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**BY-LAWS**  
**OF**  
**HERITAGE ESTATES**  
**HOME OWNERS ASSOCIATION, INC.**

[Date]

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**HERITAGE ESTATES HOME OWNERS ASSOCIATION, INC.**

**ARTICLE I**  
**Introductory Provisions**

1.1 **Applicability.** Pursuant to the requirements of the Pennsylvania Uniform Planned Community Act, 68 Pa. C.S.A. § 5101, et. seq. (the "Act"), these By-Laws provide for the governance of the master home owners' association for the planned communities known as Heritage Estates - Phase I created pursuant to that certain Declarations of Covenants, Conditions and Restrictions (the "Phase I Declarations") recorded in the Westmoreland County Recorder of Deeds' Office ("Recorder's Office") on August 30, 1999, and applicable to certain property located in the Municipality of Murrysville, Westmoreland County, consisting of sixty-nine (69) Units (the "Phase I Units") and common open space, all as shown on the Heritage Estates - Phase I Plan of Lots recorded in the Recorder's Office in Plan Book Volume 91, pages 1711-1715 (the "Phase I Plan"), and Heritage Estates - Phase II created pursuant to that certain Declarations of Covenants, Conditions and Restrictions (the "Phase II Declarations") (collectively with the Phase I Declarations, the "Declarations") recorded in the Recorder's Office on February 8, 2002, and applicable to certain property located in the Municipality of Murrysville, Westmoreland County, consisting of \_\_\_\_\_ (\_\_\_) Units (the "Phase II Units") and common open space, all as shown on the Heritage Estates - Phase II Plan of Lots recorded in the Recorder's Office in Plan Book Volume \_\_\_\_, page \_\_\_\_ (the "Phase II Plan"), and (ii) the filing of the Articles of Incorporation (the "Articles of Incorporation") of Heritage Estates Home Owners Association, Inc., a Pennsylvania non-profit corporation (the "Association"), with the Pennsylvania Department of State.

1.2 **Definitions.** Capitalized terms used but not defined herein shall have the meanings specified for such terms in the Declarations or, if not defined therein, the meanings specified or used for such terms in the Act.

1.3 **Compliance.** Pursuant to the provisions of the Act, every present and future Unit Owner (as defined in the Declarations) and all persons who occupy a Unit shall comply with these By-Laws.

1.4 **Office.** The principal office of the Association shall be located at 5006 Harvest Drive, Murrysville, PA 15668, or at such other place as may be designated from time to time by the Executive Board, but meetings of Members and the Executive Board may be held at such places as may be designated by the Executive Board.

**ARTICLE II**  
**The Association**

2.1 **Composition.** The Association shall consist of all of the Unit Owners acting as a group in accordance with the Act, the Declarations, and these By-Laws. The Common Facilities shall be maintained and repaired by the Association, all in

accordance with the provisions of § 5307 of the Act, except as expressly set forth to the contrary herein or in the Declarations. The foregoing responsibilities shall be performed by the Executive Board or hired manager as more particularly set forth in these By-Laws.

2.2 Annual Meetings. The annual meeting of the Association shall be held on the third Monday of September of each year, or at such other date as may be designated from time to time by the Unit Owners; provided that if such date shall occur on a holiday the meeting shall be held on the next succeeding Monday. Subject to Section 3.1 of these By-Laws, at such annual meetings the Executive Board shall be selected in accordance with the voting requirements of Section 2.10 of these By-Laws and such other business as may properly come before the meeting may be transacted.

2.3 Place of Meetings. Meetings of the Association shall be held at the principal office of the Association or at such other suitable place convenient to the Unit Owners as may be designated by the Executive Board.

2.4 Special Meetings. The President shall call a special meeting of the Association (i) if so directed by resolution of the Executive Board; or (ii) upon a petition signed and presented to the Secretary by at least twenty percent (20%) of the Class A Unit Owners entitled to cast a vote in the Association; or (iii) at such times as may be necessary in order to elect members of the Executive Board in accordance with Section 3.1 of these By-Laws. No business shall be transacted at a special meeting except as stated in the notice.

2.5 Notice of Meetings. Written notice of each meeting of the Association shall be given by, or at the direction of, the Secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, at least ten (10) days but not more than sixty (60) days before such meeting to each Unit Owner, addressed to the Unit Owner's address last appearing on the books of the Association, or supplied by such Unit Owners to the Association for the purpose of notice. Such notice shall specify the place, day, and hour of the meeting, and the items on the agenda, including the general nature of any proposed amendment to the Declarations or these By-Laws, any budget or Assessment changes; and, if applicable, any proposal to remove a member of the Executive Board. The giving of notice of meeting in the manner provided in Section 10.1 of these By-Laws shall be considered service of notice.

2.6 Waiver of Notice. Before or at any meeting of the Unit Owners, any Unit Owner may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the receipt of such notice. Attendance by a Unit Owner at any meeting of the Unit Owners shall be a waiver of notice by him of the time and place thereof. If all the Unit Owners are present at any meeting of the Unit Owners, no notice shall be required and any business may be transacted at such meeting.

2.7 Meeting by Conference Telephone. One or more Unit Owners may participate in a meeting of the Unit Owners by telephone conference, video conference, or similar communications equipment by means of which all persons participating in the meeting can hear each other.

2.8 Action by Consent. Any action by the Class A Unit Owners required or permitted to be taken at any meeting may be taken without a meeting if the Class A Unit Owners in the number required to approve such action shall individually or collectively consent in writing to such action. Any such written consent shall be filed with the minutes of the proceedings of the Class A Unit Owners.

2.9 Quorum. The presence at the meeting of Class A Unit Owners entitled to cast, or of proxies entitled to cast, twenty-percent (20%) of the votes of the Association shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation of the Association, the Declarations, or these By-Laws. If, however, such quorum shall not be present or represented at any meeting, the Class A Unit Owners entitled to vote at such meeting shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, and the presence, in person or by proxy, of ten percent (10%) of the Class A Unit Owners entitled to vote shall constitute a quorum at the subsequent meeting scheduled to replace the adjourned meeting.

2.10 Voting. Each Class A Unit (including each Class A Unit owned by Declarant) shall be allocated one (1) vote in the Association. When more than one person holds an interest or interests in any Class A Unit, all such persons shall be members of the Association and the vote for such Class A Unit shall be exercised as they among themselves determine, but in no event may more than one vote be cast with respect to any such Class A Unit. Each corporation, partnership, or other entity who is a Member shall notify the Association of the natural person who shall be designated to act on behalf of such corporation, partnership, or entity, including without limitation to exercise its vote, if applicable. If the Class A Unit Owner is a Trust, the Trustee shall be entitled to act on behalf of the Class A Unit. All questions or matters that require the vote, consent, or approval of the Class A Unit Owners shall require the affirmative vote, consent, or approval of a majority of the votes entitled to be cast by the Class A Unit Owners (including the Declarant if Declarant retains title to any Class A Unit), unless the question or matter is one upon which, by express provision of applicable law, the Articles of Incorporation or these By-Laws, a different vote is required in which case such express provision shall govern and control the decision of such question or matter. Cumulative voting shall not be permitted.

2.11 Proxies. A vote may be cast in person or by proxy. If a Class A Unit is owned by more than one person, each Class A Unit Owner of the Unit may vote or register protest to the casting of votes by the other Class A Unit Owners of the Unit through a duly executed proxy. Such proxy may be granted by any Class A Unit Owner in favor of only another Class A Unit Owner, a Mortgagee or the Declarant. Proxies shall be duly executed in writing, shall be valid only for the particular meeting designated therein and must be filed with the Secretary before the appointed time of the meeting. Such proxy shall be deemed revoked only upon actual receipt by the person presiding over the meeting of written notice of revocation from the grantor(s) of the proxy. No proxy shall be valid for a period in excess of one (1) year after the execution thereof. A proxy is void if it is not dated or purports to be revocable without notice.

**ARTICLE III**  
**Executive Board**

3.1 Number; Qualification and Initial Appointment. The affairs of the Association shall be governed by an Executive Board which shall be composed of five (5) directors who must be natural persons and Class A Unit Owners or designees of the Declarant.

3.2 Appointment and Term. The Executive Board shall be elected at the annual meeting of the Association. Each member of the Executive Board shall be elected to serve for the term of three (3) years or until his or her successor shall be elected and shall qualify, or until the earlier of his or her death, resignation, removal or sale of his or her Unit.

3.2.1 Persons qualified to serve on the Executive Board may be nominated only as follows:

A. Any Class A Unit Owner may submit to the Secretary at least thirty (30) days before the election a nominating petition signed by the Class A Unit Owners owning at least ten (10) Units in the aggregate.

B. Nominations may be submitted from the floor at the meeting at which the election is held for every vacancy of the Executive Board for which no more than one (1) person has been nominated by petition.

3.3 Removal or Resignation of Members of the Executive Board. Any one or more of the directors of the Executive Board may be removed with or without cause by Class A Unit Owners entitled to elect such member of the Executive Board. An Executive Board member shall be deemed to have resigned upon transfer of title to his or her Unit.

3.4 Vacancies. Vacancies in the Executive Board shall be filled by the vote of the majority of the Executive Board members in attendance at a special meeting which shall be called promptly after the occurrence of the vacancy for the purpose of filling the vacancy. Any Executive Board member elected to fill a vacancy shall serve out the remainder of the original member's term.

3.5 Organization Meeting. The first meeting of the Executive Board following each annual meeting of the Association shall be held within ten (10) days thereafter at such time and place as shall be fixed by the Executive Board.

3.6 Regular Meetings. Regular meetings of the Executive Board may be held at such time and place as shall be determined from time to time by the unanimous vote of the members, but such meetings shall be held at least once every four (4) months during a fiscal year. Notice of regular meetings of the Executive Board shall be given to each member, by mail, regular or electronic, or telegraph, at least three (3) business days prior to the day named for such meeting.

3.7 Special Meetings. Special meetings of the Executive Board may be called by the President or Secretary on at least three (3) business days' notice to each

member, given by mail or telegraph, which notice shall state the time, place, and purpose of the meeting. Special meetings of the Executive Board may likewise be called by the written request of any two (2) or more members of the Executive Board.

3.8 Waiver of Notice. Any director may at any time, in writing, waive notice of any meeting of the Executive Board, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a director at any meeting of the Executive Board shall constitute a waiver of notice by him or her of the time, place and purpose of such meeting. If all directors are present at any meeting of the Executive Board, no notice shall be required and any business may be transacted at such meeting.

3.9 Quorum of the Executive Board. At all meetings of the Executive Board a majority of the number of directors of the Executive Board must be present in person, or by telephone or other similar means or which all persons participating in the meeting can hear each other, to constitute a quorum for the transaction of business. If at any meeting of the Executive Board there shall be less than a quorum present, a majority of those present may adjourn the meeting from time to time. At any such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice. The directors of the Executive Board present at a duly organized meeting can continue to do business until adjournment, notwithstanding the withdrawal of enough members of the Executive Board to leave less than a quorum.

3.10 Voting. A vote of the majority of the members of the Executive Board shall decide any question to be decided by the Executive Board, unless the question is one upon which, by express provision of applicable law or of the Articles of Incorporation or these By-Laws, a different vote is required in which case such express provision shall govern and control the decision of such question.

3.11 Compensation. No member of the Executive Board shall receive any compensation from the Association for acting as such, but he or she may be reimbursed for any actual out-of-pocket expenses incurred in the performance of his or her duties.

3.12 Conduct of Meetings. The President shall preside over all meetings of the Executive Board and the Secretary shall keep a minute book of the Executive Board meetings, recording therein all resolutions adopted by the Executive Board and a record of all transactions and proceedings occurring at such meetings.

3.13 Action by Consent. Any action by the Executive Board required or permitted to be taken at any meeting may be taken without a meeting if all of the members of the Executive Board otherwise required to take such action shall individually or collectively consent in writing to such action. Any such written consent shall be filed with the minutes of the proceedings of the Executive Board.

3.14 Validity of Contracts with Interested Directors. No contract or other transaction between the Association and one or more of its Executive Board members or between the Association and any corporation, firm or association in which one or more of its Executive Board members are directors or officers, or are financially interested, shall be void or voidable simply because such Executive Board member or

members is(are) present at any meeting of the Executive Board which authorized or approved the contract or transaction or because his, her or their votes are counted, if either of the following circumstances exists:

A. The fact that an Executive Board member is also a director or officer or has a financial interest is disclosed or known to the other Executive Board members and is noted in the relevant minutes, and the Executive Board authorizes, approves or ratifies the contract or transaction in good faith by a vote sufficient for the purpose without counting the votes or vote of such interested Executive Board member or members; or

B. The contract or transaction is made in good faith and is not unconscionable to the Association at the time it is authorized, approved or ratified.

3.15 Inclusion of Interested Board Members in Quorum. Any Executive Board member holding such director or officer position or having a financial interest in another corporation, firm or association may be counted in determining the presence of a quorum at a meeting of the Executive Board or a committee thereof which authorizes, approves or ratifies a contract or transaction of the type described in Section 3.14 hereof.

3.16 Delegation of Powers; Managing Agent. The Executive Board may employ a managing agent at a compensation established by the Executive Board. The managing agent shall perform such duties as the Executive Board shall authorize, including, without limitation, all of those duties which may be performed by a managing agent pursuant to the Act, the Declaration and these Bylaws; provided, however, where a managing agent does not have the authority to act, the managing agent shall act in an advisory role to the Executive Board. The Executive Board may delegate to the managing agent all duties to be performed by the Executive Board pursuant to the Act, the Declaration and these Bylaws, other than the following duties:

- A. adopting or amending the annual budget or assessing any Common Expenses;
- B. adopting, repealing or amending Rules and Regulations;
- C. designating signatories on Association bank accounts;
- D. Borrowing money on behalf of the Association; and
- E. Acquiring or mortgaging any Unit.

#### **ARTICLE IV Officers**

4.1 Designation. The officers of the Association shall consist of a President, a Vice President, a Secretary, a Treasurer, and such other officers as the Executive Board shall from time to time determine, including without limitation Assistant Secretaries, and/or Assistant Treasurers. The President and Vice President shall be

members of the Executive Board. Any two (2) offices except those of President and Secretary may be held by the same person.

4.2 Election and Removal. The officers of the Association shall be elected annually by the Executive Board and, unless sooner removed by the Executive Board, the officers shall serve for a term of one (1) year and until their successors are elected and qualified. Any vacancies occurring in offices shall be filled by the Executive Board from time to time. The Executive Board shall appoint such temporary or acting officers as may be necessary during the temporary absence or disability of the regular officers. Upon an affirmative vote of a majority of the members of the Executive Board, any officer may be removed, either with or without cause, and his or her successor elected at any regular meeting of the Executive Board or at any special meeting called for such purpose.

4.3 Compensation. No officer shall receive any compensation from the Association for acting as such, but he or she may be reimbursed for any actual out-of-pocket expenses incurred in the performance of his or her duties.

4.4 Duties of Officers.

A. President. The President shall be the chief executive officer and head of the Association, and during the recess of the Executive Board, shall have the general control and management of its business and affairs, subject, however, to the regulation of the Executive Board. The President shall preside at all meetings of the Executive Board, and shall act as temporary Chairman and call to order all meetings of the Unit Owners of the Association and the Executive Board, except as otherwise provided by law or by these By-Laws. The President shall sign and execute all documents in the name of the Association when authorized to do so by the Executive Board. The President shall make annual reports showing the condition of the affairs of the Association and make such recommendations as the President thinks proper, and submit the same to the Executive Board at the meeting next preceding the annual meeting of the Unit Owners of the Association. The President shall, from time to time, bring before the Executive Board such information concerning the business and property of the Association as may be required. The President shall cease holding office at such time as he or she ceases to be a member of the Executive Board.

B. Vice President. The Vice President shall perform such duties as shall be assigned to him by the Executive Board and in the absence of the President, the Vice President shall have the power and may perform the duties of the President. The Vice President shall cease holding office at such time as he or she ceases to be a member of the Executive Board.

C. Secretary. The Secretary shall keep the minutes of the meetings of the Executive Board, and also the minutes of all meetings of the Unit Owners of the Association. The Secretary shall see that due and proper notice is given of all meetings of the Unit Owners of the Association and of the Executive Board, shall have custody of and shall sign and affix the seal of the Association, if any, to all papers and documents when they shall be signed by the President, or otherwise, as ordered by the Executive Board. The Secretary shall perform such other duties as may from time to time be required by the Executive Board, and in case of his absence or inability to act,



a Secretary pro tem, who shall have the authority to exercise like powers and perform the duties of a Secretary, may be appointed by the Executive Board or the President.

D. Treasurer. The Treasurer shall have the care and custody of the funds and securities of the Association, and shall keep full and accurate accounts of the receipts and expenditures of all Association funds in books belonging to the Association, and shall deposit all moneys and valuable effects in the name and to the credit of the Association in such depositories as may be designated by the Executive Board and shall sign or countersign all bonds, checks, drafts, notes and orders for the payment of money, which shall be countersigned by the President or such other person as shall be designated by order of the Executive Board. The Treasurer shall disburse the funds of the Association by order of the Executive Board, take proper vouchers for such disbursements, and shall render to the President and Executive Board, at the annual meeting of the Board, or whenever it may be required, an account of all of his transactions as Treasurer, and the financial condition of the Association. The Treasurer shall perform such other duties as the Executive Board may from time to time direct. The Treasurer shall furnish no bond unless the Executive Board orders otherwise.

4.5 Execution of Documents. All agreements, contracts, deeds, leases, checks and other instruments of the Association for expenditures or obligations over Two Hundred and Fifty Dollars (\$250.00) shall be executed by both the President and either the Secretary or the Treasurer of the Association.

## **ARTICLE V**

### **Fiscal Year; Common Facilities and Assessments**

5.1 Fiscal Year. The fiscal year of the Association shall be the calendar year unless otherwise determined by the Executive Board; provided, however, that the first fiscal year shall begin upon the earlier to occur of the filing of the Articles of Incorporation or the recordation of the Declarations.

#### 5.2 Preparation and Approval of Budget.

5.2.1 On or before the first day of November of each year (or 60 days before the beginning of the fiscal year if the fiscal year is other than the calendar year) the Executive Board shall adopt an annual budget for the Association containing an estimate of the total amount considered necessary to pay the cost of maintenance, management, operation, repair and replacement of the Common Facilities and the cost of wages, materials, insurance premiums, services, supplies and other expenses that may be declared to be Common Expenses by the Act, the Declaration, these Bylaws or a resolution of the Association and which will be required during the ensuing fiscal year for the administration, operation, maintenance and repair of the Property and the rendering to the Unit Owners of all related services. Such budget shall also include such reasonable amounts as the Executive Board considers necessary to provide working capital, a general operating reserve and reserves for contingencies and replacements.

5.2.2 On or before the next succeeding fifth day of November (or fifty-five (55) days before the beginning of the fiscal year if the fiscal year is other than the calendar year), the Executive Board shall make the budget available for inspection at the Association office and shall send to each Unit Owner a copy of the budget in a reasonably itemized form that sets forth the amount of the Common Expenses. Such budget shall constitute the basis for determining each Class B Unit Owner's assessment for insurance for the Common Facilities and each Class A Unit Owner's assessment for insurance for the Common Facilities and other Common Expenses for the Association and shall automatically take effect at the beginning of the fiscal year for which it is adopted, subject to Section 5.8 below.

5.2.3 The Executive Board shall make reasonable efforts to meet the deadlines set forth above, but compliance with such deadlines shall not be a condition precedent to effectiveness of any budget.

### 5.3 Assessment and Payment of Common Expenses.

5.3.1 Common Expenses. The Executive Board shall calculate the monthly assessments for Common Expenses other than insurance on the Common Facilities against each Unit owned by a Class A Unit Owner by dividing (a) the total amount of the estimated funds required for the operation of the Property (other than insurance on the Common Facilities) set forth in the budget adopted by the Executive Board for the fiscal year in question, after deducting income expected to be received from sources other than Common Expense assessments, by (b) the sum of the number of Units owned by Class A Unit Owners in Phase I and Phase II, and further dividing the resultant product by (c) the number of calendar months in such year. Such assessments shall be deemed to have been adopted and assessed on an annual basis payable in monthly installments, shall be due and payable on the first day of each calendar month and shall be a lien against each Class A Unit Owner's Unit as provided in the Act and the Declarations. Within ninety (90) days after the end of each year, the Executive Board shall prepare and deliver to each Class A Unit Owner and to each record holder of a mortgage on a Unit who has registered an address with the Secretary an itemized accounting of the Common Expenses and funds received during such fiscal year less expenditures actually incurred and sums paid into reserves. Any net shortage with regard to Common Expenses, after application of such reserves as the Executive Board may determine, shall be assessed promptly against the Class A Unit Owners equally and shall be payable in one or more monthly assessments, as the Executive Board may determine.

5.3.2 Insurance. The Executive Board shall calculate the monthly assessments for insurance on the Common Facilities against each Unit by dividing (a) the total amount of the estimated funds required for insuring the Common Facilities set forth in the budget adopted by the Executive Board for the fiscal year in question, by (b) the sum of the number of Units in Phase I and Phase II, and further dividing the resultant product by (c) the number of calendar months in such fiscal year. Such assessments shall be deemed to have been adopted and assessed on an annual basis payable in monthly installments, shall be due and payable on the first day of each calendar month and shall be a lien against each Unit as provided in the Act and the Declaration within ninety (90) days the end of each fiscal year, the Executive Board shall prepare and deliver to each Unit Owner and to each record holder of a mortgage

on a Unit who has registered an address with the Secretary an itemized accounting of the funds received during such fiscal year for payment of insurance coverage for the Common Facilities, less the premiums actually paid for such insurance. Any net shortage with regard to insurance coverage premiums for the Common Facilities shall be assessed promptly against the Unit Owners equally and shall be payable in one or more monthly assessments as the Executive Board may determine.

5.3.3 Reserves. The Executive Board shall build up and maintain reasonable reserves for working capital, operations, contingencies and replacements. Extraordinary expenditures not originally included in the annual budget which may become necessary during the year may be charged first against such reserves. If the reserves are deemed to be inadequate for any reason, including non-payment of any Class A Unit Owner's assessments, the Executive Board may at any time levy further assessments for Common Expenses which shall be assessed against the Class A Unit Owners equally, and shall be payable in one or more monthly assessments as the Executive Board may determine.

5.4 Further Assessments. The Executive Board shall serve notice on all Class A Unit Owners of any further assessments pursuant to Sections 5.3.1 or 5.3.3 or otherwise, and on all Unit Owners of any further assessments pursuant to Section 5.3.2, as permitted or required by the Act, the Declaration and these Bylaws by a statement in writing giving the amount and reasons therefor, and such further assessments shall, unless otherwise specified in the notice, become effective with the next monthly assessment which is due more than ten (10) days after the delivery of such notice of further assessments. All Class A Unit Owners so assessed shall be obligated to pay the amount of such assessments. Such assessments shall be a lien as of the effective date as set forth in the preceding Section 5.3 1.

5.5 Initial Budget. At or prior to the time assessment of Common Expenses commences, the Executive Board shall adopt the budget, as described in this Article, for the period commencing on the date the Executive Board determines that assessments shall begin and ending on the last day of the fiscal year during which such commencement date occurs. Assessments shall be levied and become a lien against the Class A Unit Owners during such period as is provided in Section 5.3 above.

5.6 Delivery of Approved Budget and Notice of Capital Expenditures: Effect of Failure to Prepare or Adopt Budget. The Executive Board shall deliver to all Unit Owners copies of each budget approved by the Executive Board and notice of any capital expenditure approved by the Executive Board promptly after each such approval. The failure or delay of the Executive Board to prepare or adopt a budget for any fiscal year shall not constitute a waiver or release in any manner of a Class A Unit Owner's obligation to pay such Class A Unit Owner's allocable share of the Common Expenses or a Unit Owner's obligation to pay such Unit Owner's allocable share of the insurance costs for the Common Facilities, all as herein provided whenever the same shall be determined and, in the absence of any annual budget or adjusted budget, each Unit Owner shall continue to pay each assessment at the rate established for the previous fiscal year until the new annual or adjusted budget shall have been adopted.

5.7 Accounts; Audits. All sums collected by the Executive Board with respect to assessments against the Unit Owners or from any other source may be commingled into a single fund. All books and records of the Association shall be kept in accordance with generally accepted accounting principles, and financial statements consisting of at least a balance sheet and a statement of revenues and expenses of the Association shall be prepared within one hundred eighty (180) days of the close of the Association's fiscal year and provided at cost to each Unit Owner requesting the same, within thirty (30) days of a written request received by the Secretary of the Association.

5.8 Rejection of Budget. Anything herein to the contrary notwithstanding, the Association, by majority vote of all Class A Unit Owners in the Association, may reject any budget or capital expenditure approved by the Executive Board, within thirty (30) days after approval by the Executive Board. The power of the Executive Board to expend funds, incur expenses or borrow money on behalf of the Association that is reasonably anticipated to cause the aggregate amount of all expenses in the budget (including reserves) to be exceeded by more than ten percent (10%) of such aggregate amount after taking into account any projected increase in income, and to borrow money so that loans of the Association then outstanding would exceed ten percent (10%) of such aggregate amount, is subject to the approval of two thirds (2/3) of the Class A Unit Owners present, in person or by proxy, at any duly called and held meeting of the Association. If a budget is rejected by the Unit Owners, the Association shall continue to operate under its current budget until the Executive Board adopts a budget which is not rejected by the Unit Owners.

5.9 Payment of Common Expenses and Insurance Costs. Each Unit Owner shall pay the Common Expenses and/or insurance costs assessed by the Executive Board pursuant to the provisions of this Article V. No Unit Owner may exempt himself or herself from liability from his or her contribution towards Common Expenses and/or insurance costs by waiver of the use or enjoyment of any of the Common Facilities or by abandonment of his or her Unit. No Unit Owner shall be payable for all or any part of the Common Expenses and/or insurance costs assessed against his or her Unit subsequent to the date of recordation of a conveyance by him or her in fee of such Unit. The purchaser of a Unit shall be jointly and severally liable with the selling Unit Owner for all unpaid assessments against the latter for his or her proportionate share of the Common Expenses and/or insurance costs up to the time of such recordation if such amount has been accurately and completely set forth in a resale certificate provided to such person under § 5407 of the Act, without prejudice for the purchaser's right to recover from the selling Unit Owner amounts paid by the purchaser therefor, and such purchaser shall not be liable for, nor shall the Unit conveyed be subject to a lien for, any unpaid assessments with respect to the time period covered by such statement, in excess of the amount therein set forth; and, provided further that, subject to § 5315(b)(2) of the Act, each record holder of a mortgage on a Unit who comes into possession of a Unit by virtue of foreclosure or by deed or assignment in lieu of foreclosure, or any purchaser at a foreclosure sale, shall take the Unit free of any claims for unpaid assessments or charges against such Unit which accrue prior to the time such holder comes into possession thereof, except for claims for a pro rata share of such assessments or charges resulting from a pro rata reallocation of such assessments or charges to all Units including the mortgaged Unit.

5.10 Collection of Assessments. The Executive Board or the Managing Agent, at the request of the Executive Board, shall take prompt action to collect any assessments of Common Expenses and/or insurance costs due from any Unit Owner which remain unpaid for more than thirty (30) days from the due date for payment thereof. Any assessment not paid within five (5) days after its due date shall accrue a late charge in the amount of five percent (5 %) of the overdue assessment in addition to interest at the rate of fifteen percent (15%) per annum or such other rate as may be determined by the Executive Board.

5.11 Statement of Common Expenses. The Executive Board shall promptly provide any Unit Owner a written statement containing such information as is required to complete a resale certificate as required under § 5407 of the Act. The Executive Board may impose a reasonable charge for the preparation of such statement to cover the cost of its preparation, to the extent permitted by the Act.

## **ARTICLE VI Compliance and Default**

6.1 Relief. Each Unit Owner shall be governed by, and shall comply with, all of the terms of the Declarations, these By-Laws, any Rules and/or Regulations adopted by the Executive Board (the "Rules and Regulations"), and the Act, as any of the same may be amended from time to time. In addition to the remedies provided in the Act and the Declarations, a default by a Unit Owner shall entitle the Association, acting through its Executive Board, to the following relief:

A. Additional Liability. Each Unit Owner shall be liable for the expense of all maintenance, repair, or replacement rendered necessary by his, her, or its act, neglect, or carelessness or the act, neglect, or carelessness of his, her, or its tenants, guests, invitees, or licensees, but only to the extent that such expense is not covered by the proceeds of insurance carried by the Executive Board. Such liability shall include any increase in casualty insurance premiums occasioned by improper use, misuse, occupancy, or abandonment of any Unit or its appurtenances. Nothing contained herein, however, shall be construed as modifying any waiver by any insurance company of its rights of subrogation.

B. Costs and Attorneys' Fees. In any proceedings arising out of any alleged default by a Unit Owner, the Association shall be entitled to recover the costs of such proceeding and reasonable attorney's fees.

C. No Waiver of Rights. The failure of the Association, the Executive Board, or of a Unit Owner to enforce any right, provision, covenant, or condition which may be granted by the Declarations, these By-Laws, the Rules and Regulations, or the Act shall not constitute a waiver of the right of the Association, the Executive Board, or the Unit Owner to enforce such right, provision, covenant, or condition in the future. All rights, remedies, and privileges granted to the Association, the Executive Board, or any Unit Owner pursuant to any term, provision, covenant, or condition of the Declarations, these By-Laws, the Rules and Regulations, or the Act shall be deemed to be cumulative and the exercise of any one or more thereof shall not be deemed to constitute an election of remedies, nor shall it preclude the party exercising the same from exercising such other privileges as may be granted to such party by the

Declarations, these By-Laws, the Rules and Regulations, or the Act, or at law or in equity.

D. Abating and Enjoining Violations by Unit Owners. The violations of any of the Rules and Regulations adopted by the Executive Board, the breach of these By-Laws, the Declarations, or the Act shall give the Executive Board the right, with prior notice and reasonable opportunity to cure, in addition to any other rights: (i) to enter the Unit in which, or as to which, such violation or breach exists and summarily to abate and remove, at the expense of the defaulting Unit Owner, any structure, thing, or condition that may exist therein contrary to the intent and meaning of the provisions hereof, and the Executive Board shall not thereby be deemed guilty in any manner of trespass; or (ii) to enjoin, abate, or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such breach.

## **ARTICLE VII Amendments**

7.1 Amendments to By-Laws. These By-Laws may be amended from time to time by an instrument signed by not less than fifty percent (50%) of the Class A Unit Owners, except as otherwise set forth in these By-Laws or the Act.

7.2. Rights of Mortgagees. Subject to the limitations imposed by the Act and except as otherwise set forth below, no amendment of these By-Laws may be made without the prior written approval of all Mortgagees if and to the extent that such approval is required by the Act or if and to the extent that such amendment would (i) be a material amendment as defined by the Federal National Mortgage Association or have the effect of (ii) abandoning, encumbering, selling, or transferring the Common Facilities; (iii) partitioning or subdividing any Unit or the Common Facilities; or (iv) changing the proportionate interests of any Unit Owners. The granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Facilities shall not be deemed to be a transfer within the meaning of item (ii) of this Section 7.2. In any event, a Mortgagee shall be conclusively deemed to have approved an amendment if the Mortgagee fails to submit a written response to the Association within thirty (30) days after the Mortgagee receives notice of a proposed amendment.

7.3. Other Amendments. If any amendment is necessary in the judgment of the Executive Board to cure any ambiguity or to correct or supplement any provision of these By-Laws which is defective or inconsistent with any other provision hereof, or if such amendment is necessary to conform to then current requirements of the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation with respect to planned community projects, the Executive Board may, at any time and from time to time effect such amendment without the approval of the Unit Owners or Mortgagees, upon receipt by the Executive Board of an opinion from an independent registered architect or licensed professional engineer in the case of any such amendment to the Plan or an opinion from independent counsel to the effect that the proposed amendment is permitted by the Act. Each such amendment shall be effective upon the recording of an appropriate instrument setting forth the

amendment and its due adoption, execution and acknowledgment by one or more officers of the Executive Board.

7.4. Declarant's Rights. Until the expiration of Declarant's rights to control the Association described in § 5303(c) of the Act, Declarant shall have the unilateral right to amend these By-Laws, as Declarant deems necessary, subject, however, to the Act and to the limitation that no such Amendment shall act to deprive or limit any Unit Owner's rights in or to the Common Facilities. So long as the Declarant owns any Units, no amendment to these By-Laws shall be effective or recorded without Declarant's review and written consent.

### **ARTICLE VIII** **Liability of Members of the Executive Board**

8.1 Liability of Members of the Executive Board. Except for responsibility or liability of a member of the Executive Board pursuant to any criminal statute or for payment of taxes pursuant to local, state, or Federal law, a member of the Executive Board of the Association shall not be personally liable for monetary damages for any action taken or any failure to take any action unless (a) such member of the Executive Board has breached or failed to perform his fiduciary duties as provided in Section 8.2 hereof, and (b) the breach or failure to perform constitutes self-dealing, willful misconduct, or recklessness.

8.2 Member of the Executive Board's Fiduciary Duties. A member of the Executive Board of the Association shall stand in a fiduciary relation to the Association and shall perform his duties as a member of the Executive Board (including as a member of any committee of the Board) in accordance with the standards set forth in Section 1712(a) of the Pennsylvania Business Corporation Law (15 Pa.C.S.A. §1712(a)), as the same may be amended from time to time. Absent breach of fiduciary duty, lack of good faith, or self-dealing, actions taken as a member of the Executive Board or any failure to take any action shall be presumed to be in the best interest of the Association.

### **ARTICLE IX** **Indemnification**

9.1 Right to Indemnification. In the event a representative of the Association was, is, or is threatened to be made a party to any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative, because he or she is or was a representative or because he or she is or was serving as a representative of another corporation, partnership, joint venture, trust, employee benefit plan, or other enterprise, the Association (a) shall indemnify a representative who has been successful on the merits or otherwise in defense of any such action, suit, or proceeding or in defense of any claim, issue, or matter therein, against expenses (including attorneys' fees) actually and reasonably incurred by him or her in connection therewith; (b) may indemnify a representative against expenses (including attorneys' fees), judgments, fines, and amounts paid in settlement actually and reasonably incurred by him or her, even if he or she has not been successful on the

merits in other than a derivative suit, if he or she acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the Association (and, in the case of a criminal proceeding, had no reason to believe his conduct was unlawful); and (c) may indemnify a representative for expenses (including attorneys' fees) actually and reasonably incurred by him in a suit by or in the right of the Association (derivative suit) even if he or she is unsuccessful on the merits, if he or she acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the Association and is not adjudged to be liable for willful misconduct or recklessness in the performance of his or her duty to the Association.

9.2 Required Determination. Any indemnification under Section 9.1 (unless ordered by a Court) shall be made by the Association only as authorized in the specific case upon a determination that the indemnification of the representative is proper in the circumstances because he or she has met the applicable standard of conduct set forth in Section 9.1. Such determination shall be made (a) by the Executive Board by a majority vote of a quorum consisting of the members of the Executive Board who were not parties to such action, suit, or proceeding, or (b) if such a quorum is not obtainable, or, even if obtainable if a quorum of disinterested members of the Executive Board so directs, by independent legal counsel in a written opinion.

9.3 Advances for Expenses. Expenses incurred by or imposed upon a representative in defending a civil or criminal action, suit, or proceeding may be paid by the Association in advance of the final disposition of such action, suit, or proceeding upon receipt of an undertaking by or on behalf of the representative to repay such amount if it shall ultimately be determined that he or she is not entitled to be indemnified by the Association as authorized in this Article.

9.4 Nonexclusivity and Nonduplication. The indemnification and advancement of expenses provided by this Article shall not be deemed exclusive of any other rights to which any person seeking indemnification may be entitled under any other By-law, agreement, vote of members or disinterested members of the Executive Board or otherwise, both as to action in his or her official capacity and as to action in another capacity while holding such office. Notwithstanding any other provisions set forth in this Article, the indemnification authorized and provided hereby shall be applicable only to the extent that any such indemnification shall not duplicate indemnity or reimbursement which such person has received or shall receive otherwise than under this Article.

9.5 Preservation of Rights. No amendment or repeal of this Article shall adversely affect any right or protection extended to a representative hereunder for an act or failure to act occurring prior to the time of such amendment or repeal. Each representative shall be deemed to act in such capacity in reliance upon the rights of indemnification and advancement of expenses hereunder. The rights to indemnification and advancement of expenses hereunder shall continue as to a person who has ceased to be a representative and shall inure to the benefit of the heirs, executors, personal representatives, and administrators of such person.

9.6 Insurance or Other Funding. The Association may create a fund of any nature which may, but need not be, under the control of a trustee or otherwise



secured or may insure in any manner its indemnification obligations, whether arising hereunder or otherwise. The Association may purchase and maintain insurance on behalf of any person who is or was a representative of the Association or is or was serving at the request of the Association as a representative of another corporation, partnership, joint venture, employee benefit plan, trust, or other enterprise against any liability asserted against him or her and incurred by or imposed upon him or her in any such capacity or arising out of his or her status as such, whether or not the Association would have the power to indemnify him or her against such liability under the provisions of this Article or otherwise, upon such terms and conditions as the Association may deem requisite including a requirement that any such person must contribute a portion or all of the cost of maintaining such insurance.

## **ARTICLE X** **Miscellaneous**

10.1 **Notices.** All notices, demands, bills, statements, or other communications under these By-Laws shall be in writing and shall be deemed to have been duly given if delivered personally or if sent by United States mail postage prepaid (or otherwise as the Act may permit), (i) if to a Unit Owner, at the single address which the Unit Owner shall designate in writing and file with the Secretary or, if no such address is designated, at the address of the Unit of such Unit Owner, or (ii) if to the Association or the Executive Board, at the principal office of the Association as set forth in Section 1.4 hereof or at such other address as shall be designated by notice in writing to the Unit Owners pursuant to this Section. If a Unit is owned by more than one person, each such person who so designates a single address in writing to the Secretary shall be entitled to receive all notice hereunder.

10.2 **Captions.** The captions herein are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of these By-Laws or the intent of any provisions thereof.

10.3 **Gender.** The use of the masculine gender in these By-Laws shall be deemed to include the feminine and neuter genders and vice versa, whenever the context so arises, and the use of the singular shall be deemed to include the plural and vice versa, whenever the context so requires.

10.4 **Effective Date.** These By-Laws shall become effective when assented to by a majority of the Class A Unit Owners of Phase I and Phase II.

10.5 **Invalidity.** If any provisions of these By-Laws are determined by a court of competent jurisdiction to be invalid, the determination shall not affect the validity or effect of the remaining provisions hereof.

10.6 **Conflicts.** The terms and provisions of the Act and the Declarations shall control in case of any conflict between them and the provisions of these By-Laws.

10.7 **Seal.** If required by the Executive Board, the Association shall have a seal containing the name of the Association, its year of incorporation, and a statement that it is a Pennsylvania Non-Profit Corporation.