



SUNDANCE ESTATES HOA
SANTA FE, NM

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AMENDED AND RESTATED BYLAWS OF SUNDANCE ESTATES HOMEOWNERS ASSOCIATION

ARTICLE I Plan of Lot Ownership

Section 1.1 - Applicability

These Amended and Restated Bylaws ("Bylaws") provide for governance of the Sundance Estates Homeowners Association, which has been created pursuant to the Declaration of Protective Covenants for the Sundance Estates Subdivision, filed for record on June 29, 2000, in Book 1781, Page 698-717, and any supplements thereto. The HOA will conduct its affairs and operate within all applicable laws of the State of New Mexico including the Homeowner Association Act, (NMSA 1978, Sections 47-16-1 to 47-16-18 (2019)) (the "Act").

Section 1.2 - Definitions

- (a) The term "Association" shall mean the Sundance Estates Homeowners Association.
- (b) The term "Declaration" shall mean the Declaration of Protective Covenants for the Sundance Estates Subdivision filed for record on June 29, 2000, in Book 1781, Page 698-717, and any supplements thereto.
- (c) The term "Lot Owner" or "Owner" shall mean Owners of Lots. A Lot shall mean the subdivided lots contained within the Subdivision and any un-subdivided Tract or Tracts within the Subdivision.
- (d) The term "Subdivision" means the Sundance Estates Subdivision, as shown and designated on Subdivision Plat of Survey recorded on June 29, 2000, in Plat Book 447, Page 38-44, records of Santa Fe County, New Mexico.
- (e) All terms not otherwise defined herein shall have the meanings ascribed to them in the Declarations that are incorporated herein by reference, as if fully stated in these Bylaws.

Section 1.3 - Compliance

Pursuant to the provisions of the Declaration every Lot Owner, and all those entitled to occupy a Lot, shall comply with these Bylaws.

Section 1.4 - Office

The office of the Association shall be located at such place as may be designated from time to time by the Board of Directors.

ARTICLE II Membership

Section 2.1 - Membership

Ownership of a Lot is required to qualify for Membership in the Association. Every person or entity who is the beneficial owner of a fee simple interest, including the purchaser under a contract of sale in any Lot, shall be a Member of the Association, provided that any person or entity holding such interest as security for the payment of a debt or performance of any obligation shall not be a Member, provided, further, that any person or entity who acquires such interest at a judicial sale or by conveyance in lieu of foreclosure shall be a Member. Membership shall be appurtenant to and may not be separated from ownership of any Lot, which is subject to the Declaration. Such Membership shall terminate without any formal Association action whenever such person ceases to own a Lot, but such termination shall not relieve or release any such former Lot Owner from any liability or obligation incurred under, or in any way connected with, this Association during the period of such ownership and Membership in this Association, or impair any rights or remedies which the Board of Directors of the Association or others may have against such former Lot Owner and Member, arising out of or in any way connected with, Lot ownership, Association Membership, and the Declaration or obligations incident thereto.

Section 2.2 - Classes of Membership

The Association shall have one (1) class of Membership.

Section 2.3 – Voting

(a) Member Control. All actions of the Members shall be taken on a vote of a majority of the Members except as provided for in Article VIII.

(b) Right to Vote. Each Member shall be entitled to vote, as provided in this Article, on all matters properly submitted for vote to the Membership of the Association. Voting shall be non-cumulative. The right to vote may not be severed from any Lot, and any sale, transfer or conveyance or the beneficial interest of the fee of any Lot to a new Lot Owner, shall operate to transfer the appurtenant voting rights without the requirement of any express reference thereto. Notwithstanding the foregoing, no Member may vote at any meeting, or be elected to or serve on the Board of Directors, if the Association has perfected a lien against his Lot and the amount necessary to release such lien has not been paid at the time of such meeting or election.

When any provisions of the Declarations' Articles of Incorporation, Bylaws of the Association, or of law calls for the vote or consent of the Members in any stated percentage, the following rules apply:

(1) Whenever a vote of the Members is required, it is sufficient to obtain a written consent of the same percentage of Members; and

(2) The percentage shall be of the total number of votes per Lot or tract and not a percentage of Members of the Association.

(c) Multiple Ownership and Voting Rights. If title to any Lot shall be held by two or more persons, then each such co-tenant shall be a Member of this Association but shall be entitled to only one vote per Lot. Any one co-tenant Owner of a Lot attending a meeting may, and shall be deemed to have, the authority to cast the vote of all other co-owners of that Lot who are absent from such meeting and have not executed a proxy with respect to their vote.

Section 2.4 - Annual Meetings

The annual meetings of the Association shall be held at least once every thirteen (13) months, and no later than thirty-five (35) days before the beginning of the fiscal year. At such annual meeting the Board of Directors shall be elected by ballot of the Members in accordance with the requirements of Section 3.4 of Article III of these Bylaws and all budget changes shall be considered in accordance with Article V of these Bylaws.

Section 2.5 - Place of Meetings

Meetings of the Association shall be held at the principal office of the Association or at such other suitable place convenient to the Members as may be designated by the Board of Directors.

Section 2.6 - Special Meetings

The President shall call a special meeting of the Association Members if directed by resolution of the Board of Directors or upon a petition signed and presented to the Secretary by Members holding not less than twenty percent (20%) in interest of the votes in the Association. The notice of any special meeting shall state the time, place, and purpose thereof. No business shall be transacted at a special meeting except as stated in the notice.

Section 2.7 - Notice of Meetings

The Secretary shall mail or email to each Member a notice of each meeting of the Members at least ten (10) but not more than fifty (50) days prior to such meeting, stating the time and place of the meeting and items of the agenda, including the general nature of any proposed amendment to the Declaration or Bylaws, any budget changes, and any proposal to remove a director or officer. Delivery of a notice of meeting in the manner provided in this Section and Section 9.2 of Article IX of these Bylaws shall be considered service of notice.

Section 2.8 - Adjournment of Meetings

If, at any meeting of the Association Members, a quorum is not present, the Members who are present at such meeting in person or by proxy may adjourn the meeting to a time not less than forty-eight (48) hours after the time the original meeting was called.

Section 2.9 - Order of Business

All Members shall have the right to attend and speak at all open meetings, but the Board may place reasonable time restrictions on those persons speaking. Any portion of a meeting may be closed only if that portion is limited to consideration of 1) Legal advice; 2) Pending or contemplated litigation; or 3) personal, health or financial information about a Member or individual employee or contractor.

The order of business of all meetings of the Association Members shall be as follows:

1. Roll call and determination of quorum,
2. Proof of notice of meeting,
3. Reading of minutes of preceding meeting,
4. Reports of Officers,
5. Reports of Board of Directors,
6. Reports of Committees,
7. Election or appointment of inspectors of election (when so required),
8. Election of Members of the Board of Directors (when so required),
9. Unfinished business,
10. New business.

Section 2.10 - Title to Lots

Title to a Lot may be taken in the name of one or more persons, in any manner permitted by law, provided that such Members shall have one vote hereunder as provided for above.

Section 2.11 - Proxies

A vote may be cast in person or by proxy. Such proxy may be granted by a Member in favor of only another Member. Proxies shall be duly executed in writing, shall be valid only for the meeting designated therein, and must be filed with the Secretary before the appointed time of the meeting. Such proxy shall be deemed revoked only upon actual receipt by the person presiding over the meeting of Notice of Revocation from any of the persons owning such Lot. A proxy is valid only for the meeting at which it is cast.

Section 2.12 - Quorum

Except as otherwise provided in these Bylaws, the presence in person or by proxy of Members entitled to cast fifty-one percent (51%) or more in interest of the votes in the Association shall constitute a quorum at all meetings of the Association.

Section 2.13 - Conduct of Meetings

The President shall preside over all meetings of the Association and the Secretary shall keep the minutes of the meeting and record in a minute book all resolutions adopted at the meeting, as well as a record of all transactions occurring thereat. The President may appoint a person to serve as Parliamentarian at any meeting of the Association. The then current edition of *Robert's Rules of Order* shall govern the conduct of all meetings of the Association when not in conflict with the Declaration and these Bylaws. Failure to follow *Robert's Rules of Order* shall not, without other grounds, invalidate any action taken. All votes shall be tallied by tellers appointed by the President.

ARTICLE III Board of Directors

Section 3.1 - Number of Qualification

The affairs of the Association shall be governed by a Board of Directors elected annually by the Members.

Section 3.2 - Powers and Duties

The Board of Directors shall have the powers and duties necessary for the administration of the affairs of the Association and may do all such acts and things as are permitted by law, the Declaration, or by these Bylaws, and not required to be exercised and done by the Members. The Board of Directors may delegate to one of its Members, or to a person employed for such purpose, the authority to act on behalf of the Board of Directors on such matters relating to the duties of the Managing Agent (as defined in Section 3.3 of these Bylaws), if any, which may arise between meetings of the Board of Directors as the Board of Directors deems appropriate. In addition to the duties imposed by these Bylaws, or by any resolution of the Association that may hereinafter be adopted, the Board of Directors shall, on behalf of the Association:

(a) Prepare an annual budget in which there shall be established the assessment of each Lot Owner for the expenses of the Association, pursuant to Article V.

(b) Make assessments against Lot Owners to defray Common Expenses and the costs and expenses of the Association, as provided for in Article V, and establish the means and methods of collecting such assessments from the Lot Owners

(c) Provide for the operation, care, upkeep, and maintenance of the Common Areas (as defined in Section 5.2) of the Subdivision.

(d) Designate, hire, and dismiss the personnel necessary for the maintenance, operation, repair and replacement of the roads, streets and cul de sacs in the Subdivision (collectively the "Roadways"), including snow removal, and provide services for the Roadways and, where appropriate, provide for the

compensation of such personnel and for the purchase of equipment and supplies to be used by such personnel in the performance of their duties.(e) Collect the assessments against the Lot Owners, deposit the proceeds thereof in bank depositories designated by the Board of Directors and use the proceeds to carry out the purposes of the Association.

- (f) Open bank accounts on behalf of the Association and designate the signatories thereon.
- (g) Make, or contract for the making of, repairs, restoration, additions, and improvements to or alterations of the Common Areas of the Subdivision, in accordance with the Declaration and these Bylaws, after damage or destruction.
- (h) Enforce by legal means the provisions of the Declaration, these Bylaws and any Rules and Regulations of the Association and act on behalf of the Lot Owners with respect to all matters arising out of any eminent domain proceeding.
- (i) Obtain and carry insurance against casualties and liabilities, as provided in Article VI of these Bylaws, pay the premiums therefor and adjust and settle any claims thereunder.
- (j) Pay the cost of all authorized services rendered to the Association and not billed to Lot Owners of individual Lots or otherwise provided for in Sections 5.1 and 5.2 of these Bylaws.
- (k) Keep books with detailed accounts in chronological order of the receipts and expenditures affecting the Association, and the administration of the Association, specifying the Common Expenses, and any other expenses incurred. Such books and vouchers accrediting the entries thereupon shall be available for examination by the Members, their duly authorized agents, or attorneys, during general business hours on working days at the time and in the manner set and announced by the Board of Directors for the general knowledge of the Members. All books and records shall be kept in accordance with accepted accounting practices.
- (l) Borrow money on behalf of the Association when required in connection with any one instance relating to the operation, care, upkeep, and maintenance of the Subdivision, provided, however, that the consent of a majority of Members, obtained at a Special Meeting duly called and held for such purpose in accordance with the provisions of these Bylaws, shall be required to borrow an amount greater than Two Thousand Dollars (\$2,000).
- (m) File all required governmental reports timely.
- (n) Do such other things and acts not inconsistent with law, the Declaration, or these Bylaws which the Board of Directors may be authorized to do by a resolution of the Association.

Section 3.3 - Managing Agent

The Board of Directors may employ for the Association a “Managing Agent” at a compensation established by the Board of Directors.

- (a) Requirements. The Managing Agent shall employ persons possessing a high level of competence in the technical skills necessary to proper management of the Association. The Managing Agent must be able to advise the Board of Directors regarding the administrative operation of the Association.
- (b) Duties. The Managing Agent shall perform such duties and services as the Board of Directors shall authorize, including but not limited to the duties listed in Section 3.2 of these Bylaws. The

Board of Directors may delegate to the Managing Agent some or all the powers granted to the Board of Directors by these Bylaws. The Managing Agent shall perform the obligations, duties and services relating to management of the property, the rights of Mortgages and the maintenance of reserve funds in compliance with the provisions of these Bylaws.

(c) Standards. The Board of Directors shall impose appropriate standards of performance upon the Managing Agent unless the Managing Agent is instructed otherwise by the Board of Directors.

(1) The cash method of accounting shall be employed.

(2) Cash accounts of the Association shall not be co-mingled with any other accounts of the Managing Agent.

(3) No remuneration shall be accepted by the Managing Agent from vendors, independent contractors or others providing goods or services to the Association, whether in the form of commissions, finders fees, service fees or otherwise. Any discounts received shall benefit the Association.

(4) Any financial or other interest which the Managing Agent may have in any firm providing goods or services to the Association shall be disclosed promptly to the Board of Directors.

Section 3.4 - Election and Term of Office

(a) There shall be a minimum of three (3) and a maximum of seven (7) directors. The members of the Board of Directors shall serve as the Board of Directors until their successors are elected. Each Director term shall be for two years. At each annual meeting the number of Directors equal to those whose term has expired shall be elected. The members of the Board of Directors shall commence their term upon their election at the Annual meeting and hold office until their respective successors shall have been elected by the Association.

(b) Persons qualified to be members of the Board of Directors may be nominated for election only as follows:

(1) Any Member may submit to the Secretary at least twenty calendar (20) days before the meeting at which the election is to be held a nominating petition signed by two Members each owning at least one (1) Lot. The Member seeking election to the Board must submit a statement that the person nominated is willing to serve on the Board of Directors, and a biographical sketch of the nominee. The Secretary shall mail, email, or hand-deliver the submitted documents to every Lot Owner along with the notice of such meetings; or

(2) Nominations may be submitted from the floor at the meeting at which the election is held for each vacancy on the Board of Directors. The nominee must be present at the meeting to present his biographical background and interest in serving.

(c) Within ninety (90) days after being elected or appointed to the board, each board member shall provide a certification in accordance with the requirements of the Act. Any Director who fails to provide such written certification will be suspended from the Board of Directors until that Director complies with the Act.

(d) A member of the Board of Directors may resign at any time and shall be deemed to have resigned upon disposition of their Lot.

Section 3.5 - Removal or Resignation of members of the Board of Directors

At any regular or special meeting of the Members, duly called, any one or more of the members of the Board of Directors may be removed with or without cause by a majority. A successor may then and there be elected to fill the vacancy thus created pursuant to Section 3.4.(b)(2). Any Director whose removal has been proposed by the Lot Owners shall be given at least seven (7) calendar days' notice of the time, place and purpose of the meeting and shall be given an opportunity to be heard at the meeting.

Section 3.6 - Vacancies

Vacancies in the Board of Directors caused by any reason other than the removal of a Director by a vote of the Association, shall be filled by a vote of a majority of the remaining Directors at a special meeting of the Board of Directors or Unanimous Written Consent held for such purpose promptly after the occurrence of any such vacancy. Each person so elected shall be a member of the Board of Directors until a successor shall be elected at the next annual meeting of the Association.

Section 3.7 - Organization Meeting

The Board of Directors returning and those elected at the Annual meeting shall meet no more than thirty (30) days after the Annual meeting and serve until the next annual meeting of the Members of the Association.

Section 3.8 - Regular Meetings

Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by fifty-one percent (51%) or more of the Directors, but such meetings shall be held at least once annually. Notice of regular meetings of the Board of Directors shall be given to each Director by mail, telephone, or email, at least ten (10) calendar days prior to the day named for such meeting.

Section 3.9 - Special Meetings

Special meetings of the Board of Directors may be called by the President on five (5) business days' notice to each Director, given by mail, telephone or email, which notice shall state the time, place, and purpose of the meeting. Special meetings of the Board of Directors shall be called by the President or Secretary in like manner and in like notice upon the written request of at least two (2) Directors.

Section 3.10 - Waiver of Notice

Any Director may, at any time and in writing, waive notice of any meeting of the Board of Directors, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Director at any meeting of the Board of Directors shall constitute a waiver of notice of the time, place, and purpose of such meeting. If all Directors are present at any meeting of the Board of Directors, no notice shall be required, and any business may be transacted at such meeting.

Section 3.11 - Quorum of Board of Directors

At all meetings of the Board of Directors at least fifty-one percent (51%) of the current Directors in attendance shall constitute a quorum for the transaction of business, and the votes of at least fifty-one percent (51%) of the Directors present at a meeting at which a quorum is present shall constitute the decision of the Board of Directors.

Section 3.12 - Fidelity Bonds

Fidelity bonds may be obtained (but are not required) for all Officers, Directors, and employees of the Association, including the Managing Agent, handling or responsible for Association funds.

Section 3.13 - Compensation

No Director shall receive any compensation from the Association for acting as Director. However, bona fide, necessary out-of-pocket expenses incurred by any Director in attending duly called meetings of the Board of Directors may be paid by the Association, pursuant to a specific resolution of the Board.

Section 3.14 - Conduct of Meetings

The President shall preside over all meetings of the Board of Directors and the Secretary shall keep a minute book of the Board of Directors, recording therein all resolutions adopted by the Board of Directors and a record of all transactions and proceedings occurring at such meetings. Rules established by the Board of Directors, or the then current edition of *Robert's Rules of Order*, shall govern the conduct of the meetings of the Board of Directors when not in conflict with the Declaration, these Bylaws or law. Failure to conduct any meeting in accordance with such rules shall not invalidate the action taken at such meeting.

Section 3.15 - Action without Meeting

To the extent allowed by law, any action by the Board of Directors required or permitted to be taken at any meeting may be taken without a meeting if all the Members of the Board of Directors consent in writing to such action, including via email. Any such written consent shall be filed with the minutes of the proceedings of the Board of Directors.

Section 3.16 - Liability of the Board of Directors, Officers, Lot Owners, and Association

The Association shall indemnify every Director or officer, his or her heirs, executors, and administrators, against all loss, cost and any action, suit or proceeding to which he may be made a party by reason of his being or having been a Director or officer of the Association, except in matters of gross negligence or misconduct. In the event of a settlement, indemnification shall be provided only in connection with such matters in which the Association is advised by counsel that the person to be indemnified has not been guilty of gross negligence or misconduct in the performance of his duty as such Director or Officer in relation to the matter involved. The foregoing rights shall not be exclusive of other rights to which such Director or Officer may be entitled. All liability, loss, damage, cost, and expense incurred or suffered by the Association in connection with the foregoing indemnification provision shall be treated and handled by the Association as expenses of the Association. Officers and members of the Board of Directors shall have no personal liability with respect to any contract made by them on behalf of the Association. Every agreement made by the Officers, the Board of Directors, or the Managing Agent on behalf of the Association shall, if obtainable, provide that the Officers, the Members of the Board of Directors, or Managing Agent are acting only as agents for the Association and shall have no personal liability thereunder (except as Lot Owners).

The Association shall not be liable for any failure of services that may be obtained by the Association or paid for as an Association expense, or for injury or damage to person or property caused by the Association or by the Member of any Lot or any other person, or (unless covered by the Association's insurance) resulting from electricity, water, snow or ice which may leak or flow from any portion of the Roadway or from any pipe, drain, conduit, appliance or equipment, unless caused by the negligence of the Association. No diminution or abatement of any assessments, as herein elsewhere provided, shall be claimed, or allowed for inconvenience or discomfort arising from the making of repairs or improvements to the Subdivision, or from any action taken by the Association to comply with any law, ordinance or with the order of directive of any municipal or other governmental authority.

Section 3.17 - Common or Interested Directors

Each Member of the Board of Directors shall exercise his or her powers and duties in good faith and with a view to the interests of the Association. No contract or other transaction between the Association and any of its Directors, or between the Association and any corporation, firm or association in which any of the Directors of the Association are Directors or Officers have any financial or other interest, is either void or voidable because any such Director is present at the meeting of the Board of Directors or any committee thereof which

authorized or approves the contract or transaction, or because his vote is counted for such purpose, if any of the conditions specified in any of the following subparagraphs exist:

(a) The fact of the common directorate or interest is disclosed or known to the Board of Directors as a majority thereof, or noted in the minutes, and the Board of Directors authorizes, approves, or ratifies such contract or transaction in good faith by a vote sufficient for the purpose, or

(b) The contract or transaction is commercially reasonable to the Association at the time it is authorized, ratified, approved, or executed.

Any common or interested Directors may be counted in determining the presence of a quorum of any meeting of the Board of Directors or committee thereof which authorizes, approves, or ratifies any contract or transaction, and may vote thereat to authorize any contract or transaction with like force and effect as if such Director were not such Director or Officer of such Association or not so interested.

ARTICLE IV

Officers

Section 4.1 - Designation

The principal Officers of the Association shall be the President, the Vice President, the Secretary, and the Treasurer, all of whom shall be elected by the Board of Directors. The Board of Directors may appoint an assistant Treasurer, an assistant Secretary, and such other officers as in its judgment may be necessary. All Officers shall be members of the Board of Directors.

Section 4.2 - Election of Officers

The Officers of the Association shall be elected annually by the Board of Directors at the organization meeting referenced in Section 3.7 of the Board of Directors and shall hold office at the pleasure of the Board of Directors.

Section 4.3 - Removal of Officers

Upon the affirmative vote of a majority of all members of the Board of Directors any Officer may be removed, either with or without cause, and a successor may be elected at any regular meeting of the Board of Directors or at any special meeting of the Board of Directors called for such purpose.

Section 4.4 - President

The President shall be the chief executive officer of the Association, preside at all meetings of the Association and of the Board of Directors, and have all of the general powers and duties which are incident to the office of President of the Association including, without limitation, the power to appoint committees from among the Members from time to time as the President may, in their discretion, decide is appropriate to assist in the conduct of the affairs of the Association.

Section 4.5 - Vice President

The Vice President shall take the place of the President and perform the duties of the President whenever the President shall be absent or unable to act. If either the President or the Vice President are unable to act, the Board of Directors shall appoint any other member of the Board of Directors to act in the place of the President or Vice President, on an interim basis. The Vice President shall also perform such other duties as shall from time to time be imposed by the Board of Directors or by the President.

Section 4.6 - Secretary

The Secretary shall keep the minutes of all meetings of the Association and of the Board of Directors, have charge of such books and papers as the Board of Directors may direct, maintain a register setting forth the place to which all notices to Members and Mortgagees hereunder shall be delivered, and, in general, perform all duties incident to the office of Secretary of the Association.

Section 4.7 - Treasurer

The Treasurer shall have the responsibility for Association funds and securities and shall be responsible for keeping full and accurate financial records and books of account showing all receipts and disbursements; and for the preparation of all required financial data; and be responsible for the deposit of all monies and other valuable effects in the name of the Board of Directors and the Members, Association or the Managing Agent, in such depositories as may from time to time be designated by the Board of Directors; and, in general, perform all duties incident to the office of Treasurer of the Association.

Section 4.8 - Execution of Documents

All Amendments to Bylaws required to be signed by the Association, and all agreements, contracts, deeds, leases, checks and other instruments of the Association for expenditures, or obligations in excess of One Thousand Dollars (\$1,000), shall be executed by any two Officers designated by the Board of Directors. All such instruments for expenditures or obligations of One Thousand (\$1,000) or less may be executed by any one person designated by the Board of Directors. All Amendments to the Declaration required to be executed by the Association shall be executed by the President and the Secretary.

Section 4.9 - Compensation of Officers

No Officer, who is also a Director, shall receive any compensation from the Association for acting as such Officer, provided, however, that Officers may be reimbursed for necessary, bona fide out-of-pocket expenses incurred on behalf of the Association upon approval by the Board of Directors.

ARTICLE V ASSESSMENTS

Section 5.1 - Expenses of the Association

The Board of Directors shall collect and maintain assessments from the Members to enable the Association and the Board of Directors to exercise the powers and perform the rights, obligations and duties stated herein. Such funds shall be administered on a fiscal year basis, in accordance with an Annual Budget adopted by the Board and approved by the Members, as set forth in Article 5.2 herein.

The Board of Directors may build up and maintain reasonable reserves for working capital, operations, contingencies, and replacements, which shall be set forth in the Annual Budget, along with any proposed expenditures from such reserves.

If during the year, expenses should arise that were not included in the Annual Budget, the Board of Directors may prepare a revised Budget and seek the approval of the Members for such a revised Budget. If such additional expenses would require an additional assessment, the amount of such an additional assessment shall be set forth in the revised Budget, and the Board of Directors shall provide a statement in writing giving the reasons therefor. If a revised Budget is approved by the Members, any additional assessment set forth in the revised Budget shall be due within ten days of such approval.

Section 5.2 - Annual Budget.

Each year, at least seventy-five (75) days prior to the end of the Association's current fiscal year, the Board shall prepare and adopt a proposed estimate of the total amount it deems necessary for the Association's next fiscal year (hereinafter referred to as "Annual Budget"), including any amounts proposed to be

withdrawn from any reserve accounts maintained by the Association, to pay all expenses to be incurred by the HOA , including for the maintenance and repair of the roads, trails, drainage structures, fire protection system and other improvements within the common areas and easements within the Subdivision ("Common Areas"). Within thirty (30) days after such adoption of the Annual Budget, the Board shall furnish each Member an itemized copy thereof, together with notification of the date, time, and place of the Association's annual meeting at which meeting the Members will consider ratification of the Annual Budget. The annual meeting of the Association shall be set within a period set forth in the Declaration and shall be not less than ten (10) nor more than fifty (50) days after mailing or emailing of the Annual Budget to the Members described hereinabove. The Annual Budget shall be deemed ratified if approved by at least fifty-one percent (51%) of those voting at the annual meeting, in person or by proxy, if a quorum is present at the meeting.

If the Annual Budget is not approved by the Members, the Board shall, within thirty (30) days of the date on which the Budget was not approved, prepare, and distribute to the Members a revised Annual Budget, which shall be subject to approval by the Members. A vote to approve the revised Annual Budget may be conducted by mail or email; so long as a quorum of the Association participates in that vote, the revised Annual Budget shall be deemed approved if supported by fifty-one percent (51%) of those voting.

The Annual Budget shall be based upon the aggregate sum as the Board shall from time to time determine is to be paid by the Members to provide for the payment of all estimated expenses. Expenses may include, among other things: premiums for insurance in the amounts and types required hereunder; legal, accounting, and management fees; expenses and liabilities incurred by the Board under or by reason of these Bylaws; any deficit remaining from a previous year; the creation of a reasonable contingency or other reserve of surplus fund; other costs and expenses relating to the Association's affairs and duties. The failure or delay of the Board of Directors to prepare or adopt a budget for any fiscal year shall not constitute a waiver or release in any manner of a Lot Owner's obligation to pay their allocable share of the expenses whenever the same shall be determined. In the absence of an approved annual budget or revised annual budget, each Lot Owner shall continue to pay assessments in the amount theretofore established until a new annual or revised budget shall have been delivered and ratified by the Members.

Section 5.3 - Assessments

(a) Manner of Mailing. Effective the first day of each fiscal year after the first assessment made by the Association, each Lot Owner shall be assessed a sum equal to their percentage of Lot ownership of the total Lots multiplied by the total Annual Budget, which sum shall be paid by the Lot Owner in a yearly installment on the first day of each fiscal year, continuing until a new assessment is made by the Board. The Managing Agent or Board of Directors shall prepare and deliver, mail or email to each Lot Owner an itemized yearly statement showing the various estimated or actual expenses for which the assessments are made, and any variances from the itemized Annual Budget ratified by the Members.

(b) Partial Year Allocation. Contributions for yearly assessments shall be prorated if the ownership of a Lot commences on a day other than the first day of the year. The omission or failure of the managing agent or the Board of Directors to fix the assessment for any year shall not be deemed a waiver, modification, or a release of the Lot Owner from their obligations to pay the assessment for the year.

(c) Adjustments. If the amount of the Annual Budget proves inadequate for any reason including, without limitation, non-payment of any Lot Owner's assessment, the Board of Directors may at any time levy a further assessment by increasing the Annual Budget. Each Lot Owner shall be assessed a sum equal to their percentage of ownership of Lots multiplied by such increase. Provided, however, extraordinary expenses not contemplated in the Annual Budget, which may become due during the fiscal year, shall first be paid from any available reserves. Further, if inadequate funds exist during the fiscal year,

the Association may borrow sufficient funds. The Board shall give written notice of any such increase, and reasons therefor, to each Lot Owner, and shall state the date and terms of payments of such increase.

(d) Expenditures. All such assessments collected shall be paid and expended for the purposes authorized herein. Special assessments as may be levied against less than all the Lot Owners and adjustments as may be required to reflect delinquent or unpaid assessments shall be deemed to be held for the benefit, use and account of all Lot Owners in the same percentages as their percentage ownerships of the total Lots. Notwithstanding any other provision contained herein, no Lot Owner shall have the right to demand that more than their pro rata share of the assessments collected be used to benefit their Lot.

Section 5.4 - Special Expenses

If any of the improvements within the Common Easements are damaged in any way through the intentional or negligent act or omission of any Lot Owner or their repair, employees, or invitees, the expense incurred by the Association for repair of such damage shall be deemed a Special Expense. Such Special Expenses shall be levied by the Board of Directors and assessed only to the Lot Owner whose act or omission resulted in the damage, and shall be paid by the Lot Owner, together with their next assessment due the Association, or at the option of the Board, assessed to the Lot Owner as a Special Expense due upon receipt.

Section 5.5 - Annual Accounting

Together with the notice of the annual meeting of Members, the Board of Directors shall furnish to all Members, for the preceding fiscal year, an itemized accounting of all the expenses actually incurred, paid, or accrued, together with a statement of the total assessments collected, showing the net operating loss or gain. Any such gain in excess of the amount required for incurred expenses, replacement and contingency reserves, shall be apportioned according to each Lot Owner's percentage or ownership in the total Lots as a credit against the next yearly assessment, until exhausted. Any such loss shall be apportioned according to each Lot Owner's percentage of ownership in the total Lots and added to the next yearly assessment.

Section 5.6 - Books of Account

The Board of Directors shall maintain current, detailed books of account in accordance with generally accepted accounting principles and procedures, which reflect all receipts, disbursements, assets, and liabilities of the Association. Such books, records, purchase orders and payment vouchers shall be available for inspection by any Member, or duly authorized representative of any Member, at reasonable times during normal weekday business hours. Any Lot Owner's Mortgagee(s) shall be deemed an authorized representative of Member. Upon ten (10) business days' notice to the Board and payment of a reasonable fee established by the Board, any Member or their Mortgagee(s) may demand and be furnished a statement of their account reflecting the amount of any unpaid assessments or other charges due and owing from such Lot Owner.

Section 5.7- Personal Debt of Lot Owner

The amount of the Common and/or Special Expenses assessed against each Lot shall be the personal and individual debt of the Lot Owner thereof at the time the assessment is made. Suit to recover a money judgment for unpaid Common and/or Special Expenses shall be maintainable without foreclosing or waiving the lien securing same. Notwithstanding anything to the contrary contained herein, the Association shall seek any sums due for unpaid Common and/or Special Expenses from a person in possession of a Lot pursuant to a real estate installment sale contract for a period of forty-five (45) days following notice to such Person of unpaid Common and/or Special Expenses, before seeking such sums from the legal Lot Owner of such Lot.

Section 5.8 - Disclosure of Unpaid Assessments

Upon the Board's receipt of written request from any current or prospective Lot Owner or Mortgagee the Association, by its Board of Directors, Officers, or Managing Agent, shall issue an acknowledged, recordable written statement, setting forth the amount of:

- the unpaid Common and/or Special Expenses, if any, with respect to the subject Lot,
- the amount of the current yearly assessment, and date that such assessment becomes due,
- credits for advance payments or for prepaid items, including but not limited to insurance premiums, which statement shall be conclusive upon the Association in favor of all persons who rely thereon in good faith,

Payment of a reasonable fee established by the Board of Directors will be due when the request has been received or at transfer of a lot.

Unless such request for a statement of indebtedness shall be complied within ten (10) business days of its actual receipt by the Association, all unpaid Common and/or Special Expenses which become due prior to the date of making such request shall be subordinate to the lien of the person requesting such statement. The Lot Owner of any Lot, by acceptance of a deed thereto, waives any objection to the disclosure of the aforementioned information by the Association and releases the Association, the Board, its Officers, and its agents from any liability therefor.

Section 5.9 - No Waiver of Common and/or Special Expenses

No Lot Owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of the Common Easements or their Lot, by abandonment of their Lot, or by any other means whatsoever.

ARTICLE VI Insurance

Section 6.1 - Association Insurance

(a) Insurance of Structures. The Association, acting through its Board of Directors or its duly authorized agent, shall obtain blanket "all-risk" coverage for all insurable structures or improvements owned by the Association. If such insurance is not generally available at a reasonable cost, then the Association shall obtain fire and extended coverage, including coverage for vandalism and malicious mischief, on all insurable structures or improvements.

(b) Liability Insurance. The Association shall also obtain a public liability policy on the Common Area, insuring the Association and its Members for damage or injury caused by the negligence of the Association or any of its Members, employees, agents, or contractors while acting on its behalf. If generally available at a reasonable cost, the public liability policy shall have at least a \$500,000.00 combined single limit with respect to bodily injury and property damage and at least a \$1,000,000.00 limit per occurrence and in the aggregate.

(c) Premiums. Premiums for all insurance on the Common Easements shall be Common Expenses and shall be included in the annual assessment.

(d) Deductibles. The policies may contain a reasonable deductible which shall not be subtracted from the face amount of the policy in determining whether the insurance at least equals the required coverage. In the event of an insured loss, the deductible shall be treated as a Common Expense in the same manner as the premiums for the applicable insurance coverage. However, if the Board reasonably determines, after notice and an opportunity to be heard in accordance with the Bylaws, that the loss is the result of the negligence or willful misconduct of one or more Lot Owners or occupants, then the Board may specifically assess the full amount of such deductible against the Lot of such Lot Owner or occupant.

(e) General Requirements. All insurance coverage obtained by the Association shall:

(1) Be written in the name of the Association as trustee for the benefitted parties. Policies on the Common Easements shall be for the benefit of the Association and its Members.

(2) Vest in the Board exclusive authority to adjust losses; provided no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related to the loss.

(3) Not be brought into contribution with insurance purchased by individual Lot Owners, occupants, or their Mortgagees.

(4) Have an inflation guard endorsement, if reasonably available. If the policy contains a coinsurance clause, it shall also have an agreed amount endorsement. The Association shall arrange for an annual review of the sufficiency of insurance coverage by one or more qualified persons, at least one of whom must be in the real estate industry and familiar with construction in the Santa Fe County, New Mexico area.

(5) The Board shall use reasonable efforts to secure insurance policies containing endorsements that:

(a) Waive subrogation as to any claims against the Association's Board, Officers, employees and its manager, the Lot Owners and their tenants, servants, agents, and guests,

(b) Waive the insurer's right to repair and reconstruct instead of paying cash,

(c) Preclude cancellation, invalidation, suspension, or non-renewal by the insurer on account of any one or more individual Lot Owner, or on account of any curable defect or violation without prior written demand to the Association and allowance of a reasonable time to cure,

(d) Exclude individual Lot Owner's policies from consideration under any "other insurance" clause,

(e) Require at least thirty (30) days prior written notice to the Association of any cancellation, substantial modification, or non-renewal.

Section 6.2 - Damage and Destruction

Immediately after damage or destruction to all or any part of the Subdivision covered by insurance written in the name of the Association, the Board or its duly authorized agent shall file and adjust all insurance claims and obtain reliable and detailed estimates of the cost of repair and reconstruction. Repair or reconstruction, as used in this paragraph, means repairing or restoring the property to substantially the condition in which

it existed prior to the damage, allowing for changes or improvements necessitated by changes in applicable building codes.

Any damage to or destruction of improvements therein shall be repaired or reconstructed unless at least seventy-five percent (75%) of the Members of the Association decide within sixty (60) days after the loss not to repair or reconstruct.

If either the insurance proceeds or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not available to the Association within such sixty (60) day period, then the period shall be extended until such funds or information are available. However, such extension shall not exceed sixty (60) additional days. No Mortgagee shall have the right to participate in the determination of whether the damage or destruction shall be repaired or reconstructed.

If determined, in the manner described above, that the damage or destruction shall not be repaired or reconstructed, and no alternative improvements are authorized, the affected property shall be cleared of all debris and ruins and maintained by the Association in a neat and attractive, landscaped condition.

Section 6.3 - Disbursements of Proceeds

Any insurance proceeds remaining after paying the costs of repair or reconstruction, or after such settlement as is necessary or appropriate, shall be retained by and for the benefit of the Association and placed in a capital improvements account. This is a covenant for the benefit of Mortgagees and may be enforced by the Mortgagees of any affected Lot.

ARTICLE VII Compliance and Default

Section 7.1 - Relief

Each Member shall be governed by and shall comply with the terms of the Declaration as any of the same may be amended from time to time. A default by a Lot Owner shall entitle the Association, acting through its Board of Directors, Officers, or Managing Agent, to specific enforcement or injunctive relief or other remedies provided by law.

(a) Additional Liability. Each Lot Owner shall be liable for the expense of all maintenance, repair or replacement to the Subdivision's or the Association's property rendered necessary by their act, neglect or carelessness or the act, neglect, or carelessness of their employees, agents, or licensees, but only to the extent that such expense is not covered by the proceeds of insurance carried by the Board of Directors. Such liability shall include any increase in casualty insurance rates occasioned by use, misuse, occupancy or abandonment of any Lot or its appurtenances.

(b) Costs and Attorney's Fees. In any proceeding arising out of any alleged default by a Lot Owner, the prevailing party shall be entitled to recover the costs of such proceeding and such reasonable attorney's fees as may be determined by the court.

(c) No Waiver of Rights. The failure of the Association, the Board of Directors, Officers or of a Lot Owner to enforce any right, provision, covenant, or condition which may be granted by the Declaration shall not constitute a waiver of the right of the Association, the Board of Directors, Officers, or the Lot Owner to enforce such right, provision, covenant, or condition in the future. All rights, remedies and privileges granted to the Association, the Board of Directors, Officers, or any Lot Owner pursuant to any

term, provision, covenant or condition of the Declaration shall be deemed to be cumulative and the exercise of any one or more thereof shall not be deemed to constitute an election of remedies, nor shall it preclude the party exercising the same from exercising such other privileges as may be granted to such party by the Road Maintenance Agreement, or at law or in equity.

(d) Interest. In the event of a default by a Lot Owner in paying any sum due the Association with respect to their Lot, which default continues for a period more than thirty (30) days, the principal amount unpaid shall bear interest at the maximum rate allowed by the State of New Mexico from the due date until paid, in addition to any fines or penalties levied pursuant to these Bylaws.

(e) Abating and Enjoining Violations by Lot Owners. The violation of any of the Regulations adopted by the Board of Directors, the breach of any Bylaw contained herein or the breach of any provision of the Declaration shall give the Association the right, in addition to any other rights set forth in these Bylaws:

(1) to enter the Lot in which, or as to which, such violation or breach exists and summarily to abate and remove, at the expense of the defaulting Lot Owner, any structure, thing or condition that may exist therein contrary to the intent and meaning of the provisions hereof, and the Association shall not thereby be deemed guilty in any manner of trespass.

(2) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity the continuance of any such breach.

(f) Legal Proceedings. Failure to comply with any of the terms of the Declaration, Bylaws and any Rules and Regulations of the Association shall be grounds for relief, including without limitation:

(1) an action to recover sums due for money damages,

(2) injunctive relief,

(3) foreclosure or the lien for payment of all assessments, writs of assistance, bills of attainder,

(4) any other relief provided for in these Bylaws or any combination thereof and any other relief afforded by a court of competent jurisdiction,

(5) relief may be sought by the Association, the Board of Directors, Officers, or Managing Agent or, if appropriate, by an aggrieved Lot Owner,

(6) shall not constitute an election of remedies.

Jurisdiction in legal matters shall be Santa Fe County, New Mexico.

Section 7.2 - Lien for Assessments

(a) Annual Assessment. The total annual assessment of each Lot Owner for Common Expenses or any special assessment made pursuant to these Bylaws in Section 5.4 is hereby declared to be a lien levied against the Lot of such Lot Owner as provided in the Declaration, which lien shall, with respect to annual assessments, be effective on the first day of each fiscal year of the Association and, as to special assessments, on the first day of the next month which begins more than fifteen (15) days after delivery to the Lot Owner of notice of such special assessment. The Association, through the Board of Directors or the Managing Agent, may file or record such other or further notice of any such lien, or such other or further document, to confirm the establishment and priority of such lien.

(b) Acceleration. Where an assessment against a Lot Owner is payable in installments, upon a default by such Lot Owner in the timely payment of any two (2) consecutive installments, the maturity of the remaining total of the unpaid installments of such assessments may be accelerated, at the option of the Board of Directors, and the entire balance of the annual assessment may be declared due and payable in full by the service of notice to such effect upon the defaulting Lot Owner and their Mortgagee by the Board of Directors or the Managing Agent.

(c) Foreclosure of Lien. The lien for assessment may be enforced and foreclosed in the manner provided by the laws of the State of New Mexico by action in the name of the Board of Directors or the Managing Agent, acting on behalf of the Association. During the pendency of such suit, the Lot Owner shall be required to pay a reasonable rental for the Lot for any period prior to sale pursuant to any judgment or order of any court having jurisdiction over such sale. The plaintiff in such proceeding shall have the right to the appointment of a receiver, if available under the laws of the State of New Mexico.

(d) Money Judgment. A suit to recover a money judgment for unpaid contributions may be maintained without foreclosing or waiving the lien securing the same, and a foreclosure may be maintained notwithstanding the pendency of any suit to recover a money judgment.

Section 7.3 - Supplemental Enforcement of the Lien

In addition to the proceedings at law or in equity for the enforcement of the lien established by the Declaration or these Bylaws, all Lot Owners may be required by the Board of Directors to execute bonds conditioned upon the faithful performance and payment of the installments of the lien established hereby.

Section 7.4 - Subordination and Mortgagee Protection

Notwithstanding any other provisions hereof to the contrary, the lien of any assessment levied pursuant to these Bylaws upon any Lot (and any penalties, interest or assessments, late charges or the like) shall be subordinate to, and shall in no way affect the rights of the holder of a Mortgage made in good faith for value received; provided, however, that such Mortgage secures a loan made by an institutional lender, and provided further, that such subordination shall apply only to assessments which have become due and payable prior to a sale or transfer of such Lot pursuant to a decree of foreclosure, or any proceeding in lieu of foreclosure. Such sale or transfer shall not relieve the purchaser of the Lot at such sale from liability for any assessment thereafter becoming due, nor from the lien of any such subsequent assessment, which lien shall have the same effect and be enforced in the same manner as provided herein.

ARTICLE VIII Amendments to Bylaws

These Bylaws may be amended at any time by an instrument approved by not less than fifty-one percent (51%) of lot owners and signed by a duly appointed officer of the Association. Any such amendment must be recorded in the same manner as these Bylaws.

ARTICLE IX
Miscellaneous

Section 9.1 - New Mexico law

The State of New Mexico has enacted the Act, which defines rules and obligations that a Homeowners Association in New Mexico must abide by. The Act, and any amendments thereto, supersedes all Articles contained herein, and imposes requirements for Board members qualifications, disclosure of information, and certain filings. All Members should be familiar with the Act and any amendments and modifications which may be enacted by the New Mexico Legislature from time to time.

Section 9.2 - Notices

All Members shall notify the Board of Directors of their postal mailing address and electronic mailing address, and any changes to those addresses as they occur. Notice to Members under these Bylaws shall be in writing and shall be deemed to have been delivered if delivered personally or as follows:

(a) Except as specified below in Subsection 9.2.(b), all communication to Members including but not limited to: communications related to routine financial transactions (such as billings, invoices, and notices of assessments); notices of meetings; and informational notices shall be sent by First-Class postal mail or electronic mail to the postal or electronic address last appearing on the Association books or supplied by the Member to the Association for the purpose of notice.

(b) Communications to Members that require proof of delivery or attempted delivery, such as Notices of Violations or Notices of Lien Filing, shall be sent by First-Class registered or certified mail, or by an alternative delivery service that provides proof of delivery or attempted delivery.

Section 9.3 - Captions

The captions herein are inserted only as a matter of convenience and for reference, and in no way define, limit, or describe the scope of these Bylaws or the intent of any provision thereof.

IN WITNESS WHEREOF, these Amended and Restated Bylaws have been adopted by the approval of not less than sixty-six percent (66%) of the Lot Owners at a meeting called for this purpose on this 12th day of June 2022 and signed by the President and Secretary of the Board of Directors of the Association.

Sundance Estates Homeowners Association

By: President

Date: _____

By: Secretary

Date: _____