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### CREEKSIDE PROFESSIONAL PLAZA 2 NOTICE OF DEDICATORY INSTRUMENTS

DUSTY HILLS, A TEXAS LIMITED LIABILITY COMPANY, as the Declarant under the Declaration of Creekside Professional Plaza 2, a Condominium, recorded under Document No. 2017060 13973 of the Official Public Records of Comal County, Texas (the "Declaration"), the initial and sole member of the Owners Association of Creekside Professional Plaza 2, a Texas non-profit corporation (the "Association"), certifies that in addition to the Declaration, the following instruments attached hereto are adopted as part of the initial project documentation for Creekside Professional Plaza 2 and become effective when recorded:

1. Certificate of Formation for the Association.
2. Bylaws of the Association.
3. Rules and Regulations of the Association.
4. Assessment and Collection Policy of the Association.

Signed this 22 day of March, 2017.

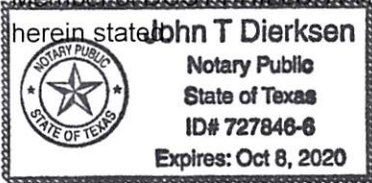
DUSTY HILLS, A TEXAS LIMITED LIABILITY COMPANY

By: [Signature]  
Dustin Seidel, Managing Member

By: [Signature]  
Jennifer Seidel, Managing Member

THE STATE OF TEXAS §  
COUNTY OF COMAL §

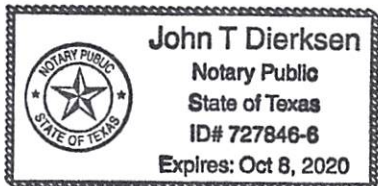
This instrument was acknowledged before me on March 22, 2017, by DUSTIN SEIDEL, Managing Member of DUSTY HILLS, A TEXAS LIMITED LIABILITY COMPANY, on behalf of same and in the capacity



[Signature]  
Notary Public, State of Texas

THE STATE OF TEXAS §  
COUNTY OF COMAL §

This instrument was acknowledged before me on March 22, 2017, by JENNIFER SEIDEL, Managing Member of DUSTY HILLS, A TEXAS LIMITED LIABILITY COMPANY, on behalf of same and in the capacity herein stated.



[Signature]  
Notary Public, State of Texas



## Office of the Secretary of State

### CERTIFICATE OF FILING OF

OWNERS ASSOCIATION OF CREEKSIDE PROFESSIONAL PLAZA 2  
File Number: 802681179

The undersigned, as Secretary of State of Texas, hereby certifies that a Certificate of Formation for the above named Domestic Nonprofit Corporation has been received in this office and has been found to conform to the applicable provisions of law.

ACCORDINGLY, the undersigned, as Secretary of State, and by virtue of the authority vested in the secretary by law, hereby issues this certificate evidencing filing effective on the date shown below.

The issuance of this certificate does not authorize the use of a name in this state in violation of the rights of another under the federal Trademark Act of 1946, the Texas trademark law, the Assumed Business or Professional Name Act, or the common law.

Dated: 03/22/2017

Effective: 03/22/2017



A handwritten signature in black ink, appearing to read "R. Pablos".

Rolando B. Pablos  
Secretary of State

MAR 22 2017

**CERTIFICATE OF FORMATION OF  
OWNERS ASSOCIATION OF  
CREEKSIDE PROFESSIONAL PLAZA 2,  
a Texas Non-Profit Corporation**

Corporations Section

I, the undersigned natural person over the age of eighteen years, acting as organizer of a corporation under the Texas Business Organizations Code (the "Code"), do hereby adopt the following Certificate of Formation.

**ARTICLE 1  
Condominium Association**

The corporation is, means and constitutes the unit owners' association organized pursuant to Section 82.101 of the Texas Uniform Condominium Act ("TUCA"), which is defined as the "Association" in the Declaration of Covenants, Conditions and Restrictions for Creekside Professional Plaza 2, a Condominium recorded or to be recorded in the Official Public Records of Comal County, Texas, as amended from time to time (the "Declaration") with respect to certain real property located in the City of New Braunfels, Comal County, Texas, locally known as Creekside Professional Plaza 2 (the "Project") and described in the Declaration.

**ARTICLE 2  
Name**

The name of the Association is "OWNERS ASSOCIATION OF CREEKSIDE PROFESSIONAL PLAZA 2".

**ARTICLE 3  
Non-Profit**

The Association is a non-profit corporation.

**ARTICLE 4  
Duration**

The period of duration of the Association is perpetual.

**ARTICLE 5  
Purposes**

The general purposes for which the Association is formed are (i) to exercise the rights and powers and to perform the duties and obligations of the Association in

accordance with the Declaration, the Bylaws of the Association and state law, including TUCA and the Code, as each may be amended from time to time, and (ii) for any lawful purpose not expressly prohibited under Chapters 2 and 22 of the Code.

## **ARTICLE 6** **Powers**

In furtherance of its purposes, the Association has the following powers which, unless indicated otherwise by this Certificate, the Declaration, the Bylaws or state law, may be exercised by the Board of Directors:

1. All rights and powers conferred upon non-profit entities by state law in effect from time to time;
2. All rights and powers conferred upon condominium associations by state law, including TUCA, in effect from time to time; and
3. All powers necessary, appropriate or advisable to perform any purpose or duty of the Association as set out in this Certificate, the Bylaws, the Declaration or state law.

## **ARTICLE 7** **Membership**

The Association is a non-stock membership corporation, the owners of units in the Project being the members of the Association. The qualifications for membership and rights, duties and obligations of members are contained in the Declaration and the Bylaws of the Association. Cumulative voting is not allowed.

## **ARTICLE 8** **Registered Agent and Office**

The name of the Association's initial registered agent is DUSTIN SEIDEL, and the street address of the Association's initial registered office is 301 Main Plaza #129, New Braunfels, Texas 78130.

## **ARTICLE 9** **Management by Board**

The management and affairs of the Association are vested in the Board of Directors, except for those matters expressly reserved to others in the Governing Documents. The Declaration or Bylaws may determine the number and qualification of directors; the term of office of directors; the methods of electing, removing and replacing directors; and the methods of holding a Board meeting and obtaining consents. Directors

may not vote by proxy at meetings of the Board. The initial Board consists of three directors who serve at the pleasure of Declarant during the Declarant Control Period, and who will serve as directors until the earlier of (1) their successors are appointed by Declarant, or (2) their successors are elected by the members of the Association after the Declarant Control Period. The number of directors after the Declarant Control Period is determined by the Bylaws, and may be changed from time to time by amendment of the Bylaws. The name and address of each initial director are as follows:

<u>Name</u>	<u>Address</u>
DUSTIN SEIDEL	301 Main Plaza #129, New Braunfels, TX 78130
JENNIFER SEIDEL	301 Main Plaza #129, New Braunfels, TX 78130
JOHN SEIDEL	448 S. Seguin Ave., New Braunfels, TX 78130

#### **ARTICLE 10** **Declarant Control Period**

The Declaration provides for a Declarant Control Period during which Declarant determines the number and qualification of officers and directors, who serve at the pleasure of Declarant, who is empowered by the Declaration to appoint, remove and replace the officers and directors of the Association. The Declaration also determines the weight or number of votes allocated to Units owned by Declarant. Because Declarant has powers, rights and duties in addition to those of other members, Declarant may constitute a membership "class" as described by the Code, the other Unit owners constituting a different "class".

#### **ARTICLE 11** **Terminology**

Capitalized terms used in this Certificate, such as *Association*, *Declarant*, *Declarant Control Period* and *Declaration* have the same meanings as defined in the Declaration. *Governing Documents* has the same meaning as defined in the Code and in this Certificate. As applied to this Association, the following terms which are defined or used in the Code are constructed as follows:

"Governing Documents" as defined by the Code, is construed by the Association to mean the "Project Documents" as defined by the Declaration, even though Project Documents may have been initially adopted by the Declarant of the Property for the benefit and use of the members of the Association, rather than having been adopted by the Association, as indicated by the Code's definition of Governing Documents.

"Each member entitled to vote at the meeting" as used in the Code, is constructed by the Association to mean that if a Unit is co-owned, even though all the co-owners are members of the Association, the co-owners share one membership per Unit for

notification and voting purposes. Therefore, votes and memberships are tabulated on a Unit basis, rather than on a head count of owners and co-owners.

**ARTICLE 12**  
**Limitations on Liability**

a. Except as provided in Paragraph b below, an officer or director of the Association is not liable to the Association or its members for monetary damages for acts or omissions that occur in the person's capacity as an officer or director, except to the extent a person is found liable for (i) a breach of the officer or director's duty of loyalty to the Association or its members; (ii) an act or omission not in good faith that constitutes a breach of duty of the officer or director to the Association; (iii) an act or omission that involves intentional misconduct or a knowing violation of the law; (iv) a transaction from which the officer or director receives an improper benefit, whether or not the benefit resulted from an action taken within the scope of the person's office; or (v) an act or omission for which the liability of an officer or director is expressly provided by an applicable statute. The liability of officers and directors of the Association may also be limited by the Charitable Immunity and Liability Act of 1987, Chapter 84, Texas Civil Practice and Remedies Code, as amended (the "Charitable Immunity Act").

b. The limitation on the liability of an officer or director does not eliminate or modify that person's liability as a member of the Association. It is intended that the liability of any member arising out of any contract made by the Association, or out of the indemnification of officers or directors, or for damages as a result of injuries arising in connection with the Common Elements, or for liabilities incurred by the Association, is limited to the same proportion in which he is liable for Common Expenses as a member of the Association.

c. The Board of Directors may purchase directors and officers liability insurance.

**ARTICLE 13**  
**Indemnification**

Subject to the limitations and requirements of the Code and as provided by the Bylaws, the Association will indemnify a person who was, is, or is threatened to be made a named defendant or respondent in a proceeding because the person is or was a director, officer, committee chair, or committee member of the Association. Additionally, the Association may indemnify a person who is or was an employee, trustee, agent or attorney of the Association, against any liability asserted against him and incurred by him in that capacity and arising out of that capacity.

**ARTICLE 14**  
**Immunity for Volunteers**

To preserve the protections for Association volunteers afforded by the Charitable Immunity Act, the Association will operate in a manner that preserves the Association's status as a homeowners association as defined by Section 528(c) of the Internal Revenue Code of 1986, as amended.

**ARTICLE 15**  
**Amendment of Certificate**

This Certificate may be amended or restated subject to the following:

a. General Provisions. (1) An amendment may not conflict with the Declaration, the Bylaws or applicable state law. (2) An amendment may not impair or dilute a right granted to Declarant or any other person by the Declaration, without Declarant's or that person's written consent. (3) An amendment must be in accordance with applicable provisions of the Code.

b. Amendment by Board. The Board of Directors may unilaterally amend or restate this Certificate, without a vote of the Owners, for the following limited purposes: (1) to delete the names and addresses of the initial directors, (2) to delete the name and address of the initial registered agent or office, provided a statement of change is on file with the Secretary of State, and (3) to change the name of the Association with the Secretary of State by adding, deleting or changing a geographical attribute to the name.

c. Amendment by Members. For all other purposes, an amendment must be approved by the Board and by at least two-thirds of the votes or voting interests present, in person or by proxy, at a properly called meeting of the Association for which a quorum is obtained.

**ARTICLE 16**  
**Amendment of Bylaws**

The Bylaws of the Association may be amended or repealed according to the amendment provision of the Bylaws, which reserve those powers to the members, with limited exceptions for the Board acting alone, or to the Declarant during the Declarant Control Period.

**ARTICLE 17**  
**Action Without Meeting**

Subject to the additional requirements of Code Section 6.202, any action required by the Code or by the Governing Documents to be taken at a meeting of members or

Owners may be taken without a meeting if a consent in writing, setting forth the action to be taken, is signed by a sufficient number of members or Owners as would be necessary to take that action at which the required number of Owners or members were present and voted.

**ARTICLE 18**  
**Organizer**

The name of the organizer is JOHN T. DIERKSEN. The organizer's address is 401 Main Plaza, Suite 200, New Braunfels, Texas 78130.

**ARTICLE 19**  
**Effectiveness of Filing**

This document becomes effective as a certificate of filing for a non-profit corporation when the document is filed by the Secretary of State.

**EXECUTION**

The undersigned signs this document subject to the penalties imposed by law for the submission of a materially false or fraudulent instrument.

SIGNED this 21<sup>st</sup> day of March, 2017.

  
\_\_\_\_\_  
JOHN T. DIERKSEN



**BYLAWS OF  
OWNERS ASSOCIATION OF  
CREEKSIDE PROFESSIONAL PLAZA 2**

**ARTICLE 1  
Introduction**

- 1.1. **PROPERTY.** These Bylaws provide for the governance of CREEKSIDE PROFESSIONAL PLAZA 2, a condominium located in the City of New Braunfels, Texas, covering the Units and Common Elements described in the Declaration (the "Property"). The Property has been submitted to a condominium regime pursuant to the Texas Uniform Condominium Act ("TUCA")
- 1.2. **DECLARATION.** The Property is subject to a number of publicly recorded documents, including the Declaration of Creekside Professional Plaza 2, a Condominium, recorded or to be recorded in the Real Property Records of Comal County, Texas (the "Declaration").
- 1.3. **DEFINITIONS.** Words and phrases defined in the Declaration have the same meanings when used in these Bylaws.
- 1.4. **DECLARANT CONTROL.** Notwithstanding anything to the contrary in these Bylaws, a number of provisions in these Bylaws are modified by Declarant's rights and reservations under the Declaration during the Declarant Control Period and the Development Period, such as the control of the Board of Directors and architectural review. See Exhibit B and other provisions of the Declaration, which have priority over these Bylaws.
- 1.5. **PARTIES TO BYLAWS.** All present or future Unit Owners and all other persons who use or occupy the Property in any manner are subject to these Bylaws, the Declaration, and the other Project Documents as defined in the Declaration. The mere acquisition of a Unit or occupancy of a Unit will signify that these Bylaws are accepted, ratified, and will be strictly followed.
- 1.6. **TYPE OF ORGANIZATION.** As an organization of Unit Owners, the Association is created by the Declaration and these Bylaws. The Association is a non-profit corporation.
- 1.7. **APPLICABLE LAW.** The Association is a legal entity governed by the Texas Business Organizations Code (the "Code"), and as a domestic non-profit corporation, it is subject to Chapter 22 of Title 2 of the Code, the Texas Non-Profit Corporation Law.
- 1.8. **GENERAL POWERS AND DUTIES.** The Association, acting through the Board, has the powers and duties necessary for the administration of the affairs of the Association and for the operation and maintenance of the Property as may be required or permitted by the Project Documents and applicable law. The Association may do any and all things that are lawful and which are necessary, proper, or desirable in operating for the best interests of its members, subject only to limitations upon the exercise of such powers as may be contained in applicable law or the Project Documents.

**ARTICLE 2**  
**Board of Directors**

- 2.1. **NUMBER AND TERM OF OFFICE.** After the Declarant Control Period, the Board will consist of five persons. The number of directors may be changed by amendment of these Bylaws, but may not be less than five. Upon election, each director will serve a term of two years. A director takes office upon the adjournment of the meeting or balloting at which he is elected or appointed and, absent death, ineligibility, resignation, or removal, will hold office until his successor is elected or appointed.
- 2.2. **STAGGERED TERMS.** To maintain staggered terms, two directors will be elected in even-numbered years, and three directors will be elected in odd-numbered years. To establish staggered terms, at the first election after the transition meeting, the candidates receiving the most votes will serve 2-year terms, and the candidates receiving the next-highest votes will server initial terms of one year. In an odd-numbered year, the three highest vote getters will serve a 2-year term, and the next two highest vote getters will serve 1-year terms. In an even-numbered year, the two highest vote getters will serve 2-year terms, and the next three highest vote getters will serve 1-year terms. Thereafter, their successors will serve 2-year terms. If the Board is ever elected en masse, the same method will be used to re-establish staggered terms.
- 2.3. **QUALIFICATION.** The following qualifications apply to the election or appointment of persons to the Board following the Declarant Control Period.
- 2.3.1. **Owners.** At least a majority of the directors must be members of the Association, spouses of members, or Occupants of the Property.
- 2.3.2. **Entity Member.** If a Unit is owned by a legal entity, such as a partnership, limited liability company, or corporation, any member, manager, officer, partner, agent or employee of that entity member is eligible to serve as a director and is deemed to be a member for the purposes of this Section. If the relationship between the entity member and the director representing it terminates, that directorship will be deemed vacant.
- 2.3.3. **Delinquency.** No person may be elected or appointed as a director if any Assessment against the person or his Unit is more than 30 days' delinquent at the time of election or appointment, provided he has been given notice of the delinquency and a reasonable opportunity to cure it.
- 2.4. **ELECTION.** Directors will be elected by the members of the Association. The election of directors will be conducted at the annual meeting of the Association, at any special meeting called for that purpose, or by any method permitted by applicable law, such as Section 22.160(d) of the Code, which may include, without limitation, mail, facsimile transmission, electronic mail, or a combination of any of these.
- 2.5. **VACANCIES.** Subject to the exceptions below, vacancies on the Board caused by any reason are filled by a vote of the majority of the remaining directors, even though less than a quorum, at any meeting of the Board. Each director so elected serves until the next meeting of the Association, at which time a successor will be elected to fill the remainder (if any) of the term that was vacated. The exceptions to Board-elected replacements are (1) the removal of a director by a vote of the Association's members, who will elect a

replacement, and (2) a vacancy occurring because of an increase in the number of directors, which also will be filled by election of the members.

## 2.6. REMOVAL OF DIRECTORS.

2.6.1. Removal by Members. At any annual meeting of the Association or at any special meeting of the Association called for the purpose of removing a director, any one or more of the directors may be removed with or without cause by members representing at least two-thirds of the votes present in person or by proxy at the meeting, and a successor may then and there be elected to fill the vacancy thus created. Any director whose removal has been proposed by the members must be given an opportunity to be heard at the meeting.

2.6.2. Removal by Directors. A director may not be removed by the officers or by the remaining directors, except for the following limited reasons for which a director may be removed by at least a majority of the other directors at a meeting of the Board called for that purpose:

- a. The director is a party adverse to the Association, the Board, or a committee of the Association in pending litigation to which the Association, Board or committee is a party, provided the Association did not file suit to effect removal of the director.
- b. The director's account with the Association has been delinquent for at least 90 days or has been delinquent at least 3 times during the preceding 12 months, provided he was given notice of the default and a reasonable opportunity to cure.
- c. The director has refused or failed to attend 3 or more meetings of the Board during the preceding 12 months, provided he was given proper notice of the meetings.

2.6.3. No Removal by Officers. A director may not be removed by officers of the Association, acting in their capacity of officers of the Association, under any circumstance.

## 2.7. MEETINGS OF THE BOARD.

2.7.1. Organizational Meeting of the Board. Within 10 days after the annual meeting, the directors will convene an organizational meeting for the purpose of electing officers. The time and place of the meeting will be fixed by the Board and announced to the directors.

2.7.2. Place of Board Meetings. The Board will conduct its meetings at a location that is reasonably convenient for the greatest number of directors, and at a place or facility that is sufficiently large to accommodate the number of Owners who typically attend Board meetings as observers. The decision of where to meet may be made on a meeting-by-meeting basis by the officer or director who calls the meeting, by Board resolution, or by any other practice that is customary for property owners associations. The Board is not required (1) to conduct its meetings at the Property, (2) to maintain a fixed place for its meetings, (3) to select a location that is convenient to Owners, or (4) to select a facility that accommodates a larger number of spectator members than is customary.

2.7.3. Types of Board Meetings. Regular meetings of the Board may be held at a time and place that the Board determines, from time to time, but at least one such meeting must be held each calendar quarter, with or without notice. Special meetings of the Board may be called, with notice, by the president or, if he is absent or refuses to act, by the secretary, or by any 2 directors. In case of emergency, the Board may convene an emergency meeting for the purpose of dealing with the emergency after making a diligent attempt to notify each director by any practical method.

2.7.4. Notice to Directors of Board Meetings. Notice is not required for regular meetings of the Board, provided all directors have actual or constructive knowledge of the meeting date, time and place. Notice of a special meeting must be given at least one day in advance of the meeting. If notice is given, it may be given by any method or combination of methods that is likely to impart the information to the directors.

2.7.5. Informing Members of Board Meetings. The Board will try to inform Association members of the time and place of each Board meeting. The information may be imparted by any method or combination of methods that is likely to be available or communicated to most if not all members in a timely manner, such as by posting on the Association's website, by broadcast email, by signs posted at the Property, or by hand-delivered fliers. On the written request of an Owner, the Association will provide the Owner with the time and place of the next regular or special meeting of the Board. The failure of the Association to disseminate and the failure of an Owner to receive timely or accurate information about the date, time and place of a meeting does not invalidate the meeting.

2.7.6. Conduct of Meetings. The president presides over meetings of the Board and the secretary keeps, or causes to be kept, a record of resolutions adopted by the Board and a record of transactions and proceedings occurring at meetings. When not in conflict with law or the Project Documents, the then current edition of Robert's Rules of Order governs the conduct of the meetings of the Board.

2.7.7. Quorum. At meetings of the Board, a majority of directors constitutes a quorum for the transaction of business, and the acts of the majority of the directors present at a meeting at which a quorum is present are the acts of the Board. If less than a quorum is present at a meeting of the Board, the majority of those present may adjourn the meeting from time to time. At any reconvened meeting at which a quorum is present, any business that may have been transacted at the meeting as originally called may be transacted without further notice.

2.7.8. Minutes. The written report of a Board meeting is not the minutes of the meeting until approved by the directors at a future meeting. The minutes must report actions taken by the Board, but need not report the substance of discussion. The Board is not required to distribute minutes of its meetings to the members.

2.7.9. Voting. A director who is also an officer of the Association, even the presiding officer, is expected to participate and to vote in the manner of every other director. The president of the Association is not prohibited from voting and is not limited to tie-breaking votes. Directors may not participate by proxy at meetings of the Board.

2.7.10. Open Meetings. Regular and special meetings of the Board are open to members of the Association, subject to the following provisions to the extent permitted or required by applicable law:

- a. No audio or video recording of the meeting may be made, except by the Board or with the Board's prior express consent.
- b. Members who are not directors may not participate in Board deliberations under any circumstances, and may not participate in Board discussions unless the Board expressly so authorizes at the meeting.
- c. Executive sessions are not open to members.
- d. The Board may prohibit attendance by non-members, including representatives, proxies, agents and attorneys of members.
- e. The Board may prohibit attendance by any member who disrupts meetings or interferes with the conduct of Board business.
- f. The Board may but is not required to publish to members the time, date and place of Board meetings, but will provide the information if requested in writing by a member on a meeting-by-meeting basis.

2.7.11. Executive Session. The Board may adjourn any regular or special meeting of the Board and reconvene in executive session, subject to the following conditions:

- a. The nature of business to be considered in executive session will first be announced in open session.
- b. No action may be taken or decision made in executive session, which is for discussion and informational purposes only.
- c. The limited purposes for which the Board may convene in executive session are (1) to confer with the Association's legal counsel, (2) to discuss litigation or resolution of claims with which the Association is threatened or involved, (3) to discuss labor or personnel matters, (4) to discuss a complaint from or an alleged violation by an Owner when the Board determines that public knowledge would be injurious to the Owner, and (5) on advice of counsel, to discuss matters of a particularly sensitive nature.
- d. At the end of the executive session, the Board must return to the open meeting and announce the general nature of the business that was considered in executive session. Any vote, act or decision that would have been made in executive session (but for this requirement) must be made in the open meeting.
- e. The Board is not required to make or maintain minutes of executive sessions.

2.7.12. Telephone Meetings. Members of the Board or any committee of the Association may participate in and hold meetings of the Board or committee by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other. Participation in such meeting constitutes presence in person at the meeting, except where a person participates in the meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

2.8. ACTION WITHOUT MEETING. Any action required or permitted to be taken by the Board at a meeting may be taken without a meeting, subject to the following requirements:

2.8.1. Unanimous Consents. If all directors individually or collectively consent in writing to such action, the written consents have the same force and effect as the unanimous approval of directors at a meeting.

2.8.2. Majority Consents. If at least a majority of the directors, individually or collectively, consent in writing to such action, the written consents have the same force and effect as approval by a majority of the directors at a meeting. Prompt notice of the action so approved must be delivered to each non-consenting director.

2.8.3. Procedures. Written consents must state the date of each director's signature. The required number of written consents must be received by the Association within 60 days after the date of the earliest dated consent. Written consents must be filed with the minutes of Board meetings. Additional procedures may be required by the Code.

2.9. POWERS AND DUTIES. Generally, the Board has all the powers and duties necessary for the administration of the Association and for the operation and maintenance of the Property. The Board may do all acts and things except those which, by applicable law or the Project Documents, are reserved to the members and may not be delegated to the Board. Without prejudice to the general and specific powers and duties set forth in applicable law or the Project Documents, or powers and duties as may hereafter be imposed on the Board by resolution of the Association, the powers and duties of the Board include, but are not limited to, the following:

2.9.1. Appointment of Committees. The Board, by resolution, may from time to time designate standing or ad hoc committees to advise or assist the Board with its responsibilities. The resolution may establish the purposes and powers of the committee created, provide for the appointment of a chair and committee members, and may provide for reports, termination, and other administrative matters deemed appropriate by the Board. Members of committees will be appointed from among the Owners and Occupants. The Board may not appoint a committee to act in its place in managing the affairs of the Association.

2.9.2. Manager. The Board may employ a manager or managing agent for the Association, at a compensation established by the Board, to perform duties and services authorized by the Board.

2.9.3. Emergency Powers. An emergency exists for purposes of this Section if a local, state or national government or governmental entity declares a disaster or state of emergency in the area in which the Property is located, or declares a state of war. In

anticipation of, during, or in the aftermath of an emergency, the officers and directors may take or authorize any action they deem necessary or advisable to protect lives and property. A decision or action made in good faith under emergency conditions may not be used to impose liability on an officer, director, employee or agent of the Association.

- 2.10. FIDELITY BONDS. Any person handling or responsible for Association funds, including officers, agents and employees of the Association, must furnish adequate fidelity bonds. The premiums on the bonds may be a Common Expense of the Association.

### **ARTICLE 3** **Officers**

- 3.1. DESIGNATION. The principal officers of the Association are the president, the vice-president, the secretary, and the treasurer. The Board may appoint one or more vice-presidents and other officers and assistant officers as it deems necessary. The president and secretary must be directors. Other officers may, but need not, be members or directors. Any two offices may be held by the same person, except the offices of president and secretary. If an officer is absent or unable to act, the Board may appoint a director or a committee to perform the duties of that officer and to act in place of that officer, on an interim basis.

- 3.2. ELECTION OF OFFICERS. The officers are elected no less than annually by the directors at the organizational meeting of the Board and hold office at the pleasure of the Board. Except for resignation or removal, officers hold office until their respective successors have been designated by the Board.

- 3.3. REMOVAL AND RESIGNATION OF OFFICERS. A majority of directors may remove any officer, with or without cause, at any regular meeting of the Board or at any special meeting of the Board called for that purpose. A successor may be elected at any regular or special meeting of the Board called for that purpose. An officer may resign at any time by giving written notice to the Board. Unless the notice of resignation states otherwise, it is effective when received by the Board and does not require acceptance by the Board. The resignation or removal of an officer who is also a director does not constitute resignation or removal from the Board.

- 3.4. DESCRIPTION OF PRINCIPAL OFFICES.

3.4.1. President. As the chief executive officer of the Association, the president: (1) presides at all meetings of the Association and of the Board; (2) has all the general powers and duties which are usually vested in the office of president of an organization; (3) has general supervision, direction and control of the business of the Association, subject to the control of the Board; and (4) sees that all orders and resolutions of the Board are carried into effect.

3.4.2. Vice-President. The vice-president acts in place of the president in event of the president's absence, inability, or refusal to act. The vice-president also exercises and discharges any duty required of the vice-president by the Board.

3.4.3. Secretary. The secretary: (1) keeps the minutes of all meetings of the Board and of the Association; (2) has charge of such books, papers and records as the Board may

direct; (3) maintains a record of the names and addresses of the members for the mailing of notices; and (4) in general, performs all duties incident to the office of secretary.

3.4.4. Treasurer. The treasurer: (1) is responsible for Association funds; (2) keeps full and accurate financial records and books of account showing all receipts and disbursements; (3) prepares all required financial data and tax returns; (4) deposits all monies or other valuable effects in the name of the Association in depositories as may from time to time be designated by the Board; (5) prepares the annual and supplemental budgets of the Association; (6) reviews the accounts of the managing agent on a monthly basis in the event a managing agent is responsible for collecting and disbursing Association funds; and (7) performs all the duties incident to the office of treasurer.

- 3.5 AUTHORIZED AGENTS. Except when the Project Documents require execution of certain instruments by certain individuals, the Board may authorize any person to execute instruments on behalf of the Association. In the absence of Board designation, the president and the secretary are the only persons authorized to execute instruments on behalf of the Association.

#### **ARTICLE 4** **Standards**

- 4.1. SEPARATE LIABILITY. The Association is a legal entity separate from its members for the purposes of determining and enforcing rights, duties and liabilities in contract and tort. Members, directors and officers of the Association are not personally and individually liable for the Association's breach of a contract or for the Association's tort or omission merely because they are members, directors or officers of the Association. A member has the right to assert a claim against the Association, and the Association has the right to assert a claim against a member.
- 4.2. GENERAL STANDARDS. The general standards of duty for an officer or director of the Association are the State of Texas standards for officers and directors of a non-profit corporation, as stated in the Code as it may be amended. On the date of this document, Sections 22.221 and 22.235 of the Code provide the following standards:
- a. A director will discharge the director's duties in good faith, with ordinary care, and in a manner the director reasonably believes to be in the best interest of the Association.
  - b. An officer or director is not liable to the Association, its members, or another person for an action taken or not taken as a director if the director acted in compliance with the above stated standard for discharging duties. A person seeking to establish liability of an officer or director must prove that the officer or director did not act (1) in good faith, (2) with ordinary care, and (3) in a manner the officer or director reasonably believed to be in the best interests of the Association.
- 4.3. RELIANCE. An officer or director may rely on information prepared or presented by (1) an officer or employee of the Association, (2) an attorney licensed by the State of Texas, (3) a certified public accountant, (4) an investment banker, or (5) a person whom the officer or director reasonably believes to possess professional expertise in the matter, and (6) in the case of a director, a committee of the Association of which the director is not a



member. Such reliance must be exercised in good faith and with ordinary care. An officer or director may not rely on such information if he has actual knowledge that makes the reliance unwarranted.

- 4.4. **COMPENSATION.** Except as permitted below, a director, officer, member or Occupant is not entitled to receive financial or monetary profit from the operation of the Association, and no funds or assets of the Association may be paid as salary or compensation to, or be distributed to, or inure to the benefit of a director, officer, member or Occupant. Nevertheless,
- a. Reasonable compensation may be paid to a director, officer, member or Occupant for services rendered to the Association in other capacities.
  - b. A director, officer, member or Occupant may, from time to time, be reimbursed for his actual and reasonable expenses incurred on behalf of the Association in connection with the administration of the affairs of the Association, provided the expense has been approved by the Board.
  - c. The Board may budget and use Association funds to purchase awards, certificates, a celebratory meal, or other customary tokens or demonstrations of appreciation for volunteer activities.
  - d. This Section does not apply to distributions to Unit Owners permitted or required by the Declaration, applicable law, or a court order.
- 4.5. **LOANS.** The Association may not loan money to or guarantee a loan for an officer or director of the Association.
- 4.6. **CONFLICT OF INTERESTS.** If a contract or transaction is fair to the Association, it is not disallowed merely because an officer, director or member of the Association has a financial interest in the transaction, provided (1) the "interested" officer, director or member fully and accurately discloses the nature of his interest to the Board in a manner that is timely for the Board's consideration of the contract or transaction, and (2) the "interested" officer or director does not participate in the vote to approve the contract or transaction, although the "interested" director may be counted toward a quorum at the meeting. Nothing in this Section may be construed to prevent the Board from adopting policies and procedures that are more stringent than the requirements of this Section, or of applicable law, such as Sections 1.003, 1.004 and 22.230 of the Code.

## **ARTICLE 5**

### **Meetings of the Association**

- 5.1. **ANNUAL MEETING.** An annual meeting of the Association will be held during the second calendar quarter of each year. At annual meetings the members elect directors in accordance with these Bylaws, and may also transact such other business of the Association as may properly come before them.
- 5.2. **SPECIAL MEETINGS.** It is the duty of the president to call a special meeting of the Association if directed to do so by a majority of the Board or by one or more petitions signed by Owners of at least 20% of the Units in the Property. If the petition process is

used, petitions may be in any form that is customary for the time. The Board may not require a specific form of petition, nor require that the petition be offered to every member of the Association. Signatures on petitions need not be notarized or witnessed. An electronic or faxed petition is acceptable if the "signer's" identity is reasonably discernible.

5.3. PLACE OF MEETINGS. Meetings of the Association may held at the Property or at a suitable place convenient to the members, as determined by the Board.

5.4. NOTICE OF MEETINGS. Subject to the provisions below, at the direction of the Board, written notice of meetings of the Association will be given to an Owner of each Unit at least 10 days but not more than 60 days prior to the meeting. Notices of meetings will state the date, time and place the meeting is to be held. Notices will identify the type of meeting as annual or special, and will state the particular purpose of a special meeting. Notices may also set forth any other items of information deemed appropriate by the Board.

5.4.1. Notice Exception. Individual notice of the regular meeting of the Association is not required if (1) the time and place of the meeting is largely unchanged from year to year and (2) information about the time and place is routinely available to all members, such as by year-long posting on the Association's official website or repetitive announcements in the Association's newsletter. This exception does not apply to special meetings of the Association, or to changes in the time and place of the regular annual meeting.

5.4.2. Special Meeting Notice. Within 30 days after the Board resolution or receipt of petition, the Board must give all members notice of the special meeting. If the Board fails or refuses to call the special meeting in a timely manner, an ad hoc committee of Owners may do so provided the notice of meeting names the ad hoc committee and its individual members, and further provided that the notice is delivered to an Owner of every Unit in accordance with these Bylaws. The notice of any special meeting must state the time, place and purpose of the meeting. No business, except the purpose stated in the notice of the meeting, may be transacted at a special meeting.

5.5. RECORD DATE. Before each meeting of the Association, the Board will establish a list of all members for purposes of receiving a meeting notice, and a list or way of identifying members who may be ineligible to vote at the meeting. These membership lists are described in Article 9 below. The "cut off" date on which these lists are based is referred to in the Code as the "Record Date". The Record Date for an Association meeting for which notice is given is 10 calendar days before the date the notice is distributed or published to the members. The Record Date for an Association meeting for which no notice is given is 45 calendar days before the meeting.

5.6. ELIGIBILITY. Every member is entitled to receive notice of Association meetings, to attend Association meetings, and to be counted towards a quorum, even if the member is ineligible to stand for election to the Board.

5.6.1. Meeting Notice. The Board may determine that a member may not vote at a meeting of the Association if the member's financial account with the Association is in arrears on the Record Date, provided (1) the ineligibility applies to every member whose financial account is delinquent, and (2) each ineligible member is given notice of the arrearage and an opportunity to become eligible. The Board may specify the manner, place and time for payment for purposes of restoring eligibility. The Record Date

determination of members entitled to vote at a meeting of the Association is effective for any adjournment of the meeting, provided the date of the adjourned meeting is not more than 30 days after the original meeting. The Board is not required to disqualify Owners with delinquent accounts, and may allow all Owners to vote regardless of arrearages.

5.7. QUORUM. At any meeting of the Association, the presence in person or by proxy of Owners of at least 10 percent of the Units in the Property constitutes a quorum. Members present at a meeting at which a quorum is present may continue to transact business until adjournment, notwithstanding the withdrawal, during the course of the meeting, of members constituting a quorum.

5.8. LACK OF QUORUM. If a quorum is not present at any meeting of the Association for which proper notice was given, members representing at least a majority of the votes present at the meeting, although not constituting a quorum, may vote to recess the meeting for not more than 24 hours in order to attain a quorum; provided the place of the meeting remains as stated in the notice. If the meeting is adjourned without attainment of a quorum, notice of a new meeting for the same purposes with 15 to 30 days may be given to an Owner of each Unit, at which re-called meeting the quorum requirement is lowered to half the number of Units required for the first call of the meeting.

5.9. VOTES. The vote of members representing at least a majority of the votes cast at any meeting at which a quorum is present binds all members for all purposes, except when a higher percentage is required by these Bylaws, the Declaration, or by applicable law. Cumulative voting is prohibited.

5.9.1. Co-Owner Units. If a Unit is owned by more than one member, the vote appurtenant to that Unit is cast as follows. If only one of the multiple owners of a Unit is present at a meeting of the Association, that person may cast the vote allocated to the Unit. If more than one of the multiple Owners is present, the vote allocated to the Unit may be cast only in accordance with the Owners' unanimous agreement. Multiple Owners are in unanimous agreement if one of the multiple Owners casts the vote allocated to a Unit and none of the other Owners makes prompt protest to the person presiding over the meeting.

5.9.2. Entity-Owned Lots. If a Unit is owned by an entity, such as a corporation, limited liability company or partnership, the vote appurtenant to that Unit may be cast by any officer, manager or partner of the entity in the absence of the entity's written appointment of a specific person to exercise its vote. The person presiding over a meeting or vote may require reasonable evidence that a person voting on behalf of an entity is qualified to vote.

5.9.3. Association-Owned Units. Votes allocated to a Unit owned by the Association may be counted towards a quorum only, and may not be voted.

5.9.4. Lots Owned by Declarant. The Declaration may establish different voting rights during the Development Period which control over any contrary provisions in these Bylaws.

5.10. PARTICIPATION. Members may participate in person or by proxy at meetings of the Association. A member who participates is deemed "present" and may be counted towards a quorum unless the member participates for the express purpose of objecting to

the transaction of any business on the ground that the meeting is not lawfully called or convened.

- 5.11. PROXIES. A member may participate in the affairs of the Association through a power of attorney or through a proxy. To be valid, each proxy must (1) be signed and dated by a member or his attorney-in-fact; (2) identify the Unit to which the vote is appurtenant; (3) designate the person or position (such as "presiding officer") in favor of whom the proxy is granted, such person having agreed to exercise the proxy; (4) identify the meeting for which the proxy is given; (5) not purport to be revocable without a notice; and (6) be delivered to the secretary, to the person presiding over the Association meeting for which the proxy is designated, or to a person or company designated by the Board. Unless the proxy specifies a shorter or longer time, it terminates 11 months after the date of its execution. Perpetual or self-renewing proxies are permitted, provided they are revocable. To revoke a proxy, the granting member must give actual notice of revocation to the person presiding over the Association meeting for which the proxy is designated. Unless revoked, any proxy designated for a meeting which is adjourned, recessed or rescheduled is valid when the meeting reconvenes. A proxy delivered by email or by fax may be counted if any of the following occurs: (1) the proxy's authenticity can be confirmed to the reasonable satisfaction of the Board, (2) the proxy has been acknowledged or sworn to by the member, before and certified by an officer authorized to take acknowledgments and oaths, or (3) the Association also receives the original proxy within 5 days after the vote.
- 5.12. CONDUCT OF MEETINGS. The president, or any person designated by the Board, presides over meetings of the Association. The secretary keeps, or causes to be kept, the minutes of the meeting which should record all resolutions adopted and all transactions occurring at the meeting, as well as a record of any votes taken at the meeting. The person presiding over the meeting may appoint a parliamentarian. The then current edition of Robert's Rules of Order governs the conduct of meetings of the Association when not in conflict with the Project Documents. Votes should be tallied by tellers appointed by the person presiding over the meeting.
- 5.13. ORDER OF BUSINESS. Unless the notice of meeting states otherwise, or the assembly adopts a different agenda at the meeting, the order of business at meetings of the Association is as follows:
- Determine votes present by roll call or check-in procedure
  - Announcement of quorum
  - Proof of notice of meeting
  - Approval of minutes of preceding meeting
  - Reports
  - Election of directors (when required)
  - Unfinished or old business
  - New business
- 5.14. ADJOURNMENT OF MEETING. At any meeting of the Association, a majority of the members present at that meeting, either in person or by proxy, may adjourn the meeting to another time and place.

- 5.15. ACTION WITHOUT MEETING. Subject to Board approval, any action which may be taken by a vote of the members at a meeting of the Association may also be taken without a meeting by written consents. The Board may permit members to vote by ballots delivered by any method allowed by applicable law, which may include hand delivery, mail, fax, email, electronic balloting or any combination of these. Written consents by members representing at least a majority of votes in the Association, or such higher percentage as may be required by the Project Documents, constitutes approval by written consent.
- 5.16. MEETINGS BY REMOTE COMMUNICATIONS. Members of the Association may participate in and hold meetings of the Association by means of electronic town halls, conference telephone or similar communications equipment by means of which all persons participating in the meeting can communicate concurrently. Participation in the meeting constitutes presence in person at the meeting, except where a person participates in the meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is now lawfully called or convened. By acquiring an interest in a Unit, each Owner automatically consents to the use of communication technology to effect meetings of the Association, provided the Owners of at least 85% of the Units in the Property have access to the form of technology chosen by the Board, and further provided that the Association arranges a place or method of participating for those who do not have the technology.

## **ARTICLE 6**

### **Rules**

- 6.1. RULES. The Board has the right to establish and amend, from time and time, reasonable rules and regulations for: (1) the administration of the Association and the Project Documents; (2) the maintenance, management, operation, use, conservation and beautification of the Property; and (3) the health, comfort and general welfare of the Owners and Declarant; provided, however, that such rules may not be in conflict with applicable law or the Project Documents. The Board will, at all times, maintain the then current and complete rules in a written form which can be copied and distributed to the members.
- 6.2. ADOPTION AND AMENDMENT. Any rule may be adopted, amended or terminated by the Board, provided that the rule and the requisite Board approval are properly recorded as a resolution in the minutes of the meeting of the Board.
- 6.3. NOTICE AND COMMENT. At least 10 days before the effective date, the Board will give written notice to an Owner of each Unit of any amendment, termination or adoption of a rule, or will publish same in a newsletter, on the Association's website, or in any form or medium that is circulated or available to the members. The Board may, but is not required, to give similar notice to Occupants who are not members. Any member or Occupant so notified has the right to comment orally or in writing to the Board on the proposed action.
- 6.4. DISTRIBUTION. On request from any member or Occupant, the Board will provide a current and complete copy of the rules. Additionally, the Board will, from time to time, distribute copies of the current and complete rules to Owners and, if the Board so chooses, to non-member Occupants.

**ARTICLE 7**  
**Enforcement**

7.1. **ACTIONS REQUIRING NOTICE AND HEARING.** Before taking any of the below-described actions, the Association must give written notice and an opportunity for a hearing according to the requirements of this Article and the notice and hearing requirements of applicable law. The following actions by or with the approval of the Board, the Association, or the Architectural Reviewer, require notice and hearing as provided by this Article:

- a. Suspension of use of a Common Area.
- b. Imposition of a fine for violation of any provision of the Project Documents, other than fines, interest or collection fees charge for delinquent accounts.
- c. Charging an Owner or a Unit for property damage.
- d. Filing suit against an Owner other than a suit related to the collection of Assessments or foreclosure of the Association's Assessment lien.

7.2. **NOTICE.** The required written notice must contain (1) the date the violation notice is prepared or mailed; (2) a statement that not later than the 30<sup>th</sup> day after the date the Owner receives the notice, the Owner may request a hearing to discuss and verify facts and resolve the matter in issue, pursuant to this Article and applicable law; (3) a statement of how or where the request for hearing should be made or delivered; (4) a statement that if the hearing is before a committee or any body other than the Board, the Owner has the right to appeal the decision to the Board by written notice to the Board; (5) a statement that the Owner may be liable for reimbursement of attorneys' fees and costs if the violation continues or the damage is not paid by a stated date; and (6) the following contents applicable to violations or damage claims, as the case may be:

7.2.1. **Notice of Violation.** In the case of a violation of a provision of the Project Documents, the written notice must also contain the following: (1) a description of the violation; (2) a reference to the rule or provision of the Project Documents that is being violated, if applicable; (3) a description of the action required to cure the violation; (4) the amount of the fine or charge to be levied, the nature of the Common Area suspension, and/or the abatement action to be taken; (5) unless the Owner was given notice and a reasonable opportunity to cure a similar violation within the preceding 6 months, a statement that the Owner may avoid the fine or suspension by curing the violation in a reasonable period of time, which may be specified in the notice.

7.2.2. **Notice of Damage.** In the case of property damage for which the Association seeks reimbursement or imposition of a charge on the Owner or the Unit, the written notice must also contain (1) a description of the property damage and (2) the amount of the Association's claim against the Owner or the Unit.

7.2.3. **Notice to Occupant.** In addition to giving the violation notice to the Owner, the Board may also give a copy of the notice to the non-owner Occupant, if the Board deems it appropriate.

7.2.4. Receipt of Notice. Unless applicable law provides otherwise, any notice given to an Owner pursuant to this Article will be deemed received by the Owner (1) on personal delivery to the Owner or to a person at the Owner's address, or (2) on the third business day after the notice is deposited with the U.S. Postal Service, addressed to the Owner at the most recent address shown on the Association's records, whether or not the Owner actually receives the notice.

7.3. HEARING.

7.3.1. Request for Hearing. To request a hearing, an Owner must submit a written request within 30 days after receiving the Association's written notice. Within 10 days after receiving the Owner's request for a hearing, and at least 10 days before the hearing date, the Association will give the Owner notice of the date, time, and place of the hearing. If the Association or the Owner requests a postponement of the hearing, the hearing will be postponed for up to 10 days. Additional postponements may be granted by agreement of the parties.

7.3.2. Pending Hearing. Pending the hearing, the Board may continue to exercise the Association's other rights and remedies for the violation, as if the declared violation were valid. The Owner's request for a hearing suspends only the action described in the Association's written notice.

7.3.3. Attendance. The hearing may be held with or without the presence of the Owner or the Owner's representative.

7.3.4. Hearing. The hearing may be held in a closed or executive session of the Board. At the hearing, the Board will consider the facts and circumstances surrounding the violation. The Owner may attend the hearing in person, or may be represented by another person or written communication.

7.3.5. Minutes of Hearing. The minutes of the hearing must contain a statement of the results of the hearing and the amount of fine or charge, if any, imposed, or abatement or suspension action, if any, authorized. A copy of the notice and request for hearing should be placed in the minutes of the hearing. If the Owner appears at the hearing, the notice requirement will be deemed satisfied.

7.4. ACTIONS EXEMPT FROM NOTICE AND HEARING REQUIREMENTS. As a general rule, every action other than the above-described actions requiring notice and hearing are impliedly exempt from the requirements of this Article. The following actions are expressly exempt:

- a. A temporary suspension of a person's right to use Common Areas if the temporary suspension is the result of a violation that occurred in a Common Area and involved a significant and immediate risk of harm to others in the Property. The temporary suspension is effective until the Board makes a final determination on the suspension action after following the notice and hearing procedures prescribed by this Article.
- b. A lawsuit in which the Association seeks a temporary restraining order or temporary injunctive relief.

- c. A lawsuit filed by the Association that includes foreclosure as a cause of action.
- d. The collection of delinquent Assessments.

7.5. **IMPOSITION OF FINE.** Within 30 days after levying the fine or authorizing the abatement, the Board must give the Owner notice of the levied fine or abatement action. If the fine or action is announced at the hearing at which the Owner is actually present, the notice requirement will be satisfied. Otherwise, the notice must be in writing.

7.5.1. **Amount.** The Board may set fine amounts on a case by case basis, provided the fine is reasonable in light of the nature, frequency and effects of the violation. The Board may establish a schedule of fines for certain types of violations. The amount and cumulative total of a fine must be reasonable in comparison to the violation. If the Board allows fines to accumulate, it may establish a maximum amount for a particular fine, at which point the total fine will be capped.

7.5.2. **Type of Fine.** If the violation is ongoing or continuous, the fine may be levied on a periodic basis (such as daily, weekly or monthly). If the violation is not ongoing, but is instead sporadic or periodic, the fine may be levied on a per occurrence basis.

7.5.3. **Other Fine-Related.** The Association is not entitled to collect a fine from an Owner to whom it has not given an opportunity to be heard. The Association may not charge interest on unpaid fines. The Association may not foreclose its Assessment lien on a debt consisting solely of fines.

7.6. **REIMBURSEMENT OF EXPENSES AND LEGAL FEES.** In addition to any other rights set forth in the Project Documents for violation of a provision of the Project Documents, the Board may levy and collect Individual Assessments for reimbursement of reasonable fees and expenses, including without limitation legal fees, incurred by the Association to enforce the Project Documents, including the collection of delinquent Assessments, subject to the following conditions:

7.6.1. **Notice.** The Association must give the Owner written notice that the Owner will be liable for reimbursement of any such fees and expenses incurred by the Association if the delinquency or violation continues after a date certain that is stated in the notice. This notice requirement does not apply to legal fees incurred by the Association in connection with the Association's counterclaim in a lawsuit to which an Owner is a plaintiff.

7.6.2. **Hearing.** If legal fees are incurred by the Association for an action requiring notice and hearing, the Owner is not liable for reimbursement of legal fees incurred (1) before the date by which the Owner must request a hearing, if the Owner does not request a hearing, or (2) before conclusion of the hearing, if the Owner does request a hearing.

7.6.3. **Records.** By written request, an Owner may obtain from the Association copies of any invoices for charges, including legal fees, for which the Association seeks reimbursement.



7.6.4. Foreclosure. In connection with a non-judicial foreclosure of the Association's Assessment lien, applicable law may establish a limit for the amount of the attorneys' fees that the Association may include in its lien.

- 7.7. ADDITIONAL ENFORCEMENT RIGHTS. Notwithstanding the notice and hearing requirement, the Board may take immediate and appropriate action, without giving the notices required in this Article, against violations of the Project Documents which, in the Board's opinion, are (1) self-evident, such as vehicles parked illegally or in violation of posted signs; (2) threatening to life or property; or (3) repeat violations of the same provision by the same Owner to whom prior notices and demands have been given for the same violation. Further, the provisions of this Article do not apply to specific remedies provided in the Project Documents for certain violations, such as non-payment of Assessments.

## **ARTICLE 8**

### **Obligations of the Owners**

- 8.1. NOTICE OF SALE. Any Owner intending to sell or convey his Unit or any interest therein must give written notice to the Board of his intention, together with (1) the address or legal description of the Unit being conveyed, (2) the name and address of the intended purchaser, (3) the name, address and phone number of the title company or attorney designated to close the transaction, (4) names and phone numbers of real estate agents, if any, representing seller and purchaser, and (5) scheduled date of closing. An Owner must furnish this information to the Board at least 10 business days before the schedule date of closing or conveyance. The requirements of this Section may be satisfied by giving the Association a copy of an accepted resale contract in connection with the Owner's request to the Association for a resale certificate.
- 8.2. PROOF OF OWNERSHIP. Except for those Owners who initially purchase a Unit from Declarant, any person, on becoming an Owner of a Unit, must furnish to the Board evidence of ownership in the Unit, which copy will remain in the files of the Association. A copy of the recorded deed is the customary evidence. The Association may refuse to recognize a person as a member unless this requirement is first met. This requirement may be satisfied by receipt of a Board-approved form that is completed and acknowledged by a title company or attorney at time of conveyance of the Unit or any interest therein.
- 8.3. OWNERS' INFORMATION. Within 30 days after acquiring an ownership interest in a Unit, Owner must provide the Association with the Owner's mailing address and phone number; the name and phone number of any Occupant other than the Owner; and the name, address and phone number of any person managing the Unit as agent of the Owner. An Owner must notify the Association within 30 days after he has notice of a change in any information required by this Section, and must provide the information on request by the Association from time to time.
- 8.4. MAILING ADDRESS. The Owner or the several co-Owners of a Unit must register and maintain one mailing address to be used by the Association for mailing of notices, demands and all other communications. If an Owner fails to maintain a current mailing address with the Association, the address of the Unit is deemed to be his mailing address.

- 8.5. REGISTRATION OF MORTGAGEES. Within 30 days after granting a lien against his Unit, the Owner must provide the Association with the name and address of the holder of the lien and the loan number. The Owner must notify the Association within 30 days after he has notice of a change in the information required by this Section. Also, the Owner will provide the information on request by the Association from time to time.
- 8.6. ASSESSMENTS. All Owners are obligated to pay Assessments imposed by the Association to meet the Common Expenses as defined in the Declaration. A member is deemed to be in good standing and entitled to vote at any meeting of the Association if he is current in the Assessments made or levied against him and his Unit.
- 8.7. COMPLIANCE WITH DOCUMENTS. Each Owner must comply with the provisions and terms of the Project Documents, and any amendments thereto. Further, each Owner must always endeavor to observe and promote the cooperative purposes for which the Property was established.

## **ARTICLE 9**

### **Association Records**

- 9.1. INSPECTION OF BOOKS AND RECORDS. Books and records of the Association will be made available for inspection and copying pursuant to applicable law, such as Section 22.351 of the Code.
- 9.1.1. Proper Purpose. The Board may require a member to submit a written demand for inspection, stating the purpose for which the member will inspect the books and records. The Board has the following rights: (1) to determine whether the member's purpose for inspection is proper; (2) to deny the request if the Board determines that the member's purpose is not proper; (3) if granting the request, to identify which books and records are relevant to the member's stated purpose for inspection.
- 9.1.2. Copies. A member, at member's expense, may obtain photocopies of books and records for which the Board grants the right of inspection. The Board has the right to retain possession of the original books and records, to make copies requested by the member, and to charge the member a reasonable fee for copying.
- 9.1.3. Member's Agent. A member's inspection of the books and records may be assisted or performed by the member's agent, accountant or attorney.
- 9.1.4. Records of Attorneys and Accountants The files and records of an attorney, accountant or management company who performs services for the Association are not records of the Association, are not subject to inspection by members, and are not subject to production in a legal proceeding.
- 9.2. RESALE CERTIFICATES. Any officer may prepare, or cause to be prepared, Assessment estoppel certificates or resale certificates pursuant to applicable law, such as Section 82.157 of TUCA. The Association may charge a reasonable fee for preparing such certificates, and may refuse to furnish such certificates until the fee is paid. Any unpaid fees may be assessed against the Unit for which the certificate is furnished. The Association may delegate the responsibility for a resale certificate to its managing agent, if any.

9.3. MANAGEMENT CERTIFICATE. As required by applicable law, the Association will maintain a current management certificate in the county's public records. When the Association has notice of a change in any information in the recorded certificate, the Association will prepare a restated or amended certificate and deliver it to the county clerk for filing. Absent gross negligence, the Association is not liable for a delay or failure to record a certificate. The Association may delegate the responsibility for a management certificate to its management agent, if any.

9.4. MEMBERSHIP LIST. The Board must maintain a comprehensive list of Association members for compliance with the Code as well as the Project Documents. The Association must make the membership list available to any Owner on written request, and may charge a reasonable fee for cost of copying and delivering the Owner's list.

9.4.1. Types of Information. At a minimum, the Association must maintain for each Unit the name and mailing address of at least one Owner, and a description of the Unit owned (if different from the mailing address). The Association may also maintain, as an Association record, additional contact information for Owners, such as phone numbers, fax numbers, email addresses, places of employment, emergency contact information, mortgage information, and any other items of information provided by Owners or obtained by the Association.

9.4.2. Source of Ownership Information. In compiling the ownership or membership list, the Association may rely on any combination of (1) public records, such as tax rolls, (2) documentation provided by title insurance companies, (3) self-reporting by Owners and Occupants, and (4) any other reasonably reliable and customary source of ownership information. The requirement of maintaining ownership records may not be construed to require the Association to affirmatively investigate or research title to a Unit.

9.4.3. Information Available to Members. Membership information to be maintained by the Association is similar to what is typically available to the public on the website of the appraisal district, and may not be considered confidential, private or protected information as between the Association and its members. Neither the Association nor a member of the Association may sell or otherwise market the Association's membership information without the express prior consent of the Owners. Each Owner, by acquiring an ownership interest in a Unit, acknowledges that the Owner's contact information is a record of the Association that is available to all members of the Association.

9.4.4. Inspection List. In accordance with applicable law, the Association will prepare a list of Owners of all Units in the Property for inspection by the member prior to the meeting. The purpose of the list is to enable members to communicate with each other about the meeting. The inspection list must be available for inspection by the members from the second business day after the date notice of the meeting is given until adjournment of the meeting for which it was prepared. The list may be inspected or copied by an Owner or the Owner's attorney or agent. The inspection list must have the following characteristics:

- a. The list must be in alphabetical order of Owner's surnames, or in numerical order of street addresses.

- b. The list must contain the name of at least one Owner of each Unit, or an indication that the current ownership cannot be determined and the identity of the last known Owner.
- c. The list must contain an address for each member.
- d. The list must identify how many Units are owned by each Owner, if that cannot otherwise be determined from the list.
- e. If all Units do not have uniform votes, such as Units owned by Declarant during the Declarant Control Period, the list must identify the number or weight of votes attached to each Unit.
- f. The list must identify which Owners or Units are ineligible to vote at the meeting due to an Assessment delinquency or other disqualifying condition.

**ARTICLE 10**  
**Notices**

- 10.1. **CO-OWNERS.** If a Unit is owned by more than one person, notice to one co-Owner is deemed notice to all co-Owners. Similarly, notice to one Occupant of a unit is deemed notice to all Occupants of the Unit.
- 10.2. **DELIVERY OF NOTICES.** Any written notice required or permitted by these Bylaws may be given personally, by mail, by fax, by email, or by any other method permitted by applicable law, such as the Texas Business Organizations Code. If mailed, the notice is deemed delivered when deposited in the U.S. mail addressed to the member at the address shown on the Association's records. If transmitted by fax or email, the notice is deemed delivered on successful transmission of the facsimile or electronic correspondence. The notice must be sent to the party's last known address as it appears on the records of the Association at the time of transmission. If an Owner fails to give the Association an effective address, the notice may be sent (1) to the address of the Owner's Unit and/or (2) to the Owner's address shown on the then-current property tax rolls for the Unit. If the Association properly transmits the notice, the Owner is deemed to have been given notice whether or not he actually receives it.
- 10.3. **WAIVER OF NOTICE.** Whenever a notice is required to be given to an Owner, member or director, a written waiver of the notice, signed by the person entitled to the notice, whether before or after the time stated in the notice, is equivalent to giving the notice. Attendance by a member or director at any meeting of the Association or Board, respectively, constitutes a waiver of notice by the member or director at any meeting of the Association or Board, respectively, constitutes a waiver of notice by the member or director of the time, place and purpose of the meeting. If all members or directors are present at any meeting of the Association or Board, respectively, no notice is required and any business may be transacted at the meeting.

**ARTICLE 11**  
**Indemnification**

11.1. **GENERAL.** The purpose of this Article is to mandate some of the permissive provisions of Chapter 8 of the Code, and to indemnify Association Leaders. The definitions of Chapter 8 of the Code are hereby incorporated by reference. As used in this Article, "Association Leader" means a person who is a current or former officer or director of the Association, or a current or former committee chair or committee member of the Association.

11.2. **MANDATORY INDEMNIFICATION.** The Association will indemnify an Association Leader who was, is, or is threatened to be made a named defendant or respondent in a proceeding because the person is or was an Association Leader, if the following determinations are made.

11.2.1. **Determinations.** It must be determined that the person acted in good faith, and that:

- a. the person reasonably believed (1) in the case of conduct in the person's official capacity, that the person's conduct was in the Association's best interest, or (2) in any other case, that the person's conduct was not opposed to the Association's best interests;
- b. in the case of a criminal proceeding, the person did not have a reasonable cause to believe the person's conduct was unlawful;
- c. with respect to expenses, the amount of expenses other than a judgment is reasonable; and
- d. indemnification should be paid.

11.2.2. **Effect of Proceeding Termination.** A person does not fail to meet the determination standard solely because of the termination of a proceeding by judgment, order, settlement, conviction, or a plea of nolo contendere or its equivalent.

11.2.3. **How Determinations Are Made.** If all of the directors are disinterested and independent, as defined in the Code, the determinations required under this Section will be made by a special legal counsel selected by the Board. Otherwise, the determinations will be made by the Owners of a majority of Units in the Property, other than the Units owned by persons who are not disinterested and independent as defined in the Code, or by a special legal counsel selected by those Owners.

11.3. **EXCEPTIONS TO MANDATORY INDEMNIFICATION.** A person who is found liable to the Association or is found liable because the person improperly received a personal benefit is not entitled to indemnification under this Article if, in a legal proceeding, the person has been found liable for (1) willful or intentional misconduct in the performance of the person's duty to the Association, (2) breach of the person's duty of loyalty owed to the Association, or (3) an act or omission not committed in good faith that constitutes a breach of a duty owed by the person to the Association. In all other instances, indemnification of a person who is found liable to the Association is limited to reasonable expenses actually

incurred by the person in connection with the proceeding, excluding a judgment, a penalty, a fine, or any other type of sanction. A person indemnified by the Association is considered to have been found liable in relation to a claim, issue or matter only if the liability is established by an order, including a judgment or decree of a court, and all appeals of the order are exhausted or foreclosed by applicable law.

- 11.4. **EXPENSES.** The indemnification provided by this Article covers reasonable expenses and costs, such as legal fees, actually and necessarily incurred by the indemnified person in connection with a qualified claim.

11.4.1. **Advancement of Expenses.** The Association may pay or reimburse reasonable expenses incurred by an indemnified person who was, is, or is threatened to be made a respondent in a proceeding in advance of the final disposition of the proceeding without making the determinations required under the Section above titled "Mandatory Indemnification", after the Association receives a written affirmation by the person of the person's good faith belief that the person has met the standard of conduct necessary for indemnification under this Article, and a written undertaking by or on behalf of the person to repay the amount paid or reimbursed if the final determination is that the person has not met that standard or that indemnification is prohibited by this Article. The required written undertaking must be an unlimited general obligation of the person but need not be secured and may be accepted by the Association without regard to the person's ability to make repayment.

11.4.1. **Witness Expenses.** The Association may pay or reimburse reasonable expenses incurred by an Association Leader, member, employee, agent, or other person in connection with that person's appearance as a witness or other participating in a proceeding at a time when the person is not a respondent in the proceeding.

- 11.5. **INDEMNIFICATION OF OTHER PERSONS.** Subject to the same limitations, determinations and exceptions for Association Leaders, the Association may indemnify and advance expenses to a person who is not otherwise covered by this Article's indemnification as provided by (1) a provision in a Project Document of the Association, (2) a contract to which the Association is a party, (3) common law, (4) a Board resolution, or (5) a resolution approved by the Association's members. A person indemnified under this Section may seek indemnification or advancement of expenses from the Association to the same extent that an Association Leader may seek indemnification or advancement of expenses under this Article.

## **ARTICLE 12** **Declarant Provisions**

- 12.1. **CONFLICT.** The provisions of this Article control over any provision to the contrary elsewhere in these Bylaws.
- 12.2. **BOARD OF DIRECTORS.** During the Declarant Control Period, Exhibit B of the Declaration governs the number, qualification and appointment of directors. The initial directors will be appointed by Declarant and need not be Owners or Occupants. Directors appointed by the Declarant may not be removed by the Owners and may be removed by Declarant only. Declarant has the right to fill vacancies in any directorship vacated by a Declarant appointee.

- 12.3. TRANSITION MEETING. As and when provided by Exhibit B of the Declaration, Declarant will call a meeting of the members of the Association for the purpose of electing directors, by ballot of members. Notice of the transition meeting will be given as if it were notice of an annual meeting.

**ARTICLE 13**  
**Amendments to Bylaws**

- 13.1. AUTHORITY. Although the general authority for amending the Bylaws resides with the members of the Association, certain amendments may be made by the Board or by Declarant, without a vote of the members.

13.1.1. Amendments by Board. For the following limited purposes, the Board may amend these Bylaws with or without approval by the members, provided the proposed amendment has the prior unanimous approval of the directors: (1) to correct mistakes in the Bylaws, (2) to conform the Bylaws to changes in controlling law applicable to any topic addressed in these Bylaws, (3) to change the name of the Association, and (4) to restate previously amended Bylaws for the sole purpose of incorporating the amendments into the body of the Bylaws.

13.1.2. Amendments by Declarant. As provided by Exhibit B of the Declaration, during the Development Period, Declarant may amend these Bylaws with or without approval by the Board or the members.

13.1.3. Amendments by Members. All other amendments of these Bylaws must be approved by the members according to the terms of this Article.

- 13.2. AMENDMENTS BY MEMBERS.

13.2.1. Proposal. The Association will provide or make available to an Owner of each Unit with a description, if not exact wording, of any proposed amendment. The proposed amendment, description of the proposed amendment, or instructions for obtaining a copy of the proposed amendment at no cost will be included in the notice of any annual or special meeting of the Association at which the proposed amendment is to be considered.

13.2.2. Consents. Subject to the following limitation, an amendment of these Bylaws must be approved by members representing at least a majority of the votes present (in person or by proxy) at a properly called meeting of the Association for which a quorum is obtained. In other words, if a quorum is present (in person or by proxy) at an Association meeting, the Owners of a majority of the Units represented at the meeting (in person or by proxy) – even if less than a majority of the total Units – may approve an amendment to these Bylaws. This Section, however, may not be amended without the approval of Owners representing at least a majority of the total Units in the Property.

- 13.3. EFFECTIVE. To be effective, an amendment must be in the form of a written instrument (1) referencing the name of the Property, the name of the Association, and the recording date of these Bylaws and any amendments hereto; (2) signed and acknowledged by at least one officer of the Association, certifying the requisite authority and/or approvals; and (3) recorded in the Real Property Records of Comal County, Texas. An amendment may be effective immediately if adopted at an Association meeting at which Owners of two-

thirds of the Units are represented. Otherwise, an amendment is not effective until 10 days after an Owner of each Unit is notified of the amendment and provided with a copy of the amendment or instructions for obtaining a copy.

- 13.4. **MORTGAGEE PROTECTION.** If a provision in a Project Document or applicable law requires notices to and consent of mortgagees for certain actions and amendments, the Association must give the required notices to and obtain the required approvals from applicable Mortgagees.
- 13.5. **DECLARANT PROTECTION.** During the Development Period, no amendment of these Bylaws may affect Declarant's Rights herein without Declarant's written and acknowledged consent. Specifically, this Section, the article titled "Declarant Provisions", and the sections titled "Declarant Control" and "Drafter's Intent" may not be amended during the Development Period without prior written approval of Declarant. Declarant's written consent must be part of the amendment instrument.

#### **ARTICLE 14** **General Provisions**

- 14.1. **DRAFTER'S INTENT.** Because Declarant intends these Bylaws to serve the Association for many years beyond the initial development, construction and marketing of the Property, Declarant purposefully did not draft these Bylaws from its own perspective. Instead, as a courtesy to future users of these Bylaws, Declarant compiled most of the Declarant-related provisions in Exhibit B of the Declaration. Although Declarant is initially an Owner and a member of the Association, Declarant is intentionally exempt from a number of obligations that apply to other Owners, and has a number of rights that other Owners do not have. These Bylaws are to be construed liberally to give effect to the drafter's intent of favorable and preferential treatment of Declarant.
- 14.2. **CONFLICTING PROVISIONS.** If any provision of these Bylaws conflicts with any provision of the applicable laws of the state of Texas, the conflicting Bylaws provision is null and void, but all other provisions of these Bylaws remains in full force and effect. If a provision of the Association's Certificate of Formation conflicts with these Bylaws, the Certificate of Formation controls. In the case of any conflict between the Declaration and these Bylaws, the Declaration controls.
- 14.3. **SEVERABILITY.** Whenever possible, each provision of these Bylaws will be interpreted in a manner as to be effective and valid. Invalidation of any provision of these Bylaws, by judgment or court order, does not affect any other provision which remains in full force and effect.
- 14.4. **CONSTRUCTION.** The effect of a general statement is not limited by the enumerations of specific matters similar to the general. The captions of articles and sections are inserted only for convenience and are in no way to be construed as defining or modifying the text to which they refer. The singular is construed to mean the plural, when applicable, and the use of masculine or neuter pronouns includes the feminine.
- 14.5. **FISCAL YEAR.** The fiscal year of the Association will be set by resolution of the Board, and is subject to change from time to time as the Board determines. In the absence of a resolution by the Board, the calendar year is the fiscal year.



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

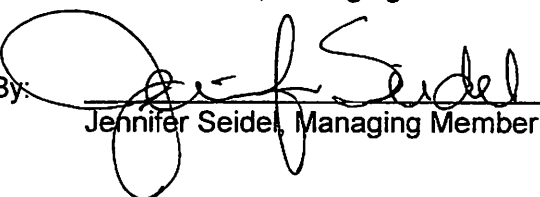
**CERTIFICATION AND ACKNOWLEDGMENT**

As the Declarant of CREEKSIDE PROFESSIONAL PLAZA 2, a Condominium, and the initial and sole member of the OWNERS ASSOCIATION OF CREEKSIDE PROFESSIONAL PLAZA 2, I certify that the foregoing Bylaws of OWNERS ASSOCIATION OF CREEKSIDE PROFESSIONAL PLAZA 2 were adopted for the benefit of the Association by the initial Board of Directors of OWNERS ASSOCIATION OF CREEKSIDE PROFESSIONAL PLAZA 2 at the organizational meeting of the Board called by a majority of the Directors for the purpose of adopting these Bylaws.

SIGNED this 22<sup>nd</sup> day of March, 2017.

DUSTY HILLS, A TEXAS LIMITED  
LIABILITY COMPANY

By:   
Dustin Seidel, Managing Member

By:   
Jennifer Seidel, Managing Member

## RULES AND REGULATIONS OF CREEKSIDE PROFESSIONAL PLAZA 2

(Applicable to All Owners, Tenants and Invitees)

**Rules in General.** The Association has adopted the following rules to help maximize enjoyment, maintain values, and assure the continued aesthetic beauty of our project. The rules apply to all Owners and tenants, and invitees. The rules are automatically a part of each lease (even if they are not attached), and each Owner is responsible for making sure Owner's tenants have a copy of the rules and follow them. You are encouraged to ask your neighbors to follow the rules.

**Communications.** Please direct any repair requests, complaints, or rule violations to:

PROPERTY PROFESSIONALS, INC.  
Attn: Patricia Culwell  
421 S. Seguin Avenue  
New Braunfels, Texas 78130  
Telephone: 830-625-8065 / Fax: 830-625-3633  
Email: [patricia@propertynb.com](mailto:patricia@propertynb.com)

**Enforcement.** The rules will be strictly enforced. If the rules are violated by any tenant or invitee of the Owner's Unit, the Owner will be responsible for corrective action, damages, and fines.

1. **Security, Safety and Lighting.** Neither the Association nor the Association's management company provides or warrants security. Owners should consult management regarding statutory security device obligations as a landlord if Owner ever rents its Unit.

Owners and Tenants are requested to report Common Area lighting problems or hazardous conditions immediately to the Association's management company representative. Neither the Association nor its management company checks exterior lighting on a daily basis.

2. **Speed Limits.** Vehicle travel within the Project must not exceed reasonable or prudent speed under the circumstances.

3. **Storage of Property in Common Areas.** No property may be stored temporarily or permanently on sidewalks, parking lots, or other Common Areas without the prior approval of the Board or the Manager. Management company employees and service personnel, Board members and persons designated by them may remove and throw away any property stored in violation of this rule.

4. **Property Inside Units.** The Association has the right and the responsibility to control the visual attractiveness of the Property, including the right to require removal of objects which are visible from the Common Areas and which detract from the Property's appearance. Blinds and drapes must be in good repair, hung properly, and comply with Rule 6 regarding color and materials.

5. **Trash.** Garbage or rubbish may not be left or deposited, even temporarily, on any Common Areas. All of such refuse must be placed in the dumpster provided for that purpose.

6. **Window Coverings.** All exterior windows must be covered by white, ivory or tan blinds or drapes. No foil or other material objectionable in the reasonable judgment of the Board of Directors may be placed in or next to any window or sliding glass door. Burglar bars may not be installed.

7. **Signs.** Except as provided in the Declaration, "For Sale" or "For Rent" signs and all other signs are prohibited and may not be exhibited anywhere in the Project, including from the interiors of the Units, except at a location approved by the Board. Board members and management company representatives may enter, without prior notice, and remove and throw away such signs. The policy regarding signs is subject to exceptions for the Declarant (developer) under the Declaration.

8. **Mailboxes.** The Board of Directors has the exclusive right to designate the type, size and location, and signage on mailboxes.

9. **Nuisances.** No unsafe, noxious, offensive, or illegal activity, or odor is permitted on the Project. No activity may be conducted on the Property which in the judgment of the Board of Directors might reasonably be considered as annoying to persons or ordinary sensibilities, or might be reasonably calculated to reduce the desirability of the property for business. No exterior loudspeakers or flashing lights are allowed. No person may do anything that will increase insurance rates for the Project without the prior written consent of the Board or which may cause such improvements to be uninsurable or which may cause any policy to be canceled, or suspended or materially modified by the issuing company.

10. **Antennas.** No exposed exterior television or radio antennas or satellite dishes may be installed anywhere on the Property except as approved by the Board.

11. **Parking.**

- (i) Parking of vehicles, motorcycles and bicycles in grass areas, dirt areas, flower beds or sidewalks is prohibited. No Unit Owner or tenant may park, store, operate or keep within or adjoining the Project any vehicle over 18 feet long.
- (ii) No vehicles may be parked or unattended in such a manner as to block the passage of other vehicles on the streets or in the fire lanes. No vehicle may be left parked and unattended, in the street, along the curb, or in driveway areas in such a manner as to prevent the ingress and/or egress of emergency vehicles (*i.e.*, fire, EMS) or service vehicles (*i.e.*, refuse trucks). No inoperable vehicle may be stored on the Project.
- (iii) The Declarant of the Project has reserved in the Declaration the right to designate and assign portions of the General Common Elements as parking for the exclusive use of any Owner of a Unit. Any parking spaces not specifically designated by the Declarant for the exclusive use of an Owner of a Unit will be under the exclusive control and administration of the Association at such time as the Declarant no longer owns any Unit within the Project. The Association may thereafter assign parking spaces to any Owner or may use such parking spaces in a manner determined by the Board. Any designation and assignment of General Common Elements as parking is required to be memorialized to a written "assignment of parking" executed by an authorized representative of the Declarant (or Association if Declarant no longer owns any Units within the Project) which identifies the parking space(s) and the Unit assigned thereto. The assignment must be made a part of the corporate records of the Association and may not be terminated or modified without the consent of the Declarant, or after Declarant no longer owns any Units, the Board, and the Owner of the Unit to which such spaces were assigned.
- (iv) All parking in the Project is subject to the terms and provisions of the Reciprocal Easement Agreement recorded as Document #201306022511, Official Public Records of Comal County, Texas, and the Rules and Regulations of The Village at Creekside of which the Project is part.

12. **Anti-Theft Alarms.** Owners and tenants who have vehicles with anti-theft systems may not allow the alarms or horns to go off and disturb other persons in the Project for more than four minutes; and any vehicle violating the four-minute rule will be deemed to be illegally parked and subject to immediate towing, without prior notice to the vehicle owner or operator, by the Association under the Texas towing statutes. The Association may, without liability to the owner or operator of the vehicle, cut or disconnect any power source to such alarm or horn to avoid having to tow the vehicle.
13. **Towing Illegally Parked Vehicles.** Vehicles parked in violation of these rules may be removed and stored without permission of the vehicle's owner or operator. Notice and removal will be in accordance with Chapter 684 of the Texas Transportation Code. A Unit Owner is liable for all costs of towing illegally parked vehicles of the Unit Owner, tenants or invitees.
14. **Pest Control.** The Association does not have responsibilities for pest control inside Units. However, the Association has the right to enter and exterminate an Owner's Unit, at the Owner's expense, if the Owner's failure to control pests inside Owner's Unit is adversely affecting other Units.
15. **Criminal Activity.** While on the Project, no person may violate any criminal laws, health codes or other applicable laws. No tampering with water, lighting, sprinklers or other common elements is allowed.
16. **Utilities and Leaks.** Each Owner is responsible for promptly fixing leaks in all plumbing lines and plumbing fixtures inside Owner's Unit. A Unit Owner will be responsible for paying for damages and repairs necessitated by water leaks from Owner's Unit to adjacent Units. If the Association deems it necessary to repair any of these items inside an Owner's Unit, the Owner must reimburse the Association for the cost of repair, plus 25% for administrative overhead.
17. **Eviction of Tenants.** Under the Declaration, the Association has the right to evict an Owner's tenant who substantially or repeatedly violates the association's Rules and Regulations.
18. **Common Area Modifications.** No Owner may construct, alter, modify, landscape, trim, or otherwise perform any work whatever upon any of the Common Elements, limited or general, without the prior written approval of the plans therefor by the Declarant or Board of Directors. No exterior awning, shades, railings, or additional lighting may be installed.
19. **Common Area Repairs.** If the Common Area is in need of repair or maintenance, you are requested to contact the Association's management company immediately and leave a message about what needs to be fixed. This is especially important if exterior lighting is malfunctioning.
20. **Leases.** Leasing of Units is allowed only if: (i) all leases are in writing and are subject to the provisions of the Declaration and Rules and Regulations, (ii) a copy of the then-current Rules and Regulations are provided to an Owner's tenant by the Owner at the beginning of the lease term, (iii) the Unit is not leased for residential, hotel or transient purposes or for less than 30 days, unless approved by the Board.
21. **Leasing of Units by Management Company.** The Association's management company may, with authority and compensation from a Unit Owner, lease, manage, and/or sell an Owner's Unit. In doing so, the management company does not represent or act for the Association. The management company is not paid by the Association to lease, manage, or sell individual Units for the Owners.
22. **Fines.** The Board may levy reasonable fines on Unit Owners for violating the Declaration or Rules. The minimum fine for each violation is \$100.00. Each day of violation may be deemed a separate violation by the Board. Fines may be assessed only if the Unit Owner is notified of the nature and approximate date of the violation and the amount of the fine. Any Unit Owner and/or Owner's tenant who has been fined may

appeal the fine and appear before the Board to ask that the fine be dropped and to explain why. In order to appeal a fine, the Owner must request such appeal in writing within 30 days of management's mailing of the fine notice to the Owner. There must be notice of the alleged infraction and fine to the Owner no later than 45 days from the alleged infraction.

23. **Late Charges.** The charge for late payment of monies to the Association will be a one-time \$50.00 charge for each Assessment or other charge to cover the administrative costs, hassle, and overhead of collection (excluding attorney's fees). After the due date, interest will accrue on unpaid sums due the Association at the rate of 18% per year compounded annually.

24. **Hot Checks.** The charge for a returned check is \$35.00 plus bank charges incurred by the Association.

25. **Board Access to Units.** The Association and managing agent have the right to enter an Owner's Unit for purposes of (1) inspection and (2) protection of property rights and quiet enjoyment of other Owners. The Association may request but not require Owners to furnish the Association with entry keys to their Units for such purposes. If the Unit is unoccupied at the time such entry is needed for such purposes, a locksmith may be used for gaining entry except in case of extreme emergency such as a fire. Emergency utility leaks may be repaired by the Association at the Owner's expense without prior notice. If the Unit is vacant and for sale or lease, the Unit Owner must furnish a key to the Unit in a sealed envelope to the Association until the Unit is sold or leased.

26. **Fees for Special Services.** Fees chargeable to Owner for special services (such as furnishing resale certificates, eligibility certificates, copies of declarations, copies of information sent to mortgagees, copies of accounting records, etc.) may be set by the Board from time to time. Until changed by the Board, the following fees and charges will apply: (i) \$100.00 for each resale certificate; (ii) 15¢ per page for black and white copies; and (iii) 25¢ per page for color copies.

27. **Change of Address.** Owners must keep the Association timely informed of their current addresses and any change of addresses.

28. **Names and Addresses of Tenants.** Owners must notify the Association of current names and addresses of tenants of their respective Units.


29. **Name and Address of New Owners.** An Owner may not sell or convey Owner's Unit without all monies due and owing to the Association being paid in full; and if such Owner does sell, convey, or transfer Owner's Unit without paying such monies, such selling Owner remains liable for all monies accruing to the Association thereafter on such until such monies are paid in full. If an Owner sells or transfers ownership of Owner's Unit and fails to notify the Association of the sale, the selling Owner continues to be liable for the Assessments accruing after the sale or transfer until such time as the selling or transferring Owner notifies the Association in writing of the name and address of the new Owner.

30. **Declaration Provisions.** Many of these policies are directly from the Declaration which apply to Owners and their tenants and invitees. Some of the policies are in addition to what is in the Declaration. All Declaration provisions apply – even if not set forth below. Except for provisions of these policies that come from the Declaration, the policies may be changed or added to by the Board.

31. **Non-Liability and Release of the Association, Officers and Directors.** AS PROVIDED IN THE DECLARATION APPLICABLE TO THE CONDOMINIUM PROJECT, THE DECLARANT, THE ASSOCIATION AND ITS OFFICERS AND DIRECTORS ARE NOT LIABLE TO UNIT OWNERS, THEIR TENANTS, AND PERSONS ON THE PROPERTY AT THEIR INVITATION OR WITH THEIR PERMISSION, FOR PROPERTY DAMAGE, PERSONAL INJURIES OR HARM RESULTING AT ANY

TIME FROM NEGLIGENT CONDUCT OF THE DECLARANT, THE ASSOCIATION'S OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS RELATING TO ENFORCEMENT OR NON-ENFORCEMENT OF THE ASSOCIATION'S DECLARATION OR RULES. THIS INCLUDES BUT IS NOT LIMITED TO ANY DECLARATION PROVISIONS AND RULES REGARDING VEHICLE PARKING, COMMON AREA LIGHTING OR FENCING, COMMON AREA SECURITY, HAZARDOUS MATERIALS STORAGE, ELECTRICAL LINES, GAS LINE OR SANITARY SEWER SYSTEM FAILURES, ETC. UNDER THE DECLARATION, BY ACCEPTANCE OF A DEED OR LEASE, OWNERS AND TENANTS, AS WELL AS PERSONS ON THE PROPERTY AT THEIR INVITATION OR WITH THEIR PERMISSION, ARE DEEMED TO HAVE RELEASED THE DECLARANT, THE ASSOCIATION AND ITS OFFICERS AND DIRECTORS FROM SUCH LIABILITY, TO THE EXTENT AUTHORIZED BY LAW. THE FOREGOING DOES NOT RELEASE AN OFFICER OR DIRECTOR FROM LIABILITY FOR ACTS OR OMISSIONS WHICH ARE (1) A BREACH OF THE OFFICER'S OR DIRECTOR'S DUTY OF LOYALTY AND FIDUCIARY DUTY TO THE ASSOCIATION OF ITS MEMBERS, (2) ACTS OR OMISSIONS NOT IN GOOD FAITH OR INVOLVING INTENTIONAL MISCONDUCT OR A KNOWING VIOLATION OF LAW, (3) A TRANSACTION FROM WHICH AN OFFICER OR DIRECTOR RECEIVES AN IMPROPER BENEFIT, WHETHER OR NOT THE BENEFIT RESULT FROM AN ACTION TAKEN WITHIN THE SCOPE OF THE DIRECTOR'S OFFICE, OR (4) AN ACT OR OMISSION FOR WHICH THE LIABILITY OF THE DIRECTOR IS EXPRESSLY PROVIDED BY STATUTE.

**OWNERS ASSOCIATION OF CREEKSIDE  
PROFESSIONAL PLAZA 2**

By:   
Name: DESTIN SEIDEL  
Title: PRESIDENT

Date of Adoption: March 22, 2017.

## **OWNERS ASSOCIATION OF CREEKSIDE PROFESSIONAL PLAZA 2**

### **Assessment Collection Policy**

Creekside Professional Plaza 2 is a condominium (the “**Project**”) created by and subject to the Declaration of Creekside Professional Plaza 2 recorded in the Official Public Records of Comal County, Texas, and any amendments or supplements thereto (“**Declaration**”). The operation of the Project is vested in the Owners Association of Creekside Professional Plaza 2 (the “**Association**”), acting through its board of directors (the “**Board**”). The Association is empowered to enforce the covenants, conditions and restrictions of the Declaration, Certificate of Formation, Bylaws, and any rules and regulations promulgated by the Association pursuant to the Declaration as adopted and amended from time to time (collectively, the “**Documents**”), including the obligation of Owners to pay Assessments pursuant to the terms and provisions of the Declaration.

The Board hereby adopts this Assessment Collection Policy to establish equitable policies and procedures for the collection of Assessments levied pursuant to the Documents. Terms used in this policy, but not defined, shall have the meaning subscribed to such term in the Declaration.

#### **Section 1. DELINQUENCIES, LATE CHARGES AND INTEREST**

- 1-A. Due Date. An Owner will timely and fully pay Assessments. Regular Assessments are assessed annually and are due and payable on the first calendar day of the month at the beginning of the fiscal year, or in such other manner as the Board may designate in its sole and absolute discretion.
- 1-B. Delinquent. Any Assessment that is not fully paid when due is delinquent. When the account of an Owner becomes delinquent, it remains delinquent until paid in full — including collection costs, interest and late fees.
- 1-C. Late Fees & Interest. If the Association does not receive full payment of an Assessment by 5:00 p.m. on the due date established by the Board, the Association may levy a late fee of \$25 per month and/or interest at the highest rate allowed by applicable usury laws then in effect on the amount of the Assessment from the due date thereof (or if there is no such highest rate, then at the rate of 1½% per month) until paid in full.
- 1-D. Liability for Collection Costs. The defaulting Owner is liable to the Association for the cost of title reports, credit reports, certified mail, long distance calls, court costs, filing fees, and other reasonable costs and attorney's fees incurred by the Association in collecting the delinquency.
- 1-E. Insufficient Funds. The Association may levy a charge of \$25 for any check returned to the Association marked "not sufficient funds" or the equivalent.
- 1-F. Waiver. Properly levied collection costs, late fees, and interest may only be waived by a Majority of the Board.

## Section 2. INSTALLMENTS AND ACCELERATION

If an Assessment, other than a Regular Assessment, is payable in installments, and if an Owner defaults in the payment of any installment, the Association may declare the entire Assessment in default and accelerate the due date on all remaining installments of the Assessment. An Assessment, other than a Regular Assessment, payable in installments may be accelerated only after the Association gives the Owner at least 15 days prior notice of the default and the Association's intent to accelerate the unpaid balance if the default is not timely cured. Following acceleration of the indebtedness, the Association has no duty to reinstate the installment program upon partial payment by the Owner.

## Section 3. PAYMENTS

- 3-A. Application of Payments. After the Association notifies the Owner of a delinquency and the Owner's liability for late fees or interest, and collection costs, any payment received by the Association will be applied in the following order, starting with the oldest charge in each category, until that category is fully paid, regardless of the amount of payment, notations on checks, and the date the obligations arose:
- (1) Delinquent Assessments
  - (2) Current Assessments
  - (3) Attorney fees and costs associated with delinquent Assessments
  - (4) Other attorney's fees
  - (5) Fines
  - (6) Any other amount
- 3-B. Form of Payment. The Association may require that payment of delinquent Assessments be made only in the form of cash, cashier's check, or certified funds.
- 3-C. Partial and Conditioned Payment. The Association may refuse to accept partial payment (i.e., less than the full amount due and payable) and payments to which conditions or directions are attached contrary to the Board's policy for applying payments. The Association's endorsement and deposit of a payment does not constitute acceptance. Instead, acceptance by the Association occurs when the Association posts the payment to the Owner's account. If the Association does not accept the payment at that time, it will promptly refund the payment to the payer. A payment that is not refunded to the payer within thirty (30) days after being deposited by the Association may be deemed accepted as to payment, but not as to words of limitation or instruction accompanying the payment. The acceptance by the Association of partial payment of delinquent Assessments does not waive the Association's right to pursue or to continue pursuing its remedies for payment in full of all outstanding obligations.
- 3-D. Notice of Payment. If the Association receives full payment of the delinquency after recording a notice of lien, the Association will cause a release of notice of lien to be publicly recorded, a copy of which will be sent to the Owner. The Association may require the Owner to prepay the cost of preparing and recording the release.



- 3-E. Correction of Credit Report. If the Association receives full payment of the delinquency after reporting the defaulting Owner to a credit reporting service, the Association will report receipt of payment to the credit reporting service.

#### **Section 4. LIABILITY FOR COLLECTION COSTS**

- 4-A. Collection Costs. The defaulting Owner may be liable to the Association for the cost of title reports, credit reports, certified mail, long distance calls, filing fees, and other reasonable costs and attorney's fees incurred in the collection of the delinquency.

#### **Section 5. COLLECTION PROCEDURES**

- 5-A. Delegation of Collection Procedures. From time to time, the Association may delegate some or all of the collection procedures, as the Board in its sole discretion deems appropriate, to the Association's Manager, an attorney, or a debt collector.
- 5-B. Delinquency Notices. If the Association has not received full payment of an Assessment by the due date, the Association may send written notice of nonpayment to the defaulting Owner, by hand delivery, first class mail, and/or by certified mail, stating the amount delinquent. The Association's delinquency-related correspondence may state that if full payment is not timely received, the Association may pursue any or all of the Association's remedies, at the sole cost and expense of the defaulting Owner.
- 5-C. Verification of Owner Information. The Association may obtain a title report to determine the names of the Owners and the identity of other lien-holders, including the mortgage company.
- 5-D. Collection Agency. The Board may employ or assign the debt to one or more collection agencies.
- 5-E. Notification of Mortgage Lender. The Association may notify the Mortgage lender of the default obligations.
- 5-F. Notification of Credit Bureau. The Association may report the defaulting Owner to one or more credit reporting services.
- 5-G. Collection by Attorney. If the Owner's account remains delinquent for a period of ninety (90) days, the Manager of the Association or the Board of the Association shall refer the delinquent account to the Association's attorney for collection. In the event an account is referred to the Association's attorney, the Owner will be liable to the Association for its legal fees and expenses. Upon referral of a delinquent account to the Association's attorney, the Association's attorney will provide the following notices and take the following actions unless otherwise directed by the Board:
- (1) Initial Notice: Preparation of the Initial Notice of Demand for Payment Letter. If the account is not paid in full within 30 days (unless such notice has previously been provided by the Association), then

- (2) Lien Notice: Preparation of the Lien Notice and Demand for Payment Letter and record a Notice of Unpaid Assessment Lien. If the account is not paid in full within 30 days, then
  - (3) Final Notice: Preparation of the Final Notice of Demand for Payment Letter and Intent to Foreclose and Notice of Intent to Foreclose to Lender. If the account is not paid in full within 30 days, then
  - (4) Foreclosure of Lien: Only upon specific approval by a majority of the Board.
- 5-H. Notice of Lien. The Association's attorney may cause a notice of the Association's Assessment lien against the Owner's Unit to be publicly recorded. In that event, a copy of the notice will be sent to the defaulting Owner and may also be sent to the Owner's Mortgagee.
- 5-I. Cancellation of Debt. If the Board deems the debt to be uncollectible, the Board may elect to cancel the debt on the books of the Association, in which case the Association may report the full amount of the forgiven indebtedness to the Internal Revenue Service as income to the defaulting Owner.
- 5-J. Suspension of Use of Certain Facilities or Services. The Board may suspend the use of the Common Area amenities by an Owner, or his Occupant, whose account with the Association is delinquent for at least 30 days.

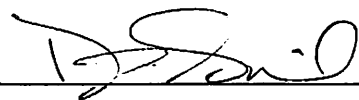
## **Section 6. GENERAL PROVISIONS**

- 6-A. Independent Judgment. Notwithstanding the contents of this detailed policy, the officers, directors, Manager, and attorney of the Association may exercise their independent, collective, and respective judgment in applying this policy.
- 6-B. Other Rights. This policy is in addition to and does not detract from the rights of the Association to collect Assessments under the Documents and the applicable law.
- 6-C. Limitations of Interest. The Association, and its officers, directors, Managers, and attorneys, intend to conform strictly to the applicable usury laws of the State of Texas. Notwithstanding anything to the contrary in the Documents or any other document or agreement executed or made in connection with this policy, the Association will not in any event be entitled to receive or collect, as interest, a sum greater than the maximum amount permitted by applicable law. If from any circumstances whatsoever, the Association ever receives, collects, or applies as interest a sum in excess of the maximum rate permitted by applicable law, the excess amount will be applied to the reduction of unpaid Assessments, or reimbursed to the Owner if those Assessments are paid in full.
- 6-D. Notices. Unless the Documents, applicable law, or this policy provide otherwise, any notice or other written communication given to an Owner pursuant to this policy will be deemed delivered to the Owner upon depositing same with the U.S. Postal Service, addressed to the Owner at the most recent address shown on the Association's records, or on personal delivery to the Owner. If the Association's records show that an Owner's

Unit is owned by two or more persons, notice to one co-Owner is deemed notice to all co-Owners. Similarly, notice to one Occupant is deemed notice to all Occupants. Written communications to the Association, pursuant to this policy, will be deemed given on actual receipt by the Association's president, secretary, managing agent, or attorney.

6-E. Amendment of Policy. This policy may be amended from time to time by the Board.

**OWNERS ASSOCIATION OF CREEKSIDE  
PROFESSIONAL PLAZA 2**

By:   
Name: DUSTIN SEIDER  
Title: PRESIDENT

Date of Adoption: March 22, 2017.

Filed and Recorded  
Official Public Records  
Bobbie Koepf, County Clerk  
Comal County, Texas  
03/31/2017 02:17:50 PM  
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*Bobbie Koepf*