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## BYLAWS OF TERRACE PARK EAST HOMEOWNERS ASSOCIATION

A West Virginia Non-Profit Corporation and the Unit Owners Association  
Governing Terrace Park East, a Condominium

Effective November 21, 2019

### RECITALS:

A. The Terrace Park East Homeowners Association, a West Virginia nonprofit corporation with its principal place of business at 2106 Kanawha Blvd. E., Charleston, WV 25311 (the "Association") is the unit owners association of the condominium known as Terrace Park East, a Condominium, ("Terrace Park East" or the "Condominium"), established and created by that certain declaration dated December 3, 1979, titled Declaration Establishing a Plan for Condominium Ownership of a Multi-Unit Area Consisting of 2.433 Acres and Known as Terrace Park East, a Condominium, in the City of Charleston, Kanawha County, West Virginia, as amended, and Recorded in the Clerk's Office in Deed Book 1928, at page 748 (the "Original Declaration").

B. the Condominium, by the Original Declaration, was originally submitted to the West Virginia Code § 36A-1-101 *et seq.*, the Unit Property Act, by Jamon Real Estate Corporation, a West Virginia corporation, in its capacity as Owner-Converter.

C. The State of West Virginia adopted the Uniform Common Interest Ownership as West Virginia Code § 36B-1-101 *et seq.* in 1980 (the "Act").

D. The Association, through its Executive Board (the "Executive Board"), known as the Council in the Original Declaration, amended and restated the Declaration to conform to and comply with the UCIOA.

In addition to the Original Declaration, the Condominium was governed by that certain Code of Regulations dated December 3, 1979, and Recorded in the Clerk's Office in Deed Book 1928, on page 768 (the "Code of Regulations").

F. The Executive Board terminated the Code of Regulations by that certain Notice of Termination. Recorded October 30, 2019; Deed Book 3048 Page 416

G. The Executive Board presented these proposed bylaws at a meeting of the unit owners and 51% in number and in common interests of all unit owners at the meeting voted in the affirmative to terminate the Code of Regulations and replace the same with these bylaws pursuant to the UCIOA.

NOW, THEREFORE, WITNESSETH, the Executive Board hereby adopts the following bylaws of the Association:

### ARTICLE 1: General Provisions; Definitions

**Section 1.1, Applicability.** These Bylaws provide for the governance of Terrace Park East, a Condominium, pursuant to the UCIOA.

**Section 1.2     Office.** The office of the Association and the Executive Board shall be located at the Property or at such other place as may be designated from time to time by the Executive Board.

**Section 1.3     Definitions.** Terms used herein without definition shall have the meanings specified for such terms in the Declaration or, if not defined therein, the meanings specified for such terms in the UCIOA. The following terms have the following meanings in these Bylaws:

- (a) “Allocated Interests” shall have that meaning assigned by the Declaration.
- (b) “Articles” means the Articles of Incorporation of the Association.
- (c) “Building” means the central improvement on the Land containing the Units.
- (d) “Common Expense(s)” means expenditures made by, or financial liabilities of, the Association, together with any allocations to reserves (if any), for the general benefit of all Unit Owners (or in the instance of the Limited Common Elements, the applicable Unit Owners).
- (e) “Condominium” means the common interest community created by the Declaration, in which portions of the Property are designated for separate ownership and the remainder of the Property is designated for common ownership solely by the Unit Owners.
- (f) “Condominium Documents” means the Declaration, the Declaration Plan, these By-Laws, and the Association Rules, as the foregoing may be amended from time to time.
- (g) “Corporate Person” means a Person that is not an individual.
- (h) “Declaration” means that certain “Declaration of Condominium of Terrace Park East, A Condominium, 2106 Kanawha Boulevard, East, Charleston, West Virginia 25311”, dated December 3, 1979, and of record in the office of the Clerk of the County Commission of Kanawha County West Virginia in Deed Book 1928, at Page 748, together with certain maps and plans referenced therein and all amendments thereto subsequently recorded in said County Clerk's Office, as amended by that certain Amended and Restated Declaration dated October 30, 2019, and recorded in the office of the Clerk of the County Commission of Kanawha County, West Virginia, in Deed Book 3048, at page 378.
- (i) “Managing Agent” or “Property Manager of Record” means a Person or firm engaged by the Association, through the affirmative action of the Executive Board and under the terms of a written agreement, to fulfill the responsibilities of the Managing Agent under the UCIOA, the Condominium Documents and the Managing Agent’s written agreement. The term Managing Agent, as used in these Bylaws, shall include the authorized employees, contractors, officers, and agents of the Managing Agent, as they may be empowered by the Managing Agent to satisfy the requirements of the Managing Agent from time to time.
- (j) “Mortgage” means a first lien deed of trust encumbering a Unit.
- (k) "Mortgagee" means a Lender holding a Mortgage.
- (l) "Officer" means any person holding office pursuant to Article 4 of these Bylaws but shall not mean members of the Executive Board unless such members are also officers pursuant to Article 4.

(m) "Person" means an individual, partnership, joint venture, association, trust, limited liability company, unincorporated organization, corporation, joint-stock company or any other form of corporation or entity.

(n) "Policies" shall refer to those policies of the Association attached to these Bylaws as Exhibits.

(o) "Property" means the Land and all improvements and appurtenances, including but not limited to the Building.

(p) "Rules" means the Association Rules, as promulgated and amended pursuant to the terms of the Declaration and these Bylaws from time to time by the Executive Board.

(q) "UCIOA" means Chapter 36B of the West Virginia Code of 1931, as amended from time to time, or more typically known as the "Uniform Common Interest Ownership Act."

(r) "Unit" means a physical portion of the Condominium, located in the Building, designated for separate ownership or occupancy, the boundaries of which are described in the Declaration and the individual deeds to each Unit.

(s) "Unit Owner" means any person who owns a Unit or a present possessory interest in the legal title to the Unit. The term 'Unit Owner' does not include (i) any Person having a future, springing, reversionary, contingent or otherwise non-present possessory interest in the Unit; (ii) any person having any interest in a Unit solely as security for an obligation, (iii) any Person having a leasehold interest in the Unit, or (iv) any person who owns an interest in any entity, trust or other non-human Person that holds legal title, or a portion thereof, to a Unit (the Corporate Person being the Unit Owner in that instance).

(t) "Unit Owners Association" or "Association" means the non-profit corporation, the members of which consist of all the Unit Owners owning Units in the Building, that is the Association governing the Building as contemplated by the UCIOA and the Declaration.

## **ARTICLE 2: Unit Owners Association**

**Section 2.1 Composition.** The members of the Association shall consist of all the Unit Owners. The name of the Association shall be the name as outlined in the Articles, as the same may be amended from time to time. The Association shall have the responsibility of administering the Condominium, establishing the means and methods of collecting assessments and charges, arranging for the management of the Condominium and performing all of the other acts that may be required or permitted to be performed by the Association, by the UCIOA, and by the Declaration. Except as to those matters which the UCIOA specifically requires to be performed by the vote of the Association, the foregoing responsibilities shall be performed by the Executive Board or Managing Agent as more particularly outlined in Article 3 of these bylaws.

**Section 2.2 Annual Meeting.** The Association shall have an annual meeting that shall be scheduled each year by the Executive Board. At the annual meetings, members of the Executive Board shall be elected by ballot of the Unit Owners following the requirements of these Bylaws.

**Section 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.

**Section 2.4     Special Meetings.** The President may, in the exercise of his discretion and for any reason, call a special meeting of the Association. The President shall call a special meeting of the Association if so directed by resolution of the Executive Board or upon a petition signed and presented to the Secretary by Unit Owners holding not less than twenty percent of the aggregate Allocated Interests on the date that the Secretary receives the petition. The notice of any special meeting shall state the time, place, and purpose thereof. No business shall be transacted at a special meeting except as stated in the notice.

**Section 2.5     Notice of Meetings. Annual or Special Meeting of Unit Owners:** The Secretary shall give each Unit Owner notice of at least ten, but not more than thirty days before such a meeting. **Regular Meetings of the Executive Board for Unit Owners:** The Secretary shall give each Unit Owner notice of at least seven, but not more than twenty-one days before such a meeting. 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 changes, and any proposal to remove an officer or member of the Executive Board.

An informal TPE HOA Board Meeting open only for Board Members will not publish a notice.

**Section 2.6     Adjournment of Meetings.** If at any meeting of the Association a quorum is not present, Unit Owners holding a majority of the Allocated Interests represented at such meeting in person, or by proxy, may adjourn the meeting to a time after the time the original meeting was called.

**Section 2.7     Voting.**

(a) Voting at all meetings of the Association shall be conducted based on the Allocated Interests of each Unit. Unless otherwise specifically provided in these bylaws or otherwise required by the UCIOA, a majority of the Allocated Interests represented (in person or by proxy) at any meeting at which a quorum is present, shall constitute the affirmative act of the Unit Owners of the Association on any questions properly before such a meeting.

(b) Each Unit's vote is indivisible and may not be cast in portions or split in any manner. Where the ownership of a Unit is held by more than one person, the person who shall be entitled to cast the vote of all of the Allocated Interests assigned to that Unit shall be the Person present at the meeting. If more than one of the owners is present at the meeting, the vote allocated to that Unit (counted on the basis of the Allocated Interests) may be cast only in accordance with the agreement of a majority of the owners thereof. There is majority agreement if any one of the owners casts the vote 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.

(c) Subject to the requirements of Section 36B-3-110 of the UCIOA, wherever the approval or disapproval of a Unit Owner is required by the UCIOA, the Declaration or these Bylaws, such approval or disapproval shall be made only by the person who would be entitled to cast the vote of such Unit at any meeting of the Association.

(d) Except where a greater number is required by the UCIOA, the West Virginia Non-Profit Corporation Act, the Declaration, the Articles or these Bylaws, a majority of the aggregate Allocated Interests present in person or represented by proxy at such meeting is required to adopt decisions at any meeting of the Association.

(e) No votes allocated to a Unit owned by the Association may be cast. A-109 & A-105

(f) No votes allocated to a Unit may be cast by lessees or tenants thereof.

(g) For the purpose of voting, unless the Managing Agent, the President of the Executive Board or the Secretary of the Association, has actual knowledge that an individual person is not authorized to vote on behalf of a Corporate Person that is a Unit Owner, the Association (and the chairman of the meeting) may rely on the authority of the person purporting to cast an authorized vote on behalf of a Corporate Person Unit Owner. It shall be the sole responsibility of Corporate Person Unit Owners to notify the Managing Agent, the President, and the Secretary if such Unit Owner desires to specifically exclude Persons from casting the votes retained by the Person as a Unit Owner.

**Section 2.8, Proxies.** Votes allocated to a Unit may be cast pursuant to a proxy duly executed by a Unit Owner. Proxies may only be granted to persons who are Unit Owners or of familial relation to the Unit Owner of whose proxy is being given. If a Unit is owned by more than one person, only one Owner may cast a vote, or register protest to the casting of votes by the other Unit Owners of their Unit, or their proxies, through a duly executed proxy. Proxies shall be duly executed in writing on the proxy the form provided by the Board or by facsimile transmissions or pdf documents or text messages that bear the handwritten signature of the Unit Owner 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 notice of revocation from any of the persons owning such Unit. A proxy shall be void if it is not dated or purports to be revocable without notice. No proxy shall, in any event, be valid for a period in excess of one year after the execution thereof.

**Section 2.9, Quorum.** Except as otherwise provided in the Declaration, the presence in person, or by proxy, of Unit Owners entitled to cast votes representing twenty percent (20%) of the aggregate Allocated Interests shall constitute a quorum at all meetings of the Association. For the purposes of determining whether a quorum is present (i) Units owned by the Association shall not be counted in the determination of present Units or the determination of the aggregate Allocated Interests; and (ii) Units owned by Corporate Persons shall be deemed “present” if an officer or agent of that Person, authorized to vote the interests of that Person is physically present, or the Person is represented by proxy.

**Section 2.10 Conduct of Meetings.** The President shall preside over all meetings of the Association, and the Secretary shall keep the minutes of the meeting and record in a minute book all resolutions adopted at the meeting as well as a record of all transactions occurring thereat. In the absence of the President, the Vice President will preside over the meeting. The President may appoint a person to serve as parliamentarian at any meeting of the Association. The then-current edition of Robert's Rules of Order shall govern the conduct of all meetings of the Association when not in conflict with the Declaration, these Bylaws, or the UCIOA.

### **ARTICLE 3: Executive Board**

**Section 3.1 Powers and Duties.** As provided for in the Declaration and subject to the limitations set forth therein, the Executive Board may act in all instances on behalf of the Unit Owners Association and shall have all of the powers and duties outlined in the Declaration and any other powers necessary for the administration of the affairs of the Association.

**Section 3.2 Managing Agent.** The Executive Board may employ for the Condominium a Managing Agent, upon terms and conditions, and for compensation, to be established by the Executive Board pursuant to the Declaration.

**Section 3.3 Executive Board; Composition, Election, and Term Limits**  
**Composition of Executive Board.** The Executive Board shall consist of such Association Members as may be selected according to dictates of the Articles and Bylaws of the Association, *provided that* the Executive Board shall always consist of at least five to seven members, all of whom shall be Unit Owners. A majority of the members of the Executive Board shall be resident Unit

Owners that reside within the Condominium. The Executive Board may appoint officers who are non-resident owners.

(a) Board Groupings. The terms of the members of the Executive Board shall be classified into three groups identified as groups A, B, C, and D, with groups A, B, and C each consisting of a total of two members of the Executive Board and group D consisting of one member of the Executive Board. As of the effective date of these Bylaws, the Board Groupings are as follows:

- i. Group A - One Year Term 1-Member
- ii. Group B - Two Year Term 2-Members
- iii. Group C - Three Year Term 2-Members
- iv. Group D - Four Year Term 2-Members

(b) Election. The election of Executive Board members shall be conducted according to the process set forth in Sub-Section (f) below with one of the three groups (*i.e.*, A, B, C or D) to be elected each year in successive alphabetical order, repeating a complete cycle every four years.

(c) Successors to Serve Unexpired Terms. Successors who are elected or selected to replace a removed, resigning or otherwise unavailable member of the Executive Board shall serve for the remainder of the unexpired term of the member of the Executive Board that they are replacing and shall be considered a part of the same alphabetical group as the member that they are replacing.

(f) Election and Term Limits of Executive Board Members

i. Elections Committee. At least ninety (90) days before each annual meeting of the Association, the Executive Board shall appoint an elections committee consisting of two members of the Executive Board whose terms will not expire during that year and at least one other Unit Owner; *provided*, if the Executive Board is unable to find a non-Executive Board member to fill the third position on the elections committee after a reasonable search, the Executive Board may appoint a third Executive Board member to the committee whose terms will not expire during that year. The Elections Committee shall develop election procedures consistent with these Bylaws and administer such procedures as are approved by the Executive Board. In the event that the Executive Board cannot find a Unit Owner willing to serve on the elections committee after having made a reasonable effort to do so, then the Executive Board may seat three members of the Executive Board on the elections committee.

ii. Nominations; Notice of Candidates; and Elections.

(A) Persons qualified to be Executive Board members must be nominated for election through the Elections Committee according to the following process in order to be eligible to serve on the Executive Board. The Elections Committee shall receive nominations from the Unit Owners generally. Unit Owners may nominate themselves.

(B) All nominations shall be submitted by or to the Elections Committee at least forty (40) days before the meeting at which the election is to be held.

(C) All nominations shall be accompanied by a document signed by the nominee indicating their willingness to serve as a member of the Executive Board.

(D) The Elections Committee shall determine who, among the nominees, is qualified to serve on the Executive Board under the terms of Sub-Section (g) of this Section 3.3.

(E) A list of all qualified nominees (including only the nominee's name, unit number, telephone number, primary mailing address, and email address (if any) shall be submitted by the Elections

Committee to the Secretary of the Association to be included with the required notice of the meeting to be delivered to the Unit Owners in accordance with these Bylaws.

(F) Nominations from the floor on the day of the elections are not valid.

(G) No nominated candidate may include any personal or other information about themselves in the notice other than what is required to be submitted by the Elections Committee to the Secretary.

(H) When appropriately raised during the meeting at which the election of the Executive Board is to occur, the chairperson of the Elections Committee shall present a list of all qualified nominees (including only the nominee's name, unit number, telephone number, primary mailing address and email address (if any)) to the Unit Owners present at the meeting.

(I) Following the presentation of the list of qualified nominees to the Unit Owners, the chairperson of the meeting of Unit Owners may open the floor for orderly debate with each speaker to be recognized by the chairperson. Debate and deliberation shall continue only so long as the chairperson deems appropriate. No nominations shall be permitted by the chairperson from the floor as such nominations will not have met the requirements of these Bylaws (which require nominations to move through the Elections Committee).

(J) Following any debate and deliberation the election of the Executive Board shall occur in the following manner:

1. Unit Owner may cast one vote (that is one expression of the Allocated Interest of their Unit) for each open seat on the Executive Board during the current election;

2. No Unit Owner may cast more than one vote (that is one expression of the Allocated Interest of their Unit) for any individual qualified nominee;

3. The qualified nominees receiving the greatest percentage of the Allocated Interests represented, respectively, shall fill the open seats on the Executive Board then up for election until all of the seats to be filled have been filled;

4. In the event of a tie between two qualified candidates where there is only one open seat on the Executive Board, the two qualified candidates who tied shall be the subject of a second vote, without any additional participants, and the qualified nominee with the most votes between the two shall be selected for the open seat (and in the event of a tie in the run-off vote described here, this run-off process shall be repeated indefinitely until such time as one candidate retains more votes than the other);

5. There shall be no majority requirement or threshold for elections conducted in this manner, and the winners may win with only a plurality of the vote cast.

(g) Qualifications. The following rules shall define the qualifications for eligibility to serve on the Executive Board:

1. No person shall be eligible for election as a member of the Executive Board unless he is (alone or together with one or more other Persons) a resident Unit Owner or is a resident representing a Corporate Person Unit Owner as an authorized officer.

2. No Person shall be eligible for election to the Executive Board if a joint tenant, tenant in common, or other co-owner of title to the Unit that the potential candidate is a Unit Owner of, is presently serving on the Executive Board. No person shall be eligible for election to the Executive Board if he is an authorized representative of a Corporate Person who has another authorized representative already serving on the Executive Board.

3. No person shall be eligible for election to the Executive Board if he has not yet attained the age of eighteen (18).

4. No Person shall be eligible for election as a member of the Executive Board if he is more than sixty (60) days delinquent in any financial obligations to the Association or a lien has been filed against his Unit and has not been released.

### **Section 3.4     Removal or Resignation of Executive Board Members.**

(a) At any regular or special meeting duly called, and at which a quorum is present, any one or more of the members of the Executive Board may be removed, with or without cause, by affirmative vote of not less than two thirds of the Allocated Interests present or represented by proxy and entitled to vote at the meeting. In case of such a removal, a successor may then, and there be elected, by vote of the majority of the Allocated Interests present or represented by proxy and entitled to vote at the meeting, to fill the vacancy thus created, provided that any Person so elected by the Unit Owners must meet the qualifications under Section 3.3(g).

(b) Notwithstanding the terms of Sub-Section (a) of this Section 3.4, no Executive Board member may be removed unless he or she has been given at least seven (7) days' notice of the time, place, and purpose of the meeting whereby the removal will be discussed and has been given an opportunity to be heard at the meeting. Notice of the planned discussion of removal will be transmitted to the Executive Board member by the Secretary of the Executive Board is informed of the proposed action in time for the Secretary to send the notice. The burden of establishing that such notice has been provided falls to the movant calling for removal.

(c) A member of the Executive Board may resign at any time or shall be deemed to have resigned (i) upon the disposition of his Unit or (ii) if he is more than sixty (60) days delinquent in his financial obligations to the Unit Owners Association or a lien has been filed against his Unit and has not been released. Vacancies created by resignations under this subsection (b) shall be filled in the manner provided for in Section 3.5 of these Bylaws.

**Section 3.5,     Vacancies.** Vacancies in the Executive Board caused by any reason other than the removal of a director by a vote of the Association shall be filled by a vote of a majority of the remaining Executive Board members at a special meeting of the Executive Board held for such purpose promptly after the occurrence of any such vacancy, even though the members present at such meeting may constitute less than a quorum. Each person so elected shall be a member of the Executive Board and shall serve the unexpired term of the vacant position. No Person shall be selected by the Executive Board to fill a vacancy and complete an unexpired term under this Section unless that Person meets the qualifications for membership on the Executive Board set forth in Section 3.3(g).

**Section 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 a majority of the Executive Board members. Notice of regular meetings of the Executive Board shall be given in writing to each Executive Board member, by hand delivery, mail or electronic delivery, which notice shall state the time, place, and purpose of the meeting.



**Section 3.7     Special Meetings.** Special meetings of the Executive Board may be called by the President or at least three (3) members of the Executive Board with at least three (3) business days' notice to each Executive Board member, given in writing by hand delivery, mail or electronic delivery, which notice shall state the time, place, and purpose of the meeting.

**Section 3.8     Waiver of Notice.** Any Executive Board member 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 an Executive Board member, in person, or by electronic communication, at any meeting of the Executive Board shall constitute a waiver of the required notice by him as to such meeting. If all Executive Board members are present at any meeting of the Executive Board, no notice shall be required, and any business may be transacted at such meeting.

**Section 3.9     Quorum of Executive Board.** At all meetings of the Executive Board, a majority of the board members shall constitute a quorum for the transaction of business, and the votes of a majority of the board members present at a meeting at which a quorum is present shall constitute the decision of the Executive Board. 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. A member of the Executive Board who participates in a meeting by means of electronic communication shall be deemed present at the meeting for all purposes.

**Section 3.10    Fidelity Bonds.** There shall be obtained fidelity bonds in an amount not less than one-half (1/2) the total annual assessments for the year (in such form and such greater amounts as may be required by the Mortgagees) for all officers, Executive Board members and employees of the Association, including without limitation, the Managing Agent, handling or responsible for Association funds. The premiums on such bonds shall constitute a Common Expense.

**Section 3.11    Compensation.** Unless otherwise provided by the Unit Owners, members of the Executive Board shall not receive any compensation from the Association for acting as such, other than actual expenses reasonably incurred in the performance of their office.

**Section 3.12    Action Without Meeting.** 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 shall individually or collectively consent in writing, or by electronic writing, to such action. Any such writing (including writings submitted electronically) shall be filed with the minutes of the proceedings of the Executive Board.

**Section 3.13    Conflicts of Interest Policy.** The members of the Executive Board shall abide by the Association's conflicts of interest policy, attached hereto as Exhibit 3.13. Any interested Executive Board member may be counted in determining the presence of a quorum of any meeting of the Executive Board or committee thereof.

**Section 3.14    Advisory Committee.** The Executive Board may, but is not required to, establish one or more advisory committees for the purpose of making recommendations to the Executive Board on any area in which the Executive Board would be, or maybe, required to render decisions for the Association. Members of any advisory committee shall serve at the sufferance of the Executive Board and may consist of any persons appointed by the Executive Board.

#### **ARTICLE 4: Officers**

**Section 4.1     Designation.** The principal officers of the Association shall be the President, the Vice President, the Secretary, and the Treasurer, all of whom shall be elected by the Executive Board. The

Executive Board may appoint an Assistant Treasurer, an Assistant Secretary, and such other officers as in its judgment may be necessary. The President, Vice President, Secretary, and Treasurer shall be resident Unit Owners and members of the Executive Board. Any other officers shall be resident Unit Owners.

**Section 4.2     Election of Officers.** The officers of the Association shall be elected annually by the Executive Board and shall hold office at the pleasure of the Executive Board.

**Section 4.3     Removal of Officers.** Upon the affirmative vote of a majority of all members of the Executive Board, any officer may be removed, either with or without cause, and a successor may be elected at any regular meeting of the Executive Board or any special meeting of the Executive Board called for such purpose.

**Section 4.4     President.** The President shall be the chief executive officer of the Association; preside at all meetings of the Association and of the Executive Board; have general and active management of the business of the Association subject to the control of the Executive Board; see that all orders and resolutions of the Executive Board are carried into effect; and appoint committees from among the Unit Owners from time to time as the President may in his discretion decide is appropriate to assist in the conduct of the affairs of the Association.

**Section 4.5     Vice President.** The Vice President shall take the place of the President and perform the duties of the President whenever the President is absent or unable to act. If neither the President nor the Vice President act, the Executive Board shall appoint some other member of the Executive Board to act in the place of the President on an interim basis. The Vice President shall also perform such other duties from time to time be imposed by the Executive Board or by the President.

**Section 4.6     Secretary.** The Secretary shall keep the minutes of all meetings of the Association and the Executive Board; have charge of such books and papers as the Executive Board may direct; give or cause to be given all notices required to be given by the Association; maintain a register setting forth the place to which all notices to Unit Owners and Mortgagees hereunder, or under the Declaration, shall be delivered; and, perform all the duties incident to the office of Secretary.

**Section 4.7,     Treasurer.** The Treasurer shall be responsible for Association funds ; keep full and accurate financial records and books of account showing all receipts and disbursements; prepare all required financial data; deposit all monies and other valuable effects in the name of the Executive Board, the Association or the Managing Agent, in such depositories as may from time to time be designated by the Executive Board; and, in general, perform all the duties incident to the office of Treasurer. The Association may employ a bookkeeper to assist the Treasurer in its duties and obligations.

**Section 4.8     Execution of Documents and Instruments.** The Executive Board and the officers of the Association shall abide by the terms of the Signature Authorization Policy, attached hereto as Exhibit 4.8, governing the appropriate execution of agreements, contracts, deeds, leases, checks and other instruments of the Association and the authority of officers regarding the same.

**Section 4.9     Compensation of Officers.** Unless otherwise provided by the Executive Board, officers shall not receive any compensation from the Association for acting as such, other than actual expenses reasonably incurred in the performance of their office.

## **ARTICLE 5: Amendments**

### **Section 5.1     Amendments to Bylaws.**

(a) These Bylaws may be modified or amended by (i) an affirmative vote of the majority of the members of the Executive Board, or (ii) a majority vote of the Unit Owners present and represented by proxy at a duly called meeting of the Association at which a quorum is present.

(b) All amendments to the Bylaws shall be prepared, executed, certified, and recorded in the Association's records by the Secretary, and the Executive Board shall notify the Unit Owners of any amendments or modifications made to these Bylaws within five days of such amendment or modification.

**Section 5.2 Amendments to Rules.** The Rules, known in the Declaration as the Association Rules, may be amended by the Executive Board in its exclusive discretion. Amendments shall be reported to the Unit Owners at the next meeting of the Unit Owners following the amendments.

**Section 5.3 Amendments to Policies.** The Policies attached to these Bylaws may be amended by the Executive Board in its exclusive discretion. Amendments shall be reported to the Members at the next meeting of the Unit Owners following the amendments.

**Section 5.4 Periodic Review.** The Executive Board shall periodically review these Bylaws and the Policies.

## **ARTICLE 6: Miscellany**

### **Section 6.1 Notices.**

(a) Except as otherwise permitted in the Declaration, all notices required by the Declaration shall be sent in writing by prepaid United States mail Or hand-delivered to the street address of the Unit, or such other address as the Unit Owner shall have designated in writing to the Executive Board (the "Notice Address").

(b) All notices, demands, bills statements or other communications with Unit Owners required or permitted under the Bylaws but not required by the Declaration, shall be in writing and be deemed to have been duly given if delivered (i) personally, (ii) via facsimile transmission, (iii) via courier, (iv) via formal means of electronic delivery (*e.g.* electronic mail), or (v) sent by United States mail, postage prepaid to the Notice Address.

(c) Notwithstanding anything to the contrary in these Bylaws, all notices notifying unit owners of a default with regard to any obligation of the Unit Owner or notice notifying Unit Owners of the existence of lien on a unit, shall be in writing and shall be delivered by registered or certified United States mail, return receipt requested, postage prepaid, to the Notice Address.

(d) If notice is to be delivered to a Unit Owner, it shall be deemed to be properly delivered, if delivered by permitted means according to subsections (a) through (c) above, to the physical address which the unit owner shall designate in writing and file with the Secretary, to the email or electronic address or facsimile transmission number as requested by the Owner or, if no such address is provided, then to the Unit itself. It shall be the responsibility of the Unit Owner to maintain the Unit Owner's correct and up to date address and contact information with the Secretary of the Association.

(e) If notice is to be delivered to the Association, the Executive Board or to the Managing Agent, the notice shall be delivered to the principal office of the Executive Board or at such other physical address, facsimile transmission number or electronic delivery address as shall be designated by notice in writing to the Unit Owners pursuant to this Section.

(f) If a Unit is owned by more than one person, each such Person who so designates an address in writing, according to subsection (d) above shall be entitled to receive all notices hereunder.

(g) The costs of all permitted and required notices shall be a Common Expense of the Association.

**Section 6.2** **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 Bylaws or the intent of any provision thereof.

**Section 6.3** **Pronoun Use is Non-Specific.** The use of pronouns when referring to Unit Owners or Persons in these Bylaws shall not necessarily reflect gender nor whether or not the Unit Owner or Person referred to is an individual or a Corporate Person. All such pronouns may be used interchangeably.

**Section 6.4** **Books and Records Generally.**

(a) The Association shall keep complete and correct books and records of account and shall also keep minutes of the proceedings of its Board at the registered or principal office of the Association.

(b) All books, records and minutes of the Association may be inspected by any director or his or her agent or attorney, for any proper purpose at any reasonable time.

(c) Books, records and minutes of the Association may be inspected by any Unit Owner according to the terms of the Records Review Policy, attached hereto as Exhibit 7.5.

**Section 6.5** **Review of Records.** The records of the Association may be reviewed by members of the Executive Board and Unit Owners according to the terms and conditions of the Records Review Policy, attached hereto as Exhibit 7.5.

**Section 6.6** **Interpretation.** The provisions of these Bylaws shall be liberally construed to effectuate their purpose of facilitating the operation of a residential condominium and for the maintenance of the Common Elements. Except for judicial construction, the Executive Board shall have the exclusive right to construe and interpret the provisions of these Bylaws, in the absence of any adjudication to the contrary by a court of competent jurisdiction, the Executive Board's construction or interpretation of the provisions hereof shall be final, conclusive and binding as to all Persons and property benefited or bound by these Bylaws.

**Section 6.7** **Effective Date.** These Bylaws shall become effective immediately upon adoption by the Members. Any amendments hereto shall become effective as set forth in the amendment, provided that no *ex post facto* amendments shall be permitted.

**Section 6.8** **Priority and Inconsistencies.** If conflicts and inconsistencies exist between or among the Bylaws, the Declaration, the Rules, and the Policies, the inconsistencies shall be resolved as follows: (i) If there are inconsistencies between these Bylaws and the Declaration, the Declaration shall prevail; (ii) if there are inconsistencies between these Bylaws and the Rules, these Bylaws shall prevail; (iii) if there are inconsistencies between these Bylaws and the Policies, these Bylaws shall prevail; in all instances, both documents shall continue to apply with the prevailing document controlling to the extent of the inconsistency.

### **Exhibit 3.13**

#### **Conflict of Interest Policy**

##### **ARTICLE 1: Purpose**

The purpose of this conflict of interest policy is to protect the Association's interest when it is contemplating entering into a transaction or arrangement that might benefit the private interest of an officer or director of the Association or might result in a possible excess benefit transaction. This policy is intended to supplement but not replace any applicable state and federal laws governing conflict of interest applicable to nonprofit corporations or Homeowners Associations.

##### **ARTICLE 2: Definitions**

**Section 2.1 Interested Person.** Any director, principal officer, or member of a committee with Executive Board delegated powers, who has a direct or indirect financial interest, as defined below, is an interested person.

**Section 2.2 Financial Interest.** A person has a financial interest if the person has, directly or indirectly, through business, investment, or family:

- (a) An ownership or investment interest in any entity with which the Association has a transaction or arrangement,
- (b) A compensation arrangement with the Association or with any entity or individual with which the Association has a transaction or arrangement, or
- (c) A potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which the Association is negotiating a transaction or arrangement.

**Section 2.3** Compensation includes direct and indirect remuneration as well as gifts or favors that are not insubstantial.

**Section 2.4** A financial interest is not necessarily a conflict of interest. Under Section 3.2, a person who has a financial interest may have a conflict of interest only if the appropriate Executive Board or committee decides that a conflict of interest exists.

##### **ARTICLE 3: Procedures**

**Section 3.1 Duty to Disclose.** In connection with any actual or possible conflict of interest, an interested person must disclose the existence of the financial interest and be given the opportunity to disclose all material facts to the directors and members of committees with Executive Board delegated powers considering the proposed transaction or arrangement.

**Section 3.2 Determining Whether a Conflict of Interest Exists.** After disclosure of the financial interest and all material facts, and after any discussion with the interested person, he/she shall leave the Executive Board or committee meeting while the determination of a conflict of interest is discussed and voted upon. The remaining board or committee members shall decide if a conflict of interest exists.

**Section 3.3 Procedures for addressing the Conflict of Interest.**  
(a) An interested person may make a presentation at the Executive Board or committee meeting, but after the presentation, he/she shall leave the meeting during the discussion of, and the vote on, the transaction or arrangement involving the possible conflict of interest.

(b) The chairperson of the Executive Board or committee shall, if appropriate, appoint a disinterested person or committee to investigate alternatives to the proposed transaction or arrangement.

(c) After exercising due diligence, the Executive Board or committee shall determine whether the Association can obtain, with reasonable efforts, a more advantageous transaction or arrangement from a person or entity that would not give rise to a conflict of interest.

(d) If a more advantageous transaction or arrangement is not reasonably possible under circumstances not producing a conflict of interest, the Executive Board or committee shall determine by a majority vote of the disinterested directors whether the transaction or arrangement is in the Association's best interest, for its own benefit, and whether it is fair and reasonable. In conformity with the above determination, it shall make its decision as to whether to enter into the transaction or arrangement.

#### **Section 3.4 Violations of the Conflicts of Interest Policy.**

(a) If the Executive Board or committee has reasonable cause to believe a member has failed to disclose actual or possible conflicts of interest, it shall inform the member of the basis for such belief and afford the member an opportunity to explain the alleged failure to disclose.

(b) If, after hearing the member's response and after making further investigation as warranted by the circumstances, the Executive Board or committee determines the member has failed to disclose an actual or possible conflict of interest, it shall take appropriate corrective actions.

### **ARTICLE 4: Records of Procedures**

**Section 4.1** The minutes of the Executive Board and all committees with Executive Board delegated powers shall contain:

(a) The names of the persons who disclosed or otherwise were found to have a financial interest in connection with an actual or possible conflict of interest, the nature of the financial interest, any action taken to determine whether a conflict of interest was present, and the Executive Board's or committee's decision as to whether a conflict of interest in fact existed.

(b) The names of the persons who were present for discussions and votes relating to the transaction or arrangement, the content of the discussion, including any alternatives to the proposed transaction or arrangement, and a record of any votes taken in connection with the proceedings.

### **ARTICLE 5: Compensation**

**Section 5.1** A voting member of the Executive Board who receives compensation, directly or indirectly, from the Association for services is precluded from voting on matters pertaining to that member's compensation.

**Section 5.2** A voting member of any committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from the Association for services is precluded from voting on matters pertaining to that member's compensation.

**Section 5.3** No voting member of the Executive Board or any committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from the Association, either individually or collectively, is prohibited from providing information to any committee regarding compensation.

### **ARTICLE 6: Annual Statements**

**Section 6.1** Each director, principal officer and member of a committee with Executive Board delegated powers shall annually sign a statement which affirms such person:

- (a) Has received a copy of the conflicts of interest policy,
- (b) Has read and understands the policy, and
- (c) Has agreed to comply with the policy.

**Section 6.2** Notwithstanding the foregoing Section 6.1, the failure of the Association to have statements called for in this paragraph signed by any director, principal officer and member of a committee with Executive Board delegated powers shall not prejudice or invalidate any decision or action of any director, principal officer, member of a committee with Executive Board delegated powers, or any committee or the Executive Board itself.

#### **ARTICLE 7: Periodic Reviews**

**Section 7.1** To ensure the Association operates in a manner consistent with charitable purposes and does not engage in activities that could jeopardize its tax-exempt status, periodic reviews shall be conducted. The periodic review shall, at a minimum, include the following subjects:

(a) Whether compensation arrangements and benefits are reasonable, based on competent survey information, and the result of arm's length bargaining.

(b) Whether partnerships, joint ventures, and arrangements with management Associations conform to the Association's written policies, are properly recorded, reflect reasonable investment or payments for goods and services, further charitable purposes and do not result in inurement, impermissible private benefit or in excess benefit transaction.

#### **ARTICLE 8: Use of Outside Experts**

When conducting the periodic reviews as provided for in Article VII, the Association may, but need not, use outside advisors. If outside experts are used, their use shall not relieve the Executive Board of its responsibility for ensuring periodic reviews are conducted.

## **Exhibit 4.8**

### **Signature Authorization Policy**

1. *Monetary Obligations in Excess of \$10,000.* All agreements, contracts, checks, loans, notes, releases, and other instruments of the Association that represent obligations or expenditures in excess of Ten Thousand Dollars (\$10,000.00), shall be executed by any two persons designated by the Executive Board from time to time as authorized signatories; *provided*, in the event of an emergency that requires the unanticipated and immediate use of Association funds, Managing Agent is to immediately notify the Executive Board by email for permission to expend Association funds to mitigate damages caused by the emergency situation. If within a reasonable amount of time, not to exceed twelve (12) hours, the Managing Agent has not received a response from the Executive Board, the Managing Agent shall have the authority to incur expenses up to a maximum amount of \$2,000 per each 24 hour period without a response from the Executive Board. This exception applies to emergency situations – defined as a serious, unexpected, and potentially dangerous situation requiring immediate action.
2. *Reserve Account Draws.* Any checks drawn upon reserve accounts, regardless of the amount, shall be executed by any two persons designated by the Executive Board from time to time as authorized signatories.
3. *Monetary Obligations of Less Than \$10,000.* All agreements, contracts, leases, checks, loans, notes, releases and other instruments of the Association that represent obligations or expenditures of less than Ten Thousand Dollars (\$10,000.00), except from reserve accounts, may be executed by anyone person designated by the Executive Board from time to time as an authorized signatory.
4. *Conveyance of Real Property Interests.* Any deeds, leases, deeds of trust, easements, rights of way, licenses or any other instrument conveying or purporting to convey an interest in real property, whether or not held by the Association and whether or not an interest in the Property, shall be executed by any two persons designated by the Executive Board from time to time as authorized signatories.
5. *No Authorization Conferred by this Policy.* Notwithstanding anything to the contrary in this Signature Authorization Policy, nothing herein shall be interpreted to confer or delegate any authority of the Executive Board to any authorized signatory, officer, or agent of the Association to obligate, bind or act on behalf of the Association. The Executive Board retains the exclusive authority (unless otherwise delegated) to authorize actions of the Association, and this policy only provides a quality control measure on the execution of those actions by requiring multiple signatures in certain circumstances.



## **Exhibit 7.5**

### **Records Review Policy**

#### **Terrace Park East Homeowners Association**

Terrace Park East Homeowners Association has adopted this records review policy to provide a uniform standard to make the records of the Association reasonably available for review by the Unit Owners and available on equal terms to all members. This policy is intended to provide consistent access, prevent special treatment and compliance by the Association with the requirements of the Uniform Common Interest Ownership Act, the West Virginia Non-Profit Corporation Act, and other applicable law.

**i. Definitions.** For the purposes of this policy, the following terms shall have the meanings assigned below:

*Accounting records* shall include, at least, (i) a statement of any capital expenditures anticipated by the association for the current fiscal year; (ii) a statement of the amount of any reserves for capital expenditures and of any portions of those reserves designated by the Association for any specified projects; (iii) the most recent regularly prepared balance sheet and income and expense statement of the Association; (iv) a current copy of the operating budget of the Association required to be maintained by Article II hereof; (v) a statement of any unsatisfied judgments against the Association and a list of any pending suits in which the Association is a defendant; and (vi) a statement describing any insurance coverage provided for the benefit of Unit Owners, *provided that* (A) personally identifying information of employees, (B) items or information subject to confidentiality agreements of the Association, (C) items or information that are privileged communications or work product related to legal counsel provided to the Association, (D) items or information that may subject the Association to a competitive disadvantage and (E) any other material that the Association is permitted or required to keep confidential shall not be included in this definition of *Accounting Records*.

*Business days* shall mean any days that the government offices of Kanawha County, West Virginia are open to the public for the conduct of business.

*Association* shall mean Terrace Park East Homeowners Association.

*Executive Board* shall be interchangeable terms within this policy and shall refer to the officers and directors of the Association.

*Governing documents* shall mean the declaration of covenants governing the common interest community, the Articles of Association, and the Bylaws of the Association.

*Members* shall mean the Unit Owners of the Association, and, for the purposes of this policy, in the event that a Unit is owned by more than one person, both owners may exercise the rights of a member under this policy.

*Minutes* shall mean any records of a meeting that have been approved as an accurate representation of the meeting by the group that held the meeting.

*The policy* shall mean this records review policy.

*Principal office* shall mean the Association's principal office.

#### **I. Rights of Access For Members to Article I Records.**

(a) A member of the Association is entitled to inspect, upon reasonable request and a time reasonably convenient for the Executive Board or the Managing Agent and at a reasonable location specified by the Association, any of the following records of the Association if the member meets the requirements of subsection (b) of this Article I of the Policy and gives the Association written notice of his or her demand at least five business days before the date on which he or she wishes to inspect and copy:

(i) Excerpts from minutes of any meeting of the Executive Board, records of any action of a committee of the Executive Board while acting in place of the Executive Board on behalf of the Association, minutes (or draft minutes) of any meeting of the members, and records of action taken by the members or Executive Board without a meeting, to the extent not subject to inspection under other Articles of this Policy, *provided however*, that information that may be included in these records that (A) might subject the Association to a competitive disadvantage, (B) may compromise attorney-client privilege or (C) may divulge personally identifiable information or other information protected by law may be redacted or otherwise excluded from the records available for review;

(ii) Accounting Records of the Association; and

(iii) A record of members, in a form that permits preparation of a list of the names and addresses of all members, in alphabetical order.

(b) A member may inspect and copy the records described in subdivisions (i) and (ii), subsection (a) of this Article I, and may inspect the records described in subdivision (3), subsection (a) of this Article I of this section only if:

(1) His or her demand is made in good faith and for a proper purpose;

(2) He or she describes with reasonable particularity his or her purpose and the records he or she desires to inspect; and

(3) The records are directly connected with his or her purpose, and the member has agreed, in writing, not to use the records for any purpose other than the proper purpose for which he, she, or it requested them.

(c) This section does not affect:

(1) The right of a member to inspect records under the remainder of this Policy or, if the member is in litigation with the Association, to the same extent as any other litigant; or

(2) The power of a circuit court, independent of this Policy, to compel the production of corporate records for examination.

(d) The right to copy records under this Article I include, the right to receive copies by xerographic or other means, including copies through an electronic transmission, if readily available and requested by the member under the terms of this paragraph.

(i) Members may receive electronic copies of records to which they are entitled under Article I only in the event that they have been otherwise granted access to those records under the requirements of Article I;

(ii) If the member desires to receive a copy of these records by electronic means and the Association has the records electronically available, then following the physical inspection of the records by the member the member shall (A) complete an electronic records copy request stating the

date of their personal inspection of the records, the facsimile number or email address where the requesting member would like to receive delivery and (B) provide the electronic records copy request to the senior staff person in the principal office at the time of the inspection of the records.

(iii) Proper electronic requests will be matched by the Association with the proper request from Article I and, assuming the requirements of this paragraph have been met, will be processed within 5-7 business days.

(e) The term "inspect" for purposes of this Article I includes the making of extracts from the records reviewed.

(f) The Association may comply at its expense with a member's demand to inspect the record of members under subdivision (iii), subsection (a), Article I of this Policy by providing the member with a list of members that was compiled no earlier than the date of the member's demand.

## **II. Article II Record, Financial Statements, and Budgets.**

(a) Within thirty days after adoption of any proposed budget for the Association, the executive board shall provide a summary of the budget to all the members, and shall set a date for a meeting of the members to consider ratification of the budget not less than fourteen nor more than thirty days after the mailing of the summary.

(b) The Association shall furnish its member's annual financial statements, which may be consolidated or combined statements of the Association and one or more of its subsidiaries, as appropriate, that include a balance sheet as of the end of the fiscal year, and an income statement for that year. If financial statements are prepared for the Association on the basis of generally accepted accounting principles, the annual financial statements must also be prepared on that basis.

(c) If the annual financial statements are reported upon by a public accountant, his or her report must accompany them. If not, the statements must be accompanied by a statement of the president or the person responsible for the Association's accounting records: (1) Stating his or her reasonable belief whether the statements were prepared on the basis of generally accepted accounting principles and, if not, describing the basis of preparation; and (2) Describing any respects in which the statements were not prepared on the basis of accounting consistent with the statements prepared for the preceding year.

(d) The Association shall mail the annual financial statements to each member within sixty (60) after the close of each fiscal year. On written request from a member who was not mailed the statements, the Association shall mail him or her the latest financial statements.

## **III. Rights of Access for Members to Article III Records**

(a) A member of the Association is entitled to inspect, during regular business hours at the Association's principal office, any of the records of the Association described in subsection (b) of this Article III of this Policy if he or she gives the Association written notice of his or her demand at least five business days before the date on which he or she wishes to inspect.

(b) The Association shall keep a copy of the following records at its principal office:

- (1) Its articles or restated articles of Association and all amendments to them currently in effect;
- (2) Its Bylaws and all amendments to them currently in effect;
- (3) Resolutions adopted by its Executive Board;

(4) The minutes of all members' meetings, and records of all action taken by members without a meeting, for the past three years;

(5) All written communications to members generally within the past three years, including the financial statements furnished for the past three years under Article II of this Policy; and

(6) A list of the names and business addresses of its current directors and officers.

**IV. Inspection of Records by Directors.** A director of an Association is entitled to inspect and copy the books, records, and documents of the Association at any reasonable time to the extent reasonably related to the performance of the director's duties as a director, including duties as a member of a committee, but not for any other purpose or in any manner that would violate any duty to the Association.

**V. Fees and Costs**

(a) The Association may impose a reasonable charge, covering the costs of labor and material, for copies and postage of any documents provided to the member under this policy. The charge shall not exceed the estimated cost of production, reproduction, or transmission of the records.

(b) As of the date of this policy and until otherwise altered, the executive board has determined that the actual costs of labor, materials, copies, and postage shall be determined as follows and that these costs shall be charged to members requesting copies pursuant to this policy:

(1) the cost for the reproduction of hard copies of records by the Association shall be \$0.10 / page of regular copy paper (black and white only);

(2) the cost for the postage required, if any, shall be the cost actually incurred or to be incurred by the Association (and unless otherwise requested, the Association shall use the United States Postal Service regular delivery service);

(3) the cost for labor related to assembling the records requested, including any formatting or collection of records for electronic transmission, shall be \$10.00 / hour of time required by the staff of the Association to assemble the records requested and such hourly rate as may be charged by a third party (e.g., accountants or attorneys), provided however that (i) requests that take thirty minutes or less of the time of a compiling staff member shall be provided without cost and that (ii) the total cost of labor shall be rounded down to the nearest ¼ hour.

(c) All costs shall be paid by the member to the Association in advance if practicable and within ten days following the delivery of the documents requested if impractical.

**VI. Miscellaneous**

(a) Notice Exception. Whenever notice is required to be given under any provision of this Policy to any member, notice may not be required to be given if notice of two consecutive annual meetings, and all notices of meetings during the period between two consecutive annual meetings, have been sent to the member at the member's address as shown on the records of the Association and have been returned undeliverable. If a member delivers to the Association a written notice setting forth the member's then-current address, the requirement that notice be given to the member is to be reinstated.

(b) Business Hours Variance. The regular business hours of the Association are subject to change on a day to day basis, and such changes due to temporary circumstances shall not be deemed to be a violation of this policy. Members are encouraged to call ahead to confirm that the principal office is open.

(c) Scope of Member's Right. A member's designee or attorney has the same inspection and copying rights (and the same obligations and responsibilities) as the member represented, *provided that*, any designee or attorney claiming to represent a member shall provide written evidence, bearing a signature of the referenced member, of their authorization by the member to act on their behalf in connection with the inspection of corporate records.

(d) Responses Limited to Production. Nothing in this policy shall create any obligation on the part of the officers or employees of the Association to answer any questions regarding the substance of the retained records.

(e) Inadvertent Disclosures. Members who discover information in the records of the Association available for inspection by the members that should not have been disclosed shall report the inadvertent disclosures to the senior management of the Association as soon as possible.

(f) Addresses. Members shall be responsible for updating their current mailing addresses with the Association's principal office for the Association's official records. The Association shall have no independent duty to investigate the accuracy of addresses provided by members.

(g) Additional Disclosures. Nothing in this policy shall preclude the Association from making records available for review by the members in additional ways, provided that each of the members has an equal opportunity to access those records. (For example, the Executive Board may cause certain records to be posted on the Association's website, thereby making them available in a manner that provides greater access than that which would otherwise be available under the terms of this policy. In the event that the Association has made records widely available, and it receives a subsequent request for the same records, the Association shall inform the requesting member that some or all of the requested records are also available through other means, *provided* that making records available in another manner does not relieve the Association of its responsibility to comply with this policy.

(h) Notice Requirements. Nothing shall limit or otherwise define the requirements in applicable law for the preparation and delivery of notices of meetings or other corporate actions required by the West Virginia Non-Profit Corporation Act or the Uniform Common Interest Ownership Act.

(i) Proxies, Liens, and Member Communications. Nothing in this policy shall interfere with or alter the Association's policies on proxies, liens, notice of liens, notices to members, or any other communications between the Association and the members individually.

## **VII. Conflicts with the Governing Documents; Governing Law**

(a) To the extent that this policy is inconsistent with the requirements of the governing documents of the Association, the terms of the governing documents shall control.

(b) To the extent that this policy conflicts with applicable law, the applicable law shall control. Nothing in this policy shall limit the requirements of the association to provide certificates to unit owners who are planning to sell their unit as required by W.Va. Code § 36B-4-109.

(c) The Association reserves the right to alter its compliance practices in response to individual requests for records if it believes that this policy is subservient to the governing documents of the Association or applicable law.

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Ratified by TPE HOA Executive Board President  
James Hansen