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CLEANERS SERVICE  
UNIVERSITY CITY, MO

THE MILESTONE HOMEOWNERS ASSOCIATION, INC.

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

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Exhibits

<u>Exhibit "A"</u>	-	Description of Property Subject to Declarant's Right to Unilaterally Annex within Association
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**THE MILESTONE HOMEOWNERS ASSOCIATION, INC.**

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**

THIS DECLARATION, made on the date hereinafter set forth by MILESTONE JOINT VENTURE, a Maryland general partnership, and GERMANTOWN-SENECA JOINT VENTURE, a Maryland general partnership, hereinafter collectively referred to as "Declarant".

**W I T N E S S E T H:**

WHEREAS, Declarant is the owner of certain real property in the County of Montgomery, State of Maryland, which is more particularly described on the legal description attached hereto and made a part hereof as Exhibit "A".

NOW, THEREFORE, Declarant hereby declares that all of the real property described on Exhibit "A" hereto shall be subject to the Declarant's right to unilaterally subject such real property to the covenants, conditions, restrictions and easements set forth in this Declaration and to annex such real property within the jurisdiction of the Association pursuant to Article 2 hereof. The Declarant hereby further declares that, upon recordation of one or more Supplementary Declarations in accordance with Article 2 hereof, all or any portion of the real property described on Exhibit "A" hereto, and any other real property annexed within the jurisdiction of the Association in accordance with Article 2 hereof, shall thereafter be held, conveyed, hypothecated or encumbered, sold, leased, rented, used, occupied and improved subject to the covenants, conditions, restrictions and easements set forth below, which are for the purpose of protecting the value and desirability of, and which shall run with such real property and be binding on all parties having any right, title or interest in all or any portion of the real property described on Exhibit "A" hereto, and any other real property annexed within the jurisdiction of the Association in accordance with Article 2 hereof, their heirs, successors and assigns, and which shall inure to the benefit of each Owner thereof.

**ARTICLE 1  
DEFINITIONS**

Section 1.1. "Association" shall mean and refer to The Milestone Homeowners Association, Inc., a nonstock, nonprofit Maryland corporation, its successors and assigns.

Section 1.2. "Common Area" shall mean all real property owned, leased or maintained by the Association (including the improvements thereto) for the common use and enjoyment of the Owners. Notwithstanding the foregoing, in the event the Associa-

tion maintains all or any portion of any Lot(s), such property shall not be considered Common Area. The Common Area must ultimately include all of the real property and facilities depicted as such on any and all site plans, as amended, for the Project reviewed and approved by the Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission (hereinafter referred to as the "Planning Board"). The timing for the provision of Common Area is set forth in Section 2.4 hereof.

Section 1.3. "Common Expenses" shall mean and refer to the actual and estimated expenses of operating the Association, including a reasonable reserve, all as may be found to be necessary or appropriate by the Board of Directors pursuant to this Declaration, the Bylaws and the Articles of Incorporation of the Association.

Section 1.4. "Community-Wide Standard" shall mean the standard of conduct, maintenance or other activity generally prevailing in the Project. Such standard may be more specifically determined and set forth by the Covenant Committee (as such term is defined in this Declaration).

Section 1.5. "Declarant" shall mean and refer to Milestone Joint Venture, a Maryland general partnership, Germantown-Seneca Joint Venture, a Maryland general partnership, and their respective successors and assigns; provided, however, that the rights, reservations, easements, interests, exemptions, privileges, powers and obligations of the Declarant shall not inure to the benefit of or burden the successors and assigns of the Declarant or a "Participating Builder" (as hereinafter defined) except to the extent that any of the rights, reservations, easements, interests, exemptions, privileges, powers or obligations of the Declarant are specifically assigned or transferred to any such successor or assign or Participating Builder by an instrument in writing.

Section 1.6. "Development Plan" shall mean the approved Site Plan No. 8-90038(1), entitled "Milestone Property", including all amendments thereto as may be made from time to time.

Section 1.7. "Eligible Mortgage Holder" shall mean a holder, insurer or guarantor of a first mortgage on a Lot who has requested notice from the Association of amendments to the Association documents or other significant matters which would affect the interests of the mortgagee.

Section 1.8. "Lawn and Garden Areas" shall mean and refer to the portions of any Lot which contain grass, shrubs, bushes, trees or other planted material; provided, however, that any portion of a Lot which is enclosed by a wall or fence and is not readily accessible to the Association shall not be considered Lawn and Garden Area.

Section 1.9. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Property upon

which it is intended that a dwelling unit be constructed. The term "Lot" shall not include Common Area or outlots of property dedicated for public use.

Section 1.10. "Member" shall mean and refer to every person, group of persons, corporation, trust, or other legal entity, or any combination thereof, who holds any class of membership in the Association.

Section 1.11. "Mortgagee" shall mean the holder of any recorded mortgage, or the party secured or beneficiary of any recorded deed of trust, encumbering one or more of the Lots. "Mortgage", as used herein, shall include deeds of trust. "First Mortgage", as used herein, shall mean a mortgage with priority over other mortgages. As used in this Declaration, the term "mortgagee" shall mean any mortgagee and shall not be limited to institutional mortgagees. As used in this Declaration, the term "institutional mortgagee" or "institutional holder" shall include banks, trust companies, insurance companies, mortgage insurance companies, savings and loan associations, trusts, mutual savings banks, credit unions, pension funds, mortgage companies, Federal National Mortgage Association ("FNMA"), Federal Home Loan Mortgage Corporation ("FHLMC"), all corporations and any agency or department of the United States Government or of any state or municipal government, or any other organization or entity which has a security interest in any Lot.

In the event any mortgage is insured by the Federal Housing Administration ("FHA") or guaranteed by the Veterans Administration ("VA"), then as to such mortgage the expressions "mortgagee" and "institutional mortgagee" include the FHA or the VA as the circumstances may require, acting, respectively, through the Federal Housing Commission and the Commissioner of Veterans' Benefits or through other duly authorized agents.

Section 1.12. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Property, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 1.13. "Participating Builder" shall mean any "Person" (as hereinafter defined) which owns one or more unimproved Lots or portions of the Property for the purpose of constructing improvements thereon. For purposes of this Declaration, "unimproved Lots or portions of the Property" shall mean any Lot or property upon which a dwelling unit has not been constructed.

Section 1.14. "Person" shall mean and refer to a natural person, a corporation, a general partnership, limited partnership, trust or any other entity.

Section 1.15. "P.I.C.A.E. Area" shall mean and refer to any area designated as "Public Improvement and Community Association

Easement" or "P.I.C.A.E." on the plats of subdivision for the Project recorded among the Land Records of Montgomery County, Maryland, as amended. Any provision of this Declaration to the contrary notwithstanding, all P.I.C.A.E. Areas shall be subject to the provisions of a Declaration of Covenants (the "P.I.C.A.E. Declaration") recorded among the Land Records of Montgomery County, Maryland in Liber 9778 at folio 765, et seq., including any amendments or supplements thereto as may be recorded among the Land Records of Montgomery County, Maryland with respect to the Property, or any portion thereof. In the event of any conflict between the P.I.C.A.E. Declaration, including all amendments and supplements thereto, and this Declaration, the terms and provisions of the P.I.C.A.E. Declaration shall control.

Section 1.16. "Project", as used in this Declaration, shall refer to the "Property" (as hereinafter defined).

Section 1.17. "Property" shall mean and refer to all real property as may hereafter be brought within the jurisdiction of the Association pursuant to Article 2 of this Declaration.

ARTICLE 2  
DECLARANT'S RIGHT TO SUBJECT PROPERTY TO DECLARATION

Section 2.1. Property Subject to this Declaration. The real property which shall be held, conveyed, hypothecated or encumbered, sold, leased, rented, used, occupied and improved subject to this Declaration shall be as described in one or more Supplementary Declarations recorded by the Declarant among the Land Records of Montgomery County, Maryland. The Declarant shall have the right to incrementally annex all or any portion of the real property described on Exhibit "A" hereto within the jurisdiction of the Association by executing and recording one or more Supplementary Declarations, regardless of the ownership of the real property described on Exhibit "A" hereto at the time of such annexation and without the need for the execution or filing of any such Supplementary Declarations by any other party; provided, that the Declarant's right to unilaterally annex the real property described on Exhibit "A" hereto shall only continue for a period of seven (7) years from the recordation of this Declaration by the Declarant.

Section 2.2. Annexations. The real property described on Exhibit "A" hereto, any real property shown on the Development Plan, any real property contiguous to the real property shown on the Development Plan and any real property contiguous to the real property described on Exhibit "A" hereto, may be annexed within the jurisdiction of the Association by the Declarant without the consent of the Class A Members of the Association, if any, for a period of seven (7) years from the date of recordation of this Declaration by the Declarant. The scheme of this Declaration shall not, however, be extended to include any such real property unless and until the same is annexed within the jurisdiction of the



Association by the recordation of a Supplementary Declaration as hereinafter provided. Except as otherwise provided hereinabove, annexations of real property within the jurisdiction of the Association shall require the consent of two-thirds (2/3) of each class of Members.

Any annexations made pursuant to this Article, or otherwise, shall be made by recording a Supplementary Declaration among the Land Records for Montgomery County, Maryland, which Supplementary Declaration shall extend the scheme of the within Declaration of Covenants, Conditions and Restrictions to such annexed property.

So long as any Lot is encumbered by a deed of trust or mortgage which is guaranteed by the VA, no annexation shall be made pursuant to this Article, or otherwise, except following a determination by the VA that the annexation conforms to a general plan for the development of the Project previously approved by the VA or, if no such general plan was approved by the VA, except following the prior written approval of the VA.

Any Supplementary Declaration made pursuant to the provisions of this Article may contain such complementary or supplemental additions and modifications to the covenants and restrictions set forth in the within Declaration as may be considered necessary by the maker of such Supplementary Declaration to reflect the different character or use, if any, of the annexed property.

Every Owner of a Lot in property to be annexed as provided herein shall have an easement of enjoyment in and to the Common Area, and such other rights of use as provided in Article 3 herein.

Section 2.3. Deannexation. So long as there are any Class B Members, the Declarant may deannex any property annexed within the jurisdiction of the Association pursuant to Section 2.2 above for a period of seven (7) years from the date of recordation of this Declaration. Such deannexed property shall no longer be subject to the covenants and restrictions of this Declaration except for (i) any easements, rights, reservations, exemptions, powers or privileges reserved to the Declarant pursuant to this Declaration which affect the deannexed property and (ii) any other easements, rights, reservations, exemptions, powers or privileges which are expressly reserved to the Declarant in the instrument effectuating such deannexation. Such deannexation shall be made by recording a Supplementary Declaration among the Land Records of Montgomery County, Maryland, withdrawing the effect of the covenants and restrictions of this Declaration from the deannexed property. Such deannexed property may be utilized by the Declarant, or any successor, assign or transferee thereof, for any lawful purpose or use.

So long as any Lot is encumbered by a deed of trust or mortgage which is guaranteed by the VA or insured by the FHA, no deannexation shall be made pursuant to this Article, or otherwise, except following a determination by the VA or the FHA, as applicable, that the deannexation is not contrary to a general plan for the development of the community previously approved by the VA or the FHA, as applicable, or, if no such general plan was approved by the VA or the FHA, as applicable, except following the prior written approval of the VA or the FHA, as applicable.

Section 2.4. Common Area. The Common Area shall be annexed within the Association by the Declarant in accordance with all regulatory approvals, including any preliminary plan, site plan or project plan, as amended, and as approved by the Planning Board, and shall otherwise be in accordance with that certain Site Plan Enforcement Agreement for the Project dated as of August 16, 1991, as amended, by and between the Declarant and the Planning Board, and in accordance with Article 2, Section 2.2 hereof. The Declarant reserves the right to seek an amendment to any regulatory approval for the purpose of modifying the location and amount of real property comprising the Common Area, and for the purpose of modifying the improvements to be constructed on such Common Area, including but not limited to an amendment whereby such improvements are no longer required to be constructed, which amendment shall be reviewed by the Planning Board in accordance with applicable law. Such amendment shall be effective only if approved by the Planning Board.

### ARTICLE 3 PROPERTY RIGHTS

Section 3.1. Owner's Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area, including an easement for the use and enjoyment of the private streets and parking lots and walkways within the Common Area, which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) the right of the Association to charge reasonable and uniform admission and other fees for the use of the Common Area or any facility situated upon the Common Area;

(b) the right of the Association to suspend an Owner's voting rights and right to use the Common Area or any facilities situated thereon for (i) any period during which any assessment against his Lot remains unpaid, and (ii) subsequent to providing the Owner notice and an opportunity for a hearing, for a period not to exceed sixty (60) days for any infraction of its published rules and regulations;

(c) the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may

be agreed to by the Members. No such dedication or transfer shall be effective unless an instrument signed by two-thirds (2/3) of each class of Members and fifty-one percent (51%) of the Eligible Mortgage Holders agreeing to such dedication or transfer has been recorded, and that the dedication or transfer shall also be subject to such other limitations as are provided in this Declaration;

(d) the right of the Association to limit the number of guests of Owners utilizing the Common Area;

(e) the right of the Association to establish uniform rules and regulations pertaining to the use of the Common Area and any facilities situated thereon;

(f) the right of the Association to provide for the exclusive use by Owners of certain designated parking spaces within the Common Area;

(g) the right of the Association, the Declarant, utility companies and other owners with respect to the easements established in this Declaration;

(h) the right of the Association, in accordance with its Articles of Incorporation and Bylaws, and with the consent of two-thirds (2/3) of each class of the then Members of the Association, voting separately, to borrow money for the purpose of improving the Common Area in a manner designed to promote the enjoyment and welfare of the Members and in aid thereof to mortgage any of the Common Area and any facilities situated thereon;

(i) the right of the Association to take such steps as are reasonably necessary to protect the property of the Association against mortgage default and foreclosures; provided, however, that the same are in conformity with the other provisions of this Declaration;

(j) the rights of the Declarant, as more fully set forth in Section 7.7 of this Declaration, to grant easements, to utilize reserved rights and easements, and to otherwise utilize the Common Area as it deems appropriate in connection with the development of the Project;

(k) the right of the Association, acting by and through its Board of Directors, to grant easements, licenses or other rights of use of the Common Area and any facilities situated thereon to persons or entities who are not Members for such consideration and on such terms and conditions as the Board of Directors may from time to time consider appropriate or in the best interest of the Association or the Property; and

(l) the right of the Association to be the lessee of any portion or all of the Common Area and the right of the Association to enforce the terms of the lease with respect to such Common Area

against such property and the Owners and their guests, lessees and invitees.

Section 3.2. Limitations.

(a) Any other provision of this Declaration to the contrary notwithstanding, the Association shall have no right to suspend the right of any Member of the Association to use any private streets and roadways located upon the Common Area (including, without limitation, any private streets and roadways located within the Property) for both vehicular and pedestrian ingress and egress to and from his Lot and for parking.

(b) Any other provision of this Declaration to the contrary notwithstanding, the Association shall have no right to suspend the right of any Member of the Association to use the Common Area for necessary, ordinary and reasonable pedestrian ingress and egress to and from his Lot or to suspend any easement over the Common Area for storm water drainage, electrical energy, water, sanitary sewer, natural gas, CATV or similar service, telephone service or similar utilities and services to the Lots.

Section 3.3. Delegation of Use. Any Owner may delegate, in accordance with the Bylaws and Rules and Regulations of the Association, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, social invitees, or contract purchasers who reside on the Property.

ARTICLE 4  
MEMBERSHIP AND VOTING RIGHTS

Section 4.1. Membership. Every Owner of a Lot which is subject to assessment shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 4.2. Voting Rights. The Association shall have two (2) classes of voting membership:

Class A. With the exception of the Declarant, every person, group of persons, corporation, partnership, trust or other legal entity, or any combination thereof, who is an Owner of any Lot which is part of the premises described in Article 2 of this Declaration (including any Participating Builder), or which otherwise becomes subject to the covenants set forth in this Declaration to assessment by the Association, shall be a Class A Member of the Association; provided, however, that any such person, group of persons, corporation, partnership, trust or other legal entity or any combination thereof, who holds such interest solely as security for the performance of an obligation shall not be a Class A Member solely on account of such interest. When more than one (1) person holds an interest in any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they among

themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

Any Owner who leases his Lot may, in the lease or other written instrument, assign the voting right appurtenant to that Lot to the lessee, provided that a copy of such instrument is furnished to the Association.

Class B. There shall initially be two thousand seventy-six (2,076) Class B memberships in the Association. This number shall be decreased by three (3) memberships for each Class A membership existing at any one time. The Class B Member shall be the Declarant, its nominee or nominees, and shall include every person, group of persons, corporation, partnership, trust or other legal entity, or any combination thereof, who shall obtain any Class B membership by specific assignment in writing from the Declarant.

The Class B Member shall be entitled to one (1) vote for each Class B membership. Each Class B membership shall lapse and become a nullity on the first to happen of the following events:

(i) thirty (30) days following the date on which the total authorized, issued and outstanding votes of the Class A Members (excluding any Participating Builder) equals five hundred nineteen (519); or

(ii) February 21, 1999; provided, however, that if the Declarant is delayed in the improvement and development of the Property on account of a sewer, water or building permit moratorium or any other cause or event beyond the Declarant's control, then the aforesaid date shall be extended by a period of time equal to the length of the delays or an additional three (3) years, whichever is less; or

(iii) upon the surrender of said Class B memberships by the then holders thereof for cancellation on the books of the Association.

Upon the lapse or surrender of the Class B memberships as provided for in this Article, the Declarant shall thereafter become a Class A Member of the Association as to each and every Lot in which the Declarant then holds the interest otherwise required for such Class A membership.

#### ARTICLE 5 COVENANT FOR MAINTENANCE ASSESSMENTS

Section 5.1. Creation of the Lien and Personal Obligation of Assessments. There are hereby created assessments for Common Expenses as may be from time to time specifically authorized by the Board of Directors to be commenced at the time and in the manner set forth in this Article 5. Each Owner of any Lot by acceptance

of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (i) annual assessments or charges, and (ii) special assessments for capital improvements. The annual and special assessments, together with interest, costs, and reasonable attorneys' fees, shall be a charge on the Lot (including all improvements thereon), and shall be a continuing lien upon the property against which each such assessment is made, provided the requirements of the Maryland Contract Lien Act, if applicable, have been fulfilled. Each such assessment, together with interest, costs, and reasonable attorneys' fees, shall also be the personal obligation of the person who was the Owner of the Lot at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to a prior Owner's successors in title unless expressly assumed by such successors.

Section 5.2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents in the Property and for the improvement and maintenance of the Common Area and the payment of real estate taxes, assessments and utility services for the Common Area, and management fees, administration expenses, insurance and all other costs and expenses incurred by the Association in the proper conduct of its activities, including, without limitation, reserves for replacements or contingencies, charges accruing under any cross-easement or reciprocal easement agreements, or charges accruing with respect to off-site facilities required to be maintained by the Association or which the Association elects to maintain whether or not such facilities are located within the Property. Notwithstanding Section 5.1 to the contrary, neither annual nor special assessments may be utilized for the construction of capital improvements if such capital improvements are otherwise required to be constructed by the Declarant.

Section 5.3. Initial Maximum Annual Assessment. The initial maximum annual assessment shall be the amount set forth in a Supplementary Declaration to be recorded among the Land Records of Montgomery County, Maryland prior to the conveyance of Lots to Class A Members; provided, however, that Lots owned by Declarant shall be subject to an assessment equal to twenty-five percent (25%) of the annual and special assessments applicable to Lots not owned by the Declarant. Notwithstanding the foregoing, the Declarant shall pay full annual and special assessments for Lots owned by the Declarant upon which a dwelling unit has been completed and is occupied by a party other than the Declarant.

Notwithstanding any provision contained in this Declaration to the contrary, the Declarant hereby covenants and agrees for the benefit of the Class A Members to pay any and all expenses incurred by the Association during the "Deficit Period" (as such term is hereinafter defined) in furtherance of the Association's purposes to the extent that the annual and special assessments levied during the Deficit Period are insufficient to pay such

expenses; provided, however, that at such time as the Declarant has paid what would equal one hundred percent (100%) of the annual and special assessments for its Lots had the Declarant not been exempted from the payment of assessments (or entitled to a reduced assessment, as applicable) during any annual period, then the Declarant shall only be obligated to pay any further assessments during that annual period in an amount equal to what would have become due for its Lots had they not been owned by the Declarant. As used herein, the term "Deficit Period" shall mean that period of time commencing on the date of recordation of this Declaration and ending on the earlier of (i) the date on which the Class B membership lapses and becomes a nullity in accordance with the provisions of this Declaration; or (ii) the date upon which the Declarant, in writing and recorded among the Land Records of Montgomery County, Maryland, declares that it (from the date specified in such recorded writing) waives its right to not pay any assessments (or its right to pay reduced assessments, as applicable) on Lots owned by the Declarant in accordance with this Section 5.3. The Declarant may make such declaration with respect to less than all of the Lots owned by the Declarant, to be owned by the Declarant, or to be brought within the jurisdiction of the Association, in which event the Deficit Period shall terminate only with respect to those Lots specifically described. Any deficit required hereunder to be paid by the Declarant shall be payable and collectible in the same manner as any other assessments required to be paid to the Association.

On January 1 of the year immediately following the first conveyance of a Lot to a Class A Member, and on January 1 of each subsequent year, the maximum annual assessment for that year shall automatically increase, without a vote of the Class A membership, by an amount equal to ten percent (10%) of the maximum annual assessment for the immediately preceding year.

At any time after January 1 of the year immediately following the first conveyance of a Lot to a Class A Member, and as often as is necessary or desirable, the maximum annual assessment may be increased above the amount permitted above by a vote of two-thirds (2/3) of each class of the then Members, who are voting, in person or by proxy, at a meeting duly called for this purpose.

If the Board of Directors determines that the functions of the Association may be properly funded by an annual assessment less than the initial maximum annual assessment to be determined as set forth above, or less than the maximum annual assessment subsequently increased pursuant to this Section 5.3, then the Board of Directors may levy such lesser assessment as it deems appropriate. The levy of an annual assessment less than the maximum annual assessment for any year shall not affect the right of the Board of Directors to levy an annual assessment equal to the full amount of the maximum annual assessment for that year or any subsequent years.

The Board of Directors shall make a reasonable effort to prepare a budget at least thirty (30) days before the beginning of the fiscal year. The budget shall include the estimated costs of operating the Association during the coming year and shall also include an amount sufficient to establish and maintain a reserve fund in accordance with a reserve fund budget separately prepared by the Board of Directors pursuant to Section 5.11. The Board of Directors shall cause a copy of the budget, and the amount of the assessments to be levied against each Lot for the following year, to be delivered to each Owner at least fourteen (14) days prior to the commencement date of the new assessments. The budget and the assessments shall become effective unless a special meeting of the Association is duly held and at such special meeting the budget and the assessments are disapproved by a vote of at least a majority of both classes of the total Association membership.

Notwithstanding the foregoing, however, in the event the membership disapproves the budget or the Board of Directors fails for any reason to determine the budget for the succeeding year, then and until such time as a budget shall have been determined as provided herein, the budget in effect for the then current year shall continue for the succeeding year.

The Declarant may establish a working capital fund for the initial operation of the Association. Such working capital fund may be funded by a one-time assessment of two (2) times the monthly assessment for a Lot and shall be payable, if established, by the Declarant's grantee upon the earlier of settlement or occupancy of a completed dwelling located on any Lot.

Upon resolution of the Board of Directors, installments of annual general assessments may be levied and collected on a monthly, quarterly, semi-annual or annual basis. Any Class A Member may prepay one or more installments of any annual general assessment levied by the Association, without premium or penalty.

Section 5.4. Special Assessments. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment or special assessments applicable to that year for such purposes as the Board of Directors may deem appropriate; provided that any such assessment shall have the assent of two-thirds (2/3) of each class of the then Members, who are voting, in person or by proxy, at a meeting duly called for this purpose. The Association may also levy a special assessment against any Owner to reimburse the Association for costs incurred in bringing any Owner and his/her Lot into compliance with the provisions of this Declaration, the Articles of Incorporation, the Bylaws and the Rules of the Association. Such a special assessment may be levied upon the vote of the Board of Directors after notice to the Owner and an opportunity for a hearing before the Board of Directors.

Section 5.5. Notice and Quorum. Written notice of any meeting called for the purpose of increasing the maximum annual



assessment above the amount specified in Section 5.3 hereof or for the purpose of establishing a special assessment in accordance with Section 5.4 hereof, shall be sent to all Members not less than thirty (30) days nor more than sixty (60) days in advance of such meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast sixty percent (60%) of all the votes of the membership of the Association (Class A and Class B) shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 5.6. Uniform Rate of Assessment. Except as otherwise provided in this Declaration, both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected in advance on a monthly basis or upon such other basis determined by the Board of Directors. In the event the actions or activities of any Owner causes or results in increased expenses for the Association, the Board of Directors may assess such increase in expenses against such Owner and his Lot or Lots. Such assessment shall be a lien against the Owner's Lot or Lots and is collectible pursuant to the procedures set forth in this Declaration.

Section 5.7. Date of Commencement of Annual Assessments: Due Dates. Unless an earlier commencement date is established by the Board of Directors, the annual assessments provided for herein shall commence as to all Lots simultaneously with the conveyance of the first Lot to a Class A Member, or on the first day of the month following the first conveyance of the Common Area, whichever occurs later. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall make reasonable efforts to fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association with the status of assessments on the Lots shall be binding on the Association as of the date of its issuance.

Section 5.8. Effect of Non-Payment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date until paid at a rate equal to the maximum rate of interest permitted under the laws of the State of Maryland (or such lesser sum as VA and/or FHA may specify if any Lot subject to this Declaration is then encumbered by a deed of trust or mortgage which is guaranteed by VA or insured by FHA). The Association may also charge a reasonable late fee against any Owner (and/or such Owner's Lot) who

is more than ten (10) days delinquent in the payment of any assessment. Additionally, the entire balance of the unpaid annual assessments for the remainder of the fiscal year may be accelerated at the option of the Board of Directors and be declared due, payable and collectible in the same manner as the delinquent portion of such annual assessment. The Association may bring an action at law against the Owner personally obligated to pay the same, and/or foreclose the lien against the Lot (and all improvements thereon) provided the provisions of the Maryland Contract Lien Act, if applicable, are substantially fulfilled. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot. The Owner shall also be obligated to pay all attorneys' fees, court costs and administrative costs incurred in connection with the collection of assessments if not paid when due.

Section 5.9. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage or deed of trust. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage or deed of trust foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof. No amendment to this Section shall affect the rights of the holder of any first mortgage on any Lot (or the indebtedness secured thereby); recorded prior to recordation of such amendment unless the holder thereof (or the indebtedness secured thereby) shall join in the execution of such amendment.

Section 5.10. Additional Default. Any recorded first mortgage secured on a Lot shall provide that any default by the mortgagor in the payment of any assessment levied pursuant to this Declaration, or any installment thereof, shall likewise be a default in such mortgage (or the indebtedness secured thereby); but failure to include such a provision in any such mortgage shall not affect the validity or priority thereof and the protection extended to the holder of such mortgage (or the indebtedness secured thereby) by reason of Section 5.9 shall not be altered, modified or diminished by reason of such failure.

Section 5.11. Reserve Fund Budget and Contribution. The Board of Directors shall annually prepare a reserve fund budget which shall take into account the number and nature of the replaceable assets of the Association, the expected life of each asset, and the expected repair or replacement cost of each asset. The Board of Directors shall set the required reserve fund contribution, if any, in an amount sufficient to meet the projected reserve needs of the Association, as shown on the reserve fund budget, with respect both to amount and timing by the imposition of annual assessments over the period of the budget. The reserve fund contribution shall be fixed by the Board of Directors and included within the budget and assessment, as provided in Section 5.3. Such

reserve fund contribution shall be payable as part of the general assessment. A copy of the reserve fund budget shall be distributed to each Owner in the same manner as the operating budget.

ARTICLE 6  
ARCHITECTURAL CONTROL

Section 6.1. Architectural Change Approval. No building, fence, wall, mailbox or other structure shall be commenced, erected or maintained upon the Property, nor shall any exterior addition to or change or alteration therein be made (including, but not limited to, changes in color, changes or additions to driveways, or walkway surfaces and landscaping modifications) until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association, or by a covenant committee composed of three (3) or more representatives appointed by the Board of Directors of the Association ("Covenant Committee"). In the event said Board, or its designated committee, fails to approve or disapprove any design and location within sixty (60) days after the plans and specifications for such design and location have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with. Design and location approval by the Covenant Committee or by the Board shall in no way be construed as to pass judgment on the correctness of the location, structural design, suitability of water flow or drainage, location of utilities, or other qualities of the item being reviewed. The Board or the Covenant Committee shall have the right to charge a reasonable fee for reviewing each application in an amount not to exceed the costs actually incurred by the Board or the Covenant Committee. Any exterior addition to or change or alteration made without application having first been made and approval obtained as provided above shall be deemed to be in violation of this covenant and the addition, change or alteration may be required to be restored to the original condition at the Owner's cost and expense. In any event, no such exterior addition to or change or alteration shall be made without approvals and permits therefor having first been obtained by the Owner from the applicable public authorities or agencies. In addition, no changes, alterations or additions may be constructed which are not in compliance with local governmental guidelines or restrictions. Notwithstanding any provision of this Declaration to the contrary, the provisions of this Article 6 shall not be applicable to the Declarant or any part of the Property owned by the Declarant.

Section 6.2. Initiation and Completion of Approved Changes. Construction or alterations in accordance with plans and specifications approved by the Board of Directors or the Covenant Committee pursuant to the provisions of this Article shall be commenced within six (6) months of such approval and completed within twelve (12) months of such approval. In the event

construction is not commenced within the period aforesaid, then approval of the plans and specifications shall be conclusively deemed to have lapsed and compliance with the provisions of this Article shall again be required. There shall be no deviations from plans and specifications approved by the Board of Directors or the Covenant Committee without the prior consent in writing of the Board of Directors or the Covenant Committee. Approval of any particular plans and specifications or design shall not be construed as a waiver of the right of the Board of Directors or the Covenant Committee to disapprove such plans and specifications, or any elements or features thereof, in the event such plans and specifications are subsequently submitted for use in any other instance.

Section 6.3. Certificate of Compliance. Upon completion of any construction or alterations or other improvements or structures in accordance with plans and specifications approved by the Board of Directors or the Covenant Committee in accordance with the provisions of this Article, the Board or the Covenant Committee shall, at the request of the Owner thereof, issue a certificate of compliance which shall be prima facie evidence that such construction, alteration or other improvements referenced in such certificate have been approved by the Board or the Covenant Committee in full compliance with the provisions of this Article and with such other provisions and requirements of this Declaration as may be applicable.

Section 6.4. Covenant Committee Rules and Regulations; Appeal of Covenant Committee Decision. The Covenant Committee may from time to time adopt and promulgate such rules and regulations regarding the form and content of plans and specifications to be submitted for approval and may publish such statements of policy, standards, guidelines and/or establish such criteria relative to architectural styles or details, or other matters, as it may consider necessary or appropriate. No such rules, regulations, statements, criteria or the like shall be construed as a waiver of the provisions of this Article or any other provision or requirement of this Declaration. The decisions of the Covenant Committee shall be final except that any Member who is aggrieved by any action or forbearance from action by the Covenant Committee may appeal the decision of the Covenant Committee to the Board of Directors and, upon the request of such Member, shall be entitled to a hearing before the Board of Directors. Two thirds (2/3) of the Board of Directors shall be required to reverse the decision of the Covenant Committee.

Section 6.5. Exterior Appearance. Except as specifically provided herein to the contrary, and without limiting the generality of this Article 6, the following shall apply to every Lot and dwelling unit within the Property, unless otherwise expressly provided by the Covenant Committee and the Board of Directors:

(a) storm windows installed by any Owner or resident, provided such installation is approved by the Board of Directors or

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the Covenant Committee, shall be painted the same color as the window trim;

(b) the installation of any storm door(s) must receive prior approval of the Board of Directors or the Covenant Committee, including, but not limited to, the style, color and material of said storm door(s). Storm doors must be of traditional design, must be either full or three-quarters view clear glass, and must match the front door or the trim around the front door;

(c) the color of the exterior of all structures or dwellings on Lots including, without limitation, garage doors, all sidings, gutters, downspouts, brick, trim, exterior wood decks, fences and gates, if any, shall not be changed or altered without the approval of the Board of Directors or the Covenant Committee; and

(d) the roof of any dwelling shall be repaired or replaced with materials, substantially identical in construction, shingle type, texture and color as the material utilized by the Declarant in the original construction of the dwelling.

Notwithstanding anything to the contrary contained in this Section 6.5, the provisions of said Section 6.5 shall not apply to any Lot or dwelling owned by the Declarant.

Section 6.6. New Construction. Notwithstanding anything herein to the contrary, any improvements initially constructed on any Lot by a Participating Builder must receive the prior approval of the Declarant. The Participating Builder must submit all plans and specifications reasonably requested by Declarant to such Declarant and the Declarant shall have sixty (60) days to review the same after receipt of all such material. Failure of the Declarant to approve or disapprove such plans and specifications within the aforesaid sixty (60)-day time period shall be deemed an automatic approval. Approval by the Declarant (by action or forbearance from action) shall not be substituted for any governmental approvals, permits or consents required to be obtained nor shall it be construed as a warranty of any type regarding the design or construction of any improvement built by any Participating Builder. The decision of the Declarant under this Section 6.6 shall be final. Approval of any particular plans and specifications shall not be construed as a waiver of the right of the Declarant or Board of Directors to disapprove such plans and specifications, or any elements or features thereof, in the event such plans and specifications are subsequently submitted for use in any other instance.

#### ARTICLE 7 USE RESTRICTIONS

In addition to all other covenants contained herein, the use of the Property and each Lot therein is subject to the following:

Section 7.1. Permitted Uses. The Lots shall be used for residential purposes exclusively, and no building shall be erected, altered, placed or permitted to remain on any such Lot other than one used as a dwelling, except that a professional office may be maintained in a dwelling, provided that (i) such maintenance and use is limited to the person actually residing in the dwelling; (ii) no employees or staff other than a person actually residing in the dwelling are utilized; (iii) such maintenance and use is in strict conformity with the provisions of any applicable zoning law, ordinance or regulation and (iv) the person utilizing such office maintains a principal place of business other than the dwelling. As used in this Section, the term "professional office" shall mean rooms used for office purposes by a member of any recognized profession, including doctors, dentists, lawyers, architects and the like, but not including medical or dental clinics or child day centers. Nothing contained in this Article, or elsewhere in this Declaration, shall be construed to prohibit the Declarant from the use of any Lot or dwelling, or improvement thereon, for promotional or display purposes, or as "model homes", a sales and/or construction office, or the like. A Participating Builder may also maintain a sales office, construction office and model homes within the Property subject to obtaining the prior written approval of the Declarant regarding the location, size and hours of operation of such office(s) and model home(s) and any other matter concerning such facilities which the Declarant decides to control and notifies the Participating Builders about. Notwithstanding anything herein to the contrary, a Participating Builder shall cease to operate any sales or construction office and model homes no later than thirty (30) days after the end of any sales or marketing activities by such Participating Builder with respect to Lots within the Property.

Section 7.2. Prohibited Uses and Nuisances. Except for the activities of the Declarant during the construction or development of the Property, or as may be necessary in connection with reasonable and necessary repairs or maintenance to any dwelling or upon the Common Area:

(a) no noxious or offensive trade or activity shall be carried on upon any Lot or within any dwelling or any other part of the Property, nor shall anything be done therein or thereon which may be or become an annoyance or nuisance to the neighborhood or other Members. Without limiting the generality of the foregoing, no speaker, horn, whistle, siren, bell, amplifier or other sound device, except such devices as may be used exclusively for security purposes, shall be located, installed or maintained upon the exterior of any dwelling or upon the exterior of any other improvements constructed upon any Lot.

(b) the maintenance, keeping, boarding or raising of animals, livestock, or poultry of any kind, regardless of number, shall be and is hereby prohibited on any Lot or within any dwelling, or other part of the Property, except that this shall not prohibit the keeping of a reasonable number of dogs, cats, caged

birds or other small domestic animals as pets provided (i) they are not kept, bred or maintained for commercial purposes; (ii) such domestic pets are not a source of annoyance or nuisance to the neighborhood or other Members; and (iii) such pets are maintained in strict conformance to all laws and ordinances. The Board of Directors or, upon resolution of the Board of Directors, the Covenant Committee, shall have the authority, after hearing, to determine whether a particular pet is a nuisance or a source of annoyance to other Members, and such determination shall be conclusive. Pets shall be attended at all times and shall be registered, licensed and inoculated as may from time to time be required by law. Pets shall not be permitted upon the Common Area unless accompanied by a responsible person and unless they are carried or leashed. The Board of Directors shall have the right to adopt such additional rules and regulations regarding pets as it may from time to time consider necessary or appropriate.

(c) no burning of any trash and no accumulation or storage of litter, lumber, scrap metals, refuse, bulk materials, waste, new or used building materials, or trash of any other kind shall be permitted on any Lot or other part of the Property.

(d) except for parking within garages, and except as herein elsewhere provided, no junk vehicle, commercial vehicle (including vans used for commercial use), truck (as defined by the Maryland Department of Motor Vehicles and/or by common usage and practice except for light pick-up trucks of one-half (1/2) ton capacity or less used for non-commercial purposes), unlicensed or inoperable motor vehicle (which shall include, without limitation, any vehicle which would not pass applicable state inspection criteria), trailer, camp truck, house trailer, boat or other similar vehicles, machinery or equipment of any kind or character (except for such equipment and machinery as may be reasonable, customary and usual in connection with the use and maintenance of any dwelling and except for such equipment and machinery as the Association may require in connection with the maintenance and operation of the Common Area) shall be kept upon the Property or upon the public or private streets adjacent to the Property nor (except for bona fide emergencies) shall the repair or extraordinary maintenance of automobiles or other vehicles be carried out thereon. The Association may, in the discretion of the Covenant Committee, provide and maintain a suitable area designated for the parking of such vehicles or the like.

(e) trash and garbage containers shall not be permitted to remain in public view except on days of trash collection and the evening prior to such days of trash collection. No incinerator shall be kept or maintained upon any Lot.

(f) no Lot shall be divided or subdivided and no portion of any Lot (other than the entire Lot) shall be transferred or conveyed for any purpose. The provisions of this subsection shall not apply to the Declarant and, further, the provisions hereof shall not be construed to prohibit the granting of any easement or

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right-of-way to any municipality, political subdivision, public utility or other public body or authority, or to the Association, the Declarant or any other person for any purpose.

(g) no tree, hedge or other landscape feature shall be planted or maintained in a location which obstructs sight-lines for vehicular traffic on public streets or on private streets and roadways. In addition, no large shrubs which interfere with sight distance along the streets shall be planted within the P.I.C.A.E. Areas. However, street trees may be planted provided such trees conform with Montgomery County and the Montgomery County Department of Transportation requirements. Without limiting the generality of the foregoing, no wire or other lawn edging, fencing or other treatment shall be placed or maintained on any Lot which would impede the Association's ability to perform its obligations as set forth in this Declaration, or which would be inharmonious with the aesthetics of the community of which it is a part.

(h) no decorative lawn ornament, no structure of a temporary character, and no trailer, tent, shack, barn, pen, kennel, run, stable, or other buildings shall be erected, used or maintained on any Lot at any time. A storage shed may be erected, constructed or placed on a Lot provided that such shed (i) is approved, in writing, with respect to design (including, but not limited to color and materials), location and construction by the Board of Directors or the Covenant Committee; (ii) if constructed, such shed must be located flush against the dwelling unit situated on the Lot; and (iii) any shed must be properly maintained at all times by the Owner of the Lot upon which it is located.

(i) except for entrance signs, directional signs, signs for traffic control or safety, community "theme areas" and such promotional sign or signs as may be maintained by the Declarant or the Association, no signs or advertising devices of any character shall be erected, posted or displayed upon, in or about any Lot or dwelling, provided, however, that one temporary real estate sign not exceeding six (6) square feet in area may be erected upon any Lot or attached to any dwelling placed upon the market for sale or rent. Any such temporary real estate sign shall be removed promptly following the sale or rental of such dwelling. The provisions and limitations of this subsection shall not apply to any institutional first mortgagee of any Lot who comes into possession of the Lot by reason of any remedies provided by law or in such mortgage or as a result of a foreclosure sale or other judicial sale or as a result of any proceeding, arrangement, assignment or deed in lieu of foreclosure.

(j) no water pipe, sewer pipe, gas pipe, drainage pipe, cable or other similar transmission line shall be installed or maintained upon any Lot above the surface of the ground and no wire, cable or other similar transmission line may be attached to the exterior of any structure on any Lot; provided, however, that such transmission lines, wires or cables providing utility services to any Lot (including, but not limited to, electricity, telephone,



gas, water and cable television) shall be permitted. Except during periods of actual use, no hose shall be stored or placed in the front or side yard of any dwelling unless screened from public view.

(k) no play equipment, including, without limitation, basketball backboards, basketball hoops and other equipment associated with either adult or juvenile recreation, shall be attached in any manner to the exterior of any dwelling without the prior approval of the Board of Directors or the Covenant Committee pursuant to Article 6 hereof. If approved in accordance with this Declaration, such play equipment must be properly maintained at all times.

(l) no structure, planting or other material shall be placed or permitted to remain upon any Lot which may damage or interfere with any easement for the installation or maintenance of utilities, or which may unreasonably change, obstruct or retard direction or flow of any drainage channels.

(m) no outside television aerial or radio antenna, or other aerial or antenna for either reception or transmission, including, but not limited to, satellite dish antenna, shall be maintained upon the Property except that such aerials or antennae may be erected and maintained within the dwellings located upon the Property.

(n) vegetable gardens shall be maintained only within the rear yard of any Lot, and shall be maintained in a neat and attractive manner.

(o) lawn furniture shall be used and maintained in rear yards or decks only and shall be maintained in a neat and attractive manner.

(p) no equipment or machinery (including, without limitation, equipment or machinery for use in connection with the maintenance of any dwelling) shall be stored in the front, rear or side yard on any Lot.

(q) no garbage or trash containers shall be kept on the front or side yard of any Lot and garbage and trash containers kept or maintained in the rear yards of any Lots under or upon decks shall be screened from public view at all times.

(r) no Member shall make any private or exclusive or proprietary use of any of the Common Area and no Member shall engage or direct any employee of the Association on any private business of the Member during the hours such employee is employed by the Association, nor shall any Member direct, supervise or in any manner attempt to assert control over any employee of the Association.

(s) any fence constructed upon the Property shall not extend forward of the rear building line of the dwelling on the Lot upon which any such fence is erected. No fence shall be more than six feet (6') in height. Chainlink and other wire fencing is specifically prohibited; provided, however, thin wire fencing used in conjunction with a split rail or similar fencing for the purpose of enclosing pets is permitted if approval is obtained from the Covenant Committee pursuant to Article 6. Notwithstanding the foregoing, no fence, wall or permanent structure (other than mailboxes) shall be erected within the P.I.C.A.E. Areas, unless approved in advance by the Montgomery County Department of Transportation.

(t) bed sheets, plastic sheets, newspapers, plastic storm windows or other similar window treatments shall not be hung or placed in or on any window on any dwelling located on any Lot.

(u) children's play and similar equipment shall not be allowed to remain overnight within any front yard of any Lot or within the Common Area.

(v) children's outdoor permanent playhouses and swinging or climbing apparatus or equipment shall be permitted within a Lot; provided the prior written approval of the Board of Directors or Covenant Committee is obtained and that such equipment, playhouse(s) and/or apparatus is properly maintained at all times.

(w) no exterior lighting, emanating from a Lot, shall be directed outside the boundaries of the Lot.

(x) no garage or outbuilding properly erected on a Lot shall at any time be used for human habitation, temporarily or permanently, nor shall any structure of a temporary character be used for human habitation. Notwithstanding the foregoing, any Lot owned by the Declarant or a Participating Builder upon which is situated a dwelling unit in which the garage has been modified to serve as living area shall be exempt from this paragraph and any grantee of the Declarant or a Participating Builder, and their successors and assigns, shall also be exempt until such time as the garage is restored or a garage is constructed on such Lot.

(y) no drying or airing of any clothing or bedding shall be permitted outdoors and within any Lot other than within rear yards and between the hours of 8 a.m. and 5 p.m. on Monday through Friday and 8 a.m. and 1 p.m. on Saturdays (except when any such days shall fall upon a holiday) and clothes-hanging devices such as lines, reels, poles, frames, etc., shall be stored out of sight other than during the times aforementioned.

(z) notwithstanding anything to the contrary contained in this Declaration, no garage may be altered, modified or changed in any manner which would inhibit or in any way limit its function as a parking area for vehicles without the prior written approval of the Board of Directors or Covenant Committee pursuant to Article

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6 of this Declaration. Notwithstanding the foregoing, any Lot owned by the Declarant or a Participating Builder upon which is situated a dwelling unit in which the garage has been modified to serve as living area shall be exempt from this paragraph and any grantee of the Declarant or a Participating Builder, and their successors and assigns, shall also be exempt until such time as the garage is restored or a garage is constructed on such Lot.

Section 7.3. Leasing and Transfers.

(a) No portion of a dwelling-unit, other than an entire dwelling unit, may be leased or rented unless the prior written approval of the Covenant Committee or the Board of Directors is obtained. All leases shall be on forms approved by the Association and shall (i) contain provisions advising the tenant of his/her obligation to comply with all provisions of this Declaration, the Bylaws and the Rules of the Association; (ii) provide that the Association shall have the right to terminate the lease upon default by the tenant in observing any of the provisions of this Declaration, the Bylaws or Rules of the Association, or of any other document, agreement or instrument governing the dwelling units and/or the Property. The Owner(s) of a leased Lot shall notify the Association in writing of the Owners' current address. The Owner(s) of a leased or rented dwelling unit shall be jointly and severally liable with his tenant(s) to the Association to pay any claim for injury or damage to persons or property caused by any action or omission, including, without limitation, the negligence of the tenant(s). Every lease shall be subordinate to any lien filed by the Association, whether before or after such lease was entered into. The minimum term any dwelling unit may be rented or leased shall be six (6) months, and in no event may a transient tenant be accommodated in any dwelling unit.

(b) Prior to the sale, conveyance or transfer of any Lot or dwelling unit to any person, the Owner shall notify the Board of Directors in writing of the name and address of the person to whom the proposed sale, conveyance or transfer is to be made and provide to it such other information as the Board of Directors may reasonably require. Failure to comply with the provisions of this Section 7.3(b) shall not void, prohibit or otherwise invalidate the sale, conveyance or transfer of any Lot or dwelling unit nor may it have any affect upon any mortgage or deed of trust thereon.

Section 7.4. Parking. Parking within the Property shall be subject to the following restrictions:

(a) The Association shall be entitled to establish supplemental rules concerning parking on any portion of the Common Area and Lots, including, without limitation, providing for the involuntary removal of any vehicle violating the provisions of this Declaration and/or such rules.

(b) The Declarant, its successors and assigns, and its nominee or nominees and any agents, servants and/or employees thereof shall be exempt from the provisions of this Section 7.4.

Section 7.5. House Rules, Etc. There shall be no violation of any reasonable rules for the use of the Common Area and community facilities or "house rules" or other community rules and regulations not inconsistent with the provisions of this Declaration which may from time to time be adopted by the Board of Directors of the Association and promulgated among the membership by them in writing, and the Board of Directors is hereby and elsewhere in this Declaration authorized to adopt such rules.

Section 7.6. Exemptions. None of the foregoing restrictions shall be applicable to the activities of:

(a) Declarant, its officers, employees, agents or assigns, in their development, marketing, leasing and sale of Lots or other parcels within the Property; or

(b) To the Association, its officers, employees and agents, in connection with the proper maintenance, repair, replacement and improvement of the Common Area and community facilities.

Section 7.7. Declaration of Easements and Rights. The following easements and rights are hereby declared or reserved:

(a) Declarant reserves the right to grant easements, both temporary and permanent, to all public authorities and utility companies over any part of the Common Area.

(b) Each Lot within the Property is hereby declared to have an easement, not exceeding one foot (1') in width, over all adjoining Lots and Common Area for the purpose of accommodating any encroachment due to engineering errors, errors in original construction, settlement or shifting of the building, roof overhangs, gutters, architectural or other appendages, draining of rainwater from roofs, or any other similar cause. There shall be valid easements for the maintenance of said encroachments so long as they shall exist, and the rights and obligations of Owners shall not be altered in any way by said encroachment, settlement or shifting; provided, however, that in no event shall a valid easement for encroachment be created in favor of an Owner or Owners if said encroachment occurred due to the willful misconduct of said Owner or Owners. In the event a structure on any Lot is partially or totally destroyed and then repaired or rebuilt, the Owners of each Lot agree that minor encroachments over adjoining Lots shall be permitted and that there shall be valid easements for the maintenance of said encroachments so long as they shall exist.

(c) There is hereby reserved unto the Declarant [and to such other party(ies) as the Declarant may specifically, and in writing, assign such rights], for the benefit of the real property described on the Development Plan ("Benefited Property"), a blanket

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easement upon, across and under the Property (provided such easement does not encroach upon any building within the Property or unreasonably interfere with the use and enjoyment of the Property), for vehicular and pedestrian ingress and egress, curb cuts, slope, or grading easements, as well as for the installation, replacement, repair and maintenance of all utilities, including, but not limited to, water, sewer, drainage, storm water detention and/or siltation, gas, cable television, telephones and electricity, and further including the right to connect to and use any such utilities which may exist or be located upon the Property from time to time. By virtue of this easement, it shall be expressly permissible to erect and maintain the necessary poles, pipes, lines and other equipment on the Property, to affix and maintain electrical or telephone wires and conduits, sewer and water drainage lines, on, above, or below any portion of the Property, including any improvements constructed thereon, and to have construction vehicles, equipment and the like exercise the aforesaid right of ingress and egress over the Property. Further, there is hereby reserved for the benefit of the Benefited Property a right of any owner (or its tenant, licensee, occupant or other party entitled to occupy any dwelling unit within the Benefited Property) of any dwelling within the Benefited Property to use any recreational or other similar facilities that may, from time to time, be located within the Property; provided, however, that: (i) as a condition precedent to the exercise of such rights, the intention to allow the use of such facility(ies) is specifically made by the Declarant pursuant to a written instrument recorded among the Land Records of Montgomery County, Maryland, and that such election, once made, shall not be revoked without the consent of the Declarant as well as at least seventy-five percent (75%) of the Members of the Association; and (ii) the right to exercise such benefits, if not previously elected as provided in the immediately preceding provisions of (i) above, may be waived by the Declarant by a specific written waiver recorded among the Land Records of Montgomery County, Maryland, and that such election, once made, may not be revoked without the express prior written consent of at least seventy-five percent (75%) of the Members of the Association and the Declarant; and (iii) if the rights contemplated by the provisions of (i) above are elected, then the parties benefiting from such rights to use such facilities shall be obligated to pay their pro-rata share of the cost of maintaining, operating and repairing such facilities, which share shall be computed by multiplying the total of such bona fide costs times a fraction, the numerator of which shall be the number of completed dwelling units owned by the party from whom such contribution is sought and the denominator shall be the total number of completed dwelling units entitled to use such facilities. The computation contemplated by the immediately preceding sentence shall be made at each time a contribution for such costs is sought. The elections contemplated by (i) and (ii) above may be made at any time and from time to time with respect to all or less than all of the facilities involved and, without limiting the generality of the foregoing, an election may be made under (i) above with respect to some facilities and pursuant to (ii) above with respect to others. There is further reserved unto the Declarant the right to erect

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entry features, promotional and other similar items within the Property provided they do not unreasonably interfere with the use, operation and enjoyment of the Property. There is further reserved unto the Declarant the right to grant specific easements, both temporary and permanent, to any person or entity, including all public authorities and utility companies, over any part of the Property in furtherance of the blanket easement created by this subsection (c). Further, without limiting the generality of the foregoing, the Declarant reserves the right to unilaterally execute and record such additional easements and agreements as may be necessary in order to give effect to the foregoing easements and other rights, which additional easements and other agreements need not be consented to or joined in by any party having an interest in the Property; provided, however, that if requested by the Declarant, any party having an interest in the Property shall promptly join in and execute such confirmatory easements and other agreements. Each Lot shall further be subject to a public pedestrian access easement over and upon any sidewalk (or the replacement thereof) constructed on the Lot by the Declarant or any Participating Builder, which sidewalk is reasonably deemed to be for the use of the community of which the Lot is a part.

(d) An easement is hereby reserved to Declarant to enter the Common Area during the period of construction and sale on the Property, and to maintain such facilities and perform such operations as in the sole opinion of Declarant may be reasonably required, convenient or incidental to the construction and sale of residences, including, without limitation, a business office, sales/leasing office, storage area, construction yards, signs, displays and model units.

(e) Declarant also reserves the right to enter into the Common Area for the purpose of carrying out any obligations it may have, or assume, with respect to the curing of any defects in workmanship or materials in the Property or the improvements thereon. There is further reserved unto the Declarant and its agent(s) a non-exclusive easement over, across and through all of the Common Area for the purpose of access, the storage of building supplies and materials and equipment and, without any limitation, for any and all purposes reasonably related to the completion of the development, construction or rehabilitation and repair of the Property.

(f) For a period of ten (10) years from the date of conveyance of the first Lot, the Declarant reserves a blanket easement and right on, over and under the Property to maintain and to correct drainage of surface water in order to maintain reasonable standards of health, safety and appearance. Such right expressly includes the right to cut any trees, bushes or shrubbery, make any gradings of the soil, or to take any other similar action reasonably necessary, following which the Declarant shall restore the affected property to its original condition as near as practicable. The Declarant shall give reasonable notice of intent to take such action to all affected Owners, unless in the opinion of the

Declarant an emergency exists which precludes such notice. There is further reserved unto the Declarant the right to grant specific easements, both temporary and permanent, to any person or entity, including all public authorities and utility companies, over any part of the Property in furtherance of the blanket easement created by this subsection (f).

(g) The rights and duties with respect to sanitary sewer and water, storm drains, downspouts, yard drains, cable television, electricity, gas and telephone lines and facilities shall be governed by the following:

(i) Whenever water, sanitary sewer and water, storm drains, downspouts, yard drains, electricity, gas, cable television or telephone connections, lines, cables or any portion thereof, are or have been installed within the Property, the Owner of any Lot, or the Association shall have the right, and are hereby granted an easement to the extent necessary therefor, to enter upon or have a utility company enter upon any portion of the Property in which said installations lie, to repair, replace and generally maintain said installations.

(ii) The right granted in subsection (i) above shall be only to the extent necessary to entitle the property of the Owner or Association serviced by said installation to its full and reasonable use and enjoyment, and provided further that anyone exercising said right shall be responsible for restoring the surface of the easement area so used to its condition prior to such use.

(iii) In the event of a dispute between Owners with respect to the repair or rebuilding of said connections, or with respect to the sharing of the cost thereof, upon written request of one of such Owners addressed to the Association, the matter shall be submitted to its Board of Directors, or its designated committee, who shall decide the dispute, and the decision of the Board, or its designated committee, shall be final and conclusive as to the parties.

(h) The Association shall have an easement to enter any portion of the Property for the performance of its duties hereunder; provided that except as provided in Article 8 hereof, such easement shall not entitle the entry within the interior portion of any dwelling located on the Property, but (by way of illustration only and not in limitation of the rights granted herein) shall permit the entry into fenced, or other similar areas of the Property.

(i) With respect to any step, patio, deck, downspout or yard drain or other similar structure that may benefit any Lot and is constructed by the Declarant or a Participating Builder and which may encroach upon any portion of the Common Area, there is hereby reserved for the benefit of the Lot for which such step, patio, deck, downspout, drain or other structure serves, a

perpetual easement for the location, maintenance, repair and use of such structure or items within the Common Area, but only to the extent the Declarant's or a Participating Builder's original construction thereof encroaches within the Common Area. The Owner of the Lot benefiting from such easement agrees to maintain such structure or item and to indemnify and hold the Association harmless from any loss, liability or damage arising out of or resulting from the use, enjoyment and benefit of the easement granted hereby.

(j) There is hereby created for the benefit of each Lot, which is enclosed, in whole or in part, by any wooden, brick, stone or other similar fence and/or wall constructed by the Declarant or a Participating Builder, a perpetual easement to use any portion of the Common Area that may be located between such fence and/or wall and the record platted lot line for such benefited Lot; and the obligation to maintain such portion of the Common Area shall be that of the Owner of the benefited Lot and the obligation to maintain the wooden, brick, stone, or other similar fencing located within the Common Area, which encloses the benefited Lot, shall be that of the Owner of the benefited Lot. The Owner of any Lot benefiting from the foregoing easement agrees to indemnify and hold the Association harmless from any loss, liability or damage arising out of or resulting from the use, enjoyment and benefit of the easement rights provided for herein.

(k) A mutual right and easement for utility services is hereby established for the benefit of all Owners, such that no Owner shall take any action which would in any way interfere with utility services being provided to other Owners within the Project. If a Lot contains any utility pipes, ducts, conduits, wires or the like which are for the benefit, in whole or in part, of other Owners within the Project, then the Owner of such Lot shall promptly, at his expense, repair any damage to such utilities caused by the Owner, his guests or invitees.

(l) The Association, its agents and employees, shall have an irrevocable right and an easement to enter the Lots for the purposes of exercising the rights and fulfilling the obligations established by this Declaration and any Supplementary Declarations recorded hereafter. The interior of any dwelling situated on a Lot may not be entered by the Association or its agents or employees except in the case of an emergency to protect the Common Area, other Lots or persons from injury or damage.

(m) The Declarant reserves the right to modify or alter the size, number and location of the Common Area and Lots, as well as the improvements thereon, as it deems necessary or desirable in conjunction with the development of the Project. Without limiting the generality of the foregoing, the Declarant reserves the right to resubdivide all or a portion of the Project, to convey Common Area, to modify the site plans, to construct improvements on the Common Area, and to take whatever other action with respect to the Common Area and the Lots.



(n) The Board of Directors of the Association shall have the right to grant easements, rights-of-way, licenses and similar interests over any part of the Common Area for any lawful purpose which it determines, in its own discretion, to be in the best interests of the Association.

ARTICLE 8  
MAINTENANCE

Section 8.1. Owners' Rights and Responsibilities. Except as otherwise specifically provided in this Declaration, each Owner shall keep each Lot owned by him, and all improvements therein or thereon, in good order and repair and free of debris in a manner and with such frequency as is consistent with good property management and the Community-Wide Standard. Driveway aprons and any sidewalk sections designed for the benefit of individual Lots within the Property shall be maintained exclusively by the Owner of the Lot served by the driveway apron. Each individual Lot Owner shall also be responsible for snow and ice removal on that section of sidewalk within the P.I.C.A.E. Area which is located on that respective Lot. In the event an Owner of any Lot in the Property shall fail to maintain the Lot and the improvements situated thereon as aforesaid, the Association or its agent shall have the right to enter upon said Lot to repair, maintain and restore the Lot and any improvements erected thereon. The Association shall also have the right to enter the Lots to correct drainage. Whenever entry is not required in an emergency situation, the Association shall afford the Owner reasonable notice and an opportunity to cure the problem prior to entry. All costs related to such correction, repair or restoration shall be collectible from the Owner of such Lot in the same manner as assessments as provided in Article 5 herein.

Section 8.2. Association Maintenance. The Association shall maintain and keep in good order the Common Area (and any improvements or facilities situated thereon), such maintenance to be funded as hereinafter provided. In addition, the Association shall maintain and keep in good repair rights-of-way, entry strips and entrance features or improvements, whether owned as part of a Lot or dedicated for public use, so long as such rights-of-way, entry strips and entrance features or improvements are within or appurtenant to the Project. This obligation shall include, but not be limited to, maintenance, repair and replacement, subject to any insurance then in effect, of all landscaping and other flora, structures and improvements situated upon such areas. The Association shall also maintain any portion of any Lot which it is obligated to maintain pursuant to any easement or other agreement. The Association shall be responsible for the repair, replacement and maintenance of any sidewalk for any reason (excluding the driveway apron section) located within a P.I.C.A.E. Area. All street trees within the P.I.C.A.E. Areas shall be maintained by the Association.

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The Association may elect, pursuant to a resolution of the Board of Directors, to maintain and keep in good order the Lawn and Garden Areas located within any Lot, group of Lots or all of the Lots, such maintenance to be funded as herein provided. Without limiting the generality of the foregoing, in the event the Board of Directors elects to maintain the Lawn and Garden Areas, the Association shall be responsible for mowing, fertilizing, trimming and/or otherwise caring for the lawns, as well as planting, pruning, fertilizing and/or otherwise maintaining the trees, shrubs, and other plant materials which are located within the Lawn and Garden Areas. All such maintenance and care of the Lawn and Garden Areas shall be in conformity with standards established by the Board of Directors from time to time.

Any Owner may request that the Association refrain from performing all or a part of the Lawn and Garden Area maintenance described above. Such a request must be made to the Association at least thirty (30) days prior to the date the Owner desires the Association to refrain from such maintenance. The Association shall not unreasonably withhold approval of such request, provided the Owner has demonstrated to the satisfaction of the Association his or her intentions to maintain the Lawn and Garden Area, as applicable, in a manner acceptable to the Association. In the event an Owner elects to maintain the Lawn and Garden Area situated on his Lot pursuant to the terms hereof, such Owner shall not be entitled to any reimbursement from the Association or reduction in rate of assessments levied against such Lot.

The Association may, in the discretion of the Board of Directors, assume additional maintenance responsibilities upon all or any portion of the Property. In such event, all costs of such maintenance shall be assessed only against those Owners residing within the portion of the Property receiving the additional services. This assumption of responsibility may take place either by contract or because, in the opinion of the Board, the level and quality of service then being provided is not consistent with the Community-Wide Standard of the Project. The provision of services in accordance with this Section shall not constitute discrimination within a class.

The Association shall also have the right to enter any Lot, including the dwelling unit located on such Lot, without the consent of the Owner and/or occupant thereof, to conduct any emergency repairs as are necessary for the maintenance and protection of the Common Areas, any Lot and the Lawn and Garden Areas. The costs of such repairs shall be collectible from the Owner of such Lot in the same manner as assessments as provided in Article 5 herein.

The Association shall be responsible for the maintenance, repair and replacement of any stormwater management area or facilities situated within the Common Area. The Association shall also be responsible for the maintenance, repair and replacement of any stormwater management area or facilities which serve and/or

benefit the Property whether or not located within the Common Area if the Association is responsible therefor pursuant to any easement, agreement or direction of any governmental authority or agency. Such responsibility may also be in the form of contributing the Association's share of the maintenance costs of a stormwater management area, facility or equipment pursuant to an easement or agreement which shall be a common expense of the Association.

ARTICLE 9  
INSURANCE

Section 9.1. Individual Coverage. By virtue of taking title to a Lot, each Owner covenants and agrees with all other Owners and with the Association that each individual Owner shall carry blanket all risk casualty insurance on the dwelling and all structures located upon the Lot, at a minimum, such coverage shall provide coverage against loss or damage by fire or other hazards in an amount sufficient to cover the full replacement cost of any repair or reconstruction work in the event of damage or destruction from any insured hazard. The Board of Directors of the Association, or its duly authorized agent, shall have the authority to obtain insurance for all or any of the dwellings located on the Property, unless the Owners thereof have supplied proof of adequate coverage to the Board of Directors' satisfaction. In the event the Board of Directors obtains insurance for any Lot or dwelling unit pursuant to this Section 9.1, the cost thereof shall be assessed against the Lot benefiting from such insurance and shall be collectible in the same manner as any other assessment under Article 5 of this Declaration. Each Owner further covenants and agrees that in the event of a partial loss or damage and destruction resulting in less than total destruction to the dwelling and other structures constructed on the Lot, the Owner shall proceed promptly to repair or to reconstruct the dwelling and other damaged structures in a manner consistent with the original construction. Each Owner of a Lot covenants and agrees that in the event that such dwelling is totally destroyed, the Owner shall proceed promptly to repair or to reconstruct the dwelling in a manner consistent with the original construction, unless approval to do otherwise is obtained from the Covenant Committee or the Board of Directors.

Section 9.2. Required Coverage. The Board of Directors of the Association, or its duly authorized agent, shall be required to obtain, maintain and pay the premiums, as a Common Expense, upon a policy of property insurance covering all the Common Area (except land, foundation, excavation and other items normally excluded from coverage) including fixtures and building service equipment, to the extent that they are a part of the Common Area of the Association, as well as common personal property and supplies.

The insurance policy shall afford, as a minimum, protection against loss or damage by fire and other perils normally

covered by the standard extended coverage endorsement, as well as all other perils which are customarily covered with respect to projects similar in construction, location and use, including all perils normally covered by the standard "All Risk" endorsement, where such is available. The policy shall be in an amount equal to one hundred percent (100%) of the current replacement cost of the Common Area (less a deductible deemed reasonable by the Board of Directors), shall name the Association as the named insured, and shall contain, to the extent reasonably available, a waiver of subrogation clause.

Each hazard insurance policy must be written by a hazard insurance carrier which has a current rating by Best's Insurance Reports of A/VI or better (or its equivalent). Each insurer must be specifically licensed or authorized by law to transact business within the State of Maryland. The policy contract shall provide that no assessment may be made against the mortgagees, and that any assessment made against others may not become a lien on the mortgaged premises superior to the first mortgage. Additionally, if applicable, the Association shall obtain a steam boiler and machinery coverage endorsement which provides that the insurer's minimum liability per accident at least equals the lesser of Two Million Dollars (\$2,000,000.00) or the insurable value of the building(s) housing the boiler or machinery. Finally, the deductible on any hazard policy should be Ten Thousand Dollars (\$10,000.00) or one percent (1%) of the face value of the policy, unless the State of Maryland permits a higher amount.

All policies of hazard insurance must contain or have attached the standard mortgagee clause commonly acceded by private institutions as mortgage investors in the area in which the mortgaged premises are located. The mortgagee clause must provide that all property insurance policies must provide an Agreed Amount and Inflation Guard Endorsement, if available, and a Construction Code Endorsement if the Common Area in the Association are subject to a construction code provision which would become operative and require changes to undamaged portions of the building(s), thereby imposing significant costs in the event of partial destruction of the project by an insured peril.

If any portion of the Common Area are in a special flood hazard area, as defined by the Federal Emergency Management Agency, the Board of Directors of the Association, or its duly authorized agent, shall be required to obtain, maintain and pay, as a common expense, the premiums upon a "master" or "blanket" policy of flood insurance on Common Area buildings and any other Common Area property. The policy shall be in an amount deemed appropriate, but not less than the maximum coverage available under the NFIP for all buildings and other insurable property within any portion of the Common Area located within a designated flood hazard area or one hundred percent (100%) of current replacement cost of all such buildings and other insurable property. Unless a higher maximum amount is permitted under the laws of Maryland, the maximum

deductible for flood insurance shall be the lesser of Five Thousand Dollars (\$5,000.00) or one percent (1%) of the policy face amount.

The Association shall maintain comprehensive general liability insurance coverage covering all of the Common Area, public ways of the Project, and other areas that are under its supervision (including, but not limited to, commercial spaces, if any, owned by the Association, whether or not they are leased to third parties). Coverage limits shall be in amounts generally required by private institutional mortgage investors for projects similar in construction, location and use. However, such coverage shall be for at least Two Million Dollars (\$2,000,000.00) for bodily injury and property damage arising out of a single occurrence. Coverage under this policy shall include, without limitation, legal liability of the insured for property damage, bodily injuries and deaths of persons in connection with the operation and maintenance or use of the Common Area, and legal liability arising out of lawsuits related to employment contracts in which the Association is a party. Such insurance policy shall contain a "severability of interest" clause or endorsement which shall preclude the insurer from denying the claim of an Owner because of negligent acts of the Association or other Owners. Such policies must provide that they may not be canceled or substantially modified, by any party, without at least thirty (30) days' prior written notice to the Association.

Blanket fidelity bonds shall be required to be maintained by the Association for all officers, directors, managers, trustees, employees and volunteers of the Association and all other persons handling or responsible for funds held or administered by the Association, whether or not they receive compensation for their services. Where the Association has delegated some or all of the responsibility for the handling of funds to a management agent, such management agent shall be covered by its own fidelity bond. All fidelity bonds, including those entered into by, and/or on behalf of or for the benefit of, a management agent and its personnel, should name the Association as an obligee (for bonds entered into by or on behalf of, or for the benefit of a management agent and its personnel, the Association should be named as an additional obligee). Fidelity bonds entered into by the Association shall have their premiums paid as a common expense of the Association. The total amount of fidelity coverage required shall be sufficient to cover the maximum funds that will be in the custody of the Association or management agent at any time, but must at least equal the sum of three (3) months' assessments on all Lots within the Property, plus the Association's reserve funds. The bonds shall provide that they cannot be canceled or substantially modified (including cancellation for non-payment of premium) without at least thirty (30) days' prior written notice to the Association and to all Eligible Mortgage Holders.

Section 9.3. Repair and Reconstruction of Common Area After Fire or Other Casualty. Except as hereinafter provided (and inconsistent herewith), in the event of damage to or destruction of

any portion of the Common Area covered by insurance payable to the Association as a result of fire or other casualty, the Board of Directors shall arrange for the prompt repair and restoration thereof, and the Board of Directors or the Insurance Trustee (as hereinafter defined), as the case may be, shall disburse the proceeds of all insurance policies to the contractors engaged in such repair and restoration, as provided below.

The Insurance Trustee may rely upon a certificate of the Board of Directors which certifies whether or not the damaged Property is to be reconstructed or repaired. The Board of Directors, upon request of the Insurance Trustee, shall deliver such certificate as soon as practicable.

Immediately after a casualty causing damage to the Common Area for which the Association has the responsibility of maintenance, repair, and/or replacement, the Board of Directors shall obtain reliable and detailed estimates of the cost to place the damaged portions of the Common Area in as good a condition as existed before the casualty. Such costs may include professional fees and premiums for such bonds as the Board of Directors desire.

In the event of reconstruction or repair (as estimated by the Board of Directors) which shall exceed Twenty-Five Thousand Dollars (\$25,000.00), all proceeds of insurance shall be paid over to a trust company or bank having trust powers and authorized to engage in the trust business in the State of Maryland (hereinafter the "Insurance Trustee"), selected by the Board of Directors and shall be paid out from time to time as the reconstruction and repair progresses in accordance with the provisions of an Insurance Trust Agreement and which contains, inter alia, the following provisions:

(a) the reconstruction or repair shall be in the charge of an architect or engineer, who may be an employee of the Association, and hereinafter called the "Architect";

(b) any restoration or repair of the project shall be performed substantially in accordance with this Declaration and the original plans and specifications, unless other action is approved by at least fifty-one percent (51%) of the Eligible Mortgage Holders (based upon one vote for each first mortgage owned), and two thirds (2/3) of the Owners (other than the Declarant);

(c) each request for an advance of the proceeds of insurance shall be made to the Insurance Trustee and shall be accompanied by a certificate from the Architect and Board of Directors to the effect that (i) all work then completed has been performed in accordance with the plans and specifications; and (ii) the amount requested to be advanced is required to reimburse the Board of Directors for payments previously made by the Board of Directors or is due to the contractor responsible for the restoration or repair, or to subcontractors, materialmen, laborers, engineers, architects or to other persons responsible for services

or materials in connection with such restoration or repair, or for fees or the like necessarily incurred in connection with the same; and (iii) when added to amounts previously advanced by the Insurance Trustee, the amount requested to be advanced does not unreasonably exceed the value of the work done and materials delivered to the date of such request;

(d) each request for an advance of the proceeds of insurance shall be accompanied by satisfactory waivers of liens covering that portion of the repair or reconstruction for which payment or reimbursement is being requested, together with appropriate evidence from a title insurance company or the like to the effect that there has not been filed with respect to the Common Area, or any part thereof, any mechanics' or other lien, or notice of intention to file the same, which has not been dismissed, bonded, or satisfied of record;

(e) the fees and expenses of the Insurance Trustee, as agreed upon by the Board of Directors and the Insurance Trustee, shall be paid by the Association as a Common Expense, and such fees and expenses may be deducted from any insurance proceeds in the hands of the Insurance Trustee, pro rata, as the reconstruction or repair progresses;

(f) such other provisions not inconsistent with the provisions hereof as the Board of Directors or the Insurance Trustee may reasonably require.

Upon completion of the reconstruction or repair and payment in full of all amounts due on account thereof, any proceeds of insurance then in the hands of the Insurance Trustee shall be paid to (i) the Board of Directors if such funds relate to Common Area, or (ii) to the Owner of any Lot to which any such proceeds may relate.

#### ARTICLE 10 PARTY DRIVEWAYS

The rights and duties of the Owners of Lots with respect to party driveways shall be governed by the following:

Section 10.1 General Rules of Law to Apply. Each driveway which is constructed as a part of the original construction on the Property and any part of which is placed on the dividing line between separate Lots, shall constitute a party driveway, as applicable, and with respect to such driveway, each of the adjoining Owners shall assume the burdens, and be subject to an easement for that portion of the driveway on his or her Lot, and be entitled to the benefits of these restrictive covenants and, to the extent not inconsistent herewith, the general rules of law regarding driveways and of liability for property damage due to negligence or willful acts or omissions, shall apply thereto.

Section 10.2. Sharing of Repair and Maintenance and Destruction by Fire or Other Casualty. If any such party driveway is damaged or destroyed by fire or other casualty or by some cause other than the act of one of the adjoining Owners, his/her agents, or family (including ordinary wear and tear and deterioration from lapse of time), then, in such event, both such adjoining Owners shall proceed forthwith to rebuild or repair the same to as good condition as formerly, in proportion to their respective use of the party driveway.

Section 10.3. Repairs of Damage Caused by One Owner. If any such party driveway is damaged or destroyed through the act of one adjoining Owner or any of his/her agents or guests or members of his family (whether or not such act is negligent or otherwise culpable) so as to deprive the other adjoining Owner of the full use and enjoyment of such driveway, then the Owner responsible for such damage shall forthwith proceed to rebuild and repair the same to as good condition as formerly, without cost to the adjoining Owner.

Section 10.4. Encroachments. If any portion of a party driveway shall encroach upon any adjoining Lot, or upon the Common Area by reason of reconstruction, settlement or shifting of any building, or otherwise, a valid easement for the encroachment and for the maintenance of the same as long as the driveway shall exist.

Section 10.5. Right to Contribution Runs with Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

Section 10.6. Dispute. In the event of a dispute between Owners with respect to the repair or rebuilding of a party driveway or with respect to the sharing of the cost thereof, then, upon written request of one of such Owners addressed to the Association, the matter shall be submitted to its Board of Directors who shall decide the dispute, and the decision of such Board of Directors shall be final and conclusive upon the parties.

## ARTICLE 11 MANAGEMENT

Section 11.1. Management Agent. The Board of Directors may employ for the Association a professional management agent or manager (the "Management Agent") at a rate of compensation established by the Board of Directors to perform such duties and services as the Board of Directors shall from time to time authorize in writing, such as:

(a) to establish (with the approval of the Board of Directors of the Association) and provide for the collection of the annual assessments and any other assessments provided for in this



Declaration and to provide for the enforcement of liens therefor in a manner consistent with the law and the provisions of this Declaration; and

(b) to provide for the care, upkeep, maintenance and surveillance of the Common Area and community facilities; and

(c) to designate, hire and dismiss such personnel as may be required for the good working order, maintenance and efficient operation of the Common Area and community facilities; and

(d) to promulgate (with the approval of the Board of Directors of the Association) and enforce such rules and regulations and such restrictions or requirements, "house rules" or the like as may be deemed proper respecting the use of the Common Area and community facilities; and

(e) to provide such other services for the Association as may be consistent with law and the provisions of this Declaration.

When professional management has been previously required by any Eligible Mortgage Holder, any decision to establish self-management by the Association shall require the consent of sixty-seven percent (67%) of the Owners and the approval of fifty-one percent (51%) of the votes of lots subject to eligible holder mortgages.

Section 11.2. Duration of Management Agreement. Any management agreement entered into by the Association shall provide, inter alia, that such agreement may be terminated for cause by either party upon thirty (30) days' written notice thereof to the other party. The term of any such management agreement shall not exceed one (1) year; provided, however, that the term of any such management agreement may be renewable by mutual agreement of the parties for successive one (1)-year periods.

Any Management Agreement entered into by the Declarant, his nominee or nominees, assigns, successor(s) or agent thereof, prior to transfer of control of the Association must be terminable, without cause, any time after transfer of control, on not less than thirty (30) nor more than ninety (90) days' notice, and no charge or penalty may be associated with such termination.

ARTICLE 12  
GENERAL PROVISIONS

Section 12.1. Common Area Responsibility. The Association, subject to the rights of the Owners as set forth in this Declaration, shall be responsible for the exclusive management and control of the Common Area and all improvements thereon (including, without limitation, furnishings and equipment related thereto, private drainage facilities and common landscaped areas), and shall keep

the Common Area in good, clean, attractive, and sanitary condition, order, and repair, pursuant to the terms and conditions hereof.

Section 12.2. Personal Property and Real Property for Common Use. The Association may acquire, hold, and dispose of tangible and intangible personal property and real property, subject to the requirements of this Declaration. The Board of Directors, acting on behalf of the Association, will accept any real or personal property, leasehold, or other property interests within the Property conveyed to it by the Declarant.

Section 12.3. Implied Rights. The Association may exercise any other right or privilege given to it expressly by this Declaration or the Bylaws, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

Section 12.4. Limitation of Liability. The Association shall not be liable for any failure of any services to be obtained by the Association or paid for out of the common expense funds, or for injury or damage to person or property caused by the elements or resulting from water which may leak or flow from any portion of the Common Area or community facilities, or from any wire, pipe, drain, conduit or the like. The Association shall not be liable to any Member for loss or damage, by theft or otherwise, of articles which may be stored upon the Common Area or community facilities. No diminution or abatement of assessments, as herein elsewhere provided for, shall be claimed or allowed for inconvenience or discomfort arising from the making of repairs or improvements to the Common Area or community facilities, or from any action taken by the Association to comply with any of the provisions of this Declaration or with any law or ordinance or with the order or directive of any municipal or other governmental authority.

Section 12.5. Enforcement. The Association, or any Owner, or any Mortgagee of any Lot shall have the right to enforce, by any proceeding at law and/or in equity, all restrictions, conditions, covenants, reservations, easements, liens, charges or other obligations or terms now or hereafter imposed by the provisions of this Declaration, or the Articles of Incorporation or Bylaws of the Association or any rule or regulation promulgated by the Association pursuant to its authority as provided in the Declaration, Articles of Incorporation or Bylaws. Failure by the Association or by any Owner or by any mortgagee of any Lot to enforce any covenant or restrictions herein contained or any provision of the Bylaws, Articles of Incorporation or rules and regulations of the Association shall in no event be deemed a waiver of the right to do so thereafter. There shall be and there is hereby created and declared to be a conclusive presumption that any violation or breach or attempted violation or breach of any of the within covenants or restrictions or any provision of the Bylaws or Articles of Incorporation of the Association cannot be adequately remedied by action at law or exclusively by recovery of damages.

If the Association, or any Owner or Mortgagee of any Lot, successfully brings an action to extinguish a violation or otherwise enforce the provisions of this Declaration or the Articles of Incorporation or Bylaws of the Association, the costs of such action, including legal fees, shall become a binding, personal obligation of the Owner committing or responsible for such violation, and such costs shall also be a lien upon the Lot of such Owner, provided that the requirements of the Maryland Contract Lien Act are substantially fulfilled.

Without limiting the generality of the foregoing, and in addition to any other remedies available, the Association after reasonable notice, in writing, provided to the Owner, and providing the Owner with an opportunity for a hearing, may enter any Lot to remedy any violation of the provisions of this Declaration, the Bylaws, Articles of Incorporation or rules and regulations of the Association provided, however, that the Association may not enter the interior of any dwelling unit except in an emergency. The costs of such action shall become a binding, personal obligation of the Owner otherwise responsible for such violation and shall also be a lien upon the Lot of such Owner.

Section 12.6. Fines. In addition to the means for enforcement provided elsewhere herein, the Association shall have the right to levy fines against an Owner or his guests, relatives, lessees or invitees, in the manner set forth herein, and such fines shall be collectible as any other assessment such that the Association shall have a lien against the Lot of such Owner as provided in this Declaration, the Bylaws and the Articles of Incorporation and such fine(s) shall also become the binding personal obligation of such Owner.

(a) The Board of Directors or the Covenant Committee, shall be charged with determining where there is probable cause that any of the provisions of this Declaration, the Bylaws, Articles of Incorporation or the rules and regulations of the Association, regarding the use of the dwelling units, Lots, Common Area or other Association property, are being or have been violated. In the event that the Board of Directors or the Covenant Committee determines an instance of such probable cause it shall cause the Board of Directors to provide written notice to the person alleged to be in violation, and the Owner of the Lot which that person occupies or is visiting if such person is not the owner, of the specific nature of the alleged violation and of the opportunity for a hearing before the Board of Directors upon a request made by the Owner or alleged violator within five (5) days of the sending of the notice. The notice shall also specify, and it is hereby provided, that each recurrence of the alleged violation or each day during which it continues shall be deemed a separate offense, subject to a separate fine not to exceed a reasonable amount established by the Board of Directors from time to time for each offense. The notice shall also specify, and it is hereby provided, that in lieu of requesting a hearing, the alleged violator or Owner may respond to the notice within five (5) days of

its sending, acknowledging in writing that the violation occurred as alleged and promising that it will henceforth cease and will not recur, and that such acknowledgment and promise, and performance in accordance therewith, shall terminate the enforcement activity of the Association with regard to such violation.

(b) If a hearing is timely requested, the Board of Directors shall hold the same, and shall hear any and all defenses to the charges, including any witnesses that the alleged violator, Owner or the Board of Directors or Covenants Committee may produce. Any party at the hearing may be represented by counsel.

(c) Subsequent to any hearing, or if no hearing is timely requested and if no acknowledgment and promise is timely made, the Board of Directors shall determine whether there is sufficient evidence of a violation or violations as provided herein. If the Board of Directors determines that there is sufficient evidence, it may levy a fine for each violation in the amount provided herein.

(d) A fine pursuant to this Section 12.6 shall be assessed against the Lot which the violator occupied or was visiting at the time of the violation, whether or not the violator is an owner of that Lot, and shall be collectible in the same manner as any other assessment, including by the Association's lien rights as provided in this Declaration and the Bylaws. Nothing herein shall be construed to interfere with any right that an Owner may have to obtain from a violator occupying or visiting his Lot payment of the amount of any fine(s) assessed against that Lot.

(e) Nothing herein shall be construed as a prohibition of or limitation on the right of the Association to pursue any other means of enforcement of the provisions of this Declaration, the Bylaws, Articles of Incorporation or rules and regulations, including, but not limited to, legal action for damages or injunctive relief.

Section 12.7. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions, which shall remain in full force and effect.

Section 12.8. Duration and Amendment. Except where permanent easements or other permanent rights or interests are herein created, the covenants and restrictions of this Declaration shall run with and bind the land for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20)-year period by an instrument signed by, or the affirmative vote of, the Owners of not less than seventy-five percent (75%) of the Lots, and thereafter, by an instrument signed by, or the affirmative vote of, the Owners of not less than seventy-five percent (75%) of the Lots.

Any amendment must be recorded in the Land Records of Montgomery County, Maryland.

Section 12.9. Changes and Modifications by Declarant. The Declarant shall have the right, for a period of seven (7) years following the date of recordation of this Declaration, without the consent of the Members of the Association, to modify, amend or change any of the provisions of this Declaration as deemed necessary or appropriate by the Declarant, provided that so long as a Lot is encumbered by a deed of trust or mortgage which is guaranteed or insured by VA or FHA, then VA or FHA, as applicable, shall have the right to approve any material amendment, modification or change to this Declaration.

Section 12.10. FHA-VA Approvals. Provided that any Lot subject to this Declaration is then encumbered by a deed of trust or mortgage which is insured by FHA or guaranteed by VA, and further provided that there are then Class B memberships of the Association outstanding, neither the Members, the Board of Directors, nor the Association shall by act or omission, take any of the following actions without the prior written consent or approval of the FHA and the VA, as circumstances may require:

(a) change the basic organization of the Association including the merger, consolidation, or dissolution of the Association; or

(b) dedicate, convey, or mortgage the Common Area; or

(c) annex additional properties (other than an annexation by the Declarant as provided in this Declaration); or

(d) otherwise materially modify or amend any provision of this Declaration, the Bylaws or the Articles of Incorporation of the Association.

Section 12.11. Rights of the Maryland-National Capital Park and Planning Commission (the "Commission"). Any other provision of this Declaration or the Bylaws or Articles of Incorporation of the Association to the contrary notwithstanding, neither the Members, the Board of Directors nor the Association shall, by act or omission, take any of the following actions without the prior written consent of the Commission, which consent shall not be unreasonably withheld or delayed:

(a) make any annexation or additions other than as provided for pursuant to Section 2.2 of Article 2 of this Declaration; or

(b) abandon, partition, dedicate, subdivide, encumber, sell or transfer any of the Common Area or community facilities; provided, however, that the granting of rights-of-way, easements and the like for public utilities or for other purposes consistent with the use of the Common Area and community facilities by the

Members of the Association shall not be considered a transfer within the meaning of this Section; or

(c) abandon or terminate the Declaration; or

(d) modify or amend any material or substantive provision of this Declaration, or the Bylaws or the Articles of Incorporation of the Association; or

(e) merge or consolidate the Association with any other entity or sell, lease, exchange or otherwise transfer all or substantially all of the assets of the Association to any other entity; or

(f) substantially modify the method of determining and collecting assessments as provided in this Declaration.

The Commission shall have the right to bring action for any legal or equitable relief necessary to enforce the rights and powers granted to the Commission hereunder.

Section 12.12. Consents. Any other provision of this Declaration or the Bylaws or Articles of Incorporation of the Association to the contrary notwithstanding, neither the Members, the Board of Directors nor the Association shall, by act or omission, take any of the following actions:

(a) abandon, partition, alienate, release, hypothecate, dedicate, subdivide, encumber, sell or transfer any of the Common Area directly or indirectly owned by the Association unless at least fifty-one percent (51%) of the Eligible Mortgage Holders (based upon one vote for each first mortgage owned) and two-thirds (2/3) of each class of the then Members in the Association have given their prior written approval; provided, however, that the granting of rights-of-way, easements and the like for public utilities or for other purposes consistent with the use of the Common Area by Members of the Association shall not be considered a transfer within the meaning of this Section; or

(b) abandon or terminate this Declaration unless at least sixty-seven percent (67%) of the Eligible Mortgage Holders (based upon one vote for each first mortgage owned) and two-thirds (2/3) of each class of the then Members of the Association have given their prior written approval; or

(c) conversion of Lots into Common Area or vice versa unless sixty-seven percent (67%) of the Eligible Mortgage Holders (based upon one vote for each first mortgage owned) and two-thirds (2/3) of each class of the then Members of the Association have given their prior written approval; or

(d) unless the prior written consent of fifty-one percent (51%) of the Eligible Mortgage Holders (based upon one vote for each first mortgage owned) and the requisite number of Lot

Owners as provided in Section 12.8 of this Declaration has been obtained, modify or amend any material provision of this Declaration, which establish, provide for, govern or regulate any of the following:

- (i) voting rights;
- (ii) assessments, assessment liens or subordination of such liens;
- (iii) reserves for maintenance, repair and replacement of the Common Area;
- (iv) insurance or fidelity bonds;
- (v) rights to use of the Common Area by any Owner, except in accordance with Section 3.1(b);
- (vi) responsibility for maintenance and repairs;
- (vii) expansion or contraction of the property subject to this Declaration or the addition, annexation or withdrawal of property to or from this Declaration, except in accordance with Article 2;
- (viii) boundaries of any Lot;
- (ix) a decision by the Association to establish self management when professional management had been previously required by an Eligible Mortgage Holder;
- (x) leasing of Lots;
- (xi) imposition of any restrictions on the rights of an Owner to sell or transfer his or her Lot;
- (xii) restoration or repair of the project (after a hazard damage or partial condemnation) in a manner other than that specified in the documents;
- (xiii) any provisions which expressly benefit mortgage holders, Eligible Mortgage Holders or insurers or guarantors.

An addition or amendment to this Declaration shall not be considered material if it is for the purpose of correcting technical errors, or for clarification only. An Eligible Mortgage Holder who receives a written request to approve any additions or

amendments who fails to submit a response within thirty (30) days shall be deemed to have approved such request; or

(e) substantially modify the method of determining and collecting assessments against an Owner or his Lot as provided in this Declaration, unless at least sixty-seven percent (67%) of the first mortgagees (based upon one vote for each first mortgage owned) or Owners (other than the Declarant) of the individual Lots in the Association have given their prior written approval; or

(f) waive or abandon any scheme of regulations, or enforcement thereof, pertaining to the architectural design or the exterior appearance of buildings or structures on the Lots, the exterior maintenance of buildings or structures on the Lots, the maintenance of the Common Area, party walkways or common fences and driveways, or the upkeep of lawns and plantings within the Property unless at least sixty-seven percent (67%) of the first mortgagees (based upon one vote for each first mortgage owned) or Owners (other than the Declarant) of the individual Lots in the Association have given their prior written approval; or

(g) fail to maintain insurance in accordance with Section 9.2 of this Declaration unless at least fifty-one percent (51%) of the Eligible Mortgage Holders (based upon one vote for each first mortgage owned) and sixty-seven percent (67%) of the Owners have given their prior written approval; or

(h) use hazard insurance proceeds for losses to any Association Common Area for other than the repair, replacement or reconstruction of such Common Area or property, unless at least fifty-one percent (51%) of the Eligible Mortgage Holders (based upon one vote for each first mortgage owned) and sixty-seven percent (67%) of the Owners have given their prior written approval.

Section 12.13. Additional Rights of Mortgagees - Notice. The Association shall promptly notify all Eligible Mortgage Holders who hold first mortgages on any Lot for which an assessment levied pursuant to this Declaration, or any installment thereof, becomes delinquent for a period in excess of sixty (60) days and the Association shall promptly notify any Eligible Mortgage Holder who holds a first mortgage on any Lot with respect to which any default in any other provision of this Declaration remains uncured for a period in excess of sixty (60) days following the date of such default. Any failure to give any such notice shall not affect the validity or priority of any Eligible Mortgage Holder on any Lot and the protection extended in this Declaration to the holder of any such mortgage shall not be altered, modified or diminished by reason of such failure.

No suit or other proceeding may be brought to foreclose the lien for any assessment levied pursuant to this Declaration except after ten (10) days' written notice to the holder of the



first mortgage on the Lot which is the subject matter of such suit or proceeding.

Any first mortgagee of any Lot may pay any taxes, utility charges or other charge levied against the Common Area and community facilities which are in default and which may or have become a charge or lien against any of the Common Area and community facilities and any such first mortgagee may pay any overdue premiums on any hazard insurance policy or secure new hazard insurance coverage on the lapse of any policy, with respect to the Common Area and community facilities. Any first mortgagee who advances any such payment shall be due immediate reimbursement of the amount so advanced from the Association.

Section 12.14. Casualty Losses. In the event of substantial damage or destruction to any of the Common Area or community facilities, the Board of Directors of the Association shall give prompt written notice of such damage or destruction to the Eligible Mortgage Holders who hold first mortgages of record on the Lots. No provision of this Declaration or the Articles of Incorporation or the Bylaws of the Association shall entitle any Member to any priority over the holder of any first mortgage of record on his Lot with respect to the distribution to such Member of any insurance proceeds paid or payable on account of any damage or destruction of any of the Common Area or community facilities.

Section 12.15. Condemnation or Eminent Domain. In the event any part of the Common Area and community facilities is made the subject matter of any condemnation or eminent domain proceeding, or is otherwise sought to be acquired by any condemning authority, then the Board of Directors of the Association shall give prompt written notice of any such proceeding or proposed acquisition to the Eligible Mortgage Holders who hold first mortgages of record on the Lots. No provision of this Declaration or the Articles of Incorporation or the Bylaws of the Association shall entitle any Member to any priority over the holder of any first mortgage of record on his Lot with respect to the distribution to such Member of the proceeds of any condemnation or settlement relating to a taking of any of the Common Area and community facilities.

Section 12.16. Declarant's Power of Attorney. Notwithstanding any provision to the contrary contained in the Articles of Incorporation or Bylaws of the Association or this Declaration, the Declarant hereby reserves for itself, its successors, transferees and assigns, for a period of five (5) years from the date the first Lot is conveyed to a Class A Member, or until it conveys title to the last Lot, whichever occurs first, the right to execute on behalf of all contract purchasers, Owners, Eligible Mortgage Holders, mortgagees, and other lienholders or parties claiming a legal or equitable interest in any Lot or Common Area, any such agreements, documents, amendments or supplements to this Declaration, the Articles of Incorporation and Bylaws of the Association which may be required by FNMA, FHA, VA, FHLMC or by any governmental or quasi-governmental agency having regulatory

jurisdiction over the Association, or institutional lender or title insurance company designated by the Declarant.

(a) By acceptance of a deed to any Lot or by the acceptance of any other legal or equitable interest in the Lots or Common Area, each and every such contract purchaser, Owner, Eligible Mortgage Holder, mortgagee or other lienholder or party having a legal or equitable interest in any Lot or Common Area does automatically and irrevocably name, constitute, appoint and confirm the Declarant, its successors, transferees and assigns, as attorney-in-fact for the purpose of executing such agreement, document, amendment, supplement and other instrument(s) necessary to effect the foregoing subject to the limitations set forth herein.

(b) No such agreement, document, amendment, supplement or other instrument which adversely affects the value of a Lot, or substantially increases the financial obligations of an Owner, or reserves any additional or special privileges for the Declarant not previously reserved, shall be made without the prior written consent of the affected Owner(s) and all owners of any mortgage(s) encumbering the Lots owned by the affected Owner(s). Any such agreement, document, amendment, supplement or instrument which adversely affects the priority or validity of any mortgage which encumbers any Lot or Common Area shall not be made without the prior written consent of the owners of all such mortgages.

(c) The power of attorney aforesaid is expressly declared and acknowledged to be coupled with an interest in the subject matter hereof and the same shall run with the title to any and all Lots and Common Area and be binding upon the heirs, personal representatives, successors, transferees and assigns of any of the foregoing parties. Further, said power of attorney shall not be affected by the death or disability of any principal and is intended to deliver all right, title and interest of the principal in and to said power of attorney. Said power of attorney shall be vested in the Declarant, its successors, transferees and assigns until the initial conveyance of all Lots and Common Area planned to be annexed within the jurisdiction of the Association or the expiration of same. Thereafter, said power of attorney shall automatically vest in the Association to be exercised by its Board of Directors.

Section 12.17. Taxes and Assessments. It is the intent of this Declaration that insomuch as the interests of each Owner to use and enjoy the Common Area is an interest in real property appurtenant to each Lot, the value of the interest of each Owner in such Common Area shall be included in the assessment for each such Lot and as a result, any assessment directly against such Common Area should be of a nominal nature reflecting that the full value of the same should be included in the several assessments of the various Lots.

Section 12.18. Successors of Declarant. Any and all rights, reservations, easements, interests, exemptions, privileges, powers

and obligations of the Declarant hereunder, or any part of them, may be assigned and transferred (exclusively or non-exclusively) by the Declarant by an instrument, in writing, without notice to the Association.

Section 12.19. No Dedication to Public Use. Nothing herein contained shall be construed as a dedication to public use or as an acceptance for maintenance of any Common Area or community facility by any public or municipal agency, authority, or utility and no public or municipal agency, authority or utility shall have any responsibility or liability for the maintenance or operation of any of the Common Area or community facilities.

Section 12.20. Incorporation by Reference on Resale. In the event any Owner sells or otherwise transfers any Lot, any deed purporting to effect such transfer shall contain a provision incorporating by reference the covenants, restrictions, servitudes, easements, charges and liens set forth in this Declaration.

Section 12.21. Declarant Reserved Rights. No amendment to this Declaration may remove, revoke, or modify any right, reservation or privilege of the Declarant without the prior written consent of the Declarant or any successors or assignees (pursuant to Section 12.17) of the Declarant.

Section 12.22. Perpetuities. If any of the covenants, restrictions, or other provisions of this Declaration shall be unlawfully void, or voidable for violation of the rule against perpetuities, then such provision shall continue only until twenty-one (21) years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England.

Section 12.23. Declarant Development. As long as the Declarant has an interest in developing the Property or the Project, the Association may not use its financial resources, directly or indirectly, to defray the costs of opposing any development activities reasonably consistent with the general intention of the Development Plan, as amended. Nothing in this Section shall be construed to limit the rights of Members to act as individuals or in affiliation with other Members or other groups.

Section 12.24. Captions and Gender. The captions contained in this Declaration are for convenience only and are not a part of this Declaration and are not intended in any way to limit or enlarge the terms and provisions of this Declaration. Whenever the context so requires, the male shall include all genders and the singular shall include the plural.

Section 12.25. Counterparts. This Declaration may be executed in one or more counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the undersigned, being the DECLARANT herein, have executed this instrument this \_\_\_ day of \_\_\_\_\_, 1992.

WITNESS/ATTEST:

MILESTONE JOINT VENTURE  
a Maryland general partnership

By: CLASSIC COMMUNITY CORP.,  
General Partner

\_\_\_\_\_  
\_\_\_\_\_  
(Assistant) Secretary

By: \_\_\_\_\_  
Stephen A. Eckert  
President

By: NATELLI ASSOCIATES LIMITED  
PARTNERSHIP, a Maryland limited  
partnership, General Partner

By: NATELLI CONSTRUCTION  
CORPORATION, a Maryland  
corporation, General  
Partner

\_\_\_\_\_  
\_\_\_\_\_  
(Assistant) Secretary

By: \_\_\_\_\_  
Thomas A. Natelli  
President

GERMANTOWN-SENECA JOINT VENTURE,  
a Maryland General Partnership

By: JAJ NEELSVILLE LIMITED  
PARTNERSHIP, a Maryland Limited  
Partnership, General Partner

By: PROPERTY CONSORTIUM, INC.,  
General Partner

*Nancy T. Brooks*  
\_\_\_\_\_  
Nancy T. Brooks  
(Assistant) Secretary  
Corporate

By: *Steven L. Lebling*  
\_\_\_\_\_  
Steven L. Lebling  
President

By: GERMANTOWN-SENECA C.L. I  
LIMITED PARTNERSHIP, a Maryland  
Limited Partnership,  
General Partner

By: COLTON AND LASKIN  
EQUITIES, INC.,  
General Partner

By: \_\_\_\_\_  
Dennis A. Laskin  
President

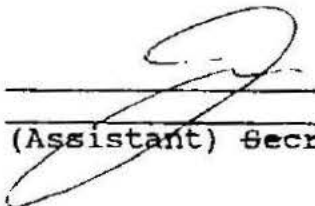
\_\_\_\_\_  
\_\_\_\_\_  
(Assistant) Secretary

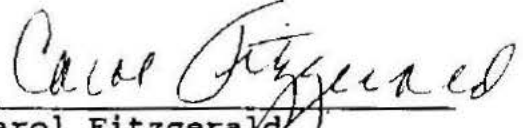
IN WITNESS WHEREOF, the undersigned Participating Builder has executed this Declaration solely for purposes of subjecting its interest in the real property described on Exhibit "A" hereto to the Declarant's right to unilaterally subject such real property to the covenants, conditions, restrictions and easements set forth in this Declaration in accordance with the terms and provisions hereof.

WITNESS/ATTEST:

PARTICIPATING BUILDER:

PULTE HOME CORPORATION,  
a Michigan corporation

  
\_\_\_\_\_  
\_\_\_\_\_  
(Assistant) Secretary

By:   
\_\_\_\_\_  
Carol Fitzgerald  
Vice President and Attorney-in-Fact  
Pulte Home Corporation

\* \* \*

STATE OF Maryland  
COUNTY OF Prince Georges

\*  
\* to wit:  
\*

I HEREBY CERTIFY that, on this 26<sup>th</sup> day of February, 1992, before me, a Notary Public in and for the State and County aforesaid, personally appeared Stephen A. Eckert, who has been satisfactorily proven to be the person whose name is subscribed to this written instrument, who acknowledged himself to be President of Classic Community Corp, a general partner of Milestone Joint Venture, a Maryland general partnership, and that Stephen A. Eckert, as such President, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation, as general partner of Milestone Joint Venture.

IN WITNESS WHEREOF, I hereunto set my hand and notarial seal.

\_\_\_\_\_  
Notary Public

My Commission Expires: 12/31/93

[NOTARIAL SEAL]

\* \* \*

STATE OF Maryland

\*  
\* to wit:  
\*

COUNTY OF Montgomery

I HEREBY CERTIFY that, on this 20th day of February, 1992, before me, a Notary Public in and for the State and County aforesaid, personally appeared Thomas A. Natelli, who has been satisfactorily proven to be the person whose name is subscribed to this written instrument, who acknowledged himself to be President of Natelli Construction Corporation, a general partner of Natelli Associates Limited Partnership, a general partner of Milestone Joint Venture, a Maryland general partnership, and that Thomas A. Natelli, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the limited partnership as general partner of Milestone Joint Venture.

IN WITNESS WHEREOF, I hereunto set my hand and notarial seal.

Betty D. Butcher  
Notary Public

My Commission Expires: January 1, 1996

[NOTARIAL SEAL]

\* \* \*

STATE OF MARYLAND

\*

\* to wit:

COUNTY OF MONTGOMERY

\*

I HEREBY CERTIFY that, on this 19th day of February, 1992, before me, a Notary Public in and for the State and County aforesaid, personally appeared Steven L. Lebling, who has been satisfactorily proven to be the person whose name is subscribed to this written instrument, who acknowledged himself to be President of Property Consortium, Inc., a general partner of JAJ Neelsville Limited Partnership, a general partner of Germantown-Seneca Joint Venture, a Maryland general partnership, and that Steven L. Lebling, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the limited partnership as general partner of Germantown-Seneca Joint Venture.

IN WITNESS WHEREOF, I hereunto set my hand and notarial seal.

*Nancy Brooks*  
Notary Public

My Commission Expires: 12/1/95

{NOTARIAL SEAL}

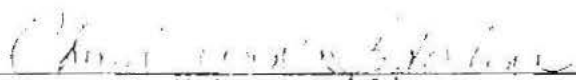


\* \* \*

STATE OF MARYLAND \*  
\* to wit:  
COUNTY OF MONTGOMERY \*

I HEREBY CERTIFY that, on this 21st day of February, 1992, before me, a Notary Public in and for the State and County aforesaid, personally appeared Dennis A. Laskin, who has been satisfactorily proven to be the person whose name is subscribed to this written instrument, who acknowledged himself to be President of ~~Celton and Laskin Equities~~ <sup>Seneca C.L. II</sup>, Inc., a general partner of Germantown-Seneca C.L. I Limited Partnership, a general partner of Germantown-Seneca Joint Venture, a Maryland general partnership, and that Dennis A. Laskin, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the limited partnership as general partner of Germantown-Seneca Joint Venture.

IN WITNESS WHEREOF, I hereunto set my hand and notarial seal.

  
\_\_\_\_\_  
Notary Public  
Cheryl Ann Federline


My Commission Expires: 9-1-92

[NOTARIAL SEAL]

STATE OF Maryland \*  
COUNTY OF Montgomery \* to wit:  
\*

I HEREBY CERTIFY That on this 17 day of February, 1952, before me, a Notary Public in and for the State and County aforesaid, personally appeared Carol Fitzgerald, Known to me (or satisfactorily proven) to be the Vice President and Attorney-in-Fact, of Pulte Home Corporation, a Michigan corporation, and that such corporate officer, being authorized to do so, executed the foregoing and annexed instrument for the purposes therein contained by signing the name of the said corporation.

IN WITNESS WHEREOF, I hereunto set my hand and notarial seal.

  
Notary Public

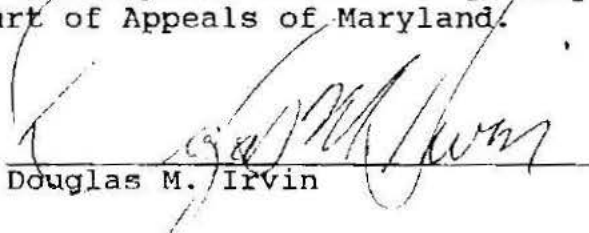
My Commission Expires: 7-25-54

(NOTARIAL SEAL)

\* \* \*

ATTORNEY'S CERTIFICATION

I HEREBY CERTIFY that the foregoing instrument was prepared by or under the supervision of the undersigned, an attorney duly licensed to practice before the Court of Appeals of Maryland.

  
\_\_\_\_\_  
Douglas M. Irvin