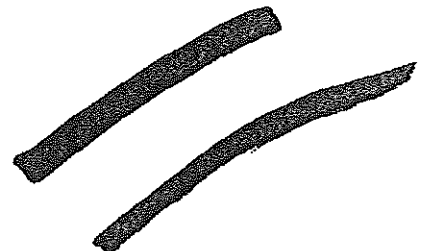
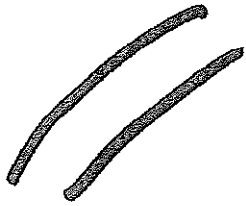


EXHIBIT D

**BY-LAWS OF
TAVISTOCK AT MAYS LANDING
HOMEOWNERS ASSOCIATION, INC.**





**BY-LAWS OF
TAVISTOCK HOMEOWNERS ASSOCIATION, INC.**

ADOPTED: _____

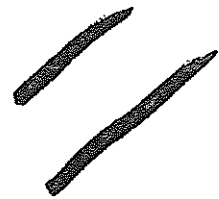


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BY-LAWS
OF
TAVISTOCK
HOMEOWNERS ASSOCIATION, INC.

ARTICLE I

Nature of By-Laws

1.01. Purpose. These By-Laws are intended to govern the administration of Tavistock Homeowners Association, Inc. (the "Association"), a not for profit corporation organized under Title 15A of the New Jersey Statutes, and to provide for the management, administration, utilization and maintenance of the Common Property described in the Declaration of Restrictive and Protective Covenants (the "Declaration") for Tavistock at Mays Landing (the "Community"), and any amendments or supplements thereto.

1.02. Definitions. Unless the context clearly indicates otherwise, all definitions set forth in the Declaration for the Community are incorporated herein by reference.

1.03. Fiscal Year. The fiscal year of the corporation shall be determined by the Board of Directors.

1.04. Principal Office. The principal office of the corporation is located at 4300 Haddonfield Road, Pennsauken, New Jersey 08109.

ARTICLE II

Membership and Voting Rights

2.01. Members. Every person, firm, association, corporation or other legal entity, including the Developer, who is a record owner or co-owner of the fee simple title to any Home shall be a Member of the Association; provided, however, that any person, firm, association, corporation, or

legal entity who holds such title or interest to a Home merely as a security for the performance of an obligation (including, but not limited to, mortgagees or trustees under deeds of trust) shall not be a Member of the Association. Despite anything to the contrary in the preceding, the Developer has one membership in the Association for each contemplated Home in the Community that has not been conveyed to an individual purchaser not to exceed that number of Homes approved by the municipality.

2.02. **Member in Good Standing.** A Member shall be deemed to be in good standing and entitled to vote in person or by proxy at any meeting of the Association or in any ballot by mail, if thirty (30) days prior to the date fixed for such event, he has fully paid all installments due for assessments made or levied against him and his Home by the Board as hereinafter provided, together with all interest, costs, attorney's fees, penalties and other expenses, if any, properly chargeable to him and to his Home. Any date set forth in these By-Laws for determining good standing for voting purposes, as well as any related requirement which may be established by the Board of Directors, shall be deemed supplemental to, and not in derogation of, the record date provisions of N.J.S. 15A:5-7.

2.03. **Associate Members.** Every person who is entitled to possession and occupancy of a Home as a tenant or lessee of an Owner may be an Associate Member of the Association, but shall not be entitled to any vote with respect to Association matters.

2.04. **Change of Membership.** Change of Membership shall be accomplished by recordation in the Atlantic County Clerk's office of a deed or other instrument establishing a record title to a Home, and delivery to the Secretary of the Association of a certified copy of such instrument, together with such sums of money as are required for the payment of any membership

fee, contribution to capital or escrow deposit, if any. The membership of the prior Owner shall be thereby terminated.

2.05. Rights of Membership. Every person who is entitled to membership in the Association, pursuant to the provisions of the Certificate of Incorporation and these By-Laws, and permanently resides in a Home, including any Associate Member, shall be privileged to use and enjoy the Common Property, subject, however, to the right of the Association to:

- a. Promulgate Rules and Regulations governing such use and enjoyment;
- b. Suspend the use and enjoyment of the Common Property as provided in Section 2.06 hereof; and
- c. Transfer all or part of the Common Property, as provided in Section 6.01(o) hereof.

2.06. Suspension of Rights. The Membership and voting rights of any Member may be suspended by the Board for any period during which any type of assessment against the Home to which his Membership is appurtenant remains unpaid; but upon payment of such assessments, and any interest accrued thereon, if by cash, money order, or certified or collected funds, his rights and privileges shall be immediately and automatically restored. Further, if Rules and Regulations governing the use of the Common Property and the conduct of persons thereon have been adopted and published, as authorized in these By-Laws, the rights and privileges of any person in violation thereof or in violation of any non-monetary covenant of the Declaration may be suspended at the discretion of the Board for a period not to exceed thirty (30) days for any single violation, but if the violation is of a continuing nature, such rights and privileges may be suspended indefinitely until such time as the violation is abated. No such action shall be taken by the Board until the Owner is afforded an opportunity for a hearing consistent with the principles of due process of law.

2.07. Contribution to Capital. Each Owner shall pay to the Association upon acquisition of title to his Home a one-time non-refundable and non-transferable contribution to the working capital of the Association in an amount equal to three months of the Common Expense Assessment for the Home at the time of the acquisition. Such sum may be used for any lawful purpose at the discretion of the Board and need not be replenished if it is so utilized. Payment of such contribution shall be a condition precedent to the exercise of rights of membership in the Association upon the initial sale or a subsequent transfer of title to a Home, which is not exempted by the Rules and Regulations. Any unpaid capital contribution shall be deemed a lien on the Home in the same manner as any unpaid Common Expenses attributable to such Home.

2.08. Votes. Each Member in Good Standing shall be entitled to one vote for each Home to which he holds title. When more than one person holds title, the vote for each Home shall be exercised as the co-owner Members among themselves determine. When one or more co-owner Members signs a proxy or purports to vote for his or her co-owner Members, such vote shall be counted unless one or more of the other co-owner Members is present and objects to such vote; or if not present, submits a proxy or objects in writing delivered to the Secretary of the Association before the vote is counted. If co-owner Members disagree as to the vote, the vote shall be split equally among the co-owner Members.

There shall be 210 votes in the Association, each of equal weight, all of which, until the first conveyance of a Home to an individual Owner, shall be held by the Developer, who shall be deemed to be a Member of the Association. However, that upon each conveyance of title of a Home by Developer to another Owner, such Owner shall become entitled to one vote for each Home purchased, and the number of votes held by Developer shall be reduced accordingly. Developer's votes shall be cast by such persons as it may from time to time designate. Votes not held by

Developer shall be cast in person or by proxy, as otherwise provided herein. It is understood that in the event that the number of Homes ultimately established upon the Property is less than 210, the number of votes in the Association shall be equal to the number of Homes established.

ARTICLE III

Meetings of Owners

3.01. Place of Meetings. All meetings of the Owners of the Association shall be held at its principal office or at such other place convenient to the Members as may be designated by the Board.

3.02. Annual Meetings. All annual meetings of the Owners of the Association shall be held on the day and month of the year to be established by the Board, except that the first such annual meeting shall be held not more than thirteen months following the incorporation of the Association. At each annual meeting subsequent to the final Transition Elections held in accordance with Section 4.03 hereof, the election of Directors shall take place. If the election of Directors shall not be held at the annual meeting or any adjournment of such meeting, the Board shall cause the election to be held at a special meeting as soon thereafter as may be convenient. At such special meeting, the Owners may elect the Directors and transact other business with the same force and effect as at an annual meeting duly called and held. All proxies validly received for the originally scheduled meeting shall remain in full force and effect for any such adjourned meeting or special meeting and new proxies may be received for any such subsequent meeting.

3.03. Special Meetings. Special meetings of Owners may be called by the President whenever he deems such a meeting advisable, or shall be called by the Secretary upon the order of the Board or upon the written request of Members representing not less than twenty-five (25%) percent of all the votes entitled to be cast at such meeting. Such request shall state the purpose(s)

of such meeting and the matter(s) proposed to be acted upon. Unless Owners representing at least fifty (50%) percent of all votes entitled to be cast request such a meeting, no special meeting may be called to consider any matter which is substantially the same as a matter voted upon at any meeting of the Owners held during the preceding twelve (12) months, which determination shall be made in the sole and absolute discretion of the Board.

3.04. *Notice of Meeting.* Except as otherwise provided by law and Section 4.03 herein with respect to transition elections, notice of each meeting of Members, whether annual or special, shall be given, not less than ten (10) days nor more than sixty (60) days before the day on which the meeting is to be held, to each Owner at his last known address, by delivering a written or printed notice thereof to said Owner, or by mailing such notice, postage prepaid. Every such notice shall state the time, place and purpose(s) of the meeting. Notice of any meeting of Owners shall not be required to have been sent to any Owners who shall attend such meeting in person or by proxy. Notice of any adjourned meeting of the Owners shall not be required to be given unless the time and place to which the meeting is adjourned is not announced at the adjourned meeting. Except where otherwise expressly required by law, no publication of any notice of a meeting of Owners shall be required.

3.05. *Quorum and Adjourned Meetings.* At each meeting of the Owners, persons holding twenty-five (25%) percent of the authorized votes (including any held by Developer) present in person, by proxy or by mail ballot shall constitute a quorum for the transaction of business at a meeting of the membership except where otherwise provided by law. In the absence of a quorum, a majority of the votes present in person or by proxy may adjourn the meeting from time to time, until a quorum shall be present or represented. At any such adjourned meeting at which a quorum

may be present any business may be transacted which might have been transacted at the meeting originally called.

3.06. Organization. At each meeting of the Association, the President, or, in his absence, the Vice President, or in the absence of both of them, a person chosen by a majority vote of the Members in Good Standing present in person or represented by proxy, shall act as a chairperson, and the Secretary, or in his absence, a person whom the chairperson shall appoint, shall act as Secretary of the meeting.

3.07. Voting on Questions. Only Owners who hold memberships in good standing at least thirty (30) days prior to any meeting at which a vote is to occur shall be entitled to vote on questions. Each Owner shall be entitled to one vote for each Home to which he holds title with respect to all questions voted upon by the membership. A majority in interest of votes present in person or by proxy at any duly constituted meeting of the membership or by mail ballot shall be sufficient on those questions submitted to a vote of the membership. The vote on any question at a meeting need not be taken by ballot, unless (i) the chairperson of the meeting determines a ballot to be advisable, or (ii) a majority in interest of the votes present at the meeting determine that the vote on the question submitted shall be taken by ballot.

3.08. Voting in Elections of Directors. Only Owners who hold memberships in good standing at least thirty (30) days prior to any meeting at which an election is to occur shall be entitled to vote in elections of Directors. Each Owner shall be entitled to one (1) vote for each Home to which he holds title with respect to all elections. The election of Directors shall be conducted by written ballot. If, with respect to any election, more than twice the number of candidates to be elected are nominated, then there shall be two ballots cast. At the end of the tabulation of the first ballot, the field of nominees shall be reduced so that there are twice as many candidates as there are

positions to be filled, with the persons receiving the fewest votes being eliminated from the ensuing ballot. A second vote shall be held and, on the second vote, the persons receiving the plurality of votes will be deemed to be elected in order to fill the vacant positions. If there are not more than twice the number of nominees for the number of positions to be filled, then there shall be one vote, with the persons receiving the highest numbers of votes being elected in order to fill the vacancies on the Board. If ever applicable, candidates polling the highest numbers of votes will be considered elected for the longest period of years. Election of Directors at all meetings shall be in accordance with this Section 3.08.

3.09. **Ballot by Mail.** The Board, in lieu of calling a membership meeting, may submit any question, or election other than a Transition Election, to a vote of the membership by a ballot by mail. No ballot by mail shall be valid or tabulated unless the signature of the Owner(s) submitting the ballot has been verified on the ballot in accordance with procedures established by the Board. Only members in good standing shall be entitled to vote. The Board shall appoint judges to tabulate the ballot whose report shall be included in the minute book. In order to conduct a ballot by mail for a question submitted to a vote of the membership, the Board shall serve a notice upon all members which shall (i) state with specificity in terms of motion(s) the question(s) upon which the vote is to be taken; (ii) state the date by which ballots must be received in order to be counted; (iii) provide an official ballot for the purposes of the vote; and (iv) state the date upon which the action contemplated by the motion(s) shall be effective, which date shall be not less than ten (10) days after the date ballots must be received. No actions contemplated by a question submitted to a ballot by mail shall be taken unless a majority in interest of all owners in good standing submit ballots approving such action.

In order to conduct a ballot by mail for an election of Directors, the Board shall serve a notice upon all members which shall (i) provide an official ballot for the purposes of the election; and (ii) state the date by which the ballot must be received in order to be counted. No ballot shall be counted if the member casting same is not in good standing at least thirty (30) days prior to the date set for the ballot to be received.

3.10. Proxies. Voting by proxy shall be permitted with respect to all elections of Directors and all amendments to the Governing Documents, or any other matter which is to come before a meeting of the Membership of the Association. All proxies shall be in writing, signed by all individual Owners (or in the case of joint owners by any one of them), or by his or their duly authorized representative(s) and delivered to the Secretary of the Association, or such other person as the President may designate, prior to the opening of the polls at the meeting at which ballots are to be cast. Proxies may be revoked at any time prior to the opening of the polls, and no proxy shall be valid after eleven (11) months from its date unless said proxy provides for a longer period, not to exceed three (3) years from the date of execution. All proxies shall be substantially in the form prescribed by the Board, and if not in such form, shall be deemed invalid which determination shall be made in the sole and absolute discretion of the Board.

3.11. Inspectors. If, at any membership meeting a vote by ballot shall be taken, the chairperson of such meeting shall appoint two persons to act as inspectors with respect to the ballots. Each Inspector so appointed shall first subscribe an oath to execute faithfully the duties of an inspector with strict impartiality and according to the best of his ability. Such Inspectors shall decide upon the qualifications of voters and shall report the number of votes represented at the meeting and entitled to be cast, shall conduct and accept the votes, and when the voting is completed, shall ascertain and report to the Secretary the number of votes for and against the questions or candidates,

respectively. Reports of Inspectors shall be in writing and subscribed and delivered by them to the Secretary of the meeting. The Inspectors need not be Members of the Association and any officer or Director of the Association may be an Inspector on any question, other than a vote for or against his election or any other question in which he may be directly interested. In the case of a ballot by mail, the President of the Association shall appoint the Inspectors and the same provisions shall apply.

3.12. **Order of Business.** The order of business at the annual meeting of the Owners or at any special meeting insofar as practicable shall be:

- (a) Calling of the roll and certifying the proxies.
- (b) Proof of notice of meeting and waiver of notice.
- (c) Reading and disposal of any unapproved minutes.
- (d) Appointment of Inspectors of election, if appropriate.
- (e) Election of Directors, if appropriate.
- (f) Receiving reports of officers.
- (g) Receiving reports of committees.
- (h) Old business.
- (i) New business.
- (j) Adjournment.

ARTICLE IV

The Board of Directors

4.01. **Qualifications.** The following criteria shall be qualifications for nomination, appointment or election to a Directorship.

(a) **Membership in Good Standing:** Membership in Good Standing shall be a qualification of any nominee or appointee to a Directorship and for continued service on the Board.

(b) **Representation:** Partnerships, corporations, limited liability companies, fiduciaries or co-owners holding memberships in good standing may designate one individual per Home owned to be eligible for nomination, appointment, or election as Directors in accordance with the following qualifications:

- (i) Partnership designees shall be members, employees or agents of the partnership;
- (ii) Corporate designees shall be officers, stockholders, employees or agents of the corporation;
- (iii) Limited liability company designees shall be members, employees or agents of the limited liability company;
- (iv) Fiduciary designees shall be fiduciaries, officers or employees of the fiduciary; and
- (v) Co-owners holding a membership in good standing may designate any one of them, but only one of them, to be eligible for nomination, appointment, or election as a Director; however, in the case of any disagreement, the express consent of a majority in interest of such Co-owners shall be required.

(c) **Disqualification of Directors.** Any Director whose membership in the Association is not in good standing for thirty (30) consecutive days shall automatically be disqualified as a Director upon expiration of said thirty (30) day period and a replacement shall be appointed by the Board within thirty (30) days thereafter to serve the remainder of the term as

contemplated by Section 4.04 hereof. Despite the aforesaid, any Director who conveys title to his Home and no longer holds title to any other Home is automatically disqualified as a Director effective on the date of said conveyance.

4.02. Number. The Board shall initially consist of three (3) Directorships, designated Directorships "A," "B" and "C." Upon the initial conveyance of fifty-three (53) Homes (25% of the total Homes contemplated), the Board shall be expanded to five (5) Directorships, designated Directorships "A," "B," "C," "D," and "E."

4.03. Transition Elections. Within thirty (30) days after the initial conveyance of fifty-three (53) Homes, the President shall call either the first annual meeting or a special meeting of the membership of the Association for the purpose of holding the first election of Owners to the Board ("Transition Election"). At the meeting, Owners other than the Developer shall be entitled to vote for and elect Directors A and B from among such Owners in accordance with the provisions of Article III of these By-Laws, and the Developer shall be entitled to appoint Directors C, D, and E.

Within thirty (30) days after the initial conveyance of one hundred fifty-eight (158) Homes (75% of the total Homes contemplated), the President shall call a meeting of the membership of the Association for the purpose of holding a second Transition Election. At this meeting, Owners other than the Developer shall be entitled to vote for and elect Directors C and D from among such Owners in accordance with the provisions of Article III of these By-Laws, and the Developer shall be entitled to appoint Director E.

Within thirty (30) days after all Homes have been initially conveyed, the President shall call a meeting for the third Transition Election at which Owners other than the Developer shall be entitled to vote for and elect Director E from among such Owners in accordance with the provisions of Article III hereof; provided that the Developer shall be entitled in its discretion to relinquish

Directorship E at the time of the second Transition Election or any time thereafter prior to the conveyance of the last Home.

Further, only Owners who are Members in Good Standing shall be eligible to be nominated, elected, or to serve on the Board, except that in the case of any Owner which is a partnership, corporation or limited liability company, including Developer, a designee shall be eligible if the Owner is a Member in Good Standing.

Notice of all special meetings called pursuant to this Section for the purpose of holding Transition Elections shall be given not less than ten (10) nor more than thirty (30) days prior to the date of the meeting.

4.04. Term of Office. Developer-appointed Directors A and B shall serve until their successors have been qualified and elected at the First Transition Election. Directors A and B elected at the First Transition Election shall serve terms expiring at the annual meeting of the membership held in the second calendar year following the year in which the first Transition Election is held. Thereafter, Directors A and B shall serve for two year terms.

Developer-appointed Directors C and D shall serve until their successors have been qualified and elected at the second Transition Election held pursuant to Section 4.03 herein. If (i) the first and second Transition Elections are held in the same calendar year, or (ii) the second Transition Election is held in a calendar year in which the terms of Owner elected Directors A and B expire, then Directors C and D elected at the second Transition Election shall serve terms expiring at the annual meeting of the membership held in the third calendar year following the year in which the second Transition Election is held; otherwise Directors C and D elected at the second Transition Election shall serve terms expiring at the annual meeting of the membership held in the second calendar year

following the year in which the second Transition Election is held. Thereafter, Directors C and D shall serve for two year terms.

Developer-appointed Director E shall serve until his successor has been elected and qualified at the second or third Transition Election. The first Owner elected Director E shall serve a term expiring upon the expiration of the terms of the Directors C and D then in office. Thereafter, Director E shall serve for two-year staggered terms.

It is the purpose and intent hereof that subsequent to all Transition Elections, the election of Directors A and B shall be held in alternate years to the election of Directors C, D and E.

4.05. Removal of Members of the Board. At any duly held and constituted regular or special meeting of the Owners, any one or more Directors may be removed with or without cause by vote of the Owners present, provided that the notice of the meeting expressly includes this item. A successor may then and there be elected by a majority of the remaining Directors to fill the vacancy thus created. Each person so appointed shall be a Director for the remainder of the term of the Director whose term he is filling and until his successor is duly elected and qualified. Any Director whose removal has been proposed shall be given an opportunity to be heard at the meeting, but the failure of any Director to be a Member in Good Standing for a period of thirty (30) days or more shall be grounds for automatic removal without any vote of the members.

Despite the foregoing, an Owner-elected Director cannot be removed except by a majority vote of the Owners present other than the Developer, but the failure of any Director to be a Member in Good Standing for a period of thirty (30) days or more shall be grounds for automatic removal without any vote of the members. In the event that all of the Owner-elected Directors are removed, successors shall be elected by the Owners other than the Developer in the manner set forth in Section

4.03 herein to fill the vacancies thus created. The provisions of this Section 4.05 shall not apply to any Director appointed by the Developer.

4.06. *Vacancies.* Vacancies on the Board caused by any reason other than the removal of a Director by a vote of the Owners shall be filled by a vote of a majority of the remaining Directors, including the Developer's appointees, at a special meeting of the Board held for that purpose promptly after the occurrence of any such vacancy. Each person so elected shall be a Director for the remainder of the term of the Director whose term he is filling and until his successor shall have been duly elected and qualified. Despite the foregoing, until the first Transition Election, Developer shall have the right to fill all vacancies on the Board by appointment. Owner-elected vacancies on the Board shall only be filled by Owners other than the Developer, whether same be elected pursuant to the provisions herein or of Section 4.05.

ARTICLE V

Transaction of Business by the Board of Directors

5.01. *Developer's Protective Provisions.*

(a) After control of the Board is vested in Directors elected by Members other than the Developer, and so long as the Developer owns at least one (1) Home and holds same for sale in the ordinary course of business, the following shall apply and shall not be amended:

(1) Neither the Association nor its Board of Directors shall take any action that will impair or adversely affect the rights of the Developer or cause the Developer to suffer any financial, legal or other detriment, including, but not limited to, any direct or indirect interference with the sale of Homes or the assessment of the Developer for capital improvements.

(2) The Association and its Board of Directors shall continue the same level of maintenance, operation and services as provided immediately prior to the assumption of control of the Association and the Board of Directors by Owners other than the Developer.

(3) In furtherance of the foregoing provisions, the Developer shall have the right to veto any and all actions of the Association or the Board which may have any direct or indirect detrimental impact upon the Developer as may be determined in the sole reasonable discretion of the Developer.

(4) The Developer shall exercise its veto right, in its sole and absolute discretion, within ten (10) days after its receipt of written notice that a resolution or other action is proposed or has been taken by the Association or its Board of Directors. In such event, the Developer shall notify the Secretary of the Association of its exercise of its veto right and any such proposal or action shall be deemed null and void ab initio and of no further force or effect.

(b) The aforementioned protective provisions shall be construed in accordance with, and not in derogation of, N.J.A.C. 5:26-8.4 of the regulations promulgated pursuant to the New Jersey Planned Real Estate Development Full Disclosure Act, N.J.S. 45:22A-21 et seq., and shall not be amended without the express written consent of the Developer.

5.02. Meeting of the Board; Notice to Directors; Waiver of Notice. The first annual meeting of the Board shall be held within ten (10) days after the first annual meeting of the Owners and at such time and place as shall be fixed by a majority of the Board and no notice shall be necessary. Thereafter, regular meetings of the Board may be held at such time and place as shall be determined from time to time by a majority of the Board, but at least two meetings shall be held each year. Notice of regular meetings of the Board shall be given to each Director by telephone, mail, or telegram at least three (3) days prior to the day of the meeting. Special meetings of the Board may

be called by the President on three (3) days notice to each Director given by telephone, mail or telegram, which notice shall state the time, place and purpose of the meeting. Special meetings of the Board shall be called by the President or the Secretary in like manner and on like notice on the written request of at least three (3) Directors. Any Director may, at any time, waive notice of any meeting of the Board in writing and such waiver shall be deemed equivalent to the giving of notice. Actual attendance by Directors at any meeting of the Board shall constitute a waiver of notice by him of the time and place thereof. If all the Directors are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

5.03. Quorum and Adjourned Meetings. At all meetings of the Board, a majority of the Directors shall constitute a quorum for the transaction of business and the votes of a majority of the Directors present and voting at a meeting at which a quorum is present shall constitute a valid decision. If at any meeting of the Board there shall be less than a quorum present, the majority of those present shall adjourn the meeting to a new date. At any such adjourned meeting at which a quorum is present, any business which may have been transacted at the original meeting may be transacted without further notice. The vote of a majority of those present at a Board meeting at which a quorum is present shall be necessary for valid action by the Board on any matter.

5.04. Joinder in Meetings by Approval of Minutes. The transaction of any business at any meeting of the Board, however called and noticed or wherever held, shall be valid as if transacted at a meeting duly held after regular call and notice, if (i) a quorum is present; and if (ii) either before or after the meeting, each Director signs a written waiver of notice, or a consent to the holding of the meeting, or an approval of the minutes thereof or of the resolution or act adopted at such meeting. All such waivers, consents or approval shall be in writing and filed with the Secretary and made a part of the minutes of the meeting even though filed subsequent thereto.

5.05. Non-Waiver. All the rights, duties and privileges of the Board shall be deemed to be continuing and shall not be exhausted by any single act or series of acts. To the same extent, the failure to use or employ any remedy or right hereunder or hereafter granted shall not preclude its exercise in the future nor shall any custom bind the Board.

5.06. Consent in Lieu of Meeting and Vote. Despite anything to the contrary in the Governing Documents, the entire Board of Directors shall, subject to any open meeting requirements applicable under New Jersey law, have the power to take action on any matter on which it is authorized to act, without the necessity of a formal meeting and vote, if the entire Board, or all the Directors empowered to act, whichever the case may be, shall consent in writing to such action.

5.07. Meetings Open to Owners; Notice. All Board Meetings, except conferences or working sessions at which no binding votes are to be taken, shall be open to attendance by all Owners, subject to those exceptions set forth in N.J.S.A. 45:22A-46a, as now or hereafter amended. The Board may exclude or restrict attendance at those meetings, or portions of meetings, at which any of the following matters are to be discussed: 1) any matter the disclosure of which would constitute an unwarranted invasion of individual privacy; 2) any pending or anticipated litigation or contract negotiations; 3) any matters falling within the attorney-client privilege, to the extent that confidentiality is required in order for the attorney to exercise his ethical duties as a lawyer; or 4) any matter involving the employment, promotion, discipline or dismissal of a specific officer or employee of the Association.

ARTICLE VI

Powers and Duties of Board of Directors

6.01. General Powers and Privileges. Subject to the Declaration or other instruments of creation, the Association may do all it is legally entitled to do under the laws applicable to its form

of organization. The Association shall discharge its powers in a manner that protects and furthers the health, safety and general welfare of the residents of the community. The Association shall provide a fair and efficient procedure for the resolution of disputes between individual Owners and the Association, and between different Owners, that shall be readily available as an alternative to litigation.

The property, affairs and business of the Association shall be managed by the Board of Directors, which shall have all those powers granted to it by the Governing Documents and by law. The Board shall have those powers, which include, but which are not necessarily limited to, the following, together with such other powers as may be provided herein or in the Declaration, or which may be necessarily implied.

(a) To employ, by contract or otherwise, a manager, managing agent or an independent contractor to oversee, supervise and carry out the responsibilities of the Board. Said manager or said independent contractor shall be compensated upon such terms as the Board deems necessary and proper; and

(b) To employ any person, firm or corporation to repair, maintain or renovate the Common Property of the Community; to lay pipes or culverts; to bury utilities; to put up lights or poles; to erect signs and traffic and safety controls of various sorts on said Common Property; and

(c) To employ professional counsel and to obtain advice from persons, firms or corporations such as, but not limited to, landscape architects, architects, engineers, lawyers and accountants; and

(d) To employ or contract for water and sewer, electricity and gas or other forms of utilities, cable or master antenna television; and

(e) To employ all managerial personnel necessary, or enter into a managerial contract for the efficient discharge of the duties of the Board hereunder; and

(f) To adopt, amend, and publish Rules and Regulations covering the details of the operation and use of the Common Property including, but not limited to, pet controls; and

(g) To secure full performance by Owners or occupants of all items of maintenance for which they are responsible; and

(h) To coordinate the plans of Owners and occupants of Homes for moving their personal effects or property into the Home or out of it, with a view toward scheduling such movements so that there shall be a minimum of inconvenience to others; and

(i) To establish and enforce Rules and Regulations for parking by, and the assignment of parking spaces to, Owners, subject to the provisions of the Governing Documents; and

(j) To secure full performance by Owners of all items of maintenance for which they are responsible; and

(k) To arrange for security protection as necessary; and

(l) To enforce obligations of the Owners and do anything and everything else necessary and proper for the sound management of the Community, including the right to bring, defend or settle lawsuits to enforce the terms, conditions and restrictions contained in the Governing Documents; and

(m) To borrow and repay monies, giving notes, mortgages or other security upon such term or terms as it deems necessary; and

(n) To invest and reinvest monies; sue and be sued; collect interest, dividends, and capital gains; exercise rights; pay taxes; make and enter into contracts; enter into leases or

concessions; make and execute any and all proper affidavits for various purposes; compromise any action without leave of court; and all other powers contained herein, and those necessary and incidental thereto; and

(o) To transfer, grant or obtain easements, licenses, and other property rights with respect to the Common Property in a manner not inconsistent with the rights of Owners; and

(p) To purchase or lease or otherwise acquire in the name of the Association or its designees, corporate or otherwise, on behalf of all Owners within the Community, Homes offered for sale or lease or surrendered by their Owners to the Board, provided that the foregoing shall not be construed to constitute a right of first refusal; and

(q) To purchase Homes within the Community at foreclosure or other judicial sales in the name of the Association or its designees, corporate or otherwise, on behalf of all Owners; and

(r) To sell, lease, mortgage (but not vote the votes appurtenant thereto) or otherwise deal with Homes acquired by the Association, and sublease any such Homes leased by the Association or its designees, on behalf of all Owners; and

(s) To bring and defend actions by or against more than one Owner which are pertinent to the operation of the Community, the health, safety or general welfare of the Owners, or any other legal action to which the Owners may consent in accordance with these By-Laws; and

(t) To appoint an Insurance Trustee, who shall not be a Member of the Association, an employee of the Developer, or the manager, who shall discharge his duties in accordance with these By-Laws. In the absence of such an appointment, the Board shall be responsible for the disposition of all insurance proceeds; and

(u) To create, appoint members to and disband such committees as shall from time to time be deemed appropriate or necessary to aid the Board in the discharge of its duties, functions and powers; and

(v) To establish an Architectural Review Committee as hereinafter provided in Article X; and

(w) To establish an Alternative Dispute Resolution Committee as hereinafter provided in Article XI.

6.02. Duties and Responsibilities. It shall be the affirmative and perpetual obligation and duty of the Board to perform the following:

(a) To cause the Common Property and the lawn areas to be maintained according to accepted standards and as set forth in the Declaration, including, but not limited to, such maintenance, painting, replacement and repair work as may be necessary, routine lawn maintenance for the Homes and the Common Property of the Community, clearing of snow from roadways and walkways as the Board may deem appropriate, maintenance of the pump station and storm water drainage systems, if any. All repairs and replacements shall be substantially similar to the original application and installation and shall be of first class quality; and

(b) To investigate, hire, pay, supervise and discharge the personnel necessary to be employed, and provide the equipment and materials necessary, in order to properly maintain and operate the Common Property. Compensation for the services of such employees (as evidenced by certified payroll) shall be considered an operating expense of the Association; and

(c) To cause to be kept a complete record of all its acts and corporate affairs and to present a summary report thereof to the Members at the annual meeting or at any special meeting

when requested in writing at least twenty-one (21) days in advance by Members entitled to cast at least twenty-five (25%) percent of the total votes of the Association; and

(d) To allocate common surplus or make repairs, additions, improvements to, or restoration of the Common Property in accordance with the provisions of these By-Laws and the Declaration after damage or destruction by fire or other casualty, or as a result of condemnation or eminent domain proceedings; and

(e) To take such action as may be necessary to comply promptly with any and all orders or requirements affecting the premises maintained by the Association placed thereon by any federal, state, county or municipal authority having jurisdiction thereover, and order of the Board of Fire Underwriters or other similar bodies; and

(f) To manage the fiscal affairs of the Association as hereinafter provided in Article VII; and

(g) To place and keep in force all insurance coverages required to be maintained by the Association, applicable to its Common Property and Members including, but not limited to:

(i) *Physical Damage Insurance.* To the extent available in the normal commercial marketplace, broad form insurance against loss by fire and against loss by lightning, windstorm and other risks normally included within all risk extended coverage, including vandalism and malicious mischief, insuring all Common Property, together with all service machinery appurtenant thereto, as well as common personalty belonging to the Association, and covering the interest of the Association, the Board, the Developer, and all Owners and any Mortgage Holder who has requested the Association in writing to be named as loss payee, as their respective interests may appear, in an amount equal to the full replacement value of the Common Property (exclusive of foundations and footings), without deduction for depreciation. Each policy shall contain a standard

mortgagee clause in favor of each applicable Mortgage Holder, which shall provide that the loss, if any, thereunder, shall be payable to each applicable Mortgage Holder, its successors and assigns, as its interest may appear, subject to the loss payment provisions set forth in the Declaration. The aforesaid mortgage clause shall name as mortgagee either the Federal National Mortgage Association (FNMA) or its servicers in the event FNMA holds mortgages on any Homes. When a servicer is named as the mortgagee, its name must be followed by the phrase "its successors and assigns." When a majority of the Board is elected by the Owners other than the Developer, prior to obtaining any renewal of a policy of fire insurance, the Board shall obtain an appraisal or other written evaluation of an insurance broker licensed to conduct business in New Jersey or other qualified expert as to the full replacement value of the Common Property (exclusive of foundations and footings) without deduction for depreciation, for the purposes of determining the amount of fire insurance to be obtained pursuant to this subparagraph. The amount of any deductible and the responsibility for payment of same shall be determined by the Board, in its sole discretion.

(ii) *Public Liability Insurance.* To the extent obtainable in the normal commercial marketplace, public liability insurance for personal injury and death from accidents occurring within the Common Property (and any other areas which the Board may deem advisable), and the defense of any actions brought by injury or death of a person or damage to property, occurring within such Common Property, and not arising by reason of any act or negligence of any individual Owner. Said insurance shall be in such limits as the Board may, from time to time, determine, covering each Member of the Board, the managing agent, the manager, and each Member, and shall also cover cross liability claims of one insured against another. Until the first meeting of the Board following the first annual meeting, such public liability insurance shall be in

a single limit of not less than \$1,000,000.00 covering all claims for personal injury or property damage arising out of any one occurrence. The Board shall review such limits once a year.

(iii) *Directors and Officers Liability Insurance.* To the extent obtainable in the normal commercial marketplace, liability insurance indemnifying the Directors and Officers of the Association against liability for errors and omissions occurring in connection with the performance of their duties in an amount of at least \$1,000,000.00, with any deductible amount to be in the sole discretion of the Board.

(iv) *Workers' Compensation Insurance.* Workers' compensation and New Jersey disability benefits insurance as required by law.

(v) *Vehicular Liability Insurance.* To the extent obtainable in the normal commercial marketplace, vehicular liability insurance to cover all motor vehicles, if any, owned or operated by the Association.

(vi) *Flood Insurance.* Flood hazard insurance in the event any of the insurable Common Property is located within a federally designated zone of greater than minimal flood hazard.

(vii) *Water Damage.* Water Damage legal liability insurance.

(viii) *Other Insurance.* Such other insurance as the Board may determine to be appropriate.

All policies shall: (i) provide, if possible, for recognition of any insurance trust agreement of the Association and that any adjustment of loss shall be made by the Board of Directors; (ii) require that the proceeds of physical damage insurance be applied to the restoration of such Common Property and structural portions and service machinery as is required by the Declaration and these By-Laws; (iii) to the extent obtainable contain agreed amount and inflation guard endorsements;

construction code endorsement; demolition cost endorsement; contingent liability from operation of building laws endorsement and increased cost of construction endorsement; (iv) provide that the insurance will not be prejudiced by any act or omission of individual Members that are not under the control of the Association; (v) provide that the policy will be primary, even if insurance covering the same loss is held by any Member(s); (vi) to the extent obtainable contain waivers of subrogation and waivers of any defense based on co-insurance or of invalidity arising from any acts of the insured; and (vii) provide that such policies may not be canceled without at least thirty (30) days prior written notice to the Board and all Eligible Mortgage Holders.

All policies shall show the named insured as: "Tavistock Homeowners Association, Inc., for the use and benefit of the individual owners." The "loss payable" clause must show the Association, as a trustee for each Owner, mortgage holder or other loss payee. Also, the policies must require the insurer to notify in writing the Board and each Eligible Mortgage Holder at least thirty (30) days before it substantially changes the Association's coverage.

The Board may determine, in its sole discretion, the amount of any deductible and the responsibility for payment of same as to any policy of insurance maintained under this subparagraph. Despite any other provisions of this subparagraph, the Association shall not be required to provide any type or amount of insurance not commonly available in the normal commercial marketplace.

The premiums for any and all insurance coverage maintained by the Association shall be a common expense of the Association.

Owners shall not be prohibited from carrying insurance for their own benefit provided that all such policies shall contain waivers of subrogation; and further provided that the liability of the carriers issuing insurance obtained by the Board shall not be affected or diminished by reason of any such additional insurance carried by any Owners.

(h) To cause the Community to continue to qualify as 55 or Over Housing under the "housing for older persons" exemption of the Housing for Older Persons Act of 1995 (U.S.C.A. 3607), by the publication and adherence to the policies and procedures that demonstrate said intent, including, but not limited to:

- (i) the manner in which the Community is described to prospective Permanent Residents; the advertising designed to attract prospective Permanent Residents; the lease provisions; the Rules and Regulations, the Deed and the terms of the Declaration of Restrictive and Protective Covenants, including all restrictions; the maintenance and consistent application of relevant procedures; actual practices of the Community; and the public posting on the Common Property of statements describing the Community as housing for persons 55 years of age or older;
- (ii) the enforcement of the age restrictions contained in Article IV of the Declaration;
- (iii) the Association must produce verification of compliance with the Act through reliable surveys and affidavits; the Association must develop procedures for routinely determining the occupancy of each Home, including the identification of Homes occupied by persons 55 years of age or older, which procedures must take place at least once every two years, which shall include appropriate documentation, including, but not limited to, driver's license, birth certificate, certification or other document signed by a Permanent Resident asserting that at least

one Permanent Resident of the Home is 55 years of age or older, except to the extent that particular persons have previously provided age verification, copies of which are still available in the records of the Association.

(i) To assume the Declarant's obligations under the Drainage Declaration dated May 14, 2002 and recorded in the Atlantic County Clerk's Office on May 20, 2002 in Book 7214 at Page 1, from and after the release of the Declarant's performance guarantee by the Township of Hamilton, as contemplated in Article First of the Drainage Declaration.

ARTICLE VII

Fiscal Management

7.01. Budget; Common Expense Assessments. The Board shall prepare an annual *Common Expense Budget* which reflects the anticipated operating expenditures and repair and replacement reserve accumulation requirements for the next ensuing fiscal year of the Association. Common Expenses shall include, but not be limited to, the estimated costs for the operation, repair and maintenance of the Common Property, the estimated costs for the operation of the Association, and any reserves for deferred maintenance, replacement or capital improvements of the Common Property.

The Board shall have the duty to collect from each Owner, his heirs, administrators, successors and assigns, as "Annual Assessments", the proportionate part of the Annual Expenses assessed against such Owner as provided in the Governing Documents and in accordance with applicable law.

7.02. *Determination of Annual Expenses.* The amount of monies for Annual Expenses deemed necessary by the Board and the manner of expenditure thereof, including, but not limited to, the allocation thereof, shall be a matter for the sole discretion of the Board.

7.03. *Disbursements.* The Board shall take and hold the funds as collected and shall disburse the same for the purposes and in the manner set forth herein and as required by the Declaration, Certificate of Incorporation, and applicable law.

7.04. *Depositories.* The depository of the Association shall be such bank or banks as shall be designated from time to time by the Board and in which the monies of the Association shall be deposited. Withdrawal of monies from such accounts shall be only by checks signed by such parties as are authorized by the Board, provided that a management agreement may include among its provisions authority for a manager to sign checks on behalf of the Association for payment of the obligations of the Association, if the proper fidelity bond is furnished to the Association.

7.05. *Accounts.*

(a) The receipts and expenditures of the Association shall be Common Charges and Common Expenses, respectively, and shall be credited and charged to accounts under the following classifications as the Board shall deem appropriate, all of which expenditures shall be Common Expenses:

(i) Current expenses, which shall include expenditures within the year for which the budget is made, including reasonable allowances for contingencies and working funds. Current expenses shall not include expenditures chargeable to reserves. At the end of each year, any unexpended amount remaining in this account shall be applied to reduce the assessments for current expenses for the succeeding year, or distributed to the Membership in the same manner as assessed, as the Board shall determine.

(ii) Reserves for deferred maintenance, which shall include funds for maintenance items that occur less frequently than annually.

(iii) Reserves for replacement, which shall include funds for repair or replacement of the Common Property and those portions of the Common Property for which repair or replacement is required because of damage, depreciation or obsolescence. The amounts in this account shall be allocated among each of the separate categories of replacement items, which amounts and items shall be determined in the sole discretion of the Board.

(iv) Reserves for capital improvements, which shall include the funds to be used for capital expenditures or for acquisition of additional personal property that will be part of the Common Property.

(v) Operations, which shall include all funds from the use of the Common Property or from any other sources. Only the additional direct expense required by any revenue producing operation will be charged to this account, and any surplus from any operation or otherwise shall be used to reduce the assessments for current expenses for the year during the one in which the surplus is realized, or at the discretion of the Board, in the year following the one in which the surplus is realized. Losses from operations or otherwise shall be met by special assessments against Owners, which assessments may be made in advance in order to provide a working fund.

(vi) Working capital, consisting of those nonrefundable and non-transferable contributions assessed upon each Owner upon acquisition of title to a Home imposed under Section 2.07 herein, which may be utilized by the Board in its reasonable discretion to meet unanticipated or other expenses of the Association or for any other lawful purpose.

(vii) Bulk real estate tax reserve, which shall be those funds collected by the Association as Miscellaneous Assessments to enable the Association to pay to the municipality

those amounts estimated or assessed and billed as real estate taxes or Annual Service Charges against the Property as a whole until such time as the municipality assesses and bills all real estate taxes on a per unit basis.

(b) The Board of Directors shall not be required to physically segregate the funds held in the above accounts except for the reserves for replacement and repair, if any, which funds must be maintained in separate accounts. The Board may, in its sole discretion, maintain the remaining funds in one or more consolidated accounts. As to each consolidated account, the division into the various accounts set forth above need be made only on the Association's records.

7.06. Reserves. The Board shall not be obligated to expend all of the reserves collected in any accounting period and must maintain reasonable reserves for, among other things, repairs, replacements, emergencies, contingencies of bad weather or uncollected accounts. Despite anything herein to the contrary, the Board in its determination of the Common Expenses and the preparation of a budget shall specifically designate and identify that portion of the Common Expenses which is to be assessed against the Owners as a capital contribution and is allocable to reserves for each separate item of capital improvement of and to said Common Property. The amounts assessed and collected for the reserves shall be kept in one or more interest-bearing savings accounts, or certificates of deposit, and shall not be utilized for any purpose other than that which was contemplated at the time of the assessment. The foregoing shall not be construed to mean that the Board shall not be permitted to keep additional cash on hand, in a checking or petty cash account, for the necessary discharge of its functions.

7.07. Notice; Emergencies. The Board shall give written notice to each Owner and Eligible Mortgage Holder of the amount estimated by the Board for Common Expenses for the management and operation of the Association for the next ensuing budget period, directed to the Owner at his last

known address by ordinary mail, or by hand delivery. Said notice shall be conclusively presumed to have been delivered five (5) days after deposit in the United States mails. After the Developer turns over control of the Board to the Owners, if an Annual Assessment is not made as required, an Assessment shall be presumed to have been made in the amount of the last prior year's Assessment, and monthly installments on such Assessment shall be due upon each installment payment date until changed by an amended Assessment. In the event the Annual Assessment proves to be insufficient, the budget and Assessments may be amended at any time by the Board, provided that nothing herein shall serve to prohibit or prevent the Board from imposing an Emergency Assessment in the case of any immediate need or emergency which cannot be met by funds earmarked for such contingency.

7.08. Acceleration of Assessment Installment upon Default. If an Owner shall be in default less than thirty (30) days in the payment of an installment upon any type of assessment, the Board may notify the delinquent Owner that the remaining installments of the assessment shall be accelerated if the delinquent installment has not been paid by a date stated in the notice, which date shall not be less than five (5) days after delivery of the notice to the Owner, or not less than ten (10) days after the mailing of such notice to him by registered or certified mail. If default shall continue for a period of thirty (30) days then the Board shall be required to give such notice. If default continues following the time for payment prescribed in the notice, then the Board shall be required to accelerate the remaining installments of the assessment and notify the delinquent Owner that a lien for the accelerated amount shall be filed on a date certain stated in the notice if the accelerated balance has not then been paid. The lien for such accelerated assessment as permitted by law shall then be filed if the delinquent assessment has not been theretofore paid and the Board may also notify any holder of a mortgage encumbering the Home affected by such default or publish appropriate notice of such delinquency to the membership of the Association. If said default

continues for a period of ninety (90) days, then the Board shall foreclose the foregoing lien pursuant to law and/or commence an independent suit against the appropriate parties to collect the Assessment.

7.09. Interest and Counsel Fees. The Board at its option shall have the right in connection with the collection of any type of assessment, or other charge, to impose a late charge of any reasonable amount and/or interest at the legal maximum rate permitted by law for the payment of delinquent real estate taxes, if such payment is made after a date certain stated in such notice. In the event that the Board shall effectuate collection of said Assessments or charges by resort to counsel, and/or the filing of a lien, the Board may add to the aforesaid Assessments or charge reasonable counsel fees, plus the reasonable costs for preparation, filing and discharge of the lien, in addition to such other costs as may be allowable by law.

7.10. Assessment of Expenses in Actions by or against Association; Allocation of Awards.

(a) Common Expenses. In the case of any action or proceeding brought or defended by the Association or the Board pursuant to the provisions of the Governing Documents, the reasonable costs and expenses of preparation and litigation, including attorneys' fees, shall be Common Expenses among all Owners other than the Developer.

All Common Expense Assessments received and to be received by the Board, for the purpose of paying any judgment obtained against the Association or the Board and the right to receive such funds, shall constitute trust funds and same shall be expended first for such purpose before expending any part of same for any other purpose.

(b) Allocation of Awards. Money judgments recovered by the Association in any action or proceeding brought hereunder, including costs, penalties or damages shall be deemed a special fund to be applied to (1) the payment of unpaid litigation expenses; (2) Common Expense

Assessments, if the recovery thereof was the purpose of the litigation; (3) repair or reconstruction of the Common Property if recovery of damages to same was the purpose for the litigation; and (4) any amount not applied to (1), (2), and (3) above shall at the discretion of the Board be treated either as (i) a common surplus which shall be allocated and distributed pursuant to the provisions of Section 7 of Article V of the Declaration or (ii) a set off against the Common Expense Assessments generally. Despite the foregoing, if an Owner(s), the Board or any other person or legal entity affected by any such distribution, shall assert that the damages sustained by an Owner(s) was disproportionate to his allocated amount of any common surplus, the matter shall be submitted to binding arbitration in accordance with Article XII hereof.

(c) Recovery by Owner. In the event that an Owner(s) succeeds in obtaining a judgment or order against the Association or the Board, then in addition to any other sums to which said Owner(s) would otherwise be entitled by such judgment or order, he or they shall also be entitled to the restitution or recovery of any sums paid to the Board as Common Expense Assessments for litigation expenses in relation to said action or proceeding.

7.11. Power of Attorney to Permitted Mortgage Holder. In the event the Board shall not cause the enforcement procedures provided in Sections 7.08 and 7.09 above to be implemented within the time provided, any Permitted Mortgage Holder for any Home as to which there shall be such unpaid Common Expense Assessments is hereby irrevocably granted a power of attorney to commence such actions and to invoke such other remedies, all in the name of the Association. This power of attorney is expressly stipulated to be coupled with an interest in the subject matter.

7.12. Annual Audit. The Board shall submit the books, records, and memoranda of the Association to an annual audit by an independent certified public accountant who shall audit the same and render a report thereon in writing to the Board and to the Owners and such Eligible

Mortgage Holders or other persons, firms or corporations as may be entitled to same. While the Developer maintains a majority of the Board, the Developer shall have an annual audit of Association funds prepared by an independent accountant, a copy of which shall be delivered to each Owner within ninety (90) days of the expiration of the fiscal year of the Association. The audit shall cover the operating budget and reserve accounts.

7.13. Examination of Books. Each Owner shall be permitted to examine the books of account of the Board by appointment in the offices of the Association or such other place as may be designated therefor by the Board at a reasonable time on business days; provided, however, that the Treasurer has been given at least ten (10) days prior written notice of the Owner's desire to make such an examination.

7.14. Fidelity Bonds. Fidelity bonds shall be required by the Board from all persons handling or responsible for Association funds. The amount of such bonds shall be determined by the Board in its sole discretion. The premium on such bonds shall be paid by the Association. While the Developer maintains a majority of representation on the Board, he shall post a fidelity bond or other guarantee acceptable to the New Jersey Department of Community Affairs in an amount equal to the annual budget. For the second and succeeding years, the bond or other guarantee shall include accumulated reserves.

ARTICLE VIII

Officers

8.01. Designation. The principal officers of the Association shall be a President, a Vice-President, both of whom shall be Members of the Board, a Secretary and a Treasurer. The Board may also appoint such other Assistant Treasurers and Assistant Secretaries as in its judgment may be

necessary. Any two (2) offices, except that of President and Vice-President, may be held by one person.

8.02. Election of Officers. The officers of the Association shall be elected annually by the Board at its first meeting following each annual meeting and such officers shall hold office at the pleasure of the Board.

8.03. Removal of Officers. Upon an affirmative vote of a majority of the full number of Directors, any officer may be removed, either with or without cause, after opportunity for a hearing, and his successor elected at any regular meeting of the Board, or at any special meeting of the Board called for such purpose.

8.04. Duties and Responsibilities of Officers.

(a) The President shall be the chief executive officer of the Association. He shall preside at all meetings of the Association and the Board. He shall have all of the general powers and duties which are usually vested in the office of President of an Association.

(b) The Vice-President shall take the place of the President and perform his duties whenever the President shall be absent or unable to act. If neither the President nor the Vice-President is able to act, the Board shall appoint some other Director to so do on an interim basis. The Vice-President shall also perform such other duties as shall from time to time be imposed upon him by the Board.

(c) The Secretary shall keep the minutes of all meetings of the Board and the minutes of all meetings of the Members of the Association; he shall have charge of such books and papers as the Board may direct; and he shall, in general, perform all the duties incident to the office of the Secretary.

(d) The Treasurer shall have the responsibility for the custody of Association funds and securities and shall be responsible for keeping full and accurate accounts of all receipts and disbursements in books belonging to the Association. He shall be responsible for the deposit of all monies and other valuable effects in the name and to the credit of the Association in such depositories as may from time to time be authorized by the Board.

8.05. Other Duties and Powers. The officers shall have such other duties, powers and responsibilities as shall, from time to time, be authorized by the Board.

8.06. Eligibility of Directors. Nothing herein contained shall prohibit a Director from being an officer.

ARTICLE IX

Compensation, Indemnification and Exculpation

9.01. Compensation. No compensation shall be paid to the President or the Vice-President or any Director, or committee member for acting as such officer or Director. The Secretary and/or Treasurer may be compensated for their services if the Board determines that such compensation is appropriate. Nothing herein stated shall prevent any officer, Director or committee member from being reimbursed for out-of-pocket expenses or compensated for services rendered in any other capacity to or for the Association, provided, however, that any such expenses incurred or services rendered shall have been authorized in advance by the Board.

9.02. Indemnification. Each Director, officer or committee member of the Association, shall be indemnified by the Association against the actual amount of net loss including counsel fees, reasonably incurred by or imposed upon him in connection with any action, suit or proceeding to which he may be a party by reason of his being or having been a Director, officer, or committee member of the association, except as to matters for which he shall be ultimately found in such action to be liable for gross negligence or willful misconduct. In the event of a settlement of any such case,

indemnification shall be provided only in connection with such matters covered by the settlement as to which the Association is advised by counsel that the person to be indemnified had not been guilty of gross negligence or willful misconduct.

9.03. Exculpation. Unless acting in bad faith, neither the Board as a body nor any Director, officer, or committee member shall be personally liable to any Owner in any respect for any action or lack of action arising out of the execution of his office. Each Owner shall be bound by the good faith actions of the Board, officers and committee members of the Association, in the execution of the duties and powers of said Directors, officers and committee members. Nothing contained herein shall be construed so as to exculpate Members of the Board of Directors appointed by the Developer from discharging their fiduciary responsibilities.

ARTICLE X

Architectural Review Committee

10.01. Purpose. The Board may establish an Architectural Review Committee ("ARC"), consisting of three Members appointed by the Board. Each Member shall serve for a term of one year, in order to assure that the Community shall always be maintained in a manner:

- (a) providing for visual harmony and soundness of repair;
- (b) avoiding activities deleterious to the aesthetic or property values of the Community;
- (c) furthering the comfort of the Owners, their guests, invitees and lessees; and
- (d) promoting the general welfare and safety of the Community.

10.02. Powers. The ARC shall require the external design, appearance, use and maintenance of the Home in accordance with standards and guidelines contained in the Declaration or these By-Laws or otherwise adopted by the Board ("Architectural Restrictions"). The ARC shall have the

power, or upon petition of any Owner or upon its own motion, to issue a cease and desist order to an Owner, or his lessees whose actions are inconsistent with the foregoing standards and guidelines. The ARC shall provide interpretations of the Architectural Restrictions when requested to do so by an Owner or the Board. Any action, ruling or decision of the ARC may be appealed to the Board by any party deemed by the Board to have standing as an aggrieved party, within forty-five (45) days of the receipt of the written determination of the ARC. If said action, ruling or decision is appealed to the Board within said forty-five (45) day period, the Board may modify, reverse or confirm any such action, ruling or decision. If said action, ruling or decision is not appealed to the Board within said forty-five (45) day period, the decision of the ARC shall be binding. The decision of the Board can only be appealed to a court of competent jurisdiction or, with the consent of all parties, to the ADR Committee, all subject to the rights of mediation or non-binding arbitration in Section 12.05 hereof.

10.03. Authority. The ARC shall carry out its duties and exercise its powers and authority in the manner provided for in the Declaration or in any Rules and Regulations adopted by the Board.

ARTICLE XI

Alternative Dispute Resolution Committee

11.01. The Board may establish an Alternative Dispute Resolution Committee ("ADR Committee"), consisting of a chairman and two or more members none of who may be a member of the Board of Directors or an employee of the Association. The ADR Committee shall serve indefinitely at the pleasure of the Board of Directors.

11.02. The ADR Committee shall have power to appoint a subcommittee from among its members and may delegate to any such subcommittee any of its powers, duties and functions.

11.03. It shall be the duty of the ADR Committee to receive complaints from Members on any matter involving Directors functions, duties and activities within its field of responsibility, as delegated to it by the Board or set forth in Section 12.06 herein. It shall attempt to informally resolve such complaints as it deems appropriate or refer them to such other committee, Director or officers of the Association as may be further concerned with the matter presented.

ARTICLE XII

Enforcement

12.01. *Enforcement.* The Board shall have the power, at its sole option, to enforce the terms of this instrument or any Rule or Regulation promulgated pursuant thereto, by any or all of the following: self-help in the case of an emergency; sending notice to the offending party to cause certain things to be done or undone; restoring the Association to its original position and charging the breaching party with the entire cost or any part thereof; complain to the duly constituted authorities; or by taking any other action, summary or otherwise, before any court, as may be provided by law.

12.02. *Fines.* To the extent now or hereafter permitted by the law of the State of New Jersey, the Board shall also have the power to levy fines against any Owner(s) for violation(s) of any Rule or Regulation of the Association or for any covenants or restrictions contained in the Governing Documents, except that no fine may be levied for more than \$25.00 for any one violation; provided, however, that for each day a violation continues after notice it shall be considered a separate violation. Collection of the fines may be enforced against any Owner(s) involved as if the fine were a Common Expense owed by the particular Owner(s). Despite the foregoing, before any fine is imposed by the Board, the Owner(s) involved shall be given at least ten (10) days prior written notice and afforded an opportunity to be heard, with or without counsel, with respect to the violation(s) asserted.

12.03. Waiver. No restriction, condition, obligation or covenant contained in these By-Laws shall be deemed to have been abrogated or waived by reason of the failure to enforce same irrespective of the number of violations or breaches thereof which may occur.

12.04. Cause of Action against Association. Owners shall have a cause of action, to the extent permitted by the laws of this State, against the Association for its failure to act in accordance with the Governing Documents or any formal decisions of the Association.

12.05. Compliance By Members. Each Member shall comply with and shall assume ownership or occupancy subject to the laws, rules and regulations of governmental authorities having jurisdiction over the Community, and the provisions of the Declaration, the Certificate of Incorporation and By-Laws of the Association, Rules and Regulations or any other documents, amendments or supplements to the foregoing. Failure to comply with any of the foregoing provisions shall be grounds for commencement of action for the recovery of damages, or for injunctive relief, or both, by the Developer, the Association, or any Member, in any court or administrative tribunal having jurisdiction, against any person or persons, firm or corporation violating or attempting to violate or circumvent any of the aforesaid, and against any Member, to enforce any lien created by the Declaration or any covenant contained therein. Failure by the Developer, the Association, or any Member to enforce any covenant therein contained for any period of time shall in no event be deemed a waiver or estoppel of the right to thereafter enforce same.

12.06. Alternative Dispute Resolution Procedure.

a. Authority. In addition to the mediation authority granted to it herein, the ADR Committee shall have such additional duties, power and authority as the Board of Directors may from time to time provide by resolution. This shall include the right to resolve disputes arising under and to enforce the provisions of the Governing Documents, including the right to (i) impose temporary cease and desist orders and (ii) levy fines pursuant to Section 12.02 hereof to the extent

permitted by law. The ADR Committee shall carry out its duties and exercise its powers and authority in the manner provided for in the Rules and Regulations or by Resolution of the Board of Directors. Despite the foregoing, no action may be taken by the ADR Committee without giving the Owner(s) involved at least ten (10) days prior written notice and affording the Owner an opportunity to be heard, with or without counsel, with respect to the violation(s) asserted.

Further, any Owner who is aggrieved by any decision of the ADR Committee shall have the right to appeal such decision de novo to a court of competent jurisdiction. Any dispute between or among Owners or with the Association, other than collection matters, must first be submitted to the ADR Committee for mediation or non-binding arbitration before any litigation is commenced with respect to the dispute in question, all as contemplated by N.J.S. 45:22A-44(c) and Section 12.02 hereof. Unless extended by the ADR Committee for good cause, all non-binding arbitration shall be concluded within thirty (30) days after the initial notice of the proceeding is served on the Owner(s) involved or after the unsuccessful conclusion of the mediation proceedings, if applicable, whichever is later. If there is not an appeal to a court of competent jurisdiction within forty-five (45) days of the publication of a decision by the ADR Committee, the decision of the ADR Committee shall be binding on all parties and shall have full force and effect under the laws of the State of New Jersey.

The expenses for mediation or non-binding arbitration proceedings are Common Expenses of the Association. However, if the Owner requests binding arbitration, then the expenses will be shared equally by the Owner and the Association unless the arbitrator determines otherwise. Moreover, nothing herein shall prevent the Association from charging a reasonable application fee to any party who requests mediation or arbitration.

b. Mediation Alternative. Prior to the commencement of any non-binding arbitration hearing by the ADR Committee pursuant to Section 12.01, any party to the dispute, or

the Committee on its own motion, may request mediation of the dispute by an impartial mediator appointed by the Committee in order to attempt to settle the dispute in good faith. Such mediator may be a member of the ADR Committee, its counsel or any other qualified mediator. Any such mediation shall be concluded within fifteen (15) days after such request, unless extended by the mediator for good cause. In the event that no settlement is reached within said fifteen (15) day period, all relevant time periods in the hearing process shall be extended for fifteen (15) days plus any extension period.

ARTICLE XIII

Amendments

These By-Laws, or any of them, may be altered or repealed, or new By-Laws may be made, at any meeting of the Association duly held for such purpose, and previous to which written notice to Owners of the exact language of the amendment or of the repeal shall have been sent, a quorum being present, by an affirmative vote of 51% of the votes entitled to be cast in person or by proxy, except that (i) the first annual meeting may not be advanced, (ii) the first Board (including replacements in case of vacancies) may not be enlarged or removed, (iii) the obligation of the proportionate responsibility for the payment of Common Expenses with respect to Homes or the Common Property may not be changed by reason of any such new By-Law, amendment or repeal, or (iv) no such new By-Law, amendment or repeal shall in any way affect the Developer, including any successor of the Developer, unless the Developer, or its successor, has given its prior written consent thereto.

ARTICLE XIV

Conflict; Invalidity

14.01. Conflict. Despite anything to the contrary herein, if any provision of these By-Laws is in conflict with or contradiction of the Declaration, the Certificate of Incorporation or with the

requirements of any law, then the requirements of said Declaration, Certificate of Incorporation or law shall be deemed controlling.

14.02. Invalidity. The invalidity of any part of these By-Laws shall not impair or affect in any manner the enforceability or affect the validity of the remaining provisions of the By-Laws.

ARTICLE XV

Notice

Any notice required to be sent to any Owner under the provisions of the Declaration, the Certificate of Incorporation or these By-Laws shall be deemed to have been properly sent and notice thereby given, when mailed, by regular post with postage prepaid, addressed to the Owner at the last known post office address of the person who appears as a member on the records of the Association at the time of such mailing. Notice to one of two or more co-owners of a Home shall constitute notice to all co-owners. It shall be the obligation of every Owner to immediately notify the Secretary of the Association in writing of any change of address. Valid notice may also be given to Owners by (i) personal delivery to any occupant of said Home or (ii) by affixing said notice to or sliding same under the front door of any Home.

ARTICLE XVI

Civil Action for Damages

The Association shall not be liable in any civil action brought by or on behalf of an Owner to respond in damages as a result of bodily injury to the Owner occurring on the premises of the Association except as the result of its willful, wanton, or grossly negligent act of commission or omission.

ARTICLE XVII

Corporate Seal

The Association shall have a seal in circular form having within its circumference the words
"Tavistock Homeowners Association, Inc."