

**TERRACE HOMEOWNERS ASSOCIATION (B) INC.,**

**POLICY AND PROCEDURES FOR COLLECTION OF UNPAID ASSESSMENTS**

**SUBJECT:** Adoption of a policy and procedure regarding the collection of unpaid assessments in compliance with C.R.S. 38-33.3-209.5.

**PURPOSE:** To provide notice of the Association's adoption of a uniform and systematic procedure to collect assessments and other charges of the Association.

**AUTHORITY:** The Declaration, Articles of Incorporation and Bylaws of the Association and Colorado law.

**EFFECTIVE DATE:** September 30, 2023

**RESOLUTION:** The Association hereby adopts the following policy:

The Association hereby gives notice of its adoption of the following policies and procedures for the collection of assessments and other charges of the Association:

1. Due Dates. The quarterly installments of the Annual Assessment, as determined by the Association and as allowed for in the Declaration, shall be due and payable on the 1st day of each month of the quarter in which it is due. Assessments or other charges not paid in full to the Association within thirty (30) days of the due date shall be considered past due and delinquent. Assessments or other charges not paid in full to the Association within thirty (30) days of the due date shall incur late fees and interest as provided below. In the event notice of acceleration is given to delinquent Owner(s), the Owner(s) of the unit shall also be charged any costs incurred by the Association in giving notice of such acceleration. The Association shall post payments on the day the payment is received in the Association's office.

2, Late Charges on Delinquent Installments. The Association shall impose on a monthly basis a \$25.00 late charge for each Owner who fails to timely pay his/her monthly installment of the annual assessment within thirty (30) days of the due date. This late charge shall be a "common expense" for that Unit. The Association may impose interest from the date due at the rate of 4% above prime per annum, not to exceed 8% per annum, on the amount owed for each Owner who fails to timely pay his/her monthly installment of the annual assessment within thirty (30) days of the due date.

3. Personal Obligation for Late Charges. The late charge shall be the personal obligation of the Owner(s) of the unit for which such assessment or installment is unpaid. All late charges shall be due and payable immediately, without notice, in the manner provided by the Declaration (and as set forth herein) for payment of assessments.

4. Return Check Charges. In addition to any and all charges imposed under the Declaration, Articles of Incorporation and Bylaws, the Rules and Regulations of the Association or this

Resolution, a maximum \$45.00 fee shall be assessed against an Owner in the event any check or other instrument attributable to or payable for the benefit of such Owner is not honored by the bank or is returned by the bank for any reason whatsoever, including but not limited to insufficient funds. This returned check charge shall be a "common expense" for each Owner who tenders payment by check or other instrument which is not honored by the bank upon which it is drawn. Such return check charge shall be due and payable immediately, upon demand. Notwithstanding this provision, the Association shall be entitled to all additional remedies as may be provided by applicable law. Returned check charges shall be the obligation of the Owner(s) of the unit for which payment was tendered to the Association. Returned check charges shall become effective on any instrument tendered to the Association for payment of sums due under the Declaration, Articles, Bylaws, Rules and Regulations or this Resolution after the date adopted as shown above. If two or more of an Owner's checks are returned unpaid by the bank within any (fiscal) year, the Association may require that all of the Owner's future payments, for a period of one (1) year, be made by certified check or money order. This return check charge shall be in addition to any late fees or interest incurred by an Owner. Any returned check shall cause an account to be past due if full payment of the monthly installment of the annual assessment is not timely made within thirty (30) days of the due date.

5. Attorney Fees on Delinquent Accounts. As an additional expense permitted under the Declaration and by Colorado law, the Association shall be entitled to recover its reasonable attorney fees and collection costs incurred in the collection of assessments or other charges due the Association from a delinquent Owner. The reasonable attorney fees incurred by the Association shall be due and payable immediately when incurred, upon demand.

6. Application of Payments. All sums collected on a delinquent account that has been turned over to the Association's attorney shall be remitted to the Association's attorney until the account is brought current. All payments received on account of any Owner or the Owner's property (hereinafter collectively "Owner"), shall be applied in the following manner: first to payment of any unpaid assessments, then to any fines or other charges, then to all legal fees and costs (including attorney fees), finally to expenses of enforcement and collection, including all late charges, interest, returned check charges, lien fees, and other costs.

7. Collection Process.

a) After an installment of an annual assessment or other charges due to the Association becomes more than 30 days delinquent, the Association, or the management company, on behalf of the Association, shall send a written notice ("First Notice") of non-payment, amount past due, notice that interest and late fees will accrue and request for immediate payment.

b) After an installment of an annual assessment or other charges due to the Association becomes more than 60 days delinquent and another installment is delinquent, the Association or the management company on behalf of the Association shall send a second written notice ("Intent to Lien Notice") of non-payment. The Intent to Lien Notice shall state (1) the amount past due, including an accounting of how this amount was determined, (2) whether the amount past due includes unpaid assessments or unpaid fines, fees or charges, or both (3) any late fees and/or interest that have accrued, (4) the name and contact information for the person the owner should

contact to obtain a copy of the Owner's ledger, and (5) that failure to take action and cure the delinquency within 30 days may result in the account being turned over to the Association's attorneys for collection, a lawsuit being filed against the Owner, the filing and, if the amount past due includes unpaid assessments, foreclosure of a lien against the Owner's property, or other remedies available under Colorado law. The Intent to Lien Notice shall also state that within 30 days the Owner may contact the Association to enter into a payment plan for the past due assessments and referral to an attorney must be approved by the Board of Directors.

The Intent to Lien Notice shall also include a general description of the types of matters that the Association or Owner may take to small claims court, including injunctive matters for which the Association seeks an Order requiring the Owner to comply with the Association's Declaration, Bylaws, covenants, or other governing documents.

c) The Intent to Lien Notice shall be sent to the Owner via regular First Class Mail, as well as certified mail, return receipt requested. A copy of the Intent to Lien Notice shall also be physically posted on the Owner's Unit.

d) After an installment of an annual assessment or other charges due to the Association becomes more than 90 days delinquent, and the Owner has not requested a payment plan, the Association or the management company, on behalf of the Association shall file a lien against the Property of the delinquent Owner and may turn the account over to the Association's attorney for collection. Upon receiving the delinquent account, the Association's attorney shall send a letter to the delinquent Owner demanding immediate payment for the past due assessments and other charges due. Upon further review, the Association's attorney may file a lawsuit. If a judgment or decree is obtained, including without limitation a foreclosure action, such judgment or decree shall include reasonable attorney's fees together with the cost of the action and any applicable interest and late fees.

e) Following the completion of these steps, the Association shall continue to send monthly statements to the Owner that contain an itemized list of all assessments, fines, fees, and other charges. These statements shall be sent until the account is paid in full.

f) In addition to the steps outlined above, the Association may elect to suspend the voting rights of any Owner whose account is past due at the time of such voting.

8. Payment Plans: If the Owner contacts the Association within 30 days of the Intent to Lien Notice, he/she is entitled to enter into a payment plan for the past due assessments. The payment plan must allow the owner to pay off the delinquent assessments in monthly installments of up to 18 months. The Owner shall have the right to choose the amount to be paid each month, so long as each payment is in the amount of at least \$25.00. An Owner who has accepted a payment plan may elect to pay off the remaining balance at any time. The Association may take additional action against an Owner if the Owner fails to comply with the terms of the payment plan. An Owner's failure to remit three or more payments within 15 days of its due date or remain current with the regular assessments during the payment plan, shall constitute a failure to comply with the terms of the payment plan. Notwithstanding the above, the Association shall not be obligated to enter into a payment plan with an Owner who has previously entered into a payment plan with the

Association. The Association shall also not be obligated to enter into a payment plan with an Owner who does not occupy the property and has acquired the property through a foreclosure.

9. Payment Plan Default. If an Owner fails to comply with the terms of a payment plan, the total amount past due shall be immediately due and payable. In such instance the Association shall send the Owner a Notice of Default notifying the Owner of the total amount past due, of any additional interest and late fees have accrued, and that failure to take immediate action and cure the delinquency may result in the account being turned over to the Association's attorneys for collection, a lawsuit being filed against the Owner, the filing and foreclosure of a lien against the Owner's property, or other remedies available under Colorado law. If Owner fails to pay the amount past due within 15 days of the Default Letter, the management company shall file a lien and turn the account over to the Association's attorney for collection.

10. Certificate of Status of Assessment. The Association, or its management company on its behalf, shall furnish to an Owner or such Owner's designee upon written request, first class postage prepaid, return receipt, to the Association's agent, a written statement setting forth the amount of unpaid assessments currently levied against such Owner's property. However, if the account has been turned over the Association's attorney, such request may be handled through the attorney.

11. Bankruptcies and Foreclosures. Upon receipt of any notice of a bankruptcy filing by an Owner, or upon receipt of a notice of a foreclosure by any holder of an encumbrance against any unit within the Association, the Association or the manager shall notify the Association's attorney of the same and turn the account over to the Association's attorney, if appropriate.

12. Referral of Delinquent Accounts to Attorneys. The Association may refer a delinquent account to an attorney for collection only upon a majority vote of the Board at a regular meeting of the Board or a special meeting called for that purpose. A referral to collect unpaid assessments may only be made after an Owner has failed to pay 3 or more monthly assessment payments. Any decision to refer an account to an attorney must be recorded and kept with the regular records of the Association. Upon referral to the Association's attorney, the attorney shall take all appropriate action to collect the accounts referred. After an account has been referred to an attorney, the account shall remain with the attorney until the account is settled, has a zero balance or is written off. The attorney, in consultation with the Association's manager, is authorized to take whatever action is necessary and determined to be in the best interests of the Association, including, but not limited to:

- a) Filing of a suit against the delinquent Owner for a money judgment;
- b) Filing necessary claims, documents, and motions in bankruptcy court in order to protect the Association's interests;
- c) File a court action seeking appointment of a receiver.

The attorney may also initiate a judicial foreclosure action, if approved by the Board pursuant to paragraph 14 below. All payment plans involving accounts referred to an attorney for collection shall be set up and monitored through the attorney. Upon referral of any matter to the Association's

attorney, the Association shall pay the attorney's usual and customary charges as well as any costs incurred by the attorney on the Association's behalf, promptly upon receipt of the monthly invoice from the attorney.

13. Appointment of a Receiver. The Association may seek the appointment of a receiver if an Owner becomes delinquent in the payment of assessments pursuant to the Declaration and Colorado law. A receiver is a disinterested person, appointed by the court, who manages the rental of the property, collects the rent and disburses the rents according to the court's order. The purpose of a receivership for the Association is to obtain payment of current assessments, reduce past due assessments and prevent the waste and deterioration of the property.

14. Judicial Foreclosure.

a). The Association may choose to foreclose on its lien in lieu of or in addition to suing an Owner for a money judgment. The purpose of foreclosing is to obtain payment of all assessments owing in situations where either a money judgment lawsuit has been or is likely to be unsuccessful or other circumstances favor such action.

b) Notwithstanding the above, no foreclosure action shall be initiated unless the amount due equals or exceeds six months' worth of assessments and the Board has formally resolved to authorize the action. Further, the Association shall not initiate a foreclosure action if the amount past due only includes fines and/or collection costs and attorney fees associated with fines.

c) Prior to initiating a judicial foreclosure action, the Association must provide the owner with a written offer to enter into a repayment plan as set forth in paragraph 11 above.

d) The Association may proceed with a judicial foreclosure action if (a) the Owner has declined the repayment plan or (b) the Owner has entered into a payment plan and failed to pay at least 3 monthly installments within 15 days of its due date.

e) The property being foreclosed may not be purchased by a member of the Board, an employee of the management company, an employee of the law firm representing the Association, or an immediate family member of any of the foregoing.

15. The Association is hereby authorized to extend the time for the filing of lawsuits and liens, or to otherwise modify the procedures contained herein, as the Association shall determine appropriate under the circumstances.

16. Communication with Owners.

a) Any letters sent to an Owner pursuant to this Policy shall also be sent via e-mail if the Owner has provided the Association with an e-mail address.

b) An Owner may designate another person to be contacted on the Owner's behalf regarding any notices, letters or correspondence sent pursuant to this Policy. The Owner must

notify the Association in writing of any designated contact. Such notification should include the designated contact's name, address and, if applicable, e-mail address. Any notices, letters or correspondence sent to a designated contact shall also be sent to the Owner.

c) An Owner may request that all correspondence and notices from the Association be made in a language other than English. If a preference is not indicated, the Association shall send all correspondence and notices in English.

d) The Association shall maintain a record of all contacts with a delinquent Owner, including information regarding the type of communication used to contact the Owner and the date and time that the contact was made.

17. Defenses. Failure of the Association to comply with any provision in this Policy shall not be deemed a defense to payment of assessment fees or other charges, late charges, return check charges, attorney fees and/or costs as described and imposed by this Policy.

18. Definitions. Unless otherwise defined in this Resolution, initially capitalized or terms defined in the Declaration shall have the same meaning herein.

19. Supplement to Law. The provisions of this Resolution shall be in addition to and in supplement of the terms and provisions of the Declaration and the law of the State of Colorado governing the Project.

20. Deviations. The Board may deviate from the procedures set forth in this Resolution if in its sole discretion such deviation is reasonable under the circumstances, including, but not limited to, filing of liens and waiving of late fees.

21. Amendment. This Policy may be amended from time to time by the Board of Directors.

22. This Policy replaces and supersedes any previous policy or rule of the Association pertaining to the collection of past due assessments.

PRESIDENT'S CERTIFICATION: The undersigned, being the President of the Terrace Homeowners Association (B)Inc., certifies that the foregoing Resolution was approved and adopted by the Board of Directors of the Association on September 30, 2023 and in witness thereof, the undersigned has subscribed his/her name.

THE TERRACE HOMEOWNERS ASSOCIATION (B) INC.

*Cristian Basso*  
Signature

September 30, 2023  
Date

Cristian Basso  
By, Print name, Its President (original signature on file)