

BYLAWS OF BLAKELY PARK POA, INC.

ARTICLE 1 INTRODUCTORY PROVISIONS

§ 1.1 **Establishment:** These Bylaws govern the Blakely Park POA, Inc., a non-stock corporation duly formed under the provisions of the Virginia Non-stock Corporation Act, Chapter 10, Title 13.1 of the Code of Virginia (the Code), and a Property Owner's Association existing under the Virginia Property Owners Association Act, Chapter 26, Title 55 of the Code, Covenants (as defined below) and any supplements thereto.

§ 1.2 **Definitions:** The following definitions shall apply throughout these bylaws:

- a) **"Act"** shall mean and refer to the Virginia Property Owners' Association Act (Va. Code §§ 55-508 through 55-516.2 (1950 as amended)).
- b) **"Association"** shall mean and refer to Blakely Park POA, Inc. and its successors and assigns.
- c) **"Common Areas"** shall mean and refer to all portions of the Property and all interests therein, including easements and improvements, owned or leased by the Association for the use and enjoyment of the Owners.
- d) **"Covenants"** shall mean and refer to the provisions of the Declaration of Covenants, Conditions, Reservations and Restrictions for Blakely Park, dated July 14, 2009 and recorded in the Clerk's Office of the Circuit Court of Rockingham County, Virginia in Deed Book 3557 at page 145, and all supplements thereto.
- e) **"Declarant"** shall mean ROBADA, LLC and its successors and assigns, but shall not include the purchaser of any Lot.
- f) **"Lot"** shall mean and refer to any plot of land shown upon any recorded subdivision map of the Property.
- g) **"Owner"** shall mean or refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot, whether acquired by purchase, gift, foreclosure or otherwise, but excluding those persons or entities having such interest merely as a security for the performance of an obligation. For purposes of these bylaws, the Declarant is an Owner so long as he owns any Lot or land which may be added to the Property. The address of an Owner (or Owners in case a Lot is owned by more than one person) for the purpose of notices required herein shall be the address on the tax records of the City of Harrisonburg, Virginia, unless an Owner notifies the Association of a different address in writing.
- h) **"Property"** shall mean and refer to the property, more specifically to be known and designated as Lots 12, 13, 14, and 15 inclusive, as shown on the plat of Blakely Park, Section One dated June, 11 2009, by Simmons Surveying, P.C., Land Surveyor, to be recorded in the Clerk's Office of the Circuit Court of Rockingham County, Virginia and all other Sections of Blakely Park which may later be made a portion of this

Development. The Declarant reserves the right to add additional adjoining real estate to come under the authority and control of the Association.

ARTICLE 2

ADOPTION

§ 2.1 In accordance with Section 13.1-822 of the Code, these Bylaws shall become effective upon ratification, approval and formal adoption by the Board of Directors of the Association at its organizational meeting or any subsequent meeting.

ARTICLE 3

EMERGENCY BYLAWS

§ 3.1 In the event that a quorum of the Association's Board of Directors cannot readily be assembled because of some catastrophic event, the Board of Directors of the Association may, consistent with Section 13.1-824 of the Code, adopt other bylaws to be effective only in such an emergency, which bylaws shall be subject to amendment or repeal by the members of the Association, and shall provide procedures for calling a meeting of the Board of Directors, quorum requirements for the meeting, and designation of additional or substitute directors, as well as other provisions necessary for managing the Association during such emergency. All provisions of these Bylaws consistent with such emergency bylaws shall remain effective during such emergency. Such emergency bylaws shall not be effective after such emergency ends. Corporate action taken in good faith in accordance with such emergency bylaws shall bind the Association and may not be used to impose liability on a director, officer, employee, or agent of the Association.

ARTICLE 4

CORPORATE POWERS

§ 4.1 Subject to the Association's Articles of Incorporation and Section 528 of the Internal Revenue Code of 1986, as amended, the Association shall have the same powers as an individual to do all things necessary or convenient to carry out its business and affairs, including, without limitation, those enumerated in Section 13.1-826 of the Code. In the event of an emergency as described in Article III immediately preceding, the Board of Directors shall have those emergency powers enumerated in Section 13.1-827 of the Code.

ARTICLE 5

NONSTOCK CORPORATION

§ 5.1 In accordance with Section 13.1-814 of the Code, the Association shall not issue shares of stock. No dividend shall be paid and no part of the income of the Association shall be distributed to its members, directors, or officers, except that the Association may make distributions to another nonprofit corporation that is a member of the Association or has the power to appoint one or more of its directors. The Association may pay compensation in a reasonable amount to its members, directors, or officers for services rendered, including pensions, may confer benefits upon its members in conformity with its purposes, and may make distributions as permitted by applicable law upon dissolution or final liquidation and no such payment, benefit or distribution shall be deemed to be a dividend or a distribution of income.

ARTICLE 6
THE ASSOCIATION

§ 6.1 Annual Meeting: The annual meeting of the Association shall be held during the month of November at such time and place as determined by the Board of Directors. Directors of the Association shall be elected at the annual meeting of the Association according to the provisions of Sections 6.6 and 7.1 hereof, however, the Declarant shall appoint all of the Directors until such time as the last Lot has been sold. Meetings of the Association may be held at any place convenient to the members as determined by the Board of Directors.

§ 6.2 Special Meetings: Special meetings of the Association may be called as follows:

- a) by resolution of the Board of Directors;
- b) at the request of the owners of a majority of Lots; or
- c) while the Declarant owns any Lot, at the Declarant's request.

Such resolution, petition or request must:

- 1) specify a date on which the meeting is to be held, which date must provide the Secretary sufficient time to comply with the notice provisions of these Bylaws, or specify that the Secretary shall designate the date of the meeting;
- 2) specify the purpose or purposes for which the meeting is called; and
- 3) be delivered to the Secretary or President.

§ 6.3 Notice of Association Meetings: The Secretary shall notify all Owners at least fourteen (14) days in advance of any annual or regularly scheduled meeting, and at least seven (7) days in advance of any other meeting. Notices shall specify the date, time and place of all meetings and the purposes of any special meeting. Notices shall be sent by United States mail to all Owners at the address of their respective Lots or to such other address as an Owner may provide in writing to the Secretary. The Secretary may hand deliver notices provided the Secretary certifies in writing that notice was delivered to the Owner.

§ 6.4 Quorum: Except as otherwise provided in these Bylaws, the presence in person or by proxy of a sufficient number of Owners entitled to cast **twenty percent (20%)** of the votes in the Association at the beginning of any meeting of the Association shall constitute a quorum throughout that meeting.

§ 6.5 Proxies: The votes appertaining to any Lot may be cast by proxy or proxies duly executed by or on behalf of the Owner, or, in cases where the Owner is more than one person, by or on behalf of all such persons. No such proxy shall be revocable except by actual notice from the Owner or any of such persons to the person presiding over the meeting that the proxy is revoked. Any proxy shall be void if it is not dated, if it purports to be revocable without notice, or if the signatures of any of those executing the same have not been witnessed by a person who shall sign his full name and address. The proxy of any Owner shall be void if not signed by a person having authority at the time of the execution thereof to execute deeds on behalf of that Owner. All proxies shall terminate after the first meeting held on or after the date of the proxy or any recess or adjournment of that meeting. The proxy shall include a brief explanation of the effect of leaving the proxy uninstructed. Any uninstructed proxy without such an explanation shall be deemed to i) direct the proxy agent to vote in favor of all recommendations of the Board of Directors; and ii) grant the proxy agent authority to vote on any other matters at his discretion.

§6.6 Voting: Class A members shall be entitled to one (1) vote for each Lot owned. When a Lot is owned by more than one person or entity, the one (1) vote for such Lot may be cast by any co-owner thereof unless an objection or protest by another co-owner is made prior to the completion of a vote. Upon such objection or protest, the one (1) vote shall be cast according to the majority vote (based on each co-owner's percentage ownership interest) of the co-owners of such Lot, but in no event shall more than one (1) vote be cast with respect to any Lot.

The Class B member shall be entitled to three (3) votes for each Lot it owns.

If title to a Unit is in the name of a legal entity other than a natural person, the Owner shall give written notice to the Secretary of the names of one or more natural persons authorized to vote on behalf of such Owner, which notice may be revised from time to time.

All matters shall be determined by a majority vote unless a different margin is specified by law, the Covenants or these Bylaws.

No Owner may vote if he or his Lot has an outstanding indebtedness to the Association exceeding one month's regular assessment (or the equivalent if not paid monthly) at the time of the meeting or election unless such indebtedness arises at the meeting at which elections are held.

All votes shall be tallied by the President or other person so designated by the President.

§ 6.7 Conduct of Meetings: The President shall preside over all meetings of the Association. If the President is not present, a presiding officer shall be selected by the Owners in attendance. The Secretary shall keep minutes of all meetings and record in a minute book all resolutions adopted and all transactions occurring at such meetings. If the presiding officer's conduct of the meeting is questioned, then the meeting shall be adjourned and reconvened immediately to be conducted in accordance with the current edition of *Robert's Rules of Order*. All meetings shall be conducted in accordance with the Act, the Covenants and these Bylaws.

§ 6.8 Association Records: The Association shall keep detailed records of receipts and expenditures affecting the operation and administration of the Association. All financial books and records shall be kept in accordance with generally accepted accounting practices. All books and records kept by or on behalf of the Association including, without limitation, the Association's membership list and addresses, shall be available for examination and copying by a member in good standing or his authorized agent so long as the request is for a proper purpose related to his membership in the Association. This right of examination shall exist without reference to the duration of membership and may be exercised (i) only during reasonable business hours or at a mutually convenient time and location and (ii) upon five (5) days' written notice reasonably identifying the purpose for the request and the specific books and records of the Association requested.

Books and records kept by or on behalf of the Association may be withheld from inspection and copying to the extent they concern matters identified in Section 7.6 below or other matters excludible from inspection by law.

Prior to providing copies of any books and records to a member in good standing, the Association may impose and collect a charge, reflecting the reasonable costs of materials and labor, not to exceed the actual costs thereof.

ARTICLE 7
BOARD OF DIRECTORS

§ 7.1 Number and Qualification: The business and affairs of the Association shall be managed under the direction of a Board of Directors of three (3) persons who shall be Owners or representatives of Owners who are not natural persons. Directors shall be elected by the members at each annual members' meeting in the manner provided herein; provided however, that the Declarant shall appoint all of the Directors until such time as the last Lot has been sold. No Owner may be elected as a director if he or his Lot has an outstanding indebtedness to the Association exceeding one month's regular assessment (or the equivalent if not paid monthly) at the time of the meeting or election unless such indebtedness arises at the meeting at which elections are held. Directors shall serve three (3) year terms and remain in office until their successors are elected.

The terms of the directors shall be staggered, by dividing the total number of directors into three (3) groups, Group I, Group II and Group III. The groups shall be as nearly equal in number as possible. The directors of the first group (Group I) shall hold office for a one-year term; the directors of the second group (Group II) shall hold office for a two-year term; and the directors of the third group (Group III) shall hold office for a three-year term. Thereafter, the successors to each group of directors shall serve three-year terms. Whenever the number of directors is changed, any newly created directorships or any decrease in directorships shall be so apportioned among the Groups by the Board of Directors so as to make all groups as nearly equal as possible.

§ 7.2 Powers and Duties: The Board of Directors shall be the executive organ of the Association and shall have all the powers and responsibilities assigned to the Association by the Act or the Covenants. Any decision of the Board shall be decided by a majority vote of the directors in attendance at a meeting at which a quorum is present, unless a different vote is required herein.

The Board of Directors shall have the powers set forth in the Act and the Covenants and the power to:

- a) adopt, modify and repeal rules and regulations governing the use of the Common Areas which are not in conflict with any law, ordinance, governmental regulation or provision of the Covenants;
- b) determine and approve expenditures to be made by the Association, provided the aggregate capital expenditures not reimbursable from insurance or condemnation proceeds in any fiscal year shall not exceed \$5,000 without approval by a majority vote at a properly called meeting of the Association at which a quorum is present;
- c) delegate to a committee of one or more Owners the authority to act on behalf of the Board on such matters as the Board designates, which arise between meetings of the Board;
- d) employ and dismiss any person or entity and purchase equipment, supplies and materials;
- e) prepare the annual budget;
- f) assess fees and assessments (both regular and special) against Lots to pay all common expenses; establish the means and methods of collecting such fees and assessments; and, to the extent not fixed by the Bylaws, establish the dates or intervals at which such fees and assessments or installments thereof shall become due;

- g) collect fees and assessments from Owners, deposit the proceeds thereof in bank depositories designated by the Board of Directors and use the proceeds to pay all Association expenses;
- h) open bank accounts on behalf of the Association and designate the signatories thereon;
- i) borrow money on behalf of the Association; provided, however, approval by a majority vote at a properly called meeting of the Association at which a quorum is present shall be required to borrow at any one time a sum in excess of \$3,000.00 or any sum which would cause the total unpaid principal balance of all outstanding loans to exceed \$15,000.00;
- j) obtain and carry insurance against casualties and liabilities of the Association, pay the premiums thereon and adjust and settle claims against the Association;
- k) pay any taxes, charges and assessments which are or may become liens against any of the Common Areas;
- l) provide or contract for the upkeep of the Common Areas, including upkeep made necessary by damage or destruction by fire or other casualty or as a result of condemnation or eminent domain proceedings;
- m) enforce, by legal means if necessary, the Covenants, these Bylaws and the rules and regulations adopted by the Association;
- n) do such other things and acts not inconsistent with the Act, the Covenants or other applicable law which the Board of Directors deems necessary for the proper operation of the Association; and
- o) furnish the disclosure statement required by § 512 of the Act within fourteen (14) days (or such other time period as may be provided in the Act) after receipt of a written request from any Owner or his agent.

§ 7.3 Meetings and Notice: Regular meetings of the Board of Directors shall be held at such times and places as determined from time to time by the Board. Special meetings of the Board shall be held when called by the President or by a majority of the directors. Notice of regular meetings shall be given to each director by mail, facsimile, telephone or hand delivery at least ten (10) business days prior to the meeting date. Notice of special meetings shall be given to each director by mail, facsimile, telephone or hand delivery at least five (5) business days prior to the meeting date. Notice of a regular or special meeting may be waived by any director in writing either before or after the meeting. A director's attendance at any meeting of the Board of Directors shall constitute a waiver of notice by that director, unless such director attends for the specific purpose of challenging such notice.

All meetings of the board of directors, including any subcommittee or other committee thereof, shall be open to all members of record. The board of directors shall not use work sessions or other informal gatherings of the board of directors to circumvent the open meeting requirements of this section or § 55-510 of the Act. Minutes of the meetings of the board of directors shall be recorded and shall be available as provided in subsection B of § 510 of the Act.

Notice of the time, date and place of each regular meeting of the Board of Directors shall also be published where it is reasonably calculated to be available to a majority of the Owners and shall be sent by first-class mail or electronic mail to any Owner requesting such notice. Notice, reasonable under the circumstances, of special or emergency meetings shall be given to Owners contemporaneously with the

notice provided to directors. Owners may request to be notified on a continual basis of any Board of Directors meetings. Any such request must be made at least once a year in writing and include the Owner's name, address, zip code, and any appropriate electronic mail address.

§ 7.4 Quorum: A majority of the directors present in person at the beginning of any meeting shall constitute a quorum for the transaction of business throughout such meeting. For purposes of determining a quorum, a director is "present in person" if attending by telephone conference, video conference or similar electronic means, subject to the provisions of **Section 7.5(e)** hereof.

§ 7.5 Conduct of Meetings:

- a) The President shall preside over all meetings of the Board of Directors and the Secretary shall keep a record of all transactions and proceedings occurring at meetings. Meetings of the Board of Directors shall be conducted in such format as determined by the Board of Directors provided such format is in accordance with the Declaration and the Act. If the Board of Directors cannot agree on a format, the current edition of *Robert's Rules of Order* shall govern. The act of a majority of the directors in attendance at a meeting at which a quorum is present shall be the act of the Board of Directors. The presiding officer may vote on any action.
- b) Except as provided in **Section 7.6** below, all meetings of the Board of Directors shall be open to all Owners of record. The Board shall not use work sessions or other informal gatherings of the directors to circumvent the open meeting requirements of this section. Minutes shall be recorded and shall be available to Owners as provided by § 510 of the Act.
- c) Unless otherwise exempt as relating to an executive session pursuant to **Section 3.6** below, at least one (1) copy of all agenda packets and materials furnished to the directors for a meeting shall be made available for inspection by the members of the Association at the same time such documents are furnished to the directors.
- d) Any Owner may record any portion of a meeting required to be open. The Board of Directors may adopt rules governing the placement and use of equipment necessary for recording a meeting to prevent interference with the proceedings.
- e) If a meeting is conducted by telephone conference, video conference or similar electronic means, at least two directors shall be physically present at the meeting place designated in the notice. The audio equipment shall be sufficient for any physically present director to hear what is said by any director participating by electronic means and vice-versa.
- f) The Board shall not vote by secret or written ballot in an open meeting, except for the election of officers.

§ 7.6 Executive Sessions: The Board of Directors may convene in executive session upon the affirmative vote of the directors in an open meeting to:

- a) consider personnel matters;
- b) consult with legal counsel;
- c) discuss and consider contracts;
- d) discuss and consider probable or pending litigation;

- e) discuss and consider matters involving violations of the Act, the Covenants, these Bylaws or rules and regulations for which an Owner, his family members, tenants, guests or other invitees are responsible; or
- f) discuss and consider the personal liability of Owners to the Association;

The motion shall state specifically the purpose for the executive session. Reference to the motion and the stated purpose for the executive session shall be included in the minutes. The Board of Directors shall restrict the consideration of matters during such portions of meetings to only those purposes specifically exempted and stated in the motion. No contract, motion or other action adopted, passed or agreed to in executive session shall become effective unless the Board, following the executive session, reconvenes in open meeting and takes a vote on such contract, motion or other action which shall have its substance reasonably identified in the open meeting. The requirements of this paragraph shall not require the disclosure of information in violation of law.

§ 7.7 Compensation: No director shall receive any compensation from the Association for serving as a director. Directors may be reimbursed for reasonable expenses made on behalf of the Association or incurred while acting on behalf of the Association.

§ 7.8 Removal of Directors: A director may be removed only with cause by a majority vote at a meeting of the Association, properly called for the express purpose of considering a director's removal, at which meeting a quorum is present. When a director is removed pursuant to this section, his successor shall be elected (subject to the requirements of Section 7.1) at the same time by majority vote of the Association, however, the Declarant shall appoint all of the Directors until such time as the last Lot has been sold and Declarant shall have the power to unilaterally remove a director for any reason and without the formality of a meeting. The new director shall serve the remainder of the term of the director replaced.

§ 7.9 Vacancies: When a vacancy in the Board of Directors is caused by death, resignation or any other reason (except removal pursuant to Section 7.8 of these Bylaws), the vacancy shall be filled by a majority vote of the remaining directors, even if less than a quorum remains, however, the Declarant shall appoint all of the Directors until such time as the last Lot has been sold. The individual so elected/appointed shall serve the remainder of the term of the director replaced (unless removed under Section 7.8).

ARTICLE 8

OFFICERS

§ 8.1 Number: The officers of the Association shall consist of the President, Secretary and Treasurer. Such officers shall be elected annually by the Board of Directors. The Board of Directors may, from time to time, elect such other officers and designate their powers and duties. All officers may be removed with or without cause by a majority vote of the Board of Directors. One person may simultaneously hold more than one office.

§ 8.2 Duties:

- a) **President:** The President shall be the Chief Executive Officer of the Association. The President shall have all of the powers and duties usually vested in the office of the president of any association and those assigned by the Board of Directors.
- b) **Secretary:** The Secretary shall keep the minutes and record the resolutions of all Association and Board of Directors meetings; give notices to each Owner of each Association meeting; notify each Owner of assessments against his/her Lot as soon

as possible after the assessment is made; give any other notice to Owners and others required by the Covenants, these Bylaws or the Act; permit any Owner to inspect and copy (at a reasonable cost), at reasonable times and by appointment, the minutes of Association and Board of Directors proceedings; be custodian of the Association seal and affix the same to instruments requiring a seal; and perform all other duties incident to the office of secretary and as may be assigned by the Board of Directors.

- c) **Treasurer:** The Treasurer shall have custody of all of the property of the Association including funds, securities and evidences of indebtedness; keep or supervise the keeping of assessment rolls and the accounts of members; keep the books of the Association showing detailed records of the receipts and expenditures of the Association in accordance with generally accepted accounting practices, which records shall specify the maintenance and repair expenses of the common elements; receive and deposit in appropriate insured accounts with financial institutions all income and receipts of the Association; disburse the funds of the Association in accordance with resolutions of the Board of Directors and Association; make all books and records available for inspection and copying (at a reasonable cost) by any Owner at reasonable times and by appointment; and perform all other duties incident to the office of treasurer and as may be assigned by the Board of Directors.

§ 8.3 Contracts: All agreements, contracts, deeds, leases and other instruments for obligations of the Association shall be executed by the President or any other officer designated by resolution of the Board of Directors.

§ 8.4 Compensation: No officer shall receive any compensation for acting as an officer. Officers may be reimbursed for reasonable expenses made on behalf of the Association or incurred while acting on behalf of the Association.

§ 8.5 Vacancies: Vacancies in any office shall be filled by majority vote of the Board of Directors at a special meeting held for such purpose. Each person so elected shall hold office for the remainder of the replaced officer's term and until a successor is elected at the next annual meeting of the Board of Directors.

ARTICLE 9

ARCHITECTURAL CONTROL COMMITTEE

§ 9.1 The Architectural Control Committee (ACC) shall be composed of three (3) members. The members of the ACC shall be chosen by the Declarant until the last Lot has been sold. Thereafter, the Committee shall be elected by the Owners at the Annual Meeting of the Association or a meeting called for the purpose of electing ACC members. Members of the ACC may, but need not be Owners. However, no Owner with an outstanding indebtedness to the Association exceeding one month's regular assessment (or the equivalent if not paid monthly) at the time of the election may serve on the ACC. Members of the ACC may be directors or officers of the Association.

§ 9.2 The ACC shall meet as needed to review proposed improvements to Lots. The Secretary shall provide similar notice of ACC meetings as provided for Board of Directors meetings. The ACC shall issue a statement of approval or rejection of proposed improvements within forty-five (45) days after such proposed improvements are submitted to the ACC for review. Notification of total or partial disapproval shall include the reasons for such disapproval. In the event the ACC fails to approve, modify, or disapprove, in writing, a correctly filed application within forty-five (45) days, approval will

deemed granted. Failure of the ACC or the Board of Directors to enforce the architectural standards or to notify an Owner of noncompliance with architectural standards or approved plans for any period of time shall not constitute a waiver by the ACC or the Board of Directors of the enforcement of this Declaration at any later date.

§ 9.3 The ACC may require the submission of plans and specifications for proposed improvements to any Lot, including, without limitation, buildings, fences and additions, changes or alterations to any existing improvements. Such plans and specifications shall be sufficient to show the location, nature, kind, shape, height and materials to be used of and for such proposed improvements.

§ 9.4 The ACC may base its approval or disapproval of plans and specifications upon any grounds it deems sufficient, including purely aesthetic considerations. The ACC shall not be bound to approve any proposed building or improvement solely because it complies with the Covenants or is comparable in cost, value or appearance to existing buildings and improvements on other Lots. The ACC may however, approve any proposed building or improvement that does not meet the requirements of the Covenants if the ACC determines such deviations are not harmful to the value of adjoining Lots. The ACC shall have no duty to exercise this power, nor shall the ACC shall have authority to permit deviations from Article 8 of the Covenants unless a section of Article 8 specifically grants the ACC the authority to deviate in a particular area.

§ 9.5 The ACC shall develop such procedures, rules and regulations it deems necessary for submission and review of proposed improvements, subject to approval by the Board of Directors. Such procedures, rules and regulations shall be made available to all Owners.

ARTICLE 10

LIABILITY OF DIRECTORS, OFFICERS, AND THE ASSOCIATION

§ 10.1 **Board of Directors and Officers:** To the extent permitted by law, in any proceeding brought by an Owner in the right of the Association or brought by or on behalf of Owners, damages assessed against an officer or director arising out of a single transaction, occurrence or course of conduct shall not exceed \$100; provided, however, that the liability of an officer or director shall not be so limited if the officer or director engaged in willful misconduct or a knowing violation of any criminal or securities law. In addition, the liability of directors and officers shall be limited as provided in § 13.1-870.2 of the Code of Virginia (1950 as amended).

§ 10.2 **Indemnification:** The Association shall indemnify and pay the expenses in advance of any director or officer made a party to a proceeding (including, without limitation, any proceeding by or in the right of the Association in which the director or officer is adjudged liable to the Association) because he is or was a director or officer of the Association against any liability incurred in the proceeding if indemnification and payment would be authorized applying the standards under § 13.1-875 of the Code of Virginia (1950 as amended). This indemnification shall not be exclusive of any other rights to which any director or officer may be entitled including, without limitation, any rights conferred by applicable law or under policies of insurance purchased and maintained by the Association or others, even as to liabilities against which the Association would not have the power to indemnify such director or officer under the provisions of this Article.

The Association may purchase and maintain insurance in such amounts and on such terms and conditions as the Board of Directors may deem reasonable against all liabilities or losses it may sustain in consequence of the indemnification provided for in this Article.

The Board of Directors shall have the power, generally and in specific cases, to indemnify employees and agents of the Association to the same extent as provided in this Article with respect to directors and officers. The Board of Directors shall be empowered by a majority vote of a quorum of

disinterested directors to contract in advance to indemnify any director or officer. The Board of Directors shall further be empowered, by majority vote of a quorum of disinterested directors, to cause the Association to contract in advance to indemnify any person who is not a director or officer who was or is a party to any proceeding by reason of the fact that he is or was an employee or agent of the Association or was serving at the request of the Association as director, officer, employee, or agent of another corporation, partnership, joint venture, trust, employee benefit plan or other enterprise, to the same extent as if such person were a director or officer of the Association.

§ 10.3 The Association: The Association and the Board of Directors shall not be liable to any Owner for failing to provide any required service unless the failure to do so constitutes gross negligence or neglect. Neither the Association nor the Board of Directors shall be liable to any Owner for injury or damage to any person or property caused by natural elements or by any Owner or other person or resulting from electricity, water, snow, ice or other substance which may leak or flow from any portion of the Common Areas. Neither the Association nor the Board of Directors shall be liable to any Owner for loss or damage by theft or otherwise of personal property which may be stored or left anywhere on the Property. No diminution or abatement of any assessments shall be claimed or allowed for inconvenience or discomfort arising from upkeep of the Common Areas or from any action taken by the Association, Board of Directors, officers, Managing Agent (if any) or any Owner which does not comply with any law, ordinance or other governmental regulation or order.

ARTICLE 11

OPERATION OF THE ASSOCIATION

§ 11.1 Common Expenses and Assessments:

- a) ***Fiscal Year:*** The fiscal year of the Association shall be the calendar year.
- b) ***Preparation and Approval of Budget:***
 - 1) At or before the Annual Meeting each year, the Board of Directors shall adopt a budget for the Association containing an estimate of the total amount necessary to pay the cost of (a) upkeep of the Common Areas; and (b) wages, materials, insurance premiums, services, supplies and other common expenses which may be required during the next fiscal year.
 - 2) The budget shall also include such reasonable amounts as the Board of Directors considers necessary to provide working capital, a general operating reserve and reserves for contingencies and replacements.
 - 3) The Board of Directors shall furnish a copy of the budget to any Owner upon written request. The budget shall constitute the basis for determining each Owner's assessment for the common expenses of the Association.

§ 11.2 Regular Assessments: Except as otherwise provided in the Declaration, the total amount of the estimated funds required for the operation and administration of the Association set forth in the budget shall be assessed against each Lot equally. Each Owner shall pay to the Association the annual assessment or installment thereof for his Lot on or before the due date or dates fixed by the Board of Directors. After the end of each fiscal year, an itemized accounting of actual receipts and expenses for the fiscal year shall be furnished to any Owner upon written request.

§ 11.3 Special Assessments: The Association may declare special assessments to cover any expense not provided for by the regular assessments against the Units in the same proportion as regular assessments. Any special assessment in excess of \$200 per Lot per year must be approved by a two-

thirds (2/3) vote at a properly called meeting of the Association at which a quorum is present. Such special assessment shall be payable within the time period determined by the Board of Directors.

§ 11.4 Reserves: The Association shall establish and maintain reasonable reserves for working capital, operations, contingencies, upkeep and replacements. Extraordinary expenditures not originally included in the annual budget which may become necessary during the year shall be charged first against such reserves.

§ 11.5 Failure to Prepare or Adopt the Budget: The Board of Director's failure or delay in preparing or adopting an annual budget for any fiscal year shall not constitute a waiver or release in any manner of any Owner's obligation to pay assessments. In the absence of an annual budget, each Owner shall continue to pay assessments at the rate established for the previous fiscal year.

§ 11.6 Accounts: All sums collected by the Association from any source may be commingled into a single fund.

§ 11.7 Liability for Assessments. Each Owner shall be personally liable, jointly and severally, for all assessments against his/her Lot. No Owner may exempt himself/herself from liability for any assessments by waiver of the use or enjoyment of any of the Common Areas or abandonment of his/her Lot. Prior to or at the time of a conveyance of a Lot, all liens, unpaid charges and assessments against that Lot shall be paid in full and discharged. Except as otherwise provided by law, the purchaser of a Lot shall be jointly and severally liable with the selling Owner for any unpaid assessments against the Lot at the time of recordation of the deed, without prejudice to the purchaser's right to recover from the selling Owner any amounts paid by the purchaser.

§ 11.8 Collection, Late Charges and Interest: The Board of Directors shall take prompt action to collect all assessments more than thirty (30) days past due. Any assessment or charge not paid within five (5) days after the due date shall accrue a late charge in the amount of twenty dollars (\$20.00), or such other amount as may be established from time to time by the Board of Directors. Interest shall accrue on all assessments and charges from the date of delinquency at the judgment interest rate provided by law, or at such other rate as may be set by the Board of Directors.

§ 11.9 Lien for Assessments:

- a) All regular and special assessments together with all other fees and charges imposed by the Association shall be a lien on each Lot as provided in § 516 of the Act. The lien shall be effective, with respect to annual assessments, on the first day of each fiscal year of the Association and, as to special assessments, on the first day of the next month beginning more than ten (10) days after delivery to the Owner of notice of such special assessment. The Association may file or record any notice of such lien which is permitted by law.
- b) In any case where an assessment against an Owner is payable in installments, upon a default by such Owner in the timely payment of any two consecutive installments, the maturity of the remaining total of the unpaid installments of such assessments may be accelerated, at the option of the Board of Directors, and the entire balance of the annual assessment may be declared due and payable in full by written notice to such defaulting Owner.
- c) A lien may be enforced as provided in § 516 of the Act.
- d) The Association may file suit to recover a money judgment for unpaid assessments, fees and charges without waiving the lien securing the same and enforcement of the

lien may be instituted notwithstanding the pendency of any suit to recover a money judgment.

- e) Notwithstanding any provision hereof to the contrary, the lien upon any Lot shall be subordinate to a first deed of trust lien recorded prior to the perfection of the assessment lien and shall in no way affect the rights of the beneficiary so long as the deed of trust was made in good faith and for value received.

§ 11.10 Upkeep:

- a) The Association shall be responsible for all upkeep of the Common Areas unless the upkeep was necessitated or caused by the negligent or willful acts of an Owner or his family, guests or agents, in which event such expense shall be charged and assessed to the responsible Owner. The Association shall not be responsible for the cost of upkeep of any Lot except as expressly provided in the Declaration or unless specifically agreed to by the Association and then, at the expense of the Owner.
- b) Each Owner shall keep his Lot in good order, condition and repair and in clean and sanitary condition at all times.
- c) Notwithstanding the general provisions for maintenance set forth herein, if an Owner fails to comply with the provisions of **Section 7.10(b)**, the Association may pay, on behalf of an Owner, the cost and expense of exterior painting and maintenance, upkeep of the brick, vinyl siding and exterior installation and finish systems on all exterior walls and maintenance to party walls. The affected Owner shall reimburse all such costs and expenses to the Association and the Association shall have a lien on the Lot to secure such payment.

§ 11.11 Additions, Alterations or Improvements by the Association: Except for amounts provided in the annual budget, the Association shall not provide for the upkeep of the Common Areas costing more than three thousand dollars (\$3,000) during any period of twelve (12) consecutive months without prior approval from the Association members. Any item of non-budgeted upkeep costing three thousand dollars (\$3,000) or less during any period of twelve (12) consecutive months may be made by the Board of Directors without approval by the Association. Notwithstanding the foregoing, if, in the opinion of the Board of Directors, such upkeep is exclusively or primarily for the benefit of the Owners requesting the same, such requesting Owners may be assessed in such proportion as they jointly agree or, if they are unable to agree, in such proportion as determined by the Board of Directors.

§ 11.12 Additions, Alterations or Improvements by Owners: No Owner shall make any addition, alteration or improvement in or to his Lot except in accordance with the provisions of the Declaration. The Architectural Control Committee shall answer any written request from an Owner for approval of a proposed addition, alteration or improvement within forty-five (45) days after receipt of such request. If the Board fails to respond within the stipulated time, the request shall be deemed approved unless the Covenants or Act does not permit the proposed addition, alteration or improvement.

§ 11.13 Rules and Regulations: Each Lot shall be occupied and used in compliance with any rules and regulations which may be promulgated by the Association. Copies of the rules and regulations shall be furnished to each Owner. Changes to the rules and regulations shall be conspicuously posted prior to the time the same become effective and copies thereof shall be furnished to each Owner upon written request. The rules and regulations shall not unreasonably interfere with the reasonable conduct of Owners and residents.

§ 11.14 Penalties for Violations: The Association shall have the power to (i) suspend an Owner's right to use facilities or services, including utility services, provided directly through the Association for nonpayment of assessments which are more than sixty (60) days past due, to the extent that access to the Lot through the common elements is not precluded and provided that such suspension shall not endanger the health, safety, or property of any Owner, tenant or occupant; and (ii) assess charges against any Owner for any violation of the Covenants or of the rules or regulations promulgated pursuant thereto for which such Owner or his family members, tenants, guests or other invitees are responsible.

The amount of any charges so assessed shall not exceed fifty dollars (\$50) for a single offense, or ten dollars (\$10) per diem for any offense of a continuing nature, and shall be treated as an assessment against the responsible Owner's Lot under Sections 11.8 and 11.9 of these Bylaws. However, the total charges for any offense of a continuing nature shall not be assessed for a period exceeding ninety (90) days. After the date a lawsuit is filed challenging any such charges, no additional charges shall accrue. If the court rules in favor of the Association, the Association shall be entitled to collect such charges from the date the action was filed as well as all other charges assessed pursuant to this section against the Owner prior to filing of the action.

This Section 11.14 shall not be construed to prohibit the exercise of other powers and responsibilities by the Association or the Board of Directors as contained in the Covenants or these Bylaws.

ARTICLE 12 **INSURANCE**

§ 12.1 Liability Insurance: The Association may obtain a master premises liability insurance policy with a single limit indemnity of not less than One Million Dollars (\$1,000,000) covering personal injury and property damage on or to the Common Areas. The policy shall cover claims against the Declarant, the Association, directors, officers and Architectural Control Committee members. The Association shall not be required, however, to obtain public liability insurance covering accidents occurring on any Lot or outside the subdivision. If available at a reasonable cost, in the Board of Director's sole discretion, the policy may include medical payment coverage.

§ 12.2 Insurance by Owners: Each Owner shall be responsible for obtaining such amounts of the following types of insurance as he deems necessary or desirable:

- a) Hazard insurance on his Lot for his own benefit; and
- b) Liability insurance covering accidents occurring on his Lot.

§ 12.3 Fidelity Bond: The Association may purchase blanket fidelity bonds for anyone who either handles or is responsible for funds held or administered by the Association. In addition, any Managing Agent that handles funds for the Association shall be covered by its own fidelity bond. Except for fidelity bonds that a Managing Agent obtains for its personnel, all such bonds shall name the Association as an obligee. All premiums shall be paid as a common expense. Any fidelity bond shall cover the maximum funds that will be in the custody of the Association or its Managing Agent at any time while the bond is in force and shall include a provision requiring ten (10) days written notice to the Association before the bond can be cancelled or substantially modified for any reason.

§ 12.4 Failure to Purchase: The Association, Board of Directors, Officers, Managing Agent (if any) and Declarant shall have no liability for failing to obtain the coverages required by this Article or

the Declaration if such failure is due to the unavailability of such coverages from reputable insurance companies or if such coverages are available only at demonstrably unreasonable cost.

ARTICLE 13 **MISCELLANEOUS**

§ 13.1 Enforcement. If any Owner fails to comply with any of the terms of the Covenants, these Bylaws, the Act or any applicable rule and regulation as the same may be amended from time to time, the Association shall have the following rights in addition to the remedies provided in § 515 of the Act and any other available remedy:

- a) **Additional Liability.** Each Owner shall be jointly and severally liable for the expense of all upkeep made necessary by his willful or negligent acts, or such acts of any member of his household, tenants or guests. Such liability shall include any increase in casualty insurance rates occasioned by use, misuse, occupancy or abandonment of any or its appurtenances. Nothing contained herein, however, shall be construed as modifying any waiver by any insurance company of its rights of subrogation.
- b) **Costs and Attorneys fees.** In any proceeding arising out of an alleged default by any Owner, the prevailing party shall be entitled to recover the costs of such proceeding including reasonable attorneys' fees including reasonable attorney's fee incident to executing on a judgment or lien.
- c) **No Waiver of Rights.** The failure of the Association or any Owner to enforce any right, provision, covenant or condition granted by the Declaration or the Act shall not constitute a waiver of their right to enforce such right, provision, covenant or condition in the future either against the same or a different Owner or for the same or a different violation. All rights, remedies and privileges reserved or granted to the Association or any Owner pursuant to any term, provision, covenant or condition of the Declaration or the Act shall be deemed to be cumulative and the exercise of any one or more thereof shall not be deemed to constitute an election of remedies nor shall it preclude the party from exercising other available remedies.
- d) **Abating and Enjoining Violations by Owners.** The Association may, in the event of a violation or breach of any of the Declaration (i) enter any Lot on which, or as to which, a violation or breach exists and summarily abate, provide upkeep or remove at the expense of the defaulting Owner, any structure, thing or condition that causes the violation or breach, in which case the Association shall not be deemed guilty in any manner of trespass for such entry; or (ii) enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity the continuance of any such violation or breach.

§ 13.2 Amendment. These bylaws may be amended by majority vote at any properly called meeting of the Board of Directors at which a quorum is present, provided all proposed changes to the Bylaws shall be specifically included in the notice of any Board meeting at which Bylaw changes will be discussed or acted upon.

§ 13.3 Implied Amendments. Any action taken or authorized by the Board of Directors which would be inconsistent with the Bylaws then in effect, but is taken or authorized by the affirmative vote of not less than the number of directors that would be required to amend these Bylaws so that the Bylaws would be consistent with such action, shall be given the same effect as if these Bylaws had been

temporarily amended or suspended to the extent necessary to permit the specific action so taken or authorized.


§ 13.4 **Severability.** If any part of these bylaws shall be found invalid or unenforceable under applicable law, such part shall be ineffective to the extent of such invalidity or unenforceability only, without in any way affecting the remaining parts of such provisions or the remaining provisions of these bylaws.

§ 13.5 **Conflict with Covenants.** If any part of these bylaws shall be found to conflict with the Covenants, the Covenants shall control and any such part shall be ineffective to the extent of such conflict only, without in any way affecting the remaining parts of such provisions or the remaining provisions of these bylaws.

§ 13.6 **Dissolution.** Upon the dissolution of the Association, the Board of Directors shall, after making provision for the payment of all of the liabilities of the Association, dispose of all of the assets of the Association exclusively for the purposes of the Association in such manner, or to such organization or organizations organized and operated exclusively for charitable, religious, and educational purposes as shall at the time qualify as an exempt organization or organizations under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, as the Board of Directors shall determine. Any assets not so distributed shall be distributed by the Circuit Court for the County of Rockingham, Virginia, to any exempt organization or organizations to be used in such manner as in the judgment of such court will best accomplish the general purposes for which this Association was organized.

Adopted at a meeting of the Board of Directors of the Blakely Park POA held after due and proper notice on 8/3/09.

Blakely Park POA

By: 
Its Director