

BYLAWS
FOR
MESA DEL SOL
COMMUNITY COMPANY, INC.



JACOBS CHASE
ATTORNEYS

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**BYLAWS
FOR
MESA DEL SOL
COMMUNITY COMPANY, INC.**

**ARTICLE I
DEFINITIONS**

As used in these Bylaws, the following terms shall have the meanings given to them in this Article I, unless the context clearly requires otherwise. Unless otherwise defined herein, all capitalized terms used herein shall have the meanings given to them in the Declaration.

"Affiliate" means any Person that, directly or indirectly, is in control of, is controlled by or is under common control with the party for whom an affiliate is being determined. For purposes hereof, control of a Person means the power, direct or indirect, to: (i) vote 50% or more of the securities having ordinary voting power for the election of directors (or comparable positions) of such Person, or (ii) direct or cause the direction of the management and policies of such Person, whether by contract or otherwise and either alone or in conjunction with others. Notwithstanding the foregoing, the Community Company shall not be deemed an Affiliate of Founder.

"Alternate" has the meaning given to that term in Section 4.1.

"Annual Meeting" has the meaning given to that term in Section 7.1.

"Biannual Delegate Election Meeting" has the meaning given to that term in Section 4.2.

"Community Company" has the meaning given to that term in Article II.

"Declaration" means the Declaration of Covenants, Conditions and Restrictions for Mesa del Sol Recorded on Dec 28, 2010 at Document No. 2010 132684.

"Delegate" has the meaning given to that term in Section 4.1.

"Delegate District" has the meaning given to that term in Section 4.1.

"Delegate District Meeting" has the meaning given to that term in Section 5.1.

"Delegate Election" has the meaning given to that term in Section 4.2.

"Delegate Election Meeting" has the meaning given to that term in Section 4.2.

"Development and Sale Period" means the period of time during which Founder or any Affiliate of Founder owns real property in Mesa del Sol or has the right to add real property to Mesa del Sol pursuant to Article XIV of the Declaration.

"Director Election" has the meaning given to that term in Section 6.3.

"Director Election Meeting" has the meaning given to that term in Section 6.3.

"ED #1," "ED #2," "ED #3" and "ED #4" each refers to an Election District (e.g., "ED #1" means Election District #1).

"Election Districts" means the election districts established under Section 6.2, as modified from time to time in accordance with Section 6.2.

"First Director Election Meeting After Completion" means the first Director Election Meeting to occur after the expiration of the Development and Sale Period.

"General Commercial Director" has the meaning given to that term in Section 6.1.

"Hotel Director" has the meaning given to that term in Section 6.1.

"Owners Meeting" has the meaning given to that term in Section 7.3.

"PCAD #1", "PCAD #2" and "PCAD #3" each refers to one of the Director positions occupied or to be occupied by a Pre-Completion Additional Director.

"Person" means any natural person, corporation, partnership, limited liability company, association, trust, trustee, governmental or quasi-governmental entity or any other person or entity recognized as being capable of owning real property under the laws of the State of New Mexico.

"Pre-Completion Additional Directors" has the meaning given to that term in Section 6.1.

"Purchaser" means a Person, other than Founder, an Affiliate of Founder or a successor or assign of Founder or an Affiliate of Founder, who acquires legal title to the fee simple interest in an Interest or portion thereof.

"RD #1", "RD #2", "RD #3" and "RD #4" each refers to one of the four Residential Directors described in Section 6.1.

"Residential Directors" has the meaning given to that term in Section 6.1.

"**Response Notice**" has the meaning given to that term in Section 12.2.

"**Response Period**" has the meaning given to that term in Section 12.2.

"**Review Authority**" has the meaning given to that term in Section 12.2.

"**Slate of Delegate Candidates**" has the meaning given to that term in Section 4.2.

"**Slate of Director Candidates**" has the meaning given to that term in Section 6.3.

"**Special Commercial Director**" has the meaning given to that term in Section 6.1.

"**Special Delegate Election Meeting**" has the meaning given to that term in Section 4.2.

"**Special Director Election Meeting**" has the meaning given to that term in Section 6.3.

"**Special Meeting**" has the meaning given to that term in Section 7.2.

"**Violation Notice**" has the meaning given to that term in Section 12.2.

ARTICLE II **OFFICES**

The Mesa del Sol Community Company, Inc., (the "**Community Company**") is a New Mexico nonprofit corporation. The principal offices of the Community Company are located at 5700 West University Boulevard, SE, Suite 310, Albuquerque, New Mexico 87106. The Community Company may have other offices and may carry on its purposes at such other places within and outside the State of New Mexico as the Board may determine.

ARTICLE III **MEMBERSHIP AND VOTING**

3.1 Membership.

Every Owner is automatically a member of the Community Company.

3.2 Votes.

(a) ***Voting Allocation.*** Votes in the Community Company shall be allocated to the various Interests in accordance with the following voting table. If there is

any conflict between such table and the other provisions of these Bylaws, the Articles or the Declaration, then such other provisions shall control.

<u>Voting Table</u>	
<u>Space</u>	<u>Allocation</u>
Residential Unit (Time Share Interests: see §§ 3.2(c)(ii) and 3.7)	1 vote for each Residential Unit
Hotel	1 vote for every 3 Hotel Rooms within such Hotel
Retail/Service Space (R/S Space)	1 vote for each 1,000 square feet of Area within such R/S Space
Entertainment/Cultural Space (E/C Space)	1 vote for each 5,000 square feet of Area within such E/C Space
Office Space	1 vote for each 10,000 square feet of Area within such Office Space
Industrial/Conference Space (I/C Space)	1 vote for each 20,000 square feet of Area within such I/C Space
Community Facility	None
Undeveloped Land	None

(b) ***Vote Allocations for Parking.*** Notwithstanding any other provision herein, portions of the Property used primarily for parking (including without limitation surface, underground and structured parking) shall not be deemed part of any Commercial Space for purposes of voting or the allocation of Commercial General Assessments, or Special Assessments. The foregoing sentence shall not limit, preclude or inhibit the imposition of a fee for the use of any portion of the Property for parking.

(c) ***Number of Votes for Election of Directors.***

(i) Except as set forth in Section 3.2(c)(ii), and subject to the prohibition on cumulative voting set forth in Section 3.6, in any election of Directors, the Owner of a Space shall have a number of votes (which shall be cast by such Owner's Delegate, if applicable) equal to the product obtained by multiplying (A) the number of votes allocated to that Space, and (B) the number of Directors for which such Owner or

Owner's Delegate, if applicable, may vote by virtue of such Owner's ownership of that Space.

(ii) If a Residential Unit is owned in Time Share Interests, in any election of Pre-Completion Additional Directors or Residential Directors, the Owner of each such Time Share Interest shall have a number of votes (which shall be cast by such Owner's Delegate) equal to the product obtained by multiplying: (A) the number of votes allocated to that Time Share Interest pursuant to Section 3.7(a), and (B) the number of Pre-Completion Additional Directors or Residential Directors for which such Owner's Delegate may vote by virtue of such Owner's ownership of that Time Share Interest.

3.3 Casting Votes.

(a) **Commercial.** Votes allocated to Commercial Spaces shall be cast by the Owners of such Commercial Spaces or their duly appointed agents in accordance with the Section 3.3(e).

(b) **Residential.** Votes allocated to Residential Units and Time Share Interests shall be cast either by: (i) the Owners of such Residential Units and Time Share Interests or their agents appointed in accordance with Section 3.3(e), or (ii) their respective Delegates, as determined in accordance with Sections 3.3(c) and 3.3(d).

(c) **Residential Votes Cast by Owners.** Subject to the Community Documents, the vote (or fraction thereof) allocated to each Residential Unit or Time Share Interest shall be cast by the Owner of such Residential Unit or Time Share Interest (or such Owner's duly appointed agent in accordance with Section 3.3(e)) with respect to:

- (i) electing, removing and replacing Delegates and Alternates (as set forth in Articles IV and V),
- (ii) combining Delegate Districts (as set forth in Section 4.1(c)),
- (iii) combining Election Districts (as set forth in Section 6.2(e)),
- (iv) certain amendments to the Bylaws (as set forth in Section 11.2),
- (v) certain amendments to the Declaration (as set forth in Section 16.3 of the Declaration), and
- (vi) certain amendments to the Articles (as set forth in Section 9.2 of the Articles).

(d) ***Residential Votes Cast by Delegates.***

(i) Subject to the Community Documents, the Delegate (or Alternate pursuant to Section 3.3(d)(ii)) for the Delegate District within which a Residential Unit or Time Share Interest is included shall have the exclusive right to cast the vote (or fraction thereof) allocated to such Residential Unit or Time Share Interest with respect to those matters specified in the Community Documents for voting by Delegates and all other matters upon which such Owner would vote but for this Section 3.3(d)(i), including the election, removal or replacement of Pre-Completion Additional Directors and Residential Directors, but only if the Owner of such Residential Unit or Time Share Interest is not precluded from voting pursuant to the Community Documents (*e.g.*, due to failure to pay Assessments when due).

(ii) If a Delegate is absent from any meeting at which such Delegate is entitled to vote, the Alternate for the applicable Delegate District shall cast the votes allocated to Residential Units and Time Share Interests within such Delegate District.

(e) ***Proxies.*** The Owner of an Interest may appoint an agent to vote the votes allocated to such Owner's Interest by a duly executed proxy, in such form as the Board (or other person(s) calling the meeting) may reasonably require, duly delivered in the time and manner specified by the Board (or other person(s) calling the meeting).

(i) Notwithstanding any other provision herein, the Owner of an Interest may not appoint any lessee of such Interest as its agent to vote any portion of its votes with regard to:

- (A) any proposal to terminate the Declaration, and
- (B) any proposed amendment to the Community Documents that would change the method by which votes in the Community Company or assessment obligations are allocated.

(ii) Notwithstanding any other provision herein, the Owner of an Interest may not appoint by proxy or otherwise an agent to vote any portion of its votes to be cast by Delegates or Alternates pursuant to Section 3.3(d)(i) or any other provisions of the Community Documents; Owners hereby acknowledge that Delegates (or Alternates) possess the exclusive authority to cast votes for certain proposals and issues as set forth in Section 3.3(d)(i) and other provisions of the Community Documents.

3.4 Votes Appurtenant.

The votes allocated to any Interest shall be held by the Owner(s) of such Interest, and may not be separated from the Interest to which the votes are allocated. The votes allocated to an Interest may be transferred or encumbered only in connection with the conveyance or encumbrance of the fee interest thereto. Any transfer or encumbrance of votes in the Community Company, other than as permitted in this Section 3.4, shall be void and have no force or effect.

3.5 Class Voting.

Class voting shall be allowed for the election of the Directors as set forth in Article VI and as otherwise expressly set forth in the Community Documents, but for no other purposes.

3.6 Cumulative Voting.

Cumulative voting shall not be allowed for any purpose.

3.7 Fractional Voting.

Fractional voting shall not be allowed for any vote allocated to any Space; provided, however:

(a) if a Residential Unit is owned in Time Share Interests, fractional voting shall be allowed for the vote allocated to that Residential Unit. In that case, the vote allocated to a Residential Unit shall be allocated among the Time Share Interests therein on the basis of the proportionate duration of such Time Share Interests, and

(b) the Owner of a Space other than a Residential Unit may appoint one or more of its lessees of that Space as its agent to vote all or any portion of the votes allocated to that Space by proxy in accordance with and subject to the terms and conditions of Section 3.3(e), and, in that regard, fractional voting shall be allowed for the votes allocated to such Space.

3.8 Multiple Owners.

If the Owners of an Interest cannot agree among themselves as to how to cast their vote on a particular matter, they shall lose their right to vote on such matter. If any Owner of an Interest casts the vote for that Interest, it will thereafter be presumed for all purposes that the Owner was acting with the authority and consent of all other Owners of that Interest, unless an Owner of that Interest makes an objection thereto to the Person presiding over the meeting when the vote is cast. If any vote is cast more than once for any Interest, then none of such votes shall be counted and all of such votes shall be deemed null and void.

**ARTICLE IV
DELEGATES AND ALTERNATES**

4.1 Delegate Districts.

(a) *Established.* There shall be one or more districts (each, a "Delegate District") established pursuant to the terms of this Section 4.1 and Section 4.3 of the Declaration. Each Residential Unit and each Time Share Interest shall be assigned to one Delegate District. The Founder shall initially assign each Residential Unit and each Time Share Interest to a specific Delegate District. A Delegate District need not be comprised of a contiguous geographic area. The initial Delegate District, and Residential

Units and Time Share Interests assigned thereto, is set forth on Exhibit D attached to the Declaration.

(b) ***Prior to the Close of the First Director Election Meeting After Completion.*** Subject to Section 4.1(d), at any time, and from time to time, prior to the close of the First Director Election Meeting After Completion, Founder, and only Founder, shall be permitted to: (i) establish one or more Delegate Districts, (ii) combine Delegate Districts into fewer Delegate Districts, and (iii) reassign any Residential Unit or Time Share Interest from one Delegate District to another Delegate District.

(c) ***After the Close of the First Director Election Meeting After Completion.*** Subject to Section 4.1(d), at any time, and from time to time, after the close of the First Director Election Meeting After Completion, the Board may: (i) establish one or more Delegate Districts, (ii) combine Delegate Districts into fewer Delegate Districts and (iii) reassign any Residential Unit or Time Share Interest from one Delegate District to another Delegate District; provided, however, the Board may not combine two or more existing Delegate Districts into fewer Delegate Districts without the approval of Owners of Residential Units and Time Share Interests within each Delegate District proposed to be combined. The Owners of Residential Units and Time Share Interests within a Delegate District shall be deemed to have approved the combination of such Delegate District with one or more other Delegate Districts only upon the affirmative vote of a majority of all votes allocated to such Residential Units and Time Share Interests cast in person or by proxy at a duly held Delegate District Meeting therefor.

(d) ***Effective Date.*** Any action described in Section 4.1(b) or 4.1(c) shall become effective on the date a Supplement specifying such action is Recorded, or such later date set forth in such Supplement.

(e) ***Delegates and Alternates.*** Each Delegate District shall elect one delegate (each, a "**Delegate**") and one alternate delegate (each, an "**Alternate**") pursuant to the terms of Articles IV and V to cast certain votes on behalf of Owners of Residential Units and Time Share Interests within such Delegate District and to exercise such other rights and perform such other duties as are set forth in, and subject to the terms of, the Community Documents.

4.2 Selection of Delegates and Alternates.

(a) ***Delegate Elections.*** Except as set forth herein, each Delegate and each Alternate shall be selected in an election (a "**Delegate Election**") held at a Delegate District Meeting in accordance with this Section 4.2(a) and Article V (a "**Delegate Election Meeting**").

(i) The Board shall solicit nominations from individuals qualified under Section 4.3 to serve as Delegates and Alternates. The Board may establish nomination procedures and reasonable deadlines for receiving nominations. The date set by the Board for close of nominations shall be not less than 20 nor more than 120 days before the date of the Delegate Election Meeting. Nominations for Delegates

and Alternates may not be made after the date set for the close of nominations. Not less than 10 nor more than 50 days before the date of a Delegate Election Meeting for any Delegate District but not before the close of nominations, a slate of eligible candidates for the Delegate and Alternate position for such Delegate District (a "**Slate of Delegate Candidates**") shall be prepared and distributed by the Board to the Owners of Residential Units and Time Share Interests within such Delegate District that are entitled to vote for such positions based on nominations that comply with the nomination guidelines established by the Board and the qualifications under Section 4.3. If, after the close of the nominations: (A) only one person qualified under Section 4.3 is nominated to serve as a Delegate or Alternate, then the Board may, without further action, declare that person to be elected as the Delegate for such Delegate District, or (B) more than one person qualified under Section 4.3 is nominated to serve as a Delegate or Alternate, then a Delegate Election shall be held at a Delegate District Meeting as set forth in Article V.

(ii) Not less than 10 nor more than 50 days before the date of the Delegate Election Meeting, the Board shall deliver a written form of proxy to each Owner entitled to vote at such meeting listing the applicable Slate of Delegate Candidates. Every such proxy shall be revocable and automatically cease after completion of the Delegate Election Meeting for which the proxy was provided. Any form of proxy distributed must afford the opportunity to choose among all candidates listed on the applicable Slate of Delegate Candidates. The proxy must provide that, when the Owner specifies a choice, the vote shall be cast in accordance with that choice.

(b) **Individuals Elected.** At any Delegate Election, from among those persons nominated pursuant to Section 4.2(a)(i) and qualified to serve under Section 4.3, the person receiving the highest number of votes shall be deemed elected as the Delegate and the person receiving the second highest number of votes shall be deemed elected as the Alternate.

(c) **Terms of Office.** Except as set forth in Section 4.4(a), with respect to each Delegate District, the term of office for each Delegate and each Alternate for such Delegate District shall begin on the date such Delegate or Alternate (as appropriate) is elected, and shall terminate at the close of the Biannual Delegate Election Meeting for such Delegate District occurring after commencement of such Delegate's or Alternate's initial term (as applicable).

(d) **Timing of Delegate Election Meetings.**

(i) With respect to each Delegate District, the initial Delegate Election Meeting (to elect the initial Delegate and initial Alternate for such Delegate District) shall be called by the Board for, and held on, a date within 180 days after the first Transfer to a Purchaser of a Residential Unit or Time Share Interest within such Delegate District. Delegate Election Meetings other than the initial Delegate Election Meeting shall be called by the Board for, and held on, a date selected by the Board between April 1 and June 30 of each odd-numbered year occurring after that date that is at least two years after the first Transfer of a Residential Unit or Time Share Interest within such Delegate District (each, a "**Biannual Delegate Election Meeting**").

(ii) A Delegate Election Meeting shall be called to: (A) fill a vacancy in any Delegate position occurring for any reason other than expiration of such Delegate's term if there is no Alternate to fill such vacancy, and (B) fill a vacancy in any Alternate position occurring for any reason other than the expiration of such Alternate's term (each, a "**Special Delegate Election Meeting**").

(e) **No Term Limits.** There is no limit on the number of terms an individual may serve as a Delegate or an Alternate.

(f) **Timeline for Electing Delegates and Alternates.** The following is a summary of the timeline for performing various tasks to be completed in connection with the election of Delegates and Alternates. To the extent this summary conflicts with any other provision of these Bylaws, the Articles or the Declaration, then such other provisions shall control.

<u>Summary Timeline for Electing Delegates and Alternates</u>	
<u>Time</u>	<u>Event</u>
20-120 days before Delegate Election Meeting	Close of nominations
After close of nominations	A Slate of Delegate Candidates is generated.
Prior to sending notice of Delegate Election Meeting	Record date may be set for Owners entitled to notice of Delegate Election Meeting. (If set, the record date must be between 10 and 70 days before the Delegate Election Meeting.)
Prior to sending notice of Delegate Election Meeting	Record date may be set for eligibility to vote. (If set, the record date must be between 10 and 70 days before the Delegate Election Meeting.)
10-50 days before Delegate Election Meeting but not before the close of nominations	Notice of Delegate Election Meeting and Slate of Delegate Candidates is sent to Owners entitled to notice. Proxies are sent to Owners entitled to vote.
Delegate Election Meeting	Election of Delegate and Alternate

4.3 Delegate and Alternate Qualifications.

Anyone nominated to serve as a Delegate or Alternate, and throughout the term any individual serves in such capacity such individual, shall be: (a) 18 years of age or older, and (b) an Owner or a resident of a Residential Unit or Time Share Interest within the Delegate District to be represented by such Delegate or Alternate. For purposes of this Section 4.3, if an Owner is not an individual, then any officer, director, partner, member, manager or any trust officer of such Owner shall be eligible to serve as a Delegate or Alternate unless a written notice to the Community Company signed by such Owner specifies otherwise.

4.4 Vacancies, Removal and Replacement.

(a) ***Vacancies.*** A vacancy in any Delegate's position occurring for any reason other than the expiration of such Delegate's term shall first be filled by the Alternate for such Delegate's Delegate District. If there is no such Alternate, then a Special Delegate Election Meeting shall be held and the vacancy shall be filled at such Special Delegate Election Meeting pursuant to the procedures established in Section 4.2(a). If an Alternate becomes a Delegate pursuant to this Section 4.4(a), then a Special Delegate Election Meeting shall be held and a new Alternate shall be elected at such Special Delegate Election Meeting pursuant to the procedures established in Section 4.2(a).

(b) ***Removal.*** Any Delegate and any Alternate may be removed before the expiration of such individual's term of office by a vote of: (i) at least 30% of the voting power of all Owners of Residential Units and Time Share Interests in such Delegate's or Alternate's Delegate District, and (ii) a majority of the voting power of Owners of Residential Units and Time Share Interests in such Delegate District represented at a Delegate District Meeting to remove such Delegate or Alternate at which a quorum (of Owners of Residential Units and Time Share Interests in such Delegate District) is present.

(c) ***Failure to Elect Delegates or Alternates.*** If, despite attempts to elect a Delegate or Alternate for any Delegate District pursuant to the terms of the Community Documents, a Delegate District does not have a Delegate or an Alternate, the Board may appoint a person qualified under Section 4.3 to fill such position. If no person qualified under Section 4.3 is willing to serve as a Delegate or Alternate, then the president of the Community Company will serve as such Delegate or Alternate until a person qualified under Section 4.3 is elected or appointed. Notices of all appointments made pursuant to this Section 4.4(c) shall be distributed to the Owners in the affected Delegate District within 30 days after the date of such appointment.

(d) ***Term for Replacement.*** Notwithstanding any other provision herein, any person elected to fill a vacancy of a Delegate or Alternate occurring before expiration of such Delegate's or Alternate's term of office shall serve the remainder of the unexpired term of office of the predecessor Delegate or Alternate, as appropriate.

4.5 Delegates' Duties.

Each Delegate shall have the duty to: (a) regularly attend meetings of Owners at which such Delegate is entitled to cast votes, (b) participate in all votes of Owners for which such Delegate is entitled to cast votes, (c) distribute information to the Owners represented by such Delegate, (d) assist in publicizing social and other events at the request of the Board, and (e) promptly inform the Owners represented by such Delegate of proposed and final actions of the Board.

ARTICLE V
DELEGATE DISTRICT MEETINGS

5.1 Definition.

For purposes of these Bylaws, the term "**Delegate District Meeting**" shall mean a meeting of Owners of Residential Units and Time Share Interests within a single Delegate District held in accordance with this Article V.

5.2 Purposes.

Delegate District Meetings may be called for purposes of: (a) holding a Delegate Election Meeting, (b) voting on whether to remove a Delegate or an Alternate, (c) voting on whether to approve a proposed combination of Delegate Districts pursuant to Section 4.1(c), and (d) voting on whether to approve a proposed combination of Election Districts pursuant to Section 6.2(e).

5.3 Called.

Delegate District Meetings for any Delegate District: (a) may be called by the Board or the Delegate for such Delegate District, (b) shall be called by the president of Community Company at the request of Owners holding at least 10% of all votes allocated to Residential Units and Time Share Interests within such Delegate District, or (c) shall be called by the Board for Delegate Election Meetings in accordance with Section 4.2(d).

5.4 Location.

Delegate District Meetings shall be held at the principal office of the Community Company or at such other location as the person(s) calling the meeting identify in the notice of the meeting.

5.5 Notice.

(a) ***Delivery.*** Written notice of any Delegate District Meeting, stating the place, day and hour of the meeting, and the purposes for which the meeting is called shall be delivered personally or by mail to each Delegate, Alternate and each Owner of a Residential Unit or Time Share Interest within the subject Delegate District that is entitled to vote at such meeting not less than 10 nor more than 20 days before the date of the meeting. If requested by the person(s) lawfully calling such meeting, the secretary of the Community Company shall give notice thereof (and provide proxies therefor) at the

expense of the Community Company. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail, with postage thereon prepaid, addressed to the recipient's address as it appears in the office of the Community Company.

(b) **Waiver.** Before, at or after any Delegate District Meeting, any Delegate, Alternate and each Owner of a Residential Unit or Time Share Interest within the subject Delegate District that is entitled to vote at such meeting may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by such individual at such Delegate District Meeting shall be a waiver of notice by such individual except when such individual attends the meeting for the express purpose of objecting to the transaction of business because the meeting is not lawfully called or convened.

5.6 Record Dates for Delegate District Meetings.

The person(s) lawfully calling a Delegate District Meeting may set a record date for the purpose of determining the Owners entitled to notice of such meeting and set a record date for Owners entitled to vote at such meeting. If a record date is set for determining which Owners are entitled to notice, such record date must be not less than 10 nor more than 70 days before the date of the meeting. If a record date is not set for determining which Owners are entitled to notice, the record date shall be the close of business on the business day preceding the day on which notice is given. If a record date is set for determining which Owners are entitled to vote, such record date must be not more than 70 days before the date of the meeting. If a record date is not set for determining which Owners are entitled to vote, the record date is the date on which the meeting is held.

5.7 Quorum.

With respect to any Delegate District Meeting, the presence in person or by proxy of Owners of Residential Units and Time Share Interests within the subject Delegate District entitled to vote more than 5% of the votes of all Owners of Residential Units and Time Share Interests within such Delegate District shall constitute a quorum for purposes of such Delegate District Meeting (except as otherwise required by applicable law, these Bylaws, the Articles or the Declaration), but a lesser number may adjourn any such meeting from time to time and when reconvened, a quorum shall be deemed to exist if one or more Owners of Residential Units and Time Share Interests within such Delegate District who are entitled to vote are present in person or by proxy.

5.8 Required Vote.

Except as set forth in Section 4.2(b) with respect to Delegate Elections, and Section 4.4(b) with respect to removal of Delegates and Alternates, at any Delegate District Meeting at which a quorum is present, the affirmative vote of a majority of the votes represented at such meeting, in person or by proxy, shall be the act of the Owners of Residential Units and Time Share Interests within the subject Delegate District, unless a greater number is required by applicable law or the Community Documents.

5.9 Action by Unanimous Consent.

Any action required or permitted to be taken at a Delegate District Meeting may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the Owners of Residential Units and Time Share Interests within the subject Delegate District entitled to vote with respect to the subject matter thereof.

5.10 Class and Cumulative Voting.

Neither class voting nor cumulative voting shall be permitted at any Delegate District Meeting.

ARTICLE VI **THE BOARD**

6.1 Composition of the Board.

(a) ***Initial Board.*** The initial Board shall consist of the five directors identified in the original Articles, who shall serve until their successors are appointed or elected as provided in this Section 6.1.

(b) ***Removal and Replacement of Initial Board.*** Notwithstanding any provision herein, Founder (and only Founder) shall remove and replace all Directors, other than the Pre-Completion Additional Directors, until the close of the First Director Election Meeting After Completion.

(c) ***Pre-Completion Additional Directors.*** The number of Directors on the Board shall be increased and certain Directors (the "**Pre-Completion Additional Directors**") shall be elected to the Board as provided in this Section 6.1(c). Pre-Completion Additional Directors shall serve until their successors are appointed or elected as provided in this Section 6.1.

(i) Not later than 120 days after the conveyance to Purchasers of 10,000 Residential Units, the number of Directors on the Board shall be increased by one (thereby providing for a total of six Directors on the Board) and a Pre-Completion Additional Director (PCAD #1) shall be elected to fill such additional Board seat.

(ii) Not later than 120 days after the conveyance to Purchasers of 20,000 Residential Units, the number of Directors on the Board shall be increased by one (thereby providing for a total of seven Directors on the Board) and a Pre-Completion Additional Director (PCAD #2) shall be elected to fill such additional Board seat.

(iii) Not later than 120 days after the conveyance to Purchasers of 30,000 Residential Units, a Director appointed by Founder under Section 6.1(a) or Section 6.1(b) that is then-serving (as designated by Founder) shall be removed and replaced (thereby maintaining a total of seven Directors on the Board) by a Pre-Completion Additional Director (PCAD #3) elected to fill such Board seat.

(d) ***Directors After the Close of the First Director Election Meeting After Completion.***

(i) Upon the close of the First Director Election Meeting After Completion the Board shall consist of seven Directors, comprised of:

(A) the following Directors (the "**Residential Directors**"):

(1) Residential Director #1 (or RD #1) who shall be elected by the Delegates from Delegate Districts within Election District #1 (*see diagram in Section 6.2(g)*),

(2) Residential Director #2 (or RD #2) who shall be elected by the Delegates from Delegate Districts within Election District #2,

(3) Residential Director #3 (or RD #3) who shall be elected by the Delegates from Delegate Districts within Election District #3, and

(4) Residential Director #4 (or RD #4) who shall be elected by the Delegates from Delegate Districts within Election District #4,

(B) one Director who shall be elected by the Owners of the R/S Spaces (the "**General Commercial Director**"),

(C) one Director who shall be elected by the Owners of the E/C Spaces, Office Spaces, and the I/C Spaces (the "**Special Commercial Director**"), and

(D) one Director who shall be elected by the Owners of Hotels (the "**Hotel Director**").

(ii) Notwithstanding anything to the contrary herein, if after the close of the First Director Election Meeting After Completion there are:

(A) no Hotels at any time when an election of a Hotel Director is to be conducted, then: (1) the Hotel Director shall be elected by a majority vote of all the Owners of the R/S Spaces, and (2) for such Director's term, there shall be no Hotel Director and such Director shall be deemed an additional General Commercial Director,

- (B) no E/C Spaces, no Office Spaces and no I/C Spaces at any time when an election of a Special Commercial Director is to be conducted, then: (1) the Special Commercial Director shall be elected by a majority vote of all the Owners of the R/S Spaces, and (2) for such Director's term, there shall be no Special Commercial Director and such Director shall be deemed an additional General Commercial Director, or
- (C) no R/S Spaces at any time when an election of: (1) a General Commercial Director is to be conducted, or (2) a Director is to be elected by the Owners of R/S Spaces pursuant to Section 6.1(d)(ii)(A) or (B), then: (a) all Directors that would have been elected by a majority vote of all the Owners of the R/S Spaces will be elected by all Owners, and (b) for each such Director's term, such Director shall be deemed an additional Residential Director (and not any other type of Director).

6.2 Election Districts.

(a) ***Established for Pre-Completion Additional Directors.*** For purposes of electing Pre-Completion Additional Directors:

(i) on or before the date upon which 10,000 Residential Units have been conveyed to Purchasers, Founder shall have established one Election District (ED #1);

(ii) on or before the date upon which 20,000 Residential Units have been conveyed to Purchasers, Founder shall have established two Election Districts (ED #1 and ED #2); and

(iii) on or before the date upon which 30,000 Residential Units have been conveyed to Purchasers, Founder shall have established three Election Districts (ED #1, ED #2 and ED #3).

(b) ***Established for Residential Directors.*** On or before the close of the First Director Election Meeting After Completion, Founder shall have established four Election Districts (ED #1, ED #2, ED #3 and ED #4) for the purposes of electing the Residential Directors at and after the First Director Election Meeting After Completion.

(c) ***Composition Requirements.*** Each Election District shall be comprised of one or more Delegate Districts, and each Delegate District shall be assigned to only one Election District. An Election District need not be a contiguous geographic area.

(d) **Prior to the Close of the First Director Election Meeting After Completion.** Subject to Section 6.2(f), at any time, and from time to time, prior to the close of the First Director Election Meeting After Completion, Founder, and only Founder, shall be permitted to: (i) reassign any Delegate District from one Election District to another Election District, and (ii) combine Election Districts into fewer Election Districts and establish additional Election Districts, on the condition that there shall always be the number of Election Districts required by Section 6.2(a) or Section 6.2(b), as appropriate.

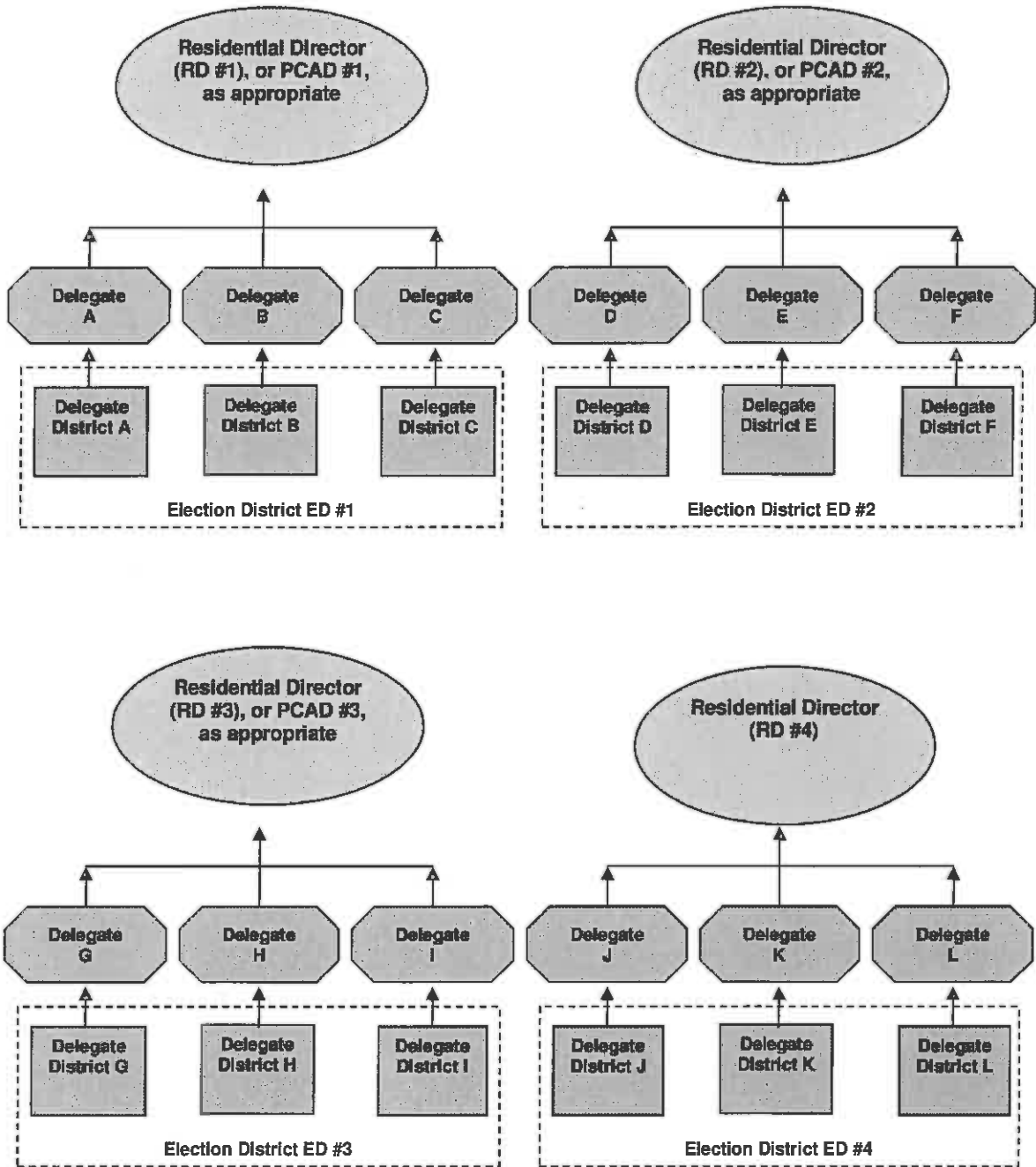
(e) **After the Close of the First Director Election Meeting After Completion.** Subject to Section 6.2(f), at any time, and from time to time, after the close of the First Director Election Meeting After Completion, the Board may (i) reassign any Delegate District from one Election District to another Election District, and (ii) combine Election Districts into fewer Election Districts and establish additional Election Districts, on the condition that there shall always be the number of Election Districts required by Section 6.2(a) or Section 6.2(b), as appropriate; provided, however, the Board may not combine two or more existing Election Districts into fewer Election Districts without the approval of Owners of Residential Units and Time Share Interests within each Election District proposed to be combined. The Owners of Residential Units and Time Share Interests within an Election District shall be deemed to have approved the combination of such Election District with one or more other Election Districts only upon the affirmative vote of a majority of all votes allocated to such Residential Units and Time Share Interests cast in person or by proxy as a duly held meeting therefor.

(f) **Effective Date.** Any action described in Section 6.2(d) or 6.2(e) shall become effective on the date a Supplement specifying such action is Recorded, or such later date set forth in such Supplement.

(g) **Diagram.** The diagram on the following page depicts the representation involved in the election of Pre-Completion Additional Directors and Residential Directors. If there is any conflict between such diagram and the other provisions of these Bylaws, the Articles, or the Declaration, then such other provisions shall control.

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Election of Pre-Completion Additional Directors and Residential Directors



6.3 Director Elections.

(a) *Timing of Director Elections.*

(i) Except for Directors set forth in the original Articles and Directors appointed by Founder pursuant to Section 6.1(b), each Director shall be elected in an election (a "**Director Election**") held in accordance with this Section 6.3 and Article VII at a meeting (a "**Director Election Meeting**") which shall occur at an Annual Meeting, unless: (A) such Director Election Meetings is for purposes of: (1) electing the initial individual to serve as PCAD #1 in accordance with Section 6.1(c)(i), (2) electing the initial individual to serve as PCAD #2 in accordance with Section 6.1(c)(ii), (3) electing the initial individual to serve as PCAD #3 in accordance with Section 6.1(c)(iii), or (4) filling a vacancy in any Director position (other than Directors to be appointed or replaced by Founder pursuant to Section 6.1(b)) occurring for any reason other than the expiration of such Director's term (each, a "**Special Director Election Meeting**"), or (B) such Director Election Meeting is the First Director Election Meeting After Completion.

(ii) All Directors Election Meetings shall be called by the Board.

(iii) The Board shall set the date of each Special Director Election Meeting, which shall be no later:

- (A) 120 days after the conveyance to Purchasers or 10,000 Residential Units for purposes of electing a Pre-Completion Additional Director as required by Section 6.1(c)(i),
- (B) 120 days after the conveyance to Purchasers or 20,000 Residential Units for purposes of electing a Pre-Completion Additional Director as required by Section 6.1(c)(ii),
- (C) 120 days after the conveyance to Purchasers or 30,000 Residential Units for purposes of electing a Pre-Completion Additional Director as required by Section 6.1(c)(iii), or
- (D) 120 days after the date of the vacancy in the Director position causing the need for such Special Director Election Meeting, as appropriate.

(iv) The Board shall set the date for the First Director Election Meeting After Completion, which shall be held no later than 120 days after the date on which the Development and Sale Period expires.

(v) The Board shall set a date for each Director Election Meeting held for purposes of filling a vacancy in any Director position (other than vacancies in Director positions to be filled by Founder pursuant to Section 6.1(b)), which shall be held no later than 120 days after the date on which such vacancy occurs.

(b) **Nominations.** For each Director Election Meeting, the Board shall solicit nominations from individuals qualified under Section 6.4 to serve as Directors. The Board may establish nomination procedures and reasonable deadlines for receiving nominations. The date set by the Board for close of nominations shall be not less than 20 nor more than 120 days before the date of the Director Election Meeting. Nominations for the Board may not be made after the date set for the close of nominations. Not less than 10 nor more than 50 days before the date of the Director Election Meeting but not before the close of nominations, a slate of eligible candidates for each directorship to be filled (a "**Slate of Director Candidates**") shall be prepared and distributed by the Board to the Owners or Delegates entitled to vote for such directorship based on the nominations that comply with the nomination guidelines established by the Board and the Director qualifications set forth in Section 6.4. If, after the close of nominations: (i) only one person qualified under Section 6.4 is nominated for any directorship, then the Board may, without further action, declare that person to be elected to such directorship, or (ii) more than one person qualified under Section 6.4 is nominated for any directorship, then a Director Election shall be held at a Director Election Meeting held in accordance with this Section 6.3 and Article VII.

(c) **Proxies.** Not less than 10 nor more than 50 days before the date of any Director Election Meeting, the Board shall deliver a written form of proxy to each Owner entitled to vote for a directorship listing the respective Slate of Director Candidates. Each such proxy shall be revocable and automatically cease after completion of the Director Election Meeting for which the proxy was provided. Any form of proxy distributed must afford the opportunity to choose among all applicable candidates listed on the applicable Slate of Director Candidates. The proxy must provide that, when the Owner specifies a choice, the vote shall be cast in accordance with that choice. Delegates and Alternates must vote in person; Delegates and Alternates may not vote by proxy.

(d) **Delegates Vote for Pre-Completion Additional Directors and for Residential Directors.** In elections for Pre-Completion Additional Directors and for Residential Directors, Delegates shall be entitled to cast each vote allocated to a Residential Unit or Time Share Interest within its Delegate District, but only if the Owner of such Residential Unit or Time Share Interest is not precluded from voting pursuant to the Community Documents (*e.g.*, due to failure pay Assessments when due).

(e) **Individuals Elected.** At any Director Election, from and among those persons nominated pursuant to Section 6.3(b) and qualified to serve under Section 6.4, the person receiving the most votes shall be deemed elected.

(f) **Terms of Office.**

(i) Each of the initial individuals elected to serve as PCAD #1, PCAD #2 and PCAD #3 shall be elected to serve until the earlier to occur of: (A) the second Annual Meeting following his/her election, and (B) the close of the First Director Election Meeting After Completion.

(ii) At the First Director Election Meeting After Completion: (A) each of the General Commercial Director, RD #1 and RD #2 shall be elected to serve until the second Annual Meeting following his/her election, and (B) the each of the Special Commercial Director, the Hotel Director, RD #3 and RD #4 shall be elected to serve until the third Annual Meeting following his/her election.

(iii) The terms of office for each Director elected at an Annual Meeting (other than: (A) the initial individuals elected to serve as Pre-Completion Additional Directors and (B) Directors elected as the First Director Election Meeting After Completion, if such Directors happen to be elected at an Annual Meeting) shall commence at the close of the Annual Meeting at which they are elected and shall end at the close of the second Annual Meeting following their election.

(g) **No Term Limits.** There shall be no limit on the number of terms an individual may serve as a Director.

(h) **Timeline for Electing Directors.** The table of the following page is a summary of the timeline for performing various tasks to be completed in connection with the election of Directors. If there is any conflict between such diagram and the other provisions of these Bylaws, the Articles, or the Declaration, then such other provisions shall control.

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<u>Summary Timeline for Electing Directors</u>	
<u>Time</u>	<u>Event</u>
20-120 days before Director Election Meeting	Close of nominations
After close of nominations	A Slate of Director Candidates is generated
Prior to sending notice of Director Election Meeting	Record date may be set for Owners and Delegates entitled to notice of Director Election Meeting. (If set, the record date must be between 10 and 70 days before the Director Election Meeting.)
Prior to sending notice of Director Election Meeting	Record date may be set for eligibility to vote. (If set, the record date must be between 10 and 70 days before the Director Election Meeting.)
10-50 days before Director Election Meeting but not before the close of nominations	Notice of Director Election Meeting and Slate of Director Candidates is sent to Owners and Delegates entitled to notice. Proxies are sent to Owners entitled to vote.
Director Election Meeting	Election of Directors

6.4 Director Qualifications.

Each Director, other than a Director set forth in the original Articles or a Director appointed by Founder pursuant to Section 6.1(b), shall be: (a) 18 years of age or older, and (b) an Owner or resident of a Site; and provided further that each Pre-Completion Additional Director and each Residential Director shall be an Owner or resident of a Residential Unit or Time Share Interest within the Election District that elects such Director. For purposes of this Section 6.4, if an Owner is not an individual, then any officer, director, partner, member, manager or any trust officer of such Owner shall be eligible to serve as a Director unless a written notice to the Community Company signed by the Owner specifies otherwise.

6.5 Removal of Directors.

(a) ***Directors Appointed by Founder.*** A Director identified in the original Articles or appointed by Founder pursuant to Section 6.1(b) may be removed only by Founder.

(b) ***Commercial Directors.*** A Commercial Director may be removed, with or without cause, by a 67% or greater vote of all votes allocated to the class of Owners that are entitled to vote for such directorship that are represented at a meeting of the Owners of that class at which a quorum is present. A meeting for the removal of any Commercial Director shall be called by the Board at the request of Owners holding at least 30% of all votes allocated to the class of Owners that are entitled to vote for such directorship.

(c) ***Pre-Completion Additional Directors.*** A Pre-Completion Additional Director may be removed, with or without cause, by a 67% or greater vote of all votes allocated to the Owners of Residential Units and Time Share Interests within the Election District that elected such Director. A meeting for the removal of any Pre-Completion Additional Director shall be called by the Board at the request of Owners of Residential Units and Time Share Interests holding at least 30% of all votes allocated to Owners of Residential Units and Time Share Interests within the Election District that elected such Director.

(d) ***Residential Directors.*** A Residential Director may be removed, with or without cause, by a 67% or greater vote of all votes allocated to the Owners of Residential Units and Time Share Interests within the Election District that elected such Residential Director. A meeting for the removal of any Residential Director shall be called by the Board at the request of Delegates holding at least 30% of all votes allocated to Owners of Residential Units and Time Share Interests within the Election District that elected such Residential Director.

6.6 Replacement of Directors.

(a) ***Directors Appointed by Founder.*** A vacancy on the Board created by the removal or resignation of a Director identified in the original Articles or appointed by Founder pursuant to Section 6.1(b) shall be filled only by Founder.

(b) ***Other Directors.*** A Special Director Election Meeting shall be held to fill a vacancy on the Board created by the removal of a Director pursuant to Section 6.5(b), 6.5(c) or 6.5(d).

(c) ***Term for Replacement.*** Any individual elected or appointed pursuant to this Section 6.6 shall hold office for the remainder of the term of the Director that individual replaced.

6.7 Meetings of the Board.

(a) ***Regular Meetings of the Board.*** Regular meetings of the Board may be held without call or formal notice at such places within or outside the State of New Mexico, or by telephone; provided, that each Director can hear each other Director, and at such times as the Board may determine from time to time. Any business may be transacted at a regular meeting.

(b) ***Special Meetings of the Board.*** Special meetings of the Board may be held at any place within the State of New Mexico, or by telephone; provided, that each Director can hear each other Director, at any time when called by the president of the Community Company, or by two or more Directors, upon the giving of at least 24 hours' prior notice of the time and place thereof to each Director by leaving such notice with such Director or at such Director's residence or usual place of business, or by telephone. Notices need not state the purposes of the meeting. No notice of any adjourned meeting of the Directors shall be required.

(c) ***Quorum of the Board.*** With respect to meetings of the Board, a majority of the number of Directors shall constitute a quorum for the transaction of business (except where a larger number is required by applicable law, the Articles, the Declaration or these Bylaws), but a lesser number may adjourn any such meeting from time to time. When a quorum is present at any meeting, a majority of the Directors in attendance shall decide any question brought before such meeting, except where a larger number is required by applicable law, by the Articles, the Declaration or by these Bylaws.

(d) ***Waiver of Notice of Special Meetings.*** Before, at or after any special meeting of the Board, any Director may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Director at any special meeting of the Board shall be a waiver of notice by such Director except when such Director attends the special meeting for the express purpose of objecting to the transaction of business because the meeting is not lawfully called or convened.

(e) ***Votes.*** Each Director shall have one vote.

(f) ***Required Votes.*** At any meeting of the Board at which a quorum is present, the affirmative vote of a majority of Directors present shall be the act of the Board, unless the vote of a greater number is required by applicable law or the Community Documents.

(g) ***Action by Unanimous Consent of Directors.*** Any action required or permitted to be taken at a meeting of the Directors may be taken without a meeting if a written consent, setting forth the action so taken, shall be signed by all of the Directors entitled to vote with respect to the subject matter thereof.

(h) **Open Meetings.** Except with respect to executive sessions of the Board, all meetings of the Board shall be open to every Owner, and to any person designated by an Owner in writing as the Owner's representative, and all Owners and such representatives so designated shall be permitted to attend, listen, and speak at the appropriate time during the deliberations and proceedings; except that, for regular and special meetings of the Board, Owners who are not Board members may not participate in any deliberation or Board discussion unless expressly so authorized by a vote of the majority of a quorum of the Board. The Board may place reasonable restrictions on those persons speaking during the meeting but shall permit Owners and Owners' designated representative to speak before the Board takes formal action on an item under discussion, in addition to any other opportunities to speak.

(i) **Executive Sessions.**

(i) Meetings of the Board or may be held in executive session, if prior to the time the Board convenes into such executive session, the chairperson of the Board shall announce the general matter of discussion is as enumerated below and only for the purpose of discussing any of the following matters:

- (A) matters pertaining to employees of the Community Company or involving the employment, promotion, discipline or dismissal of an Officer, agent or employee of the Community Company,
- (B) consultation with legal counsel concerning disputes that are the subject of pending or contemplated litigation or alternative dispute proceedings or matters that are privileged or confidential between attorney and client,
- (C) investigative proceedings concerning possible or actual commercial misconduct,
- (D) matters subject to specific statutory authority, or judicially imposed requirements protecting particular proceedings on matters from public disclosure,
- (E) any matter the disclosure of which would constitute an unwarranted invasion of individual privacy, or
- (F) review of or discussion relating to any written or oral communication from the Community Company's legal counsel.

(ii) No Rule shall be adopted during an executive session.

(iii) The minutes of all Board meetings at which an executive session was held shall indicate that an executive session was held, and the general subject matter of the executive session.

ARTICLE VII

MEETINGS OF THE OWNERS AND DELEGATES

7.1 Annual Meetings.

The annual meeting of Owners and Delegates (each, an "**Annual Meeting**") shall be held at a time designated by the Board between July 1 and December 31 of each year for the purpose of: (a) electing Directors, subject to the other provisions of the Community Documents, and (b) transacting such other business as may come before the meeting.

7.2 Special Meetings.

(a) **Defined.** Special meetings of Owners and Delegates (each, a "**Special Meeting**") may be held for any purpose, unless otherwise prescribed by applicable law.

(b) **Called.** A Special Meeting: (i) may be called by the president of the Community Company or by a majority of the Directors, and (ii) shall be called by the Board at the request of Owners or Delegates entitled to vote 10% or more of the total votes in Community Company, or such greater number of votes as may be required for any particular matter by the terms of the Community Documents.

7.3 Location.

Each Annual Meeting and each Special Meeting (each, an "**Owners Meeting**") and each Director Election Meeting shall be held at the offices of the Community Company or at such other location as the person(s) calling the meeting identify in the notice.

7.4 Notice.

(a) **Delivery.** Written notice of any Owners Meeting or Director Election Meeting, stating the place, day and hour of the meeting, and with respect to Special Meetings and Director Election Meeting stating the purpose or purposes for which the meeting is called, shall be delivered personally or by mail to each Owner and Delegate that is entitled to vote at such meeting not less than 10 nor more than 50 days before the date of the meeting. If requested by the person(s) lawfully calling such meeting, the secretary of the Community Company shall give notice thereof (and provide proxies therefore) at the expense of the Community Company. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail, with postage thereon prepaid, addressed to the recipient's address as it appears in the office of the Community Company.

(b) **Waiver.** Before, at or after any Owners Meeting or Director Election Meeting, any Owner, Alternate or Delegate that is entitled to vote at such

meeting may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by such individual at such meeting shall be a waiver of notice by such individual except when such individual attends the meeting for the express purpose of objecting to the transaction of business because the meeting is not lawfully called or convened.

(c) ***Record Dates for Owners Meetings.***

(i) The record date for determining Delegates entitled to notice of any Owners Meeting or Director Election Meeting shall be the close of business on the business day preceding the date on which the notice is given.

(ii) The Board may set a record date for the purpose of determining the Owners entitled to notice of such meeting and set a record date for Owners entitled to vote (directly or through their respective Delegates) at such meeting. If a record date is set for determining which Owners are entitled to notice, such record date must be not less than 10 nor more than 70 days before the date of the meeting. If a record date is not set for determining which Owners are entitled to notice, the record date shall be the close of business on the business day preceding the day on which notice is given. If a record date is set for determining which Owners are entitled to vote (directly or through their respective Delegates), such record date must be not more than 70 days before the date of the meeting. If a record date is not set for determining which Owners are entitled to vote (directly or through their respective Delegates), the record date is the date on which the meeting is held.

7.5 Quorum.

With respect to any Owners Meeting or any Director Election Meeting, a quorum shall be obtained if there are Delegates present at such meeting and Owners present in person or by proxy at such meeting who are entitled to vote more than 5% of the total votes entitled to be voted at such meeting (except as otherwise required by applicable law, the Articles of the Declaration), but a lesser number may adjourn any such meeting from time to time and when reconvened, a quorum shall be deemed to exist if one or more Owners who are entitled to vote are present in person or by proxy.

7.6 Required Vote.

At any Owners Meeting at which a quorum is present, the affirmative vote of a majority of the votes represented at such meeting, in person or by proxy (to the extent proxies are permitted under the terms of the Community Documents), shall be the act of the Owners, unless the vote of a greater number is required by applicable law or the Community Documents. At any Director Election Meeting, Directors shall be elected as set forth in Section 6.3(d).

7.7 Founder Approval.

Prior to the close of the First Director Election Meeting After Completion, no action or inaction submitted to the Owners or Delegates for a vote shall be approved unless such action or inaction is also approved by Founder.

7.8 Action by Unanimous Consent.

Any action required or permitted to be taken at an Owners Meeting or Director Election Meeting may be taken without a meeting if a written consent, setting forth the action so taken, shall be signed by all of the Owners or Delegates entitled to vote with respect to the subject matter thereof.

**ARTICLE VIII
OFFICERS AND AGENTS**

8.1 General.

The Officers of the Community Company shall be a president, one or more vice presidents, a secretary and a treasurer. The Board may appoint such other officers, assistant officers, committees and agents, including assistant secretaries and assistant treasurers, as they may consider necessary or advisable, who shall be chosen in such manner and hold their offices for such terms and have such authority and duties as from time to time may be determined by the Board. One person may hold any two offices, except that no person may simultaneously hold the offices of president and secretary. In all cases where the duties of any Officer, agent or employee are not prescribed by the Bylaws or by the Board, such Officer, agent or employee shall follow the orders and instructions of the president.

8.2 Removal of Officers.

The Board may remove any Officer, either with or without cause, and elect a successor at any regular meeting of the Board, or at any special meeting of the Board called for such purpose.

8.3 Vacancies.

A vacancy in any office, however occurring, shall be filled by the Board for the unexpired portion of the term.

8.4 President.

The president shall be the chief executive officer of the Community Company. The president shall preside at all meetings of the Community Company and of the Board. The president shall have the general and active control of the affairs and business of the Community Company and general supervision of its officers, agents and employees. The president of the

Community Company is designated as the Officer with the power to prepare, execute, certify and record amendments to the Declaration on behalf of the Community Company.

8.5 Vice Presidents.

The vice presidents shall assist the president and shall perform such duties as may be assigned to them by the president or by the Board. In the absence of the president, the vice president designated by the Board or (if there be no such designation) designated in writing by the president shall have the powers and perform the duties of the president. If no such designation shall be made all vice presidents may exercise such powers and perform such duties.

8.6 Secretary.

The secretary shall: (a) keep the minutes of the proceedings of the Owners and the Board, (b) see that all notices are duly given in accordance with the provisions of the Community Documents and as required by law, (c) keep at the Community Company's principal offices a record containing the names and registered addresses of all Owners, and the designation of the Site owned by each Owner, and (d) in general, perform all duties incident to the office of secretary and such other duties as from time to time may be assigned to him by the president or by the Board. Assistant secretaries, if any, shall have the same duties and powers, subject to supervision by the secretary.

8.7 Treasurer.

The treasurer shall be the principal financial officer of the Community Company and shall have the care and custody of all funds, securities, evidences of indebtedness and other personal property of the Community Company and shall deposit the same in accordance with the instructions of the Board. The treasurer shall receive and give receipts and acquittances for moneys paid in on account of the Community Company, and shall pay out of the funds on hand all bills, payrolls and other just debts of the Community Company of whatever nature upon maturity. The treasurer shall perform all other duties incident to the office of the treasurer and, upon request of the Board, shall make such reports to it as may be required at any time. The treasurer shall, if required by the Board, give the Community Company a bond in such sums and with such sureties as shall be satisfactory to the Board, conditioned upon the faithful performance of his duties and for the restoration to the Community Company of all books, papers, vouchers, money and other property of whatever kind in his possession or under such individual's control belonging to the Community Company. The treasurer shall have such other powers and perform such other duties as may be from time to time prescribed by the Board or the president. The assistant treasurers, if any, shall have the same powers and duties, subject to the supervision of the treasurer.

8.8 Officers Prior to the Close of the First Director Election Meeting After Completion.

Notwithstanding any other provision herein, Founder may appoint, remove, and replace Officers until the close of the First Director Election Meeting After Completion.

8.9 Managing Agents.

(a) **Hiring.** The Board may hire a management company or other Persons at a compensation established by the Board to perform such duties and services as the Board shall authorize. Any such delegation, however, shall not relieve the Board of its responsibility under the Declaration.

(b) **Management of Funds.** If, and to the extent that, the Board delegates its powers relating to the collection, deposit, transfer or disbursement of Community Company funds to a management company or other Persons, such management company or other Persons shall:

(i) maintain fidelity insurance coverage or a bond in an amount not less than the greater of: (A) two months current Residential General Assessment and Commercial General Assessment, as calculated from the current budget of Mesa del Sol, (B) \$50,000.00 or (C) such higher amount as the Board or applicable law may require,

(ii) maintain all funds and accounts of Mesa del Sol separate from the funds and accounts of any other Persons, and maintain all reserve accounts of Mesa del Sol separate from operational accounts of Mesa del Sol, and

(iii) have prepared and present to Mesa del Sol an annual accounting for all Mesa del Sol funds and financial statements, which accounting and financial statements shall be prepared by the managing agent or certified public accountant.

ARTICLE IX ASSESSMENTS AND VOTING RIGHTS

Each Owner, by accepting a deed to an Interest (whether or not it shall be expressly stated in such deed), shall be deemed to have covenanted and agreed, to pay to the Community Company all Assessments and other charges that the Community Company is required or permitted to levy or impose on such Owner or such Owner's Interest pursuant to the Declaration or any other Community Document. An Owner shall not be deemed to be in good standing and shall not be entitled to cast the votes appurtenant to its Interests (either directly or through its Delegate(s)) unless this requirement is satisfied.

ARTICLE X OWNERSHIP AND ADDRESSES

10.1 Proof of Ownership.

Any person on becoming an Owner shall furnish to the Community Company a photocopy or a certified copy of the recorded instrument vesting that person with an ownership interest in an Interest. Such copy shall remain in the files of the Community Company. An Owner shall not be deemed to be in good standing and shall not be entitled to cast the votes

appurtenant to its Interests (either directly or through its Delegate(s)) unless this requirement is first satisfied.

10.2 Registration of Mailing Address.

If an Interest is owned by two or more Owners, such Owners shall designate one address as the registered address for purposes of the Community Documents. The registered address of an Owner or Owners shall be furnished to the secretary of the Community Company within 10 days after transfer of title, or after a change of address. Such registration shall be in written form and signed by all of the Owners of the Interest or by such persons as are authorized to represent the interests of all Owners of the Interest. If no address is registered or if all of the Owners cannot agree, then the address of the Site (or the Site in which a Time Share Interest is a part) shall be deemed the registered address of the Owner(s), and any notice shall be deemed duly given if delivered to the Site (or the Site in which a Time Share Interest is a part).

ARTICLE XI AMENDMENTS

11.1 Amendments by the Board.

Except as limited by law, the Articles, the Declaration or these Bylaws, and subject to Sections 11.2 and 11.3, the Board shall have power to make, amend and repeal these Bylaws at any regular meeting of the Board or at any special meeting of the Board called for that purpose at which a quorum is present in person or by proxy. If, however, the Owners and Delegates shall make, amend or repeal any Bylaw, the Directors shall not thereafter amend the same in such manner as to defeat or impair the object of the Owners and Delegates in taking such action.

11.2 Amendments by Commercial Owners and Delegates.

(a) *Amendments not Affecting Delegates or Alternates.* Except as set forth in Section 11.2(b), and subject to Sections 7.7 and 11.3, the Delegates and Owners of Commercial Spaces may, by the vote of Delegates and Owners of Commercial Spaces holding at least 60% of the votes in the Community Company, unless a greater percentage is expressly required by law, the Declaration, the Articles, or these Bylaws, make, alter, amend or repeal these Bylaws at any Annual Meeting and or at any Special Meeting of the Owners and Delegates called for that purpose at which a quorum is present in person or by proxy.

(b) *Amendments Affecting Delegates and Alternates.* Notwithstanding Section 11.2(a), with respect to any amendment to Section 3.3(c), Article IV, Article V, or this Section 11.2, or any other amendment to these Bylaws directly affecting the rights or obligations of the Delegates or Alternates, the votes allocated to Residential Units and Time Share Interests shall be cast by the Owners of such Residential Units and Time Share Interests and not by the Delegates (or Alternates). The Board shall determine if any matter directly affects the rights or obligations of the Delegates or Alternates.

11.3 Founder Approval.

Notwithstanding any other provision herein: (a) prior to the close of the First Director Election Meeting After Completion, these Bylaws may not be amended without the written consent of Founder, and (b) after the close of the First Director Election Meeting After Completion, these Bylaws may not be amended in any manner that could remove, revoke, modify, hinder, impede or frustrate any right or privilege of Founder without the prior written consent of Founder.

ARTICLE XII NOTICE AND HEARING

12.1 Applicability.

The provisions of this Article XII shall apply in all instances of alleged violations of the Community Documents where the Community Documents expressly require a notice and an opportunity to be heard prior to the imposition of any sanctions.

12.2 Violation Notice.

The Board, any Officer or any of their appointed agents, shall deliver to the alleged violator a written notice (a "**Violation Notice**"): (a) describing the nature of the alleged violation, (b) setting forth the proposed sanctions that may be imposed, (c) stating the alleged violator shall have 14 days after delivery of the Violation Notice (the "**Response Period**") to deliver to the Board or any committee established by the Board to hear such matters as set forth in the Violation Notice (the "**Review Authority**") a written notice (a "**Response Notice**") requesting a hearing before the Review Authority, and (d) stating that the proposed sanctions set forth in the Violation Notice may be imposed unless a Response Notice is timely delivered to the Review Authority.

12.3 Response.

If within the Response Period, the alleged violator: (a) delivers to the Review Authority a Response Notice requesting a hearing, then a hearing shall be held in accordance with Section 12.4, (b) fails to deliver to the Review Authority a Response Notice requesting a hearing, then the Review Authority may impose any or all of the sanctions set forth in the Violation Notice, or (c) cures the alleged violation and delivers written notice thereof to the Review Authority, then the Review Authority may, but shall not be obligated to, waive any or all sanctions. Such waiver shall not constitute a waiver of the right to sanction future violations of the same or other provisions of the Community Documents by any Person.

12.4 Hearing.

With respect to any Violation Notice, the alleged violator hearing is timely delivers to the Review Authority a Response Notice requesting a hearing, then the Review Authority shall: (a) set a date, time and place for a hearing, and deliver written notice thereof to the alleged violator, and (b) hold such hearing whereat the alleged violator shall be afforded a

reasonable opportunity to be heard. The minutes of the meeting of the Review Authority shall contain a written statement of the results of the hearing and the sanctions, if any, to be imposed. The decision of the Review Authority shall be binding.

ARTICLE XIII MISCELLANEOUS

13.1 Committees.

Subject to the requirements of applicable law, the Board may establish one or more committees to perform such duties and services as the Board shall authorize.

13.2 Fiscal Year.

The fiscal year end of the Community Company shall be December 31 or such other date as may be established by the Board from time to time.

13.3 Interpretation.

- (a) *"Or."* For purposes of these Bylaws, the word "or" shall be deemed to mean "and/or".
- (b) *Headings, Etc.* Headings of articles, sections, paragraphs, etc. are solely for convenience and shall not be used for interpreting these Bylaws.
- (c) *Cross-References.* Unless otherwise indicated in these Bylaws, all references used herein to Articles and sections are to those in these Bylaws.
- (d) *"Including."* For purposes of these Bylaws, the word "including" shall be deemed to mean "including, without limitation."

13.4 Resignations of Directors, Offices, Delegate and Alternates.

Any Director, Officer, Delegate or Alternate may resign at any time by giving written notice thereof to the president of the Community Company. Such resignation shall take effect at the time specified therein and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

(End)

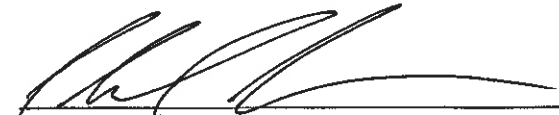
CERTIFICATION


We the undersigned do hereby certify:

That we are the duly elected and acting President and Secretary of Mesa del Sol Community Company, Inc., a New Mexico nonprofit corporation (the "Community Company"); and

That the foregoing Bylaws constitute the original Bylaws of the Community Company, as duly adopted by resolution of the Board of Directors thereof as of the 20th day of December, 2010.

IN WITNESS WHEREOF, we have hereunto subscribed our names this 20th day of December, 2010.


Manny Barrera, President


Brent Dupes, Secretary