

**BYLAWS
OF
ELKSTONE OWNERS ASSOCIATION, INC.**

ARTICLE 1

GENERAL PROVISIONS

These are the Bylaws of Elkstone Owners Association, Inc., a Colorado nonprofit corporation (the "Association"). The Association is organized under the Colorado Revised Nonprofit Corporation Act, Articles 121-137 of Title 7 of the Colorado Revised Statutes, as amended (the "Corporation Act"). The purpose of the Association is to serve as the Owners' association for Elkstone (the "Community"), which is a condominium created pursuant to the Colorado Common Interest Ownership Act, Article 33.3 of Title 38 of the Colorado Revised Statutes, as amended (the "CCIO Act"). Except as otherwise stated in these Bylaws, terms used in these Bylaws have the same meaning given those terms in the Declaration of Covenants, Conditions and Restrictions for Elkstone (the "Declaration") or, if they are not defined in the Declaration, the same meaning given those terms in the CCIO Act.

ARTICLE 2

MEMBERSHIP

2.1 Each "Owner" a Member. Each Person who is an "Owner" shall automatically be a member of the Association. No Person who is not an Owner may be a member of the Association. A Person shall cease to be a member when that Person ceases to be an Owner.

2.2 Registration of Owners. Each Owner shall register with the Secretary of the Association, in writing, within thirty (30) days after taking title to a Unit, (a) the name and address of each Owner of the Unit or an interest in the Unit, and, if then known, the name and address of any Guest who will occupy the Unit for a period of sixty (60) days or more, (b) the nature of such Owner's interest or estate in the Unit, (c) the registered mailing address for all Owners of the Unit, (d) the name and address of the Person holding the First Mortgage on the Unit, if any, and the loan number associated by that Person with the loan secured by the First Mortgage, and (e) if there are multiple Owners of the Unit, the name of the Owner who is authorized to cast the Membership vote allocated to the Unit. Each Owner shall have a continuing duty to advise the Association in writing of any changes in or additions to the foregoing information.

2.3 Transfers. The interests, rights and obligations of an Owner in the Association may be assigned, pledged, encumbered or transferred, but only along with and as a part of the title to the Owner's Unit or as otherwise specifically authorized by the Declaration, Articles of Incorporation, or these Bylaws (hereinafter collectively referred to as the "Association

Documents”) or by law. No Person shall be a Member of the Association solely because such Person has a lien on or security interest in a Unit.

ARTICLE 3

VOTING

3.1. Entitlement. Votes and voting rights shall be allocated to each Unit, including Units owned by the Declarant, as provided in the Declaration. However, no vote shall be exercised as to a Unit while the Unit is owned by the Association.

3.2. Authority to Cast Vote. At any meeting of the Owners, an Owner included on the voting register presented by the Secretary in accordance with Section 4.6, or the holder of such Owner’s proxy, shall be entitled to cast the vote allocated to the Unit owned by such Owner. If there is more than one Owner of a Unit, only one, the Person registered pursuant to clause (e) of Section 2.2, may cast the vote. If the Owners of a Unit owned by more than one Owner fail to register pursuant to clause (e) of Section 2.2, no vote shall be cast with respect to that Unit.

3.3. Voting by Proxy. An Owner may cast the vote allocated to the Owner’s Unit, and be counted as present at any meeting of the Owners, by executing a written proxy naming another Person entitled to act on that Owner’s behalf, and delivering the same to the Secretary before the commencement of such meeting. Any proxy granted by an Owner shall remain in effect until the earliest of the following events: (a) revocation by the granting Owner by written notice or by personal attendance at the meeting for which the proxy is effective, (b) eleven months after the date of the proxy, unless otherwise provided in the proxy, or (c) cessation by the granting Owner to be an Owner or to be the person designated pursuant to clause (e) of Section 2.2 to cast the vote allocated to a Unit with more than one Owner.

3.4. Voting by Mail Ballot. The entire vote for an election of Directors, for an amendment to the Declaration, the Association’s Articles of Incorporation or these Bylaws, for the ratification of an annual budget or an amendment thereto (if and only if required by the Declaration), for a proposed plan of merger, consolidation or dissolution or for termination of the Condominium may be conducted by mail, subject to the following requirements:

- (a) The notice of the vote shall (i) clearly state the proposed action, (ii) indicate the number of responses needed to meet the quorum requirements, (iii) state the percentage of approvals necessary to approve each matter other than election of Directors, (iv) specify the time by which a ballot must be received by the Association in order to be counted, and (v) include or be accompanied by written information sufficient to permit each Person casting a ballot to reach an informed decision on the matter.
- (b) The ballot shall (i) set forth each proposed action, and (ii) provide an opportunity to vote for or against each proposed action.

- (c) The Board shall set the time for the return of ballots, which shall not be less than fifteen (15) days nor more than thirty (30) days after the date of mailing of the ballots to the Owners. The Board shall provide notice of the results of the vote to the Owners within ten (10) days after the expiration of the voting period.
- (d) Approval by written ballot under this section is valid only if the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting authorizing the action, and the number of approvals equals or exceeds the number of votes that would be required to approve the matter at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot.
- (e) A ballot submitted to the Association under the procedure contemplated by this Section 3.4 may not be revoked or changed.
- (f) Action taken under this Section 3.4 has the same effect for all purposes as action taken at a meeting of the Members, and any requirement in the Declaration for the holding of a meeting of Members may be satisfied by the conduct of an election in accordance with the provisions of this Section 3.4.
- (g) Nothing in this Section 3.4, or elsewhere in these Bylaws, shall be construed to permit the Association to take any action that is inconsistent with the provisions of the Declaration, the CCIO Act or the Corporation Act. Without limiting the effect of the preceding sentence, the procedure contemplated in this Section 3.4 does not affect any requirement in the Declaration or elsewhere for consent by the Declarant.

3.5. Vote Required. A majority of the votes cast at any properly constituted meeting of the Owners, or cast by mail in accordance with Section 3.4, shall decide all matters properly brought before the Owners, except where a different vote is specifically required by the Association Documents, the Corporation Act or the CCIO Act. The term "majority" as used in these Bylaws shall mean in excess of 50% of the votes cast at a meeting, in person or by proxy, or voting by mail, in accordance with the allocation of voting power set forth in the Declaration.

ARTICLE 4

MEETINGS OF OWNERS

4.1. Place. All meetings of the Owners shall be held at the office of the Association or at such other place in the State of Colorado, reasonably accessible to the Owners, as may be designated by the Executive Board in any notice of a meeting of the Owners.

4.2. Annual Meetings. An annual meeting of the Owners shall be held in each fiscal year on a date, and at a reasonable time and place, designated by the Executive Board. At each annual meeting of the Owners, (a) the Persons who are to constitute the Executive Board shall be elected pursuant to Article 6, (b) reports shall be made to the Owners on the activities and

financial condition of the Association, and (c) any other matter that is included in the notice of the annual meeting, and is a proper subject for discussion or decision by the Owners, shall be considered and acted upon at the meeting.

4.3. Special Meetings. Special meetings of the Owners may be called by the President, by a majority of the members of the Board or by Owners entitled to cast at least 20% of all votes in the Association. Any such meeting called by Owners or by members of the Executive Board shall be held within sixty (60) days after the issuance of the call for the meeting. The call for any special meeting of the Owners shall state the items to be listed on the agenda for the meeting, including the general nature of any proposed amendment to the Association Documents, any budget changes and any proposal to remove an officer or a member of the Executive Board. The business transacted at the special meeting shall be confined to the matters listed in the call for the meeting. The purposes for which the meeting is requested and held must be lawful and consistent with the Association's purposes and authority under the Association Documents.

4.4. Notice of Meetings. Not less than ten (10) nor more than fifty (50) days in advance of any annual or special meeting of the Owners, the Secretary shall send, to all Persons who are registered (pursuant to Section 2.2 above) as Owners as of the date the notice is sent, written notice of the date, time, place and agenda of the meeting, including the general nature of any proposed amendment to the Declaration or to these Bylaws, any budget changes and any proposal to remove an officer or a member of the Executive Board. Such notice shall be given to each Owner by United States mail, or by hand delivery, at the address of such Owner's Unit or at such other address as the Owner may have designated in writing. Notice of any meeting to vote on any proposed amendment to any of the Association Documents shall also be given separately to each officer and Director of the Association.

4.5. Quorum/Adjournment. The presence, in person or by proxy, of Owners (including the Declarant) who have authority to cast more than 51% of all votes in the Association shall constitute a quorum at all meetings of the Owners for the transaction of any business. In the absence of a quorum, a majority of those present may nonetheless vote to adjourn the meeting and reconvene it at a later time. If a quorum is present at the reconvened meeting, any business may be transacted that might have been transacted at the meeting as initially called had a quorum then been present. No vote or other binding action may be taken unless a quorum is present at the time of the action. In determining the presence of a quorum, the Association may not be counted as to any Unit owned by the Association. Any meeting may be adjourned from time to time without notice other than announcement at the meeting as initially called, provided that no single adjournment may be for more than fifteen (15) days unless notice is again given in accordance with Section 4.4 above.

4.6. Voting Register. The Secretary shall have available at each meeting a list of the Unit numbers, the names of the Owners and the name of the Person authorized by registration pursuant to clause (e) of Section 2.2 to cast the vote allocated to a Unit with multiple Owners.

4.7. Agenda. The agenda for regular annual meetings of the Owners shall be established by the Executive Board, consistent with the Association Documents, and shall be

sent to all Owners along with the notice of the meeting. The agenda for any special meeting shall be established as provided in Section 4.3 above.

4.8 Meetings by Telecommunication. Any or all of the Owners may participate in an annual or special meeting of the Owners by, or the meeting may be conducted through the use of, any means of communication by which all persons participating in the meeting may hear each other during the meeting. An Owner participating in a meeting by this means is deemed to be present in person at the meeting.

ARTICLE 5

ANNUAL REPORT

With respect to the first fiscal year of the Association that ends after the Association has first levied a General Assessment, and with respect to each subsequent fiscal year, the Executive Board shall prepare an annual report on behalf of the Association, which shall be mailed or delivered to each Owner with the notice of the annual meeting. The report shall contain at a minimum:

- (a) A statement of any capital expenditures in excess of two percent (2%) of the current operating budget or \$1,000, whichever is greater, made during the fiscal year last ended or approved by the Executive Board for the current year;
- (b) A statement of the balance in any reserve or replacement fund and any portion of the fund designated for any specified project by the Executive Board;
- (c) A copy of the statement of revenues and expenses for the Association's last fiscal year, and a balance sheet as of the end of that fiscal year;
- (d) A statement of the status of any pending litigation to which the Association is a party, including any unsatisfied judgment (whether or not stayed) in favor of or against the Association; and
- (e) A Unit-by-Unit statement of all past due Assessments on all Units, current as of a date not more than forty-five (45) days before the date of the report.

ARTICLE 6

EXECUTIVE BOARD

6.1. Number and Qualification. The affairs of the Association shall be governed by the Executive Board. The initial Executive Board shall consist of the individuals appointed as Directors by the Declarant pursuant to Section 6.3 of the Declaration and as set forth in the original Articles of Incorporation. From and after the expiration of the Declarant Control Period, the Executive Board shall be composed of at least three (3) and no more than five (5) Directors, each of whom shall either be Owners or be designated representatives of Owners that are

corporations, partnerships, limited liability companies, trusts or other entities that have the capacity to hold title to real estate.

6.2. Term of Office. The terms of office of the members of the Board shall be as follows:

- (a) Subject to subsection (b), the terms of all Directors appointed by Declarant as authorized by the Declaration shall terminate at the end of the Declarant Control Period (or, if earlier, at such time as the Declarant voluntarily surrenders the right to appoint and remove Directors in accordance with Section 6.3 of the Declaration). The term of office of any Director elected to the Executive Board by Owners, other than the Declarant, shall terminate at the same time as the terms of those appointed by Declarant.
- (b) Notwithstanding the provisions of subsection (a), the Owners other than Declarant shall have the right to nominate and elect one Director at a meeting of the Owners held within sixty (60) days following the conveyance by Declarant of twenty-five percent (25%) of the Units that may be created under the Declaration to Purchasers, at least twenty-five percent (25%) of the Directors shall be elected by Owners other than Declarant, and not later than sixty (60) days after the conveyance of fifty percent (50%) of the Units that may be created under the Declaration to Purchasers, at least thirty-three and one third percent (33 1/3%) of the Members of the Executive Board must be elected by Owners other than Declarant.
- (c) Before the end of the terms provided for in subsection (a), the Executive Board shall call a special meeting of the Owners, or conduct a mail vote, to elect new Directors who are to take office at the end of such terms. Each Director elected by the Owners shall serve for a term of one year (or, if less, until the next annual meeting of Owners).
- (d) Once selected, whether by appointment by the Declarant or by election by the Owners, a Director shall continue in office until a successor is elected, notwithstanding the expiration or termination of such Director's stated term, or until such Director is removed in accordance with these Bylaws. A Director appointed or elected to fill an uncompleted term shall serve until the normal expiration or termination of that term, unless removed in accordance with these Bylaws.
- (e) At any meeting for election of Directors, nominees equal in number to the number of vacancies, and receiving the greatest numbers of votes, shall be elected, whether or not any nominee receives a majority of the votes cast.

6.3. Nominations. Nominations for election to the Executive Board shall be made by a nominating committee appointed by the Executive Board, or from the floor at the annual or

special meeting, if Directors are to be elected at a meeting rather than by mail, or by "write-in" if authorized by the Executive Board.

6.4. Powers. The Executive Board shall have all powers necessary for the administration of the affairs of the Association, and may exercise for the Association all powers and authority vested in or delegated to the Association (and not expressly prohibited to the Executive Board or reserved to the Owners) by law or by the Association Documents. The powers of the Executive Board shall include, without limitation, the power to:

- (a) adopt, amend and revoke Rules and Regulations not inconsistent with the Association Documents, as follows: (i) regulating the use of the Common Elements, (ii) regulating use of the Units, and conduct of Owners and Guests, to the extent such use or conduct may jeopardize the health, safety or welfare of other Owners and Guests, involve noise or other disturbing activity, or may damage the Common Elements or other Units, (iii) regulating animals, (iv) regulating changes in the appearance of the Common Elements, (v) regulating the exterior appearance of the Improvements, including, for example, balconies and patios, window treatments and signs and other displays, including features that are inside a Unit, (vi) implementing the Association Documents, and exercising the powers granted by this section and by other provisions of the Association Documents, and (vii) otherwise facilitating the operation of the Condominium;
- (b) adopt and amend budgets for revenues, expenditures and reserves, and levy and collect Assessments for Common Expenses from Owners;
- (c) hire or retain, and discharge, property managers, managing agents and other employees, agents and independent contractors;
- (d) institute, defend or intervene in litigation or administrative proceedings (i) on matters affecting the Community, the Property or the Association, or, (ii) with the consent of the Owners of the affected Units, on matters affecting only those Units;
- (e) make contracts and incur liabilities;
- (f) regulate the use, maintenance, repair, replacement and modification of the Common Elements and the Units;
- (g) cause improvements to be made to, or as a part of, the Common Elements;
- (h) acquire, hold, encumber and convey in the name of the Association any right, title, or interest to real estate or personal property, subject to the provisions of the Declaration or of the CCIO Act restricting the conveyance or encumbrance of the Common Elements;

- (i) grant easements, leases, licenses and concessions through, over or under the Property, subject to the terms of the Declaration;
- (j) impose and receive any payments, fees or charges for services provided to Owners and for the use, rental or operation of the Common Elements, other than Limited Common Elements that are located within a Unit or are allocated exclusively to a single Unit;
- (k) impose charges for late payment of Assessments, recover reasonable attorneys' fees and other legal costs for collection of Assessments and other actions to enforce the power of the Association, whether or not suit is initiated, and, after notice and an opportunity to be heard, levy reasonable fines for violations of the Rules and Regulations or other Association Documents;
- (l) impose reasonable charges for the review, preparation and recordation of amendments to the Declaration or Bylaws, statements of unpaid Assessments or furnishing copies of Association records;
- (m) provide for the indemnification of its Directors, officers and committee members and maintain Directors', officers' and/or committee members' liability insurance;
- (n) assign collaterally the Association's right to future income, including the right to receive future Assessments, subject to the requirements of Section 7.07 of the Declaration;
- (o) provide for reasonable procedures, consistent with the Association Documents, governing the conduct of meetings and the election of Directors;
- (p) appoint, regulate and dissolve committees; and
- (q) exercise any other powers conferred by law or the Association Documents, or that are necessary and proper for the governance of the Association.

6.5. Meetings and Notices. An annual meeting of the Executive Board shall be held promptly following each annual meeting of the Owners. At each annual meeting the officers of the Association shall be elected. Other meetings of the Board shall be held in accordance with the following provisions:

- (a) Special meetings of the Executive Board may be called by the President of the Association or by any two Directors. Notice of any special meeting shall be given to each Director not less than three days in advance of the meeting. Unless otherwise required by law or these Bylaws, neither the business to be transacted at, nor the purpose of, any meeting of the Executive Board need be specified in the notice or waiver of notice of such meeting.

- (b) The Executive Board may permit any Director to participate in a regular or special meeting by, or conduct the meeting through the use of, any means of communication by which all Directors participating may hear each other during the meeting. A Director participating in a meeting by this means is deemed to be present in person at the meeting.
- (c) Any Director may at any time waive notice of any meeting of the Board orally, in writing, or by attendance at the meeting. If all the Directors are present at a meeting of the Board, no notice shall be required, and any business may be transacted at such meeting.

6.6. Quorum and Voting. A majority of the members of the Executive Board shall constitute a quorum for the transaction of business at any meeting thereof. No vote or other binding action may be taken unless a quorum is present at the time of the action. Each Director shall have one vote. The vote of a majority of the Directors present at any meeting at which a quorum is present shall be sufficient to adopt any action. Proxies shall not be permitted.

6.7. Action Taken Without a Meeting. The Executive Board may take, without a meeting, any action that it could take at a meeting, provided such action is authorized in a writing signed by all Directors. Signatures of Directors on two or more counterparts of substantively identical documents shall be equivalent to signatures on the same document, and signatures transmitted by facsimile shall have the same effect as the originals.

6.8. Vacancies. Except for vacancies created pursuant to Section 6.2 and except for a vacancy filled by vote of the Owners at the same meeting at which the Owners have voted to remove a Director, a vacancy on the Executive Board shall be filled by a person elected within fifteen (15) days following the occurrence of the vacancy by a majority vote of the remaining Directors, regardless of their number. Each person so elected shall serve out the term vacated.

6.9. Removal. A Director may be removed from the Board, with or without cause, by a vote of 67% of the votes represented by persons present at any annual or special meeting of the Owners; *provided*, that (a) a quorum shall be present at the time the vote is taken, (b) the notice of the meeting at which removal is to be considered shall have stated such consideration as a purpose or agenda item for the meeting, (c) the Director to be removed shall have been given a reasonable opportunity to be heard at the meeting, and (d) either the Declarant Control Period shall have ended before the date of the meeting, or the Director to be removed shall not hold his or her Directorship by virtue of having been appointed by the Declarant. If a Director is removed by vote of the Owners pursuant to the preceding sentence, a new Director may be elected at the same meeting by the Owners to fill the vacant position caused by the removal. A Director may also be removed by the Executive Board if (i) such Director has more than two unexcused absences from meetings of the Executive Board or meetings of the Owners within the preceding twelve (12) months, or (ii) Assessments with respect to any Unit represented by such Director are more than sixty (60) days past due. A vacancy resulting from the removal of a Director by the Executive Board, and a vacancy resulting from removal of a Director by the Owners that is not filled by vote of the Owners at the same meeting, shall be filled by the remaining members of the Executive Board as provided in Section 6.8 of these Bylaws.

6.10. Compensation. Except as may be authorized by Owners holding a majority of all votes in the Association, the Directors of the Association shall receive no compensation for their services in such capacity. A Director, or other Owner or Guest may, upon approval by the Board, be retained by the Association and be compensated reasonably for specific goods or services furnished to the Association by such Person in an individual capacity. Directors shall be reimbursed for reasonable out-of-pocket expenses properly incurred in the performance of their duties. The Board may adopt policies or guidelines regarding reimbursable expenses.

6.11. Fidelity Bond. From and after the end of the Declarant Control Period, fidelity bonds or insurance coverage for unlawful taking of Association funds shall be obtained and maintained on all Directors, officers and other persons authorized to handle the Association's funds and other monetary assets. The Board shall determine the amount of such coverage from time to time, but such amount shall at no time be less than twenty-five percent (25%) of the aggregate budgeted Assessments for the then-current fiscal year.

ARTICLE 7

OFFICERS

7.1. Principal Officers. The principal officers of the Association shall be a President, a Secretary and a Treasurer, all of whom shall be elected by the Board. The Board may from time to time elect one or more Vice Presidents or such other officers and designate their duties as in their judgment may be necessary to manage the affairs of the Association. A person may hold more than one office simultaneously, except those of President and Secretary. The President must be a member of the Board; the other officers may, but need not, be members of the Board.

7.2. Election. The officers of the Association shall be elected annually by the Board at its annual meeting and shall hold office at the pleasure of the Board.

7.3. Removal. Upon an affirmative vote of a majority of the members of the Board, any officer may be removed, with or without cause, and a successor may be elected, at any regular or special meeting of the Board.

7.4. President. The President shall be the chief executive officer of the Association, and shall preside at all meetings of the Board and of the Association. The President shall have all of the powers and duties which are customarily vested in the office of president of a nonprofit corporation, including without limitation the duty to supervise all other officers and to execute all contracts and similar obligations on behalf of the Association. The President shall have such other duties as may from time to time be prescribed by the Board.

7.5. Vice President. The Vice President, if any, shall take the place of the President and perform the duties of the office whenever the President shall be absent or unable to act. Any Vice President shall also perform such other duties as shall from time to time be prescribed by the Board.

7.6. Secretary. The Secretary shall be responsible for recording the minutes of all meetings of the Board and the Association. The Secretary shall be responsible for keeping the books and records of the Association, and shall give all notices required by the Association Documents, the Corporation Act or the CCIO Act unless another person is directed by the Board to give any such notice. The Secretary shall execute, certify and record or file, as necessary, amendments to the Declaration, Articles and Bylaws. The Board may delegate the Secretary's administrative functions to a managing agent; provided that such delegation shall not relieve the Secretary of the ultimate responsibility for the Secretary's duties.

7.7. Treasurer. The Treasurer shall have responsibility for all financial assets of the Association, and shall be covered by a fidelity bond or insurance in such sum and with such companies as the Board may require, consistent with the requirements of Section 6.11. The Treasurer shall be responsible for keeping the Association's financial books, assessment rolls and accounts. The Treasurer shall cause the books of the Association to be kept in accordance with customary and accepted accounting practices and shall submit them to the Board for its examination upon request. The Treasurer shall cause all moneys and other monetary assets of the Association to be deposited in the name of or to the credit of the Association in depositories designated by the Board, shall cause the funds of the Association to be disbursed as ordered by the Board and shall perform all other duties incident to the office of Treasurer. The Board may delegate the Treasurer's administrative functions to a managing agent; provided that such delegation shall not relieve the Treasurer of the ultimate responsibility for the Treasurer's duties.

7.8. Compensation. Except as authorized by a vote of the Owners at a meeting thereof, officers of the Association shall receive no compensation for their services in such capacity. An officer, or other Owner or Guest may, upon approval by the Board, be retained by the Association and be compensated reasonably for specific goods or services furnished to the Association by such Person in an individual capacity. Officers shall be reimbursed for out-of-pocket expenses reasonably incurred in the performance of their duties.

ARTICLE 8

OPERATION OF THE COMMUNITY

8.1. Budget and Assessment Procedures. The Board shall adopt, modify and distribute budgets and fix General and other Assessments pursuant to the Declaration.

8.2. Payment of Assessments. Annual General Assessments shall be due and payable in quarterly or other periodic installments in advance on the first day of each quarter or other period of the year for which the Assessments are made. Special Assessments shall be due when designated by the Board. All Owners shall be absolutely and unconditionally obligated to pay the Assessments levied pursuant to the Association Documents. No Owner shall have any right of withholding, offset or deduction against the Association with respect to any Assessments, or related late charges or costs of collection. Any rights or claims alleged by an Owner may be pursued only by separate action.

8.3. Default in Payment. If any Owner fails to pay any Assessment or installment thereof, on or before the date on which such Assessment or such installment thereof is due (subject to such grace periods as may be provided in these Bylaws), such Owner shall be in default of such Owner's obligations to the Association, and the following provisions shall apply:

- (a) The delinquent amount shall accrue, and the Owner shall pay to the Association on demand, interest at the rate of twelve percent (12%), or such other lawful rate as the Executive Board may establish from time to time, from the due date of such delinquent Assessment until the date paid.
- (b) If such failure continues for fifteen (15) days, such Owner shall be obligated to pay to the Association a late charge equal to five percent (5%) of the amount in default; *provided*, that only one late charge shall be payable with respect to a single delinquency, even if such delinquency continues for more than a single month.
- (c) If such failure continues for thirty (30) days, the Executive Board may accelerate any remaining installments of the Assessment by giving written notice to the Owner of the Executive Board's election to do so, at which time the entire unpaid balance of the Assessment and late charges shall become immediately due and payable.
- (d) If requested in writing by the First Mortgagee of a Unit to do so, the Association shall notify such First Mortgagee in writing of any delinquency in the payment of Assessments by an Owner whose Unit is encumbered by a First Mortgage held by such First Mortgagee, if such delinquency continues for sixty (60) days.
- (e) The Executive Board shall have the right and duty to attempt to recover all Assessments for Common Expenses, together with any late charges, attorneys' fees and other expenses relating to the collection thereof.
- (f) The rights and remedies provided for in these Bylaws are in addition to those available to the Association under the Declaration or provided for by law.

8.4. Foreclosure of Liens for Unpaid Assessments. The Association has the right to foreclose a lien against a Unit for Assessments imposed by the Association as more fully described in the Declaration and the CCIO Act.

8.5. Records. The Executive Board shall cause to be kept at the registered office of the Association, and at such other place as the Executive Board may determine, records of the actions of the Executive Board, minutes of the meetings of the Executive Board, minutes of the meetings of the Owners, names of the Owners and First Mortgagees, and detailed and accurate records of the receipts and expenditures of the Association. All Association records, including those relating to receipts and expenditures and any vouchers authorizing payments, shall be available for examination by Owners and First Mortgagees upon reasonable notice and during normal business hours. A separate account shall be maintained for each Unit, setting forth the

amount of the Assessments against the Unit, the date when due, the amount paid thereon and the balance remaining unpaid.

8.6. Enforcement of Obligations. All Owners and Guests are obligated and bound to observe the provisions of the Rules and Regulations, the other Association Documents and the CCIO Act. The Association may impose any or all of the charges, sanctions and remedies authorized by the Rules and Regulations, the other Association Documents and the CCIO Act, and take such action as may be appropriate to enforce and implement the Association's rights and to otherwise enable it to manage and operate the Condominium.

ARTICLE 9

AMENDMENTS

The Articles and/or these Bylaws may be amended, and the amendment shall be effective, upon the satisfaction of the following conditions:

9.1. Approval. The amendment must be approved by Owners who have authority to cast at least sixty-seven percent (67%) of the total votes in the Association, at an annual or properly called special meeting of the Owners, or by the procedure described in Section 3.4.

9.2. Notice. A copy of the proposed amendment shall be mailed by U.S. Mail, facsimile transmission, or hand delivered, with or before the notice of the meeting at which the amendment is to be considered, if any, or with the notice called for in Section 3.4(a), to all Owners authorized to cast votes.

9.3. Effective Date; Recording. The amendment shall be effective on the date of approval by the required vote of the Owners. Amendments need not be recorded in any public office, but shall be maintained by the Secretary of the Association with the other permanent records of the Association.

ARTICLE 10

INDEMNIFICATION

10.1. Definitions. As used in this Article 10:

- (a) "corporation" includes any domestic or foreign entity that is a predecessor of the Association by reason of a merger or other transaction in which the predecessor's existence ceased upon consummation of the transaction.
- (b) "Director" means an individual who is or was a Director of the Association or an individual who, while a Director of the Association, is or was serving at the Association's request as a Director, officer, partner, trustee, employee, fiduciary or agent of another domestic or foreign corporation or other person. For purposes of any claim that is asserted or remains pending after the death or disability of a

deceased or disabled Director, the term "Director" includes, unless the context requires otherwise, the estate or personal representative of the Director.

- (c) "expenses" includes counsel fees.
- (d) "liability" means the obligation incurred with respect to a proceeding to pay a judgment, settlement, penalty, fine or reasonable expenses.
- (e) "official capacity" means, when used with respect to a Director, the office of Director in the Association and, when used with respect to a person other than a Director as contemplated in Section 10.6, the office in the Association held by the officer or the employment, fiduciary or agency relationship undertaken by the employee, fiduciary or agent on behalf of the Association. "Official capacity" does not include service for any other domestic or foreign corporation or other person.
- (f) "party" includes a person who was, is or is threatened to be made, a named defendant or respondent in a proceeding.
- (g) "proceeding" means any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative and whether formal or informal.

10.2. Authority to Indemnify Directors.

- (a) Except as provided in Section 10.2(d), the Association shall indemnify a person made a party to a proceeding because the person is or was a Director against liability incurred in the proceeding if:
 - (i) The person's conduct was in good faith; and
 - (ii) The person reasonably believed:
 - (A) In the case of conduct in an official capacity with the Association, that the conduct was in the Association's best interests; and
 - (B) In all other cases, that the conduct was at least not opposed to the Association's best interests; and
 - (iii) In the case of any criminal proceeding, the person had no reasonable cause to believe the conduct was unlawful.
- (b) The termination of a proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent is not, of itself, determinative that the Director did not meet the standard of conduct described in this Section 10.2.

- (c) Except to the extent authorized by a court as provided in the Corporation Act, the Association may not indemnify a Director under this Section 10.2:
 - (i) In connection with a proceeding by or in the right of the Association in which the Director was adjudged liable to the Association; or
 - (ii) In connection with any other proceeding charging that the Director derived an improper personal benefit, whether or not involving action in an official capacity, in which proceeding the Director was adjudged liable on the basis that he or she derived an improper personal benefit.
- (d) Indemnification permitted under this Section 10.2 in connection with a proceeding by or in the right of the Association is limited to reasonable expenses incurred in connection with the proceeding.

10.3. Mandatory Indemnification of Directors. The Association shall indemnify a person who was wholly successful, on the merits or otherwise, in the defense of any proceeding to which the person was a party because the person is or was a Director, against reasonable expenses incurred by him or her in connection with the proceeding.

10.4. Advance of Expenses to Directors.

- (a) The Association shall pay for or reimburse the reasonable expenses incurred by a Director who is a party to a proceeding in advance of final disposition of the proceeding if:
 - (i) The Director furnishes to the Association a written affirmation of the Director's good faith belief that the Director has met the standard of conduct described in Section 10.2;
 - (ii) The Director furnishes to the Association a written undertaking, executed personally or on the Director's behalf, to repay the advance if it is ultimately determined that the Director did not meet such standard of conduct; and
 - (iii) A determination is made that the facts then known to those making the determination would not preclude indemnification under this Article 10.
- (b) The undertaking required by Section 10.4(a)(ii) shall be an unlimited general obligation of the Director but need not be secured and may be accepted without reference to financial ability to make repayment.
- (c) Determinations and authorizations of payments under this Section 10.4 shall be made in the manner specified in Section 10.5.

10.5. Determination and Authorization of Indemnification of Directors.

- (a) Except to the extent authorized by a court as provided in the Corporation Act, the Association shall not indemnify a Director under Section 10.2 unless authorized in the specific case after a determination has been made that indemnification of the Director is permissible in the circumstances because the Director has met the standard of conduct set forth in Section 10.2. The Association shall not advance expenses to a Director under Section 10.4 unless authorized in the specific case after the written affirmation and undertaking required by Section 10.4(a)(i) and 10.4(a)(ii) are received and the determination required by Section 10.4(a)(iii) has been made.
- (b) The determinations required by Section 10.5(a) shall be made by the Executive Board by a majority vote of those present at a meeting at which a quorum is present, and only those Directors not parties to the proceeding shall be counted in satisfying the quorum.
- (c) If a quorum cannot be obtained as contemplated in Section 10.5(b), or even if a quorum is obtained, if a majority of the Directors constituting such quorum so directs, the determination required to be made by Section 10.5(a) shall be made:
 - (i) By independent legal counsel selected by a vote of the Executive Board, or, if a quorum of the full board cannot be obtained, by independent legal counsel selected by a majority vote of the full Board; or
 - (ii) By the Owners.
- (d) Authorization of indemnification and advance of expenses shall be made in the same manner as the determination that indemnification or advance of expenses is permissible; except that, if the determination that indemnification or advance of expenses is required or permissible is made by independent legal counsel, authorization of indemnification and advance of expenses shall be made by the body that selected such counsel.

10.6. Indemnification of Officers, Employees, Fiduciaries, and Agents.

- (a) The Association shall indemnify and advance expenses to an officer or member of a committee of the Association created by the Executive Board to the same extent as a Director.
- (b) The Association may indemnify and advance expenses to an employee, fiduciary or agent of the Association to the same extent as to a Director.

10.7. Insurance. The Association may purchase and maintain insurance on behalf of a person who is or was a Director, officer, employee, fiduciary or agent of the Association, against liability asserted against or incurred by the person in that capacity or arising from his or her

status as a Director, officer, employee, fiduciary or agent, whether or not the Association would have power to indemnify the person against the same liability under Section 10.2, 10.3, or 10.6. Any such insurance may be procured from any insurance company designated by the Executive Board, whether such insurance company is formed under the laws of this state or any other jurisdiction of the United States or elsewhere.

10.8. Notice to Members of Indemnification of Director. If the Association indemnifies or advances expenses to a Director under this Article 10 in connection with a proceeding by or in the right of the Association, the Association shall give written notice of the indemnification or advance to the Owners with or before the notice of the next Owners' meeting. If the next membership action is taken without a meeting at the instigation of the Executive Board, such notice shall be given to the Owners at or before the time the first Owner signs a writing consenting to such action.

ARTICLE 11

MISCELLANEOUS

11.1. Notices. Unless specifically provided otherwise in the CCIO Act, the Declaration or these Bylaws, all notices required to be given by or to the Association, the Executive Board, the Association officers or Owners or Guests shall be in writing and shall be effective upon hand delivery, or mailing if properly addressed with postage prepaid and deposited in the United States mail; except that registrations pursuant to Section 2.2 shall be effective upon receipt by the Association.

11.2. Severability. The invalidity or unenforceability of any part of these Bylaws shall not impair or affect in any manner the validity, enforceability or effect the balance of these Bylaws.

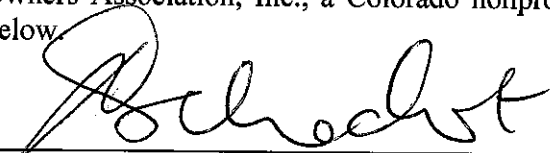
11.3. Captions. All captions and titles of headings of articles and sections in these Bylaws are for the purpose of reference and convenience only, and are not to be deemed to limit, modify or otherwise affect the construction of any provision of these Bylaws.

11.4. Conflicts in Documents. In the event of any conflict among the provisions of the CCIO Act, the Declaration, the Bylaws and the Rules and Regulations, the CCIO Act shall control unless it permits the Association Documents to control. As among the Declaration, Bylaws and Rules and Regulations, the Declaration shall control, and as between the Bylaws and the Rules and Regulations, the Bylaws shall control.

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

11.6. Fiscal Year. The fiscal year of the Association shall be as determined by the Executive Board.

The undersigned hereby executes these Bylaws and certifies that they were adopted by Elkstone Owners Association, Inc., a Colorado nonprofit corporation, effective as of the date specified below.



Secretary, Elkstone Owners Association, Inc.

Effective
Date: May 15, 2003