

## DEED ADDENDUM

### LOMA ENCANTADA COMMON PROPERTY USE AGREEMENT

Date: \_\_\_\_\_

Re: \_\_\_\_\_ project on \_\_\_\_\_ (address)

Owner/Owners of record of \_\_\_\_\_ (address) property defined as Unit \_\_\_\_\_ of Loma Encantada, Subdivision, Phase \_\_\_\_\_ as shown on the plat filed in the office of the County Clerk, Santa Fe County, New Mexico in Plat Book \_\_\_\_\_, Page \_\_\_\_\_ as Document Number \_\_\_\_\_ and instrument # \_\_\_\_\_ dated on the \_\_\_\_\_ day of \_\_\_\_\_ (month/year) and the Loma Encantada Homeowners' Association, Inc. (LEHOA) agree to the following:

- LEHOA agrees that the Owners may build the Project over or on the Common Property. The location and description of the Project is shown in Exhibit A attached to this agreement.
- The Owners agree to perpetually maintain the Project over or on Common Property at \_\_\_\_\_ (address) at Owners'/Owner's and their successor in interest, assignee, heirs, buyers, or trustees at their expense.
  - If the Owners fail to maintain the Project in good condition and repair, in the sole discretion of the Board of Directors, the Association may perform maintenance, repairs, or replacement it determines to be necessary in its sole discretion, and assess the costs for such maintenance, repairs, or replacement to the Owners and their Unit in the same manner as provided in Article III, Section 3(c) of the Declaration of Covenants, Conditions and Restrictions for Loma Encantada Subdivision ("Declaration").
- The owners agree to prevent and, if necessary, remedy any erosion issues the construction may create at Owner's/Owners' expense, as required by the Maintenance Committee at its sole discretion.
  - If the Owner/Owners fail to prevent or remedy any erosion issues as determined by the Maintenance Committee in its sole discretion, LEHOA may perform such necessary work and assess the costs for such prevention or remedy to the Owner/Owners and their Unit as provided in Article III, Section 3(c) of the Declaration.
- The Owner/Owners agree to be fully responsible for any bodily injury or other claim that may occur as a result of the use of in any way related to the Project.
  - Owner/Owners agree to indemnify and hold harmless LEHOA, the LEHOA Board of Directors, officers, and agents of LEHOA, LEHOA's insurers, LEHOA Board Members' spouses, their marital communities, and any and all successors and assigns, from any and all liability, judgments, liens, or loss arising from or related to the Project, including LEHOA's attorney's fees and costs incurred by any of said parties in connection with any legal action or threat of legal action, whether by Owner/Owners or any other party, and agree to name the Association as an additional insured on their insurance policy if the Owner's/Owners' insurance carrier permits.

- The Owner/Owners agree to not expand the Project or change the design without the approval of the LEHOA Board of Directors.
- The Owner/Owners agree and understand that the use of Common Property is permissive and does not provide the Owner/Owners with a basis for a claim for ownership of any portion of the Common Property.

This agreement shall run with the Unit and will be recorded in the office of the Santa Fe County Clerk.



