the Board or to an Owner ~~or RDCO Association Management~~, may be delivered personally, by email or by U.S. Mail. If delivery is made by email, it shall be deemed to have been delivered if it does return undeliverable. If delivery is made by U.S. Mail within the United States, it shall be deemed to have been delivered three (3) days after deposit in the U.S. Mail, postage prepaid, addressed to an Owner at their Unit or to such other address as the Owner may have given in writing to the Secretary of the Association, at an address given in writing to the Association, as the case may be for the purpose of service of notices. If delivery is made by U.S. mail outside the United States, it shall be deemed to have been delivered fifteen (15) days after deposit in the U.S. Mail, similarly paid and addressed. Any address for purposes of notice may be changed from time to time by notice in writing by the Owner ~~or RDCO Association Management~~ to the manager of the Condominium.

## ARTICLE VIII

### Common Expense Fund; Assessment; Collection

**Section 7.1** Budget The Board shall prepare or cause to be prepared and adopted an estimated annual Budget for the fiscal year of the Association projecting all costs of management and maintenance of the Condominium and the Condominium Regime. Such Budget shall take into account the estimated common expenses and cash requirements for the year, including, but not limited to, the costs of salaries, wages, payroll taxes, supplies, materials, parts, services, maintenance, repairs, replacements, landscaping, insurance, management fees, and all such other costs and expenses which the Board shall deem necessary or proper for the fulfillment and performance of the functions and obligations of the Association. The annual Budget shall also take into account and provide for a reserve for contingencies for the year and a reserve for maintenance, repairs, and replacements of the General Common Elements in reasonable amounts. Any surplus or deficit in regards to previous Budgets shall also be considered. Each annual Budget shall take effect on the first day of the fiscal year for which it is prepared. If it shall appear to the Board at any time that the Budget adopted for any fiscal year shall be insufficient, the Board may revise such Budget to cover the estimated deficiency, to become effective on the first day of the calendar month next following the revelations.

- (a) Within thirty (30) days after the adoption of any proposed budget for the condominium, the Board shall provide a summary of the Budget to all members of the Association, by mailing such summary of the budget to the address listed in the records of the Board, such notice deemed given when mailed, and said summary shall also contain a notice of a date for the Annual meeting of the Association to consider ratification of the Budget. This meeting shall be held not less than fourteen (14) nor more than thirty (30) days after the mailing of the summary. Unless the proposed Budget is

rejected by fifty one per cent (51%) or more of the votes cast at the Annual meeting, the proposed Budget shall be conclusively ratified. In the event the proposed Budget is rejected, the periodic budget last adopted and any revisions thereof shall be continued until such time as a subsequent proposed budget is ratified according to the terms of this Section.

- (b) The Budget as adopted and any revisions thereof shall serve as the basis for the Common Elements Charges against the Owners, unless any such Budget for any fiscal year is changed or modified by the members of the Association at any special meeting of the members called for that purpose.
- (c) In the event that the Board at any time determines that the Common Elements Charges so levied are or may prove to be insufficient to pay the costs of operation and management of the Condominium for such fiscal year or in the event of casualty losses, condemnation losses or other events (including nonpayment of Common Elements Charges by some Owners which require additional funds be supplied for preservation and operation of the Condominium, the Board shall have the authority at any time or from time to time to levy such Special Assessment as it shall deem necessary for that purpose. Such Special Assessment shall not be levied, however, without the prior approval of Owners having at least a majority of the votes in the Association, unless a greater number of votes is required by law.

**Section 7.2**                      Common Expense Charges                      All Owners ~~and Interval Owners through RDCO Association Management~~ are bound to contribute, in proportion to their Percentage Ownership Interest to the Common Expense Fund as a Common Expense Charge, the expenses of administration of the Condominium Regime and the administration, maintenance and repairs of the General Common Elements, and other expenses provided by the terms thereof to be paid by the Association or those expenses agreed upon to be assumed by the Association pursuant to this Declaration, its Bylaws and Rules and Regulations. No Owner can be exempt from the obligation to make such contribution to the Common Expense Fund by waiver of the use or enjoyment of the General Common Elements, or by abandonment of their interest in the Unit belonging to them, or under any other circumstances. Each Owner ~~and Time Share Unit~~ shall monthly pay their proportionate share of the Common Expense Charge, as evidenced by the Budget, in advance within fifteen (15) days of demand or in such other reasonable manner as the Board may determine. Prior to January First of each year the Board shall prepare and deliver to each Owner ~~and the RDCO Association Management~~ a statement setting forth the amount due from each Owner and Time Share Unit as a Common Expense Charge.

**Section 7.5**                      Payment of Common Expense Charges and Special Assessments                      Common Expense Charges shall be due and payable annually in advance, within fifteen (15) days of demand therefore or in such other reasonable manner as the Board shall determine. Special Assessments shall be payable on or before ten (10) days after Owners are invoiced therefore. Common Expense Charges and Special Assessments in default may bear interest at the highest lawful percentage rate per annum from the date of delinquency until paid, such rate not to exceed eighteen per cent (18%). Each Owner personally ~~and Time Share Unit as a whole~~ shall be liable for the payment of all Common Expense Charges and Special Assessments (as the case may be) which may be levied against such Owner ~~and Time Share Unit~~, pursuant to the provisions hereof. In the event a Mortgagee obtains title to any interest in a Unit, pursuant to the remedies provided in a Mortgage or Foreclosure of the Mortgage, then such Mortgagee shall not be liable for the payment of any unpaid Common Expense Charges and Special Assessments levied against the Owner and their Unit ~~and Time Share Units~~, which accrued prior



to the acquisition of title to an interest in the Unit by the Mortgagee or Interval Owner, but shall be liable for such charges, fees and assessments which accrue thereafter.

**Section 7.6**            Reserve for Replacements            The Association may establish and maintain a reserve fund for replacements by the allocation and payment monthly to such reserve fund of the amount included in the Common Expense Charges for this purpose. Such funds shall be deposited in special accounts with a lending institution, the accounts of which are insured by an agency of the United States of America, or may, in the discretion of the Board, be invested in obligations of, or fully guaranteed as to principal by, the United States of America. The reserve for replacements may be expended for the purposes of effecting the replacement, maintenance or repair of the General Common Elements and equipment of the project and for operating contingencies of a non-recurring nature, and for such other extraordinary purposes as may be determined by special resolution of the Board. The proportionate interest of any Owner ~~or Interval Owner~~ in any reserve for replacements shall be considered an appurtenance of their Unit, as the case may be, and shall be not separately withdrawn, assigned or transferred or otherwise separated from such Unit to which it appertains and shall be deemed to be transferred with such Unit.

**Section 7.7**            Assessment Certificates and Liens            The Board or its representatives shall furnish to any prospective purchaser or Mortgagee of any Unit, at the request of the Owner a written certificate as to the amount of the regular and/or special assessments which have become due and are unpaid up to a given date in respect to such Units to be sold or mortgaged. In the case of a sale, the purchaser shall not be liable nor shall the Unit purchased be liable or subject to any lien for any unpaid assessment which has become due and is not shown on such certificate for the period of time covered thereby. However, the selling Owner shall be liable for the same and in case of their failure or refusal to pay shall have recourse against the selling Owner, provided however, in the case of a mortgage, the unpaid assessments shown on said certificate for the period of time covered thereby shall remain the obligation of the Owner mortgaging their interest in their Unit, and the assessment lien securing same as provided for in this Declaration shall be and remain inferior and secondary to the mortgage and liens held by the Mortgagees to whom or for whose information said certificate was furnished. A charge, in an amount to be determined from time to time by the Board, may be levied in advance by the Association for each certificate so delivered.

- (a) The liens to secure Common Expenses as herein provided for may be foreclosed without prejudice and subject to the aforesaid prior and superior liens, by suit by the Board or any authorized officer or member of the Association, acting in behalf of all Owners in like manner as mortgages on real property, or may be foreclosed in any other manner prescribed by the laws of the State of New Mexico. Suit to recover a monetary judgment for unpaid Common Expenses and Maintenance Fees shall be maintainable without foreclosing or waiving the lien securing the same. No foreclosure suit or sale there under shall affect or impair any of the prior liens above mentioned. The Board or any person authorized by it, acting in behalf of all Owners shall have the power to bid on the Unit foreclosed on at the foreclosure sale, the amount of which bid shall not exceed the total amount of all Common Expense Charges, Management Fees and Special Assessments in default, interest and other charges thereon and costs of foreclosure. In the event the Board shall purchase any such Unit at any such foreclosure sale, it shall have the authority to hold, lease, mortgage or convey the same as Trustee of all Owners. All funds realized from the foreclosure sale shall be applied first to the cost and expense of filing and prosecuting suit,

including all costs of Court and a reasonable amount for attorney's fees, and then towards payment of the indebtedness sued on, together with interest and other charges thereon, and the remainder, if any, shall be paid over to the defendant of defendants in such foreclosure suit as their interests may appear. In the event the proceeds realized from the foreclosure sale, applied as aforesaid, shall be insufficient to pay off and discharge the whole amount of the assessment sued on, together with interest and other charges thereon, then the purchaser acquiring title to such Unit at such foreclosure sale, whoever he may be, other than the Owner sued, shall not be liable for the deficiency, except for a pro rate part thereof as hereinafter stated, and any such deficiency shall be deemed a Common Expense, collectible from all Owners including the Purchaser at the foreclosure sale, on a pro rata basis as in the case of other Common Expenses. The Owner sued shall remain personally liable to the Owners paying the deficiency.

**Section 7.8**            Common Expense Fund            The Common Expense Charges collected shall be paid into the Common Expense Fund to be held and used for the benefit, directly or indirectly, of the Condominium and such Common Expense Fund may be expended by the Board for the purposes set forth herein including, without limitation, providing for the enforcement of the provisions of this instrument, the Bylaws of the Association and Rules and Regulations promulgated thereunder; in the case of the Common Expense Fund, for the maintenance, operation, repair, benefit and welfare of the General Common Elements, and generally for doing those things necessary or desirable in the opinion of the Board to maintain or improve the Condominium. The use of the Common Expense Fund for any of these purposes, except as provided herein, is permissive and not mandatory, and the decision of the Board with respect thereto shall be final, so long as made in good faith.

## ARTICLE ~~X~~VIII

### Insurance

**Section 8.1**            Property Insurance            The Board shall have the authority to and shall obtain and continue in effect blanket property insurance to insure the Buildings and General Common Elements against risk of loss or damage by fire and other hazards as are covered under standard extended coverage provision, (with vandalism and malicious mischief endorsements), in an amount not less than the full insurable replacement cost thereof. The "full insurable replacement cost" of the buildings and the General Common Elements, shall be determined from time to time but not less often than once in a thirty six (36) month period by the Board and the Board shall have the authority to obtain and pay for a person or organization selected by the Board in making such determination. The cost of any and all such appraisals shall be borne by the Common Expense Fund. All insurance provided for in this Section shall be affected under valid and enforceable policies issued by insurers of recognized responsibility authorized to do business in the State of New Mexico. Such insurance shall provide that such policy shall not be terminated for non-payment of premiums or for any other causes without at least thirty (30) days prior written notice to the Association and to any known Mortgagee of each Unit. Such insurance obtained by the Board may be written in the name of and the proceeds thereof may be payable to the Board or any person designated by it or by the Association, as trustees for each Owner (and their Mortgagees) in their respective Percentage Ownership Interest as the case may be, in the General Common Elements as aforesaid, even though not expressly named in the policy as an insured or beneficiary. All costs, charges and premiums for such insurance shall be a common expense and each

Owner shall pay their pro rata part and share of same as in the case of other common expenses of this Condominium Regime. In case of any injury, damage to or destruction to any part of the Condominium covered by such insurance, as obtained by the Association, the insurance proceeds obtained by the Association shall be applied only to reconstruct or repair the Buildings and General Common Elements. The Board shall have complete power and authority to compromise, settle and adjust any and all claims arising under any such policy or policies of insurance.

Each owner is financially responsible for damages to their individual Units. The Owner ~~or RDCO Association Management~~ is required to insure their Unit, "walls studs in, on their own account and for their own benefit for Owner's property that is damaged or destroyed, except as may be otherwise provided for by the New Mexico Condominium Act and herein, which includes the Owner's personal liability, the Owner's Personal Property and the Owner's Improvements, Betterments, Additions, or Alterations

Additionally, the Owners of Units damaged, and during the period of reconstruction thereof, continue to be responsible for payment of Common Expense Charges and any Special Assessments.

Individual policies of owners may contain an endorsement extending coverage to include the payment of Common Expense Charges and Special Assessments with respect to Units damaged during the period or reconstruction thereof.

**Section 8.2**      Public Liability and Other Insurance The Board shall also have the authority to and shall obtain comprehensive public liability and property damage insurance against claims for personal injury, medical payments, death or property damage suffered by the public or any Owner, ~~Interval Owner~~ or the family, agent, employee or invitee of any such Owners, occurring in, on or about the General Common Elements or upon, in or about the private driveways, roadways, walkways, and passageways, on or adjoining the Condominium, which public liability and property damage insurance shall afford protection to such limits as the Board shall deem desirable, but in no event less than \$1,000,000.00 per occurrence, for personal injury and/or property damage insurance. The Board shall also have the authority to obtain such worker's compensation insurance as may be necessary to comply with the applicable laws, employer's liability insurance in such amounts as the Board shall deem desirable. The Board shall have the authority to and shall obtain fidelity bonds, indemnify in the Association, the Board and the Owners from loss of funds resulting from fraudulent or dishonest acts of any employees of the Association or of any other person handling funds of the Association in such an amount as the Board may deem desirable.

All insurance provided for in this Section shall be affected under valid and enforceable policies issued by insurers of recognized responsibility authorized to do business in the State Of New Mexico. Such insurance obtained by the Board or any person designated by it or by the Association, as Trustee for reach Owner ~~or Interval Owner~~ (and their mortgagees) in their respective Percentage Ownership Interest ~~or Interval Interest~~, as the case may be, in the General Common Elements. Each Owner ~~or Interval Owner~~ shall be a beneficiary of such insurance, in the ratio of such said Owner's Percentage Ownership Interest ~~and said Interval Owners' Interests~~ in the General Common Elements as aforesaid even though not expressly names in the Policy as an insured or beneficiary. All costs, charges and premiums for such shall be deemed common expenses of this Condominium, and each Owner shall pay their pro rata share as in the case of other common expenses as provided for in this Declaration. Such policy shall not be terminated for non-payment or premiums or for any other cause without a thirty (30) days prior written notice to the Association and to any known Mortgagee of each such Unit.

The Board shall have complete power and authority to compromise, settle and adjust any and all claims arising under any such policy or policies of insurance.

**Section 8.3**            Individual Insurance            Each Owner and/or their insurance shall be financially responsible for insurance on the contents of their Unit and furnishings, interior walls, appliances, exterior and interior heating and/or air conditioning units and all parts of the Unit and personnel property therein. Owners and/or their insurance are primary and are financially responsible for property damage and/or bodily injury caused by their negligence or misuse or by that of an occupant, and their agents or employees in the course of their duties and shall carry individual policies of liability at their own cost and expense.

## Article ~~X~~ IX

### Fire or Casualty; Rebuilding

#### **Section 9.1**

#### Reconstruction; Application of Insurance Proceeds

- (a) In the event of any injury or damage to or destruction of any part of the Condominium covered by the blanket casualty insurance obtained by the Association, the insurance indemnity and proceeds shall be applied except as provided in paragraph (b) below to reconstruct or repair buildings and/or General Common Elements, and if such insurance indemnity or proceeds collected shall exceed the total cost of such reconstruction or repair, then unless the contract of insurance or the Bylaws, as existing or as hereafter amended, shall otherwise specify, the Board or other agent to person named as Trustee in the policy of insurance and collecting said proceeds, shall pay over such excess to the Common Expense Fund.
- (b) Reconstruction or repair shall not be compulsory where it compromises the whole or more than two-thirds (2/3rds) of the buildings as conclusively determined by the Board. In such case, and unless otherwise agreed upon by eighty per cent (80%) of all the Owners ~~and Interval Owners~~, the insurance indemnity collected shall be delivered and paid pro rata to the Owners, ~~Interval Owners~~ and their respective Mortgagees, if any, as their respective interests may appear, in proportion to the Percentage Ownership Interest of each Owner, ~~the Interval Interest of each Interval Owner~~ and the Condominium shall terminate. Upon such termination, the Units, and General Common Elements shall be deemed to be regrouped and merge into a single estate owned in undivided interest by all Owners ~~and Interval Owners~~ as tenant-in-common.
- (c) Where the insurance indemnity is insufficient to cover cost of reconstruction is required as provided for herein and the Act, the building or reconstruction costs in excess of the insurance proceeds is a common expense and shall be paid by all Owners ~~and Interval Owners~~ directly affected by the damage in proportion to their Percentage Ownership Interest or Interval Interest, respectively, and if one or more of the Owners or Interval Owners, comprising the majority shall refuse to make payments, the majority may proceed with the reconstruction at the expense of the Owners ~~and Interval Owners~~ benefitted thereby upon proper resolution setting forth the circumstances of the case and the cost of the work as provided by the Bylaws.

**Section 9.2**        Rebuilding    In the event that it is determined that the Buildings shall be repaired and reconstructed, then all proceeds of insurance policies with respect to such fire or casualty, carried by the Association, shall be paid to the Bank selected by the Board, as Trustee, Insured by the Federal Deposit Insurance Corporation (or its successors) to be held in trust for the benefit of the Owners and Interval Owners and their Mortgagees as their respective interests may appear. The Board shall thereupon contract to repair or rebuild the damaged portions of all Units, Buildings and General Common Elements to substantially the condition in which the same existed prior to the casualty or fire, and the funds held in the Trust Fund in such depository bank shall be used for this purpose and dispersed by the Board in accordance with the terms of the contract for repair and rebuilding.

**Section 9.3**        Repair of Units    Each Owner ~~and Timeshare Owners as a whole~~ shall be responsible for “~~wall stud~~ in” reconstruction, repair and replacement of all personal property and other property not a part of the General Common Elements in or part of their Unit, including, but not limited to the floor coverings, wall coverings, interior walls, furniture, furnishings, decorative light fixtures and appliances located therein.

**Section 9.4**        Indemnity of Association    Each Owner shall be primary and is responsible for the costs of repairs caused by their negligence or misuse or by the negligence or misuse of an occupant, and their agents or employees in the course of their duties. And they shall, to the extent not covered by insurance collected by the Association, indemnify the Association and all Owners against any such cost or reconstruction, repair and replacement of any portion of the Buildings and General Common Elements.

**Section 9.5**        Required Policy Provisions    Any property insurance or liability insurance policy must provide that each Owner ~~or RDCO Association Management~~ is an insured under the policy even though not expressly named in the policy as an insured with respect to liability arising out of their interest in the Common Elements or membership in the Association, but the Association shall hold any insurance proceeds in trust for Owners and lien holders, as their interest may appear. No act or omission by any Owner ~~or Interval Owner~~ unless within the scope of their authority on behalf of the Association shall void the policy or be a condition to recover under the policy.

## ARTICLE XI

### Eminent Domain

**Section 10.1**        General Provisions        If all ~~of~~ or any part of the Condominium is taken or threatened to be taken by eminent domain or by power in the nature of eminent domain (whether permanent or temporary), the Board and each Owner shall be entitled to participate in proceedings incident thereto at their respective expense. The Board shall give notice of the existence of such proceeding to all Owners and to all Mortgagees known to the Board shall be borne by the Common Expense Fund. The Board is specifically authorized to obtain and pay for such assistance from attorneys, appraisers, architects, engineers, expert witnesses and other persons as the Board in its discretion deems necessary or advisable to aid or advise it in matters relating to such proceedings. All damages or awards for any such taking shall be deposited with the Board, acting as Trustee, and such damages or awards shall be applied or paid as provided herein.

**Section 10.2**      Taking of General Common Elements      In the event that an action in eminent domain is brought to condemn a portion of the General Common Elements (together with or apart from any Unit), the Board, in addition to the general powers set out herein shall have the sole authority to determine whether to defend or resist any such proceedings; to make any settlement with respect thereto; or to convey such property to the condemning authority in lieu of such condemnation proceeding. With respect to any such taking of General Common Elements only, all damages and awards shall be determined for such taking as a whole and not for each Owners' ~~and Interval Owner's~~ interest therein. After the damage or awards for such taking are determined, such damages or awards shall be paid to each Owner in proportion to their Percentage Ownership Interest in the General Common Elements. The Board may, if it deems advisable, call a meeting of the Owners at which meeting the Owners by a majority vote, shall decide whether to replace or restore as far as possible the General Common Elements so taken or damaged. In the event it is determined that such General Common Elements should be replaced or restored by obtaining other land or building additional structures, this Declaration and the map attached hereto shall be duly amended by the instrument executed by the Board of Directors on behalf of the Owners.

**Section 10.3**      Taking of Units      In the event that such eminent domain proceeding results in the taking of or damage to one or more, but less than two-thirds (2/3rds) of the total number of Units, then the damages and awards for such taking shall be determined for each such Unit; and the following shall apply:

- (a) The Board shall determine which of the Units damaged by such taking may remain tenantable for the purposes set forth in this Declaration, taking into account the nature of this Condominium and the reduced size of each Unit so damaged.
- (b) The Board shall determine whether it is reasonably practicable to operate the remaining Units of the Condominium including those damaged Units which may be made tenantable as a condominium in the manner provided in this Declaration.
- (c) In the event that the Board determines that it is not reasonably practicable to operate the undamaged Units and damaged which can be made tenantable as a Condominium, then the Condominium shall be deemed to be regrouped and merged into a single estate owned jointly in undivided interests by all Owners and Interval Owners as tenants-in-common.
- (d) In the event that the Board determines that it will be reasonably practicable to operate the undamaged Units and the damaged Units which can be made tenantable as a condominium, then the damages and awards made with respect to each Unit which has been determined to be capable of being made tenantable shall be applied to repair and reconstruct such Unit so that it is made tenantable. If the cost of such work exceeds the amount of the award, the additional funds required shall be assessed against the Owners ~~and Interval Owners~~ of those Units, which are being repaired or reconstructed so as to be made tenantable. With respect to those Units which may not be made tenantable, the award made with respect to such Unit shall be paid to the Owner ~~or Interval Owner~~ of such Unit or their Mortgagee or Mortgagees, as their interests may appear, and the remaining portion of such Units, if any, shall become a part of the General Common Elements and repair and use of such Units shall be determined by the Board. Upon the payment of such award for the account of such Owner ~~or Interval Owner~~ as provided herein, that portion of

such Unit taken pursuant to eminent domain shall no longer be a part of the Condominium and the Percentage Ownership Interests or Interval Interests in the General Common Elements appurtenant to each remaining Unit which shall continue as part of the Condominium shall be equitably adjusted to distribute the ownership of the undivided interest in the General Common Elements among the reduced number of Owners ~~and Interval Owners~~.

If the entire Condominium is taken, or two-thirds (2/3rds) of more of the aggregate of the Units are taken or damaged by such taking, then all damages and awards shall be paid to the accounts of the Owners ~~and Interval Owners~~ or their Mortgagee or Mortgagees, as their interest may appear, as provided herein, in proportion to their Percentage Ownership Interest or Interval Interest, as the case may be, in the General Common Elements and this Condominium Regime shall terminate upon such payment. Upon such termination, such Units and General Common Elements shall be deemed to be regrouped and merged into a single estate owned in undivided interest by all Owners ~~and Interval Owners~~ as tenants-in-common.

**Section 10.4** Payment of Awards and Damages Any damages or awards provided in this Article to be paid to or for the account of any Owner or ~~Interval Owner~~ by the Board, acting as Trustee, shall be applied first to the payment of taxes or assessments by governmental authorities past due and unpaid with respect to that Unit; secondly, to amounts due under any mortgage instruments duly perfected; thirdly, to the payment of any Common Expense Charges or Special Assessments charged to or made against the Unit and unpaid; and finally, to the Owner ~~or Interval Owner~~ of such Unit, and their mortgagees, as their interests may appear. In the event of a conflict between the provisions of this Article XI and the provisions of Section 47-7A-7 (NMSA 1978), the latter provisions shall control.

## ARTICLE XII

### Amendment of Declaration, Bylaws and Rules and Regulations

**Section 11.1** Amendment of Declaration Except as otherwise provided by law, the provisions of this Declaration, (except for the designation of the Percentage Ownership Interest which pertains to each Unit ~~or Interval Interest which pertains to each Time Share Unit,~~) may be amended only by agreement of Unit Owners having not less than sixty seven per cent (67%) of the votes in the Association entitled to vote on such amendment. Except in the event of redistribution of Percentage Ownership Interests ~~or Interval Interests~~ in connection with the occurrence of a fire, casualty or eminent domain taking, in order to amend the allocation of such interests in the General Common Elements appertaining to any such Unit, it shall be necessary not only that the members having not less than sixty seven per cent (67%) of the votes in the Association entitled to vote on such amendment execute an instrument in writing but, in addition, the Owners ~~or Interval Owners~~ whose interests are increased by such amendment must join in such amendment. Notwithstanding anything contained in this Section to the contrary, the Association is hereby appointed and constituted as the true and lawful attorney-in-fact for the Owners ~~and Interval Owners~~ named, as the Association may deem necessary and proper, any and all instruments required to amend this Declaration to satisfy the reasonable requirements of any mortgagees, governmental private, quasi-governmental or government sponsored insurer; provided, however, the Association shall not exercise its rights under this

Section to diminish the Interests of any Owner ~~or Interval Owner~~ or to otherwise adversely affect any Owner ~~or Interval Owner~~ and provided further, that the Association shall not evade the limitations and prohibitions contained in the New Mexico Condominium Act, or this Declaration by the exercise of the rights granted under this Section.

**Section 11.2** Amendment of Bylaws The bylaws may be altered, amended or repealed and new bylaws may be adopted by a vote of a majority of the Board of Directors. Any such alteration(s), amendment(s) or new bylaw(s) shall then be submitted to all Members of the Association **present** at the next regular or special meeting which may be held and, unless rejected by fifty one per cent (51%) or more of the votes cast, shall be conclusively deemed ratified.

## ARTICLE XIII

### Miscellaneous

**Section 12.1** No Partition, Sale or Transfer The General Common Elements shall remain undivided and shall not be subject to an action for partition or division of the co-ownership thereof so long as suitable for a Condominium Regime, and in any event, all Mortgages secured by an interest in the General Common Elements must be paid in full prior to bringing any action for partition or the written consent of all holders of such Mortgages must be obtained.

**Section 12.2** Enforcement The Board or any Owner ~~or RDCO Association Management~~ shall have the right to enforce, by any proceedings at law or in equity or by arbitration, all terms and provisions hereof. Failure by the Board or by any Owner ~~or RDCO Association Management~~ to enforce any Covenant or restriction herein contained shall in no event be deemed to be a waiver of the right to enforce such covenant or restriction hereof.

**Section 12.3** Severability The provisions hereof shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any one provision or portion thereof shall not affect the validity or enforceability of any other provision hereof.

**Section 12.4** Easements for Encroachments Each Unit is conveyed together with an easement for the continuance of all encroachments by the Unit on any adjoining Units or Common Elements existing as the result of construction of the building, or which may come into existence hereafter as a result of settling or shifting of the building wherefore a result of repair or restoration of the building or of the Unit, after damage or destruction by fire or other casualty, or after taking in condemnation or eminent domain proceedings, or by reason of an alteration or repair to the General Common Elements made by or with the consent of the Association. Each Unit is conveyed subject to easements in favor or adjoining Units and in favor of the General Common Elements on the Unit, now existing as a result of construction of the buildings, or which may come into existence hereafter, as a result of settling or shifting of the building or of any adjoining Unit or the General Common Elements after damage proceedings, or by reason of an alteration or repair to the General Common Elements made by or with the consent of the Association.

**Section 12.5** Taxation The Association shall elect whether:  
(a) The entire property shall be deemed a single parcel for the purposes of taxes, assessments, and other charges levied by the City, County, State or



- other political entities, or any special district thereof, in which event the Association shall promptly notify the Owners ~~and RDCO-Association Management~~ of the payment of taxes. For purposes of assessments or valuation and taxation under this sub paragraph (a), the Association shall be deemed to be the Owner as defined in Section 7-35-2 N.M.S.A. 1978; or
- (b) Each Unit shall be subject to separate assessment and taxation. Taxes are not part of the Common Expenses. Taxes on personal property owned by the Association as part of the General Common Elements shall be paid by the Association as a Common Expense.

**Section 12.6**      Perpetuities      As provided by Section 47-7B-3 of the New Mexico Statutes Annotated, the rules against perpetuities shall not be applied to defeat any provision of this Declaration, Bylaws of the Association or its Rules and Regulations.

**Section 12.7**      Omissions      In the event of the omission from this Declaration of any provision or stipulation which shall be vital, necessary or expedient for the accomplishment of the purposes and intent of this Declaration, then in such event this Declaration shall not thereby fail, whether in whole or in part, but any and all such omitted matter shall be supplied by inference and/or by reference to this Declaration as filed for record, and the provisions of the Act are hereby made a part hereof by reference thereto.

**Section 12.8**      Interpretation      If any declaration or provision, word sentence or clause contained in this Declaration or in the Bylaws shall be susceptible to two (2) or more interpretations, then the interpretation which shall most nearly be in accordance with the New Mexico Condominium Act and the general purposes and intent of this Declaration and the Bylaws shall govern.

**Section 13.9**      Rights and Obligations      The rights and obligations of the respective Owners ~~and Interval Owners~~ under this Declaration and the Bylaws, including amendments thereto, shall be deemed to be covenants running with the Land, so long as the project property remains subject to the provisions of the Act, and shall inure to the benefit of and be binding on each and all of the respective Owners ~~and Interval Owners~~ and their respective heirs, executors, administrators, successors, legal representatives, assigns, purchasers, lessees, grantees and mortgagees and all others having or claiming an interest in any Unit subject to the provisions of the Act, this Declaration or the Bylaws. Upon acceptance or record action deed or other instrument conveying title to such Unit, or upon otherwise acquiring title or interest to any such Unit, the Owner ~~or Interval Owner~~ thereof shall be deemed to have accepted and agreed to and shall be bound by and subject to each and all of the provisions of the Act and of this Declaration and Bylaws, as now existing or hereafter amended.

**Section 12.10**      Binding Effect      It is the intention of the undersigned that this Amended and Restated Declaration shall be binding upon, control and govern all interests in the Condominium, of whatever kind and character. However, in the event that, and to the extent that, the effects of this Amended and Restated Declaration shall for any purpose be deemed to be limited by the provisions of Art. 47-7B-17.D, NMSA 1978, then it is stipulated that it shall be binding upon, control and govern the Units ~~and Timeshare Interest~~ now owned or hereafter acquired by (i) the undersigned other Owners ~~and Timeshare Owners~~, and (ii) any and all other Owners ~~and Timeshare Owners~~ who hereafter by any means evidence ratification of this Amended and Restated Declaration, and describing the Unit(s) ~~and/or Timeshare Interest~~ involved, shall be deemed and conclusive for all purposes.

**ARTICLE XIII**  
**Mortgage Protection**

**Section 13.1**      **Subordination to Liens**      Notwithstanding all other provisions hereof, the liens created hereunder upon any Unit, shall be subject and subordinate to, and shall not affect the rights of the holder of indebtedness secured by any recorded first mortgage (meaning a mortgage with first priority over other mortgages) upon such interest made in good faith and for value, provided that after the foreclosure of any such mortgage there may be a lien created pursuant to Section 8.7 hereof on the interest of the purchaser at such foreclosure sale to secure all assessments, whether regular or special, assessed hereunder to such purchaser as an Owner after the date of such foreclosure sale, which said lien, if any is claimed, shall have the same force and effect and be enforced in the same manner as provided herein.

**Section 13.2**      **No Amendment**      No amendment to this Article XIV shall affect the rights of the holder of any such mortgage recorded prior to the record action of such amendment unless such holder joins in the execution thereof.

**Section 13.3**      **Extension**      By a Subordination Agreement executed by a majority of the Board, the benefits of Section 14.1 and 14.2 may be extended to mortgages not otherwise entitled thereto.