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WOODLAND VILLAGE
DECLARATION OF PROTECTIVE COVENANTS,
CONDITIONS AND RESTRICTIONS

RETURN TO: Compton & Duling, L.C.
14914 Jefferson Davis Highway
Woodbridge, VA 22191

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TABLE OF CONTENTS

ARTICLE 1 - DEFINITIONS.....2

Section 1.1. "Annual Budget"2

Section 1.2. "Annual General Assessment"2

Section 1.3. "Assessment"2

Section 1.4. "Assessment Unit"2

Section 1.5. "Association"2

Section 1.6. "Board of Directors" or "Board"2

Section 1.7. "Civic Lots"2

Section 1.8. "Commercial Lot"2

Section 1.9. "Commercial Owner"3

Section 1.10. "Common Area"3

Section 1.11. "Common Expenses"3

Section 1.12. "Community-Wide Standard"3

Section 1.13. "Conservancy Lots"3

Section 1.14. "Declarant"4

Section 1.15. "Declarant Control Period"4

Section 1.16. "Development Plan"4

Section 1.17. "Land Records"4

Section 1.18. "Lot"4

Section 1.19. "Member"4

Section 1.20. "Mortgagee"4

Section 1.21. "Owner"5

Section 1.22. "Participating Builder"5

Section 1.23. "Proffers"5

Section 1.24. "Property"5

Section 1.25. "Residential Living Unit"5

Section 1.26. "Residential Lot"5

Section 1.27. "Residential Owner"5

Section 1.28. "Special Assessment"6

Section 1.29. "Square Footage" or "Square Feet"6

ARTICLE 2 - PROPERTY SUBJECT TO DECLARATION6

Section 2.1. Property Subject to this Declaration6

Section 2.2. Annexations6

ARTICLE 3 - PROPERTY RIGHTS7

Section 3.1. Owners' Easements of Enjoyment7

Section 3.2. Limitations8

Section 3.3. Delegation of Use9

ARTICLE 4 - MEMBERSHIP AND VOTING RIGHTS9

Section 4.1. Membership9

Section 4.2. Membership Classes: Voting Rights9

Section 4.3. Board of Directors11

ARTICLE 5 - COVENANT FOR ASSESSMENTS11

Section 5.1. Creation of the Lien and Personal Obligation for Assessments11

Section 5.2. Common Expenses11

Section 5.3. Annual General Assessment12

Section 5.4. Allocation of Common Expenses13

Section 5.5. Preparation and Approval of Annual Budget13

Section 5.6. Assessment of Declarant: Assessment of Participating Builders14

Section 5.7. Special Assessments15

Section 5.8.	<u>Date of Commencement of Assessments: Due Dates</u>	15
Section 5.9.	<u>Working Capital Contribution</u>	16
Section 5.10.	<u>Reserves</u>	16
ARTICLE 6 - REMEDIES OF ASSOCIATION FOR NON-PAYMENT OF.....		
Section 6.1.	<u>Non-Payment of Assessments</u>	17
Section 6.2.	<u>Acceleration of Installments</u>	17
Section 6.3.	<u>Priority of Lien</u>	17
ARTICLE 7 - ARCHITECTURAL CONTROL.....		
Section 7.1.	<u>Architectural Change Approval</u>	18
Section 7.2.	<u>Initiation and Completion of Approved Changes</u>	19
Section 7.3.	<u>Certificate of Compliance</u>	19
Section 7.4.	<u>Covenant Committee Rules and Regulations: Appeal of Covenant Committee Decision</u>	19
Section 7.5.	<u>Governmental Approval</u>	20
ARTICLE 8 - USE RESTRICTIONS: PROTECTIVE COVENANTS.....		
Section 8.1.	<u>Prohibited Uses and Nuisances</u>	20
Section 8.2.	<u>Leasing and Transfers</u>	21
Section 8.3.	<u>Parking</u>	22
Section 8.4.	<u>House Rules, Etc</u>	22
Section 8.5.	<u>Exemptions</u>	22
Section 8.6.	<u>Animals</u>	22
Section 8.7.	<u>Garages</u>	22
Section 8.8.	<u>Additional Use Restrictions and Protective Covenants</u>	22
ARTICLE 9 - DECLARATION OF EASEMENTS AND RIGHTS.....		
Section 9.1.	<u>Declaration of Easements and Rights</u>	23
Section 9.2.	<u>Association Easements</u>	27
ARTICLE 10 - MAINTENANCE.....		
Section 10.1.	<u>Owners' Maintenance</u>	28
Section 10.2.	<u>Association Maintenance</u>	28
ARTICLE 11 - INSURANCE.....		
Section 11.1.	<u>Individual Coverage</u>	29
Section 11.2.	<u>Required Coverage</u>	30
Section 11.3.	<u>Fidelity Insurance</u>	32
Section 11.4.	<u>Additional Required Insurance</u>	32
Section 11.5.	<u>Repair and Reconstruction of Common Area After Fire or Other Casualty</u>	32
ARTICLE 12 - MANAGEMENT.....		
Section 12.1.	<u>Management Agent</u>	33
Section 12.2.	<u>Duration of Management Agreement</u>	33
ARTICLE 13 - GENERAL PROVISIONS.....		
Section 13.1.	<u>Common Area Responsibility</u>	33
Section 13.2.	<u>Personal Property and Real Property for Common Use</u>	34
Section 13.3.	<u>Implied Rights</u>	34
Section 13.4.	<u>Limitation of Liability</u>	34
Section 13.5.	<u>Enforcement</u>	34
Section 13.6.	<u>Severability</u>	35
Section 13.7.	<u>Duration and Amendment</u>	35
Section 13.8.	<u>Changes and Modifications by Declarant</u>	35
Section 13.9.	<u>FHA-VA Approvals</u>	35



Section 13.10.	<u>Casualty Losses</u>	36
Section 13.11.	<u>Condemnation or Eminent Domain</u>	36
Section 13.12.	<u>Notice to Eligible Mortgage Holders</u>	36
Section 13.13.	<u>Declarant 's Right to Amend</u>	37
Section 13.14.	<u>Successors of Declarant</u>	38
Section 13.15.	<u>No Dedication to Public Use</u>	38
Section 13.16.	<u>Incorporation by Reference on Resale</u>	38
Section 13.17.	<u>Declarant Reserved Rights</u>	38
Section 13.18.	<u>Declarant Development</u>	38
Section 13.19.	<u>Captions and Gender</u>	38

WOODLAND VILLAGE
DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS AND
RESTRICTIONS

THIS DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS AND RESTRICTIONS (the "Declaration") is made on the date hereinafter set forth by **Birchwood-Woodland Village Associates, L.L.C.**, a Virginia limited liability company (hereinafter referred to as "Declarant") in accordance with the Virginia Property Owners Association Act, Chapter 26 of Title 55 of the Code of Virginia (1950) as amended.

WITNESSETH:

WHEREAS, Declarant is the owner of certain real property located in Loudoun County, Virginia, which is more particularly described on the legal description attached hereto and made part hereof as Exhibit "A" and

WHEREAS, Declarant anticipates that the real property described on Exhibit "A" hereto will be developed as the community of Woodland Village, which community may include a mix of land uses consisting of various housing types, commercial and/or retail facilities, and community open space, facilities and amenities which will serve and benefit all the "Owners" (as defined below); and

WHEREAS, Declarant desires to provide for the preservation and enhancement of the natural environment, and for amenities and opportunities contributing to a high quality of life for the benefit of the general health, safety and welfare of the Owners, residents and lessees of Woodland Village.

NOW, THEREFORE, Declarant hereby declares that all of the real property described on Exhibit "A" hereto shall be subject to the covenants, conditions, restrictions and easements set forth in this Declaration. Declarant hereby further declares that the real property described on Exhibit "A" hereto, and any other real property annexed in accordance with Article 2 hereof, shall thereafter be held, conveyed, hypothecated, 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 said real property, and which shall run with such real property and be binding upon 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 in accordance with Article 2 hereof) and upon their heirs, personal representatives, successors, transferees and assigns, and which shall inure to the benefit of each Owner (as defined below) thereof.



ARTICLE 1 - DEFINITIONS

Section 1.1. "Annual Budget" shall mean and refer to the budget adopted by the Board of Directors with respect to the Common Expenses of the Association in accordance with Article 5 of this Declaration.

Section 1.2. "Annual General Assessment" shall mean and refer to assessments levied against all the Lots to fund the Common Expenses of the Association pursuant to Article 5 hereof.

Section 1.3. "Assessment" shall mean and refer to all Annual General Assessments, Special Assessments, and all other fees and charges, including all installments thereof, as may be levied by the Association in accordance with this Declaration.

Section 1.4. "Assessment Unit" shall mean and refer to either (i) an area consisting of Two Thousand Five Hundred (2,500) Square Feet of net leasable space, or fraction thereof, within a Commercial Lot, or (ii) a single Residential Living Unit. For purposes of this Declaration there shall be deemed to be an aggregate of one (1) Assessment Unit for each One Thousand (1,000) Square Feet of net leasable space, or fraction thereof, within each Commercial Lot, and one (1) Assessment Unit for each Residential Living Unit actually constructed, or, if not constructed, as approved for construction pursuant to the Development Plan or other applicable governmental approval, within each Residential Lot or Conservancy Lot.

Section 1.5. "Association" shall mean and refer to Woodland Village Homeowners Association, Inc., a nonstock, nonprofit Virginia corporation, its successors and assigns.

Section 1.6. "Board of Directors" or "Board" shall mean and refer to the Board of Directors of the Association, as established pursuant to the Bylaws.

Section 1.7. "Civic Lots" shall mean and refer to any plot of land created as a separate subdivided lot or parcel of record upon any recorded subdivision plat of the Property, which has been subjected to this Declaration, and upon which the planned or actual improvements are for common civic use, and which is to be owned by the Association.

Section 1.8. "Commercial Lot" shall mean and refer to any plot of land created as a separate subdivided lot or parcel of record upon any recorded subdivision plat of the Property which has been subjected to this Declaration, upon which the planned or actual improvements are primarily intended for use and occupancy for non-residential office or other commercial or non-residential purposes, including, without limitation, offices and

similar commercial uses (including retail purposes). No Commercial Lot shall be counted twice in any situation where it may fall within more than one of the descriptions herein contained.

Section 1.9. "Commercial Owner" shall mean and refer to the record owner, whether one or more persons or entities, of fee simple title to any Commercial Lot, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation; provided, however, that the holder of a security interest in all or any portion of a Commercial Lot shall be a Commercial Owner to the extent that such holder acquires a fee simple interest in all or any portion of a Commercial Lot as a result of a foreclosure proceeding or by a deed in lieu of foreclosure if such interest is held for purposes other than as security for the performance of an obligation.

Section 1.10. "Common Area" shall mean and refer to all real property owned, leased or maintained by the Association (including the improvements thereto) for the common use and enjoyment of the Owners, including but not limited to the Civic Lots and all private streets not dedicated to the County of Loudoun or the Commonwealth of Virginia and private access and utility easements. Such property may (but need not) include any common areas, public, neighborhood or community buildings, tot lots, recreational or educational facilities, natural resource facilities, parks and other open space land, lakes and streams, storm water management and drainage facilities, street lights, sidewalks, trails, pathway and bikeway systems, fencing on Common Area and other buildings needed in connection with water supply, sewage disposal, gas, electric, or other utility lines, equipment or installations. The Association is responsible for management and maintenance of all Common Area. Notwithstanding the foregoing, in the event the Association maintains all or any portion of any Residential Lot or Commercial Lot, such property shall not be considered Common Area.

Section 1.11. "Common Expenses" shall mean and refer to all Common Expenses, as further defined in Section 5.2 hereof.

Section 1.12. "Community-Wide Standard" shall mean and refer to the standard of conduct, maintenance or other activity generally prevailing within the Woodland Village community. Such standard may be more specifically determined and set forth by the Board of Directors.

Section 1.13 "Conservancy Lots" shall mean and refer to any plot of land created as a separate subdivided lot or parcel of record upon any recorded subdivision plat of the Property, which has been subjected to this Declaration, and designated as a conservancy lot as set forth in the Proffer Statement dated May 2, 1997, revised through December 3, 1997, filed in conjunction with Loudoun County zoning application ZMAP 1997-0001 (the "Proffers", as defined in Section 1.23 herein).



Section 1.14. "Declarant" shall mean and refer to Birchwood-Woodland Village Associates, L.L.C., its successors, transferees and assigns; provided, however, that no successor, transferee or assign of Declarant shall have any of the rights or obligations of Declarant as set forth in this Declaration unless such rights or obligations are specifically set forth in an instrument of succession, transfer or assignment, or which pass by operation of law.

Section 1.15. "Declarant Control Period" shall mean and refer to the period of time beginning with the date of recordation of this Declaration and ending the earlier of (i) ten (10) years after the date of recordation of this Declaration, or (ii) recordation by Declarant of a written instrument among the Land Records expressing Declarant's intention to terminate the Declarant Control Period.

Section 1.16. "Development Plan" shall mean and refer to the site plan filed with Loudoun County for the development of Woodland Village. The Development Plan is subject to change from time to time in the sole discretion of Declarant to meet the changing needs of Woodland Village, in response to changes in market conditions, or any other reason deemed necessary or desirable by Declarant.

Section 1.17. "Land Records" shall mean and refer to the Land Records maintained by the Clerk of the Circuit Court for Loudoun County, Virginia.

Section 1.18. "Lot" shall mean and refer to Civic Lots, Commercial Lot, Conservancy Lots and Residential Lots.

Section 1.19. "Member" shall mean and refer to every person, group of persons, corporation, partnership, trust, or other legal entity, or any combination thereof, who holds any class of membership in the Association.

Section 1.20. "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 deed of trust. "First Mortgage", as used herein, shall mean a mortgage with priority over all 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"), Government National Mortgage Association ("GNMA"), 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 Department of Veterans Affairs ("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 1.21. "Owner" shall mean and refer to the Association (as owner of the Civic Lots), Commercial Owners and Residential Owners.

Section 1.22. "Participating Builder" shall mean and refer to a person or entity that acquires one or more Residential or Commercial Lots for the purpose of constructing improvements for sale or lease to others, and designated as such by Declarant.

Section 1.23. "Proffers" shall mean and refer to the Proffer Statement dated May 2, 1997, revised through December 3, 1997, filed in conjunction with Loudoun County zoning application ZMAP 1997-0001.

Section 1.24. "Property" shall mean and refer to that certain real property described on Exhibit "A" hereto, and such additions thereto as may hereafter be brought within the jurisdiction of the Association, in accordance with Article 2 hereof. The Declarant owns or may acquire other real property described in Exhibit "B" hereto which may be subjected to this Declaration.

Section 1.25. "Residential Living Unit" shall mean and refer to any structure or portion of a structure on a Residential Lot or Conservancy Lot, designed and intended for use and occupancy by a single household, including, without limitation, single family detached, and townhouse units.

Section 1.26. "Residential Lot" shall mean and refer to any subdivided plot of land created as a separate subdivided lot or parcel of record upon any recorded subdivision plat of the Property, which has been subjected to this Declaration, and upon which the planned or actual improvements are intended for residential use, but excluding Conservancy Lots. A Residential Lot may not be counted twice in any situation where it may fall within more than one of the descriptions herein contained.

Section 1.27. "Residential Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Residential Lot or Conservancy Lot, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation; provided, however, that the holder of a security interest in all or any portion of a Residential Lot or Conservancy Lot shall be a Residential Owner to the extent that such holder acquires a fee simple interest in all or any portion of a Residential Lot or Conservancy Lot as a result of a foreclosure proceeding or by a deed in lieu of foreclosure if such interest is held for purposes other than as security for the performance of an obligation.

Section 1.28. "Special Assessment" shall mean and refer to assessments levied in accordance with Section 5.7 hereof.

Section 1.29. "Square Footage" or "Square Feet" shall mean and refer to the gross area, measured in square feet (rounded to the nearest whole square foot), of any Lot or group of Lots, as indicated on the approved site plan or the plats of subdivision for such Lots recorded among the Land Records, as amended. In the event any such approved site plan or the plat of subdivision shall fail to indicate the Square Footage of a Lot, the applicable Square Footage of such Lot shall be determined by the Board of Directors, in its reasonable discretion, provided that the Owner of such Lot shall be given reasonable notice of and an opportunity to comment on the Board's determination.

ARTICLE 2 - PROPERTY SUBJECT TO DECLARATION

Section 2.1. Property Subject to this Declaration. The real property which shall be held, conveyed, hypothecated, encumbered, sold, leased, rented, used, occupied and improved subject to this Declaration is described in Exhibit "A".

Section 2.2. Annexations. The real property described in Exhibit "B" hereto and any real property contiguous to or in the vicinity of the real property shown on the Development Plan and any real property contiguous to or in the vicinity of the real property described on Exhibit "B" hereto, may be annexed within the jurisdiction of the Association by Declarant without the consent of the Members of the Association, if any, during the Declarant Control Period. 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. After the Declarant Control Period annexations of real property shall require the consent of Owners representing two-thirds (2/3) of the votes entitled to be cast by all the Members.

Any annexations made pursuant to this Article, or otherwise, shall be made by recording a Supplementary Declaration among the Land Records, which Supplementary Declaration shall extend the scheme of this Declaration to such annexed property. 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.

ARTICLE 3 - PROPERTY RIGHTS

Section 3.1. Owners' 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 private streets (including alleys), parking areas, sidewalks and open space, if any, 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 and any facilities situated thereon by Owners, their guests, lessees or invitees;

(b) the right of the Association to suspend an Owner's voting rights and right to use the Common Area (i) for any period during which any Assessment against such Owner's Lot remains unpaid, and (ii) after 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; provided, however, that the obligation of such Owner to pay Assessments shall continue unabated during such period of suspension of voting rights or right to utilize the Common Area;

(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 Association. No such dedication or transfer shall be effective without the consent of two-thirds (2/3) of each class of Members voting at a meeting of the Members except for the following which shall not require any Members' consent: (i) granting easements which do not interfere with the intended Common Area use; (ii) dedicating Common Area to a public authority; (iii) conveying Common Area as part of boundary line adjustments with Lots; or (iv) transferring Common Area pursuant to a merger or consolidation with a non-profit entity;

(d) the right of the Association to limit the number of guests, lessees and invitees of Owners utilizing the Common Area and facilities situated thereon;

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

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

(g) the right of the Association, Declarant, utility companies and other Owners with respect to the easements established by 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

Members, 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;

(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 right of Declarant, as more fully set forth in Section 9.1 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 and marketing of the Property;

(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 to persons or entities that are not Members of the Association 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 Commercial Lots.

(m) The right of access to the Common Area by Loudoun County for purposes of maintenance of any storm water management or erosion control areas located within the Common Area, should such maintenance be required by public health, safety and welfare concerns.

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, sidewalks and open space, if any, within the Common Area for both vehicular and pedestrian ingress and egress to and from such Member's Lot.

(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 the use of 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 Member's Lot.

Section 3.3. Delegation of Use. Any Owner may delegate, in accordance with the Bylaws and rules and regulations of the Association, such Owner's right of enjoyment to the Common Area to the members of such Owner's family, such Owner's guests, lessees, tenants, or invitees who reside within the Property.

ARTICLE 4 - MEMBERSHIP AND VOTING RIGHTS

Section 4.1. Membership. Every Owner of a Lot shall be a Member of the Association, and such membership shall be appurtenant to and may not be separated from ownership of the Lot.

Section 4.2. Membership Classes: Voting Rights. The Association shall have three (3) classes of voting Members, as follows:

Class A: Every person, group of persons, corporation, partnership, trust or other legal entity, or any combination thereof, who is an Owner of any Commercial Lot 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. The Class A Member or Members that own a Commercial Lot shall be entitled to cast one (1) vote for each Assessment Unit within such Commercial Lot; provided, however, that if more than one (1) person or entity are the Owners of any such Commercial Lot, the vote appurtenant to that Lot shall be exercised as those persons or entities themselves determine and advise the Association, but in no event shall more than the number of votes specified in this Section be cast with respect to any such Commercial Lot. Any Class A Member that leases a Commercial Lot may, in the lease or other written instrument, assign the voting rights appurtenant to that Lot to the lessee, provided that written notice of such assignment is furnished to the Association.

Class B: Every person, group of persons, corporation, partnership, trust or other legal entity, or any combination thereof, who is an Owner of any Residential Living Unit shall be a Class B 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 B Member solely on account of such interest. The Class B Member or Members that own a Residential Living Unit shall be entitled to cast one (1) vote for each Assessment Unit within such Residential Living Unit; provided, however, that if more than one (1) person or entity are the Owners of any such Residential Living Unit, the vote appurtenant to that Lot shall be exercised as those persons or entities themselves determine and advise the Association, but in no event shall more than the number of votes specified in this Section be cast with respect to any such Residential Living Unit.



Class C: The Class Member shall be the Declarant. The Class C Member shall be entitled initially to three (3) votes for each Assessment Unit in the whole Property. Class C membership shall terminate and become converted to Class A or B membership as the case may be upon the happening of the earlier of the following:

- (i) When the total aggregate outstanding Class A and B votes equal or exceed the total Class C vote;
- (ii) December 31, 2010; or
- (iii) Such earlier time as Declarant in its sole discretion, determines.

Notwithstanding the foregoing, after the Declarant Control Period has ended, in the event the Declarant wishes to annex any additional properties pursuant to Section 2.2, Class C membership shall be revised with respect to all Lots owned by the Declarant on the annexed property. Class C membership shall cease and be converted to Class A or B membership, as the case may be, on the happening of either of the following events, whichever occurs first:

- (i) when the total aggregate votes outstanding in the Class A or B memberships in the annexed property equal the total votes outstanding in the Class C membership in such annexed property, or
- (ii) Seven (7) years from the date of recordation of the final Deed of Dedication or Supplemental Declaration for the last portion of such annexed property.

Any vote of the Members shall be taken without regard to class of membership except in those instances requiring the affirmative vote or approval of each class of membership in accordance with this Declaration and the Articles of Incorporation or Bylaws of the Association.

Section 4.3 Board of Directors. The business and affairs of the Association shall be managed by a Board of Directors elected by the Members without regard to class of membership. As long as the Declarant has the status of a Class C Member, it shall have the right to appoint a majority of the number of Directors. Directors shall be elected by the Members in accordance with the Bylaws of the Association. The number of directors shall be determined in accordance with the provisions of the Bylaws of the Association.

ARTICLE 5 - COVENANT FOR ASSESSMENTS

Section 5.1. Creation of the Lien and Personal Obligation for Assessments. Each Owner of a Lot by acceptance of a deed therefor, whether or not expressly stated in



such deed, shall be deemed to covenant and agree to pay the Association all Assessments as may be levied by the Association in accordance with this Declaration. Each Assessment, together with interest, costs, late fees and reasonable attorneys' fees, shall be a charge and continuing lien on the Lot (including all improvements thereon) against which each such Assessment is made. Each Assessment, together with interest, costs, late fees and reasonable attorneys' fees shall also be the personal obligation of the Owner of the Lot at the time 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. No Owner shall be exempt from liability for Assessments by abandonment of such Owner's Lot.

Section 5.2. Common Expenses. Unless otherwise expressly provided herein, the Common Expenses of the Association shall include all costs and expenses incurred by the Association in the proper conduct of its activities and required obligations and responsibilities in accordance with this Declaration and shall include, but not be limited to:

(a) Charges for the maintenance and repair of the Common Area and any improvements thereon, including grass cutting and lawn maintenance of all Common Areas, and snow removal on private streets;

(b) Charges for the maintenance and repair of any private streets, rights-of-way, median strips, entry strips, entrance features and improvements, including, without limitation, any landscaping and other flora situated thereon, that the Association is obligated or elects to maintain pursuant to the Loudoun County Zoning Ordinance and any easement, agreement or the direction of any governmental authority or agency;

(c) Charges incurred or assessments levied by governmental or quasi-governmental authorities or agencies, or imposed pursuant to agreements with such governmental or quasi-governmental agencies, in connection with improvements, services, utilities or the like, including, without limitation, charges or assessments for public road improvements and maintenance, transportation management related programs or similar public or quasi-public services reasonably intended to serve or benefit the Property, and specifically including funding requirements set forth in Proffer Number 24 of the Proffers (as defined herein within Section 1.23);

(d) Charges for the maintenance and repair of any property or facilities serving or benefitting the Property, that the Association is obligated or elects to maintain, whether or not such property or facilities are owned by the Association or are located within the Property, including, without limitation, any recreational buildings, facilities and areas, and any property or facilities which the Association is authorized to maintain pursuant to this Declaration, and/or which the Association is obligated to maintain pursuant to the Proffers;

- (e) Real estate taxes, utility charges, management fees, insurance premiums, attorneys' fees and administrative expenses;
- (f) Reserves for repairs and other expenses of a non-recurring nature;
- (g) Service contracts and employees' salaries;
- (h) Charges accruing under any cross-easement or reciprocal easement agreements;
- (i) Obtaining refuse, trash and rubbish collection; and
- (j) Such other costs and expenses as may be deemed necessary or desirable by the Board of Directors, in its sole discretion, for the administration and operation of the Association.

Section 5.3. Annual General Assessment. The Board of Directors shall from time to time set the Annual General Assessment at an amount sufficient to meet the Common Expenses of the Association.

The Board of Directors shall determine the amount of the Annual General Assessment before the beginning of each fiscal year in connection with the preparation of the Association's Annual Budget as provided in Section 5.5 hereof, and may do so at more frequent intervals should circumstances so require.

Section 5.4. Allocation of Common Expenses. Except to the extent provided in Section 5.7 of this Declaration, the Common Expenses shall be allocated among the Members as follows:

(a) Class A Members. Each Class A Member's respective share of the Common Expenses for any fiscal year of the Association shall be determined by multiplying the Common Expenses for that year by a fraction, the numerator of which shall be the total number of Assessment Units within such Member's Lot or Lots, and the denominator of which shall be the aggregate number of Assessment Units within all Lots subject to this Declaration.

(b) Class B Members. Each Class B Member's respective share of the Common Expenses for any fiscal year of the Association shall be determined by multiplying the Common Expenses for that year by a fraction the numerator of which shall be the total number of Assessment Units within such Member's Lot or Lots, and the denominator of which shall be the aggregate number of Assessment Units within all Lots subject to this Declaration.

(c) Class C Members. The Class C Member, as well as any Participating Builder, shall pay Assessments in accordance with Section 5.6 herein.

Section 5.5. Preparation and Approval of Annual Budget. For each fiscal year of the Association, the Board of Directors shall prepare an Annual Budget, as follows:

(a) Annual Budget. The Board of Directors shall make a reasonable effort to prepare an Annual Budget at least thirty (30) days before the beginning of each fiscal year of the Association. The proposed Annual Budget shall contain, at a minimum, an estimate of the total amount of income the Association expects to receive, as well as an estimate of the Common Expenses that are expected for the coming fiscal year. The Annual Budget shall also include an amount sufficient to establish and maintain a reserve fund in accordance with Section 5.10 hereof. The Annual Budget shall be adopted by the Board of Directors; provided, however, that all Annual Budgets must be approved by Declarant during the Declarant Control Period. The Board of Directors shall thereafter send to each Member a copy of the approved Annual Budget which sets forth the amount of the Common Expenses payable by each such Member, on or before fourteen (14) days preceding the beginning of the fiscal year to which the Annual Budget applies, or as soon thereafter as is possible. The Annual Budget shall constitute the basis for determining each Member's share of the Common Expenses of the Association. The Annual Budget and the Annual General Assessment established therein shall become effective as of the date specified by the Board of Directors, unless a special meeting of the Association is called and duly held in accordance with the Bylaws of the Association and at such special meeting the Annual Budget and the Annual General Assessment established therein are disapproved by the vote of Owners representing at least two-thirds (2/3) of the votes entitled to be cast by all the Members.

(b) Amendments to Annual Budget. Any expenditure which is deemed to be necessary by the Board of Directors that, if made, would result in an increase in the amount of Assessments for the current fiscal year of the Association, shall be approved by an amendment to the Annual Budget adopted by affirmative vote of a majority of the members of the Board of Directors.

(b) General. The failure or delay of the Board of Directors to prepare or adopt an Annual Budget for any fiscal year of the Association shall not constitute a waiver or release in any manner of an Owner's obligation to pay Assessments as herein provided, and in the absence of any Annual Budget, each Owner shall continue to pay Assessments at the then existing rate applicable to such Owner as established for the previous fiscal year until an Annual Budget for the current fiscal year is adopted. Upon resolution of the Board of Directors, installments of Assessments may be levied and collected on a monthly, quarterly, semi-annual or annual basis. Any Owner may prepay one or more installments of any Assessment levied by the Association without premium or penalty.

Section 5.6. Assessment of Declarant: Assessment of Participating Builders.

(a) Assessment of Declarant. For the duration of the Declarant Control Period, Lots owned by the Declarant shall be assessed at a rate equal to twenty five percent (25%) of the Assessments applicable to Lots owned by the Members (excluding the Declarant and the Participating Builders); provided, however, that Declarant shall pay full Assessments for Lots owned by Declarant upon which a dwelling or other structure has been completed and occupied by a party other than Declarant. Lots formerly owned by Declarant shall be subject to the full amount of such Assessments commencing upon transfer or conveyance of any such Lot from Declarant to any other Owner, other than a Participating Builder. Lots owned by a Participating Builder shall be assessed in accordance with Section 5.6(b).

To the extent expressly required by the federal mortgage agencies, but only for the duration of the Declarant Control Period, Declarant shall also provide funds to cover any "actual cash deficits" (defined below) in the Association's operations; provided, however, that Declarant's obligation to fund such deficits hereunder during any fiscal year of the Association shall not exceed one hundred percent (100%) of the Assessments that would have been applicable to Declarant's Lots during such fiscal year had they been owned by an Owner other than Declarant or a Participating Builder. For the purposes of this Section, an "actual cash deficit" is created when in any given fiscal year of the Association, the income received by the Association plus all accumulated working capital, minus operating expenses and reserve transfers, does not provide sufficient funds to operate the Association; provided, however, capital expenses which were not contemplated by the Annual Budget for such fiscal year shall not be subtracted from the income figure for purposes of determining whether an actual cash deficit has been created.

(b) Assessment of Participating Builders. Lots owned by Participating Builders shall be subject to an Assessment equal to fifty percent (50%) of the respective Assessments applicable to such Lots owned by the Members (excluding the Declarant); provided, however, that Participating Builders shall pay full Assessments for Lots owned by the Participating Builders upon which a dwelling or other structure has been completed and occupied by a party other than a Participating Builder. Lots formerly owned by the Participating Builders shall be subject to the full amount of such Assessments commencing upon transfer or conveyance of any such Lot from a Participating Builder to any other Owner (other than Declarant).

Section 5.7. Special Assessments. In addition to the Annual General Assessments authorized by this Article, the Association may levy in any assessment year a Special Assessment or Special Assessments, applicable in that year only, for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction or extraordinary repair of capital improvements located upon or forming a part of the Property or any facilities designed to benefit or serve the Association, including any fixtures or personal property related thereto, or for such other purposes as the Board of Directors may consider appropriate in its discretion. Any special assessment may be rescinded by a

majority vote in person or by proxy, at a meeting of the Members convened within sixty (60) days of notice of the special assessment, pursuant to the Virginia Property Owners Association Act.

Section 5.8. Date of Commencement of Assessments: Due Dates. Except to the extent determined otherwise by the Board of Directors, the Assessments provided for herein shall commence as to all Lots simultaneously with the conveyance of the first Lot to a Member (other than a conveyance to a Participating Builder). The first Annual General Assessment shall be adjusted according to the number of months remaining in the fiscal year. Written notice of the Annual General Assessment shall be sent to every Owner subject thereto. If additional Lots are annexed within the jurisdiction of the Association pursuant to Article 2 hereof, Assessments against such Lots shall be calculated in the same manner and due in the same number of installments as the Assessments for the remainder of the fiscal year against Lots already annexed within the Association, if any. Due dates for the Assessments shall be established by the Board of Directors.

Section 5.9. Working Capital Contribution. Declarant shall establish a working capital fund for the initial operation of the Association. Such working capital fund shall be funded by a one-time Assessment equal to three (3) times the monthly Assessment for a Lot and shall be payable by Declarant's or a Participating Builder's grantee upon the earlier of settlement or occupancy of a completed structure located on any Lot.

Section 5.10. Reserves. The Association shall establish and maintain a reserve fund for the maintenance, repair and replacement of any property or facilities required to be maintained by the Association pursuant to this Declaration, including, without limitation, storm water management facilities, which require substantial periodic maintenance, repair or replacement (the "Maintenance Reserve Fund"). Such Maintenance Reserve Fund may also be established for the repair of any property, improvements or facilities that the Association is obligated or elects to maintain pursuant to any easement, agreement, Proffer, or the direction of any governmental authority or agency. The Board of Directors shall set the required contribution to the Maintenance Reserve Fund (the "Maintenance Reserve Fund Contribution"), if any, annually, in an amount sufficient to meet the projected reserve needs of the Association. The Maintenance Reserve Fund Contribution shall be included as part of the Association's Annual Budget and shall be payable as part of the Annual General Assessment to the extent such reserve fund will be utilized to replace property, improvements or facilities which are determined by the Board of Directors to benefit substantially all Owners. The Association may establish such other reserve funds as the Board of Directors may from time to time consider necessary or desirable, including, without limitation, a general operating reserve. All reserve funds established by the Association and the corresponding required reserve fund contribution shall be approved by the affirmative vote of a majority of the members of the Board of Directors, and by Declarant during the Declarant Control Period. The proportional interest of an Owner in any reserve fund established by the Association shall be considered an appurtenance of such Owner's Lot and shall not be separately withdrawn, assigned, transferred or otherwise

separated from the Lot to which it appertains, and shall be deemed to be transferred with such Lot.

ARTICLE 6 - REMEDIES OF ASSOCIATION FOR NON-PAYMENT OF ASSESSMENTS

Section 6.1. Non-Payment of Assessments. Any Assessment levied by the Association which is not paid within ten (10) days after the due date established for such Assessment by the Board of Directors, may, upon resolution of the Board, bear interest from the due date until paid at the rate of interest established by the Board, not to exceed the maximum, if any, rate of interest permitted under the laws of the Commonwealth of Virginia (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 Board of Directors may also impose a reasonable late fee against any Owner (and such Owner's Lot) for failure to pay any Assessment within ten (10) days after the due date for such Assessment. The Association may bring an action at law against the Owner personally obligated to pay the delinquent Assessment, and/or foreclose on the lien against such Owner's Lot as may be provided under applicable law. The Owner personally obligated to pay the delinquent Assessment shall also be obligated to pay all attorneys' fees, court costs and administrative costs incurred by the Association in connection with the collection of such Assessment.

Section 6.2. Acceleration of Installments. Upon default in the payment of any Assessment, the entire balance of all unpaid Assessments for the remainder of the fiscal year may, at the Board's discretion, be accelerated and declared due and payable in full, in the same manner as the delinquent portion of such Assessment.

Section 6.3. Priority of Lien. The lien for Assessments provided for herein shall be subordinate to the lien of any first mortgage or deed of trust recorded against a Lot. Sale or transfer of any Lot shall not affect the Assessment lien; provided, however, that 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 installments which became due prior to such sale or transfer. No sale or transfer of a Lot shall exempt such Lot or the Owner thereof from liability for any Assessments thereafter coming due or from the lien thereof. No amendment to this Section shall affect the rights of the holder of any first mortgage on a Lot (or the indebtedness secured thereby) recorded prior to recordation of such amendment unless the holder thereof (or of the indebtedness secured thereby) shall join in the execution of such amendment.

ARTICLE 7 - ARCHITECTURAL CONTROL

Section 7.1. Architectural Change Approval. No building, fence, deck, wall, mailbox or other structure or improvement of any kind 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 thirty (30) 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. 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, nor shall such approval be substituted in lieu of applicable governmental approvals and permits or be deemed to constitute a determination as to compliance with local zoning ordinances, governmental guidelines or restrictions. 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 zoning ordinances, governmental guidelines or restrictions. Notwithstanding any provision of this Declaration to the contrary, the provisions of this Article 7 shall not be applicable to Declarant or any part of the Property owned by Declarant. The provisions of Sections 7.1 through 7.4 of this Declaration shall not be applicable with respect to any initial improvements constructed by a Participating Builder, which improvements are subject to the approval, in its sole discretion, of the Declarant.

Section 7.2. 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 7.3. 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 7.4. 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. A majority of the Board of Directors shall be required to reverse the decision of the Covenant Committee.

Section 7.5. Governmental Approval. Notwithstanding anything contained in this Article 7 to the contrary, proposed architectural changes shall be subject to the laws of any governmental body, including Loudoun County, with jurisdiction over the Property. Approval of proposed architectural changes by the Board of Directors or the Covenant Committee does not obviate the need for any applicable Loudoun County permit or approval.

ARTICLE 8 - USE RESTRICTIONS: PROTECTIVE COVENANTS

In addition to all other covenants contained herein, the use of the Common Area and the Lots are subject to the following:

Section 8.1. Prohibited Uses and Nuisances. Except for the activities of Declarant during the construction and development of the Common Area, or except with the prior written approval of the Board of Directors of the Association, or as may be necessary in connection with reasonable and necessary repairs or maintenance upon the Common Area:

(a) No noxious or offensive trade or activity shall be carried out upon any Lot or upon the Common Area 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 community 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 structure or upon the exterior of any other improvements constructed upon any Lot.

(b) 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 on the Common Area.

(c) 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 Declarant or the Participating Builders and, further, the provisions hereof shall not be construed to prohibit the granting of any easement or right-of-way to any municipality, political subdivision, public utility or other public body or authority, or to the Association, Declarant, the Participating Builders or any other person for any purpose.

(d) 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.

(e) 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 the direction or flow of any drainage channels.

(f) No Member shall make any private, exclusive or proprietary use of any portion 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.



(g) No waste or any substance or materials of any kind (including, without limitation, petroleum products) shall be discharged into any private or public sewer serving the Property, or any part thereof, in violation of any regulations of Loudoun County or any private or public body having jurisdiction. No person shall dump garbage, trash or other refuse into any waterway on the Property.

Section 8.2. Leasing and Transfers.

(a) All leases shall contain provisions advising the lessee of his/her/its obligation to comply with all provisions of this Declaration, the Bylaws and the rules and regulations of the Association, and provide that the Association shall have the right to terminate the lease upon default by the tenant or lessee in observing any of the provisions of this Declaration, the Bylaws or rules and regulations of the Association, or of any other document, agreement or instrument governing the Property. The Board of Directors may request a copy of the lease. The Owner(s) of a rented or leased Lot shall be jointly and severally liable with his tenant(s) or lessee(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) or lessee(s). Every lease shall be subordinate to any lien filed by the Association, whether before or after such lease was entered into.

(b) Prior to the sale, conveyance or transfer of any Lot 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 shall not void, prohibit or otherwise invalidate the sale, conveyance or transfer of any Lot nor may it have any affect upon any mortgage or deed of trust thereon.

Section 8.3. Parking.

(a) The Board of Directors 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) 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.

Section 8.4. House Rules, Etc. There shall be no violation of any rules for the use of the Common Area, "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

the Board in writing, and the Board of Directors is hereby and elsewhere in this Declaration authorized to adopt such rules and regulations.

Section 8.5. Exemptions. None of the foregoing restrictions shall be applicable to (i) improvements constructed by or to the activities of Declarant and the Participating Builders, and their respective officers, employees, agents and assigns, in their development, marketing, leasing and sales activities within the Property, or (ii) to the Association, its officers, employees and agents, in connection with the proper maintenance, repair, replacement and improvement of the Common Area and any facility situated thereon.

Section 8.6. Animals. No livestock, poultry or other animals shall be kept or bred on any Lot, and in no event shall any stable, hatch, barn, coop or other housing or shelter for animals or for the storage of materials be placed or maintained upon any Lot, except as approved in writing by the Covenants Committee. Notwithstanding anything to the contrary herein contained, except to the extent prohibited or restricted by the Owner of any Lot for such Lot, dogs, cats and other household pets may be kept on the Property provided that such household pets are subject to Loudoun County regulations and the rules and regulations established by the Board of Directors and further provided that said pets are not raised or bred for any commercial purposes. The Association hereby grants authority to Loudoun County to enforce County leash and pet regulations.

Section 8.7 Garage Restrictions. Garages for all residences located within the Village Center shall be set back from the principal façade of the residence.

Section 8.8. Additional Use Restrictions and Protective Covenants. The Board of Directors may adopt such additional use restrictions and protective covenants, as are consistent with the Development Plan, as may be deemed necessary or appropriate by the Board, in its sole discretion.

ARTICLE 9 - DECLARATION OF EASEMENTS AND RIGHTS

Section 9.1. Declaration of Easements and Rights. The following easements and rights are hereby declared or reserved:

(a) During the Declarant Control Period, Declarant reserves the right to grant easements, both temporary and permanent, to any entity, including all public authorities and utility companies, over any part of the Property as may be required for the development of the Property.

(b) Each Lot within the Property is hereby declared to have an easement, not exceeding three feet (3') 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 Declarant (and its successors and assigns to whom such easement has been specifically assigned in writing), for the benefit of the real property shown on the Development Plan, and for the benefit of Declarant and its agents, a blanket 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, except within the limits of any portion of the Property that is dedicated to the County for public street purposes), 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. There is further reserved unto Declarant the right to erect 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 Declarant the right to grant specific easements, both temporary and permanent, to any person or entity, including all public authorities, utility companies and the Association, over any part of the Property (except within the limits of any portion of the Property that is dedicated to the County for public street purposes) in furtherance of the blanket easement created by this subsection. Further, without limiting the generality of the foregoing, 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 Declarant, any party having an interest in the Property shall promptly join in and execute such confirmatory easements and other agreements.



(d) The Property shall be subject to a non-exclusive, perpetual easement and right of passage, for the benefit of the Members, for ordinary and reasonable pedestrian ingress and egress over, across and upon any sidewalk (or the replacement thereof) constructed within the Property by Declarant or any Participating Builder that may reasonably be deemed to have been constructed or intended for pedestrian use.

(e) An easement is hereby reserved to Declarant and its agents 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 and Commercial Lots, including, without limitation, a business office, sales/leasing office, storage area, construction yards, advertisement and other signs, displays and model units.

(f) Declarant also reserves the right to enter into the Property 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 Declarant and its agents 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, rehabilitation and repair of the Property.

(g) During the Declarant Control Period, Declarant reserves a blanket easement and right on, over and under the Property (except within the limits of any portion of the Property that is dedicated to the County for public street purposes) to establish, maintain, change and correct drainage of surface or subsurface 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 Declarant shall restore the affected property to its original condition as near as practicable. Declarant shall give reasonable notice of intent to take such action to all affected Owners, unless in the opinion of Declarant an emergency exists which precludes such notice. There is further reserved unto 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 (except within the limits of any portion of the Property that is dedicated to the County for public street purposes) in furtherance of the blanket easement created by this subsection.

(h) 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 and 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.

(iv) Each Lot is hereby subject to an easement upon and across such Lot for the drainage and discharge of water from any storm drain or downspout situated on another Lot and the Owner of such Lot may not alter or obstruct such drainage or flow of water to the detriment of any Lot or the Common Area.

(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 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 that 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 that Declarant's or a Participating Builder's original construction thereof encroaches within the Common Area. The Owner of the Lot benefitting 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 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 benefitted Lot; and the obligation to maintain such portion of the Common Area shall be that of the Owner of the benefitted Lot and the obligation to maintain the wooden, brick, stone, or other similar fencing located within the Common Area, which encloses the benefitted Lot, shall be that of the Owner of the benefitted Lot. The Owner of any Lot benefitting from the foregoing easement agrees to indemnify and hold the Association harmless from any loss, liability or damage arising out of our 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 Property. 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 Property, then the Owner of such Lot shall promptly, at his expense, repair any damage to such utilities caused by the Owner, or such Owner's tenants, lessees, agents, guests, invitees, licensees or family members.

(l) Declarant reserves the right to modify or alter the size, number, type 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 Property. Without limiting the generality of the foregoing, Declarant reserves the right to resubdivide all or a portion of the Property 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 as Declarant may deem necessary or desirable.

(m) The Association shall have an easement to enter any portion of the Property for the performance of its duties hereunder including, without limitation, fenced, or other similar areas of the Property.

(n) 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 structure 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.

(o) The Association is hereby granted a non-exclusive easement and right of passage on, through, over and across the Lots and the Common Area to maintain, repair and replace any storm water management area or facilities situated within the Lots or Common Area including, without limitation, ponds, basins, storm drainage pipes, inlets,



structures, oil grit separators, drainage areas and underground facilities, if any. An easement and right of entry through and upon the Common Area is hereby granted to Loudoun County for purposes of maintenance of any storm water management or erosion control area located therein, should such maintenance be required by public health, safety and welfare concerns. Maintenance of drainage easements on individual Lots shall be the responsibility of the Lot Owner, with the exception of pipe maintenance, repair or replacement, which shall be the responsibility of the Association.

(p) The Association is hereby granted a non-exclusive easement and right of passage on, through, over, under and across the real property shown on the Development Plan to maintain, repair and replace any entrance features and improvements (and the property upon which such entrance features and improvements are located) that are constructed or installed by Declarant or a Participating Builder and that are situated within or appurtenant to and serving the Property.

Section 9.2. Association Easements. 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 the Board determines, in its sole discretion, to be in the best interests of the Association. Further, the rights reserved unto the Declarant as set forth in Section 9.1 above shall pass to the Board of Directors of the Association upon the expiration of the Declarant Control Period.

ARTICLE 10 - MAINTENANCE

Section 10.1. Owners' Maintenance. Except as otherwise specifically provided in this Declaration, each Owner shall keep each Lot owned by such Owner, 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. In the event an Owner of any Lot in the Property shall fail to maintain the Lot and the improvements situated thereon, 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, plus an Assessment of fifteen percent (15%) of such costs to cover the Association's administrative expenses, shall be collectible from the Owner of such Lot in the same manner as Assessments as provided in this Declaration.

Section 10.2. Association Maintenance.

(a) The Association shall maintain, repair and replace the Common Area and shall keep the Common Area in good order at all times. This obligation shall include, without limitation, the following: (i) maintenance, repair and, as necessary,

replacement of the private streets, and private access easements that provide access to any Lot, street lighting, open space areas, pedestrian trails and parking areas, if any, within the Common Area (and, as applicable, within any public right-of-way to the extent not maintained by the appropriate governmental authorities), (ii) maintenance, repair and, as necessary, replacement of any sidewalks that are constructed or installed by Declarant or a Participating Builder within the Common Area and/or Lots (and, as applicable, within any public right-of-way to the extent not maintained by the appropriate governmental authorities), provided that the Association shall not be obligated to maintain, repair or replace any sidewalk leader within a Lot or Common Area that may reasonably be deemed to serve or benefit only that Lot; (iii) grass cutting and lawn maintenance of all Common Area, and snow removal on private streets and private access easements that provide access to any Lot; (iv) maintenance, repair and, as necessary, replacement of any rights-of-way, entry strips, entrance features, entrance islands, or improvements (and the property upon which such entrance features and improvements are located) that are constructed by Declarant or a Participating Builder and that are situated within or appurtenant to and serving the Property including, without limitation, any landscaping and other flora situated thereon; (v) maintenance, repair and, as necessary, replacement of any real and personal property, facilities and equipment for which the Association is responsible pursuant to any lease, easement or agreement, or the direction of any governmental authority or agency, including any recreational buildings and facilities; (vi) storm water management facilities constructed on the Property, as more particularly set forth in Section 10.2(b) below; (vii) sidewalks, trails, dams, etc. that are associated with the construction of streets that are intended to be dedicated to the County for public rights-of-way and accepted into the state secondary road system for maintenance; and (viii) trash collection and removal within the Property; and (ix) dry hydrants and/or water storage facilities for fire protection.

The expenses of all such maintenance, repairs and replacement shall be a Common Expense of the Association, including, but not limited to, any reserves as may be established by the Board. The Association shall also maintain any portion of any Lot that it is obligated to maintain pursuant to this Declaration, or any easement or other agreement.

Private Streets: The Association shall have the obligation for maintenance, repair and replacement of private streets and private access easements that provide access to any Lot. Loudoun County and the Virginia Department of Transportation have no responsibility for the maintenance, repair or replacement of private streets. The establishment of a reserve fund for repairs to private streets shall commence on the date of the recordation of the initial record plat.

Buffer Area: Pursuant to Proffer #13 of ZMAP 1997-0001, the Association shall maintain the forty foot buffer area that is located within the area reserved for the possible realignment of Route 860.

(b) The Association shall be responsible for the maintenance, repair and replacement of any storm water management area or facilities situated within the Common Area, and within the Lots, including, without limitation, ponds, basins, storm drainage pipes, inlets, structures, oil grit separators, drainage areas and underground facilities, if any. The Association shall also be responsible for the maintenance, repair and replacement of any sanitary sewer and/or water supply facilities and related access easements 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 the direction of any governmental authority or agency (including but not limited to any such agreements with the Loudoun County Sanitation Authority). Such responsibility may be in the form of contributing maintenance, repair and replacement costs of any such facilities pursuant to an easement or agreement which shall be a Common Expense of the Association. The Board of Directors may enter into any such easements and/or other agreements as the Board may deem necessary or desirable for purposes of allocating and/or sharing the costs associated with the maintenance, repair or replacement of any such facilities.

ARTICLE 11 - INSURANCE

Section 11.1. 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 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 structures located on the Property, unless the Owners thereof have supplied proof of adequate coverage to the Board of Directors' satisfaction. The Board of Directors and the Association shall incur no liability to any Owner or mortgagee in the event that the Board of Directors or the Association shall elect not to exercise their authority to obtain such insurance for all or any of the structures located on the Property. In the event the Board of Directors obtains insurance for any Lot or structure pursuant to this Section, the cost thereof shall be assessed against the Lot benefitting 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 structure(s) constructed on the Lot, the Owner shall proceed promptly to repair or to reconstruct the structure(s) in a manner consistent with the original construction and, in accordance with all applicable building code requirements, unless approval to do otherwise is obtained from the Board of Directors or the Covenant Committee. Each Owner of a Lot

covenants and agrees that in the event that such structure is totally destroyed, the Owner shall proceed promptly to repair or to reconstruct the structure in a manner consistent with the original construction, unless approval to do otherwise is obtained from the Board of Directors or the Covenant Committee.

Section 11.2. 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 hazard insurance covering the Common Area and any property required to be insured by the Association pursuant to any easement or lease agreement, including fixtures and building service equipment, to the extent that they are a part of the Common Area of the Association or such other property which the Association may insure, as well as common personal property and supplies.

The hazard insurance policy shall afford, as a minimum, protection against loss or damage by fire and all 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, and shall name the Association as a named insured. The insurance should cover one hundred percent (100%) of the current replacement cost (less a reasonable deductible) of the insured property. Coverage need not include land, foundations, excavations or other items that are usually excluded from insurance coverage. The funds to cover any applicable deductible should be included in the Association's reserve or operating account.

Each hazard insurance policy must be written by a hazard insurance carrier which has a current rating by the Best's Key Rating Guide of B/ILL or better (or its equivalent). Each insurer must be specifically licensed or authorized by law to transact business within the State of Virginia. The policy contract shall provide that no Assessment may be made against the mortgagee, and that any Assessment made against others may not become a lien on the mortgaged Lot superior to the First Mortgage.

The hazard insurance policy must provide that the insurance carrier shall notify the Association and each mortgagee named in the mortgagee clause in writing at least ten (10) days before it cancels or substantially changes the Association's coverage. In addition, each Eligible Mortgage Holder shall receive timely written notice of any lapse, material modification or cancellation of any insurance policy covering the Common Area.

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 following endorsements are also required: (i) an Inflation Guard Endorsement (if reasonably available); (ii) a Construction Code Endorsement if the Common Area is subject to a construction code provision which would become operative and require changes to undamaged portions of any structures, even when only part of a structure is destroyed by an insured hazard or peril, and (iii) a

Steam Boiler and Machinery Coverage Endorsement if any structure within the Common Area has central heating or cooling, which should provide for the insurer's minimum liability per accident per location to be at least equal to the lesser of Two Million Dollars (\$2,000,000.00) or the insurable value of the structure(s) housing the boiler or machinery.

If the Common Area is located in a Special Flood Hazard Area designated as A, AE, AH, AO, AI-30, A-99, V, VE, or VI-30 on a Flood Insurance Rate Map, the Association must maintain a "master" or "blanket" policy of flood insurance on the Common Area. The amount of flood insurance shall be at least equal to the lesser of one hundred percent (100%) of the insurable value of all structures and improvements situated in such Special Flood Hazard Area or the maximum coverage available under the applicable National Flood Insurance Administration program. The funds to cover the deductible amount should be included in the Association's reserve or operating account.

The Association shall obtain and maintain a comprehensive general liability policy of insurance covering all of the Common Area, public ways and any other areas that are under the Association's supervision. The policy shall also cover any commercial space owned by the Association, even if such space is leased to others. The policy should provide coverage for bodily injury (including death) and property damage that results from the operation, maintenance or use of the Common Area and any legal liability that results from law suits related to employment contracts in which the Association is a party. Supplemental coverage to protect against additional risks should also be obtained, if required by a mortgagee. Such insurance policy shall contain a "severability of interest" endorsement which shall preclude the insurer from denying the claim of an Owner because of negligent acts of the Association or other Owners. Liability coverage shall be at least One Million Dollars (\$1,000,000.00) per occurrence, for bodily injury and property damage, unless higher amounts of coverage are required by a mortgagee. The liability policy must provide that the insurance carrier shall notify the Association in writing at least ten (10) days before it cancels or substantially modifies the Association's coverage.

Section 11.3. Fidelity Insurance. To the extent reasonably available, blanket fidelity insurance shall be maintained by the Board of Directors for all officers, directors, managers, trustees, employees and volunteers of the Association (including, but not limited to Declarant appointees) 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 Board of Directors 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 insurance policy which must provide the same coverage as fidelity insurance maintained by the Board of Directors. Except for fidelity insurance that a management agent obtains for its personnel, all other fidelity insurance policies should name the Association as the insured and should have their premiums paid as a Common Expense by the Association. Fidelity insurance obtained by a management agent shall name the Association as an additional insured. The total amount of fidelity coverage required shall be sufficient to cover the maximum funds (including reserve funds) that will

be in the custody of the Association or management agent at any time while the fidelity policy is in force, and should be at least equal the sum of three (3) months aggregate Assessments on all Lots within the Association, plus any reserves. Fidelity insurance policies should contain waivers by the insurers of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees", or similar terms or expressions. The fidelity insurance policies should provide that they cannot be canceled or materially modified (including cancellation for non-payment of premium) without at least ten (10) days prior written notice to the Association.

Section 11.4. Additional Required Insurance. The Board of Directors of the Association, or its duly authorized agent, shall be required to obtain and maintain adequate levels of Directors and officers liability insurance, as determined by the Board of Directors, covering all Directors and officers of the Association (including, without limitation, Declarant appointees).

Section 11.5. Repair and Reconstruction of Common Area After Fire or Other Casualty. 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 shall disburse the proceeds of all insurance policies to the contractors engaged in such repair and restoration, as appropriate. Promptly after a casualty causing damage or destruction of any portion of 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 prior to the casualty. Such costs may include, without limitation, professional fees and premiums for such bonds as the Board of Directors may desire.

ARTICLE 12 - MANAGEMENT

Section 12.1. Management Agent. The Board of Directors may employ a 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, including, but not limited to, the following:

(a) Establishing (with the approval of the Board of Directors) and providing for the collection of the Assessments and the enforcement of liens therefor in a manner consistent with applicable law and this Declaration; and

(b) Designating, hiring and dismissing such personnel as may be required for the good working order, maintenance and efficient operation of the Association; and

(c) Providing such other services for the Association as may be consistent with applicable law and this Declaration.

Section 12.2. Duration of Management Agreement. Any management agreement entered into by the Association during the Declarant Control Period shall provide 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.

ARTICLE 13 - GENERAL PROVISIONS

Section 13.1. 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 any property, real or personal, which the Association is delegated the responsibility for pursuant to any easement or lease agreement, 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 and such other property in good, clean, attractive, and sanitary condition, order, and repair, pursuant to the terms and conditions hereof. The Association shall accept title to any real estate or personal property offered to the Association by Declarant.

Section 13.2. Personal Property and Real Property for Common Use. The Association may acquire, lease, 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, shall accept any real or personal property, leasehold, or other property interests within the Property conveyed to it by Declarant.

Section 13.3. Implied Rights. The Association may exercise any other right or privilege given to it expressly by this Declaration, or the Bylaws of the Association, or any lease, easement or other agreement or document affecting the Association, 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 13.4. 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 persons or property caused by the elements or resulting from water which may leak or flow from any property, improvements or facilities under the control or supervision of the Association, or from any wire, pipe, drain, conduit or the like; provided, that the Members of the Association and the Board of Directors, acting

on behalf of the Association, have acted in a prudent and reasonable manner. Notwithstanding the limitation of liability contained in the foregoing sentence, if any such failure or injury or damage is caused by the gross negligence or willful misconduct of the Members of the Association or the Board of Directors, acting on behalf of the Association, the Association shall be liable for the reasonable and foreseeable consequences of such failure or such injury or damage. No diminution or abatement of Assessments, as hereinelsewhere provided for, shall be claimed or allowed for inconvenience or discomfort arising from the making of repairs or improvements to any property, improvements or facilities under the control or supervision of the Association, 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 13.5. Enforcement. The Association and any Owner 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, the Articles of Incorporation and Bylaws of the Association and 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 to enforce any covenant or restriction 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 provision of this Declaration, the Bylaws, Articles of Incorporation, or rules and regulations of the Association cannot be adequately remedied by action at law or exclusively by recovery of damages. If the Association or any Owner successfully brings an action to extinguish a violation or otherwise enforce the provisions of this Declaration, the Bylaws, Articles of Incorporation, or rules and regulations 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 in accordance with Virginia Property Owners Association Act.

Section 13.6. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

Section 13.7. 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 forty (40) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of thirty (30) years. Subject to Section 13.20, this Declaration may be amended by an instrument signed by, or the affirmative vote of Owners representing two-thirds (2/3) of the votes entitled to be cast by all the Members, and by Declarant during the Declarant Control Period. Any amendment must be recorded in the Land Records.

Section 13.8. Changes and Modifications by Declarant. Declarant shall have the right, for a period of ten (10) years following the date of recordation of this Declaration, without the consent of the Members of the Association or any other party, to modify, amend or change any of the provisions of this Declaration as Declarant may deem necessary or desirable to correct errors or omissions herein. Subject to Section 13.20, declarant shall also have the right for a period of ten (10) years following the date of recordation of this Declaration, without the consent of the Members of the Association or any other party, to modify, amend or change any of the provisions of this Declaration as may be requested by any Owner or any contract purchaser of a Lot; provided, however, that no such modification, amendment or change shall adversely affect any Owner or the value of such Owner's Lot, substantially increase the financial obligations of any Owner or reserve any additional or special privileges for Declarant not previously reserved, 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).

Section 13.9. 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 the Declarant Control Period has not expired, 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 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 13.10. Casualty Losses. In the event of substantial damage or destruction to any of the Common Area, 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/her/its 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.

Section 13.11. Condemnation or Eminent Domain. In the event any part of the Common Area 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/her/its 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.

Section 13.12. Notice to Eligible Mortgage Holders. The Association shall give prompt written notice to each Eligible Mortgage Holder of (and each Owner hereby consents to, and authorizes such notice):

(a) Any condemnation loss or any casualty loss which affects a material portion of the Common Area or any Lot subject to a First Mortgage or security interest held, insured, or guaranteed by such Eligible Mortgage Holder.

(b) Any delinquency in the payment of Common Expense Assessments or charges owed by an Owner whose Lot is subject to a First Mortgage or security interest held, insured, or guaranteed, by such Eligible Mortgage Holder which remains uncured for a period of sixty (60) days.

(c) Any lapse, cancellation, or material modification of any insurance policy or fidelity insurance maintained by the Association.

To be entitled to receive notice of the foregoing, the Eligible Mortgage Holder must send a written request to the Association, stating both its name and address and the Lot and Block designation or address of the Lot on which it has (or insures or guarantees) the mortgage.

Section 13.13. Declarant's Right to Amend. Notwithstanding any provision to the contrary contained in the Articles of Incorporation or Bylaws of the Association or this Declaration, Declarant hereby reserves for itself, its successors, transferees and assigns, for a period of ten (10) years from the date of recordation of this Declaration, the right to execute on behalf of all contract purchasers, Owners, mortgagees, and other lienholders or parties claiming a legal or equitable interest in any Lot, any such agreements, easements, documents, amendments or supplements to this Declaration, the Articles of Incorporation and Bylaws of the Association which may be required by the County of Loudoun, the FNMA, the FHLMC, the FHA, the VA, the GNMA or by any governmental or quasi-governmental agency having regulatory jurisdiction over the Association, or any institutional lender or title insurance company designated by Declarant.

(a) By acceptance of a deed to any Lot or by the acceptance of any other legal or equitable interest in the Lots, each and every such contract purchaser, Owner, mortgagee or other lienholder or party having a legal or equitable interest in any Lot does automatically and irrevocably name, constitute, appoint and confirm Declarant, its successors, transferees and assigns, as attorney-in-fact for the purpose of executing any 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 materially adversely affects any Owner or the value of such Owner's Lot, or substantially increases the financial obligations of an Owner, or reserves any additional or special privileges for 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 shall not be made without the prior written consent of the owners of all such mortgages. The power of attorney aforesaid shall not be construed to authorize Declarant to seek an amendment to any existing regulatory approval or to seek any additional regulatory approvals regarding the Property on behalf of any other party.

(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 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 Declarant, its successors, transferees and assigns until the initial conveyance of all Lots 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 13.14. Successors of Declarant. Any and all rights, reservations, easements, interests, exemptions, privileges and powers of Declarant hereunder, or any part of them, may be assigned and transferred (exclusively or non-exclusively) by Declarant by an instrument, in writing, without notice to the Association.

Section 13.15. 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 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.

Section 13.16. 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 13.17. Declarant Reserved Rights. No amendment to this Declaration may remove, revoke, or modify any right, reservation or privilege of Declarant without the prior written consent of Declarant or any successors or assignees of this Declaration.

Section 13.18. Declarant Development. As long as Declarant has an interest in developing the Property, 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 13.19. 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 13.20. County Approval. A number of provisions are contained within this Declaration to comply with the Proffers or conditions of subdivision approval applicable to the Property or any lands hereafter subjected to this Declaration. No Supplementary Declaration or amendments shall impair the right and authority of the County to require compliance with the proffers and subdivision approval conditions applicable to the Property without the prior written approval of the County. In addition, the Association shall not be dissolved, except pursuant to a consolidation or merger with an entity formed for similar purposes, or the Declaration terminated without the prior written approval of the County."

IN WITNESS WHEREOF, Declarant has caused these presents to be duly executed and sealed on its behalf by _____, the _____ of said Declarant with the intention of making this Declaration a sealed instrument, this _____ day of _____, _____.

[SIGNATURE PAGE FOLLOWS]



EXHIBIT "A"

Lots 9D through 12D, inclusive, and Lots 19C through 29C, inclusive, and Lots 140A through 147A, inclusive, and Lots 150TH through 156TH, inclusive, and Conservancy Lot A, PHASE 1A, WOODLAND, as duly dedicated, platted and recorded in a Deed of Dedication, Subdivision, Easement and Reservation recorded as Instrument #200408300092037 among the land records of Loudoun County, Virginia