

**AMENDED AND RESTATED BY-LAWS  
OF  
TOWNE PARK HOMEOWNERS ASSOCIATION, INC**

**March 31, 2009**

These amended and restated By-Laws correctly set forth the provisions of the By-Laws as amended, they have been duly approved as required by law, and they supersede the original By-Laws and all amendments thereto.

**ARTICLE I  
DEFINITIONS**

Article I. Section I. The following words and phrases have the same meanings as set forth in that certain “Declaration of Covenants, Conditions and Restrictions for Towne Park, a Planned Residential Community,” to be executed and recorded in the records of Bernalillo County, New Mexico (herein “the Declaration”).

Articles	Master Ground Lessor
Association	Mortgagee
Board	Property
By-Laws	Quorum of Directors
Common Areas and Facilities	Quorum of Membership
Common Expenses	Regular Monthly Assessment
Conversion	Rules
Declaration	Tenant
Fiscal Year	Unit
Lot	Unit Lease
Lot Restricted Area	Unit Lessee
Master Ground Lease	

**ARTICLE II  
PURPOSE**

Article II, Section 2.1 Towne Park Homeowners Association, Inc. (herein “the Association”) was incorporated as a non-profit New Mexico corporation pursuant to the Non-Profit Corporation Act, Sections 53-8-1 through 53-8-99 NMSA, 1978 Comp, as now or hereafter amended (herein “the Act”). The Association has all the rights and powers of a non-profit corporation as set forth in the Act and its Articles of Incorporation, the By-Laws and Declaration of Covenants, Conditions and Restrictions for Towne Park. The purpose of the Association is to own the leasehold estate in the Common Areas and Facilities created under the Master Ground Lease, to manage and operate the Common Areas and Facilities and Lot Restricted Areas for the common use and benefit of all Unit Lessees, to establish the Rules and regulations for the administration and

governance of all Common Areas and Facilities, to assess and collect Regular Monthly Assessments, Special Assessments, Individual Assessments and other sums due the Association the Declaration for such purposes and to perform all other rights, powers, duties, obligations and functions as more particularly set forth in the Declaration.

### ARTICLE III OFFICES

Article III, Section 3.1 The principal office of the Association shall be located on the Common Areas and Facilities of the Property. The Association may have such other offices as its Board may determine necessary or advisable.

### ARTICLE IV MEMBERS, MEETINGS and NOTICES

Article IV, Section 4.1 Membership: Every person or entity who owns the beneficial interest in the entire leasehold estate of any Unit within the Properties (herein "Unit Lessee") pursuant to a Unit Lease now or hereafter entered into with the Sandia Foundation, successor in interests to the Regents of the University of New Mexico, a body corporate of the State of New Mexico (herein "the Master Ground Lessor"), including any purchaser under a contract of sale or lease with option to purchase, shall be a member of the Association, provided that any person or entity holding such interest as security for the payment of a debt or performance of an obligation (herein "mortgagee") shall not be a member unless such mortgagee acquires such interest at a judicial sale pursuant to foreclosure or by conveyance in lieu of foreclosure.

Article IV, Section 4.2 Unit Lessee Voting Rights: Each Unit Lessee, not to exceed one vote per Unit per household, shall be entitled to one (1) vote in the affairs and management of the Association for each Unit Owned.

Article IV, Section 4.3 Fines, Suspension of Membership and Voting Rights: The Board may suspend membership and voting rights for non-payment of assessments and/or violations of other provisions of the Declaration, these By-Laws and the Rules and Regulations (herein "the Rules") pursuant to the Disciplinary Procedures set forth in these By-Laws,

Article IV, Section 4.4 Annual Meeting of Members: All annual meeting of members shall be held within two (2) months after the end of the fiscal year of the Association established by the Board. At each annual meeting of Members, the President of the Association shall give a report of the financial condition of the Association.

Article IV, Section 4.5 Notice: Each Unit Lessee shall register his address with the Secretary of the Association (or appointed designee). Notice of Annual

Meetings will be given by the Secretary (or appointed designee), at the direction of the Board or the President, to all members at least ten (10) days, but not more than fifty (50) days in advance of the meeting, and notice of Special Meetings will be given at least ten (10) days in advance of the meeting. Notice shall be in writing and shall be mailed by regular mail, postage prepaid, to the member's address as registered with the Secretary; provided, however, that if any member's registered address is a Unit, the notice may be delivered to the Unit. All notices shall state the date, time and place of the meeting. Notice of any Special Meeting shall also state the purpose of the meeting. If any amendment to the Declaration or the Articles is to be considered at any annual or special meeting, the notice shall specifically set forth the nature of the amendment to be voted upon.

Article IV, Section 4.6 Call of Meeting: The Board or the President shall have the authority to call Annual Meetings. The Board, or the President, or members holding at least twenty-five percent (25%) of the total votes entitled to vote may call a Special Meeting. Any call of a Special Meeting by members shall be affected by filing a written petition with the Secretary signed by the required number of members, which such petition shall specifically set forth the purpose of the Special Meeting.

Article IV, Section 4.7 Waiver of Notice: Any and all requirements for call and notice of meetings, regular or special, may be waived by any member either by presence at the meeting in question or by waiving notice of such meeting in writing, either before or after it is held.

Article IV, Section 4.8 Quorum of Membership: At a meeting of the Association's membership, the presence at such meeting of members, either in person or by proxy, entitled to cast twenty percent (20%) of the total votes of those members entitled to vote brought before the meeting shall constitute a quorum for the transaction of business, Unless otherwise required by the Declaration, or by law, the majority vote of the members present in person or by proxy, entitled to vote with respect to a particular matter shall decide such matter.

Article IV, Section 4.9 Adjourned Meeting: If any meeting cannot be organized because a quorum has not attended, the members present in person or by proxy may adjourn the meeting from time to time until a quorum can be obtained.

Article IV, Section 4.10 Proxies: At all meetings of members of the Association, any member may vote by proxy, provided the proxy must be in writing, dated, signed by the member and filed with the Secretary. Proxies may be given to a resident tenant of any member or to any other member and may extend for a period stated in the proxy or for eleven (11) months if not otherwise stated, provided, however, that every proxy shall automatically cease at such

time as the person granting the proxy is personally present at the meeting or ceases to be a Unit Lessee (as defined in the Declaration).

Article IV, Section 4.11 Parliamentary Procedure; Robert Rules, Revised, shall be the parliamentary procedure used for all official meetings of the Association where voting on motions is conducted.

## ARTICLE V BOARD OF DIRECTORS

Article V, Section 5.1 Management Powers: The property affairs and business of the Association shall be managed by the Board of Directors. The Board has the authority to perform, or cause to be performed, all rights, powers, functions and duties of the Association as set forth in the Declaration, these By-Laws and the Rules.

Article V, Section 5.2 Management and Maintenance: The Board shall enter into a written management agreement with any professional management company hired as referred to in the Declaration and may enter into such written maintenance agreements and hire and/or dismiss such personnel as may be deemed necessary or desirable for the administration, operation, maintenance, repair and replacement of the Property and its Common Areas and Facilities, all as more fully set forth in the Declaration.

Article V, Section 5.3 Number and Term of Office: The management of the affairs of the corporation shall be vested in a Board of Directors consisting of seven (7) but not less than five (5) persons, each to be elected to serve staggered three (3) year terms, and limited to two (2) consecutive three (3) year terms. At each annual meeting, an appropriate number of replacement directors shall be elected to replace those ending their three year term, still keeping a minimum of five directors on the Board.

Article V, Section 5, 4 Compensation: The directors shall not receive any remuneration or compensation for their services except for reimbursement for their out-of-pocket expenses incurred for the benefit of the Association. This provision shall not be construed to preclude any director from serving the Association in any other capacity and receiving reasonable compensation therefore, after the approval of a majority of disinterested directors (those without direct or indirect pecuniary interest or gain from said service).

Article V, Section 5.5 Annual Meeting: The Annual Meeting of the Board will be held within one week following the Annual Meeting of the Members.

Article V, Section 5.6 Special Meetings: Special meetings of the Board of Directors may be held at any time and place when called by the President or by the Vice-President in the absence of the President or by a majority of the Board.

Article V, Section 5.7 Notice: A notice of the time, place, date and purpose of every special meeting of the Board shall be given by the Secretary or by the officer or director calling the meeting, by mailing the same to each director at his residence or business address not less than three (3) days before such meeting; provided that such notice may be dispensed with if all directors are present at the meeting or if those not present shall at any time waive notice thereof.

Article V, Section 5.8 Quorum of Directors: A quorum at any meeting of the Directors shall consist of more than 50% (a majority) of the voting membership of the Board. A majority of the Directors present, if a quorum is present, shall decide any question that shall come before the meeting, except as otherwise provided by law, by the Declaration or these By-Laws. Provided, however, that an absolute majority of the entire Board must vote to recommend any proposed amendment to the Declaration or the Articles.

Article V, Section 5.9 Minutes and Records: It shall be the duty of the Board to cause to be kept a complete record of all its acts and of the Associations affairs.

Article V, Section 5.10 Rule-Making Power: The Board has the power to make and enforce reasonably and uniformly applied rules and regulations governing the use of the Individual Units and the Common Areas and Facilities. Such rules and regulations may, without limitation, (i) regulate the use of the Common Areas and Facilities to assure the equitable and proper use and enjoyment thereof by all persons entitled thereto (including the charging of reasonable admission and other fees), (ii) prohibit any conduct or activity in any Unit or on any part of the Common Areas and Facilities which constitutes a nuisance in law or in fact or which would not be consistent or in keeping with the peaceful, quiet and reasonable use and enjoyment of any Unit or the Common Areas and Facilities, (iii) prohibit, restrict or regulate the use of any portion of the Common Areas and Facilities by the guests and tenants of any Unit Lessee and (iv) regulate and control vehicular traffic and the parking and storage areas of the Property.

Article V, Section 5.11 Vacancies: In the event of a vacancy occurring by reason of the resignation, removal from office, as provided in Section 5.12 of this Article, death or otherwise, of a director, the remaining directors, although less than a quorum, may by a majority vote, appoint a successor or successors as "Interim" Director(s), to serve ONLY until the next Annual Meeting and election, at which time the "Interim" Director's term would expire and the seat would be placed up for election., If more than two (2) ELECTED seats are vacated for any reason, thus reducing the number of ELECTED Directors to less than five (5), a Special Election shall be held within 90 days to return the number of ELECTED Directors to seven (7).

Article V, Section 5.12 Removal of Directors: Any director may be removed from office, with or without cause, by the vote or written consent of a majority vote of the members of the Board, In addition, any member or members may be removed from office by the submission to the Board Secretary of a Recall Petition signed by fifty-one percent (51%) of all the Homeowners eligible to vote.

Article V, Section 5.13 Action without Meeting: Any action required or permitted to be taken at any meeting of the Board of Directors may be taken without a meeting, if written consent setting forth the action so taken, shall be signed by all the Directors and such written consent is filed with the minutes of the proceedings of the Board

## ARTICLE VI OFFICERS

Article VI, Section 6.1 Officers: The officers of the Association shall be a President, Vice-President, Secretary and Treasurer. The Officers shall be elected at the Annual Meeting of the Board, or at a special meeting of the Board called for that purpose. Such officers shall hold office until the next Annual Meeting of the Board and until their successors are elected and qualified. The same person shall not serve as both President and Secretary.

Article VI, Section 6.2 President: The President shall be the chief executive officer of the Association and when present, shall preside at all meetings of members and at meetings of the Board; shall have general supervision of the affairs of the Association; shall sign or countersign all certificates, contracts and other instruments of the Association as authorized by its Board, the Declaration or these By-Laws; shall make reports to the directors and members; and shall have all such other duties and powers as are incident to his office or properly delegated by the Board.

Article VI, Section 6.3 Vice-President: In the absence of the President or in the event of the President's death, inability or refusal to act, the Vice-President shall perform the duties of the President. The Vice-President shall perform such other duties as the President or the Board may from time to time direct or assign.

Article VI, Section 6.4 Secretary: The Secretary shall keep the minutes of all meetings, shall have custody or supervise the professional management company's custody of the Association's minute book; shall sign with the President such instruments as require such signature; shall record in a book kept for that purpose or supervise the professional management company's recordings of the names of all members of the Association, together with their addresses as registered by such members; and shall perform such other duties as are incident to the office or properly required by the Board.

Article VI, Section 6.5 Treasurer: The Treasurer shall have custody, or supervise the professional management company's custody, of all monies of the Association; and shall keep, or cause to be kept, regular books of account; shall, if directed by the Board, cause an annual audit of the Association's books of account to be made by an independent certified public accountant at the completion of each fiscal year; shall prepare or cause to be prepared, the annual budget, and shall perform such other duties as are incident to the office or as properly required by the Board.

Article VI, Section 6.6 Substitution: Any officer may be expressly authorized by the Board to perform any function which is usually performed by any other officer.

Article VI, Section 6.7 Removal from Office: Any officer may be removed from office by a majority vote of the entire Board at any lawful meeting; and any vacancy in any of the offices described in this Article, however caused, may be filled by the Board at any lawful meeting.

## ARTICLE VII RECORDS AND BOOKS

Article VII, Section 7.1 Maintaining Records: The Association shall keep, or cause to be kept, detailed, accurate records in chronological order of the receipts and expenditures affecting the Common Areas and facilities, specifying and identifying the maintenance and repair expenses of the Common Areas and Facilities and other expenses incurred, as well as minutes of the proceedings of its members and Board and shall keep at the principal office a record giving the names and addresses of its members. ALL books and records of the Association may be inspected by any member, or his agent or attorney, or by any person authorized to inspect the same by the Declaration, for any proper purpose at convenient hours on working days that shall be set and announced,

## ARTICLE VIII COMMITTEES

Article VIII, Section 8.1 Standing Committees: The Board of the Association shall appoint the following standing committees;

(a) The Architectural Control Committee, which shall approve or disapprove any changes of or alterations to any and all improvements or fixtures to be constructed on the Lots by Unit Lessees and all improvements or fixtures to be constructed on the Common Areas and Facilities or the Lot Restricted Areas prior to the commencement of any such construction, all as more particularly set forth in the Declaration.

(b) The Maintenance Committee, which shall advise the Board on all matters pertaining to maintenance, repair or improvements of the Common Areas and Facilities and the Lot Restricted areas.

Article VIII, Section 8.2 Other Committees: The Board may appoint such other Committees as the Board deems necessary or desirable and shall specify the functions of any such additional committees.

## ARTICLE IX FISCAL YEAR

Article IX, Section 9.1 The fiscal year of the Association shall be the calendar year or such other period as the Board may by resolution determine.

## ARTICLE X ENFORCEMENT PROCEEDINGS

Article X, Section 10.1 Authority of the Board: The Board shall have the authority to assess fines and to suspend rights of membership, including any member's right to vote and easement of common use and enjoyment in the Common Areas and Facilities and Lot Restricted Areas, in order to enforce all provisions of the Declaration, these By-Laws and the Rules, subject to the limitations and procedures of this Article, The Board shall not; however, deny any Unit Lessee, his Tenant or immediate family, guests or invitees the right of vehicular and pedestrian access over, through and across the private streets and pathways of the Common Areas and Facilities or the Lot Restricted Areas to the extent reasonably necessary to permit access to such Unit Lessee's Unit.

Article X, Section 10.2 Amount of Fine: The Board may not impose a fine for any single violation in excess of One Hundred Dollars (\$100) (herein "the Maximum Fine"). The Board may establish, publish and distribute a Schedule of Fines for particular violations and recurrences thereof, subject to the Maximum Fine limitations of this Section.

Article X, Section 10.3 Complaints and Hearings: Any Unit Lessee, any Director, any Officer or any employee of the Association's professional management company shall have the right to file a written complaint with the Secretary setting forth any alleged violation (other than the failure to pay assessments or other sums due the Association) of the Declaration. These By-Laws or the Rules by any Unit Lessee, his Tenant, any member of the Unit Lessee's immediate family who resides in the Unit, or any guests or invitees of any Unit Lessee, If the President of the Association concludes that any written complaint sets forth a violation, the President shall direct the Secretary to mail written notice to the Unit Lessee, as such Unit Lessee's address as registered with the Secretary, by certified or registered mail, postage prepaid and return receipt requested, advising such Unit Lessee of the nature of the violation and

directing that he appear at the next scheduled meeting of the Board for a hearing with respect to such violation. Such notice of violation must be mailed at least ten (10) days prior to the hearing and shall be accompanied by a copy of the written complaint. The Board shall conduct the hearing with respect to any such violation.

The Unit Lessee shall have the right to be represented by legal counsel and may present witnesses or other evidence subject to examination by the Board. If the Unit Lessee shall fail or refuse to appear, unless excused by the President for good cause, or if the Board shall determine, after bearing the evidence, that the alleged violation has been proved, then the Board may impose such fine, not to exceed the Maximum Fine then in effect, and/or may suspend all or any part of the Unit Lessee's membership or voting rights and easement rights with respect to the Common Areas and Facilities or Restricted Lot Areas, or portions thereof, as the Board deems appropriate under all the circumstances.

The Board shall not, however, suspend the right of pedestrian and vehicular ingress and egress over, through or across the private streets and pathways of the Common Areas and Facilities and Lot Restricted Areas as may be reasonably necessary to permit access to such Unit Lessee's Unit by the Unit Lessee, his Tenant, members of his immediate family who reside in the Unit, or such Unit Lessee's guests and invitees.

Any fine imposed by the Board may be collected in the same manner as Individual Assessments pursuant to the Declaration. The Board shall not be required to conduct the hearing required by this Section in accordance with any particular rules of evidence or procedure, but shall conduct such hearing in a fair and impartial manner. Any Director who files a written complaint pursuant to this Section shall not participate as a member of the Board which hears that written complaint.

Article X, Section 10.4 Monetary Violations: The Board shall not impose any fine with respect to any failure by a Unit Lessee to pay Regular Monthly Assessments, Special Assessments, Individual Assessments or other payments by a Unit Lessee as required by the Declaration (herein "Monetary Violations"). The Board may, however, in addition to the Association's other remedies as set forth in the Declaration, suspend membership and voting rights and rights to use easements of use and enjoyment in the Common Areas and Facilities and Lot Restricted Areas, or portions thereof, for any monetary violation not cured within sixty (60) days after written notice of such monetary violation is mailed to the Unit Lessee by the Secretary, at such Unit Lessee's address as registered with the Secretary, by certified or registered mail, postage prepaid and return receipt requested. The Unit Lessee may, within such sixty (60) day period, make written request to the Secretary for a hearing before the Board with respect to such monetary violation and if the Unit Lessee so requests, the Board shall conduct a hearing following the same procedures as required by Section 10.3 above for

other violations. The Board shall not, with respect to any Monetary Violation, suspend the right of pedestrian and vehicle, ingress and egress over, through and across the private streets and pathways of the Common Areas and Facilities and Lot Restricted Areas as maybe reasonably necessary to permit access to such Unit Lessee's Unit by the Unit Lessee, his Tenant, members of his immediate family who reside in the Unit or such Unit Lessee's guests and invitees,

Article X, Section 10.5 Judicial Enforcement: As also provided in the Declaration, the Board may, or cause to be filed, legal proceedings or suits in equity to enforce, collect or enjoin as may be necessary with respect to any enforcement action imposed by the Board pursuant to this Article; and should the Board prevail in any such legal or equitable proceeding, the Board shall be entitled to recover all attorney fees, court costs and other expenses incurred in connection with such proceedings.

Article X, Section 10.6 Dispute Resolution: Except as provided elsewhere in the documents, any controversy or claim arising out of or relating to the Articles of Incorporation, these By-laws, or the Declarations, shall be determined in the following manner:

(a) Mediation: The parties shall first attempt to settle the dispute by mediation. Mediation is a form of dispute resolution sometimes used as a means of resolving disputes short of binding arbitration. Mediation provides to the parties that the settlement will be acceptable. It offers the advantage of informality, with reduced time and expense in resolving disputes. In mediation, the neutral person may meet with the parties, jointly or separately, in order to help them reach a settlement. The most common advantages to mediation are: (1) Parties are directly engaged in negotiating the settlement. (2) The mediator, as a neutral third party, can view the dispute objectively and assist the parties in exploring alternatives that they might not have considered on their own. (3) Because mediation can be scheduled early in the dispute, a settlement can be reached much more quickly than in litigation. (4) Parties generally save money through reduced legal costs and less staff time. (5) Parties may enhance their relationship. (6) Creative solutions or accommodations to special needs of the parties may become part of the settlement.

(b) Arbitration: In the event the dispute is not settled by mediation, the dispute shall be submitted to binding arbitration. The parties may agree upon a person to act as sole arbitrator or they may request the services of a local or national professional company or group that provides arbitration and dispute resolution services. The determination of who to use must be mutually agreed upon. The Arbitrator shall not have any power to add to, subtract from, modify, or alter in any manner the provisions of the Articles, the By-laws, the Declaration, or the Rules and Regulations. The decision of the Arbitrator shall be limited to and be based solely on the provisions contained in the valid governing documents

applicable at the time the dispute arose. The Arbitrator is to render a reasoned, written decision that includes findings of fact and conclusions. Each party shall pay the fees and costs of his/her own legal representative, if any. Each party shall pay one-half of the cost of a court reporter, if any, plus the entire cost of a transcript if they order a copy. The party which is unsuccessful in the arbitration proceeding shall pay the fees and expenses of the Arbitrator, unless the Arbitrator, based on the merit of the facts presented by the parties, determines as part of his award that each party should pay a proportionate share of only the Arbitrator's fees and costs

#### ARTICLE XI INDEMNIFICATION

Article Xi, Section 11.1 In the absence of fraud or bad faith and to the extent legally permitted by the Act, the officers and directors of the Association shall not be personally liable for any act or failure to act performed by them within the scope of their authority or while acting as they may reasonably believe proper for the benefit of the Association, nor shall said officers and directors be personally liable with respect to any debts or other liabilities of the Association. The Association shall indemnify and hold its present and past officers and directors harmless with respect to any and all lawsuits or claims against any said officer or director based upon acts performed or omitted to be performed by them while acting within the scope of their authority or while acting as they reasonably believed to be proper for the benefit of the Association, including any attorney fees and court costs incurred in connection with any such claim or lawsuit. The Board may procure and maintain, as a Common Expense, such directors and officers liability insurance as the Board deems necessary or advisable.

#### ARTICLE XII AMENDMENTS

Article XII, Section 12.1 Amendments to By-Laws: The By-Laws of the Association shall be subject to alteration, amendment or repeal; and new By-Laws may be adopted (provided same are not inconsistent with the Act or with any provisions of the Declaration) by the affirmative vote of an absolute majority of the entire Board of Directors.

Article XII, Section 12.2 Amendments to Declaration or Articles: The Declaration or the Articles may only be amended by the vote required in the Declarations or Articles.

Article XII, Section 12.3 Amendment Procedure: Only a majority of the Board shall have the right to propose an amendment to the Declaration or Articles. Any amendment proposal by the members must be submitted in writing to the Secretary and signed by a quorum of membership. All proposed amendments of the Declaration or the Articles must first be considered and voted

upon by the Board, which shall thereby recommend for or against the proposed amendment at the next meeting of members at which the proposed amendment is to be submitted for a vote of the members. If the Hoard concludes that the proposed amendment requires the approval of the Master Ground Lessor or the Eligible Unit Mortgagees, then the Hoard shall seek any required approvals. If such approvals are withheld or rejected, the Board shall not submit the proposed amendment for a vote of the members. If all required approvals are obtained, the Board shall submit the proposed amendment, whether or not the Board recommends its adoption, to a vote of the members at a duly called meeting at which a quorum is present.

Approved at Albuquerque, New Mexico, this 31 day of March, 2009

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GLEN E. WITT, President

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FRANCES ARNOLD, Secretary