

**BYLAWS  
OF  
ELCHO IV TOWNHOMES ASSOCIATION  
A Colorado Nonprofit Corporation**

**ARTICLE I  
NAME AND LOCATION**

The name of the corporation (“Corporation”) is Elcho IV Townhomes Association (the “Association”). The principal office of the Association shall be located in Gunnison County, Colorado. Meetings of Members and the Board of Directors (the “Board”) may be held at such places within the State of Colorado as may be designated by the Board as most convenient to promote attendance for the Members and the Board. The Association is a nonprofit corporation governed under the laws of the State of Colorado.

**ARTICLE II  
PURPOSES, MUTUAL BENEFIT, AND RESPONSIBILITIES**

**Section 1. GENERAL PURPOSE.** The general purpose for which the Association is formed is to govern the L.C.E. and Common Elements (hereinafter “C.E.” or “G.C.E.”) for the Property. The owner of Unit 1 hereby has the exclusive right to use the L.C.E. for Unit 1 as shown on the Plat. The owner of Unit 2 hereby has the exclusive right to use the L.C.E. for Unit 2 as shown on the Plat. The owner of Unit 3 hereby has the exclusive right to use the L.C.E. for Unit 3 as shown on the Plat. The owner of Unit 4 hereby has the exclusive right to use the L.C.E. for Unit 4 as shown on the Plat. Until such time as Unit 1 and Unit 2 are properly created pursuant to the developer’s reserved rights, all L.C.E. appurtenant to those Units shall be treated as general common elements.

**Section 2. SPECIFIC PURPOSES.** The purposes and business of the Corporation shall include:

- (a) Protection, operation, maintenance, and improvement of the common elements within the Property;
- (b) Acquisition, construction, management, maintenance, and care of the Association properties, including land, structures, systems and equipment, for the common benefit of the Association and the Members;
- (c) Establishment of assessments, dues, and fees, and their collection from Members and others who use, or have the right to use, any or all of the facilities and properties owned

and/or operated by the Association;

(d) Obtaining insurance of such types, in such amounts and with such reputable companies as the Board, in its sole discretion, deems necessary or desirable for the protection of the Association, of persons acting for, or on behalf of, the Association, and of the common properties and/or other properties in which the Association has an insurable interest; and

(e) Engaging in such other activities as may be of common benefit to the Members.

### **ARTICLE III** **AUTHORITY TO ACT**

#### **Section 1. POWERS RESERVED SOLELY TO THE MEMBERS:**

(a) To amend, restate, or repeal these Bylaws as set forth in Article XII;

(b) To elect persons to the Board except where interim vacancies occur, pursuant to Article V;

(c) To approve or reject the annual budget of the Association in total as recommended by the Board at any annual or special meeting of the Members;

(d) To approve any assessment or assessments of the Members as a whole; and

(e) All other powers provided for in these Bylaws and otherwise not delegated to the Board.

#### **Section 2. POWERS SPECIFICALLY DELEGATED TO THE BOARD:**

(a) To appoint and remove from office any property manager or officer of the Corporation; to employ and terminate employees and agents of the Association; to prescribe duties and requirements, including bonding requirements, of employees and agents, to fix their compensation, and to supervise them; in its discretion to delegate day-to-day operating responsibility to agents or employees of the Association; to manage and operate the business of the Association and to establish its own administrative and operating policies, except as otherwise specifically reserved to the vote of the Members in these Bylaws, and subject to the approved annual budget.

(b) To establish an annual budget of expenditures intended to carry out the purpose and business of the Association or called for in a special assessment and to meet the Association's operating and administrative requirements or for doing any other thing necessary or desirable, in the judgment of the Board, to keep the common properties in good order and to eliminate health hazards to persons and safety hazards to both persons and properties, or which, in the judgment

of the Board, may be of general benefit to the Members. A special assessment may be used only for the specific purpose for which it was imposed. The expenditures budget in any fiscal year shall not exceed the total income from: (1) maintenance and service fees and other income, including special assessments designated for specific projects; (2) expense reimbursements budgeted for that year; and (3) previously collected funds designated for future special or general purposes.

(c) To enter into leases and contracts and to purchase and sell services, supplies and equipment needed for operations of the Association that do not exceed a total expenditure of \$5,000.

(d) To borrow for a period of up to one (1) year an amount not to exceed \$5,000 and to allocate and invest funds as, in its discretion, the Board finds needed for fiscal operations and emergencies.

(e) To settle any dispute, claim, or lawsuit up to an amount of \$5,000, to include attorneys' fees incurred by the Association in connection with such dispute, claim, or lawsuit.

(f) To prepare a budget and to publish an annual balance sheet, income and expense statement, and other financial reports and to levy assessments and other fees.

(g) To accept title to property which involves roads, bridges, parking facilities, rights-of-way, drainage systems, or which results from the actions taken by the Association in order to secure the payment of delinquent maintenance, service, and usage fees, and special assessments. To purchase, mortgage, sell and convey title to property for those same purposes up to an amount of \$5,000. All deeds and other documents affecting any real property owned by the Association, and which require formal corporate execution shall be executed and acknowledged in the name of the Association by the President and Treasurer, and the Association's seal shall be affixed thereto.

(h) To employ qualified and experienced attorneys, accountants, engineers, and consultants necessary to conduct the Association's business and to participate in proceedings in courts of law and before public agencies as needed to protect and advance the Association's business. The Board should execute written engagement agreements and contracts with such third parties that contain reasonable terms and also must comply with the dollar requirements of Section 2(c), unless Member approval is procured.

(i) To fill Board vacancies within thirty (30) days by appointing a new director to serve until the next Member's meeting, at which time the Members shall elect a director to serve for the remainder of the unexpired term of the Director whose departure created the vacancy.

(j) To adopt, publish, and enforce regulations for the common benefit of governing Members in the Association, their employees, agents, invitees, tenants, guests, permittees and other authorized personnel, and others using the facilities and properties owned and/or operated

by the Association. Such regulations are designed to govern personal conduct as it may affect the quality of life in the Association, use of the streets, roads, easements, and other common property as well as administration and enforcement of applicable protective covenants and restrictions pertaining to the construction, use and occupancy of the Property. The Board also shall have the authority to levy special fees and impose monetary and other sanctions for the violation of the regulations adopted by the Board.

(k) Any action that the Board may desire to take but exceeds the monetary restraints imposed upon the Board, shall require the approval of a majority of the Members.

(l) To engage in such other activities, and to take such timely action as the Board considers necessary under the circumstances, for the common benefit of Members in the Association, as well as to carry out such specific projects and studies for which funds have been provided in accordance with these Bylaws.

(m) Commencing and maintaining, in its own name, on its own behalf, or in the names and on behalf of Members who consent thereto, suits and actions to restrain and enjoin any breach or threatened breach of the Bylaws or Covenants.

(n) Exercising any and all powers granted to the Association by the Colorado Revised Nonprofit Corporation Act.

(o) Exercising any other power permissible under applicable Colorado law.

#### **ARTICLE IV**

#### **MEMBERS AND MEETINGS OF MEMBERS**

**Section 1. ANNUAL MEETINGS.** The annual meeting of the Members shall be held at such date, time, and place as may be determined by the Board. The Board shall actively seek input from the Members as to a date that promotes the largest attendance by Members and not necessarily on the date that the current members of the Board may be physically located in Gunnison County, Colorado because of their personal plans, interests, or business endeavors.

**Section 2. SPECIAL MEETINGS.** Special meetings of the Members may be called at any time by the President, by a majority of the Board, or upon written request of at least one (1) Member.

**Section 3. NOTICE OF MEETINGS.** Written notice of all meetings of the Members shall be given by, or at the direction of the Secretary or person authorized to call the meeting by mailing a copy of such notice, postage prepaid, at least ten (10) days, and no more than fifty (50) days, before such meeting to each Member entitled to vote, addressed to the Member's mailing address as designated in writing by such Member to the Association. Such notice shall specify the place, day, and hour of the meeting and the items on the agenda, including but not limited to, the general nature of any proposed amendments to the Articles or these Bylaws, any changes to the

budget, and any proposal to remove an officer or Director. Any Member shall have a right to request an agenda item for a meeting of the Members upon ten (10) days notice to the Board. Attendance at a meeting without raising an objection to the notice provided for the meeting waives any right to later object or claim any deficiency of notice provided, if any. If no members object to the notice at the meeting, the notice shall be deemed proper.

**Section 4. QUORUM.** The presence at the meeting of all of the Members in person, or represented by proxy, shall constitute a quorum for any action. Members shall be allowed to be counted for both quorum purposes and voting purposes if they attend and participate in any meeting by telephonic or electronic means as set forth in Section 7 below. A quorum shall be deemed present throughout the meeting if a quorum is present at the beginning of such meeting. If, however, such quorum shall not be present, represented at any meeting or by telephonic or electronic means, the Members entitled to vote thereat shall have the power to adjourn the meeting from time to time, without notice other than at the meeting, until a quorum as aforesaid shall be present or be represented.

**Section 5. MEMBER ACTION BY WRITTEN BALLOT.** The Members may act on any matter that may be taken at any meeting of the Members without a meeting if the Corporation delivers a written ballot to every Member entitled to vote. Every written ballot shall set forth each proposed action; and provide for an opportunity to vote for or against each proposed action. Approval by written ballot shall be valid only when the number of votes cast by written ballot exceeds the quorum required to be present at a meeting authorizing the action and the number of approvals equals or exceeds the number of votes required to approve the matter at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot. All voting by ballot shall conform with C.R.S. § 7-127-201 including any amendments thereto.

**Section 6. VOTING RIGHTS.** Every Owner of a Unit, upon acceptance of legal title, must be a Member of the Association and remain a Member for the period of his or her ownership of a Unit. Each Member is entitled to one (1) vote for each Unit owned, so long as the Member is in good standing with the Association by fully paying all proper assessments levied on the Member by the Association. There shall be a total of four (4) votes available to be cast, upon the proper creation of Unit 1 and Unit 2, by all Members of the Association and it is recognized that one (1) Member may be able to cast more than one (1) vote. Thus, the total number of Members of the Association may be less than the total number of votes because some Members may own more than one (1) Unit. When one (1) or more persons hold an interest in the same Unit, all such Members shall be Members and the vote for such Unit shall be cast as the Members thereof agree. If the Members of a Unit do not agree as to the manner in which their vote should be cast when called upon to vote, they will be treated as having abstained. Membership in the Association shall terminate without any formal corporate action whenever such person ceases to own a Unit, but such termination shall not relieve or release any such former Member from any liability or obligation incurred under, or in any way connected with, the Association during the period of such ownership and membership in this Corporation, or impair any rights or remedies which the Association may have against such former Member arising out of, or in any way connected with, such ownership and the covenants and obligations incident thereto.

**Section 7. TELEPHONIC, VIDEO CONFERENCE AND ELECTRONIC PAR’FICIPATION.** Pursuant to Section 7-127-108 of the Colorado Revised Nonprofit Statutes, all Members may participate, vote, and be counted for the establishment of a quorum in any meeting of the Members through telephonic, video conference, or other electronic means by which all persons participating in the meeting may hear each other and respond to each other during the meeting. A common example of such participation would be a set conference call among the Members simultaneous with the meeting where some Members may be present. A Member participating in a meeting of the Members by this means is deemed to be “present” in person at the meeting for quorum, discussion, and voting purposes.

**Section 8. VOTING OF PROXIES.** At any meeting of the Members, a Member may vote by proxy executed in writing by the Member or by his or her duly authorized attorney in fact. Such proxy shall be filed with the Secretary or Treasurer of the Corporation before, or at the time of, the meeting. No proxy shall be valid after eleven (11) months from the date of its execution unless otherwise provided for in the proxy.

**Section 9. BINDING NATURE OF VOTE.** Except where otherwise provided in the Articles, Bylaws, or Covenants, a simple majority vote of the Members of the Association attending an Association meeting at which a quorum is deemed to be present shall be sufficient to adopt decisions and approve matters which are binding on all Members to the limitations and requirements set forth in the Covenants.

**Section 10. MEMBER DEFINED.** A “Member” shall be a person or entity that owns a Unit. A Member shall only be counted once to establish a quorum regardless of the number of Units a Member may own. A Member who owns more than one (1) Unit shall have one (1) vote per Unit owned.

## **ARTICLE V**

### **BOARD; SELECTION; TERM OF OFFICE**

**Section 1. INITIAL NUMBER AND QUALIFICATION OF DIRECTORS.** The initial Board of Directors shall consist of three persons whose term of office and the manner of their election shall be set forth in the Bylaws of the corporation. There shall be one person that serves as the President and one person that serves as the Secretary and Treasurer. Regardless of what offices each Director holds and regardless of the number of offices a Director holds each Director shall only be entitled to one vote. Directors shall be Members, and if a Unit is owned by an entity, a Director may be an officer, director, member, fiduciary, or manager of such entity.

**Section 2. TERM OF OFFICE.** All Members of the Board shall serve for a term of one (1) year and until their successors have been elected.

**Section 3. REMOVAL.** Any Director may be removed from the Board, with or without cause, by the Members of the Association, at the annual meeting or at a meeting called for that purpose. In the event of death, resignation, or removal of a Director, his successor shall be selected by the remaining Members of the Board and shall serve for the unexpired term of his predecessor.

**Section 4. RESIGNATION.** Any Director may resign his or her office at any time by giving written notice to the Board. Such resignation shall be effective upon receipt of the resignation notice.

**Section 5. COMPENSATION.** No Director shall receive compensation for any service he or she may render to the Association. However, any Director may be reimbursed for his or her actual expenses incurred in the performance of his or her duties, except for travel expenses associated with attending any Association meetings or Association business activities or functions.

## **ARTICLE VI**

### **NOMINATION AND ELECTION OF DIRECTORS**

**Section 1. NOMINATION.** Nomination for election to a position on the Board may be made by any Member no less than ten (10) days prior to any meeting in which the position shall be elected. Nominations may also be made from the floor at the annual meeting.

**Section 2. ELECTION.** Election to the Board shall be by secret written ballot, unless all of the Members present or participating telephonically or electronically waive such requirement. At such elections, each Member, or the Member's proxy, may cast, with respect to such position, as many votes as such Member is entitled to exercise. The persons receiving the largest number of votes for each position shall be elected. Cumulative voting is not permitted.

## **ARTICLE VII**

### **MEETINGS OF DIRECTORS**

**Section 1. ANNUAL MEETINGS.** A meeting of each newly-elected Board shall be held as soon as possible following the annual meeting of Members.

**Section 2. REGULAR MEETINGS.** Regular meetings of the Board shall be held as often as the Board deems necessary, at such place and hour as may be fixed from time to time by resolution of the Board. All Members shall have a right to attend any Board meeting and participate in discussion, but may not vote at the Board meeting.

**Section 3. SPECIAL MEETINGS.** Special meetings of the Board shall be held when called by the President of the Association or by any two (2) Directors after not less than three (3) days'

notice to each Director.

**Section 4. NOTICE TO MEMBERS.** The Board shall provide notice to all Members not less than five (5) business days prior to any meeting of its agenda items for its meetings and shall then send out minutes of all meetings of the Board to all Members within ten (10) business days after the meeting.

**Section 5. QUORUM.** A majority of the total number of Directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the Directors present at a duly held meeting at which a quorum is present shall be regarded as an act of the Board.

**Section 6. ACTION TAKEN WITHOUT A MEETING.** The Directors shall have the right to take any action in the absence of a meeting that they could take at a meeting by obtaining one (1) or more written consents describing the action taken, signed by each Director, either voting for, voting against, or abstaining from voting on the action, or waiving the right to demand that the action not be taken without a meeting. Any action so approved by at least a majority of the Directors shall have the same effect as though taken at a meeting of the Directors.

**Section 7. TELEPHONIC, VIDEO CONFERENCING, AND ELECTRONIC MEETINGS.** Members of the Board may participate in a meeting of the Board by means of telephonic, video conferencing, or other electronic means by which all persons participating in the meeting can hear each other and have the ability to respond to each other at the same time. Such participation shall constitute presence in person at the meeting. If notice of a Directors' meeting is given, such notice need not specify that one (1) or more Directors may participate in such meeting by means of telephone conference or similar communications equipment.

**Section 8. PROXY VOTING BY DIRECTORS.** A Director may cast a vote by proxy if the proxy is signed by a Director authorizing another Director to cast a vote that is directed to be cast in a certain way in the proxy on a specific matter coming before the Board.

## **ARTICLE VIII** **OFFICERS AND THEIR DUTIES**

**Section 1. ENUMERATION OF OFFICES.** The officers of this Association shall be a President, Secretary, and Treasurer, who shall at all times be Members of the Board and such other officers as the Board may from time to time by resolution create.

**Section 2. ELECTION OF OFFICERS.** The election of officers shall take place at the first meeting of the Board following each annual meeting of the Members.

**Section 3. TERM.** The officers of this Association shall be elected annually by the Board and each shall hold office for one (1) year and until his or her successor is elected to office unless he



or she shall sooner resign, or shall be removed or otherwise disqualified to serve.

**Section 4. SPECIAL APPOINTMENTS.** The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

**Section 5. RESIGNATION AND REMOVAL.** Any officer may be removed from office, with or without cause, by a majority vote of the Members or the Board. Any officer may resign at any time by giving written notice to the Board, the President or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

**Section 6. VACANCIES.** A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he or she replaces.

**Section 7. MULTIPLE OFFICES.** The offices of Secretary and Treasurer may be held by the same person. No person shall simultaneously hold more than one (1) of any of the other offices except in the case of special offices created pursuant to Section 4 of this Article.

**Section 8. DUTIES.** The duties of the officers are as follows:

(a) **President.** The President shall preside at all meetings of the Board and the Association; shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds and other written instruments; and shall co-sign all checks and promissory notes or authorize a designated agent to co-sign all checks and promissory notes.

(b) **Vice President.** If a Vice President is elected by the Board, the Vice President shall preside at all meetings of the Board in the absence of the President, and shall aid the President in seeing that all orders and resolutions of the Board are carried out; and shall act in the place and stead of the President in the event of the President's absence, inability or refusal to act.

(c) **Secretary.** The Secretary, or a designated agent, shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the Members; shall keep the corporate seal of the Association and affix it on all papers requiring said seal; shall serve notice of meetings of the Board and of the Members; shall keep appropriate current records showing the Members of the Association, together with addresses; and shall perform such other duties as required by the Board.

(d) **Treasurer.** The Treasurer, or a designated agent, shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board; shall sign all checks and promissory notes of the Association; shall keep proper books of account and financial records of the Association; shall cause an annual

audit of the Association books to be made by a public accountant at the completion of each fiscal year when directed to do so by the Board; and shall prepare an annual budget and a statement of income and expenditures to be presented to the membership at a duly convened meeting, and deliver a copy of each to the Members.

## **ARTICLE IX BOOKS AND RECORDS**

The Association shall keep accurate and complete books and records of its receipts and expenditures (including receipts and expenditures); shall keep minutes of the proceedings of the Board and Members; and shall keep at its registered or principal office in Colorado, a record of the names and addresses of the Members entitled to vote. Current copies of the Articles and Bylaws, rules and regulations governing the Association, and other books, records and financial statements of the Association, and the records of receipts and expenditures of the Board, shall be made available to all Members. The word “available,” as used herein, shall at least mean available for inspection, upon request, during normal business hours of the Association or under other reasonable circumstances. The Association may charge a reasonable fee for making copies requested by a Member of any such books, records and financial statements. On an annual basis, all Members shall receive a current list of Members, without charge, that contains the telephone numbers, addresses, and other available contact information, of the Members.

## **ARTICLE X ASSESSMENTS**

**Section 1. ASSESSMENTS GENERALLY.** Each Member is obligated to pay to the Association annual common expense assessments and special as set forth in the Covenants.

## **ARTICLE XI CORPORATE SEAL**

The Association may have a seal in circular form having within its circumference the name of the Association.

## **ARTICLE XII AMENDMENTS**

**Section 1. AMENDMENT.** Except as provided otherwise by the Articles, or applicable law,

these Bylaws can be amended only by action of a majority of the Members.

**Section 2. CONFLICT.** In the case of any conflict between the Articles and these Amended and Restated Bylaws, the Articles shall control.

### **ARTICLE XIII** **INDEMNIFICATION OF OFFICERS AND DIRECTORS**

The Corporation shall indemnify every officer or Director, his or her heirs, executors and administrators, against all loss, costs and expense, including attorneys' fees, reasonably incurred by him or her in connection with any action, suit or proceeding to which he or she may be made a party by reason of his or her being, or having been, an officer or Director of the Corporation, to the full extent permitted or required by Colorado law. The foregoing rights shall not be exclusive of other rights to which such officer or Director may be entitled. All liability, loss, damage, costs, and expenses incurred or suffered by the Corporation by reason or arising out of, or in connection with, the foregoing indemnification provisions shall be treated and handled by the Corporation as common expenses; provided, however, that nothing in this Article XIII shall be deemed to obligate the Corporation to indemnify any Member or owner of a Unit who is, or has been, an officer or Director of the Corporation, with respect to any duties or obligations assumed or liabilities incurred by him or her under and by virtue of the Covenants as an owner of a Unit covered hereby. No Director shall be individually liable for actions taken in their capacity as a Director.

### **ARTICLE XIV** **AMENDMENTS TO COVENANTS**

Whenever an Amendment to the Covenants has been approved under the provisions of the Covenants and applicable law, the President or any Vice President may prepare, execute, certify, and record the Amendment on behalf of the Association, and the Secretary or Assistant Secretary (if one is elected) may affix the seal of the Association and attest to such execution.

### **ARTICLE XV** **MISCELLANEOUS**

**Section 1. FISCAL YEAR.** The fiscal year of the Association shall be a calendar year, or such other fiscal year as may be determined by the Board.

**Section 2. DEPOSITS.** All funds of the Corporation not otherwise employed shall be deposited from time to time to the credit of the Corporation in such banks, trust companies, or other depositories as the Board may decide.

**Section 3. NON LIABILITY.** Notwithstanding any other provision of these bylaws, in no event shall the Association have any power to raise any assessment or lien any property for any judgment against the Association.

**IN WITNESS WHEREOF,** the undersigned, being the current Directors of the Association, have hereunder set their hand this day of \_\_\_\_\_, 2018.

**DIRECTORS:**

Elcho IV Townhomes LLC,  
a Colorado limited liability company

By: \_\_\_\_\_  
Ken Buck, its President