

**Cardinal Ridge Estates  
Dedication of Plat and Declaration of  
Protective Covenants**

**KNOW ALL MEN BY THESE PRESENTS:** That the undersigned, Melbourne Properties, Inc., hereinafter referred to as "Declarant" does hereby declare that all Lots or Tracts identified on the Plats of Cardinal Ridge Estates Subdivision, lying and being situated in Hampshire County, West Virginia,, either recorded contemporaneously with this Declaration or to be recorded in the Office of the Clerk of the County Commission of Hampshire County, West Virginia, shall be subject to the following protective covenants, conditions, and restrictions and easements which shall run with the land and shall be binding upon all subsequent owners thereof:

**ARTICLE I  
DEFINITIONS**

- (1) "Association" shall mean and refer to Cardinal Ridge Estates Property Owners' Association, its successors and assigns.
- (2) "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any lot which is a part of the property, including contract sellers, but excluding those having such and interest merely as security for the performance of an obligation.
- (3) "Property" shall mean and refer to any numbered or lettered plat of land shown upon the recorded subdivision plat of the property.
- (4) "Lot" or "Tract" shall mean and refer to any numbered or lettered plat of land shown upon the recorded subdivision plat of the property.
- (5) "Declarant" shall mean "Grantor/Developer" and refer to its successors and assigns.

**ARTICLE II  
MEMBERSHIP, VOTING RIGHTS, AND OBJECTIVES**

- (1) Every owner of a lot, including lots which may be further subdivided, shall be a member of the Cardinal Ridge Estates Property Owners' Association. Membership shall be appurtenant to and may not be separated from ownership of any lot. There shall be two classes of membership, Class A and Class B. The Declarant shall be the Class A member and shall be entitled to three votes for every lot owned in Cardinal Ridge Estates. All other property owners shall be Class B members and shall be entitled to one vote for each lot owned.

- (2) The Association shall be governed by a Board of Directors of not less than three (3) not more than Five (5) members. The Board of Directors shall be elected by the lot owners, except that the initial Board shall be appointed by the Declarant. The initial Board of Directors shall be responsible for calling the first meeting of the Association to be held not later than January 31, 2006. The initial meeting of the members shall be held at a suitable place to be designated by the Board of Directors in Hampshire County, West Virginia.
- (3) The Cardinal Ridge Estates Property Owners' Association, Inc. is required to secure and maintain a third party liability insurance policy in the principal amount as may be required by the State of West Virginia or Federal law from time to time.
- (4) The Duties and Responsibilities of the Property Owners' Association shall include, but not be limited to the following:
  - (A) Maintain Property Owners' Association, periodically elect officers and directors, and establish and collect fees and dues.
  - (B) Maintain Financial Records
  - (C) Administer the upkeep and improvements to the Cardinal Ridge Estates Subdivision.

**ARTICLE III  
COVENANT FOR MAINTENANCE ASSESSMENT**

- (1) Each owner of a Lot within Cardinal Ridge Estates shall pay an assessment for the reasonable construction, use, and maintenance, and expansion of the roads and common areas. All assessments, including any pro-rate share of said assessments, shall be collected by and paid beginning the calendar year of January 1, 2006 through December 31, 2006. The Assessment for the calendar year 2006 and all years thereafter, unless amended pursuant to the terms and conditions of these covenants, shall be \$300. In no event shall the annual average common expense liability of each Lot, exclusive of optional user fees adjusted, pursuant to the provisions of the West Virginia Code Section 36B-1-114, exceed \$300.00. All assessments shall be due and owing on the first day of January of each year and if unpaid shall be a lien upon the property against which each assessment is made. Melbourne Properties, Inc. and its assigns shall have the right to sue for and collect any assessment, together with interest, properly assessed under this contract.

- (2) Any assessment made on a property pursuant to this paragraph including a late fee of Five Dollars (\$5.00), interest at the rate of Ten Percent (10%) per annum from the date of delinquency, and reasonable attorney's fees incurred in the collection thereof, shall constitute a lien on this property until paid. This lien is expressly inferior and subordinate to any mortgage liens presently or hereafter encumbering the property affected by these protective covenants. The owner of each lot, by acceptance of a deed thereto, automatically becomes a member of the Cardinal Ridge Estates Property Owners' Association to be created as herein set forth, and agrees to pay an amount determined by the majority vote of the Owners of the Lots in Cardinal Ridge Estates Subdivision as deemed necessary for the purpose of Maintaining (including the removal of snow and the repairs and improvements of the roads and common areas) the right of ways and roadways and common areas as shown on the subdivision plat. During December of each year, beginning December, 2006 said Association shall notify each Lot Owner, in writing, as to the amount of the Lot Assessment which shall be due and payable in January of the following year. In the event of a resale or transfer of one or more Lots in said subdivision, this obligation shall run with the land and become the obligation of the new Owner(s) even though it may have been assessed to a prior owner.
- (3) If the owner of any Lot is in default in the payment of any assessments, including interest and costs of collection, in addition to any other means of collection, the Property Owners' Association may bring an action at law against the owner personally obligated to pay same.
- (4) In exchange for the Declarant's agreement to install and maintain said roadways and rights of way until seventy-five (75%) of the Lots have been conveyed the Declarant shall be forever exempt from the payment of said annual assessments and road maintenance fees as to all Lots now owned or later reacquired by the Declarant. In the event that the Declarant should later reacquire real estate through purchase at a foreclosure sale or through settlement of an Owner's default in any contract, note or deed of trust that the Owner should be obligated to pay the Declarant, Declarant shall not be required to pay any past due assessment that the previous owner may have owed the Association, nor shall the Declarant be required in the future to contribute to the maintenance of the roadways.
- (5) Each Lot Owner, by acceptance of a Deed thereto, acknowledges that the roads, rights of way, and common areas are private in nature and shall not be maintained by the West Virginia Department of Transportation or other public agency and that the maintenance and improvement thereof shall be the mutual obligation of the Landowners in the subdivision abutting said roads and Common Areas.

**ARTICLE IV  
USE RESTRICTIONS**

- (1) No signs or advertising of any nature shall be erected or maintained on any lot, except for sale or rental signs not to exceed six (6) square feet in area (said signs must comply with Hampshire County Ordinances relating to the erection of signs), except for directional and informational signs provided by the Declarant.
- (2) No owner of any Lot shall interfere with the natural drainage of surface water from such lot to the detriment of any other lots. Consequently, in the construction of driveways into any lot, a minimum twelve inch diameter culvert shall be used in constructing the driveway in order to facilitate natural drainage. No parking that obstructs traffic is permitted upon any road within the property, and as part of the development of any lot, the Owner shall provide adequate off-road parking for himself and his guests.
- (3) Due to the unsightliness of junk vehicles, no motor vehicle or trailer which does not have current license plates or an inspection sticker not more than six months out of date shall be permitted on any lot. Temporary camping trailers may be placed on any lot, provided they are in compliance with Hampshire County and West Virginia laws concerning temporary camping. Temporary camping on all tracts shall be for no more than four months at a time, and no more than six months per year, for the personal use of the owner and his immediate family.
- (4) No building of a temporary nature shall be erected or placed on any lot except those customarily erected in connection with building permanent structures, and in such cases, for a period not to exceed twelve months.
- (5) Not more than one single family residence shall be erected on a lot. Residences shall contain a minimum of 1,200 square feet for a single story or ranch style residence and a minimum of 1,500 square feet for a two story residence. Said square foot minimum is of living area, excluding basement, garage, porch, carport, deck and overhanging eaves. All exterior construction must be completed and closed in within 12 months of the commencement of construction. No exterior siding of masonry block or cinder block shall be permitted. Mobile Homes are not permitted.
- (6) Each Lot shall be used for residential/recreational purposes only, and any garage, barn, or guest house must conform generally in appearance and material with any dwelling on said lot.

Notwithstanding the prior paragraph, the following uses are permitted, subject to applicable state and local laws:

- (A) Home occupations conducted by the occupant.
  - (B) Agricultural uses, including incidental use and the construction of accessory buildings connected with the agricultural use or with the building of a residence, including storage of temporary camping and lawn maintenance equipment. Said accessory buildings may be constructed before construction of the residence. Said accessory buildings shall not be used for temporary sleeping or camping quarters.
  - (C) Not more than one head of livestock per three (3) acres and one domesticated animal (excluding dogs and cats) per five (5) acres shall be permitted per lot, unless otherwise approved by the Board of Directors of the Property Owners' Association, provided that no pigs or pig pens are allowed within the subdivision. All livestock must be fenced in. Operation of any laying hen, broiler houses, or other poultry business is prohibited. Limited raising of poultry for personal use is permitted. Pets and domesticated animals must be fenced in or otherwise prevented from roaming.
- (7) The owner shall maintain, repair and restore, as necessary, the exterior of any building or other improvements erected on any lot owned by him. Owners likewise agree to repair and restore promptly to its prior condition any part of the subdivision road damaged by equipment of Owner or his contractor en route to or from Owner's lot. All lots improved or unimproved must be maintained by the Owner in a neat and orderly condition at all times. No garbage, trash, or inoperable vehicle or other debris shall be permitted to accumulate or remain on any lot.
- (8) No building shall be erected closer than twenty-five (25) feet from the property line, with the exception that where two or more lots are used together for the construction of one dwelling, then the said twenty-five (25) foot setback shall apply only to the outside lines.
- (9) All sanitation facilities constructed on any lot shall conform with the regulations the West Virginia State Health Department, Hampshire County Health Department, and any other government agency regulating the installation of sewage disposal systems.
- (10) No lots shall be used or maintained as a dumping ground for rubbish. Trash, garbage, or other waste must be kept in sanitary containers. All raw materials must be kept from view where possible.

- (11) The Declarant reserves unto himself or his assigns the right to erect, maintain, and operate and replace telephone and electric light poles, conduits, and related equipment and water, gas and sewer lines, and the right to grant easements or rights of way therefore, over, on and under a strip on land twenty (20) feet wide along all property lines (and additional width as necessary for guying purposes), in addition to easements reserved by any other instruments duly recorded. Where the centerline of roadways or right of way serve as the property line of a lot, then the twenty (20) foot wide easement herein otherwise reserved, shall exclude any portion of the lot included in the roadways or rights of way, and extend instead, across the remainder of the lot bounding on said roadways or rights of way. The sole exception to this Paragraph (11) shall be for Lot Thirty Seven (37) wherein the easement for the Front Yard utilities shall be on or over a strip on land ten (10) feet wide along the roadway and not to exceed five (5) feet on the rear yard. Nothing here shall be construed as creating any duty of Declarant to install or maintain any utility services, however, as it is contemplated that actual installation will be made at the expense of the utility and/or the lot owners. Utilities to be started no later than December 31, 2007.
- (12) Each lot owner shall have an unobstructed right of way and easement over and across the roads as shown on the subdivision plat as recorded from time to time, for the purpose of ingress and egress to and from the public roads and any common facilities in the subdivision. No part of any lot may be sold or used as a road or right of way to any land outside the Property without advanced written permission of the Declarant. The Property Owners' Association shall be solely responsible for the maintenance of the subdivision roads and common areas.
- (13) Reasonable cutting of wood and timber for land clearing is permitted. However no cutting of wood for commercial purposes is allowed.
- (14) If any lot owner shall violate any of the covenants herein, it shall be lawful for any other person, persons, legal entities owning real estate in the subdivision or the Cardinal Ridge Estates Property Owners' Association to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any such covenant, either to prevent him from doing so or to recover damages or other dues for such violation. Failure to enforce any provision herein contained shall in no way be deemed a waiver of the right to do so hereafter.
- (15) The Association, by a vote of two-thirds (2/3rds) of its members, may make additional rules, covenants, and restrictions for the use of the Property, which together with the above may be deemed advisable by the Association.
- (16) No Lot may be subdivided.

**ARTICLE V  
GENERAL PROVISIONS**

- (1) Declarant reserves the right to re-plat any unsold lot or lots. Nothing herein shall be construed to prevent Declarant from imposing additional covenants or restrictions on any unsold lot(s).
- (2) In the event state, local government, and utility companies, or Declarant, requires the installation of a public utility system within the area of which the subdivision is a part, the grantee or grantees, by the acceptance of the deed, so hereby agree to pay their proportional share for the cost of erection, maintenance and operation thereof as determined by the above authority.
- (3) The Association or any Owner, shall have the right to enforce, by any proceedings at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges now or hereinafter imposed by the provision of this Declaration. Failure by the Declarant or Association or by any owner to enforce any provision contained herein shall in no event be deemed a waiver of the right to do so thereafter.
- (4) Additional property maybe annexed to the Subdivision by the Declarant.
- (5) Declarant reserves the right to reasonably modify, change or waiver these covenants herein without the consent of any of the owners for a period of one year from the date of the sale of the last lot by Declarant from Cardinal Ridge Estates.

**ARTICLE VI**

- (1) The covenants, restrictions and other provisions of this Declaration shall run with and bind the land for a period of twenty-five (25) years from the date this Declaration is recorded, after which they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty-five (25) year period by an instrument signed by not less than seventy-five (75) percent of the lot owners.
- (2) Invalidation of any of the covenants, restrictions, or other provisions of this Declaration by Judgment or Court Order shall in no way affect other provisions, which shall remain in full force and effect.
- (3) Whenever in this Declaration the context so requires, the masculine gender includes the feminine and neuter and singular numbers include the plural and plural numbers include the singular.

WITNESS THE FOLLOWING SIGNATURE AND SEAL of Clint A. Britt, Vice President, Melbourne Properties, Inc. Inc. who has caused this instrument to be executed this \_\_\_\_\_ day of \_\_\_\_\_,

By \_\_\_\_\_  
**Clint A. Britt, Vice President  
Melbourne Properties, Inc.**

STATE OF WEST VIRGINIA  
COUNTY OF \_\_\_\_\_, TO-WIT:

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by Clint A. Britt, Vice President, Melbourne Properties, Inc.

Notary Public Signature: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

This instrument was prepared by: Hoy G. Shingleton Jr., Law offices of Hoy Shingleton, L.C., 115 Aikens Center Suite 24, Martinsburg, West Virginia 25401-6210.



## SUMMARY OF CONTENTS OF BYLAWS

### OF

## CARDINAL RIDGE ESTATES PROPERTY OWNER'S ASSOCIATION

	<u>Page No.</u>
<b>OFFICES; PURPOSES</b>	
1. Offices	1
2. Purposes	1
<b>MEMBERS</b>	2
1. Eligibility	2
2. Voting Rights	2
3. Suspension of Voting Rights	2
4. Annual Meeting	2
5. Special Meeting	2
6. Place of Meeting	2
7. Notice of Meeting	3
8. Written Agreement in Lieu of Meeting	3
9. Closing of Membership Books and Fixing of Record Dates	3
10. Voting Lists	3
11. Quorum	4
12. Organization	4
13. Voting	4
14. Proxies	4
15. Voting by Certain Holders	4
<b>BOARD OF DIRECTORS</b>	5
1. Powers, Qualifications, Number and Term of Office	5
2. Vacancies	5
3. Regular Meetings	5
4. Special Meetings	5
5. Notice	5
6. Written Agreement in Lieu of Meeting	6
7. Manner of Acting	6
8. Quorum	6
9. President Officer; Recording Officer	6
10. Compensation	6
11. Presumption of Assent	6
12. Ratification by Members	6
13. General Powers	7
14. Removal	7

	<u>Page No.</u>
IV. OFFICERS	7
1. Number	7
2. Election and Term of Office	8
3. Removal	8
4. Vacancies	8
5. President	8
6. Vice President	8
7. Secretary	8
8. Treasurer	9
9. General Provisions	9
10. Salaries	9
V. CONTRACTS AND ACCOUNTS	9
1. Receipts	9
2. Contracts	9
3. Loans	10
4. Deposits	10
5. Checks, Drafts, etc.	10
VI. ACCOUNTING PERIOD	10
VII. CORPORATE SEAL	10
VIII. MISCELLANEOUS	10
1. Voting Upon Stocks	10
2. Contracts with Directors and Officers	10
3. Indemnification of Directors and Officers	11
4. Keeping Books and Records	12
5. Inspection of Books and Records	13
6. Waiver of Notice	13
7. Telephonic Attendance and Voting at Meetings	13
8. Usage of Terms	13
IX. AMENDMENTS	13

**BYLAWS**  
**OF**  
**CARDINAL RIDGE ESTATES PROPERTY OWNER'S ASSOCIATION, INC.**

**ARTICLE I**  
**OFFICES; PURPOSES**

**Section 1. Offices:** The principal office of the corporation in the State of West Virginia shall be located at **PO Box 567, Capon Bridge, West Virginia, 26711**. The corporation may have such other office or offices, and transact business within the State of West Virginia, as the board of directors may designate or as the business of the corporation may require from time to time.

**Section 2. Purposes:** The purposes for which the corporation is organized are as follows:

A. To establish, maintain, operate and manage the Property Owner's Association for all lot owners of the **Cardinal Ridge Estates Subdivision, situate in Romney District, Hampshire County, West Virginia.**

B. To manage, regulate, control, build, maintain, improve and repair for the common good and common use and enjoyment all of the streets, rights of way and common areas within **Cardinal Ridge Estates Subdivision.**

C. To establish by-laws and rules and regulations which shall augment these Articles in the administration and management of this corporation.

D. To enter into contracts, buy, sell, acquire, lease and dispose of real estate and personal property and to borrow and spend money all for the purposes hereinabove set forth; provided, however, that the corporation shall not borrow money in excess of ten percent (10%) of its operating budget for the then current operating year without the consent of a majority of the members of the corporation.

E. To do all things and to transact all lawful business for which non-profit organizations may be incorporated under the laws of the state of West Virginia.

**ARTICLE II**  
**Members**

**Section 1. Eligibility:** Every owner of a lot, including re-subdivided lots, within **Cardinal Ridge Estates Subdivision** shall be a member of the corporation. Membership shall be appurtenant to and shall not be separated from ownership of any lot.

**Section 2. Voting Rights:** Members shall be entitled to one vote for each lot owned by that member within **Cardinal Ridge Estates Subdivision**. If more than one person holds an interest in any lot, all such persons shall be members and the vote for each lot shall be exercised as they among themselves shall determine, but in no event shall more than one vote be cast with respect to any such lot.

**Section 3. Suspension of Voting Rights:** The voting rights of a member shall be suspended if such member shall have failed to pay, when due, any assessment or charge lawfully imposed upon the member or any property owned by the member, pursuant to the Declaration Of Protective Covenants, Conditions And Restrictions of all sections of the **Cardinal Ridge Estates Subdivision** and such failure to pay such assessments shall continue for a period of thirty (30) days after the corporation shall have mailed a notice of such delinquency to the member at the last known address of the member. **The Declaration for Cardinal Ridge Estates Subdivision is recorded in the Hampshire County Clerk's office in Deed Book 457, Page 21, AS AMENDED BY Cardinal Ridge Estates Amended and Restated Dedication of Plat and Declaration of Protective Covenants of record in the aforesaid County Clerk's Office in Deed Book 461, page 604.**

**Section 4. Annual Meeting:** The annual meeting of the members shall be held on the second Sunday in the month of \_\_\_\_\_ in each year, beginning with the year 2007, at the hour of one o'clock p.m., for the purpose of electing directors and for the transaction of such other business as may come before the meeting. If the day fixed for the annual meeting shall be a legal holiday in the State of West Virginia, such meeting shall be held on the next succeeding business day. If the election of directors shall not be held on the day designated herein for an annual meeting of the members, or at any adjournment thereof, the board of directors shall cause the election to be held at an annual meeting of the members as soon thereafter as conveniently may be held.

**Section 5. Special Meetings:** Special meetings of the members, for any purpose or purposes, unless otherwise prescribed by statute, may be called by the president or by and at the request of not less than ten percent (10%) of all the members of the corporation entitled to vote at the meeting.

**Section 6. Place of Meeting:** The board of directors may designate in a notice, or in a waiver of notice of a meeting signed by all members entitled to vote at a meeting, unless otherwise prescribed by statute, any place, either within or without the State of West Virginia unless otherwise

prescribed by statute, as the place of meeting for any annual meeting or for any special meeting called by the board of directors. If no designation is made, or if a special meeting be otherwise called, the place of meeting shall be the principal office of the corporation in the State of West Virginia.

**Section 7. Notice of Meeting:** Written notice stating the place, day and hour of the meeting and, in the case of a special meeting, the purpose or purposes for which the meeting is called shall, unless otherwise prescribed by statute, be delivered not less than ten (10) nor more than fifty (50) days before the date of the meeting, either personally or by mail, by or at the direction of the president, or the secretary, or the persons calling the meeting, to each member of record entitled to vote at such meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail, addressed to the member at his address as it appears on the stock transfer books of the corporation, with postage thereon prepaid.

**Section 8. Written Agreement in Lieu of Meeting:** Whenever the vote of members at a meeting thereof is required or permitted to be taken in connection with any corporate action, the meeting and vote of such members may be dispensed with if all of the members who would have been entitled to vote upon the action, if such meeting were held, shall agree in writing to such corporate action being taken, and action were duly taken by the unanimous action of all members entitled to vote at a meeting of such members duly called and legally held.

**Section 9. Closing of Membership Books and Fixing of Record Date:** For the purpose of determining members entitled to notice of or to vote at any meeting of members or any adjournment thereof, or members entitled to receive payment of any dividend, or in order to make a determination of members for any other proper purpose, the board of directors of the corporation may provide that the books shall be closed for a stated period but not to exceed, in any case, fifty (50) days. If the books shall be closed for the purpose of determining members entitled to notice of or vote at a meeting of members, such books shall be closed for at least ten (10) days immediately preceding such meeting. In lieu of closing the books, the board of directors may fix in advance a date as the record date for any such determination of members, such date in any case to be not more than fifty (50) days and, in case of a meeting of members, not less than ten (10) days prior to the date on which the particular action, requiring such determination of members, is to be taken. If the books are not closed and no record date is fixed for the determination of members entitled to notice of or to vote at a meeting of members, the date on which notice of the meeting is mailed shall be the record date for such determination of members. When a determination of members entitled to vote at any meeting of members has been made as provided in this section, such determination shall apply to any adjournment thereof.

**Section 10. Voting Lists:** The officer or agent having charge of the membership books of the corporation shall make a complete list of the members entitled to vote at each meeting of members or any adjournment thereof, arranged in alphabetical order, with the address of and the number of membership interests held by each. Such list shall be produced and kept open at the time and place of the meeting and shall be subject to the inspection of any member during the whole time

of the meeting for the purposes thereof.

**Section 11. Quorum:** At all meetings of the members, a quorum of the members shall consist of the presence in person or by proxy of members entitled to vote equal to 10% of the members of the corporation. If a quorum is present, the affirmative vote of the majority of the members represented at the meeting and entitled to vote on the subject matter shall be the act of the members.

If less than a sufficient number of membership interests to constitute a quorum of the members are represented at a meeting, a majority of the membership interests so represented may adjourn the meeting from time to time without further notice. At such adjourned meeting at which a quorum shall be present or represented, any business may be transacted which might have been transacted at the meeting as originally noticed. The members present at a duly organized meeting may continue to transact business until adjournment, notwithstanding the withdrawal of enough members to leave less than a quorum.

**Section 12. Organization:** The president shall call meetings of the members to order and shall act as chairman of such meeting. The members present may appoint any member to act as chairman of any meeting in the absence of the president or with his consent if present.

The secretary of the corporation shall act as secretary of all meetings of the members. In the absence of the secretary at any such meeting, the presiding officer may appoint any person to act as secretary thereof and to keep a record of the proceedings.

**Section 13. Voting:** Each membership interest entitled to vote shall be entitled to one vote upon each matter submitted to a vote at a meeting of members.

**Section 14. Proxies:** At all meetings of members, a member may vote in person or by proxy executed in writing by the member or by his duly authorized attorney in fact. Such proxy shall be filed with the secretary of the corporation before or at the time of the meeting. No proxy shall be valid after eleven (11) months from the date of its execution, unless otherwise provided in the proxy.

**Section 15. Voting by Certain Holders:** Membership interests standing in the name of another corporation may be voted by such alterations as the by-laws of that corporation may prescribe.

Membership interests held by an administrator, executor, guardian or conservator may be voted by him, either in person or by proxy, without a transfer of such membership interest into his name. Membership interests standing in the name of a trustee may be voted by him, either in person or by proxy, but no trustee shall be entitled to vote shares held by him without a transfer of such membership interests into his name.

Membership interests standing the name of a receiver may be voted by such receiver, and

membership interests held by or under the control of a receiver may be voted by such receiver without the transfer thereof into his name if authority to do so be contained in an appropriate order of the court by which such receiver was appointed.

A member whose membership interests are pledged shall be entitled to vote such membership interests until the membership interests have been transferred into the name of the pledgee, and thereafter the pledgee shall be entitled to vote the membership interests so transferred.

### **ARTICLE III BOARD OF DIRECTORS**

**Section 1. Powers, Qualifications, Number and Term of Office:** The business and property of the corporation shall be managed and controlled by the board of directors to be elected at each regular annual meeting of the corporation. The number of directors of the corporation shall be the number elected by the members at each annual meeting.

**Section 2. Vacancies:** Any vacancies existing in the board of directors and any directorship to be filled by reason of an increase in the number of directors unless the Articles of Incorporation or bylaws provide that a vacancy shall be filled in some other manner, may be filled by the affirmative vote of a majority of the remaining directors though less than quorum of the board of directors. A director elected to fill a vacancy shall be elected for the unexpired term of his predecessor in office. Any directorship to be filled by reason of an increase in the number of directors may be filled by the board of directors for a term of office continually only until the next election of directors by the members. No director need be a resident of the State of West Virginia in order to hold said office.

**Section 3. Regular Meetings:** A regular meeting of the board of directors shall be held without other notice than these bylaws immediately after, and at the same place as, the annual meeting of members. The board of directors may provide, by resolution, the time and place for the holding of additional regular meetings without other notice than such resolution.

**Section 4. Special Meetings:** Special meetings of the board of directors may be called by or at the request of the president or not less than ten percent (10%) of the existing directors. The person or persons authorized to call special meetings of the board of directors may fix the place for holding any special meeting of the board of directors called by them.

**Section 5. Notice:** No notice shall be required of the regular meeting of the board of directors. Notice of any special meeting shall be given at least three (3) days previously thereto by written notice delivered personally or mailed to each director at his last known address, or by telegram. If mailed, such notice shall be deemed to be delivered when deposited in the United States Mail so addressed, with postage thereon prepaid. If notice be given by telegram, such notice shall be deemed to be delivered when the telegram is delivered to the telegraph company. Any director may waive notice of any meeting.

**Section 6. Written Agreement in Lieu of Meeting:** Whenever the vote of directors at a meeting thereof is required or permitted to be taken in connection with any corporate action, the meeting and vote of such directors may be dispensed with if all of the directors shall consent and agree in writing to such corporate action being taken, and such agreement (which shall set forth the action so taken and be signed by all of the directors) shall have like effect and validity as though the action were duly taken by the unanimous action of all directors at a meeting of such directors duly called and legally held.

**Section 7. Manner of Acting:** The act of the majority of the directors present at a meeting at which a quorum is present shall be the act of the board of directors.

**Section 8. Quorum:** A majority of the number of directors fixed by Section 1 of this Article III shall constitute a quorum for the transaction of business at any meeting of the board of directors, but if less than such majority is present at a meeting, a majority of the directors present may adjourn the meeting from time to time and place to place without further notice and until a quorum is present.

**Section 9. Presiding Officer; Recording Officer:** At all meetings of the board of directors, the president or a vice president, or in the absence of them, any director elected by the directors present, shall preside. The secretary or any person appointed by the directors present, shall keep a record of the proceedings. The records shall be verified by the signature of the person acting as chairman of the meeting.

**Section 10. Compensation:** By resolution of the board of directors, a director may be reimbursed his expenses, if any, incurred on behalf of the corporation. Members of the Board of Directors shall receive no other compensation for serving as members of the Board of Directors.

**Section 11. Presumption of Assent:** A director of the corporation who is present at a meeting of the board of directors at which action on any corporate matter is taken shall be presumed to have assented to the action taken unless his dissent shall be entered in the minutes of the meeting or unless he shall file his written dissent to such action with the person acting as the secretary of the meeting before the adjournment thereof or shall forward such dissent by registered mail to the secretary of the corporation immediately after the adjournment of the meeting. Such right to dissent shall not apply to a director who voted in favor of such action.

**Section 12. Ratification by Members:** The board of directors, in its discretion, may submit any contract or act for approval or ratification at any annual meeting of the members or any general or special meeting called for the purpose of considering any contract or act; and any contract or act which shall be approved and ratified by the vote of the holders of a majority of the membership interests of the corporation represented in person or by proxy at such meeting, provided only that a quorum of the members be either so represented in person or by proxy, shall be as valid and binding upon the corporation and upon all the members as though it had been approved and ratified by each and every member of the corporation.



**Section 13. General Powers:** The board of directors by resolution adopted by a majority of the full board of directors, may designate from among its members an executive committee and one or more other committees, each of which, to the extent provided in such resolution, shall have and may exercise all the authority of the board of directors, except in reference to amending the Articles of Incorporation, adopting a plan of merger or consolidation, recommending to the members of the sale, lease, exchange or other disposition of all or substantially all the property and assets of the corporation otherwise than the usual and regular course of its business, recommending to the members a voluntary dissolution of the corporation or a revocation thereof, or amending the bylaws of the corporation. The designation of any such committee and the delegation thereto of authority shall not operate to relieve the board of directors, or any member thereof, of any responsibility imposed by law.

**Section 14. Removal:** At a meeting of members called expressly for that purpose, any director or the entire board of directors may be removed, with or without cause, by a vote of the holders of a majority of the membership interests entitled to vote at an election of directors. If less than the entire board is to be removed, no one of the directors may be removed if the votes cast against his removal would be sufficient to elect him.

#### **ARTICLE IV OFFICERS**

**Section 1. Number:** The officers of the corporation shall be a president, a secretary and a treasurer, and there may be one or more vice presidents, each of whom shall be elected by the members. Such other officers and assistant officers as may be deemed necessary may be elected or appointed by the members.

One person may hold more than one office, except that the president and secretary shall not be the same person. No officer shall execute, acknowledge or verify any instrument in more than one capacity, if such instrument is required by law or the bylaws to be executed, acknowledged and verified or countersigned by two or more officers.

**Section 2. Election and Term of Office:** The officers of the corporation to be elected by the members shall be elected annually by the members at the annual meeting of the members. If the election of officers shall not be held at such meeting, such election shall be held as soon thereafter as conveniently may be. Each officer shall hold office until his successor shall have been duly elected and shall have qualified or until his death or until he shall resign or shall have been removed in the manner hereinafter provided.

All appointees, agents, and employees, other than officers, shall hold office at the discretion of the president.

**Section 3. Removal:** Any officer or agent may be removed by the members or by the board of directors whenever in their judgment, the best interests of the corporation will be served thereby,

but such removal shall be without prejudice to the contract rights, if any, of the person so removed. Election or appointment of an officer or agent shall not of itself create contract rights.

**Section 4. Vacancies:** Any vacancy existing in an office may be filled by the affirmative vote of the majority of the directors. A vacancy in any office because of death, resignation, removal, disqualification or otherwise, may be filled by the board of directors at a special meeting for the unexpired portion of the term.

**Section 5. President:** The president shall be the principal executive officer of the corporation and, subject to the control of the board of directors, shall in general supervise and control all of the business and affairs of the corporation. He shall, when present, preside at all meetings of the members and of the board of directors. He may sign, with the secretary or any other proper officer of the corporation thereunto authorized by the board of directors, certificates for shares of the corporation, any deeds, mortgages, bonds, contracts, or other instruments which the board of directors has authorized to be executed, except in cases where the signing and execution thereof shall be expressly delegated by the board of directors or by these bylaws to some other officer or agent of the corporation, or shall be required by law to be otherwise signed or executed; and in general shall perform all duties incident to the office of the president and such other duties as may be prescribed by the board of directors from time to time.

**Section 6. Vice President:** Each vice president, if any, shall, concurrently with the president, but subject to his superior right and authority, have all the right, power and authority to perform all the duties of the president of the corporation. In the absence of the president or in the event of his death, inability, or refusal to act, the senior vice president, if any, as designated by the board of directors prior to such absence of the president, shall perform the duties of the president until such time as the board of directors may appoint a successor president pursuant to Section 4, above, and when so acting, shall have all the powers of and be subject to all the restrictions upon the president. Each vice president shall perform such other duties as from time to time may be assigned to him by the president or by the board of directors.

**Section 7. Secretary:** The secretary shall: (a) keep the minutes of the proceedings of the members and of the board of directors in one or more books provided for that purpose; (b) see that all notices are duly given in accordance with the provisions of these bylaws or as required by law; (c) be custodian of the corporate records and of the seal of the corporation and see that the seal of the corporation is affixed to all documents the execution of which on behalf of the corporation under its seal is duly authorized; (d) keep a register of the post office address of each member which shall be furnished to the secretary by such member; (e) have general charge of the books of the corporation; and (f) in general perform all duties incident to the office of secretary and such other duties as from time to time may be assigned to him by the president or by the board of directors.

**Section 8. Treasurer:** The treasurer shall; (a) have charge and custody of and be responsible for all funds and securities of the corporation; (b) receive and give receipts for moneys due and payable to the corporation from any source whatsoever, and deposit all such moneys in the name of the corporation in such banks, trust companies or other depositories as shall be selected in accordance with the provisions of Article V of these bylaws; (c) keep accurate accounts, in such form as may be approved by the board of directors, of all the financial transactions of the corporation, and shall close said accounts and balance said books of account at least once in each year; (d) whenever required by the president, the vice president, or by the board of directors, render a report of all moneys received and disbursed by the corporation and of the financial condition of the corporation; and (e) in general perform all of the duties as from time to time may be assigned to him by the president or by the board of directors. If required by the board of directors, the treasurer shall give a bond for the faithful discharge of his duties in such sum and with such surety or sureties as the board of directors shall determine.

**Section 9. General Provisions:** All books, records and files of the corporation shall at all times be open to the inspection of the president, the vice president, the board of directors or any member of the corporation.

Any or all of the officers shall give such bond or bonds for the faithful discharge of their respective duties in such sum or sums as and when the board of directors may from time to time in its discretion require.

Any duty authorized, provided and/or required to be performed by any officer of this corporation may be performed by his duly authorized assistant.

**Section 10. Salaries:** The officers shall receive no other compensation or remuneration for their services as officers of the corporation. They shall be reimbursed reasonable expenses incurred on behalf of the corporation.

## **ARTICLE V CONTRACTS AND ACCOUNTS**

**Section 1. Receipts:** The president, vice president, secretary and treasurer are each authorized to receive and receipt for all moneys due and payable to the corporation from any source whatsoever, and to endorse for deposit checks, drafts, and other money orders in the name of the corporation or on its behalf, and to give full discharge and receipt therefore.

**Section 2. Contracts:** The board of directors may authorize any officer or officers, agent or agents, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the corporation, and such authority may be general or confined to specific instances.

**Section 3. Loans:** No loans shall be contracted on behalf of the corporation and no evidence of indebtedness shall be issued in its name unless authorized by a resolution of the board of directors. Such authority may be general or confined to specific instances. Provided, however, the corporation shall not borrow money in excess of ten percent (10%) of its operating budget for the then current operating year without the consent of the majority of the members of the corporation.

**Section 4. Deposits:** All funds of the corporation not otherwise employed shall be deposited from time to time to the credit of the corporation in such banks, trust companies or other depositories as the board of directors may select.

**Section 5. Checks, Drafts, etc.:** All checks, drafts or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the corporation shall be signed by such officer or officers, agent or agents, of the corporation and in such manner as shall from time to time be determined by resolution of the board of directors.

#### **ARTICLE VI ACCOUNTING PERIOD**

The accounting period of the corporation shall begin on the 1st day of January and end on the 31st day of December day of each year.

#### **ARTICLE VII CORPORATE SEAL**

The board of directors shall provide a corporate seal which shall be circular in form and shall have inscribed thereon the name of the corporation, the state of incorporation and the words, "Corporate Seal".

#### **ARTICLE VIII MISCELLANEOUS**

**Section 1. Voting Upon Stocks:** Unless otherwise ordered by the board of directors, the president shall have full power and authority on behalf of the corporation, whether in person or by proxy, to attend and to act and to vote at any meeting of stockholders of any corporation in which this corporation may hold stock, and at any such meeting shall possess and may exercise any and all the rights and powers incident to the ownership of such stock, and which, as the owner thereof, this corporation might have possessed and exercised if present. The board of directors by resolution may, from time to time, confer like powers upon any other person or persons.

**Section 2. Contracts with Directors and Officers:** No contract or other transaction between a corporation and one or more of its directors or any other corporation, firm, association or entity in which one or more of its directors are directors or officers or are financially interested, shall

be either void or voidable because of such relationship or interest or because such director or

directors are present at the meeting of the board of directors or a committee thereof which authorizes, approves or ratifies such contract or transaction or because his or their votes are counted for such purpose, if: (1) the fact of such relationship or interest is disclosed or known to the board of directors or committee which authorizes, approves or ratifies the contract or transaction by a vote or consent sufficient for the purpose without counting the votes or consents of such interested directors; or (2) the fact of such relationship or interest is disclosed or known to the members entitled to vote and they authorize, approve or ratify such contract or transaction by vote or written consent; or (3) the contract or transaction is fair and reasonable to the corporation.

Common or interested directors may be counted in determining the presence of a quorum at a meeting of the board of directors or a committee thereof which authorizes, approves or ratifies such contract or transaction.

On any question involving the authorization, approval or ratification of any such contract or transaction, the name of those voting each way shall be entered on the record of the proceedings.

**Section 3. Indemnification of Directors and Officers:** The corporation shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the corporation) by reason of the fact that he is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys fees), judgments, fines, taxes and penalties and interest thereon, and amounts paid in settlement actually and reasonably incurred by him in connection with such action or proceeding, if he acted in good faith and in a manner which he reasonably believed to be in or not opposed to the best interests of the corporation, and, with respect to any criminal action or proceeding, that such person did not have reasonable cause to believe that this conduct was unlawful.

Provided, however, that no indemnification shall be made in respect to any claim, issue or matter including (a) the amount of a financial benefit received by a director or member to which he or she was not entitled; (b) an intentional infliction of harm on the Corporation or the members; (c) a violation of West Virginia Code § 31E-8-833 regarding unlawful distributions or (d) an intentional violation of criminal law. To the extent that a director, officer, employee or agent of a corporation has been successful on the merits or otherwise in defense of any action or proceeding heretofore referred to, or in defense of any claim, issue or matter therein, he shall be indemnified against expenses (including attorneys fees) actually and reasonably incurred by him in connection therewith.

Any indemnification provided for herein shall be made by the corporation only as authorized

in the specific case upon a determination that indemnification of the director, officer, employee or agent is proper in the circumstances because he has met the applicable standard of conduct set forth. Such determination shall be made: (1) by the board of directors by a majority vote of a quorum consisting of directors who were not parties to such action or proceedings; or (2) if such a quorum is not obtainable, or even if obtainable, a quorum of disinterested directors so directs, by independent legal counsel in a written opinion.

Expenses (including attorneys fees) incurred in defending a civil or criminal action or proceeding may be paid by the corporation in advance of the final disposition of such action or proceeding as authorized in the manner herein provided, upon receipt of an undertaking by or on behalf of the director, officer, employee or agent to repay such amount unless it shall ultimately be determined that he is entitled to be indemnified by the corporation as authorized in this section.

The indemnification provided for herein shall not be deemed exclusive of any other rights to which any member may be entitled under any bylaw, agreement, vote of disinterested directors or otherwise, both as to action in his official capacity and as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of his heirs, executors and administrators.

The directors of the corporation may, from time to time by resolution, provide for such additional indemnification or advancement of expenses as they deem appropriate to any person, acting for or on behalf of the corporation by reason of the fact that he is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation, partnership, joint venture, trust or other enterprise. Such indemnification or advancement of expenses may be authorized in such resolution or resolutions to the extent the directors deem appropriate under the circumstances, but at no time may the directors of the corporation provide for additional indemnification or advancement of expenses that is contrary to the laws of the State of West Virginia.

**Section 4. Keeping Books and Records:** The corporation shall keep correct and complete books and records of account and shall keep minutes of the proceedings of its members and board of directors; and shall keep at its principal office, a record of its members, giving the names and addresses of all members and the number of membership interests held by each.

**Section 5. Inspection of Books and Records:** Any member shall have the right to examine, in person, or by agent or attorney, at any reasonable time or times, for any proper purpose, the relevant books and records of accounts, minutes, and record of members and to make extracts therefrom.

**Section 6. Waiver of Notice:** Unless otherwise provided by law, whenever any notice is required to be given to any member or directors of the corporation under the provisions of the bylaws or under the provisions of the Articles of Incorporation or under the provisions of the West Virginia

in the specific case upon a determination that indemnification of the director, officer, employee or agent is proper in the circumstances because he has met the applicable standard of conduct set forth. Such determination shall be made: (1) by the board of directors by a majority vote of a quorum consisting of directors who were not parties to such action or proceedings; or (2) if such a quorum is not obtainable, or even if obtainable, a quorum of disinterested directors so directs, by independent legal counsel in a written opinion.

Expenses (including attorneys fees) incurred in defending a civil or criminal action or proceeding may be paid by the corporation in advance of the final disposition of such action or proceeding as authorized in the manner herein provided, upon receipt of an undertaking by or on behalf of the director, officer, employee or agent to repay such amount unless it shall ultimately be determined that he is entitled to be indemnified by the corporation as authorized in this section.

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The directors of the corporation may, from time to time by resolution, provide for such additional indemnification or advancement of expenses as they deem appropriate to any person, acting for or on behalf of the corporation by reason of the fact that he is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation, partnership, joint venture, trust or other enterprise. Such indemnification or advancement of expenses may be authorized in such resolution or resolutions to the extent the directors deem appropriate under the circumstances, but at no time may the directors of the corporation provide for additional indemnification or advancement of expenses that is contrary to the laws of the State of West Virginia.

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**Section 6. Waiver of Notice:** Unless otherwise provided by law, whenever any notice is required to be given to any member or directors of the corporation under the provisions of the bylaws or under the provisions of the Articles of Incorporation or under the provisions of the West Virginia

Corporation Act, a waiver thereof in writing, signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice and attendance of the person at a meeting shall constitute a waiver of notice, unless the person attends for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened.

**Section 7. Telephonic Attendance and Voting at Meetings:** Notwithstanding anything herein contained to the contrary, one or more directors or members may participate in a meeting of the board, a committee of the board or of the members by means of conference telephonic or similar electronic communication equipment by means of which all persons participating in the meeting can hear each other.

Whenever a vote of the members or directors is required or permitted in connection with any corporate action this vote may be taken orally during this electronic conference. The agreement thus reached shall have like effect and validity as though the action were duly taken by the action of the members or directors at a meeting of members or directors if the agreement is reduced to writing and approved by the members or directors at the next regular meeting of the members or directors after the conference.

**Section 8. Usage of Terms:** Except as otherwise specifically provided, for the purposes of these bylaws, the term majority shall mean a number greater than one-half ( $\frac{1}{2}$ ) of the total.

Except as otherwise specifically provided, for the purposes of these bylaws, and as the context may require, the use of pronouns of the masculine gender shall be deemed to include pronouns of the feminine and neuter genders, and the use of pronouns of the feminine gender shall be deemed to include pronouns of the masculine and neuter genders.

## **ARTICLE IX AMENDMENTS**

These bylaws may be altered, amended or repealed and new bylaws may be adopted by the members at any regular or special meeting of the members.