

**FIRST AMENDED AND RESTATED BYLAWS
OF
TMVRC OWNERS' ASSOCIATION, INC.,
a Colorado nonprofit corporation**

WHEREAS, the initial Bylaws of the TMVRC Owners' Association, Inc., a Colorado nonprofit corporation ("Association") were adopted as of November 7, 2009; and

WHEREAS, the Association desires to fully amend, supersede and replace in their entirety the initial Bylaws and all amendments thereto as set forth herein.

NOW THEREFORE, the Association does hereby publish, declare, state and adopt these First Amended and Restated Bylaws of TMVRC Owners' Association, Inc., a Colorado nonprofit corporation, in accordance with the Community Documents of the Association and the Colorado Nonprofit Corporation Act, which shall fully replace, supersede and replace all previously adopted Bylaws of the Association and any amendments thereto.

1. **Bylaws.** These constitute the First Amended and Restated Bylaws of the TMVRC Owners' Association, Inc., a Colorado non-profit corporation. The Association shall have all of the common law and statutory powers of a nonprofit corporation under the laws of the State of Colorado, and specifically the Colorado Revised Nonprofit Corporations Act, C.R.S. §7-121-601, *et. seq.*, as amended from time-to-time (the "Nonprofit Act") and the Colorado Common Interest Ownership Act, C.R.S §38-33.3-101, *et seq.*, as amended from time-to-time (the "Act"). Capitalized terms which are not otherwise defined in these Bylaws shall have the same meaning ascribed thereto in the Declaration (defined below).

2. **Purpose.** The purposes for which the Association was formed are to preserve and enhance the value of the Community and the properties of the Association and Members and to govern the operations and affairs of the Association and the Telluride Mountain Village Resort Condominiums, a Colorado common interest ownership community situated in the Town of Mountain Village, County of San Miguel, State of Colorado (the "Community"), in accordance with the Second Amended and Restated Declaration of Grants, Covenants, Conditions and Restrictions for Telluride Mountain Village Resort Condominiums, recorded on January 29, 2015 at Reception No. 436249 in the Official Records of the San Miguel County, Colorado Clerk and Recorder's Office (the "Official Records"), as amended from time-to-time (the "Declaration").

3. **Members.** Owners of Units in the Community are members of the Association and shall hereinafter be referenced as either "Members" or "Owners." All present or future Owners, Occupants, guests, tenants, future tenants, guests or any person that might use or occupy, in any matter, the Units or the facilities within the Community are subject to the terms and provisions of these Bylaws and the other Community Documents.

3.1 **Annual Meetings.** The Association shall hold an annual Members' meeting, on the date, at the place and at the time determined by the Association's Board of Directors (the "Board") from time-to-time. The Board shall ensure that an annual meeting is held every calendar year and, to the extent possible, no later than 13 months after the last preceding annual meeting. The purpose of the annual Members' meeting shall be to elect Directors and to transact any other business authorized to be transacted by the Members, or as stated in the notice of the annual meeting sent to Members.

3.2 **Special Meetings.** Special Members' meetings may be called by the President or by a majority of the Board, and must be called by the President or Secretary upon receipt of a written request from a Majority of the Members. Special meetings shall be held at such places as provided herein for annual Members' meetings. The business conducted at a special Members' meeting shall be limited to those agenda items specifically identified in the notice of the meeting. Special Members' meetings may also be called by Members in the manner provided for in the Act.

3.3 **Participation by Members.** Subject to the following and such further reasonable restrictions as may be adopted from time-to-time by the Board, Members shall have the right to speak at the annual and special Members' meetings, committee meetings and Board meetings with reference to all designated agenda items.

3.4 **Notice of Meeting; Waiver of Notice.** Notice of a meeting of Members (annual or special), stating the time and place and the purpose(s) for which the Members' meeting is called, shall be given by or on behalf of the President or Secretary. A copy of the notice shall be posted at a conspicuous place in the Community. The notice of an annual or special Members' meeting shall be hand delivered, emailed, electronically transmitted or sent by regular mail to each Member. The delivery or mailing shall be to the address of the Member as last furnished to the Association by the Member. However, if a Unit is owned by more than one person, the Association shall provide notice, for Members' meetings and all other purposes, to that one address identified for that purpose by one or more of the Members to the Association in writing, or if no address is given or if the Members disagree, notice shall be sent to the address for the Member as set forth on the deed of the Unit. The posting and mailing of the notice for either special or annual Members' meetings, which notice shall include an identification of agenda items, shall be effected not less than ten (10) calendar days, nor more than sixty (60) calendar days, prior to the date of the Members' meeting. In lieu of or in addition to the physical posting of notice of any meeting of the Members in the Community, the Association may post the notice and the agenda on the Association's website (if any).

(a) Notice of specific meetings may be waived before or after the Members' meeting and the attendance of any Member (or person authorized to vote for such Member), either in person or by proxy, shall constitute such Member's waiver of notice of such Members' meeting, and waiver of any and all objections to the place of the Members' meeting, the time of the Members' meeting or the manner in which it has been called or convened, except when his (or his authorized representative's) attendance is for the express purpose of objecting at the beginning of the Members' meeting to the transaction of business because the Members' meeting was not lawfully called.

(b) Proof of delivery and/or posting of notice of a Members' meeting shall be set forth in writing by an Officer of the Association, the Association Manager or such other person, which writing shall be included in the official records of the Association, affirming that notices of Members' meetings were posted, delivered, transmitted, mailed or hand delivered in accordance with this Paragraph 3.4 and the Act. No other proof of notice of a Members' meeting shall be required.

3.5 **Quorum.** A quorum at Members' meetings shall be attained by the presence, either in person or by proxy (limited or general), of persons entitled to cast in excess of 33% of the total Voting Interests of the Members who are eligible to vote as of the date of the meeting.

3.6 **Voting.**

(a) **Number of Votes.** Except as provided in Paragraph 3.11 hereof, at any Members' meeting, the Owners of each Unit shall be entitled to cast the Voting Interests allocated to the Owner's Unit as set forth in the Declaration.

(b) **Majority Vote.** The acts approved by a "Majority of the Members" at a meeting of the Members' at which a quorum has been established shall be binding upon all Members for all purposes, except where a differing voting requirement is otherwise required by the Act, Nonprofit Act, the Declaration, the Articles or these Bylaws. As used in these Bylaws, the Articles or the Declaration, the term "**Majority of the Members**" shall mean the affirmative vote of 51% or more of the Voting Interests that are entitled to be cast by Members who are present, in person or by proxy, at a meeting at which a quorum has been established, and not a majority of the total Voting Interests that have been allocated to all of the Members. If a greater voting requirement is required herein or in the Declaration or Articles, then the greater voting requirement shall control.

(c) **Voting Member.** If a Unit is owned by one person, that person's right to vote shall be established by the roster of Members. If a Unit is owned by more than one person, those persons shall decide among themselves as to who shall cast the vote allocated to the Unit. In the event that those persons cannot so decide, or more than one representative asserts rights to vote for the membership, no vote shall be cast. A person casting a vote for a Unit shall be presumed to have the authority to do so unless the President or the Board is otherwise notified in writing. If a Unit is owned by a corporation, partnership, trust or other entity, the person entitled to cast the vote for the Unit shall be designated in writing by an appropriate Officer, partner or representative (as applicable) and filed with the Association. Such person need not be a Member. Those written designations shall be valid until revoked or until superseded by a subsequent written designation provided to the Association or until the ownership of the Unit changes.

3.7 **Proxies.** Votes to be cast at Members' meetings may be cast in person or by proxy. Proxies may be general or limited and shall be in accordance with the form established by the Association. A proxy may be made by any person entitled to vote, but shall only be valid for the specific Members' meeting for which it was originally given and any lawful adjourned Members' meetings thereof. Every proxy shall be revocable (in writing or in person) at any time at the pleasure of the person executing it. A proxy must be in writing, signed by the person authorized to cast the vote for the Unit, name the person(s) voting by proxy and the person authorized to vote for such person(s) and filed with the Association before the appointed time of the Members' meeting. Each proxy shall contain the date, time and place of the Members' meeting for which it is given and, if a limited proxy, shall set forth the matters on which the proxy holder may vote and the manner in which the vote is to be cast. For purposes of this Section 3.7, signed proxies received by electronic or facsimile means shall be deemed valid.

3.8 **Adjourned Members' Meetings.** If any proposed Members' meeting cannot be organized because a quorum has not been attained, the Members who are present, either in person or by proxy, may adjourn the Members' meeting from time-to-time until a quorum is present, provided notice of the newly scheduled Members' meeting is given in the manner required for the giving of notice of a Members' meeting. Proxies given for the adjourned Members' meeting shall be valid for the newly scheduled Members' meeting unless revoked for reasons other than the new date of the Members' meeting.

3.9 **Order of Business.** If a quorum has been attained, the order of business at annual Members' meetings, and, if applicable, at other Members' meetings, shall be:

- (a) Call to order by President;
- (b) Proof of notice of the meeting or waiver of notice;
- (c) Reading and approval of minutes (if any);
- (d) Appointment of inspectors of election (if necessary)
- (e) Nomination for open Board seats;
- (f) Counting of ballots for election of Directors;
- (g) Reports of Officers;
- (h) Reports of committees (if any);
- (i) Unfinished business;
- (j) New business;
- (k) Adjournment.

Such order may be waived in whole or in part by direction of the President.

3.10 **Minutes of Members' Meeting.** The minutes of all Members' meetings shall be kept in accordance with Act and the Nonprofit Act.

3.11 **Unanimous Action Without A Members' Meeting.** Notwithstanding anything to the contrary herein, any action required or which may be taken at any annual or special Members' meeting, may be taken without a Members' meeting (without prior notice and without a vote), if such action is reflected in a written consent signed by 100% of the Members. In order to be effective, the unanimous consent must be dated and signed by 100% of the Members and delivered to the Secretary, or other authorized agent of the Association within sixty (60) days after the date of the earliest dated consent. Within ten (10) days after obtaining such authorization by unanimous written consent, the Board must provide written notice thereof to the Members. A consent signed in accordance with the foregoing shall have the same effect as a meeting vote and may be described as such in any document.

3.12 **Mail Ballot.** Notwithstanding anything to the contrary herein, any action required or which may be taken at any annual or special Members' meeting (including the election of Directors), may be taken without a Members' meeting, if such action is set forth in a written mail ballot in accordance with Nonprofit Act Section 7-127-109. A vote taken by written mail ballot in accordance with the foregoing shall have the same effect as a meeting vote and may be described as such in any document.

4. **Directors and the Board.**

4.1 **The Board.** The affairs of the Association shall be governed by a Board of not less than three (3) nor more than five (5) Directors, as determined from time-to-time upon the affirmative vote of the Majority of the Members. Initially there shall be five (5) Directors who shall be natural persons, 18 years of age or older and need not be Members. Any person who has been convicted of any felony by any court of record in the United States is not eligible to serve as a Director (provided, however, that the validity of any Board action is not affected if it is later determined that a Director is ineligible for Board membership due to having been convicted of a felony). Directors may not vote at Board meetings by proxy or by secret ballot.

4.2 **Election of Directors.** Election of Directors shall be held at the annual Members' meeting, except as herein provided to the contrary.

(a) At the sole discretion of the Board, Directors to be elected at the annual Members' meeting may be nominated **either:**

(i) by motion made at the annual Members' meeting by Members attending the annual Member's meeting; **or**

(ii) pursuant to the following method: Not less than forty-five (45) days prior to a scheduled election, the Association shall mail, deliver or electronically transmit to each Member entitled to vote, a notice of the date of election that sets forth the number of Board seats that are up for election and requesting nominations for the Board seats. Any Member or other eligible person desiring to be a candidate for the Board shall give written notice to the Secretary of the Association not less than thirty (30) days prior to the scheduled election. The Association shall mail, deliver or electronically transmit a second notice of the Members' meeting, including the agenda, not less than fourteen (14) continuous days prior to the date of the Members' meeting. Such notice shall be sent to all Members entitled to vote, together with a written mail ballot which shall list all Board candidates, including the deadline for submittal of the mail ballot.

(b) The election of Directors shall be by secret written ballot if more than one candidate is seeking election for a Board seat, or otherwise in conformance with Act. Except as set forth in Section 4.3, elections shall be decided by affirmative vote of a Majority of the Members present in person or by proxy as reflected in the ballots and votes cast at the meeting or pursuant to a mail ballot. There shall be no cumulative voting.

(c) Notwithstanding the provisions of this Paragraph 4.2, an election of Directors is not required, unless more candidates file notices of intent to run or more candidates are nominated than vacancies exist on the Board.

4.3 **Board Seats.** Each Board seats shall be elected "at large" by all Members, until such time as the Hotel Unit Owner has sold forty (40) Residence Condominium and/or Hotel Condominium Units to unaffiliated third parties as set forth below:

(a) **At Large Board Seats.** At such time that the Hotel Unit Owner has sold forty (40) Residence Condominium and/or Hotel Condominium Units to unaffiliated third parties, at least two (2) seats on the Board shall be elected by the affirmative vote of a Majority of the Members.

(b) **Residence/Hotel Condominium Board Seats.** At such time that the Hotel Unit Owner has sold forty (40) Residence Condominium and/or Hotel Condominium Units to unaffiliated third parties, two (2) seats on the Board shall be elected by the vote of the majority (51%) of the prorata Voting Interests held by the Owners of Residence Condominium and Hotel Condominium Units, *other than Units owned by the Hotel Unit Owner.*

(c) **Hotel Unit Seat.** At such time that the Hotel Unit Owner has sold forty (40) Residence Condominium and/or Hotel Condominium Units to unaffiliated third parties, one (1) seat on the Board shall be dedicated to the Hotel Unit and the Hotel Unit Owner shall designate in writing to the Association one person to serve on the Board on behalf of the Hotel Unit Owner.

4.4 Director Vacancies and Removal.

(a) Except as to vacancies resulting from removal of Directors by Members pursuant to subsection (b) below, vacancies in the Board occurring between annual Members' meetings shall be filled by a majority vote of the remaining Directors at any Board meeting (even if the remaining Directors constitute less than a quorum).

(b) Any Director may be removed by (i) the affirmative vote of a 51% of the total Voting Interests at a special Members' meeting called for that purpose; or (ii) written agreement signed by Members representing a 51% of more of the total Voting Interests. A Director filling a Residence/Condominium Board seat may only be removed by the affirmative vote of 51% of the Voting Interests held by Owners of Residence Condominium and Hotel Condominium Units, other than Units owned by the Hotel Unit Owner. A Director filling the Hotel Unit Board seat may only be removed by the Hotel Unit Owner.

(c) A vacancy on the Board created by the removal of a Director shall be filled by the Members at a special Members' meeting called for such purpose (or by the Board, in the case of removal by a written agreement unless said agreement also designates a new Director to take the place of the one removed), in accordance with the voting requirements for each Board seat in Section 4.3 above. The conveyance of all Units owned by a Director (other than Directors who were not Members) shall constitute the resignation of such Director.

(d) If a vacancy on the Board results and the remaining Directors fail to fill the vacancy by appointment of a Director in accordance with applicable law, then the vacant seat shall be filled at the next annual meeting of the Members.

4.5 Directors' Terms. The term of each Board seat shall be three (3) years and a Director elected to fill a Board seat shall serve until the Director's successor is duly elected and has taken office, or until he or she resigns or is removed. To the greatest extent possible, the terms of the Directors shall be staggered as shall be determined by resolution of the Board.

4.6 Board Meetings. Board meetings may be held at such times and places as shall be determined, from time-to-time, by a majority of the Directors. Special Board meetings may be called at any time by the President, and must be called by the President or Secretary at the written request of 33% of the Directors or when required by the Act. Board meetings may be held by telephone conference, with those Directors attending by telephone counted toward the quorum requirement; provided that, in this event, a telephone speaker must be used so that the conversation of those Directors attending by telephone may be heard by the Directors and any Members attending such meeting in person. Notice of Board meetings shall be given to each Director, personally or by mail or email, and shall be transmitted at least two (2) days prior to the Board meeting. All Board meetings, and any committee thereof at which a quorum of the members of that committee are present, shall be open to all Members in accordance with the Act. Members' right to attend such Board meetings includes the right to speak at such Board meetings with respect to all designated agenda items. The Association may adopt reasonable rules governing the frequency, duration and manner of Members' statements. Adequate notice of Board meetings, which shall include a list of agenda items, shall be posted conspicuously in the Community at least forty-eight (48) continuous hours preceding the Board meeting, except in the event of an emergency. Any item not included on the notice may be taken up on an emergency basis by at least a majority plus one of the Directors on the Board. Such emergency action shall be noticed and ratified at the next Board meeting. Notwithstanding the foregoing, written notice of any Board meeting at which non-emergency Special Assessments, or at which amendments to rules regarding Unit use will be proposed, discussed or approved, shall be mailed, delivered, emailed or electronically transmitted to all Members and posted conspicuously in the Community or on the Association's website not less than ten (10) continuous days prior to the Board meeting. In lieu of or in addition to the physical posting of notice of any Board meeting in the Community, the Association may post the notice on the Association's website.

4.7 Waiver of Notice at Board Meetings. Any Director may waive notice of a Board meeting before or after the Board meeting and that waiver shall be deemed equivalent to the due receipt by said Director of notice. Attendance by any Director at a Board meeting shall constitute a waiver of notice of such Board meetings, and a waiver of any and all objections to the place of the Board meetings to the time of the Board meeting or the manner in which it has been called or convened, except when a Director states at the beginning of the Board meeting, or promptly upon arrival at the Board meeting, any objection to the transaction of affairs at the meeting because the Board meeting was not lawfully called or convened.

4.8 **Quorum at Board Meetings.** A majority of Directors shall constitute a quorum at any Board meeting. The acts approved by a majority of those present at a duly-convened Board meeting at which a quorum is present shall constitute the acts of the Board, except when approval by a greater number of Directors is specifically required by the Declaration, the Articles, these Bylaws or the Act.

4.9 **Adjourned Board Meetings.** If, at any proposed Board meeting, there is less than a quorum present, the majority of those present may adjourn the Board meeting from time-to-time until a quorum is present, provided notice of such newly scheduled Board meeting is given as required hereunder. At any newly scheduled Board meeting, any business that might have been transacted at the Board meeting as originally called may be transacted as long as notice of such business to be conducted at the rescheduled Board meeting is given.

4.10 **Unanimous Action Without A Board Meeting.** Notwithstanding anything to the contrary herein, any action required or which may be taken at any annual or special Board meeting, may be taken without a Board meeting (without prior notice and without a vote), if such action is reflected in a written consent signed by 100% of the Directors. In order to be effective, the unanimous consent must be dated and signed by 100% of the Directors and delivered to the Secretary, or other authorized agent of the Association within sixty (60) days after the date of the earliest dated consent. Within ten (10) days after obtaining such authorization by unanimous written consent, the Board must provide written notice thereof to the Members. A consent signed in accordance with the foregoing shall have the same effect as a meeting vote and may be described as such in any document.

4.11 **Presiding Officer at Board Meetings.** The presiding Officer at Board meetings shall be the President, unless he/she is not present, in which case the Vice President shall preside. The President may appoint another person to preside over the Board meeting at the election of the President.

4.12 **Order of Business at Board Meetings.** If a quorum has been attained, the order of business at Board meetings shall be:

- (e) Proof of due notice of meeting (or waiver of notice);
- (f) Reading and disposal of any unapproved minutes;
- (g) Reports of Officers and committees;
- (h) Election of Officers;
- (i) Unfinished business;
- (j) New business;
- (k) Adjournment.

Such order and items may be waived in whole or in part by direction of the President.

4.13 **Minutes of Meetings.** The minutes of all Board of Directors' meetings shall be kept in accordance with the Act and shall be available for inspection by Members, or their authorized representatives, and Directors at any reasonable time. The Association shall retain these minutes for a period of not less than seven (7) years or as required under the Act.

4.14 **Committees.** The Board may by resolution create committees and appoint persons to such committees and vest in such committees such powers and responsibilities as the Board shall deem advisable in accordance with the Act.

5. **Authority of the Board.**

5.1 **Powers and Duties.** The Board shall have the powers and duties necessary for the administration of the affairs of the Association and the Community and may take all acts, through the proper Officers of the Association, in executing such powers, except such acts which by law, the Declaration, the Articles or these Bylaws may not be delegated to the Board by the Members. Such powers and duties of the Board shall include, without limitation, the following:

- (a) Operating and maintaining the Association, Community, Association Property and Community Property.

(b) Determining the expenses required for the operation of the Association and the Community and the allocation of such expenses.

(c) Employing and dismissing the personnel necessary for the maintenance and operation of the Community and the Association.

(d) Adopting and amending rules and regulations concerning the details of the operation and use of the Community and Association, subject to the limitations contained in Paragraph 13.

(e) Maintaining bank accounts on behalf of the Association and designating the signatories required therefor.

(f) Purchasing, leasing or otherwise acquiring title to, or an interest in, property in the name of the Association, or its designee, for the use and benefit of its Members. The power to acquire personal property shall be exercised by the Board and the power to acquire real property shall be exercised as described herein and in the Declaration and the Act.

(g) Purchasing, leasing or otherwise acquiring Units or other property including, without limitation, Units at foreclosure or other judicial sales, all in the name of the Association, or its designee, with any and all costs associated therewith being assessed as Common Expenses.

(h) Selling, leasing, mortgaging or otherwise dealing with Units acquired, and subleasing Units leased, by the Association, or its designee, with any and all costs associated therewith being assessed as Common Expenses.

(i) Organizing corporations and appointing persons to act as designees of the Association in acquiring title to or leasing Units or other property.

(j) Obtaining and reviewing insurance for the Community and/or Association (including Directors and Officers coverage).

(k) Making repairs, additions and improvements to, or alterations of the Community and Community Property, and repairs to and restoration of the Community and Community Property, in accordance with the provisions of the Declaration after damage or destruction by fire or other casualty, or as a result of condemnation or eminent domain proceedings or otherwise.

(l) Enforcing obligations of the Members, allocating profits and expenses and taking such other actions as shall be deemed necessary and proper for the sound management of the Association and the Community.

(m) Levying fines against Members for violations of the rules and regulations established by the Board to govern the conduct of such Members. No fine shall be levied except after giving reasonable notice and opportunity for a hearing to the affected Member.

(n) Purchasing or leasing Units for use by Association personnel and other similar persons or for the general use and enjoyment of the Members.

(o) Borrowing money on behalf of the Association or the Community when required in connection with the operation, care, upkeep and maintenance of Community or the acquisition of real property, and granting mortgages on and/or security interests in Association owned property subject to any limitations or requirements contained in the Act. The foregoing notwithstanding, the borrowing of any sum which would cause the total outstanding indebtedness of the Association to exceed \$500,000 shall require the consent of a Majority of the Members attending or represented at a duly-convened Owners' meeting. If any sum borrowed by the Board on behalf of the Community, pursuant to the authority contained in this Paragraph 5.1(o), is not repaid by the Association, a Member who pays to the creditor such portion thereof as shall equate to the Member's Allocated Common Expense and Voting Interest shall be entitled to obtain from the creditor a release of any judgment or other lien which said creditor shall have filed or shall have the right to file against, or which will affect, such Owner's Unit. Notwithstanding the foregoing, the restrictions on borrowing contained in this Paragraph 5.1(o), shall not apply if such indebtedness is entered into for the purpose of financing insurance premiums, which action may be undertaken solely by the Board, without requiring any vote by the Members.

(p) Subject to the provisions of Paragraph 5.2 below, contracting for the management and maintenance of the Community, Community Property and/or Association operations and authorizing an Association Manager (who may be the Hotel Unit Owner or the Hotel Operator, or affiliates of any of these) to assist the Association in carrying out its powers and duties by performing such functions as the submission of proposals, collection of Assessments, preparation of records, enforcement of rules and regulations and maintenance, repair, and replacement of the Community Property, with such funds as shall be made available by the Association for such purposes. The Association and its Officers shall, however, retain at all times the powers and duties granted by the Declaration, the Articles, these Bylaws and the Act, including, but not limited to, the making of Assessments, promulgation of rules and regulations and execution of contracts on behalf of the Association.

(q) Executing all documents or consents, on behalf of all Members, required by all duly approved amendments to the Community Documents, governmental and/or quasi-governmental agencies in connection with land use and development matters (including, without limitation, plats, waivers of plat, unities of title, covenants in lieu thereof, etc.), and in that regard, each Member, by acceptance of the deed to such Owner's Unit, and each mortgagee of a Member by acceptance of a lien on said Unit, appoints and designates the President of the Association as such Owner's agent and attorney-in-fact to execute any and all such documents or consents.

(r) Responding to Member inquiries in accordance with the Act.

(s) Exercising (i) all powers specifically set forth in the Declaration, the Articles, these Bylaws, the Nonprofit Act and/or the Act, (ii) all powers incidental thereto, and (iii) all other powers of a Colorado nonprofit corporation.

(t) Approval of a Qualified Rental Program in accordance with the Declaration.

5.2 **Contracts.** Any contract which is not to be fully performed within one (1) year after the making thereof, for the purchase, lease or renting of materials or equipment to be used by the Association in accomplishing its purposes, and all contracts for the provision of services, shall be in writing. Where a contract for purchase, lease or renting materials or equipment, or for the provision of services, requires payment by the Association in the aggregate exceeding \$100,000, the Association shall obtain competitive bids for the materials, equipment or services. Nothing contained herein shall be construed to require the Association to accept the lowest bid. Notwithstanding the foregoing, contracts with employees of the Association and contracts for attorney, accountant, architect, Association Manager, engineering and landscape architect services shall not be subject to the provisions hereof. Further, nothing contained herein is intended to limit the ability of the Association to obtain needed products and services in an emergency; nor shall the provisions hereof apply if the business entity with which the Association desires to contract is the only source of supply within the surrounding region.

6. **Officers.** The Officers of the Association shall be a President, a Vice-President, a Treasurer and a Secretary, all of whom shall be elected by the Board and who may be removed at any meeting of the Board by concurrence of a majority of the entire Board. An Officer need not be a Director or an Owner. A person may hold more than one office, except that the President may not also be the Secretary. No person shall sign an instrument or perform an act in the capacity of more than one office. The Board may, from time-to-time, elect such other Officers and designate their powers and duties as the Board shall deem necessary or appropriate to manage the affairs of the Association pursuant to a resolution of the Board.

6.1 **President.** The President shall be the chief executive Officer of the Association. The President shall have all of the powers and duties that are usually vested in the office of president of an owners association and as may be required by the Directors.

6.2 **Vice-President.** The Vice-President shall exercise the powers and perform the duties of the President in the absence or disability of the President. The Vice-President also shall assist the President and exercise such other powers and perform such other duties as are incident to the office of the vice president of an owners association and as may be required by the Directors or the President.

6.3 **Secretary.** The Secretary shall oversee the taking of minutes of all proceedings of the Directors and the Members. The Secretary shall oversee the giving of all notices to the Members and Directors and other notices required by law. The Secretary shall have custody of the seal (if any) of the Association and shall affix it to instruments requiring the seal when duly signed. The Secretary shall oversee the records of the Association, except

those of the Treasurer, and shall perform all other duties incident to the office of the secretary of an owners association and as may be required by the Directors or the President.

6.4 **Treasurer.** The Treasurer shall oversee all property of the Association, including funds, securities and evidences of indebtedness. The Treasurer shall oversee the books of account for the Association in accordance with good accounting practices, which, together with substantiating papers, shall be made available to the Board for examination at reasonable times. The Treasurer shall submit a treasurer's report to the Board at reasonable intervals and shall perform all other duties incident to the office of treasurer of an owners association and as may be required by the Directors or the President. All monies and other valuable effects shall be kept for the benefit of the Association in such depositories as may be designated by a majority of the Board.

7. **Compensation.** Neither Directors nor Officers shall receive compensation for their services as such, but this provision shall not preclude the Board from employing a Director or Officer as an employee of the Association, nor preclude the Association from contracting with a Director or Officer for the management of the Community or the Association or for any other service to be supplied by such Director or Officer. The foregoing notwithstanding, Directors and Officers shall be compensated for all actual and proper out of pocket expenses relating to the proper discharge of their respective duties.

8. **Resignations.** Any Director or Officer may resign his or her post at any time by written resignation, delivered to the President or Secretary, which shall take effect upon its receipt unless a later date is specified in the resignation, in which event the resignation shall be effective from such date unless withdrawn. The acceptance of a resignation shall not be required to make it effective. The conveyance of all Units owned by any Director or Officer (other than Directors or Officers who were not Members) shall constitute a written resignation of such Director or Officer.

9. **Fiscal Management.** The provisions for fiscal management of the Association set forth in the Declaration and Articles shall be supplemented by the following provisions. The fiscal year for the Association shall be the twelve month period ending on December 31.

9.1 **Annual Budget.**

(a) **Annual Adoption by Board.** The Board shall from time-to-time, and at least annually, prepare a budget for the Association, which shall detail all accounts and items of expense and contain at least all items required by the Act and as set forth in the Declaration (the "**Annual Budget**"). The Annual Budget shall reflect the amount of Assessments payable by the Members to meet the Common Expenses and Limited Common Expenses and allocate and assess such Common Expenses and Limited Common Expenses to the Units, in accordance with the provisions of the Declaration.

(b) **Reserve Accounts.** In addition to annual operating expenses, the Annual Budget shall include such reserve accounts for capital expenditures and repairs and deferred maintenance of the Community as the Board, in its sole and absolute discretion, shall deem appropriate from time-to-time, if any. The amount of reserves shall be computed by means of a formula which is based upon the estimated remaining useful life and the estimated replacement cost of each reserve item. The Board may adjust replacement and reserve assessments annually to take into account any changes in estimates or extension of the useful life of a reserve item caused by deferred maintenance. Reserve funds and any interest accruing thereon shall remain in the reserve account or accounts, and shall be used only for authorized reserve expenditures, unless their use for any other purposes is approved in advance by the affirmative vote of a Majority of the Members at a duly called Members' meeting or by mail ballot.

(c) **Annual Budget Adoption Requirements.** The Annual Budget shall be adopted by the Board in accordance with the requirements in the Declaration and/or pursuant to the Act.

(d) **Regular Assessments.** To the greatest extent possible, Regular Assessments shall be determined for the applicable fiscal year annually at least twenty (20) days preceding the year for which the Annual Assessments are made. In the event the Regular Assessments prove to be insufficient, the Annual Budget and Regular Assessments may be amended at any time by the Board. Unpaid Regular Assessments for the remaining portion of the fiscal year for which amended Regular Assessments are made, shall be payable in as many equal installments as there are full quarters of the fiscal year left as of the date of such amended Regular Assessments.

9.2 **Special Assessments and Assessments for Capital Improvements.** Special Assessments and Capital Improvement Assessments (as defined in the Declaration) shall be levied as provided in the Declaration and shall be paid in such manner as the Board may require in the notice of such Assessments. The funds collected pursuant to a Special Assessment or a Capital Improvement Assessment shall be used only for the specific purpose or purposes set forth in the notice of adoption of the Special Assessment or Capital Improvement Assessment. However, upon completion of such specific purpose or purposes, any excess funds will be considered "*Common Surplus*", and may, at the discretion of the Board, either be returned to the Members or applied as a credit towards future Assessments.

9.3 **Depository.** The depository of the Association shall be such bank or banks in the State of Colorado (which bank or banks must be insured by the FDIC) as shall be designated from time-to-time by the Board (in its sole and absolute discretion). All sums collected by the Association from Assessments, or otherwise, may be commingled in a single fund or divided into more than one fund, as determined by a majority of the Board. In addition, a separate Association reserve account may be established for monies specifically designated as reserves for capital expenditures and/or deferred maintenance of the Community. Reserve funds and operating funds of the Association shall not be commingled, unless (i) they are combined for investment purposes, and (ii) provided that the funds so commingled shall be accounted for separately and the combined account balance of such commingled funds may not, at anytime, be less than the amount identified as reserve funds in the combined account.

9.4 **Fidelity Insurance or Fidelity Bonds.** The Association shall obtain and maintain adequate insurance or fidelity bonding of all Persons who control or disburse Association funds at the discretion of the Board (in its sole and absolute discretion) and/or as required by the Act. If so obtained or required, such insurance or fidelity bonding will include, without limitation, those individuals authorized to sign Association checks, wire transfers or other means of withdrawal and the President, Secretary and Treasurer of the Association. The insurance policy or fidelity bond shall be in the amount as shall be determined by a majority of the Board (in its sole and absolute discretion) but, shall be sufficient to cover the maximum funds that are contemplated to be in the custody of the Association or Association Manager at any one time. The premiums on such bonds and/or insurance shall be paid by the Association as Common Expenses.

9.5 **Accounting Records and Reports.** The Association shall maintain accounting records in the State of Colorado, according to accounting practices normally used by similar owners associations and in compliance with the Act. The records shall be open to inspection by Members or their authorized representatives at reasonable times in compliance with the Act and the Nonprofit Act. The records shall include, but not be limited to, (a) a record of all receipts and expenditures, and (b) an account for each Unit designating the name and current mailing address of the Member, the amount of Assessments, the dates and amounts in which the Assessments come due, the amount paid upon the account and the dates so paid, and the balance due.

(a) Within ninety (90) days following the end of the Association's fiscal year, the Board may elect to cause the Association to prepare and complete, or contract for the preparation and completion of a financial report for the preceding fiscal year (the "**Financial Report**"). Within twenty-one (21) days after the Financial Report is completed, or supplied to the Board by a third party (but not later than 120 days following the end of the fiscal year), the Board shall mail or email, or furnish by personal delivery, (i) a copy of the Financial Report to each Member, (ii) a notice that a copy of the Financial Report will be emailed, mailed or hand delivered to the Members, without charge, upon receipt of a written request from the Member, or (iii) a notice that the Financial Report may be viewed on the Association's website.

(b) The Financial Report shall be prepared and certified (i) by a Certified Public Accountant; (ii) in accordance with the rules adopted from time-to-time by the Board; and (iii) in compliance with the Act.

9.6 **Application of Payment.** All payments made by a Member shall be applied as provided in these Bylaws and in the Declaration.

10. **Roster of Members.** Each Member shall be responsible for providing the Association with the Member's mailing address, telephone number and email address and any changes thereto. The Association shall maintain such information in accordance with the Act. The Association may rely upon the accuracy of such information for all purposes until notified in writing by the Member of any changes. Only Members of record on the date a notice of any meeting requiring their vote is given shall be entitled to notice of and to vote at Members' meetings.

11. **Parliamentary Rules.** Except when specifically or impliedly waived by the President or presiding Officer (either Members or Board meetings), Robert's Rules of Order (latest edition) shall govern the conduct of the meetings when not in conflict with the Act, the Declaration, the Articles or these Bylaws; provided, however, that a strict or technical reading of said Robert's Rules shall not be made so as to frustrate the will of the persons properly participating in said meeting.

12. **Amendments.** Except as may be provided in the Declaration to the contrary, these Bylaws may be amended in the following manner.

(a) Notice of the subject matter of a proposed amendment shall be included in the notice of any Members' meeting at which a proposed amendment is to be considered.

(b) A resolution for the adoption of a proposed amendment may be proposed either by a majority of the Board or by Members representing not less than 33% of the total Voting Interests.

(c) The proposed amendment must be approved by not less than either:

(i) a Majority of the Members voting in person or by proxy at a duly-convened Members' meeting at which a quorum has been attained or by mail ballot;

OR

(ii) 67% of the entire Board, at a duly-convened Board meeting.

(d) No amendment may be adopted which would eliminate, modify, prejudice, abridge or otherwise adversely affect any rights, benefits, privileges or priorities granted or reserved to the Hotel Unit Owner, without the consent of the Hotel Unit Owner. No amendment shall be made that conflicts with the Articles or Declaration.

13. **Rules and Regulations.** The Board may (but need not), from time-to-time, create rules and regulations concerning the use of portions of the Community, Community Property and Association Property, and thereafter modify, amend or add to such rules or regulations. Copies of any such rules or regulations, if any, shall be furnished by the Board to the Member as required by the Act. The foregoing notwithstanding, in no event shall any rules or regulations or other actions related thereto, be allowed to cause the Community to be operated in any manner (i) of a lesser quality than, or in conflict with, the Standards; or (ii) so as to prejudice, limit or diminish, in any manner whatsoever, any rights reserved to the Hotel Unit Owner in the Community Documents.

14. **Indemnification.** The Directors and Officers of the Association shall have the liabilities, and be entitled to indemnification, as provided in the Act and/or the Nonprofit Act, the provisions of which are incorporated in and made a part of these Bylaws by this reference.

15. **Written Inquiries.** When a Member files a written inquiry with the Board, the Board shall respond in writing to the Member within thirty (30) days after receipt of such inquiry and in compliance with the Act. The Board may adopt reasonable rules and regulations regarding the frequency and manner of responding to Member inquiries.

16. **Association Records.**

16.1 The Association shall maintain for the Community, a copy of each of the following, where applicable, which shall constitute the official records of the Association in accordance with Section 38-33.3-317 of the Act:

(a) All plans, permits, warranties, and other items for the Community delivered by the Declarant to the Association, if any.

(b) A photocopy of the recorded Declaration and all amendments thereto.

(c) A photocopy of the Bylaws of the Association and all amendments thereto.

(d) A certified copy of the Articles creating the Association and all amendments thereto.

(e) A copy of any current Community rules and regulations of the Association (if any).

(f) Minutes of all Members' and Board meetings, which minutes shall be retained for a period of not less than seven years.

(g) A current roster of all Members, their mailing addresses, Unit identifications, Voting Interest, and if known, telephone numbers. The Association shall also maintain the electronic mailing addresses and the numbers designated by Members for receiving notices sent by electronic transmission of those Members consenting to receive notice by electronic transmission. The telephone numbers and electronic mailing addresses and numbers provided by Members shall be maintained in confidence in accordance with the Act. However, the Association shall not be liable for an inadvertent and erroneous disclosure of the telephone numbers, electronic mail address or the number for receiving electronic transmission of notices.

(h) All current insurance policies of the Association and of all Units operated by the Association (if any).

(i) A current copy of any Management Agreement, lease, or other contract to which the Association is a party or under which the Association or the Members have an obligation or responsibility.

(j) Bills of sale or transfer for all personal property owned by the Association to the greatest extent possible.

(k) Accounting records for the Association. All accounting records shall be maintained for a period of not less than seven years. The accounting records shall include, but not be limited to:

(i) Accurate, itemized, and detailed records for all receipts and expenditures.

(ii) A current account and a quarterly statement of the account for each Unit designating the name of the Member, the due date and amount of all Assessments, the amount paid upon the account, and the balance due.

(iii) All audits, reviews, accounting statements, and financial reports of the Association.

(iv) All contracts for work to be performed. Bids for work to be performed shall also be considered official records and shall be maintained for a period of one year.

(l) Ballots (including mail ballots), sign-in sheets, proxies and all other papers relating to elections which shall be maintained for a period of one year from the date of the meeting to which the document relates.

(m) All other records of the Association not specifically listed above which are related to the operation of the Association and as required by Section 38-33.3-317 of the Act.

16.2 The official records of the Association shall be maintained at the Association's principal place of business or the offices of the Association Manager, so long as they remain in San Miguel County, Colorado.

16.3 The official records of the Association shall be open to inspection by any Member or the authorized representative of such Member and shall be made available to a Member within five (5) business days after receipt of a written request by the Board or its designees and as required pursuant to Section 38-33.3-317 of the Act and the Responsible Governance Policies and Procedures of the Association. The right to inspect the records includes the right to make or obtain copies, at a reasonable expense charged by the Association. The Board may adopt reasonable rules regarding the time, location, notice and manner of record inspections and copying. The Association may charge its actual costs for preparing and furnishing these documents to those persons requesting the documents.

16.4 Notwithstanding the provisions of this Section 16, the following records shall not be accessible to Members:

(i) Any record protected by the lawyer-client privilege pursuant to Colorado law, and any record protected by the work-product privilege including any record prepared by an Association attorney or prepared at the attorney's express direction, which reflects a mental impression, conclusion, litigation strategy, or legal theory of the attorney or the Association, and which was prepared exclusively for civil or criminal litigation or for adversarial administrative proceedings, or which was prepared in anticipation or imminent civil or criminal

litigation or imminent adversarial administrative proceedings until the conclusion of the litigation or adversarial administrative proceedings.

(ii) Information obtained by an Association in connection with the approval of the lease, sale or other transfer of a Unit.

(iii) Medical records of Members, Directors or Officers of the Association.

(iv) Any records that are designated as confidential under the Act.


17. **Construction.** Wherever the context so permits, the singular shall include the plural, the plural shall include the singular, and the use of any gender shall be deemed to include all genders.

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

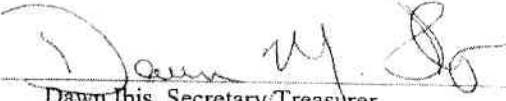
20. **Unforeseen Circumstances.** In the event of any events or circumstances occurring that are not contemplated by these Bylaws or the Declaration, then the Board is hereby authorized and directed, by majority action, to take such actions, approvals and/or measures as it shall deem appropriate and/or necessary (in its sole and absolute discretion), without the need for further Members' approvals.

These First Amended and Restated Bylaws of TMVRC Owners' Association, Inc., a Colorado nonprofit corporation, were adopted by the Association at a meeting of the Members held on January 26, 2015, to be effective as of January 26, 2015.

By:


Duncan Hogarth, President

By:


Dawn Ibis, Secretary/Treasurer