

BYLAWS
OF
TERRACE GARDENS OFFICE PARK
OWNERS ASSOCIATION, INC.

ARTICLE 1
DEFINITIONS

1.01. **Project Defined.** "Project" shall mean all of that certain real property located in the City of El Paso, County of El Paso, State of Texas, including the land, all improvements and structures thereon, and all easements, rights and appurtenances thereto, more particularly described on Exhibit "A" attached hereto and made a part hereof.

1.02. **Declaration Defined.** "Declaration" shall mean that certain Declaration of Covenants and Restrictions for Terrace Gardens Office Park applicable to the Project and filed in the Office of the County Clerk of El Paso, State of Texas, of record in Book 1947, Page 882, Condominium Records as amended by Restatement of Covenants and Restrictions for Terrace Gardens Office Park, of record in Book 2111, Page 1822, Condominium Records as the same may be amended from time to time in accordance with the terms thereof.

1.03. **Other Terms Defined.** Other terms used herein shall have the meaning given them in the Declaration and are hereby incorporated by reference and made a part hereof.

ARTICLE 2
APPLICABILITY OF BYLAWS

2.01. **Association.** The provisions contained herein constitute the Bylaws of the Terrace Gardens Office Park Owners Association, Inc. (hereinafter referred to as the "Association").

2.02. **Project Applicability.** The provisions of these Bylaws are applicable to the Project as defined in Paragraph 1.01, above.

2.03. **Personal Application.** All present or future owners, tenants, future tenants, or their employees, or any other persons that might use the facilities of the Project in any manner, are subject to the regulations set forth in these Bylaws as hereafter adopted by the Association. The mere acquisition or rental of any of the Units of the Project or the mere act of occupancy of any of the Units will signify that these Bylaws are accepted and ratified and will be complied with by the purchaser, tenant, or occupant.

ARTICLE 3 OFFICES

3.01. The principal office of the Association shall be located at 600 Sunland Park Drive, Building 2, Suite 300 in the City of El Paso, County of El Paso, State of Texas, or such other place as shall be designated from time to time by the Association.

3.02. The Association shall have and continuously maintain in the State of Texas a registered office and a registered agent whose office is identical with the registered office, as required by the Texas Non-Profit Corporation Act. The registered office may be, but need not be, identical with the principal place of business of the Association in the State of Texas, and the address of the registered office may be changed from time to time by the Board of Directors.

ARTICLE 4 QUALIFICATIONS FOR MEMBERSHIP

4.01. **Membership.** The membership of the Association shall consist of all the Owners of the Units within the Project. ("Members").

4.02. **Proof of Membership.** The rights of membership shall not be exercised by any person until satisfactory proof has been furnished to the Secretary of the Association that the person is qualified as a Member. Such proof may consist of a copy of a duly executed and acknowledged deed or title insurance policy evidencing ownership of a Unit in the Project. Such deed or policy shall be deemed conclusive in the absence of a conflicting claim based on a later deed or policy.

4.03. **No Additional Qualifications.** The sole qualification for membership shall be ownership of a Unit in the Project. No initiation fees, costs, or dues shall be assessed against any person as a condition of membership except such assessments, levies, and charges as are specifically authorized under the Declaration.

4.04. **Certificates of Membership.** The Board of Directors may provide for the issuance of certificates evidencing membership in the Association which shall be in such form as may be determined by the Board. All certificates evidencing membership shall be consecutively numbered. The name and address of each Member and the date of issuance of the certificate shall be entered on the records of the Association and maintained by the Secretary at the registered office of the Association.

ARTICLE 5 VOTING RIGHTS

5.01. **Voting.** Voting shall be on a percentage basis. The Owner of each Unit is entitled to a percentage of the total vote equal to the Percentage of Interest which his Unit bears to the entire Project as assigned in the Declaration. If a Unit has more than one Owner, the aggregate vote of the Owners of the Unit may not exceed the percentage of the total vote assigned to the Unit.

5.02. **Proxies.** At all meetings of Members, each Member may vote in person or by proxy. All proxies shall be in writing and filed with the Secretary of the Association. Every proxy shall be revocable and shall automatically cease on conveyance by the Member of his Unit, or on receipt of notice by the Secretary of the dissolution, death or judicially declared incompetence of such Member. No proxy shall be valid after eleven (11) months from the date of its execution, unless otherwise specifically provided in the proxy.

5.03. **Quorum.** The presence, either in person or by proxy, at any meeting, of Members entitled to cast at least thirty (30) percent of the total voting power of the Association shall constitute a quorum for any action, except as otherwise provided in the Governing Documents. In the absence of a quorum at a meeting of Members, a majority of those Members present in person or by proxy may adjourn the meeting to a time not less than five (5) days nor more than thirty (30) days from the meeting date.

5.04. **Required Vote.** The vote of the majority of the votes entitled to be cast by the Members present, or represented by proxy, at a meeting at which a quorum is present shall be the act of the meeting of Members, unless the vote of a greater number is required by statute or by the Governing Documents.

ARTICLE 6 MEETINGS OF MEMBERS

6.01. **Annual Meetings.** The annual meeting of the Members of the Association shall be held on the second Tuesday of December of each calendar year at the hour of 10 o'clock a.m. If the day for the annual meeting of the Members is a legal holiday, the meeting shall be held at the same hour on the first day following which is not a legal holiday (excluding Saturday and Sunday).

6.02. **Special Meetings.** Special meetings of the Members may be called by the President, a majority of the Board of Directors, or by Members representing at least twenty (20) percent of the total voting power of the Association.

6.03. **Place of Meetings.** Meetings of the Members shall be held within the Project or at a meeting place as close thereto as possible as the Board may specify in writing.

6.04. **Notice of Meetings.** Written notice of all Members' meetings shall be given by or at the direction of the Secretary of the Association (or other persons authorized to call the meeting) by mailing or personally delivering a copy of such notice at least five (5) but not more than thirty (30) days before such meeting to each Member entitled to vote at such meeting, addressed to the Member's address last appearing on the books of the Association, or supplied by such Member to the Association for the purpose of notice. Such notice shall specify the place, day, and hour of the meeting and, in the case of a special meeting, the nature of the business to be undertaken.

6.05. **Order of Business.** The order of business at all meetings of the Members shall be as follows:

- (a) Roll call;

- (b) Proof of notice of meetings or waiver of notice;
- (c) Reading of Minutes of preceding meeting;
- (d) Reports of officers;
- (e) Reports of committees;
- (f) Election of directors;
- (g) Unfinished business;
- (h) New business.

6.06. **Voting in the Election of Directors.** Directors shall be elected by a plurality of the votes cast by the Members entitled to vote in the election of directors at a meeting of Members at which a quorum is present.

6.07. **Informal Action by Members.** Unless otherwise provided by law, any action required to be taken at a meeting of the Members, or any other action which may be taken at a meeting of the Members, may be taken without a meeting, without prior notice, and without a vote if a consent or consents in writing, setting forth the action so taken, shall be signed by the Members entitled to vote with respect to the action which is the subject of the consent. If so provided in the Articles of Incorporation of the Association, any action required to be taken at any annual or special meeting of the Members, or any action which may be taken at any annual or special meeting of the Members, may be taken without a meeting, without prior notice, and without a vote, if a consent or consents in writing, setting forth the action so taken, shall be signed by the Members having not less than the minimum number of votes that would be necessary to take such action at a meeting at which the Members entitled to vote on the action were present and voted. Every written consent shall bear the date of signature of each Member that signs the consent. No written consent shall be effective to take the action that is the subject of the consent unless, within sixty (60) days after the date of the earliest date of consent delivered to the Association in the manner required, a consent or consent signed by the Members having not less than the minimum number of votes that would be necessary to take the action that is the subject of the consent are delivered to the Association by delivery to its registered office, its principal place of business, or an officer or agent of the Association having custody of the books in which proceedings of meetings of Members are recorded. Delivery shall be by hand, certified or registered mail, return receipt requested. Delivery to the Association's principal place of business shall be addressed to the President of the Association. A telegram, telex, cablegram, or similar transmission by a Member, or photographic, photostatic, facsimile, or similar reproduction of a writing signed by a Member, shall be regarded as signed by the Member for the purposes of this Section. Prompt notice of the taking of any action by Members without a meeting by less than unanimous written consent shall be given to those Members who did not consent in writing to the action. The consent may be in more than one counterpart so long as each Member signs one of the counterparts. The signed consent, or a signed copy thereof, shall be placed in the books in which proceedings of meetings of Members are recorded.

6.08. **Telephone Meetings.** Subject to the provisions contained in these Bylaws or prescribed by law regarding notice of meetings, the Members may participate in and hold a meeting of the Members by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other and participation in a meeting pursuant to this section shall constitute presence in person at such 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 and convened.

ARTICLE 7 BOARD OF DIRECTORS

7.01. **General Powers.** The powers of the Association shall be exercised by or under the authority of, and the business and affairs of the Association shall be managed under the direction of, its Board of Directors. The directors shall only act as a board.

7.02. **Number, Tenure and Qualifications.** The original number of directors of the Association shall not be less than one (1) or more than three (3). Unless removed in accordance with these Bylaws, each director shall hold office until the next annual meeting of Members and until his successor shall have been elected and qualified. The directors need not be Members of the Association, or residents of the State of Texas. Subject to the foregoing, the number of directors constituting the Board of Directors shall be set by resolution of the Board of Directors. No decrease in the number of directors shall have the effect of shortening the term of any incumbent director.

7.03. **Removal.** Any director, or the entire Board of Directors, may be removed, with or without cause, at any special meeting of the Members called expressly for that purpose by the affirmative vote of a majority of the Members then entitled to vote at an election of directors.

7.04. **Vacancies.** Any vacancy occurring in the Board of Directors may be filled by the affirmative vote of a majority of the remaining directors though less than a quorum of the Board of Directors, unless otherwise provided by law. A Director elected to fill a vacancy shall be elected for the unexpired term of his predecessor in office. Any directorship to be filled by reason of an increase in the number of directors may be filled by election by the Board of Directors for a term of office continuing only until the next election of directors by the Members; provided that the Board of Directors may not fill more than two (2) such directorships during the period between any two (2) successive annual meetings of Members.

7.05. **Management Agent.** The Association may employ a management agent at a compensation established by the Association to perform such duties and services as the Association shall authorize.

7.06. **Regular Meetings.** A regular meeting of the Board of Directors shall be held without other notice immediately after, and at the same place as, the annual meeting of Members. The Board of Directors may provide, by resolution, the time and place for the holding of additional regular meetings without other notice than such resolution.

7.07. **Special Meetings.** Special meetings of the Board of Directors may be called by or at the request of the President or any two members of the Board of Directors. The person or persons authorized to call special meetings of the Board of Directors may fix the time and place for holding any special meeting of the Board of Directors called by them.

7.08. **Notice.** Notice of any special meeting shall be given at least one (1) day previous thereto by written notice delivered personally or sent by mail or telegram to each director at his business address as shown by the records of the Association. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail so addressed, with postage thereon prepaid. If notice be given by telegram, such notice shall be deemed to be delivered when the telegram is delivered to the telegraph company. Any director may waive notice of any meeting. The attendance of a director at a meeting shall constitute a waiver of notice of such meeting, except where a director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Board of Directors need be specified in the notice or waiver of notice of such meeting, unless specifically required by law or by these Bylaws.

7.09. **Quorum and Action.** A majority of the number of directors shall constitute a quorum for the transaction of business at any meeting of the Board of Directors, but if less than such majority is present at a meeting, a majority of the directors present may adjourn the meeting from time to time without further notice. The act of a majority of the directors present at a meeting at which a quorum is present shall be the act of the Board of Directors, unless a greater number is required by law.

7.10. **Action Without a Meeting.** Any action required or permitted to be taken at a meeting of the Board of Directors or any committee may be taken without a meeting if a consent in writing, setting forth the action so taken, is signed by all the members of the Board of Directors or committee, as the case may be. Such consent shall have the same force and effect as a unanimous vote at a meeting. The consent may be in more than one counterpart so long as each member of the Board of Directors or each member of the committee of the Board of Directors, as appropriate, signs one of the counterparts. The signed consent, or a signed copy thereof, shall be placed in the minute book of the Association.

7.11. **Telephone Meetings.** Subject to the provisions contained in these Bylaws or prescribed by law regarding notice of meetings, members of the Board of Directors, or members of any committee designated by such Board, may participate in and hold a meeting of such 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, and participation in a meeting pursuant to this section shall constitute presence in person at such meeting, except where a person participates in a 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.

7.12. **Presumption of Assent.** A director of the Association who is present at a meeting of the Board of Directors, or any committee thereof, at which action on any corporate matter is taken, shall be presumed to have assented to the action taken unless his dissent shall be entered in the minutes of the meeting or unless he shall file his written dissent to such action with the person acting

as the secretary of the meeting before the adjournment thereof or shall forward such dissent by registered mail to the Secretary of the Association immediately after the adjournment of the meeting. Such right to dissent shall not apply to a director who voted in favor of such action.

7.13. **Compensation.** Directors as such shall not receive any stated salaries for their services. By resolution of the Board of Directors, a fixed sum and expenses of attendance, if any, may be allowed for attendance at each regular or special meeting of the Board; but nothing herein contained shall be construed to preclude any director from serving the Association in any other capacity and receiving compensation therefor.

ARTICLE 8 OFFICERS

8.01. **Enumeration of Officers.** The Officers of this Association shall be a President and Vice-President who shall at all times be Members of the Association, and a Secretary and Treasurer. The Association may, by resolution, create such other offices as it deems necessary or desirable.

8.02. **Term.** The Officers of this Association shall be elected annually by the Members and each shall hold office for one (1) year, unless such officer shall sooner resign, be removed, or be otherwise disqualified to serve.

8.03. **Resignation and Removal.** Any Officer may resign at any time by giving written notice to the Association, the President, or the Secretary. Such resignation shall take effect at the date of receipt of such notice or at any later time specified therein. Any officer may be removed from office by the Association whenever, in the Association's judgment, the best interests of the Association would be served by such removal.

8.04. **Multiple Offices.** Any two or more offices may be held by the same person.

8.05. **Compensation.** Officers shall receive such compensation for services rendered to the Association as determined by and approved by a majority of the voting power of the Members.

ARTICLE 9 PRESIDENT

9.01. **Election.** The Members shall elect one of their number to act as President.

9.02. **Duties.** The President shall:

(a) Preside over all meetings of the Association;

(b) Sign as President all deeds, contracts, and other instruments in writing which have been first approved by the Board, unless the Board, by duly adopted resolution, has authorized the signature of a lesser Officer;

(c) Call meetings of the Association whenever he deems it necessary in accordance with rules and on notice agreed to by the Association;

(d) Have, subject to the advice of the Board, general supervision, direction, and control of the affairs of the Board and discharge such other duties as may be required of him by the Association.

ARTICLE 10 VICE-PRESIDENT

10.01. **Election**. The Association shall elect one of its Members to act as Vice-President.

10.02. **Duties**. The Vice-President shall:

(a) Act in the place and in the stead of the President in the event of his absence, inability, or refusal to act;

(b) Exercise and discharge such other duties as may be required of him by the Association. In connection with any such additional duties, the Vice-President shall be responsible to the President.

ARTICLE 11 SECRETARY

11.01. **Election**. The Association shall elect a Secretary.

11.02. **Duties**. The Secretary shall:

(a) Keep a record of all meetings and proceedings of the Board and the Members;

(b) Serve such notices of meetings of the Board and Association required either by law or by these Bylaws;

(c) Keep appropriate current records showing the Members of the Association together with their addresses;

(d) Sign as Secretary all contracts, and other instruments in writing which have been first approved by the Association if said instruments require a second Board member's signature, unless the Board has authorized another Officer to sign in the place and stead of the Secretary by duly adopted resolution.

ARTICLE 12 TREASURER

12.01. **Election**. The Association shall elect a Treasurer.

12.02. **Duties.** The Treasurer shall:

- (a) Receive and deposit in such bank or banks as the Board may from time to time direct, all of the funds of the Association;
- (b) Be responsible for, and supervise the maintenance of, books and records to account for such funds and other Association assets;
- (c) Disburse and withdraw said funds as the Association may from time to time direct, and in accordance with prescribed procedures;
- (d) Prepare and distribute the financial statements for the Association required by the Declaration.

ARTICLE 13 BOOKS AND RECORDS

13.01. **Maintenance.** Complete and correct records of account and minutes of proceedings of meetings of Members, shall be kept at the principal office of the Association. A record containing the names and addresses of all Members entitled to vote shall be kept at the principal office of the Association.

13.02. **Inspection.** The Governing Documents of the Project, the membership register, the books of account, and the minutes of proceedings, shall be available for inspection and copying by any Member of the Association for any proper purpose at any reasonable time.

ARTICLE 14 FISCAL YEAR

The fiscal year of the Association shall be determined by resolution of the Board of Directors.

ARTICLE 15 AMENDMENTS

These Bylaws may be amended, altered, or repealed at a regular or special meeting of the Members of the Association, by the affirmative vote in person or by proxy of Members representing a majority of a quorum of the Association. Notwithstanding the above, the percentage of voting power necessary to amend a specific clause or provision shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause or as may be required by applicable law. No Material amendment or as that term is defined in paragraph 5.11 of the Declaration, alteration or repeal of these Bylaws shall be taken which would affect the rights of the holder of any Mortgage on the Units without the express written consent of the holder of the affected Mortgage.

ARTICLE 16

INDEMNIFICATION

16.01. **Indemnification.** The Association shall indemnify, to the fullest extent permitted by applicable law, any person who was, is or is threatened to be made a named defendant or respondent in any threatened, pending or completed action, suit, or proceeding, whether civil, criminal, administrative, arbitrate, or investigative, any appeal in such action, suit, or proceeding, or any inquiry or investigation that could lead to such action, suit, or proceeding (all such actions collectively "Proceeding"), by reason of the fact that the person is or was a director or officer of the Association, or the director, officer, partner, venturer, proprietor, trustee, employee, agent, or similar functionary of a foreign or domestic corporation, partnership, joint venture, sole proprietorship, trust, employee benefit plan or other enterprise at the request of the Association, against all judgments, penalties (including excise and similar taxes), fines, settlements and reasonable expenses actually incurred by the person, including attorney's fees actually and reasonably incurred by the person in connection therewith. If, however, in any such Proceeding the person is found liable to the Association or is found liable on the basis that personal benefit was improperly received by the person, the indemnification of the person hereunder (i) is limited to reasonable expenses actually incurred by the person in connection with the Proceeding and (ii) shall not be made in respect of any Proceeding in which the person shall have been liable for willful or intentional misconduct in the performance of the person's duty to the Association.

16.02. **Standard of Conduct.** A person shall be indemnified in accordance with Section 16.01 (i) if the person has been wholly successful, on the merits or otherwise, in the defense of any Proceeding, or (ii) in the event that, and only to the extent that, a tribunal in which an action for indemnification is brought, shall determine, that, regardless of whether the person has met the standard of conduct set forth in subsection 16.02(iii) or has been adjudged liable under the circumstances set forth in Section 16.01, and in view of all the circumstances, the person is fairly and reasonably entitled to indemnity as the court may deem proper and equitable, or (iii) if it is determined that the person conducted himself or herself in good faith, the person reasonably believed, in the case of conduct in the person's official capacity, that the person's conduct was in the Association's best interests, and in all other cases, the person's conduct was at least not opposed to the Association's best interests, and, in the case of a criminal proceeding, had no reasonable cause to believe the person's conduct was unlawful.

16.03. **Determination of Indemnification.** A determination that a person has met the required standard of conduct and is entitled to indemnification must be made (i) by majority vote of a quorum consisting of directors who at the time of the vote are not named defendants or respondents in the Proceeding; (ii) if such a quorum cannot be attained, by a majority vote of a committee of the board of directors consisting solely of two or more directors who at the time of the vote are not named defendants or respondents in the Proceeding; (iii) by special legal counsel selected by the Board of Directors or a committee of the Board of Directors by a vote as set forth in subsections (i) or (ii), or, if a quorum cannot be obtained and such committee cannot be established, by a majority vote of all directors; or (iv) by the Members in a vote that excludes the votes of Members who are named defendants or respondents in the Proceeding.

16.04. **Payment of Expenses.** Reasonable expenses incurred by a person who was, is, or is threatened to be made a named defendant or respondent in a Proceeding shall be paid or reimbursed by the Association, in advance of the final disposition of the Proceeding, and without determination of indemnification, after (i) the Association receives a written affirmation by the director or officer of such person's good faith belief that such 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 it is ultimately determined that such person has not met that standard or if it is ultimately determined that indemnification of the person against expenses incurred by such person in connection with that proceeding is prohibited by law or Section 16.03 hereof, and (ii) a determination is made that the facts then known to those making the determination would not preclude indemnification under applicable law. The written undertaking described above must be an unlimited general obligation of the person, but need not be secured. The written undertaking may be accepted without reference to financial ability to make repayment. The determination of the reasonableness of expenses shall be made in the same manner as the determination that a person has met the required standard of conduct as described in Section 16.02 hereof.


16.05. **Estate Indemnified.** The right of indemnification set out in this Article shall inure to the benefit of the heirs, executors, or administrators of each person entitled thereto, and shall not be exclusive of other rights to which such person, his heirs, executors, or administrators may be entitled as a matter of law.

16.06. **Insurance.** The Association may purchase and maintain insurance or another arrangement on behalf of any person who is or was a director, officer, employee or agent of the Association or who is or was serving at the request of the Association as a director, officer, partner, venturer, proprietor, trustee, employee, agent, or similar functionary of another foreign or domestic corporation, partnership, joint venture, sole proprietorship, trust, employee benefit plan, or other enterprise, against any liability asserted against the person and incurred by the person in such a capacity or arising out of the person's status as such a person, whether or not the Association would have the power to indemnify a person against that liability under this Article. If the insurance or other arrangement is with the person or entity that is not regularly engaged in the business of providing insurance coverage, the insurance or arrangement may provide for payment of a liability with respect to which the Association would not have the power to indemnify a person only if including coverage for the additional liability has been approved by the Members of the Association. Without limiting the power of the Association to procure or maintain any kind of insurance or other arrangement, the Association may, for the benefit of persons indemnified by the Association, (i) create a trust fund; (ii) establish any form of self insurance; (iii) secure its indemnity obligation by a grant of a security interest or other lien on the assets of the Association; or (iv) establish a letter of credit, guarantee, or surety arrangement. The insurance or other arrangement may be procured, maintained, or established within the Association or within any insurer or other person deemed appropriate by the Board of Directors regardless of whether all or part of the stock or other securities of the insurer or other person are owned in whole or in part by the Association. In the absence of fraud, the judgment of the Board of Directors as to the terms and conditions of the insurance or other arrangement and the identity of the insurer or other person participating in an arrangement shall be conclusive and the insurance or arrangement shall not be voidable and shall not subject the directors approving the insurance or arrangement to liability, on any ground, regardless of whether directors participating in the approval are beneficiaries of the insurance or arrangement.

16.07. **Notice of Indemnification.** Any indemnification of or advance of expenses to a person in accordance with this Article shall be reported in writing to the Members before the notice or waiver of notice of the next Members' meeting or with or before the next submission to Members of a consent to action without a meeting pursuant to these Bylaws and, in any case, within the twelve month period immediately following the date of the indemnification or advance.

Attestation

Adopted by the Members of the Association on June 24, 2003.



JOHN BUTTERWORTH, Secretary