

**BYLAWS OF  
THE TIMBERS  
OWNERS ASSOCIATION, INC.**

**ARTICLE I  
INTRODUCTION**

These are Bylaws of THE TIMBERS OWNERS ASSOCIATION, INC., (“Association”) which shall operate under the Colorado Revised Nonprofit Corporation Act, as amended from time to time, and the Colorado Common Interest Ownership Act, as amended from time to time, (the “Act”). Except as otherwise provided herein, the definitions of capitalized terms herein shall be the same as provided in the recorded Declaration of Condominium (the “Declaration”) for THE TIMBERS condominium project (the “Project”) For purposes of these Bylaws, “Owners” shall mean and refer to the record owner, whether one or more persons or entities, of fee simple title to any unit which is a part of the project, including contract sellers, but excluding those having such interest merely as security for the performance or repayment of an obligation. The “Act” shall refer to C.R.S. 38-33.3-101 et seq., as may be amended.

**ARTICLE II  
BOARD OF DIRECTORS (Executive Board)**

**2.1 Number and Qualification; Balloting; Termination of Declarant Control**

- (a) The affairs of the Common Interest Community and the Association shall be governed by the Board of Directors (“Board” or “Executive Board”) which shall consist of four (4) persons. The majority of directors, excepting the directors appointed by the Declarant, shall be Owners. If any unit is owned by a partnership or corporation, any officer, partner or employee of that Owner shall be eligible to serve as a director and shall be deemed to be an Owner for the purpose of the preceding sentence.
- (b) Directors shall be elected by the Owners, except for those appointed by the Declarant. Nominations of candidates for election to the Board may be taken from the floor at any meeting of the Owners at which directors are to be elected. There shall be at least as many nominees as the number of vacancies on the Board. At any meeting at which the directors are to be elected, the Owners may, by resolution, adopt any other specific procedures which are not inconsistent with these Bylaws or the Colorado Revised Nonprofit Corporation Act for conducting the nominations and elections.
- (c) Votes for contested positions on the Executive Board shall be taken by secret ballot (contested being defined as an election where there are more candidates than positions to be filled).

In general, uncontested elections of Board Members (those where the number of candidates is equal to or less than the number of vacancies to be filled) and all other votes taken at a Meeting of the Owners shall be taken in such manner as determined by the Board that will provide an accurate tally including, without limitation, by show of hands, oral indication of assent or rejection, or via an informal writing or ballot that need not comply with the formal criteria for a secret ballot herein.

However, regardless of the foregoing, a vote on any matter affecting the Project on which all Owners are entitled to vote, including uncontested elections of the Board, shall be by secret ballot at the discretion of the Board or upon request of twenty percent (20%) of the Unit Owners who are present at the meeting or represented by proxy, if a quorum has been achieved.

When a secret ballot is to be utilized, each Owner or person entitled to vote shall receive a secret ballot prepared at the direction of the Board or neutral party for the corresponding issue or election. The secret ballot shall contain no information identifying the voter or Owner participating in the vote and, to the extent practical or possible, utilize check-boxes to reflect the vote so as not to reveal the voters hand-writing.

In the event a person holds a proxy for another Owner, upon presentation of that proxy to the Board that person shall also receive a ballot to cast that other Owner's vote by proxy. The written proxy shall be kept by the Association and otherwise handled as provided in Section 3.11 hereinbelow.

- (d) Secret Ballots shall be counted by a neutral third party or by a committee of volunteers. Such volunteers shall be Unit Owners who are selected or appointed at an open meeting, in a fair manner by the person presiding over the meeting. The volunteers shall not be Board members and, in the case of a contested election for a Board position, shall not be candidates. The results of a vote taken by secret ballot shall be reported without reference to names, addresses, or other identifying information of the Owners or voters participating in the vote. The secret ballots shall thereafter be kept by the Association.
- (e) The persons receiving the number (or as many vacancies there are to be filled) highest vote totals shall be elected to the Board. There shall be no cumulative voting.
- (f) Directors shall serve annual terms and the terms of at least one-third of the Directors not appointed by the Declarant shall expire annually, as established in a resolution of the Owners. Terms may at first be staggered to avoid the entire Board turning over at one time.
- (g) The Declaration shall govern appointment of directors of the Board during the period of Declarant control.
- (h) The Board shall elect the officers. The directors and officers shall take office upon election.
- (i) The Board shall serve without compensation.
- (j) At any time after Owners, other than the Declarant, are entitled to elect a director, the Association shall call a meeting and give not less than ten (10) nor more than fifty (50) days notice to the Owners for this purpose. This meeting may be called and the notice given by any Owner if the Association fails to do so.

## **2.2 Powers and Duties**

Subject to the duties defined under C.R.S. 38-33.3-303, as amended from time to time, the Board may act in all instances on behalf of the Association, except as provided in the Declaration, these Bylaws or the Act. The Board shall have, in addition to those rights and powers established in the Declaration and subject to the limitations contained in the Declaration and the Act, the powers and duties necessary for the administration of the affairs of the Association and of the Common Interest Community, including but not limited to the following powers and duties:

- (a) Adopt and amend these Bylaws as provided in Article IX below;
- (b) Reasonably govern the use of the Common Elements and, to that end, adopt and amend guidelines, Rules and Regulations, design or architectural standards, as well as those protocols and policies required under the Declaration or Act, specifically the required Alternate Dispute Resolution policy, Responsible Governance Policies and policies for the education of the Board and/or Owners. To that end, the Board may delegate the right to evaluate and assist in drafting such documents to legal counsel or any committee of Owners formed for that purpose but, in

any event, amendment or adoption of all such documents shall be subject to ultimate approval of the Board as further provided:

- i. The Board shall be entitled to adopt those aforementioned rules, policies and provisions either in one or more exhibits hereto or in a separate instrument which shall itself be construed as an Association Document. In the event of conflict between any Bylaws or the Declaration versus that rule or policy, the Bylaws or Declaration shall prevail **BUT ONLY TO THE EXTENT** the instrument attempts to invalidate the express language of the Bylaws or Declaration.
  - ii. Excuse of Compliance. The Executive Board, in its sole discretion upon hardship shown, may excuse compliance with such requirements as are not necessary or appropriate in specific situations and may permit compliance with different or alternative requirements;
  - iii. Amendment. All of the policies and guidelines referenced in this subsection (b), whether an exhibit hereto or separate instrument, may be adopted or amended from time to time by a majority approval of the Executive Board, unless a greater percentage not to exceed more than two-thirds is specified. Although consent of the Unit Owners is not specifically required, **THE BOARD SHALL CAUSE COPIES OF ANY AMENDMENTS TO BE DELIVERED TO ALL OWNERS AND, IF A MAJORITY OF THE UNIT OWNERS DO NOT REASONABLY OBJECT IN WRITING TO THE BOARD WITHIN THIRTY (30) DAYS, THEY SHALL BE DEEMED ACCEPTED BY THE OWNERS.** If a majority of the Owners object to less than the entire amendment or document, in that instance, the remaining provisions shall be severable and approved independent of the objected terms.
- (c) Adopt and amend budgets for revenues, expenditures and reserves, after submitting the proposed budget or amendment to the Owners for approval, as further set forth in Article III (3.3) below;
  - (d) Levy and collect assessments for Common Expenses from Owners;
  - (e) Hire and discharge managing agents;
  - (f) Hire and discharge employees, independent contractors and agents other than managing agents;
  - (g) Subject to the limitations within the Declaration of the Project, institute, defend or intervene in litigation or administrative proceedings or seek injunctive relief for violations of the Association's Declaration, Bylaws or Rules and Regulations ("Association Documents") in the Association name, or on behalf of the Association or two or more Owners, on matters affecting the Common Interest Community;
  - (h) Make contracts and incur liabilities;
  - (i) Regulate the use, maintenance, repair, replacement and modification of Common Elements;
  - (j) Cause additional improvements to be made as part of the Common Elements;
  - (k) Acquire, hold, encumber and convey in the Association name, any right, title or interest to real estate or personal property, but Common Elements may be conveyed or subjected to a security interest only pursuant to Section 312 of the Act;
  - (l) Grant easements for any period of time, including permanent easements; and grant leases, licenses and concessions for no more than one year, through or over the Common Elements;

- (m) Impose and receive a payment, fee or charge for services provided to Owners and for the use, rental or operation of the Common Elements, other than Limited Common Elements described in Subsections 202 (1)(b) and (d) of the Act;
- (n) Impose a reasonable charge for late payment of assessments and, after notice and hearing, levy a reasonable fine for a violation of the Declaration, Bylaws, Rules and Regulations of the Association or any other duly adopted Association Document;
- (o) Suspend the voting rights of Owners, or access to Recreational Facilities, so long as they are delinquent on assessments at the time of voting;
- (p) Impose a reasonable charge for the preparation and recording of amendments to the Declaration or statements of unpaid assessments;
- (q) Provide for the indemnification of the Association's officers, directors and the Board and maintain directors' and officers' liability insurance;
- (r) Exercise any other powers conferred by the Declaration, Bylaws or duly adopted Association Document or policy;
- (s) Exercise any other power that may be exercised in the State of Colorado by a legal entity of the same type as the Association;
- (t) Exercise any other power necessary and proper for the governance and operation of the Association; and
- (u) By resolution, establish committees of directors, permanent and standing, to perform any of the above functions under specifically delegated administrative standards as designated in the resolution establishing the committee. All committees must maintain and publish notice of their actions to Owners and the Board. However, actions taken by a committee may be appealed to the Board by any Owner within forty-five (45) days of publication of notice of that action, and the committee's action must be ratified, modified or rejected by the Board at its next regular meeting.
- (v) THE RIGHT OF THE ASSOCIATION TO ACT IN CERTAIN CIRCUMSTANCES IS EXPRESSLY LIMITED BY THE PROJECT DECLARATION AND ARTICLES, and in no event may the Association or Board act in contradiction thereof, including, without limitation as to certain claims which may be brought or asserted against the Declarant or the obligation to resolve certain disputes through binding arbitration.

### **2.3 Manager**

The Board may employ a Manager for the Common Interest Community, at a compensation established by the Board, to perform duties and services authorized by the Board. The Board may delegate to the Manager only the powers granted to the Board by these Bylaws under Section 2.2, Subdivisions (c), (e), (g), and (h). Licenses, concessions and contracts may be executed by the Manager pursuant to specific resolutions of the Board and to fulfill the requirements of the budget. The Manager shall be licensed, if and when required, in accordance with C.R.S. § 38-33.3-402.

If the Board delegates powers relating to the collection, deposit, transfer or disbursement of Association funds to a Manager or other persons, that Manager or other persons shall maintain all funds and accounts of the Association separate from the funds and accounts of other associations managed by the Manager or other persons, and maintain all reserve accounts of each association so managed separate from operational accounts of the Association.

Any managing agent, employee, independent contractor, or other person acting on behalf of the Association shall be subject to the Act and the Association Documents to the same extent as the Association itself would be

## **2.4 Removal of Directors**

The Owners, by a vote of sixty-seven percent (67%) of the votes of the Owners at any meeting at which a quorum is present, may remove any director of the Board, other than a Director appointed by the Declarant, with or without cause.

## **2.5 Vacancies**

Vacancies in the Board, caused by any reason other than the removal of a director by a vote of the Owners, may be filled at a special meeting of the Board held for that purpose at any time after the occurrence of the vacancy, even though the directors present at that meeting may constitute less than a quorum. These appointments shall be made in the following manner:

- (a) As to vacancies of directors whom Owners other than the Declarant elected, by a majority of the remaining elected directors constituting the Board; and
- (b) As to vacancies of directors whom the Declarant has the right to appoint, by the Declarant.

Each person so elected or appointed shall be a director for the remainder of the term of the Director so replaced.

## **2.6 Regular Meetings**

The first regular meeting of the Board following each annual meeting of the Owners shall be held within ten (10) days after the annual meeting at a time and place to be set by the Owners at the meeting at which the Board shall have been elected. No notice shall be necessary to the newly elected directors in order to legally constitute such meeting, provided a quorum of the directors is present. The Board may set a schedule of additional regular meetings by resolution, and no further notice is necessary to constitute regular meetings.

## **2.7 Special Meetings**

Special Meetings of the Board may be called by the President or by a majority of the directors on not less than three (3) business day's notice to each director. The notice shall be hand delivered or sent via prepaid U.S. Mail and shall state the time, place and purpose of the meeting. Email notice may also be utilized if notice is also posted in a conspicuous place in the Project; and the Board Member has consented in advance to its use, or if they otherwise acknowledge the receipt of the email correspondence. Agendas for meetings shall be made reasonably available for examination by all Members or their representative.

## **2.8 Location of Meetings**

All meetings shall be held within Gunnison County, Colorado, unless all directors consent in writing to another location.

## **2.9 Conduct; Open Attendance at Meetings of the Board; Attorney Client Privilege**

All meetings of the Association and Board of Directors are open to every Unit Owner of the Association, or to any person designated by a Unit Owner in writing as the Unit Owner's representative. At an appropriate time determined by the Board, but before the Board votes on an issue under discussion, unit owners or their designated representative shall be permitted to speak regarding that issue. The Board may place reasonable time restrictions on those persons speaking during the Meeting. If more than one person desires to

address an issue and there are opposing views, the Board shall provide for a reasonable number of persons to speak on each side of the issue.

However, notwithstanding any other provision herein, the members of the Executive Board or any committee thereof may hold an executive or closed door session and may restrict attendance to Executive Board members and such other persons requested by the Executive Board during a regular or specially announced meeting or a part thereof. The matters to be discussed at such an executive session shall include only the following matters: (a) Matters pertaining to employees of the association or the managing agent's contract or involving the employment, promotion, discipline, or dismissal of an officer, agent, or employee of the association; (b) Consultation with legal counsel concerning disputes that are the subject of pending or imminent court proceedings or matters that are privileged or confidential between attorney and client; (c) Investigative proceedings concerning possible or actual criminal misconduct; (d) Matters subject to specific constitutional, statutory, or judicially imposed requirements protecting particular proceedings or matters from public disclosure; (e) Any matter the disclosure of which would constitute an unwarranted invasion of individual privacy; (f) Review of or discussion relating to any written or oral communication from legal counsel.

Upon the final resolution of any matter for which the Board received legal advice or that concerned pending or contemplated litigation, the Board may elect to preserve the attorney-client privilege in any appropriate manner, or it may elect to disclose such information, as it deems appropriate, about such matter in an open meeting.

#### **2.10 Waiver of Notice**

Any director may waive notice of any meeting in writing. Attendance by a director at any meeting of the Board shall constitute a waiver of notice. If all the directors are present at any meeting, no notice shall be required, and any business may be transacted at such meeting.

#### **2.11 Quorum of Directors; Action**

At all meetings of the Board, a majority of the directors shall constitute a quorum for the transaction of business, and the votes of a majority of the directors present at a meeting at which a quorum is present shall constitute a decision of the Board unless a different percentage not to exceed two-thirds is specified. If, at any meeting, there shall be less than a quorum present, a majority of those present may adjourn the meeting. At any adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice.

#### **2.12 Consent to Corporate Action**

Any action required by law to be taken at a meeting of directors, or any action which may be taken at a meeting of directors, may be taken without a meeting if each director in writing either (a) votes for such action; or (b) votes against such action or abstains from voting and waives the right to demand that a meeting be held. Action is taken under this section only if the affirmative vote for such action equals or exceeds the minimum number of votes that would be necessary to take such action at a meeting at which all of the directors then in office were present and voted. The writing permitted hereunder may be submitted to the Association personally, via regular mail, email or fax, so long as actually received by any Board Member or officer prior to the meeting or action; that is, not merely sent, but received in hand and read prior to the meeting.

#### **2.13 Telephone Communication in Lieu of Attendance**

A director may attend a meeting of the Board by using an electronic or telephonic communication method whereby the director may be heard by the other members and may hear the deliberations of the other members on any matter properly brought before the Board. The director's vote shall be counted and the presence noted as if that individual were present in person on that particular matter.

#### **2.14 Proxy**

Voting by proxy shall be permitted provided, however, that the proxy is granted in writing to another director who attends the meeting, and the proxy is limited to a vote that is directed to be cast by the written proxy with respect to the particular proposal that is described with reasonable specificity in the proxy.

### **2.15 Action Without Meeting**

The Directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all the Directors. Any action so approved shall have the same effect as though taken at a meeting of the Directors.

### **2.16 Conflicts of Interest**

As further provided in the policy required to be adopted under the Act, Section 7-128-501 C.R.S., as amended from time to time, shall apply to Members of the Executive Board; except that, as used in that Section, Corporation or Nonprofit Corporation shall mean the Association; Director means a member of the Executive Board of the Association; and Officer means any person designated as an Officer of the Association and by any person to whom the Board delegates responsibilities under the Act, including, without limitation, a managing agent, attorney or accountant employed by the Board. Specifically, **NO LOANS SHALL BE MADE BY THE ASSOCIATION TO ITS DIRECTORS OR OFFICERS.** Any Director or officer who assents to or participates in the making of the loan shall be liable to the Association for the amount of the loan until it is repaid.

No conflicting interest transaction shall be voidable by an Owner or on behalf of the Association if: (i) the facts about the conflicting interest transaction are disclosed to the Board, and a majority of the disinterested Directors, even if less than a quorum, in good faith approves the conflicting interest transaction; (ii) the facts about the conflicting interest transaction are disclosed or the Owners entitled to vote on the matter, and the conflicting interest transaction is authorized in good faith by a vote of the Owners entitled to vote; or (iii) the conflicting interest transaction is fair to the Association.

However, this section shall not be construed to invalidate any provision of the Declaration, Bylaws, or other Association Documents that more strictly defines conflicts of interest or contains further limits on the participation of Executive Board Members who may have conflicts of interest.

## **ARTICLE III OWNERS (MEMBERS)**

### **3.1 Meetings; Generally**

Meetings of the Unit Owners, as the Members of the Association, shall be held at least once each year.

### **3.2 Annual Meeting**

Annual meetings of all Owners (may be alternatively referenced as “Members”) shall be held in Gunnison County, Colorado, at such date set forth in the notice. At these meetings, the directors shall be elected by ballot of the Owners, in accordance with the provisions of Article 2 of these Bylaws. The Owners may transact other business as may properly come before them at these meetings.

### **3.3 Budget Meeting**

Meetings of the Owners to consider budgets proposed by the Executive Board shall be called in accordance with the Act. Specifically, Section 303(4) of the Act, as amended from time to time, provides, in part: Within ninety days after adoption of any proposed budget for the common interest community, the Executive Board shall mail, by ordinary first-class mail, or otherwise deliver a summary of the budget to all the unit owners and shall set a date for a meeting of the unit owners to consider the budget. Such meeting shall occur not less than fourteen (14) nor more than sixty (60) days after mailing or other delivery of the summary.

The Executive Board shall give notice to the unit owners of the meeting as allowed for in the bylaws. Unless the declaration provides otherwise, the budget proposed by the Executive Board does not require approval from the unit owners and it will be deemed approved by the unit owners in the absence of a veto at the noticed meeting by a majority of all unit owners...whether or not a quorum is present. In the event that the proposed budget is vetoed, the periodic budget last proposed by the Executive Board and not vetoed by the unit owners must be continued until a subsequent budget proposed by the Executive Board is not vetoed by the unit owners.

The budget may be considered at Annual or Special Meetings called for other purposes as well.

### **3.4 Special Meetings**

Special Meetings of the Association may be called by the President, by a majority of the members of the Board, or by Owners comprising twenty percent (20%) of the votes in the Association, or any lower percentage of the votes in the Association specified in the Bylaws.

### **3.5 Place of Meetings**

Meetings of the Owners shall be held at the Project or may be adjourned to a suitable place convenient to the Owners, as may be designated by the Board or the President.

### **3.6 Notice of Meetings; Posting**

Not less than ten (10) nor more than fifty (50) days in advance of any meeting of the Unit Owners, the Secretary or other officer specified in the Bylaws shall cause notice to be hand delivered or sent prepaid by United States mail to the mailing address of each Unit or to any other mailing address designated in writing by the Unit Owner.

The notice of any meeting shall be physically posted in a conspicuous place, to the extent that such posting is feasible and practicable, in addition to any electronic posting or electronic mail notices that may be given as provided in the Association Documents or Act.

The Association is encouraged to provide all notices and agendas required by this article in electronic form, by posting on a web site or otherwise, in addition to printed form. Therefore, if such electronic means are available, the Association shall also provide notice of all regular and special Meetings of Unit Owners by electronic mail to all Unit Owners who so request and who furnish the Association with their electronic mail addresses. Electronic notice of a special meeting shall be given as soon as possible but at least twenty-four hours before the Meeting, although the failure to deliver that electronic notice shall not constitute an objectionable failure of the requirements hereunder so long as the other notice requirements are satisfied.

The notice shall state the time and place of the Meeting and the items on the agenda, including the general nature of any proposed amendment to the Declaration or Bylaws, any budget changes, and any proposal to remove an officer or Member of the Executive Board.

### **3.7 Waiver of Notice**

Any Owner may, at any time, waive notice of any meeting of the Owners in writing, and the waiver shall be deemed equivalent to the receipt of notice.

### **3.8 Adjournment of Meeting**

At any meeting of Owners, a majority of the Owners who are present at that meeting, either in person or by proxy, may adjourn the meeting to another time.

### **3.9 Conduct; Open Attendance at Meetings of the Owners of the Association**

All meetings of the Association and Board of Directors are open to every Unit Owner of the Association, or to any person designated by a Unit Owner in writing as the Unit Owner's representative. At an appropriate time determined by the Board, but before the Board votes on an issue under discussion, unit owners or their designated representative shall be permitted to speak regarding that issue. The Board may place reasonable time restrictions on those persons speaking during the Meeting. If more than one person desires to address an issue and there are opposing views, the Board shall provide for a reasonable number of persons to speak on each side of the issue.

### **3.10 Order of Business**

The order of business at all meetings of the Owners shall be as follows:

- (a) Roll call (check-in procedure);
- (b) Proof of notice of meeting;
- (c) Reading of minutes from preceding meeting;
- (d) Reports of individual Directors;
- (e) Establish number and term of Board memberships (if required and noticed);
- (f) Appointment of persons to take and count votes;
- (g) Election of Board of Directors (when required);
- (h) Ratification of Budget (if required and noticed);
- (i) Unfinished business from prior meetings; and
- (j) New Business

### **3.11 Voting; Proxies**

- (a) If only one of several owners of a Unit is present at a meeting of the Association, the Owner present is entitled to cast the vote allocated to that Unit. If more than one of the Owners is present, the vote allocated to that Unit may be cast only in accordance with the agreement of a majority in interest of the Owners. There is a majority agreement if any one of the Owners casts the vote allocated to the Unit without protest being made promptly to the person presiding over the meeting by another Owner of the Unit. If the Owners cannot agree on how to cast their vote by the time of the vote on the issue, they may elect to not submit a vote, but shall still be counted as present for purposes of a quorum, and shall not impair the right of the Association to act.
- (b) The vote allocated to a Unit may be cast under a proxy duly elected by an Owner. If a Unit is owned by more than one person, each Owner of the Unit may vote or register protest to the casting of votes by the other Owners of the Unit through a duly elected proxy. An Owner may revoke a proxy given under this section only by actual notice of revocation to the person presiding over the meeting of the Association. A proxy is void if it is not dated or purports to be revocable without notice. A proxy terminates eleven months after its effective date, unless it specifies a shorter term. A proxy shall not be valid if obtained through fraud or misrepresentation. Except as provided, appointment of proxies may be made substantially as provided in C.R.S. 7-127-203.
- (c) Action by Written Ballot. Unless otherwise provided by the Association Documents, any action which may be taken at any annual, regular or special meeting of the members may be taken without a meeting if the nonprofit corporation delivers a written ballot to every member entitled to vote on the matter. In accordance with Section 109 of the Colorado Revised Nonprofit Corporation Act, a written ballot shall: (1) set forth each proposed action; and (2) provide an opportunity to vote for or against each proposed action. For an action by written ballot to be valid, the number of votes submitted by ballot must meet or exceed the quorum required to be present at a meeting. All solicitations for votes by ballot shall: (1) indicate the number of responses required to meet quorum requirements; (2) state the percentage of approval necessary

to approve each matter (other than election of the directors); (3) specify the time by which said ballot must be received by the Association to be counted; and (4) be accompanied by sufficient written information to permit each person casting such ballot to reach an informed decision on the matter.

- (d) The vote of a corporation or business trust may be cast by any officer of that corporation or business trust in the absence of express notice of the designation of a specific person by the Board or Bylaws of the owning corporation or business trust. The vote of a partnership may be cast by any general partner of the owning partnership in the absence of express notice of the designation of a specific person by the owning partnership. The vote of a limited liability company may be cast by any manager of the owning limited liability company. The moderator of the meeting may require reasonable evidence that a person voting on behalf of a corporation, partnership, business trust or limited liability company is qualified to vote.
- (e) Votes allocated to a Unit owned by the Association may not be cast.
- (f) The Association is entitled to reject a vote, consent, written ballot, waiver, proxy appointment, or proxy appointment revocation if the secretary or other officer or agent authorized to tabulate votes, acting in good faith, has reasonable basis for doubt about the validity of the signature on it or about the signatory's authority to sign for the Unit Owner. Moreover, the Association and its officer or agent who accepts or rejects a vote, consent, written ballot, waiver, proxy appointment, or proxy appointment revocation in good faith and in accordance with the standards of this section are not liable in damages for the consequences of the acceptance or rejection.
- (g) Any action of the association based on the acceptance or rejection of a vote, consent, written ballot, waiver, proxy appointment, or proxy appointment revocation under this section is valid unless a court of competent jurisdiction determines otherwise.

### **3.12 Quorum**

Except as otherwise provided in these Bylaws or in the Declaration, Owners present in person or by proxy at any meeting of Owners holding a majority of the votes in the Association shall constitute a quorum at that meeting.

### **3.13 Majority Vote**

Except where a higher percentage vote is required in the Declaration, these Bylaws, or the laws of the State of Colorado, the vote of Owners holding a majority of the votes present in person or by proxy at a meeting at which a quorum shall be present shall be binding upon all Owners for all purposes.

## **ARTICLE IV OFFICERS**

### **4.1 Designation**

The principal officers of the Association shall be the President, the Secretary and the Treasurer, all of whom shall be elected by the Board. The Board may appoint an assistant treasurer, assistant secretary, and any other officers or members-at-large as it finds necessary. The President and Vice President, if any –but no other officers- need to be Directors. Any two offices may be held by the same person, except the offices of President and Secretary. The office of Vice President may be vacant.

### **4.2 Election of Officers**

The Officers of the Association shall be elected annually by the Board at the organizational meeting of each new Board following the Annual Meeting. They shall hold office at the pleasure of the Board for annual terms.

#### **4.3 Removal of Officers**

Upon the affirmative vote of a majority of the Directors any officer may be removed, with or without cause shown. A successor may be elected at any regular meeting of the Board or at any special meeting of the Board called for that purpose.

#### **4.4 President**

The President shall be the chief executive officer of the Association. The President shall preside over all meetings of the Owners and of the Board. The President shall have all of the general powers and duties which are incident to the office of president of a nonprofit corporation organized and existing under the laws of the State of Colorado, including, but not limited to the power to appoint committees from among the Owners, and others as permitted in the declaration, from time to time as the President may decide is appropriate to assist in the conduct of the affairs of the Association. The President may fulfill the role of Treasurer in the absence of the Treasurer. The President may cause to be prepared and may execute instruments duly approved, as well as amendments, attested to by the Secretary, to the Declaration and these Bylaws on behalf of the Association, following authorization or approval of the particular amendment, as applicable.

#### **4.5 Vice President**

The Vice President shall take the place of the President and perform the President's duties whenever the President is absent or unable to act. If neither the President nor the Vice President is able to act, the Board shall appoint some other director to act in the place of the President on an interim basis. The Vice President shall also perform the other duties imposed by the Board or by the President. The office of vice president may be vacant.

#### **4.6 Secretary**

The Secretary shall keep the minutes of all the meetings of the Owners and the Board. The Secretary shall have charge of the Association's books and papers as the Board may direct and shall perform all the duties incident to the office Secretary of a nonprofit corporation organized under the laws of the State of Colorado. The Secretary may cause to be prepared and may attest to execution by the President of amendments to the Declaration and the Bylaws on behalf of the Association, following authorization or approval of the particular amendment as applicable.

#### **4.7 Treasurer**

The Treasurer shall be responsible for Association funds and securities, for keeping full and accurate financial records and books of account showing all receipts and disbursements and for the preparation of all required financial data as required hereunder and under the Act. This officer shall be responsible for the deposit of all monies and other valuable effects in depositories designated by the Board and shall perform all the duties incident to the office of treasurer of a nonprofit corporation organized under the laws of the State of Colorado. The Treasurer may endorse on behalf of the Association, for collection only, checks, notes and other obligations and shall deposit the same and all monies in the name of and to the credit of the Association in banks designated by the Board. Except for reserve funds described below, the Treasurer may have custody of and shall have the power to endorse for transfer, on behalf of the Association, stock, securities or other investment instruments owned or controlled by the Association or as fiduciary for others. Reserve funds of the Association shall be deposited in segregated accounts or in prudent investments, as provided in Section 8.6 below. Funds may be withdrawn from these reserves for the purposes for which they were deposited, by check or order, authorized by the Treasurer, and executed by the directors, one of whom may be the Treasurer if the Treasurer is also a director.

#### **4.8 Agreements, Contracts, Deeds, Checks, etc.**

Except as otherwise provided in these bylaws, all agreements, contracts, deeds, leases, checks and other instruments of the Association shall be executed by any Officer of the Association or by any other person or persons so designated by the Board.

#### **4.9 Statements of Unpaid Assessments**

The Treasurer, assistant treasurer, a Manager employed by the Association or, in their absence, any Officer having access to the books and records of the Association may prepare, certify and execute statements of unpaid assessments, in accordance with Section 316 of the Act.

The Association may charge a reasonable fee for preparing statements of unpaid assessments. The amount of this fee and the time of payment shall be established by resolution of the Board. Any unpaid fees may be assessed as a Common Expense against the Unit for which the certificate or statement is furnished.

### **ARTICLE V ENFORCEMENT**

In addition to the fines and procedures set forth the polices of the Association the violation of any of the Rules and Regulations adopted by the Board or the breach of any provisions of the Association Documents, shall give the Board the right in case of an emergency that threatens damage to person, property or another Unit or Common Element, in addition to any other rights set forth in these Bylaws and the Declaration: to enter the Unit or Limited Common Element in which, or as to which, the violation or breach exists and to summarily abate and remove, at the expense of the defaulting owner, any structure, thing or condition (except for additions or alterations of a permanent nature that may exist in that Unit) that is existing and creating a danger to the Common Elements or another Unit contrary to the intent and meaning of the provisions of the Association Documents. The Board shall not be deemed liable for any manner of trespass by this action.

### **ARTICLE VI INDEMNIFICATION**

The Directors and Officers of the Association shall have the liabilities, and be entitled to indemnification, as provided in the Colorado Revised Nonprofit Corporation Act and the Articles of Incorporation of the Association, the provisions of which are incorporated by reference and made a part of these Bylaws.

### **ARTICLE VII RECORDS**

#### **7.1 Records, Audits & Reviews**

The Association shall maintain financial records and the documents required herein, to be kept somewhere about the Project, with a digital or disc backup copy stored off-site, if possible. Unless a signed original instrument is required, any required document may be kept in digital or disc form. The cost of any audit shall be a Common Expense unless otherwise provided in the Association Documents, but not to exceed the actual cost incurred.

At the discretion of the Board or upon request of at least one-third of the Units represented by the Association the books and records of the Association shall be subject to a REVIEW using statements on standards for accounting and review services, by an independent, qualified person selected by the Board. Such person need not be a certified public accountant except in the case of an audit, but the person selected to conduct a review shall nevertheless have at least a basic understanding of the principals of accounting as a result of prior business experience, education above the high school level or a bona fide home study. An AUDIT using generally accepted accounting standards, as compared to a review, of the books, records and financial statements of the Association shall only be required upon the discretion of the Board or under those circumstances

enumerated under C.R.S. 38-33.3-303, as may be amended from time to time. The audit or review shall cover the Association's financial statements, which shall be prepared using generally accepted accounting principals or the cash or tax basis of accounting.

## **7.2 Examination; Form; Limitation of Access**

- (a) The Association or its managing agent, if any, shall make reasonably available for review and copying to Owners, their insurers, guarantors, mortgagees and duly authorized agents and attorneys for inspection and copying, those documents required under the Act, the Declaration and these Bylaws as further set forth in the Act and below. As used in this section, "reasonably available" means available during normal business hours, upon notice of five business days or at the next regularly scheduled meeting if within thirty days, to the extent that: (a) The request is made in good faith and for a proper purpose; (b) The request describes with reasonable particularity the records sought and the purpose of the request; and (c) The records are relevant to the purpose of the request. No records or membership lists may be obtained, reviewed, used by any person for any purpose unrelated to a Unit Owner's interest as a Unit Owner without the consent of the Executive Board. Similarly, without limiting the generality of the preceding sentence, unless consented to by the Board, no records or membership lists may be obtained, reviewed, used or copied: (i) to solicit money or property unless such money or property will be used solely to solicit the votes of the Unit Owners in an election to be held by the association; (ii) for any commercial purpose; (iii) to be sold or purchased by any person.
- (b) The Association shall maintain its records in written form or in another form capable of conversion into written form within a reasonable time. The Association may charge a reasonable fee, which may be collected in advance, for copying such materials not to exceed its actual cost per page incurred. To the extent permitted by law, the Association may also charge a reasonable transfer fee to compensate for the time spent by persons in responding to such requests for documentation or information. The Association shall also supply those documents to Owners that they are required under the Act to deliver as sellers to purchasers of their Units.
- (c) Regardless of any provision herein, this section shall not be construed to affect: the right of a Unit Owner to inspect records: (i) under corporation statutes governing the inspection of lists of shareholders or members prior to an annual meeting; or (ii) if the Unit Owner is in litigation with the Association to the same extent as any other litigant; or the power of a court, independently of this article, to compel the production of Association records for examination on proof by a Unit Owner of proper purpose; nor shall this section shall not be construed to invalidate any provision of the Declaration, Bylaws, the corporate law under which the Association is organized, or other Association Documents or instruments that more broadly defines records of the Association that are subject to inspection and copying by Unit Owners, or that grants Unit Owners freer access to such records except that the privacy provisions above shall supersede any such provision.

## **7.3 Records**

**7.3.1** The Association shall keep the following records, in addition to those required under the Act, Section 7.4 below and other Association Documents:

- (a) Detailed records of receipts and expenditures affecting the operation and administration of the Association;
- (b) Records of claims for construction defects and amounts received pursuant to settlement of those claims;
- (c) Minutes of all meetings of its unit Owners and Executive Board, a record of all actions taken by the Unit Owners or Executive Board without a meeting, and a record of all actions taken by any committee of the Executive Board;

- (d) Written communications among, and the votes cast by, Executive Board members that are:
- (i) Directly related to an action taken by the Board without a meeting pursuant to C.R.S. § 7-128-202; or
  - (ii) Directly related to an action taken by the Board without a meeting pursuant to the Association's bylaws;
- (e) The names of Unit Owners in a form that permits preparation of a list of the names of all Unit Owners and the physical mailing addresses at which the Association communicates with them, showing the number of votes each Unit Owner is entitled to vote.
- (f) Its current Declaration, covenants, Bylaws, Articles of Incorporation, if it is a corporation, or the corresponding organizational documents if it is another form of entity, rules and regulations, responsible governance policies adopted pursuant to C.R.S. § 38-33.3-209.5, and other policies adopted by the Executive Board;
- (g) Financial statements as described in C.R.S. § 7-136-106 for the past three years and tax returns of the Association for the past seven years, to the extent available;
- (h) A list of the names, electronic mail addresses, and physical mailing addresses of its current Executive Board members and officers;
- (i) Its most recent annual report delivered to the Secretary of State, if any;
- (j) Financial records sufficiently detailed to enable the Association to comply with C.R.S. § 38-33.3-316 (8) concerning statements of unpaid Assessments;
- (k) The Association's most recent reserve study, if any;
- (l) Current written contracts to which the Association is a party and contracts for work performed for the Association within the immediately preceding two years;
- (m) Records of Executive Board or committee actions to approve or deny any requests for design or architectural approval from Unit Owners;
- (n) Ballots, proxies, and other records related to voting by Unit Owners for one year after the election, action, or vote to which they relate;
- (o) Resolutions adopted by the Board of Directors relating to the characteristics, qualifications, rights, limitations, and obligations of members or any class or category of members; and
- (p) All written communications within the past three years to all Unit Owners generally as Unit Owners.

### **7.3.2 Exclusions.**

- (a) Records maintained by an Association MAY BE withheld from inspection and copying to the extent that they are or concern:
- (i) Architectural drawings, plans, and designs, unless released upon the written consent of the legal owner of the drawings, plans, or designs;
  - (ii) Contracts, leases, bids, or records related to transactions to purchase or provide goods or services that are currently in or under negotiation;

- (iii) Communications with legal counsel that are otherwise protected by the attorney-client privilege or the attorney work product doctrine;
- (iv) Disclosure of information in violation of law;
- (v) Records of an executive session of an Executive Board;
- (vi) Individual Units other than those of the requesting Owner; or

(b) Records maintained by an association are not subject to inspection and copying, and MUST BE withheld, to the extent that they are or concern:

- (i) Personnel, salary, or medical records relating to specific individuals; or
- (ii) Personal identification and account information of members, including bank account information, telephone numbers, electronic mail addresses, driver's license numbers, and social security numbers.

#### **7.4 Annual Disclosure; Post Transfer, Fiscal Year-End Disclosure**

- (a) Within ninety (90) days after assuming control from the Declarant pursuant to the Act, the Association shall make the following information available to Unit Owners upon reasonable notice in accordance with subsection (c) below. In addition, if the Association's designated agent or management company changes, the Association shall make updated information available within ninety (90) days after the change: the name of the Association; the name of the Association's designated agent or management company, if any, together with the agent's or management company's license number if the agent or management company is subject to licensure under Colorado law; a valid physical address and telephone number for both the Association and the designated agent or management company, if any; the name of the common interest community; the initial date of recording of the Declaration, and the reception number or book and page for the main document that constitutes the Declaration.
- (b) Post Transfer, Fiscal Year-End Disclosure. Within ninety (90) days after assuming control from the Declarant pursuant to the Act, and within ninety (90) days after the end of each fiscal year thereafter, the Association shall make the following information available to Unit Owners upon reasonable advance notice:
  1. the date on which its fiscal year commences;
  2. its operating budget for the current fiscal year;
  3. a list, by unit type, of the Association's current assessments, including both regular and special assessments;
  4. its annual financial statements, including any amounts held in reserve for the fiscal year immediately preceding the current annual disclosure;
  5. the results of its most recent available financial audit or review;
  6. a list of all Association insurance policies, including, but not limited to, property, general liability, association director and officer professional liability, and fidelity policies, if any. Such list shall include the company names, policy limits, policy deductibles, additional named insureds, and expiration dates of the policies listed.
  7. all the Association's Bylaws, Articles, and Rules and Regulations, if any;

8. the minutes of the Executive Board and member meetings for the fiscal year immediately preceding the current annual disclosure; and

9. the Association's responsible governance policies adopted under section 38-33.3-209.5 of the Act and the Declaration.

- (c) Form of Disclosure. As further provided in the Policy required to be adopted under the Act, the Disclosure required in subsections (a) and (b) above shall be accomplished by one of the following means: posting on an internet web page, if any established for the Association, with accompanying notice of the web address via first-class mail or e-mail; the maintenance of a literature table or binder at the Association's principal place of business; or mail or personal delivery, the cost of such distribution shall be accounted for as a common expense liability, but not to exceed the actual cost therefor.

## **ARTICLE VIII MISCELLANEOUS**

### **8.1 Notices**

All notices to the Association or the Board shall be delivered to the office of the Manager or, if there is no Manager, to the office of the Association, or to such other address as the Board may designate by written notice to all Owners and to all holders of security interests in the Units who have notified the Association that they hold a security interest in a Unit. Except as otherwise provided herein or in the Declaration, all notices to any Owner shall be sent to the Owner's address as it appears in the records of the Association. All notices to holders of security interests in the Units shall be sent, except where a different manner of notice is specified elsewhere in the Association Documents, by registered or certified mail to their respective addresses, as designated by them in writing to the Association. All notices shall be deemed to have been given when received.

### **8.2 Fiscal Year**

The Board shall establish the fiscal year of the Association.

### **8.3 Waiver**

No restriction, condition, obligation or provision contained in these Bylaws shall be deemed to have been abrogated or waived by reason of any failure to enforce same, irrespective of the number of violations or breaches which may occur.

### **8.4 Office**

The principal office of the Association shall be on the Property or at such other place as the Board may from time to time designate.

### **8.5 Working Capital**

The Association shall establish an initial working capital fund equal to three-twelfths (3/12) of the estimated Annual Assessments for Common Expenses for each Unit subject to the terms of the Declaration. The working capital fund may be used by the Association for emergencies, insurance deductibles in the event of casualty or other loss, capital expenditures for repair or replacement of Common Elements, and such other expenses which do not occur on a regular and ongoing basis, as may be determined by a majority of the Board. The initial working capital fund shall be established and Annual Assessments shall commence upon the conveyance of the first Unit in the project by Declarant to a third-party purchaser. Thereafter, Annual Assessments and the capital account shall be established in accordance with the provisions of the Declaration. Upon acquisition of record title to a Unit from Declarant, each new Owner shall contribute to the working

capital fund of the Association and amount equal to three-twelfths (3/12) of the Annual Assessment determined by the Board for that Unit for the year in which the new owner acquired title. Such payments shall not be considered advance payments of Annual Assessments. The working capital fund deposit made by Owners shall be non-refundable from the Association and Owners shall be entitled to seek reimbursement for same from subsequent purchasers. The Owner's contribution to the Association's working capital fund must be maintained by the Association in a segregated account, and may not be used by the Declarant to defray any of its expenses, reserve contributions or construction costs.

## **8.6 Reserves; Investment**

As further provided in the policy required to be adopted under the Act, as a part of the adoption of the regular budget, the Board may include an amount which, in its reasonable business judgment, will establish and maintain an adequate reserve fund for the replacement of improvements to the Common Elements and those Limited Common Elements that it is obligated to maintain, based upon the project's age, remaining life and the quantity and replacement cost of major Common Element improvements. With regard to the investment of reserve funds, the Directors and Officers of the Board shall be subject to the standards set forth in C.R.S. 7-128-401, as amended from time to time; except that, as used in that Section, Corporation or Nonprofit Corporation shall mean the Association; Director means a member of the Executive Board of the Association; and Officer means any person designated as an Officer of the Association and by any person to whom the Board delegates responsibilities under the Act, including, without limitation, a managing agent, attorney or accountant employed by the Board. Specifically, the officers and Members of the Board shall make investment decisions in good faith with the care an ordinarily prudent person in a like position would exercise under similar circumstances, and in a manner the Director or officer reasonably believes to be in the best interest of the Association in accordance with the Colorado Revised Nonprofit Corporation Act.

## **8.7 Conflicts in Association Documents**

In the case of any conflict between these Bylaws, the Articles of Incorporation, the Declaration and any other duly approved Association Document, the priority for resolving the inconsistency shall be ordered as follows: The Declaration shall control, then the Articles, then the Bylaws, then any other duly approved corporation document BUT ONLY TO THE EXTENT the instrument attempts to directly invalidate the express language of the priority instrument as opposed to merely addressing the exercise of a permissible right.

### **ARTICLE IX AMENDMENT TO BY-LAWS**

- 9.1 The Bylaws may be amended only by vote of two-thirds of the Members of the Association, following notice and comment to all Owners, at any meeting duly called for that purpose.
- 9.2 No amendment of the Bylaws of this Association shall be adopted which would affect or impair the validity or priority of any mortgage covering any Unit or which would change the provisions of the Bylaws with respect to institutional mortgagees of record.
- 9.3 Notwithstanding the foregoing, amendments to these Bylaws are subject to the provisions of the Articles of Incorporation of the Association, the Declaration and the laws of the State of Colorado. In the event of any conflict, the Articles and Declaration shall govern; and certain amendments require the consent of the Declarant as provided therein.

**ATTEST:** Certified to be the Bylaws adopted by consent of the directors of THE TIMBERS OWNERS ASSOCIATION, INC., dated April 11, 2016.



Secretary

# Signature Certificate

 Document Reference: PP9LPNIPA3YVLFCAHEITH7

**RightSignature**  
Easy Online Document Signing



Mark Reynolds  
Party ID: CXASDLJTD4CRTFDZKCTB88  
IP Address: 174.51.102.144  
**VERIFIED EMAIL:** mark@bluelineprop.com

Electronic Signature:

Multi-Factor  
Digital Fingerprint Checksum

ebe15a708bb9baa5cf90ac701a854e01d2110965



## Timestamp

2016-05-06 09:41:13 -0700  
  
2016-05-06 09:41:12 -0700  
  
2016-05-06 09:39:11 -0700  
  
2016-05-05 18:13:30 -0700

## Audit

All parties have signed document. Signed copies sent to: Mark Reynolds and Morgan Reynolds.  
Document signed by Mark Reynolds (mark@bluelineprop.com) with drawn signature. - 174.51.102.144  
Document viewed by Mark Reynolds (mark@bluelineprop.com). - 174.51.102.144  
Document created by Morgan Reynolds (morgan@bluelineprop.com). - 71.211.243.231



This signature page provides a record of the online activity executing this contract.