

**BYLAWS OF**

**HAWKSTONE VILLAGE COMMUNITY ASSOCIATION**

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## **ARTICLE I - NAME AND ADDRESS**

**Section 1.01. Name.** The name of this association shall be Hawkstone Village Community Association (the “Association”).

**Section 1.02. Address.** The office of the Association shall be at a place to be designated by the Executive Board, subject to change upon notice to the Owners.

## **ARTICLE II-APPLICABILITY, INTERPRETATION, PURPOSE AND DEFINITIONS**

**Section 2.01. Applicability.** These Bylaws shall be applicable to the Association created to govern the Hawkstone Village Community Association, a Planned Community (the “Community”). All present and future Owners and occupants of Units, and their employees, agents, contractors, customers, vendors, suppliers, visitors, invitees, licensees, tenants, subtenants, ground tenants, sub-ground tenants, concessionaires, and any other person or persons who shall be permitted to use the premises described in the Declaration of Planned Community for Hawkstone Village, a Planned Community (the “Declaration”) shall be subject to these Bylaws and to any Rules and Regulations which may be promulgated by the Executive Board of the Association from time to time to govern the conduct of the Owners and occupants of Units but shall be subject to and shall not supersede the terms and provisions of the Declaration.

**Section 2.02. Interpretation.** In the event of a conflict of interpretation between the provisions set forth in these Bylaws and the Declaration, the Declaration shall govern. In the event that the Internal Revenue Code is hereafter amended or changed, both the Declaration and these Bylaws shall be interpreted in a manner which conforms to the provisions of the Internal Revenue Code with respect to nonprofit entities, it being the intention to preserve the lawful status of the Association as a bona-fide nonprofit entity.

**Section 2.03. Purpose.** The purpose of the Association is to (i) maintain, regulate and administer the Common Facilities for the use, benefit and enjoyment of the Owners and lawful occupants of the Units in the Community; (ii) provide for the orderly economical management and maintenance of the Common Facilities; (iii) Controlled Facilities and to provide for the collection of such revenue as necessary to effectuate the maintenance, repair and replacement of the Common Facilities and other such facilities as may be established for the Owners; and (iv) enforce the terms and conditions of these Bylaws, the Declaration and other Community rules, regulations and policies. This Association does not contemplate pecuniary gain or profit to its members.

**Section 2.04. Definitions.** Unless it is plainly evident from the context that a different meaning is intended, the terms used herein shall have the same meanings as provided in the Declaration.

## **ARTICLE III - MEMBERSHIP**

**Section 3.01. Membership.** Membership in the Association shall be limited to the Owners in the Community as provided in the Declaration.

**Section 3.02. Affirmative Vote.** Except as otherwise provided herein or in the Declaration, all decisions shall require for passage the affirmative vote of at least a majority of the votes of the Owners in good standing and entitled to vote in attendance at a meeting having present, in person, by mail ballot or by proxy, the quorum required hereof.

**Section 3.03. Proxies and Mail Ballots.** Votes may be cast in person, by mail ballot or by written proxy. Mail ballots and written proxies may be submitted by United States mail or delivered to the office of the Association or delivered directly to the Secretary of the Association. A mail ballot vote shall be defined as a written vote submitted by an Owner which states the specific vote of the Owner with respect to the issues, resolutions or elections being voted on by the Owners at the annual or special meeting. A proxy shall be defined as written permission for the Executive Board or a specific Board Member to exercise the Owner's vote as the Executive Board or the specific Board Member sees fit.

**Section 3.04. Quorum.** Except as otherwise determined by the Executive Board, the presence in person, by mail ballot or by proxy of a majority of the Owners shall constitute a quorum at the beginning of any annual or special meeting of the Association.

**Section 3.05. Adjournment of Meetings.** If at any meeting of the Association a quorum is not present, Unit Owners entitled to cast a majority of the votes represented at such meeting may adjourn the meeting to a time not less than forty-eight (48) hours after the time for which the original meeting was called. All proxies and mail-in ballots submitted to the Association by Unit Owners for use at the first scheduled meeting date shall remain valid for use in quorum calculations and balloting at the adjournments thereof, unless they are revoked before the adjourned meeting is called to order. Unit Owners who have not submitted proxies or mail in ballots for a scheduled meeting may participate in the adjourned meetings, and be deemed present for purposes of quorum calculations, by submitting proxies or mail-in ballots for use in casting votes at an adjourned meeting, provided that all proxies or mail-in ballots must be delivered to the Secretary or the person presiding over the meeting prior to the time the meeting is called to order.

**Section 3.06. Actions Without Meeting.** Any action which, under any provision of these Bylaws, may be taken at a meeting of the Association, may be taken without a meeting if authorized by a writing signed by two-thirds (2/3) of the Owners entitled to vote for that particular matter and filed with the Secretary of the Association.

## **ARTICLE IV - MEETINGS OF THE ASSOCIATION**

**Section 4.01. Place of Annual and Special Meetings.** All annual and special meetings of the Association shall be held at the principal office of the Association or at any other suitable and convenient place permitted by law and from time to time fixed by the Executive Board and designated in the notices of these meetings.

**Section 4.02. Date of Annual Meeting.** Annual meetings of the Association shall be held each year on a date to be designated by the Executive Board. The Owners may transact business which may properly come before the meeting.

**Section 4.03. Notice of Annual and Special Meetings.** The Secretary shall cause notices of annual and special meetings to be hand delivered (left at their Units in their absence) or mailed, by regular mail, postage prepaid, to each Owner. If mailed, the notice shall be directed to their last known post office address as shown on the records of the Association. The notice of each annual or special meeting shall be sent not less than ten (10) nor more than sixty (60) days before the date of the annual or special meeting and shall state the date, time and place of the meeting and the items on the agenda, including, without limitation, the general nature of any proposed amendment to the Declaration or Bylaws, any budget or assessment changes and, where the Declaration or Bylaws require approval of Unit Owners, any proposal to remove an Executive Board Member or Officer.

**Section 4.04. Special Meetings.** It shall be the duty of the President to call a special meeting of the Association for the following: (a) holding elections of members of the Executive Board; (b) whenever directed to do so by resolution of the Executive Board; and (c) upon presentation to the Secretary of a petition, stating the specific purposes of such meeting, signed by one third (1/3) of the members entitled to vote at such meeting. No business shall be transacted at a special meeting except as stated in the notice.

**Section 4.05. Conduct of Meetings.** The President (or in his or her absence, the Treasurer) 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 at the meeting. The President may appoint a person to serve as parliamentarian at any meeting of the Association. All votes shall be tallied by tellers appointed by the President. The order of business at all annual meetings of the Members and at special meetings, so far as practicable, will be:

- (A) Calling of the roll and certifying of proxies;
- (B) Proof of notice of meeting or waiver;
- (C) Reading of minutes of preceding meeting;
- (D) Reports of officers;
- (E) Reports of committees;
- (F) Appointment of inspectors of election;
- (G) Election of Board;
- (H) Unfinished business;
- (I) New business;
- (J) Election of officers.

All votes shall be tallied as prescribed by the President. The President, or the Board by majority vote, shall call all motions for the vote of the Unit Owners. The President, or the Board by majority vote, shall have the power to close debate on, or table, any questions, motions or discussions pending before the Unit Owners, and where necessary to preserve order, to direct that any Unit Owner(s), who may become disruptive of the business of a meeting of the members to leave the meeting.

## **ARTICLE V - EXECUTIVE BOARD**

**Section 5.01. Number of Board Members.** The affairs of the Association shall be initially governed by an Executive Board consisting of three (3) Board Members and, ultimately, as provided in Article VII of the Declaration, three (3) Board Members. The Board Members shall be appointed or elected as provided for in the Declaration. Executive Board members who are elected shall be Unit Owners in good standing (or, as to Units owned by a corporation, joint venture, partnership or unincorporated association, a natural person duly appointed by the corporation, joint venture, partnership or unincorporated association to serve on its behalf) elected by the Unit Owners present in person, by ballot or by proxy at a meeting of the Association. The Declarant shall have the right to appoint one (1) additional non-voting Board Member to serve on the Executive Board until sixty (60) days after the Declarant has conveyed the last Unit in the Community.

**Section 5.02. Term of Board Members and Compensation.** Subject to the terms of the Declaration, the Owners who are elected to be Board Members shall all serve two (2) year terms. The Board Members shall serve without compensation.

**Section 5.03. Nominations to Executive Board.** Owners may be nominated for election to the Executive Board in one of the following ways:

(a) A Board Member shall be deemed to have been nominated for reelection to that position by signifying his or her intention to seek reelection in writing addressed to the Executive Board.

(b) An Owner who is not a Board Member and who desires to run for election to that position shall be deemed to have been nominated for election as a Board Member upon his or her filing with the Executive Board a written notice of nomination consistent with any Rules and Regulations established by the Executive Board in advance.

**Section 5.04. Vacancy on Executive Board.** If the office of any Board Member shall become vacant by reason of his or her death, resignation, retirement, disqualification, removal from office or otherwise, the remaining Board Members, at a special meeting duly called for this purpose, shall choose a successor, who shall hold office until the expiration of the term of the Board Member he or she is replacing. In the event that there shall be a deadlock in the voting for a successor, the Board Member with the longer continuous term on the Executive Board shall select a successor from the successor candidates. At the expiration of his or her term, the replacement Board Members shall be re-elected or his or her successor shall be elected in accordance with Section 5.01 hereof. Declarant shall have the right to remove and replace any or all members appointed by the Declarant at any time and from time to time until the end of the Period of Declarant Control.

**Section 5.05. Removal of Board Members.** Subject to the right of the Declarant to nominate and elect members of the Executive Board, Board Members may be removed with or without cause, by a two-thirds (2/3) vote of all of the Owners of the Association at any special meeting of the Association of which notice has been properly given as provided in these Bylaws; provided that the same notice of the special meeting has also been given to the entire Executive

Board and any individual Board Member whose removal is to be considered at this special meeting.

**Section 5.06. Organizational Meeting of the Executive Board.** No later than twenty (20) days following each annual meeting of the Association, the Executive Board shall hold a regular meeting for the purposes of organization, election of officers and transaction of other business. Notice of this meeting shall be given to all Board Members in the manner provided in Section S.08 hereof

**Section 5.07. Place of Meetings.** All meetings of the Executive Board shall be held at the principal office of the Association or at any other place or places designated at any time by resolution of the Executive Board.

**Section 5.08. Notice of Regular Executive Board Meetings.** Regular meetings of the Executive Board may be held at any time and place permitted by law or as may be determined from time to time by the Executive Board. Notice of regular meetings of the Executive Board shall be given to each Board Member personally, by telegram, telephone, email or by United States mail, with postage prepaid, directed to him or her at his or her last known post office address as the same appears on the records of the Association, at least three (3) days before the date appointed for this meeting. This notice shall state the date, time, place and purpose of the meeting.

**Section 5.09. Special Executive Board Meetings.** Special meetings of the Executive Board may be called by the President of the Association on three (3) days' written notice to each Board Member given in the same manner as provided in Section 5.08 hereof. Special meetings of the Executive board shall be called by the President or the Secretary in like manner upon the written request of any Board Member.

**Section 5.10. Waiver of Notice.** Before any meeting of the Executive Board, whether regular or special, any Board Member may, in writing, waive notice of the meeting and this waiver shall be deemed equivalent to the giving of the required notice. All written waivers shall be filed with the records of the Association or made a part of the minutes of the meeting. Attendance by a Board Member at any meeting of the Executive Board shall likewise constitute a waiver by him or her of the required notice. If all Board Members are present at any meeting of the Executive Board, no notice of the meeting shall be required and any business may be transacted at this meeting except as prohibited by law or these Bylaws.

**Section 5.11. Quorum.** At all duly convened meetings of the Executive Board, two-thirds (2/3) of the Board Members shall constitute a quorum for the transaction of business, except as otherwise expressly provided in these Bylaws or by law, and the acts of the majority of the Board Members present at a meeting at which a quorum is present shall be the acts of the Executive Board. If at any meeting of the Executive Board there shall be less than a quorum present, the Board Members present may adjourn the meeting from time to time and, at the adjourned meeting at which a quorum is present, any business that might have been transacted at the meeting as originally called may be transacted without further notice to any Board Member.



**Section 5.12. Consent in Writing.** Any action by the Executive Board may be taken without a meeting if all of the Board Members shall individually or collectively consent in writing to the action. This written consent or consents shall be filed with the minutes of the proceedings of the Executive Board. Any action by written consent shall have the same force and effect as a unanimous vote of the Executive Board.

**Section 5.13. Records.** The Executive Board shall cause a complete record of all of its acts and corporate affairs to be kept and to present a statement thereof to the Owners at annual meetings of the Association or at any special meeting where this statement is requested in writing by one-third (1/3) of the Owners entitled to vote.

**Section 5.14. Power and Duties.** The Executive Board shall have and exercise all lawful powers and duties necessary for the proper administration of the affairs of the Association for the Community and the operation and maintenance of the Community and may do or cause to be done all such other lawful acts and things as are now by law or by these Bylaws directed or required to be done by members of the Association. In the performance of its duties, in addition to those powers and duties set forth in the Act and the Declaration, the Executive Board shall have powers and duties (which powers and duties shall be subject to the terms, provisions and limitations set forth in the Declaration) including, but not limited to, the following:

(a) Duties:

(i) Each Board Member, individually, and the Executive Board collectively shall perform the duties of the Executive Board in good faith, as a fiduciary of the Association, in a manner which the Board Member reasonably believes to be in the best interests of the Association and perform these duties with the care, including reasonable inquiry, skill and diligence, of a person of ordinary prudence under similar circumstances.

(ii) Provide for the management, operation, maintenance, administration, regulation, repair, replacement, care, upkeep and insurance of the Common Facilities, Controlled Facilities and all property, real or personal, of the Association.

(iii) Determine the expenses to be assessed against the Owners in accordance with the provisions of the Declaration, the Act and these Bylaws.

(iv) Levy and collect, in addition to any Assessments pursuant to the Declaration and these Bylaws, Special Assessments in those amounts which the Executive Board deems proper.

(v) Use and expend any sums collected from regular and Special Assessments for the management, operation, maintenance, administration, regulation, repair, replacement, care, upkeep and insurance of all Common Facilities, Controlled Facilities and property, real or personal, of the Association.

(vi) Pay all taxes and assessments levied or assessed against any property that may be owned by the Association, exclusive of any taxes or assessments levied against any Unit or otherwise properly chargeable to an Owner.

(vii) Collect delinquent Assessments, late charges and other charges made by the Association through the Executive Board against any Unit and the Owner thereof, together with the costs and expenses incurred in connection therewith, including, but not limited to, court costs and attorneys' fees, whether by suit or otherwise.

(viii) Cause operating, escrow and other accounts, if any, to be established and opened as the Executive Board may deem appropriate from time to time and as may be consistent with generally accepted accounting practices.

(ix) Adopt a budget for each fiscal year which shall contain estimates of the cost and expenses of the Association. Copies of the budget shall be available to all Owners for inspection during regular business hours at the Association's office. Notwithstanding the foregoing, 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 either such approval.

(x) Within 180 days after the end of each fiscal year prepare an annual financial statement consisting of at least a balance sheet and a statement of revenues and expenses.

(xi) Maintain and keep accounting records and financial records in accordance with generally accepted accounting principles.

(xii) May require, in its discretion, blanket fidelity bonds for all members of the Executive Board, officers, management companies and employees of the Association and all other persons or firms who handle or are responsible for funds of or administered by the Association. The total amount of fidelity bond coverage shall be adequate as determined by the best business judgment of the Executive Board but not be less than the estimated maximum of funds, including reserve funds, in the custody of the Association or the management firm employed by the Association, as the case may be, at any given time during the term of each bond. Such fidelity bonds shall name the Association as an obligee; contain waivers by the issuers of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees," or similar terms or expressions; provide that they may not be canceled or substantially modified (including cancellation for non-payment of premium) without at least ten (10) days' prior written notice to the Association, and to any Posted Mortgagee. The premiums for such fidelity bonds shall be paid by the Association as part of the Common Expenses.

(xiii) Establish depositories for the Association with the bank(s) which shall be designated from time to time by the Executive Board and in which monies of the Association shall be deposited. The Executive Board shall have the power to invest monies of the Association in investments which the Executive Board shall deem to be reasonably prudent in accordance with the Act.

(xiv) Keep the Common Facilities, Controlled Facilities (as the case may be), fixtures, equipment and personal property owned by the Association insured, as provided in the Declaration, for the benefit and protection of the Owners and the Association. The Executive

Board shall have the power to name as an insured, on behalf of the Association, the Association's authorized representative, including any trustee with whom the Association may enter into any Insurance Trust Agreement or any successor to such trustee (each of whom shall be referred to herein as the "Insurance Trustee"), who shall be given exclusive authority to negotiate losses under any policy providing property or liability insurance. The Association, by its Executive Board, shall be required to receive, hold or otherwise properly dispose of any proceeds of insurance in trust for Owners and their respective Posted Mortgagees, as their interests may appear, in accordance with the Declaration and the Act. The Association, or any Insurance Trustee or substitute Insurance Trustee designated by the Association, shall have the power to act as attorney-in-fact for the purpose of purchasing and maintaining such insurance, including: the collection and appropriate disposition of the proceeds thereof; the negotiation of losses and execution of releases of liability; the execution of all documents; and the performance of all other acts necessary to accomplish such purposes.

(xv) All duties required by the Act or the Declaration.

(b) Powers:

(i) Employ and dismiss such personnel or independent contractors, and to purchase or arrange for services, materials and supplies, which, in the opinion of the Executive Board, may be necessary from time to time for the proper management, operation, maintenance, administration, regulation, repair, replacement, care, upkeep and insurance of the Common Facilities and Controlled Facilities.

(ii) Enter into a contract for professional management of the Community and the Association, at a price and upon terms determined by the Executive Board, to perform those duties and services which the Executive Board may lawfully delegate.

(iii) Employ or retain and receive advice from professional counsel and consultants which the Executive Board may deem proper for any purpose of the Association, and to fix the compensation for professional advice or services.

(iv) Make and enforce compliance with reasonable Rules and Regulations, including, but not limited to, penalties to be levied for violations of these Bylaws, the Declaration and any Rules and Regulations which the Executive Board shall adopt, and to amend the same from time to time as and when approved by appropriate resolutions which shall be binding on the Owners and occupants of Units, their successors and assigns.

(v) Create committees from time to time as the Executive Board shall deem appropriate and to delegate to these committees various duties and powers subject to the ultimate responsibility and authority of the Executive Board.

(vi) Borrow and repay monies, give notes, mortgages or others security, upon the term or terms which are deemed necessary by the Executive Board.

(vii) Sell, transfer or otherwise convey real and personal property owned by the Association by deed or bill of sale executed by the appropriate officers of the Association,

provided that eighty percent (80%) of the Owners approve any such sale, transfer or other conveyance.

(viii) Acquire by purchase, gift, bequest, devise, annexation, or lease real property, if, at any time in the future, it deems it to be proper and not inconsistent with the terms hereof to do so; provided that eighty percent (80%) of the Owners approve the acquisition.

(ix) Abate nuisances and enforce observance of the Declaration, these Bylaws and any Rules and Regulations relating to the Community, by injunction or any other legal action or means which the Executive Board may deem necessary or appropriate.

(x) Do all things incidental and necessary to the accomplishment of the above.

The duties and powers imposed on the Executive Board by this Section shall not be amended so as to reduce or eliminate any duties or powers of the Executive Board without the affirmative vote of at least eighty percent (80%) of Owners entitled to vote.

**Section 5.15. Conduct of Meetings.** The President shall preside over all meetings of the Executive Board and the Secretary shall keep a minute book of the Executive Board, recording therein all resolutions adopted by the Executive Board and a record of all transactions and proceedings occurring at such meetings.

## **ARTICLE VI- OFFICERS**

**Section 6.01. Officers.** The officers of the Association shall be a President, Secretary and Treasurer. The Secretary may be eligible to hold the office of Treasurer. The President shall be a member of the Executive Board. The Secretary and Treasurer need not be members of the Executive Board.

**Section 6.02. Election.** The officers of the Association shall be elected annually by the Executive Board at the organizational meeting held pursuant to these Bylaws and shall hold office until their successors are elected or appointed by the Executive Board; provided that each officer shall hold office at the pleasure of the Executive Board and may be removed either with or without cause and his or her successor elected at any annual or special meeting of the Executive Board called for this purpose, upon the affirmative vote of a majority of the Board Members. The Executive Board may appoint from time to time other officers which in its judgment are necessary. Any officer may resign at any time by giving written notice to the Executive Board or to the President or Secretary of the Association. Any resignation shall take effect as of the date of the receipt of the notice or any later time specified therein and, unless otherwise specified therein, the acceptance of the resignation shall not be necessary to make it effective.

**Section 6.03. Vacancies.** A vacancy in any office because of death, resignation, removal, disqualification or any other cause shall be filled in the manner prescribed in these Bylaws for regular appointments to that office.

**Section 6.04. President.** The President shall be the chief executive officer of the Association and shall preside at all meetings of the Association and of the Executive Board. He or she shall have the general powers and duties usually vested in the office of the president of a community association, including, but not limited to, the power to appoint ad hoc committees from among the Owners from time to time as he or she may deem appropriate to assist in the conduct of the affairs of the Association. The President shall be an ex-officio member of all committees. He or she shall execute all amendments to the Declaration, deeds, contracts and other instruments in the name and on behalf of the Association and under its corporate seal when a seal is required, except when these documents are required or permitted by law to be otherwise executed and except when the signing and execution thereof shall be delegated by the Executive Board to another officer or agent of the Association.

**Section 6.05. Secretary.** The Secretary shall attend all meetings of the Executive Board and all meetings of the Association and record all votes and the minutes of all meetings and proceedings, including resolutions, in the minute book, and shall perform these duties for any committees when required. He or she shall have charge of the minute book and the records and papers which the Executive Board shall direct and shall perform all duties incident to the office of Secretary, including the sending of notices of meetings to the Owners, the Board Members and committee members, and all other duties which may be prescribed by these Bylaws, the Declaration or by the Executive Board or the President. He or she shall also have custody of the corporate seal, and, when authorized by the Executive Board, shall affix the same to any instrument requiring it and attest the same when appropriate. The Secretary may keep or cause to be kept at the principal office of the Association, a membership register showing the following: (a) the names and addresses of all Board Members; (b) the names and addresses of all Owners; and (c) the Unit as to which each ownership relates.

**Section 6.06. Treasurer.** The Treasurer shall have responsibility for the Association's funds and securities, and shall keep full and accurate accounts of receipts and disbursements in books belonging to the Association, and shall deposit all monies, checks and other valuable effects in the name and to the credit of the Association, in depositories which may be designated from time to time by the Executive Board. He or she shall disburse the funds of the Association which may be ordered from time to time by the Executive Board or by the President to disburse, and shall render to the President and the Board Members at the regular meetings of the Executive Board, or whenever they or either of them shall require, an account of his transactions as Treasurer and of the financial condition of the Association. Nothing shall prohibit the functions of the Treasurer to be delegated to a management company for the Association provided this delegation is approved by resolution of the Executive Board. The delegation of the duties of the Treasurer shall not relieve the Treasurer from any responsibility related to overseeing and reviewing any duties performed by the management company.

**Section 6.07. Compensation.** The officers of the Association shall serve without compensation except that they shall be entitled to reimbursement for all expenses reasonably incurred by them in the discharge of their duties.

## ARTICLE VII - AMENDMENTS TO BYLAWS

**Section 7.01. Amendments to Bylaws.** Except as otherwise provided herein, these Bylaws may be amended from time to time by the affirmative vote, present in person, by mail ballot or by proxy at a meeting of the Association of at least eighty percent (80%) of the Owners.

## ARTICLE VIII-TERMINATION

**Section 8.01. Termination.** In the event the Community is terminated in its entirety, the Association shall remain in existence until the distribution of assets, allocation of interests and all other aspects of the termination have been completed.

## ARTICLE IX - MISCELLANEOUS

**Section 9.01. Fiscal Year.** The fiscal year of the Association shall be the calendar year.

**Section 9.02. Construction.** Number and gender, as used in these Bylaws, shall extend to and include both singular and plural and all genders as the context and construction require.

## ARTICLE X – MEDIATION

**Section 10.01. Disputes.** Any disputes between or among the Association, any Unit Owner or Owners, the Executive Board or any officer or Executive Board member, and relating to the Community, the Declaration, these Bylaws, and/or the use or condition of the Property, other than disputes regarding claims by the Association against a Unit Owner for collection of General Common Expense assessments, Limited Common Expense assessments and/or Special Assessments (any of which is called an “**Association Claim**”) shall be subject to the following provisions:

(a) **Notice.** Any person or entity with an Association Claim (the “**Claimant**”) shall notify the adverse party or parties (collectively, the “**Adverse Party**”) in writing of the claim, which writing shall describe the nature of the claim and the proposed remedy (the “**Claim Notice**”).

(b) **Right to Inspect and Right to Corrective Action.** Within a reasonable period after receipt by the Adverse Party of the Claim Notice, which period shall not exceed sixty (60) days, the Adverse Party and the Claimant shall meet at a mutually-acceptable place to discuss the claim. The parties shall negotiate in good faith in an attempt to resolve the Association Claim. If the Adverse Party elects to take any corrective action to which the Claimant has consented, the Adverse Party and its representatives and agents shall be provided full access to take and complete such corrective action, if necessary.

(c) **Non-Binding Mediation.**

(i) If the parties cannot fully resolve the Association Claim pursuant to the procedures described in Section 10.01(b) above, and the parties are in agreement to utilize the mediation provided for in this Section 10.01(c), the unresolved portion of the Association

Claim shall be submitted to non-binding mediation pursuant to the mediation procedures adopted by the American Arbitration Association or any successor thereto or to any other entity offering mediation services that is acceptable to the parties. No person shall serve as a mediator in any dispute in which such person has any financial or personal interest in the result of the mediation, except with the written consent of all parties. Prior to accepting any appointment, the prospective mediator shall disclose any circumstances likely to create a presumption of bias or prevent a prompt commencement of the mediation process.

(ii) Within ten (10) days after the selection of the mediator, each party shall submit a brief memorandum setting forth its position with regard to the issue or issues to be resolved. The mediator shall have the right to schedule a pre-mediation conference and all parties shall attend unless otherwise agreed. The mediation shall commence within ten (10) days following the submittal of all such memoranda and shall conclude within fifteen (15) days from the commencement of the mediation unless the parties mutually agree to extend the mediation period. The mediation shall be held in Lehigh County or at such other place as is mutually acceptable to the parties.

(iii) The mediator has discretion to conduct the mediation in the manner in which the mediator believes is most appropriate for reaching a settlement of the dispute. The mediator is authorized to conduct joint and separate meetings with the parties and to make oral or written recommendations for settlement. Whenever necessary, the mediator may also obtain expert advice concerning technical aspects of the dispute, if the parties agree and assume the expenses of obtaining such advice. The mediator does not have the authority to impose a settlement on the parties.

(iv) Prior to the commencement of the mediation session, the mediator and all parties to the mediation shall execute an agreement for the purpose of excluding the use of any testimony or evidence produced at the mediation in any subsequent dispute resolution forum, including (but not limited to) court proceedings. Such agreement shall provide that evidence of anything said or of any admission made in the course of the mediation is not admissible evidence, and disclosure of any such evidence shall not be compelled in any civil action in which, pursuant to law, testimony can be compelled to be given. No document (or copy thereof) prepared for the purpose of, or in the course of, or pursuant to, the mediation shall be admissible in evidence unless such document states otherwise; and disclosure of any such document may not be compelled in any civil action in which, pursuant to law, testimony can be compelled to be given.

(v) Persons other than the parties, their representatives and the mediator may attend mediation sessions only with the permission of all parties and the consent of the mediator. Confidential information disclosed to a mediator by the parties or by witnesses in the course of the mediation shall not be divulged by the mediator. All records, reports, or other documents received by the mediator while serving in such capacity shall be confidential. There shall be no stenographic record of the mediation process.

(vi) The expenses of witnesses for either side shall be paid by the party producing such witnesses. All other expenses of the mediation, including required traveling and other expenses of the mediator, and the expenses of any witnesses, or the cost of any proofs or

expert advice, produced at the direct request of the mediator, shall be borne equally by the parties unless they agree otherwise.

(d) **Judicial Reference.** If the parties do not agree to utilizing the mediation process and/or cannot fully resolve the Association's Claim pursuant to the procedures described in the foregoing subsections of this Section 10.01, the parties shall have the right to pursue a private cause of action or seek other relief as each deems fit.

(e) **General.** Notwithstanding any other provision herein to the contrary, in any dispute with respect to an Association Claim, each party shall bear its own attorneys' and experts' fees. Except in the event of a settlement between or among the parties to the mediation, the fees and expenses of the mediator and the costs and expenses of mediation shall be split evenly between the parties. Any and all communications by and between the parties, whether written or oral, which are delivered by the parties or their attorneys or other representatives in an effort to settle an Association Claim shall be considered communications undertaken in the course of effecting a settlement or compromise and as such shall not be admissible as the admission on the part of any party or any representative or agent of that party to be utilized for any such purpose in any action or proceeding. Nothing in this Section 10.01 shall be considered to reduce or extend any applicable statute of limitations or statute of repose.

**Section 10.02. Non-Waiver.** Nothing in this Article X shall be construed to affect or impair the right of a Unit Owner, Declarant or the Association to pursue a private cause of action or seek other relief as such party sees fit.

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