

BYLAWS
OF
PROVIDENCE HILL
HOMEOWNERS ASSOCIATION

Rouse/Chamberlin, Ltd.
500 Exton Commons
Exton, PA 19341
Issued February 25, 2005

PROVIDENCE HILL HOMEOWNERS ASSOCIATION

BYLAWS

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ARTICLE 1 NAME

1.1 Name.

The name of the non-profit corporation is Providence Hill Homeowners Association (the "Association").

ARTICLE 2 PURPOSES AND POWERS; DEFINITIONS

2.1 Purpose.

The purposes of the Association are: the ownership, management, operation and maintenance of certain real estate and the improvements located in the residential community known as Providence Hill (the "Community"), and located in East Fallowfield Township, Chester County, Pennsylvania. The "Common Facilities", "Controlled Facilities" and "Common Elements" of the Community are defined in the Declaration of Covenants, Conditions and Restrictions of Providence Hill, a Residential Community" (the "Declaration"), dated December 30, 2004 and recorded in the Office of the Recorder of Deeds in and for Chester County, Pennsylvania, on _____ in Record Book _____, Page _____ et seq., with Rouse/Chamberlin Ltd., a Pennsylvania limited partnership as the Declarant. The Association may also manage its affairs and conduct any other lawful business on a not-for-profit basis pursuant to the laws of the Commonwealth of Pennsylvania.

2.2 Powers.

Except as otherwise provided in the Declaration or the provisions of the Pennsylvania Uniform Planned Community Act, as amended (the "Act") which are applicable to a Community having as Common Elements only open space, the Association shall have the powers to do and perform the following:

- (1) Adopt and amend bylaws and rules and regulations.
- (2) Adopt and amend budgets for revenues, expenditures and reserves and collect assessments for Common Expenses from Unit owners.
- (3) Hire and terminate managing agents and other employees, agents and independent contractors.
- (4) Institute, defend or intervene in litigation or administrative proceedings in its own behalf of itself or two or more Unit owners on matters affecting the Community.
- (5) Make contracts and incur liabilities.

(6) Regulate the use, maintenance, repair, replacement and modification of Common Elements.

(7) Cause additional improvements to be made as a part of the Common Facilities and, only to the extent permitted by the Declaration, the Controlled Facilities.

(8) Acquire, hold, encumber and convey in its own name any right, title or interest to real or personal property, but Common Facilities may be conveyed or subjected to a security interest only under the provisions of section 5318 of the Act (relating to conveyance or encumbrance of Common Facilities).

(9) Grant easements, leases, licenses and concessions through or over the Common Facilities and, only to the extent permitted by the Declaration, the Controlled Facilities.

(10) Impose and receive payments, fees or charges, except as limited by other applicable provisions of the Act, for the use, rental or operation of the Common Elements.

(11) Impose charges for late payment of assessments and, after notice and an opportunity to be heard, levy reasonable fines for violations of the Declaration, Bylaws and Rules and Regulations of the Association as permitted by Article 5 of the Declaration.

(12) Impose reasonable charges for the preparation and recording of amendments to the Declaration, resale certificates required by section 5407 of the Act (relating to resales of Units) which shall be ONE charge that may be made by the Association solely because of a resale or retransfer of any Unit or statement of unpaid assessments. In addition, the Association may impose a capital improvement fee, but no other fees, on the resale or transfer of Units in accordance with the following:

(i) The capital improvement fee for any Unit shall not exceed the annual assessments for general Common Expense charged to such Unit during the most recently completed fiscal year of the Association; provided that:

(a) In the case of resale or transfer of a Unit consisting of unimproved real estate, the capital improvement fee shall not exceed one-half of the annual assessments for general Common Expenses charged to such Unit during the most recently completed fiscal year of the Association; and

(b) In the case of resale or transfer of a Unit which was either created or added to the Community in accordance with section 5311 of the Act (relating to conversion and expansion of flexible planned communities) at some time during the most recently completed fiscal year of the Association but was not in existence for the entire fiscal year, the capital improvement fee shall not exceed one-half of the annual assessments for general Common Expenses charged to a Unit comparable to such Unit during the most recently completed fiscal year of the Association; and

(c) capital improvements fees are not refundable upon any sale, conveyance or any other transfer of the title to the unit.

(ii) Capital improvement fees allocated by the Association must be maintained in a separate capital account and may be expended only for new capital improvements or replacement of existing Common Elements, and may not be expended for operation, maintenance or other purposes.

(iii) No capital improvement fee shall be imposed in the case of resale or transfer of a Unit consisting of unimproved real estate, a transfer from the Declarant to a third-party buyer, or on any gratuitous transfer of a Unit between any of the following family members' spouses, parent and child, siblings, grandparent and grandchild; nor on any transfer of a unit by foreclosure sale or deed in lieu of foreclosure to a secured lending institution as defined by the act of December 3, 1959 (P.L. 1688, No. 621), known as the Housing Finance Agency Law (35 P.S. § 1680.101 et seq.).

(iv) No fees may be imposed upon any person who;

(a) Acquires a Unit consisting of unimproved real estate and signs and delivers to the Association at the time of such person's acquisition a sworn affidavit declaring the person's intention to reconvey such Unit within 18 months of its acquisition; and

(b) Completes such reconveyance within such 18 months.

(13) Provide for the indemnification of its officers and executive board and maintain Directors' and Officers' liability insurance.

(14) Exercise any other powers conferred by the Act, the Declaration or Bylaws.

(15) Exercise all other powers that may be exercised in this Commonwealth by legal entities of the same type as the Association.

(16) Exercise any other powers necessary and proper for the governance and operation of the Association.

(17) Assign its right to future income, including the right to receive Common Expense assessments. Reserve funds held for future major repairs and replacements of the Common Elements may not be assigned or pledged.

2.3 Definitions.

Any capitalized term used in these Bylaws but not otherwise defined shall have the meaning as set forth in the Declaration.

ARTICLE 3 OFFICES

3.1 Initial Office.

The Association shall have its initial principal office at **500 Exton Commons, Exton, PA 19341.**

3.2 Maintain Office.

The Association shall have and continuously maintain a registered office in the Commonwealth of Pennsylvania.

ARTICLE 4 MEMBERSHIP, VOTING RIGHTS AND ASSESSMENTS

4.1 Membership.

Each Owner of a Lot, including Declarant, shall be a Member of the Association at such time as set forth in the Declaration. Each membership shall be appurtenant to, and not severable from, ownership of a Lot, and shall be held in the name of the record owner of the Lot, whether or not the Lot is owned jointly, in common or in any other form of tenancy. Each Lot shall have one, and only one, membership regardless of the number of co-tenants, joint-tenants or tenants by the entireties holding interest in said Lot. The Declarant shall be a Member until the Declarant's interest is terminated by selling all of the Lots it owns.

4.2 Duration of Membership.

Each membership shall initially commence upon the recording of the Declaration. Thereafter, membership shall be transferred to each successive record Owner of a Lot as of the date and hour of the completion of settlement on the conveyance of a Lot to a new Owner.

4.3 Voting.

4.3.1 In General: Members may vote on those items submitted to their vote by the Executive Board. Each Member shall be entitled to one vote on all matters on which Members are entitled to vote. Members shall not be entitled to cumulative voting for the election of members of the Executive Board. Except where a higher percentage of votes is required in these Bylaws or in the Declaration, the vote of the majority of Members shall be controlling.

4.3.2 Unit Owner Other Than Natural Person: If the owner of a Unit is a corporation, joint venture, partnership or unincorporated association, the natural person who shall be entitled to cast the vote for that Unit shall be the person named in a certificate executed by that entity pursuant to its governing documents. If the owner of a Unit is a trust, the trustee or trustees shall be deemed to be the owner for voting purposes.

4.3.3 Ownership by More Than One Person: If the ownership of a Unit is in more than one person, the natural person who shall be entitled to cast the vote of the Unit shall be the person named in a certificate executed by all of the owners of the Unit and filed with the Secretary of the Association or, in the absence of that named person from the meeting or in the event of failure to execute and file such a certificate, the person owning such Unit who is present. If more than one of the multiple owners are present, the votes allocated to that Unit may be cast only in accordance with their unanimous agreement unless the Declaration expressly provides otherwise. There shall be deemed to be unanimous agreement if any one of the multiple owners casts the votes allocated to that Unit without protest being made promptly to the person presiding over the meeting by any of the other owners of the Unit. Such a certificate shall be valid until revoked by a subsequent certificate similarly executed.

4.3.4 Approval or Disapproval: Except where execution by owners of a Unit in the same manner as a deed is required in the Act, and subject to the provisions of the Declaration and these Bylaws, wherever the approval or disapproval of a Unit owner is required by the Act, the Declaration or the Bylaws, the approval or disapproval shall be made only by the person who would be entitled to cast the vote of the Unit at any meeting of the Association.

4.3.5 Proxies: Votes allocated to a Unit may be cast pursuant to a proxy duly executed by a Unit owner. If a Unit is owned by more than one person, each owner of the Unit may vote or register protest to the casting of votes by the other owners of the Unit through a duly executed proxy. A Unit owner may not revoke a proxy given under this section except by actual notice of revocation to the person presiding over a meeting of the Association. A proxy is void if it is not dated or purports to be revocable without notice. A proxy terminates one year after its date unless it specifies a shorter term.

4.3.6 Units Owned by Association: No votes allocated to a Unit owned by the Association may be cast.

4.4 Matters Requiring Vote of Membership.

Among other matters that may from time to time be submitted to the Members for a vote by the Executive Board, the Members shall in any event be entitled to vote at the annual meeting of the Members of the Association for the election of members of the Executive Board (see [Section 4.6](#)), or the amendment of these Bylaws (see [Article 11](#) hereof), or on an amendment of the Declaration.

4.5 Class Voting.

The Community has two types of residential housing, Town Home Unit and Single Family Units. In certain circumstances, the Owners of the particular unit type will be asked to vote as a class on issues affecting the particular class of Units if necessary to protect the valid interests of the owners of such Units and not affecting Units outside of the class. For this purpose, Unit 218 shall be considered in the class of Single Family Home Owners and shall have the same voting rights and privileges, and the same assessment obligations, as each Single Family Home Owner. Those issues may be identified from time to time by the Executive Board, and may include without limitation class voting with respect to directors representing the Town Home Units, separate insurance coverages, separate maintenance and repair obligations, separate capital

improvements (including maintenance, reserves and replacements), separate assessments, and issues affecting Limited Controlled Facilities and/or Limited Common Expenses. In such circumstances, the Board shall by resolution identify the particular issue to be resolved by class voting, and all notices regarding the meeting to discuss and vote on the issue shall clearly provide that the issue will be resolved by a vote of the particular class whose interests are affected. If a class vote is required, then the matter must be approved by the majority of the members of the class in attendance at a duly organized meeting at which a quorum of such members is present; or such higher majority if required by a particular provision of law.

4.6 Annual Meeting of Members.

The annual meeting of the Members of the Association, beginning in the year in which Declarant Control ends, shall be held no later than the first Monday of July of each year, at the registered office of the Association or at such other location as may be determined by the Executive Board (but not outside the County of Chester, Commonwealth of Pennsylvania) and as shall be designated in the notice of the meeting, for the purpose of electing members of the Executive Board and transacting such other business as may properly be brought before the meeting.

4.7 Special Meeting of Members.

Special meetings of the Members may be called to be held at the registered office of the Association, or at such other place designated in the call of the meeting (but not outside of the County of Chester, Commonwealth of Pennsylvania), at any time, by the President of the Association or by resolution of the Executive Board, or upon written request of Members holding not less than one-fifth (1/5) of the outstanding voting rights. Upon written request of the Members, as aforesaid, the Secretary of the Association shall give notice of such special meeting, to be held at such time (within seventy five (75) days of the request) as the Secretary may fix, not less than fourteen (14) nor more than sixty (60) days in advance of the meeting. Upon neglect or refusal of the Secretary to issue such notice, the Members making the request may do so.

4.8 Notices of Meetings of Members.

The Secretary or any Assistant Secretary of the Association, not less than fourteen (14) nor more than sixty (60) days in advance of any meeting, shall cause notice to be hand delivered or sent prepaid by United States mail to the mailing address of each Unit or to any other mailing address designated in writing by the Unit owner. The notice of any meeting must state the time and place of the meeting and the items on the agenda, including the general nature of any proposed amendment to the Declaration or Bylaws; any budget or assessment changes; and, where the Declaration or these Bylaws require approval of Unit owners, any proposal to remove a Director or Officer.

4.9 Quorum at Meeting of Members.

A quorum is present throughout any meeting of the Association if persons entitled to cast twenty percent (20%) of the votes that may be cast for election of the Executive Board are present in person or by proxy at the beginning of the meeting. The same quorum requirement shall be required with respect to class members in attendance at a meeting at which a particular matter must be resolved by a class vote.

4.10 Annual Assessments.

4.10.1 General Rule: Until the Association makes a Common Expense assessment, the Declarant shall pay all the expenses of the Community. After any assessment has been made by the Association, assessments shall be made at least annually, based on a budget adopted at least annually by the Association. The Executive Board shall approve each budget no later than December 1st of each year for each succeeding year.

4.10.2 Budgets: The budgets of the Association shall segregate limited Common Expenses from general Common Expenses if and to the extent appropriate. 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 such approval. In addition to other rights conferred by the Declaration, Bylaws or the Act, the Unit Owners, by a two-thirds (2/3) vote of all persons present and entitled to vote at any meeting of the Unit owners at which a quorum is present, or any larger vote specified in the Declaration, may reject any budget or capital expenditure approved by the Executive Board within thirty (30) days after approval.

4.10.3 Allocation and Interest: Except for assessments under subsection 4.10.4 below, all Common Expenses shall be assessed against all the Units in accordance with the Common Expense liability allocated to each Unit in the case of general Common Expenses and in accordance with subsection 4.10.4 in the case of special allocation of expenses. Any past due assessment or installment thereof shall bear interest at the rate established by the Association at not more than twenty percent (20%) per year.

4.10.4 Special Allocations of Expenses: Except as provided by the Declaration:

(1) Any Common Expense associated with the maintenance, repair or replacement of a Limited Common Element shall be assessed in equal shares against the Units to which that Limited Common Element was assigned at the time the expense was incurred.

(2) Any Common Expense benefiting fewer than all of the Units shall be assessed exclusively against the Units benefited.

(3) The costs of insurance may be assessed in proportion to risk.

(4) If a Common Expense results from damage, injury or destruction caused by the negligence or misconduct of any Unit owner, the Association may assess that expense exclusively against his or her Unit. Furthermore, if a Common Expense is the result of a violation of the Declaration, or Rules and Regulations of the Community, the Association may assess that expense as well as, any fines and/or legal fees attributed to or resulting from said violation, exclusively against the Unit owner causing or permitting the violation.

4.10.5 Reallocation: If Common Expense liabilities are reallocated, Common Expense assessments and any installment thereof not yet due shall be recalculated in accordance with the reallocated Common Expense liabilities.

4.11 Special Assessments.

In addition to the annual assessments authorized above, the Association, acting by its Executive Board (and with the consent of the Declarant during the time that the Declarant owns any Unit in the Community), may levy, in any assessment year:

(a) **Common Elements:** Special assessments applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction or improvement, unexpected repair, replacement or cost in connection with the operation, maintenance, repair, restoration, and management of the Common Elements; or

(b) **Budget Shortfall:** Assessments for any insufficiency of the annual assessment for a preceding assessment year to cover the actual costs incurred by the Association in such year.

Any special assessment made pursuant to this Section shall be apportioned equally among the Lots and the Owners thereof.

ARTICLE 5 EXECUTIVE BOARD

5.1 Executive Board.

The affairs of the Association shall be governed and conducted by its Executive Board, which shall initially be comprised of three (3) persons, to be elected or appointed in accordance with these Bylaws, and the provisions of [Article 4](#) of the Declaration. The number of directors shall change as provided in Subsection 5.1.2(iii) below.

5.1.1 Status During Period of Declarant Control.

(a) The Declaration provides for a period of Declarant Control of the Association, during which the Declarant or persons designated by the Declarant may appoint and remove the officers and members of the Executive Board.

(b) The period of Declarant Control extends from the date of the first conveyance of a Unit to a person other than a Declarant for a period of not more than five years.

(c) The period of Declarant Control terminates no later than the earlier of: (i) sixty (60) days after conveyance of seventy-five percent (75%) of the Units which may be conveyed to Unit owners other than the Declarant; (ii) two (2) years after Declarant (or its successors and assigns) has ceased to offer Units for sale in the ordinary course of business; or (iii) two (2) years after any development right to add new Units was last exercised.

(d) Declarant may voluntarily surrender the right to appoint and remove officers and members of the Executive Board before termination of that period. In that event the Declarant may require, for the duration of the period of Declarant Control, that

specified actions of the Association or Executive Board, as described in a recorded instrument executed by the Declarant, be approved by the Declarant before they may become effective.

5.1.2 Election of Members during Transfer of Declarant Control: During the period of Declarant Control, there shall be a transfer of control of the Executive Board as follows:

- (i) Until the sixtieth (60th) day after the conveyance of twenty-five percent (25%) of the Units to Unit Owners other than Declarant, Declarant shall have the right to appoint and remove any and all officers and members of the Board.
- (ii) Not later than sixty days after the conveyance of twenty-five percent (25%) of the Units to Unit Owners other than Declarant, at least one member of the Board, but not less than twenty-five percent (25%) of the Board, shall be elected by Owners other than Declarant, as provided in the Bylaws.
- (iii) Not later than sixty days after the conveyance of fifty percent (50%) of the Units to Unit Owners other than Declarant, the number of members of the Executive Board shall be increased to five (5), and at that time not less than two members of the Board shall be elected by Owners other than Declarant, as provided in the Bylaws. Of the two members representing the Owners, one shall be a Town Home Owner and one shall be a Single Family Home Owner.
- (iv) The period of Declarant Control shall terminate not later than the earlier of (i) five (5) years after the date of the first conveyance of a Unit; or (ii) sixty (60) days after seventy-five percent (75%) of the Units have been conveyed to Owners other than the Declarant; or (iii) two years after Declarant has ceased to offer Units for sale in the ordinary course of business. At that time, all members of the Board appointed by the Declarant shall resign, and the Owners shall elect successor members as provided herein and in the Bylaws.

5.1.3 Election of Members and Officers following Declarant Control: Not later than sixty (60) days after the conveyance of the one hundred sixty forth (164th) Lot within the Community to a Lot Owner other than a Declarant, the period of Declarant Control shall terminate, and all five (5) members of the Executive Board shall thereafter be elected by the Lot Owners as a whole (including the Declarant as a Lot Owner), with representation as provided in Section 5.1.4 below. The Executive Board shall elect the officers. The Executive Board members and officers shall take office upon election.

5.1.4 Representation on Executive Board: After the period of Declarant Control has expired, the Executive Board shall at all times have a minimum of two members (of a five member Board, or at least 40% of any larger sized Board) who are Town Home Unit Owners. At the close of the Declarant Control Period, the Town Home Owners as a class shall vote for two board members, one of whom shall serve an initial one year term, and the other who shall serve an initial two year term. Thereafter, elections shall be staggered so that one such position is filled each year. All other Board positions shall be "at large" positions that may be

filled by election of all Owners in the Community, with the candidates receiving the highest number of votes being elected. At the close of the Declarant Control Period, all Owners shall vote for three board members, one of whom shall serve an initial one year term, and two others who shall serve an initial two year term. Thereafter, elections shall be staggered so that all three at large positions are not elected in any one year.

5.1.4 Term of Executive Board: Except during the period of Declarant Control, and the one year transition period, Board members shall serve for a term of two (2) years, or until their successor has been appointed or elected.

5.2 Regular Meetings of Executive Board.

Regular meetings of the Executive Board shall take place immediately following the annual meeting of the Association, and at such other times as the Board may reasonably agree.

5.3 Special Meetings of Executive Board.

Special meetings of the Executive Board may be called by or at the request of the President of the Association or any three (3) members of the Executive Board; provided however that during the period of Declarant Control, at least one (1) of the members requesting a special meeting must be a member appointed by the Declarant. Such special meetings shall be held at the registered office of the Association or at such other location within the County of Chester, Commonwealth of Pennsylvania as may be determined by the person calling such special meeting and as shall be designated in the notice of special meeting. Notice of any special meeting of the Executive Board shall be given at least four (4) business days previously thereto by written notice delivered personally or sent by first class mail or fax to each member of the Executive Board at his or her address as shown by the records of the Association. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail in a sealed envelope so addressed, with postage thereon prepaid. Any member of the Executive Board may waive their notice of any meeting. The attendance of a member of the Executive Board at any meeting shall constitute a waiver of notice of such meeting, except where a member of the Executive Board attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Executive Board need be specified in the notice or waiver of notice of such meeting, unless specifically required by law or these Bylaws.

5.4 Quorum.

A quorum is deemed present throughout any meeting of the Executive Board if persons entitled to cast fifty percent (50%) of the votes on the Board are present at the beginning of the meeting.

5.5 Act by Majority.

The act of a majority of the members of the Executive Board shall be the act of the Executive Board, except where otherwise provided by law or by these Bylaws.

5.6 Vacancies on Executive Board.

Any vacancy occurring in the Executive Board, or any vacancy to be filled by reason of any increase in the number of members of the Executive Board resulting from any amendment of the Declaration or these Bylaws, shall be filled by the Executive Board appointing a replacement; except that a vacancy due to the resignation, withdrawal or incapacity of members of the Executive Board appointed by the Declarant shall be filled by the Declarant appointing a replacement. A Director appointed to fill a vacancy shall be appointed for the unexpired term of his predecessor in office. A vacancy of a director representing the Town Home Units must be filled with an Owner of a Town Home Unit.

5.7 Removal of Directors.

5.7.1 General Removal Powers: Notwithstanding any provision of the Declaration of these Bylaws to the contrary, the Members, by a two-thirds (3/4) vote of all persons present and entitled to vote at any meeting of the Unit owners at which a quorum is present, may remove any member of the Executive Board with or without cause, other than a member appointed by the Declarant.

5.7.2 Removal for Dishonesty: Members of the Executive Board may be removed for dishonesty, incompetence or other good cause shown, by a vote of at least two-thirds (2/3) of the Members attending a special meeting called for that purpose. Any such Director shall have the right to speak and present evidence in his defense at the special meeting prior to any vote being taken on his removal. These removal rights shall not apply to a Director who was appointed by the Declarant.

5.7.3 Declarant Appointees: Members of the Executive Board appointed by the Declarant serve at the pleasure of the Declarant and may be removed at any time by the Declarant.

5.8 Compensation.

Members of the Executive Board as such shall not receive any stated salaries for their services, but by resolution of the Executive Board, a fixed sum and expenses of attendance, if any, may be allowed for attendance at each regular or special meeting of the Board. Nothing herein contained shall be construed to preclude any member of the Executive Board from serving the Association in any other capacity and receiving compensation therefor.

5.9 Chairman and Secretary.

Meetings of the Executive Board shall be presided over by the President, or by a Chairman to be chosen at the meeting if the Executive Board prefers. The Secretary of the Association shall act as Secretary of every meeting, but if the Secretary is not present, the persons present at such meeting shall choose any person present to act as Secretary of the meeting.

5.10 Action Without Meeting of Executive Board.

Subject to the further specific provisions of these Bylaws, any action required or permitted to be taken at any meeting of the Executive Board may be taken without a meeting, if prior to such

action, a written consent thereto is signed by all members of the Executive Board and such written consent is filed with the minutes of proceedings of the Executive Board.

ARTICLE 6 COMMITTEES

6.1 Creation of Committees.

The Association may appoint such Committees as are deemed appropriate in the sole discretion of the Executive Board, said Committees to be appointed by and in the numbers prescribed by the Executive Board. Such Committees may consist of:

(a) **Town Home Committee:** The Town Home Committee as identified in the Declaration and these Bylaws; and

(b) **Architectural Review Committee:** An architectural review committee (the "Architectural Review Committee"), which shall exercise such powers as may be granted by the Executive Board with respect to alterations, color, fascia material, structural alterations, etc. requested by a Member. The Executive Board may establish rules and regulations governing the procedures for same, consistent with the Declaration and Section 9.18 thereof; and

(c) Such other committees as the Board may create from time to time, either on a temporary or permanent basis, for the benefit of the Community.

6.2 Town Home Committee.

The Town Homes in the Community have various Limited Common Facilities that will be the financial responsibility of the Town Home Unit Owners. They will have maintenance, budgeting and capital reserve issues that are separate and apart from the general community management issues for the entire Community. The Association may establish and maintain separate operating and reserve bank accounts for the Town Home units, to segregate the funds related to the operation, maintenance and replacement of the Limited Common Facilities. The Board is therefore creating a Town Home Committee to act in an advisory capacity to the Board on those issues, and to be delegated authority to manage those issues on behalf of the Board. The Town Home Committee shall consist of the two Board members who are elected exclusively by the Town Home Unit Owners as representatives of the Town Home Units, and a third Town Home Unit Owner that they may select and who agrees to serve (and who need not be a Board member). The Town Home Committee shall be empowered and delegated authority to consider and act on budgeting, assessments, maintenance, contracting, insurance, banking and other specified issues affecting the Town Home Units if necessary to protect the valid interests of the Owners of such Units and not affecting Units outside of the class. The Board shall authorize and empower the Town Home Committee to act in these specific instances by adopting a resolution granting the particular power and providing the particular limitations on that grant.

6.3 Non-Liability of Board and Committee Members.

Neither the Architectural Review Committee, the Town Home Committee, any other advisory committee nor the Executive Board, nor any member thereof, nor their duly authorized representatives shall be liable to the Association, or to any Unit Owner for any loss, damage or injury arising out of or in any way connected with the performance of the duties hereunder, unless due to the willful misconduct or bad faith of such person.

ARTICLE 7 OFFICERS

7.1 Officers.

The officers of the Association shall be a President, a Secretary, a Treasurer, and such Assistant Secretaries and Assistant Treasurers as the Board may from time to time authorize. Officers may hold more than one (1) office. Declarant shall appoint the initial officers of the Association and they shall serve until successor officers are elected by the Executive Board at the first (1st) regular annual meeting of the Board after the period of Declarant Control has ended. The officers shall thereafter be elected annually by the Executive Board at the regular annual meeting of the Board. The officers shall have the authority and shall perform the duties as set forth in these Bylaws, and as may be prescribed from time to time by the Executive Board.

7.2 Qualifications.

All officers shall qualify as Members, as set forth in Section 4.1 of these Bylaws, at the time of their election or appointment to office. Officers who are no longer members during their term in office shall be deemed to have resigned their office, and their successor shall be appointed as provided herein.

7.3 Officer's Vacancy.

Any vacancy occurring in any office, including any new office to be created in the future, shall be filled by the Executive Board appointing a replacement. An Officer appointed to fill a vacancy shall be appointed for the unexpired term of his predecessor in office.

7.4 Removal of Officers.

Each Officer shall serve at the pleasure of the Executive Board. Officers may be removed for dishonesty, incompetence or other good cause shown, and may also be removed at any time by the unanimous vote of the full Executive Board.

7.5 President.

The President shall be the principal executive officer of the Association and shall, in general, supervise and control all of the business and affairs of the Association. He shall preside at all meetings of the Members and of the Executive Board. He may sign, along with the Secretary or any other proper officer of the Association authorized by the Executive Board, any deed, mortgage, bond, contract, or other instrument which the Executive Board has authorized to be

executed, except in cases where the signing and execution thereof shall be expressly delegated by the Executive Board or by these Bylaws or by statute to some other officer or agent of the Association. In general, the President shall perform all duties incident to the office of President and such other duties as may be prescribed by the Executive Board from time to time.

7.6 Secretary.

The Secretary shall: (i) keep the minutes of the meetings of the Executive Board in one (1) or more books provided for that purpose; (ii) see that all notices are duly given in accordance with the provisions of these Bylaws or as required by law; and (iii) be custodian of the Association's records and of the seal of the Association and see that the seal of the Association is affixed to all documents, the execution of which on behalf of the Association under its seal is duly authorized in accordance with the provisions of these Bylaws.

7.7 Treasurer.

The Treasurer shall have charge and custody of and be responsible for all funds of the Association, receive and give receipts for moneys due and payable to the Association from any source whatsoever, and deposit all such moneys in the name of the Association in such banks, trust companies or other depositories as shall be selected in accordance with the provisions of these Bylaws. If required by the Executive Board, the Treasurer shall give a bond for the faithful discharge of his duties in such sum and with such surety or sureties as the Executive Board shall determine, which cost shall be an expense of the Association.

7.8 Assistant Treasurer.

The Assistant Treasurer shall have the same power and authority as the Treasurer, such authority to be exercised only at the direction of the President, and only upon the incapacity or unavailability of the Treasurer to perform such tasks.

7.9 Assistant Secretary.

The Assistant Secretary shall have the same power and authority as the Secretary, such authority to be exercised only at the direction of the President, and only upon the incapacity or unavailability of the Secretary to perform such tasks.

ARTICLE 8 LIABILITY AND INDEMNIFICATION

8.1 Standard of Care and Justifiable Reliance.

(a) A Director of this Association shall stand in a fiduciary relation to this Association and shall perform his duties as a Director, including his duties as a member of any committee of the Board of Directors upon which he may serve, in good faith, in a manner he reasonably believes to be in the best interest of this Association, and with such care, including reasonable inquiry, skill and diligence, as a person of ordinary prudence would use under similar

circumstances. In performing his duties, a Director shall be entitled to rely in good faith on information, opinions, reports or statements, including financial statements and other financial data, in each case prepared or presented by any of the following:

(i) One (1) or more Officers or Members of this Association, including, but not limited to, Members of any standing committee, whom the Director reasonably believes to be reliable and competent in the matters presented,

(ii) Counsel, public accountants or other persons as to matters that the Director reasonably believes to be within the professional or expert competence of such persons,

(iii) A committee of the Board of Directors upon which he does not serve, duly designated in accordance with law, as to matters within its designated authority, which committee the Director reasonably believes to merit confidence.

(b) A Director shall not be considered to be acting in good faith if he has knowledge concerning the matter in question that would cause his reliance to be unwarranted.

(c) An Officer of this Association shall perform his duties as an Officer in good faith, in a manner he reasonably believes to be in the best interests of this Association, and with such care, including reasonable inquiry, skill and diligence, as a person of ordinary prudence would use under similar circumstances. A person who so performs his duties shall not be liable by reason of having been an Officer of the corporation.

8.2 Exercise of Powers.

(a) In discharging the duties of their respective positions, the Board of Directors, committees of the Board of Directors and the individual Directors may, in considering the best interest of this Association, consider to the extent they deem appropriate:

(1) The effects of any action upon any or all groups affected by such action, including members, suppliers and creditors of this Association and upon communities in which offices or other establishments of this Association are located;

(2) The short-term and long-term interests of the Association, including benefits that may accrue to the Association from its long-term plans and the possibility that these interests may be best served by the continued independence of the Association;

(3) The resources, intent and conduct (past, stated and potential) of any person seeking to acquire control of the Association;

(4) All other pertinent factors.

(b) The Board of Directors, committees of the Board of Directors and the individual Directors shall not be required, in considering the best interests of the Association or the effects of any action, to regard any corporate interest or the interests of any particular group affected by

such action as a dominant or controlling interest or factor. The consideration of interests and factors in the manner described in this sub-section and in sub-section (a) shall not constitute a violation of the standard of care provisions of [Section 8.1](#).

(c) Absent breach of fiduciary duty, lack of good faith or self-dealing, any act as the Board of Directors, a committee of the Board or an individual Director shall be presumed to be in the best interest of this Association.

8.3 Liability of Directors and Officers.

A Director or an Officer of this Association shall not be personally liable, as such, for monetary damages for any action taken, or any failure to take any action, unless:

(1) The Director or Officer has breached or failed to perform the duties of his office as provided by law; and,

(2) The breach or failure to perform constitutes self-dealing, willful misconduct or recklessness.

8.4 Indemnification of Directors and Officers.

(a) **Duty of Indemnity.** This Association shall indemnify any Director or Officer, and may indemnify any other employee, agent or other person, who was or is a party to, or is threatened to be made a party to or who is called as a witness in connection with any threatened, pending, or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, including an action by or in the right of this Association, by reason of the fact that he is or was a Director, Officer, employee or agent of this Association, or is or was serving at the request of this Association as a Director, Officer, employee or agent of another corporation, trust or other enterprise, against expenses, including attorneys' fees, judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding unless the act or failure to act giving rise to the claim for indemnification is determined by a court to have constituted willful misconduct or recklessness.

(b) **Non-exclusive of Other Rights.** The indemnification and advancement of expenses provided by, or granted pursuant to this Section shall not be deemed exclusive of any other rights to which those seeking indemnification or advancement or expenses may be entitled under any Bylaw, agreement, contract, vote of shareholders or disinterested Directors or pursuant to the direction, howsoever embodied, of any court or competent jurisdiction or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office. It is the policy of this Association that indemnification of, and advancement of expenses to, Directors and Officers of this Association shall be made to the fullest extent permitted by law. To this end, the provisions of this Section shall be deemed to have been amended for the benefit of Directors and Officers of this Association effective immediately upon any modification of the Nonprofit Corporation Law of 1988 of the Commonwealth of Pennsylvania (the "[NCL](#)") or the Directors' Liability Act of the Commonwealth of Pennsylvania (the "[DLA](#)") which expands or enlarges the power or obligation of corporations organized under the NCL or subject to the DLA to indemnify, or advance expenses to, Directors and Officers of such corporations.

(c) **Expenses.** This Association shall pay expenses incurred by an Officer or Director, and may pay expenses incurred by any other employee, agent or other person, in defending a civil or criminal action, suit or proceeding, in advance of the final disposition of such action, suit or proceeding upon receipt of a written undertaking by or on behalf of such person to repay such amount if it shall ultimately be determined that he is not entitled to be indemnified by this Association.

(d) **Continuing Duty.** The indemnification and advancement of expenses provided by, or granted pursuant to this Section shall, unless otherwise provided when authorized or ratified, continue as to a person who has ceased to be a Director, Officer, employee, or agent, and shall inure to the benefit of the heirs, executors and administrators of such person.

(e) **Funding for Obligations.** This Association shall have the authority to create a fund of any nature, which may, but need not be, under the control of a trustee, or otherwise secure or insure in any manner, its indemnification obligations, whether arising under these Bylaws or otherwise. This authority shall include, without limitation, the authority to: (i) deposit funds in trust or in escrow, (ii) establish any form of self-insurance, (iii) secure its indemnity obligation by grant of a security interest, mortgage or other lien on the assets of this Association, (iv) establish a letter of credit, guaranty or surety arrangement, or (v) purchase and maintain liability insurance, for the benefit of such persons in connection with the anticipated indemnification or advancement of expenses contemplated by this Section. The provisions of this Section shall not be deemed to preclude the indemnification of, or advancement of expenses to, any person who is not specified in paragraph (a) of this Section but for whom this Association has the power or obligation to indemnify, or to advance expenses to, under the provisions of the NCL or the DLA or otherwise. The Board of Directors of this Association shall exercise the authority granted by this paragraph (e).

8.5 Amendments Affecting Provisions of this Article.

Notwithstanding any other provisions of these Bylaws, the approval of the members as provided by [Article 11](#) of these Bylaws shall be required to amend, alter, change, repeal or adopt any provision or part of these Bylaws which is consistent with the purpose or intent of this [Article 8](#). No amendment to or repeal of any of these sections shall apply to or have any effect on the liability or alleged liability of any Director or Officer for, or with respect to, any acts or omissions of such Director or Officer occurring prior to such amendment or repeal.

ARTICLE 9 DELEGATION OF POWERS OF BOARD AND OFFICERS

9.1 Delegation of Powers of Board.

The powers of the Executive Board may not be delegated to other persons or agents, but shall be reserved to those individuals who have been duly elected or appointed as members of the Executive Board.

9.2 Delegation of Powers of Officers.

The day to day operating authority of the Officers, with respect to the handling of complaints, the enforcement of the provisions of the Declaration and these Bylaws, the collection of assessments and any applicable fines and penalties, contracting for the ordinary and necessary maintenance and repairs for the Community, the payment of ordinary and necessary bills, any and all property management issues, and such other powers as the Executive Board may by resolution specifically identify, may be delegated to a managing agent to conduct the ordinary daily business of the Association.

ARTICLE 10 COMMUNITY MANAGEMENT

10.1 Contracts.

The Executive Board may authorize any officer or officers, agent or agents of the Association, in addition to the officers so authorized by these Bylaws, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Association and such authority may be general or confined to specific instances.

10.2 Checks.

All checks, drafts or other orders for the payment of money, and notes or other evidences of indebtedness issued in the name of the Association, shall be signed by such officer or officers, agent or agents of the Association and in such manner as shall from time to time be determined by resolution of the Executive Board. In the absence of such determination by the Executive Board, such instrument shall be signed by the Treasurer and countersigned by the President of the Association.

10.3 Deposits.

All funds of the Association shall be deposited from time to time to the credit of the Association in such banks, trust companies or other depositories as the Executive Board may select.

10.4 Insurance.

(a) **Insurance to be Carried by Association:** Commencing not later than the time of the first (1st) conveyance of a Unit to a person other than the Declarant, the Association shall maintain, to the extent reasonably available, all of the following:

(1) **Property insurance** on the Common Facilities and Controlled Facilities to the extent the Controlled Facilities can be insured separately from the Unit and, if insurance for the Unit is not provided by the Association under subsection (b) of the Declaration, insuring against all common risks of direct physical loss. The total amount of insurance after application of any deductibles shall be not less than eighty percent (80%) of the actual cash value of the insured property, exclusive of land, excavations, foundations and other items normally excluded from property policies.

(2) **Comprehensive general liability insurance**, including medical payments insurance, in an amount determined by the Executive Board but not less than any amount specified in the Declaration covering all occurrences commonly insured against for death, bodily injury and property damage, arising out of or in connection with the use, ownership or maintenance of the Common Elements.

(b) **Other Insurance Carried by the Association:** If the insurance described in subsection (a) is not maintained, the Association promptly shall cause notice of that fact to be hand delivered or sent prepaid by United States mail to all Unit owners. The Declaration may require the Association to carry any other insurance. The Association may carry any other insurance it deems appropriate to protect the Association or the Unit owners.

(c) **Policy Terms:** Insurance policies carried under subsection (a) shall provide all of the following:

(1) Each Unit owner is an insured person under the policy with respect to liability arising out of his membership in the Association.

(2) The insurer waives its right to subrogation under the policy against any Unit owner or member of the owner's household.

(3) No act or omission by any Unit owner, unless acting within the scope of his authority on behalf of the Association, will void the policy or be a condition to recovery under the policy.

(4) If at the time of a loss under the policy there is no other insurance in the name of a Unit owner covering the same risk covered by the policy, the Association's policy is primary insurance not contributing with the other insurance.

(d) **Proceeds from Property Insurance:** Any loss covered by the property policy under subsection (a)(1) shall be adjusted with the Association, but the insurance proceeds for that loss shall be payable to any insurance trustee designated for that purpose, or otherwise to the Association, and not to any mortgagee or beneficiary under a deed of trust. The insurance trustee or the Association shall hold any insurance proceeds in trust for Unit owners and lienholders as their interest may appear. Subject to the provisions of subsection (g), the proceeds shall be disbursed first (1st) for the repair or restoration of the damaged Common Elements and Units, and Unit owners and lienholders are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the Common Elements and Units have been completely repaired or restored or the Community is terminated.

(e) **Unit Owner Insurance:** A residential Unit owner shall insure the owner's Unit except as insurance is provided by the Association in accordance with this section or the Declaration. An insurance policy issued to the Association does not prevent a Unit owner from obtaining insurance for the owner's own benefit.

(f) **Evidence and Cancellation of Insurance:** An insurer that has issued an insurance policy under this section shall issue certificates or memoranda of insurance to the Association and, upon request, to any Unit owner, mortgagee or beneficiary under a deed of trust. The insurance may not be cancelled until thirty (30) days after notice of the proposed cancellation has been mailed to the Association, each Unit owner and each mortgagee or beneficiary under a deed of trust, to whom a certificate or memorandum of insurance has been issued.

(g) **Disposition of insurance proceeds:**

(1) Any portion of the Community for which insurance is required to be maintained by the Association by this section or the Declaration and which is damaged or destroyed shall be repaired or replaced promptly by the Association unless:

- (i) The Community is terminated;
- (ii) Repair or replacement would be illegal under any state or local health or safety statute or ordinance; or

(2) Any portion of the Community for which insurance is required to be maintained by the Unit owner by this section or the Declaration and which is damaged or destroyed shall be repaired or replaced promptly by the Unit owner unless: (i) the Community is terminated; or (ii) repair or replacement would be illegal under any state or local health or safety statute or ordinance. The cost of repair or replacement of these portions in excess of insurance proceeds is the Unit owner's expense.

(3) If the entire Community is not repaired or replaced, the following apply:

(i) The insurance proceeds attributable to the damaged Common Elements shall be used to restore the damaged areas to a condition compatible with the remainder of the Community.

(ii) The insurance proceeds attributable to Units shall be paid to Unit owners except those proceeds attributable to Controlled Facilities for which insurance is separately maintained by the Association under this section or the Declaration shall be distributed to all Unit owners in proportion to their Common Expense liability. Proceeds attributable to Limited Common Facilities which are not rebuilt shall be distributed equally to owners of Units to which those Limited Common Facilities were assigned.

(iii) The remainder of the proceeds shall be distributed to all the Unit owners in proportion to their Common Expense liability.

(4) Notwithstanding the provisions of this subsection, section 5220 of the Act (relating to termination of Community) governs the distribution of insurance proceeds if the Community is terminated.

10.5 Gifts.

The Executive Board may accept on behalf of the Association any contribution, gift, bequest or devise for the general purpose or for any special purpose of the Association.

10.6 Surplus Funds.

10.6.1 Limited Common Expenses: Any amounts accumulated from assessments for Limited Common Expenses and income from the operation of Limited Common Elements to which those Limited Common Expenses pertain in excess of the amount required for actual Limited Common Expenses and reserves for future Limited Common Expenses shall be credited to each Unit assessed for a share of those Limited Common Expenses in proportion to the share of those Limited Common Expenses so assessed. These credits shall be applied, unless the Declaration provides otherwise, to the next monthly or annual assessments of Limited Common Expenses against that Unit under the current fiscal year's budget and thereafter until exhausted.

10.6.2 General Common Expenses: Any amounts accumulated from assessments for General Common Expenses and income from the operation of the Common Elements, other than Limited Common Elements with regard to which Limited Common Expenses are assessed, in excess of the amount required for actual General Common Expenses and reserves for future General Common Expenses, shall be credited to each Unit in accordance with the Unit's interests in Common Elements. These credits shall be applied, unless the Declaration provides otherwise, to the next monthly or annual assessments of General Common Expenses against the Unit under the current fiscal year's budget and thereafter until exhausted.

10.7 Books and Records in General.

The Association shall keep correct and complete books and records of account and shall also keep minutes of the proceedings of its Executive Board and committees having any of the authority of the Executive Board.

10.8 Financial Records.

The Association shall keep records sufficiently detailed to enable the Association to comply with section 5407 of the Act (relating to resales of Units). All financial and other records shall be made reasonably available for examination by any Unit owner and authorized agents.

10.9 Annual Financial Statements.

Within ninety (90) days after the close of its fiscal year, the Association shall prepare annual financial statements consisting of at least a balance sheet and a statement of revenues and expenses for the Association. The cost of preparing the financial statements shall be a Common Expense. Each Unit owner shall be entitled to receive from the Association within thirty (30) days after submitting a written request to the Association, a copy of the annual financial

statements and, if such financial statements are audited, reviewed or compiled by public accountant, a copy of the independent accountant's report on the financial statements. The Association may charge a fee not to exceed the cost of producing copies of records other than the financial statement.

10.10 Filing of Complaints.

If the Association fails to provide a copy of the annual financial statements and, if applicable, the report of an independent accountant as required to the requesting Unit owner with thirty (30) days of the Unit owner's written request, or if the financial records of the Association which substantiate the Association's financial statements are not made reasonably available by the Association for examination by any Unit owner and authorized agents, the Unit owner may file a complaint with the Bureau of Consumer Protection in the office of the Attorney General.

10.11 Fiscal Year.

The fiscal year of the Association shall begin on January 1 and end on December 31 in each year.

10.12 Corporate Seal.

The Executive Board shall maintain a corporate seal that shall be in the form of a circle and shall have inscribed thereon the name of the Association.

10.13 Waiver.

Whenever any notice is required to be given under the provisions of the Pennsylvania Non-Profit Corporation Law of 1988, as amended from time to time, or under the provisions of the Articles of Incorporation or the Bylaws of the Association, a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice.

ARTICLE 11 AMENDMENTS TO BYLAWS

11.1 Declarant Control Period.

During the period of Declarant Control, these Bylaws may only be altered, amended or repealed by an affirmative vote of at least fifty-one percent (51%) of the Executive Board present at any regular meeting or special meeting of the Board. During the period of Declarant Control, the Bylaws may not be amended by vote of the Members.

11.2 Subsequent Periods.

After the period of Declarant Control has ended, these Bylaws may only be altered, amended or repealed, and new Bylaws may be adopted, by the affirmative vote of at least seventy-five percent (75%) of Members present at a duly called meeting at which a quorum is present.

11.3 Restrictions on Amendments.

All proposed amendments shall be subject to the following conditions and restrictions: (i) at least ten (10) days written notice must be given to all Members of the intention to alter, amend or repeal or to adopt new Bylaws; (ii) no amendment, modification or repeal of any provision of these Bylaws shall be made which is inconsistent with the provisions of the Declaration; and (iii) the requirement of at least ten (10) days written notice to Members of the intention to so amend or repeal, as set forth above in this Article, shall not be amended so as to require any shorter period of time, or be repealed entirely.

ARTICLE 12 AMENDMENTS TO DECLARATION

12.1 Amendment Procedure.

The Declaration may only be amended as provided in Article 14 thereof. After any such amendment has been duly adopted, any Officers may prepare, execute, certify and record such amendments to the Declaration on behalf of the Association.