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**DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS**

**FOR**

**AUTUMN GLEN HOMEOWNERS ASSOCIATION, INC.**

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**AUTUMN GLEN HOMEOWNERS ASSOCIATION, INC.****DECLARATION OF COVENANTS CONDITIONS AND RESTRICTIONS**

**THIS DECLARATION**, is made on the date hereinafter set forth by AUTUMN GLEN, L.L.C., a Maryland limited liability company (hereinafter referred to as "Declarant").

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

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

**NOW, THEREFORE**, Declarant hereby declares that the Property shall be held, conveyed, hypothecated, encumbered, sold, leased, rented, used, occupied and improved subject to the covenants, conditions, restrictions and easements set forth in this Declaration, which are for the purpose of protecting the value and desirability of, and which shall run with such Property and be binding on all parties having any right, title or interest in all or any portion of the Property, and any other real property annexed within the jurisdiction of the Association in accordance with Article 2 hereof, their heirs, personal representatives, successors, transferees and assigns, and which shall inure to the benefit of each Owner thereof.

**ARTICLE 1**  
**DEFINITIONS**

**Section 1.1.** "Association" shall mean and refer to the Autumn Glen Homeowners Association, Inc., a nonstock Maryland corporation, its successors and assigns. *See Bylaws set forth in Exhibit B.*

**Section 1.2.** "Common Area" shall mean all real property owned, leased or maintained by the Association (including the improvements thereto) for the common use and enjoyment of the Owners. Notwithstanding the foregoing, in the event the Association maintains all or any portion of any Lot(s), such property shall not be considered Common Area. The Common Area anticipated to be owned by the Association at the time of conveyance of the first Lot is more particularly described on the legal description attached hereto and made a part hereof as Exhibit

**Section 1.3.** "Common Expenses" shall mean and refer to the actual and estimated expenses of operating the Association, including, without limitation, a reasonable reserve and expenses for the maintenance of the Common Area in accordance with Article 9 hereof, all as may be found to be necessary or appropriate by the Board of Directors of the Association pursuant to this Declaration, the Bylaws and the Articles of Incorporation of the Association.

**Section 1.4.** "Community-Wide Standard" shall mean the standard of conduct,

maintenance or other activity generally prevailing in the Project. Such standard may be more specifically determined and set forth by the Board of Directors.

Section 1.5. "Declarant" shall mean and refer to Autumn Glen, L.L.C., a Maryland limited liability company, its successors and assigns if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development, but only to the extent that all or any portion of the rights, reservations, easements, interests, exemptions, privileges and/or powers of the Declarant are specifically assigned or transferred to any such successors or assigns by an instrument in writing.

Section 1.6. "Development Plan " shall mean that certain plat of subdivision entitled "GERMANTOWN STATION" recorded among the Land Records in Plat Book 21621, at Pages 71, 72, and 73, and Liber 613, including all amendments, modifications, extensions and supplements thereof as may be made from time to time.

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

Section 1.8. "Land Records" shall mean and refer to the Land Records of Montgomery County, Maryland.

Section 1.9. "Lawn and Garden Area " shall mean and refer to any portion of the front, side or rear (if applicable) yard areas of any Lot that contains grass, shrubs, bushes, trees or other planted material; provided, however, that any portion of a Lot which is enclosed by a wall, fence or other obstruction and which is not readily accessible to the Association, as determined by the Board of Directors in its sole discretion, shall not be considered a Lawn and Garden Area.

Section 1.10. "Lot" shall mean and refer to any plot of land designated as a separate subdivided lot of record upon any recorded subdivision plat of the Property upon which the planned or actual improvements are primarily intended for use and occupancy as a residential dwelling unit, including, without limitation, single-family dwelling units. The term Lot shall not include Common Area or outlots of property dedicated for public use.

Section 1.11. "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 1.12. "Mortgagee" shall mean the holder of any recorded mortgage, or the party secured or beneficiary of any recorded deed of trust, encumbering one or more of the Lots. "Mortgage", as used herein, shall include deeds of trust. "First Mortgage", as used herein, shall mean a mortgage with priority over 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 Secretary of Veterans Affairs or through other duly authorized agents.

Section 1.13. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of fee simple title to any Lot which is a part of the Property, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 1.14. "Project" as used in this Declaration shall refer to the Property.

Section 1.15. "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 pursuant to Article 2 of this Declaration.

## ARTICLE 2

### DECLARANT'S RIGHT TO SUBJECT PROPERTY TO DECLARATION

Section 2.1. Property Subject to this Declaration. The Property is and shall be held, conveyed, hypothecated, encumbered, sold, leased, rented, used, occupied and improved subject to this Declaration.

Section 2.2. Annexations. In addition to the Property, any real property shown on the Development Plan, 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 Property, may be annexed within the jurisdiction of the Association by the Declarant without the consent of the Class A Members of the Association, if any, for a period often (10) years from the date of recordation of this Declaration by the Declarant; provided, however, that if the Declarant is delayed in the improvement and development of the Property on account of a sewer, water or building permit moratorium or any other cause or event beyond the Declarant's control, then the aforesaid ten (10) year period shall be extended by a period of time equal to the length of the delays or an additional five (5) years, whichever is less. 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 provided in this Section. Except as otherwise provided above with respect to annexations of real property by the Declarant, annexations of real property within the jurisdiction of the Association shall require the consent of two-thirds (2/3) of each class of Members.

Any annexations made pursuant to this Article, or otherwise, shall be made by recording a Supplementary Declaration among the Land Records, which Supplementary Declaration shall extend the scheme of the within Declaration to such annexed property. Any Supplementary Declaration made pursuant to the provisions of this Article, or otherwise, may contain such complementary or supplemental additions and modifications to the covenants, conditions 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 are provided in Article 3 herein.

Section 2.3. Deannexation. The Declarant may deannex any property annexed within the jurisdiction of the Association for a period of ten (10) years from the date of recordation of this Declaration; provided, however, that (i) the Declarant is the Owner of such property at the time of deannexation, or (ii) if the Declarant is not the Owner of such property, the Declarant deannexes such property with the written consent of the Owner thereof; provided, further, that if the Declarant is delayed in the improvement and development of the Property on account of a sewer, water or building permit moratorium or any other cause or event beyond the Declarant's control, then the aforesaid ten (10) year period shall be extended by a period of time equal to the length of the delays or an additional five (5) years, whichever is less. Such deannexed property shall no longer be subject to the covenants, conditions and restrictions of this Declaration except for (i) any easements, rights, reservations, exemptions, powers or privileges reserved to the Declarant pursuant to this Declaration which affect the deannexed property and (ii) any other easements, rights, reservations, exemptions, powers or privileges which are expressly reserved to the Declarant in the instrument effectuating such deannexation. Such deannexation shall be made by recording a Supplementary Declaration among the Land Records, withdrawing the effect of the covenants, conditions and restrictions of this Declaration from the deannexed property. Such deannexed property may be utilized by the Declarant, or any successor, assign or transferee thereof, for any lawful purpose or use.

### **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, without limitation, an easement for the use and enjoyment of the private streets, parking areas, sidewalks, and walkways, 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 upon the Common Area;
- (b) the right of the Association to suspend an Owner's voting rights and right to use the Common Area or any facilities situated thereon (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 Members. No such dedication or transfer shall be effective without the consent of two-thirds (2/3) of each class of Members and fifty-one percent (51%) of the Eligible Mortgage Holders, and unless the Montgomery County Department of Planning and Code Enforcement, or its successors or assigns, has given its prior written approval thereof, which approval shall not be unreasonably withheld or delayed;
- (d) the right of the Association to limit the number of guests of Owners utilizing the Common Area and any facilities thereon;
- (e) the right of the Association to establish uniform rules and regulations pertaining to the use of the Common Area and any facilities thereon;
- (f) the right of the Association to provide for the exclusive use by specified Owners of certain designated parking spaces within the Common Area;
- (g) the right of the Association, the Declarant, utility companies and other Owners with respect to the easements established 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 and any facilities thereon in a manner designed to promote the enjoyment and welfare of the Members and in aid thereof to mortgage any of the Common Area and any facilities thereon;
- (i) the right of the Association to take such steps as are reasonably necessary to protect the property of the Association against mortgage default and foreclosures; provided, however, that the same are in conformity with the other provisions of this Declaration;
- (j) the right of the Declarant, as more fully set forth in Section 8.1 of this

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Declaration, to grant easements, to utilize reserved rights and easements, and to otherwise utilize the Common Area as it deems appropriate in connection with the development of the Project;

(k) the right of the Association, acting by and through its Board of Directors, to grant easements, licenses or other rights of use of the Common Area and any facilities situated thereon to persons or entities 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;

(l) the right of the Association to be the lessee of any portion or all of the Common Area and the right of the Association to enforce the terms of the lease with respect to such Common Area against such property and the Owners and their guests, lessees and invitees; and

(m) the right of the Association, acting by and through its Board of Directors, to transfer or convey portions of the Common Area for purposes of adjusting the boundary lines of one or more Lots and/or the Common Area; provided, however, that such transfer or conveyance has been approved, as necessary, by applicable local governmental authorities or agencies, or is otherwise in conformance with applicable law, local zoning ordinances, governmental guidelines, or restrictions.

Section 3.2. Limitations.

(a) Any other provision of this Declaration to the contrary notwithstanding, the Association shall have no right to suspend the right of any Member of the Association to use any private streets and roadways located upon the Common Area for both vehicular and pedestrian ingress and egress to and from such Member's Lot and for parking.

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

Section 3.3. Delegation of Use. Any Owner may delegate, in accordance with the Bylaws and rules and regulations of the Association, such Owner's right of enjoyment to the Common Area and facilities to the members of such Owner's family, such Owner's tenants, social invitees, or contract purchasers 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. Membership shall be appurtenant to and may not be separated from ownership of any Lot.

Section 4.2. Voting Rights. The Association shall have two (2) classes of voting, membership, Class A and Class B:

Class A. With the exception of the Declarant (until expiration of the Class B memberships as provided below), every person, group of persons, corporation, partnership, trust or other legal entity, or any combination thereof, who is an Owner of any Lot which is part of the Property shall be a Class A Member of the Association; provided, however, that any such person, group of persons, corporation, partnership, trust or other legal entity, or any combination thereof, who holds such interest solely as security for the performance of an obligation shall not be a Class A Member solely on account of such interest. When more than one (1) person or entity are Owners of any Lot, all such persons and entities shall be Members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot owned by a Class A Member. Any building or structure that constitutes a condominium as that term is defined by the Maryland Code, shall be entitled to one (1) vote.

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

Class B. There shall initially be three hundred (300) Class B memberships in the Association. This number shall be decreased by three (3) memberships for each Lot conveyed to a Class A Member. The Class B Member shall be the Declarant, its nominee or nominees, and shall include every person, group of persons, corporation, partnership, trust or other legal entity, or any combination thereof, who shall obtain any Class B membership by specific assignment in writing from the Declarant.

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

- (i) one hundred twenty (120) days following the date on which the total authorized, issued and outstanding votes of the Class A Members equals seventy-five (75); or
- (ii) ten (10) years from the date of recordation of this Declaration by the Declarant; provided, however, that if the Declarant is delayed in the improvement and development of the Property on account of a sewer, water or building permit moratorium or any other cause or event

beyond the Declarant's control, then the aforesaid ten (10) year period shall be extended by a period of time equal to the length of the delays or an additional five (5) years, whichever is less; or

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

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

## **ARTICLE 5**

### **COVENANT FOR MAINTENANCE ASSESSMENTS**

Section 5.1. Creation of the Lien and Personal Obligation for Assessments. There are hereby created assessments for Common Expenses as may be from time to time specifically authorized by the Board of Directors to be commenced at the time and in the manner set forth in this Article 5. Each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (i) annual assessments or charges, and (ii) special assessments for capital improvements. The annual and special assessments, together with interest, costs, late fees and reasonable attorneys' fees, shall be a charge on the Lot (including all improvements thereon), and shall be a continuing lien upon the property against which each such assessment is made, provided the requirements of the Maryland Contract Lien Act, if applicable, have been fulfilled. Each such assessment, together with interest, costs, late fees and reasonable attorneys' fees, shall also be the personal obligation of the person who was the Owner of the Lot at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to a prior Owner's successors in title unless expressly assumed by such successors.

#### Section 5.2. Purpose of Assessments.

(a) The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents in the Property and for the improvement, maintenance, repair, and replacement of the Common Area, the maintenance and repair of the Lawn and Garden Area (if the Association elects to perform such maintenance and repair), the payment of real estate taxes, assessments and utility services for the Common Area, management fees, administration expenses, insurance and all other costs and expenses incurred by the Association in the proper conduct of its activities, including, without limitation, reserves for replacements or contingencies, and charges accruing under any cross-easement or other agreement (including, without limitation, any such agreement for the maintenance of any storm water management facility). The assessments may also be used for the maintenance, repair and replacement of any property or facilities serving or appurtenant to the Property which the Association is obligated or elects to maintain whether or not such property or facilities are owned

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by the Association or are located within the Property (including, without limitation, any property or facilities which the Association is authorized to maintain pursuant to this Declaration).

(b) The assessments levied by the Association shall also be used for maintenance, repair and replacement (including reserves) of any and all storm water management facilities, including, without limitation, drainage pipes, infiltration trenches, ponds, basins, swales, berms, out-flow control devices, drainage areas, filters, inlets, oil/grit separators and underground facilities, if any, whether such storm water management facilities are located within the Property or not, as long as such storm water management facilities are designed to benefit or serve any portion of the Property, or are required or intended to be maintained by the Association pursuant to any easement, agreement or the direction of any governmental authority or agency. The Association shall not refuse to accept the conveyance of any such facilities from the Declarant. Such storm water management facilities may also benefit property not within the jurisdiction of the Association and the maintenance of such facilities may be set forth in a cross-easement or other agreement, in which event the Association shall maintain the facilities pursuant to such agreement.

Section 5.3. Annual Assessments; Budgets. Until January 1 of the year immediately following the first conveyance of a Lot to a Class A Member, the applicable annual assessment shall be the amount established by the Declarant in its sole discretion. Thereafter, the Board of Directors shall from time to time set the annual assessment at an amount sufficient to meet the Common Expenses of the Association. Without limiting the generality of the foregoing, the Association shall, at all times, levy and collect annual assessments in sufficient amounts to (a) maintain the Common Area in accordance with sound property management standards, and (b) establish necessary reserves for the future repair and replacement of any capital improvements within the Common Area. The Board of Directors shall determine the amount of the annual assessment before the beginning of each fiscal year in connection with preparation of the Association's annual budget, and may do so at more frequent intervals should circumstances so require. Upon resolution of the Board of Directors, installments of annual assessments may be levied and collected on a monthly, quarterly, semi-annual, or annual basis. Any Class A Member may prepay one or more installments of any annual assessment levied by the Association without premium or penalty. The Board of Directors shall make a reasonable effort to prepare a budget at least thirty (30) days before the beginning of each fiscal year. The budget shall include the estimated costs of operating the Association during the coming year and shall also include an amount sufficient to establish and maintain a reserve fund in accordance with a reserve fund budget separately prepared by the Board of Directors pursuant to Section 5.11 hereof. The Board of Directors shall cause a copy of the budget, and the amount of the assessments to be levied against each Lot for the following year, to be delivered to each Owner at least fourteen (14) days prior to the commencement date of the new assessments. The budget and the assessments shall become effective unless a special meeting of the Association is duly held and at such special meeting the budget and the assessments are disapproved by a vote of at least a majority of both classes of the total Association membership. Notwithstanding the foregoing, however, in the event the membership disapproves the budget or the Board of Directors fails for any reason to

determine the budget for any fiscal year of the Association, then and until such time as a budget shall have been determined as provided herein, the budget in effect for the then current fiscal year shall continue for the succeeding fiscal year.

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

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

Section 5.5. Notice and Quorum. Written notice of any meeting called for the purpose of establishing a special assessment in accordance with Section 5.4 hereof, shall be sent to all Members not less than thirty (30) days nor more than sixty (60) days in advance of such meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast sixty percent (60%) of all the votes of the membership of the Association (Class A and Class B) shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 5.6. Variable Rate of Assessment.

(a) The Board of Directors may, from time to time, establish by resolution non-uniform rates of assessment for Lots within the Property. Such rates shall be based on actual costs incurred by the Association relating to the operation and maintenance of the Property; provided, however, that all Lots that receive similar services from the Association shall be assessed at a uniform rate (except as otherwise provided herein with respect to Lots owned by the Declarant). For example, and for purposes of illustration only, the Board of Directors may establish a variable rate of assessment for any group of Lots that is served by a shared driveway which the Association is obligated or elects to maintain pursuant to this Declaration, any easement or other agreement. The imposition of non-uniform rates of assessment shall rest solely at the

discretion of the Board of Directors.

(b) In the event that the actions or activities of any Owner causes or results in increased expenses for the Association, the Board of Directors may assess such increase in expenses against the Owner and such Owner's Lot, after notice to such Owner and an opportunity for a hearing. For example, and for purposes of illustration only, the Board of Directors may assess the amount of any insurance deductible paid by the Association against any Owner and such Owner's Lot if the Association is required to pay such deductible as a result of the misuse or neglect of the Owner. Such assessment shall be a lien against the Owner's Lot and shall be payable and collectible in the same manner as any other assessments required to be paid to the Association; provided, however, that the Declarant shall not be subject to any assessment based on this Section 5.6(b).

Section 5.7. Declarant's Exemption From Annual and Special Assessments. Any provision hereof to the contrary notwithstanding, Lots owned by the Declarant shall not at any time be subject to any annual assessments, special assessments, fees or other charges levied by the Association, and the Declarant shall have no obligation whatsoever to pay any such annual assessments, special assessments, fees or other charges. Lots formerly owned by the Declarant shall cease to be exempt from such annual assessments, special assessments, fees and other charges commencing upon transfer or conveyance of any such Lot from the Declarant to any other Owner.

Section 5.8. Date of Commencement of Annual Assessments; Due Dates. Unless an earlier commencement date is established by the Board of Directors, the annual assessments provided for herein shall commence as to all Lots simultaneously with the conveyance of the first Lot to a Class A Member. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall make reasonable efforts to fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association with the status of assessments on the Lots shall be binding on the Association as of the date of its issuance.

Section 5.9. Effect of Non-Payment of Assessments; Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date until paid at a rate determined by the Board of Directors, up to the maximum rate of interest permitted under the laws of the State of Maryland. The Association may also charge a reasonable late fee against any Owner (and/or such Owner's Lot) who is more than ten (10) days delinquent in the payment of any assessment. Additionally, the entire balance of the unpaid annual assessments for the remainder of the fiscal year may be accelerated at the option of the Board of Directors and be declared due, payable and collectible in the same manner as the

delinquent portion of such annual assessment. The Association may bring an action at law against the Owner personally obligated to pay the same, and/or foreclose the lien against the Lot (and all improvements thereon) provided the provisions of the Maryland Contract Lien Act, if applicable, are substantially fulfilled. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of such Owner's Lot. The Owner shall also be obligated to pay all attorneys' fees, court costs and administrative costs incurred in connection with the collection of assessments if not paid when due. This Section shall not be deemed to limit or waive, and shall be without prejudice to, any and all rights, remedies, or recourses as may be available to the Association for non-payment of assessments.

Section 5.10. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any First Mortgage or deed of trust. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to a mortgage or deed of trust foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer, except for liens or claims for a pro-rata share of such assessments resulting from a pro-rata reallocation of such assessments to all Lots, including the mortgaged Lot. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof. No amendment to this Section shall affect the rights of the holder of any First Mortgage on any Lot (or the indebtedness secured thereby) recorded prior to recordation of such amendment unless the holder thereof (or the indebtedness secured thereby) shall join in the execution of such amendment.

Section 5.11. Reserve Fund Budget and Contribution. The Board of Directors shall annually prepare a reserve fund budget which shall take into account the number and nature of the replaceable assets of the Association, the expected life of each asset, and the expected repair or replacement cost of each asset. The Board of Directors shall set the required reserve fund contribution, if any, in an amount sufficient to meet the projected reserve needs of the Association, as shown on the reserve fund budget, with respect both to amount and timing by the imposition of annual assessments over the period of the budget. The reserve fund contribution shall be fixed by the Board of Directors and included within the budget and assessment, as provided in Section 5.3. Such reserve fund contribution shall be payable as part of the general assessment, applicable to all Lots (except as otherwise provided with respect to Lots owned by the Declarant in Section 5.7), to the extent such reserve fund will be utilized to replace assets which are determined by the Board of Directors to benefit substantially all Owners. Reserves may also be maintained for operating contingencies and insurance deductibles. A copy of the reserve fund budget shall be distributed to each Owner in the same manner as the operating budget.



**ARTICLE 6**  
**ARCHITECTURAL CONTROL**

Section 6.1. Architectural Change Approval. No building, fence, wall, mailbox, swimming pool, 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 complete plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association, or by a covenant committee composed of three (3) or more representatives appointed by the Board of Directors of the Association ("Covenant Committee"). In the event said Board, or its designated committee, fails to approve or disapprove any design and location within sixty (60) days after the plans and specifications for such design and location have been submitted to it, approval will not be required and this Article will be deemed to have been complied with fully. 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 6 shall not be applicable to the Declarant or any part of the Property owned by the Declarant.

Section 6.2. Initiation and Completion of Approved Changes. Construction or alterations in accordance with plans and specifications approved by the Board of Directors or the Covenant Committee pursuant to the provisions of this Article shall be commenced within six (6) months of such approval and completed within twelve (12) months of such approval, or within such longer time period as the Board of Directors or the Covenant Committee may specify in its approval. In the event construction is not commenced within the period aforesaid, then approval of the plans and specifications shall be conclusively deemed to have lapsed and compliance with the provisions of this Article shall again be required. There shall be no deviations from plans and specifications approved by the Board of Directors or the Covenant Committee without the prior

consent in writing of the Board of Directors or the Covenant Committee. Approval of any particular plans and specifications or design shall not be construed as a waiver of the right of the Board of Directors or the Covenant Committee to disapprove such plans and specifications, or any elements or features thereof, in the event such plans and specifications are subsequently submitted for use in any other instance.

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

Section 6.4. Covenant Committee Rules and Regulations: Appeal of Covenant Committee Decision. The Board of Directors or 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, standards, guidelines, criteria or the like shall be construed as a waiver of the provisions of this Article or any other provision or requirement of this Declaration. The decisions of the Covenant Committee shall be final except that any Member who is aggrieved by any action or forbearance from action by the Covenant Committee may appeal the decision of the Covenant Committee to the Board of Directors and, upon the request of such Member, shall be entitled to a hearing before the Board of Directors. Two thirds (2/3) of the Board of Directors shall be required to reverse the decision of the Covenant Committee.

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

(a) storm windows installed by any Owner or resident, provided such installation is approved by the Board of Directors or the Covenant Committee, shall be painted the same color as the window trim;

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

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

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

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

#### **ARTICLE 7** **USE RESTRICTIONS**

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

Section 7.1. Permitted Uses. The Lots shall be used for residential purposes exclusively, and no building shall be erected, altered, placed or permitted to remain on any such Lot other than one used as a dwelling, except that the use of a dwelling unit for a "no-impact home based-business", as defined in § 11 B-III.1 of the Maryland Homeowners Association Act, as amended (the "Act"), shall be permitted, provided that: (i) before any dwelling unit may be used for a no-impact home-based business the Owner and/or resident of such dwelling unit shall notify the Association, in writing, at least thirty (30) days prior to the opening of the no-impact home-based business; and (ii) in no event shall the Common Area be used by or in connection with any pennitted no-impact home-based business. Nothing contained in this Article, or elsewhere in this Declaration, shall be construed to prohibit the Declarant from the use of any Lot or dwelling, or the improvements thereon, for promotional or display purposes, or as "model homes", a sales and/or construction office, or for any other lawful purpose.

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

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

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exterior of any other improvements constructed upon any Lot.

(b) The maintenance, keeping, boarding or raising of animals, livestock, or poultry of any kind, regardless of number, shall be and is hereby prohibited on any Lot or within any dwelling, or other part of the Property, except that this shall not prohibit the keeping of a reasonable number of dogs, cats, caged birds or other small domestic animals as pets provided (i) they are not kept, bred or maintained for commercial purposes; (ii) such domestic pets are not a source of annoyance or nuisance to the neighborhood or other Members; and (iii) such pets are maintained in strict conformance to all laws and ordinances. The Board of Directors or, upon resolution of the Board of Directors, the Covenant Committee, shall have the authority, after hearing, to determine whether a particular pet is a nuisance or a source of annoyance to other Members, and such determination shall be conclusive. Pets shall be attended at all times and shall be registered, licensed and inoculated as may from time to time be required by law. Pets shall not be permitted upon the Common Area unless accompanied by a responsible person and unless they are carried or leashed. The Board of Directors shall have the right to adopt such additional rules and regulations regarding pets as it may from time to time consider necessary or appropriate.

(c) No burning of any trash and no accumulation or storage of litter, lumber, scrap metals, refuse, bulk materials, waste, new or used building materials, or trash of any other kind shall be permitted on any Lot or other part of the Property. Firewood shall be neatly stacked in the rear yard areas of the Lots.

(d) Except for parking within garages, and except as herein elsewhere provided, no junk vehicle, commercial vehicle (including vans used for commercial use and vehicles displaying commercial signage), truck (as defined by the Maryland Department of Motor Vehicles and/or by common usage and practice except for light pick-up trucks of three-quarter (3/4) ton capacity or less used for non-commercial purposes), unlicensed or inoperable motor vehicle (which shall include, without limitation, any vehicle which would not pass applicable state inspection criteria), trailer, mobile home, camp truck, house trailer, recreational vehicle, boat or other similar vehicles, machinery or equipment of any kind or character (except for such equipment and machinery as may be reasonable, customary and usual in connection with the use and maintenance of any dwelling and except for such equipment and machinery as the Association may require in connection with the maintenance and operation of the Common Area) shall be kept upon the Property or upon the public or private streets adjacent to the Property, nor (except for bona fide emergencies) shall the repair or extraordinary maintenance of automobiles or other vehicles be carried out thereon. The Association may, in the discretion of the Board of Directors or the Covenant Committee, provide and maintain a suitable area designated for the parking of such vehicles.

(e) No incinerator shall be kept or maintained upon any Lot.

(f) No Lot shall be divided or subdivided and no portion of any Lot (other

than the entire Lot) shall be transferred or conveyed for any purpose. The provisions of this subsection shall not apply to the Declarant and, further, the provisions hereof shall not be construed to (i) 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, the Declarant, or any other individual or entity for any purpose, or (ii) prohibit minor boundary line adjustments between adjoining Lot Owners if done in accordance with applicable zoning ordinances, governmental guidelines and restrictions. Further, the provisions of this subsection shall not be deemed to preclude any Owner from granting an easement or right-of-way to any municipality, political subdivision, public utility or other public body or authority, or to the Association, to serve necessary public purposes, or from dedicating or conveying a portion of such Owner's Lot for such purposes.

(g) No tree, hedge or other landscape feature shall be planted or maintained in a location which obstructs sight-lines for vehicular traffic on public streets or on private streets and roadways. Without limiting the generality of the foregoing, no wire or other lawn edging, fencing or other treatment shall be placed or maintained on any Lot which would impede the Association's ability to perform its obligations as set forth in this Declaration, or which would be inharmonious with the aesthetics of the Project.

(h) No decorative lawn ornament shall be erected, used or maintained on any Lot at any time; provided, however, that bird baths, fountains, ponds, statuary, benches and urns, which do not exceed five feet (5') in height and are natural in coloring, are permitted. No structure of a temporary character, and no trailer, tent, shack, barn, pen, kennel, run, stable, or other similar building shall be erected, used or maintained on any Lot at any time; provided, however, that special event tents erected for no longer than seven (7) consecutive days are permitted. A storage shed may be erected, constructed or placed on a Lot provided that such shed (i) is approved, in writing, with respect to design (including, but not limited to color and materials), location and construction by the Board of Directors or the Covenant Committee; (ii) if constructed, such shed must conform to the architectural style and materials of the dwelling unit situated on the Lot; and (iii) any shed must be properly maintained at all times by the Owner of the Lot upon which it is located.

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

arrangement, assignment or deed in lieu of foreclosure.

(j) No water pipe, sewer pipe, gas pipe, drainage pipe, cable or other similar transmission line shall be installed or maintained upon any Lot above the surface of the ground and no wire, cable or other similar transmission line may be attached to the exterior of any structure on any Lot; provided, however, that such transmission lines, wires or cables providing utility services to any Lot (including, but not limited to, electricity, telephone, gas, water and cable television) shall be permitted. Except during periods of actual use, no hose shall be stored or placed in the front or side yard of any dwelling unless screened from public view.

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

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

(m) No exterior aerials or antennas of any type, including, but not limited to, satellite dishes for reception or transmission, may be erected or maintained within the Property unless such aerials or antennas are erected or maintained in accordance with any and all rules and regulations regarding the location and screening of any such satellite dish, subject to applicable federal governmental regulations, that shall be imposed by the Board of Directors. Aerials and antennas not visible from any other structure or public street, and aerials and antennas situated entirely within a dwelling unit and not visible from the exterior, are permitted.

(n) Vegetable gardens shall be maintained only within the rear yard of any Lot, and shall be maintained in a neat and attractive manner if located within the sight lines of any neighboring structure or public street.

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

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

(q) No garbage or trash containers shall be kept on the front or side yard of any Lot and garbage and trash containers kept or maintained in the rear yard of any Lot shall be screened from public view at all times, except on days of trash collection and the evening prior to

such days of trash collection.

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

(s) Any fence constructed upon the Property shall not extend forward of the rear building line of the dwelling on the Lot upon which any such fence is erected. No fence shall be more than six feet (6') in height. Chainlink and other wire fencing is specifically prohibited; provided, however, that thin wire fencing used in conjunction with a split rail or similar fencing for the purpose of enclosing pets is permitted if prior written approval is obtained from the Board of Directors or the Covenant Committee pursuant to Article 6. The foregoing restrictions shall not be applicable to fences required to enclose any swimming pools within the Property (subject to the prior written approval of the Board of Directors or the Covenant Committee pursuant to Article 6 hereof) in accordance with local zoning ordinances, governmental guidelines and restrictions. Notwithstanding the foregoing, this Section 7.2(s) shall not apply to fences installed by or on behalf of the Declarant during the construction and development of the Property, which in the sole opinion of the Declarant shall be required, convenient or incidental to the Declarant's construction, development, marketing, leasing and sales activities within the Property.

(t) Bed sheets, plastic sheets, newspapers, plastic storm windows or other similar window treatments that are visible from any other structure, driveway or public street shall not be hung or placed in or on any window on any dwelling located on any Lot.

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

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

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

(x) No drying or airing of any clothing or bedding shall be permitted outdoors and within any Lot other than within rear yards, and clothes-hanging devices such as lines, reels, poles, frames, etc., shall be stored out of sight when not in use.

(y) No garage or outbuilding properly erected on a Lot shall at any time be used for human habitation, temporarily or permanently, nor shall any structure of a temporary

character be used for human habitation. No garage may be altered, modified or changed in any manner which would inhibit or in any way limit its function as a parking area for vehicles without the prior written approval of the Board of Directors or Covenant Committee pursuant to Article 6 of this Declaration. Notwithstanding the foregoing, any Lot owned by the Declarant upon which is situated a dwelling unit in which the garage has been modified to serve as living area shall be exempt from this paragraph and any grantee of the Declarant, and such grantee's successors and assigns, shall also be exempt until such time as the garage is restored or a garage is constructed on such Lot.

Section 7.3. Leasing and Transfers.

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

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

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

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



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

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

Section 7.6. Exemptions. None of the foregoing restrictions shall be applicable (i) to improvements constructed by or to the activities of the Declarant, and its 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 facilities situated thereon.

## **ARTICLE 8**

### **DECLARATION OF EASEMENTS AND RIGHTS**

Section 8.1. Declaration of Easements and Rights. The following easements and rights are hereby declared or reserved:

(a) For a period of ten (10) years from the recordation of this Declaration, Declarant reserves the right to grant easements, both temporary and permanent, to all public authorities and utility companies over any part of the Common Area.

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

(c) There is hereby reserved unto the Declarant (and 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 the Declarant and its agents, a non-exclusive, perpetual 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), 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, service boxes, 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 the 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 the Declarant the right to grant specific easements, both temporary and permanent, to any person or entity, including all public authorities and utility companies, over any part of the Property in furtherance of the blanket easement created by this subsection. Further, without limiting the generality of the foregoing, the Declarant reserves the right to unilaterally execute and record such additional easements and agreements as may be necessary in order to give effect to the foregoing easements and other rights, which additional easements and other agreements need not be consented to or joined in by any party having an interest in the Property; provided, however, that if requested by the Declarant, any party having an interest in the Property shall promptly join in and execute such confirmatory easements and other agreements.

(d) An easement is hereby reserved to Declarant to enter the Common Area for purposes of constructing improvements on the Common Area and for the conduct of all construction and development related activities as may be required or permitted by applicable governmental approvals or permits.

(e) An easement is hereby reserved to Declarant to enter into the Common Area for the purpose of carrying out any obligations it may have, or assume, with respect to the curing of any defects in workmanship or materials in the Property or the improvements thereon.

(f) For a period often (10) years from the date of conveyance of the first Lot to a Class A Member, the Declarant reserves a blanket easement and right on, over and under the Property to establish, maintain, change and correct drainage of surface water in order to maintain reasonable standards of health, safety and appearance. Any provision hereof to the contrary notwithstanding, the Declarant shall have no obligation whatsoever to perform any work or to take any action regarding drainage of surface water within the Property. Such right expressly includes the right to cut any trees, bushes or shrubbery, make any gradings of the soil, or to take

any other similar action reasonably necessary, following which the Declarant shall restore the affected property to its original condition as near as practicable. The Declarant shall give reasonable notice of intent to take such action to all affected Owners, unless in the opinion of the Declarant an emergency exists which precludes such notice. There is further reserved unto the Declarant the right to grant specific easements, both temporary and permanent, to any person or entity, including all public authorities and utility companies, over any part of the Property in furtherance of the blanket easement created by this subsection.

(g) The rights and duties of the Association and the Owners with respect to all public and/or private utilities serving and/or benefitting all or any portion of the Property, including, without limitation, water, sewer, gas, electricity, cable television, telephones, storm drains, down spouts, yard drains, and all pipes, wires, cables, conduits, transmission lines and other related facilities and equipment (collectively the "Utilities") shall be governed by the following:

(i) Each Lot is hereby subject to a non-exclusive perpetual easement and right of passage upon, across and under such Lot, for the benefit of the Association and the Owners of all other Lots, for the installation, maintenance, repair, replacement, inspection, operation and use of all Utilities. The Owner of any Lot and the Association shall have the right, and they are hereby granted an easement and right of passage to the extent necessary therefor, to enter upon or have a utility company enter upon any portion of the Property in which the Utilities lie, to inspect, repair, replace and generally maintain such Utilities.

(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 the Utilities to their full and reasonable use and enjoyment, and provided further that anyone exercising such 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 any Utilities, 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 the 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 and right of passage upon, across and under such Lot for the drainage and discharge of water from any storm drain, down spout or yard drain 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.

(h) 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.

(i) With respect to any step, patio, deck, downspout or yard drain or other similar structure that may benefit any Lot and is constructed by the Declarant 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 the Declarant'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 the Declarant, 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 or resulting from the use, enjoyment and benefit of the easement rights provided for herein.

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

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

(m) The Declarant reserves the right to modify or alter the size, number, 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 Project. Without limiting the generality of the foregoing, the Declarant reserves the right to resubdivide all or a portion of the Project, to convey Common Area, to modify the site plans, to construct improvements on the Common Area, and to take whatever other action with respect to the Common Area and the Lots

as the Declarant may deem necessary or desirable, so long as any such activity conforms to the applicable provisions of the Montgomery County Code.

(n) The Association is hereby granted a non-exclusive easement and right of passage on, through, over, under and across the Lots and Common Area to maintain, repair and replace any storm water management area or facilities situated within the Lots or Common Area, including, without limitation, drainage pipes, infiltration trenches, ponds, basins, swales, berms, out-flow control devices, drainage areas, filters, inlets, oil/grit separators and underground facilities, if any.

(o) Portions of the Property may be subject to conservation and/or wetlands easements and restrictions establishing one or more natural conservation or wetlands areas within the Property for purposes of restricting clearing, grading and other disturbances within such areas, subject to the terms of such easements and the regulations of any applicable federal, state or local governmental authority or agency. Such natural conservation areas may include, without limitation, stream buffers, wetlands, flood plain, forest conservation areas and reforestation areas, as designated on the Development Plan. The Association and the Owners shall conduct their activities in accordance with such easements and restrictions.

Section 8.2. 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.

## **ARTICLE 9** **MAINTENANCE**

Section 9.1. 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 shall be collectible from the Owner of such Lot in the same manner as assessments as provided in Article 5 herein.

Section 9.2. Association Maintenance. The Association shall maintain, repair and replace the Common Area, and all improvements and facilities situated thereon, and shall keep the Common Area and such improvements and facilities in good order at all times. The Association

shall also maintain such other property, both real and personal, as the Association is obligated or elects to maintain pursuant to this Declaration, or any easement, agreement or the direction of any governmental authority or agency. The Association may, upon resolution of the Board, maintain, repair and replace any rights-of-way, entry strips and entrance features or improvements that are situated within or appurtenant to and serving the Project, including, without limitation, any landscaping and other flora and improvements situated upon such areas. The expenses of all such maintenance shall be a Common Expense of the Association, including, but not limited to, reserves for the maintenance, repair and replacement of any such property or improvements. The Association shall also maintain any portion of any Lot that it is obligated or elects to maintain pursuant to this Declaration, any easement or other agreement.

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

The Association shall be responsible for the maintenance, repair and replacement of any storm water management area or facilities situated within the Common Area, including, without limitation, drainage pipes, infiltration trenches, ponds, basins, swales, berms, out-flow control devices, drainage areas, filters, inlets, oil/grit separators and underground facilities, if any. The Association shall also be responsible for the maintenance, repair and replacement of any storm water management area or facilities which serve and/or benefit the Property whether or not located within the Common Area if the Association is responsible therefor pursuant to any easement, agreement or the direction of any governmental authority or agency. Such responsibility may be in the form of contributing the Association's share of the maintenance costs of any storm water management area, facility or equipment 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 of any storm water management areas, facilities and/or equipment which serve and/or benefit the Property. The Association shall not refuse to accept the conveyance of any such storm water management area, facilities or equipment from the Declarant.

Section 9.3. Lawn and Garden Area Maintenance.

(a) The Board of Directors may elect, in its sole discretion, to have the Association assume such maintenance responsibilities with respect to the Lawn and Garden Area located within any Lot, group of Lots or all of the Lots, as the Board may deem necessary or appropriate, including, without limitation, responsibility for mowing, fertilizing, trimming, pruning and/or otherwise maintaining all or any portion of the grass, shrubs, bushes, trees and other planted materials, and any replacements thereof, as may be located within the Lawn and Garden Area. Maintenance of the Lawn and Garden Area by the Association shall be with such frequency

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and in conformity with such standards as may established by the Board of Directors from time to time. In the event that the Board of Directors elects to assume such maintenance responsibilities, all costs of such maintenance shall be assessed only against the Owners of Lots that contain Lawn and Garden Area maintained by the Association; provided, however, that an Owner that elects, as provided below in this Section, to maintain Lawn and Garden Area that would otherwise be maintained by the Association shall not be entitled to any reimbursement from the Association or reduction in the assessments levied against such Owner's Lot.

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

(c) If the Board of Directors elects not to maintain the Lawn and Garden Area within any Lot, and in the event that the Owner of such Lot shall fail to maintain the Lawn and Garden Area within such Owner's Lot in a manner consistent with good property management and the Community-Wide Standard, the Association or its agent shall have the right to enter upon said Lot to repair, maintain and restore the Lawn and Garden Area therein. 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 repair, maintenance or restoration shall be collectible from the Owner of such Lot in the same manner as assessments as provided in Article 5 hereof.

Section 9.4. Additional Maintenance Responsibilities. The Association may, in the discretion of the Board of Directors, provide additional services and/or assume additional maintenance responsibilities with respect to all or any portion of the Property. In such event, all costs of such services and/or maintenance shall be assessed only against those Owners residing within the portion of the Property receiving the additional services. This assumption of responsibility may take place either by contract or because, in the opinion of the Board, the level and quality of service or maintenance then being provided is not consistent with the Community-Wide Standard.

**ARTICLE 10**  
**INSURANCE**

Section 10.1. Individual Coverage. By virtue of taking title to a Lot, each Owner covenants and agrees with all other Owners and with the Association that each individual Owner shall carry blanket all risk casualty insurance on the dwelling and all structures located upon the Lot. At a minimum, such coverage shall provide coverage against loss or damage by fire or other hazards in an amount sufficient to cover the full replacement cost of any repair or reconstruction work in the event of damage or destruction from any insured hazard. The Board of Directors of the Association, or its duly authorized agent, shall have the authority to obtain insurance for all or any of the dwellings located on the Property, unless the Owners thereof have supplied proof of adequate coverage to the Board of Directors' satisfaction. 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 dwellings located on the Property. In the event the Board of Directors obtains insurance for any Lot or dwelling unit 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 dwelling and other structures constructed on the Lot, the Owner shall proceed promptly to repair or to reconstruct the dwelling and other damaged structures in a manner consistent with the original construction. Each Owner of a Lot covenants and agrees that in the event that such dwelling is totally destroyed, the Owner shall proceed promptly to repair or to reconstruct the dwelling in a manner consistent with the original construction, unless approval to do otherwise is obtained from the Covenant Committee or the Board of Directors.

Section 10.2. 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 ( except land, foundation, excavation and other items normally excluded from coverage) including fixtures and building service equipment, to the extent that they are a part of the Common Area of the Association 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.



Unless a higher maximum amount is required pursuant to the law of the State of Maryland, the maximum deductible amount for coverage of the Common Area is the lesser of Ten Thousand Dollars (\$10,000.00) or one percent (1%) of the policy face amount. The funds to cover this deductible amount should be included in the Association's operating reserve 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/III or better (or its equivalent). Each insurer must be specifically licensed or authorized by law to transact business within the State of Maryland. The policy contract shall provide that no assessment may be made against the 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 thirty (30) 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, A1-30, A-99, V, VE, or V1-30 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. Unless a higher deductible amount is required under the laws of the State of Maryland, the maximum deductible amount for flood insurance policies shall be the lesser of Five Thousand Dollars (\$5,000.00) or one percent (1 %) of the policy's face amount. The funds to cover this deductible amount should be included in the Association's operating reserve 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 thirty (30) days before it cancels or substantially modifies the Association's coverage.

Section 10.3. Fidelity Coverage. To the extent reasonably available, blanket fidelity insurance may be maintained by the Board of Directors for all officers, directors, managers, trustees, employees and volunteers of the Association and all other persons handling or responsible for funds held or administered by the Association, whether or not they receive compensation for their services. Where the 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 should 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 insurance policy is in force, and should 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 thirty (30) days prior written notice to the Association.

Section 10.4. 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 11 MANAGEMENT**

Section 11.1. Management Agent. The Board of Directors may employ for the Association 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) to establish (with the approval of the Board of Directors of the Association) and provide for the collection of the annual maintenance assessments and any other assessments provided for in this Declaration and to provide for the enforcement of liens therefor in a manner consistent with the law and the provisions of this Declaration; and
- (b) to provide for the care, upkeep, maintenance and surveillance of the Common Area and community facilities; and
- (c) to designate, hire and dismiss such personnel as may be required for the good working order, maintenance and efficient operation of the Common Area and community facilities; and
- (d) to promulgate (with the approval of the Board of Directors of the Association) and enforce such rules and regulations and such restrictions or requirements, "house rules" or the like as may be deemed proper respecting the use of the Common Area and community facilities; and
- (e) to provide such other services (including legal and accounting services) for the Association as may be consistent with law and the provisions of this Declaration.

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

Any Management Agreement entered into while the Declarant is in control of the

Association must be terminable, without cause, any time after transfer of control, on not less than thirty (30) nor more than ninety (90) days notice, and no charge or penalty may be associated with such termination.

## **ARTICLE 12**

### **GENERAL PROVISIONS**

Section 12.1. Common Area Responsibility. The Association, subject to the rights of the Owners as set forth in this Declaration, shall be responsible for the exclusive management and control of the Common Area and 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 the Declarant.

Section 12.2. 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, will accept any real or personal property, leasehold, or other property interests within the Property conveyed to it by the Declarant.

Section 12.3. Implied Rights. The Association may exercise any other right or privilege given to it expressly by this Declaration or the Bylaws 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 12.4. Limitation of Liability. The Association shall not be liable for any failure of any services to be obtained by the Association or paid for out of the Common Expense funds, or for injury or damage to persons or property caused by the elements or resulting from water which may leak or flow from any portion of the Common Area or community facilities or other property within the control or supervision of the Association, or from any wire, pipe, drain, conduit or the like. The Association shall not be liable to any Member for loss or damage, by theft or otherwise, of articles which may be stored upon the Common Area or other property within the control or supervision of the Association. No diminution or abatement of assessments, as herein elsewhere provided for, shall be claimed or allowed for inconvenience or discomfort arising from the making of repairs or improvements to the Common Area or other property within 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 12.5. Enforcement. The Association, or any Owner, or any Mortgagee of any Lot shall have the right to enforce, by any proceeding at law and/or in equity, all restrictions, conditions, covenants, reservations, easements, liens, charges or other obligations or terms now or hereafter imposed by the provisions of this Declaration, or the Articles of Incorporation or Bylaws of the Association or any rule or regulation promulgated by the Association pursuant to its authority as provided in this Declaration, the Articles of Incorporation or Bylaws. Failure by the Association or by any Owner or by any mortgagee of any Lot to enforce any covenants or restrictions herein contained or any provision of the Bylaws, Articles of Incorporation or rules and regulations of the Association shall in no event be deemed a waiver of the right to do so thereafter. There shall be and there is hereby created and declared to be a conclusive presumption that any violation or breach or attempted violation or breach of any of the within covenants or restrictions or any provision of the Bylaws or Articles of Incorporation of the Association cannot be adequately remedied by action at law or exclusively by recovery of damages. If the Association, or any Owner or Mortgagee of any Lot, successfully brings an action to extinguish a violation or otherwise enforce the provisions of this Declaration or the Articles of Incorporation or Bylaws of the Association, the costs of such action, including legal fees, shall become a binding, personal obligation of the Owner committing or responsible for such violation, and such costs shall also be a lien upon the Lot of such Owner, provided that the requirements of the Maryland Contract Lien Act are substantially fulfilled.

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

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

(a) The Board of Directors or the Covenant Committee shall be charged with determining whether there is probable cause that any of the provisions of this Declaration, the Bylaws, Articles of Incorporation or the rules and regulations of the Association, regarding the use of the dwelling units, Lots, Common Area or other Association property, are being or have been violated. In the event that the Board of Directors or the Covenant Committee determines an instance of such probable cause the Board shall provide written notice to the person alleged to be in violation, and the Owner of the Lot which that person occupies or is visiting if such person is not the owner, of the specific nature of the alleged violation and of the opportunity for a hearing

before the Board of Directors upon a request made within five (5) days of the sending of the notice. The notice shall also specify, and it is hereby provided, that each recurrence of the alleged violation or each day during which it continues shall be deemed a separate offense, subject to a separate fine not to exceed a reasonable amount established by the Board for each offense. The amount of the fine shall be based upon the costs and inconvenience caused to the Association and shall not be a penalty. The notice shall also specify, and it is hereby provided, that in lieu of requesting a hearing, the alleged violator or Owner may respond to the notice within five (5) days of its sending, acknowledging in writing that the violation occurred as alleged and promising that it will henceforth cease and will not recur, and that such acknowledgment and promise, and performance in accordance therewith, shall terminate the enforcement activity of the Association with regard to such violation.

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

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

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

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

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

Section 12.8. Duration and Amendment. Except where permanent easements or other permanent rights or interests are herein created, the covenants and restrictions of the Declaration shall run with and bind the land for a term of twenty (20) years from the date this Declaration is

recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended by an instrument signed by, or the affirmative vote of, the Owners of not less than seventy-five percent (75%) of the Lots. Any amendment must be recorded in the Land Records.

Section 12.9. Rights of the Montgomery County Department of Planning and Code Enforcement ("Department" herein). Any other provision of this Declaration or the Bylaws or Articles of Incorporation of the Association to the contrary notwithstanding, neither the Members, the Board of Directors nor the Association shall, by act or omission, take any of the following actions without the prior written consent of the Department, which consent shall not be unreasonably withheld or delayed:

(a) abandon, partition, dedicate, subdivide, encumber, sell or transfer any of the Common Area or any facilities situated thereon; provided, however, that the granting of rights-of-way, easements and the like for public utilities or for other purposes consistent with the use of the Common Area and the facilities situated thereon by the Members of the Association shall not be considered a transfer within the meaning of this Section; or

(b) abandon or terminate the Declaration; or

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

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

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

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

Section 12.10. Changes and Modifications by Declarant. The 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 (i) modify, amend or change any of the provisions of this Declaration as the Declarant may deem necessary or desirable to correct errors or omissions herein, and (ii) amend this Declaration, the Articles of Incorporation and the Bylaws of the Association, as the Declarant may deem necessary or desirable, to change the name of the Association.

Section 12.11. 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 or her 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 12.12. 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 or her 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 12.13. Notice to Eligible Mortgage Holders: Deemed Consent. 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 coverage maintained by the Association.
- (d) Any other matter with respect to which Eligible Mortgage Holders are entitled to notice or to give their consent as provided in this Declaration.

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. Any Eligible Mortgage Holder or mortgagee who is notified of any matter for which it is entitled to notice as provided herein (such notice to be delivered by certified or registered mail, return receipt requested), and which fails to respond within thirty (30) days of receipt of such notice shall be deemed to have consented, if applicable, to the matter of which the Eligible Mortgage



Holder or mortgagee was provided notice.

Section 12.14. Declarant's Power of Attorney. Notwithstanding any provision to the contrary contained in the Articles of Incorporation or Bylaws of the Association or this Declaration, the Declarant hereby reserves for itself, its successors, transferees and assigns, for a period often (10) years from the date the first Lot is conveyed to a Class A Member, or until it conveys title to the last Lot, whichever occurs first, the right to execute on behalf of all contract purchasers, Owners, Eligible Mortgage Holders, mortgagees, and other lien holders or parties claiming a legal or equitable interest in any Lot or Common Area, any such agreements, documents, amendments or supplements to this Declaration, the Articles of Incorporation and Bylaws of the Association which may be required by FNMA, FHA, VA, FHLMC, GNMA, Montgomery County, Maryland, any governmental or quasi-governmental agency or authority having regulatory jurisdiction over the Association, any public or private utility company designated by the Declarant, any institutional lender or title insurance company designated by the Declarant, or to comply with any applicable laws or regulations.

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

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

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

Section 12.15. Taxes and Assessments. It is the intent of this Declaration that inasmuch as the interests of each Owner to use and enjoy the Common Area (and any other property to which such Owner may have a right of use and enjoyment) is an interest in real property appurtenant to each Lot, the value of the interest of each Owner in such Common Area (or other property) shall be included in the assessment for each such Lot and as a result, any assessment directly against such Common Area (or other property if the Association is responsible for the real estate taxes levied thereon) should be of a nominal nature reflecting that the full value of the same should be included in the several assessments of the various Lots.

Section 12.16. Successors of Declarant. Any and all rights, reservations, easements, interests, exemptions, privileges and powers of the Declarant hereunder, or any part of them, may be assigned and transferred (exclusively or non-exclusively) by the Declarant by an instrument, in writing, without notice to the Association.

Section 12.17. No Dedication to Public Use. Nothing herein contained shall be construed as a dedication to public use or as an acceptance for maintenance of any Common Area or community facilities by any public or municipal agency, authority, or utility and no public or municipal agency, authority or utility shall have any responsibility or liability for the maintenance or operation of any of the Common Area or community facilities.

Section 12.18. Incorporation by Reference on Resale. In the event any Owner sells or otherwise transfers any Lot, any deed purporting to effect such transfer shall contain a provision incorporating by reference the covenants, restrictions, servitudes, easements, charges and liens set forth in this Declaration.

Section 12.19. Declarant Reserved Right. No amendment to this Declaration may remove, revoke, or modify any right, reservation or privilege of the Declarant without the prior written consent of the Declarant or any successors or assignees (pursuant to Section 12.16) of the Declarant.

Section 12.20. Perpetuities. If any of the covenants, restrictions, or other provisions of this Declaration shall be unlawfully void, or voidable for violation of the rule against perpetuities, then such provision shall continue only until twenty-one (21) years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England.

Section 12.21. Declarant Development. As long as the Declarant has an interest in developing the Property or the Project, the Association may not use its financial resources, directly or indirectly, to defray the costs of opposing any development activities reasonably consistent with the general intention of the Development Plan, as amended. Nothing in this Section shall be construed to limit the rights of Members to act as individuals or in affiliation with other Members or other groups.

Section 12.22. Captions and Gender. The captions contained in this Declaration are for

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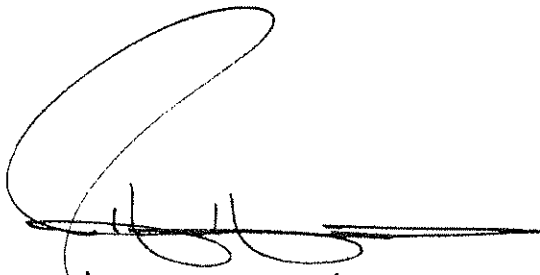
Section 12.22. Captions and Gender. The captions contained in this Declaration are for convenience only and are not a part of this Declaration and are not intended in any way to limit or enlarge the terms and provisions of this Declaration. Whenever the context so requires, the male shall include all genders and the singular shall include the plural.

IN WITNESS WHEREOF, the undersigned, being the DECLARANT herein, has executed this instrument this \_\_\_\_\_ day of \_\_\_\_\_, 2001.

WITNESS/ATTEST:

DECLARANT:

AUTUMN GLEN, L.L.C.,  
a Maryland limited liability company  
By: PORTEN HOLDINGS, INC.,  
a Delaware corporation,  
Sole Member/Manager

  
J. Hutchins Haese  
[PRINT NAME]

By: Paul A. Poto  
Name: Paul A. Poto  
Title: President

[CORPORATE SEAL]

STATE OF Maryland  
COUNTY OF Montgomery to wit:

I HEREBY CERTIFY that on this 16<sup>th</sup> day of January, 2001, before me, a Notary Public in and for the State and County aforesaid, personally appeared Paul A. Poto known to me (or satisfactorily proven) to be the President of Porten Holdings, Inc., a Delaware corporation, Sole Member/Manager of Autumn Glen, L.L.C., a Maryland limited liability company, and that such person, being authorized to do so, executed the foregoing and annexed instrument on behalf of such limited liability company for the purposes therein contained.

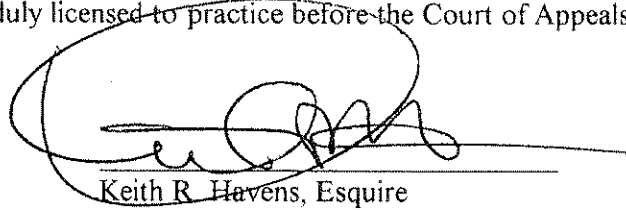
IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Lisa Hunt Cordeiro  
Notary Public

My Commission Expires NOTARY PUBLIC STATE OF MARYLAND  
My Commission Expires January 1, 2002

**ATTORNEY'S CERTIFICATION**

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



Keith R. Havens, Esquire

AutumnGlen\_HOACovenants

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**EXHIBIT A****(Property Description)**

Parcels lettered "A", "B", and "E" and Lots numbered One (1) through and including Twelve (12) and Lots Eighty-two (82) through and including Ninety-eight (98) in a subdivision known as "GERMANTOWN STATION" per plat thereof recorded as Plat No. 21621 among the Land Records of Montgomery County, Maryland.

AND

Parcels Lettered "C" and "D" and Lots numbered Thirteen (13) through and including Eighty-one (81) in a subdivision known as "GERMANTOWN STATION" per plat thereof and recorded as Plat No. 21622 among the Land Records of Montgomery County, Maryland.

**EXHIBIT B****(Description of Proposed Common Area)**

The parcel labeled "Ingress/Egress Easement & P.U.E. Harvest Glen Way (Private Street)", the parcel labeled "Parcel E (H.O.A. Parcel)", and the parcels labeled "Category I Conservation Easement" as shown on a plat of subdivision entitled "GERMANTOWN STATION" recorded among the Land Records of Montgomery County, Maryland at Plat Book 613, at Pages 71, 72 and 73, as Plats 21621, 21622, and 21623.

**After recordation please return to:**

**Havens & Associates, LLC  
2401 Research Boulevard  
Suite 308  
Rockville, MD 20850**

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MARYLAND DEPARTMENT OF ASSESSMENTS AND TAXATION  
REAL PROPERTY SYSTEM

10/05/2001

ENTER LINE NO	N A M E	SELECTION/SEQUENCE ACCOUNT NO.	- OWNER NAME STREET LOCATION	PAGE OWN OCC MAP	1 OF PAR	7 LOT
1)	AUTUMN GLEN LLC	02 03313228	HARVEST GLEN WAY	N EU32		
2)	AUTUMN GLEN LLC	02 03313230	HARVEST GLEN WAY	N EU32		
3)	AUTUMN GLEN LLC	02 03313241	HARVEST GLEN WAY	N EU32		
4)	AUTUMN GLEN LLC	02 03313547	HA***E***WAY	N EU32		
5)	AUTUMN GLEN LLC	02 03313558	HARVEST GLEN WAY	N EU32		
6)	AUTUMN GLEN LLC	02 03313252	13741 HARVEST GLEN	N EU32		1
7)	AUTUMN GLEN LLC	02 03313263	13739 HARVEST GLEN	N EU32		2
8)	AUTUMN GLEN LLC	02 03313274	13737 HARVEST GLEN	N EU32		3
9)	AUTUMN GLEN LLC	02 03313285	13735 HARVEST GLEN	N EU32		4
10)	AUTUMN GLEN LLC	02 03313296	13733 HARVEST GLEN	N EU32		5
11)	AUTUMN GLEN LLC	02 03313308	13731 HARVEST GLEN	N EU32		6
12)	AUTUMN GLEN LLC	02 03313310	13729 HARVEST GLEN	N EU32		7
13)	AUTUMN GLEN LLC	02 03313321	13725 HARVEST GLEN	N EU32		8
14)	AUTUMN GLEN LLC	02 03313332	13723 HARVEST GLEN	N EU32		9
15)	AUTUMN GLEN LLC	02 03313343	13721 HARVEST GLEN	N EU32		10

INVALID OR NO SELECTION WAS MADE, TRY AGAIN

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MARYLAND DEPARTMENT OF ASSESSMENTS AND TAXATION  
REAL PROPERTY SYSTEM  
MONTGOMERY COUNTY

10/05/2001

ENTER LINE NO	N A M E	SELECTION/SEQUENCE ACCOUNT NO.	- OWNER NAME STREET LOCATION	PAGE OWN OCC MAP	2 OF PAR	7 LOT
1)	AUTUMN GLEN LLC	02 03313354	13719 HARVEST GLEN	N EU32		11
2)	AUTUMN GLEN LLC	02 03313365	13717 HARVEST GLEN	N EU32		12
3)	AUTUMN GLEN LLC	02 03313560	13713 HARVEST GLEN	N EU32		13
4)	AUTUMN GLEN LLC	02 03313571	13711 HARVEST GLEN	N EU32		14
5)	AUTUMN GLEN LLC	02 03313582	13709 HARVEST GLEN	N EU32		15
6)	AUTUMN GLEN LLC	02 03313593	13707 HARVEST GLEN	N EU32		16
7)	AUTUMN GLEN LLC	02 03313605	13705 HARVEST GLEN	N EU32		17
8)	AUTUMN GLEN LLC	02 03313616	13703 HARVEST GLEN	N EU32		18
9)	AUTUMN GLEN LLC	02 03313627	13701 HARVEST GLEN	N EU32		19
10)	AUTUMN GLEN LLC	02 03313638	13600 HARVEST GLEN	N EU32		20
11)	AUTUMN GLEN LLC	02 03313640	13602 HARVEST GLEN	N EU32		21
12)	AUTUMN GLEN LLC	02 03313651	13604 HARVEST GLEN	N EU32		22
13)	AUTUMN GLEN LLC	02 03313662	13606 HARVEST GLEN	N EU32		23
14)	AUTUMN GLEN LLC	02 03313673	13608 HARVEST GLEN	N EU32		24
15)	AUTUMN GLEN LLC	02 03313684	13610 HARVEST GLEN	N EU32		25

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MARYLAND DEPARTMENT OF ASSESSMENTS AND TAXATION  
REAL PROPERTY SYSTEM

10/05/2001

ENTER LINE NO	N A M E	SELECTION/SEQUENCE ACCOUNT NO.	- OWNER NAME STREET LOCATION	PAGE OWN OCC MAP	3 OF PAR	7 LOT
1)	AUTUMN GLEN LLC	02 03313695	13612 HARVEST GLEN	N EU32		26
2)	AUTUMN GLEN LLC	02 03313707	13613 HARVEST GLEN	N EU32		27
3)	AUTUMN GLEN LLC	02 03313718	13611 HARVEST GLEN	N EU32		28
4)	AUTUMN GLEN LLC	02 03313720	13609 HARVEST GLEN	N EU32		29
5)	AUTUMN GLEN LLC	02 03313731	13607 HARVEST GLEN	N EU32		30
6)	AUTUMN GLEN LLC	02 03313742	13605 HARVEST GLEN	N EU32		31
7)	AUTUMN GLEN LLC	02 03313753	13603 HARVEST GLEN	N EU32		32
8)	AUTUMN GLEN LLC	02 03313764	13601 HARVEST GLEN	N EU32		33
9)	AUTUMN GLEN LLC	02 03313775	13617 HARVEST GLEN	N EU32		34
10)	AUTUMN GLEN LLC	02 03313786	13619 HARVEST GLEN	N EU32		35
11)	AUTUMN GLEN LLC	02 03313797	13621 HARVEST GLEN	N EU32		36
12)	AUTUMN GLEN LLC	02 03313800	13623 HARVEST GLEN	N EU32		37
13)	AUTUMN GLEN LLC	02 03313811	13625 HARVEST GLEN	N EU32		38
14)	AUTUMN GLEN LLC	02 03313822	13627 HARVEST GLEN	N EU32		39
15)	AUTUMN GLEN LLC	02 03313833	13631 HARVEST GLEN	N EU32		40

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MARYLAND DEPARTMENT OF ASSESSMENTS AND TAXATION  
 REAL PROPERTY SYSTEM  
 MONTGOMERY COUNTY

10/05/2001

ENTER LINE NO	N A M E	SELECTION/SEQUENCE ACCOUNT NO.	- OWNER NAME STREET LOCATION	PAGE OWN OCC MAP	4 OF PAR	7 LOT
1)	AUTUMN GLEN LLC	02 03313844	13633 HARVEST GLEN	N EU32		41
2)	AUTUMN GLEN LLC	02 03313855	13635 HARVEST GLEN	N EU32		42
3)	AUTUMN GLEN LLC	02 03313866	13637 HARVEST GLEN	N EU32		43
4)	AUTUMN GLEN LLC	02 03313877	13639 HARVEST GLEN	N EU32		44
5)	AUTUMN GLEN LLC	02 03313888	13641 HARVEST GLEN	N EU32		45
6)	AUTUMN GLEN LLC	02 03313890	13643 HARVEST GLEN	N EU32		46
7)	AUTUMN GLEN LLC	02 03313902	13661 HARVEST GLEN	N EU32		47
8)	AUTUMN GLEN LLC	02 03313913	13663 HARVEST GLEN	N EU32		48
9)	AUTUMN GLEN LLC	02 03313924	13665 HARVEST GLEN	N EU32		49
10)	AUTUMN GLEN LLC	02 03313935	13667 HARVEST GLEN	N EU32		50
11)	AUTUMN GLEN LLC	02 03313946	13669 HARVEST GLEN	N EU32		51
12)	AUTUMN GLEN LLC	02 03313957	13671 HARVEST GLEN	N EU32		52
13)	AUTUMN GLEN LLC	02 03313968	13673 HARVEST GLEN	N EU32		53
14)	AUTUMN GLEN LLC	02 03313970	13677 HARVEST GLEN	N EU32		54
15)	AUTUMN GLEN LLC	02 03313981	13679 HARVEST GLEN	N EU32		55

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MARYLAND DEPARTMENT OF ASSESSMENTS AND TAXATION  
REAL PROPERTY SYSTEM

10/05/2001

ENTER LINE NO	N A M E	SELECTION/SEQUENCE ACCOUNT NO.	- OWNER NAME STREET LOCATION	PAGE OWN OCC MAP	5 OF PAR	7 LOT
1)	AUTUMN GLEN LLC	02 03313992	13681 HARVEST GLEN	N EU32		56
2)	AUTUMN GLEN LLC	02 03314006	13683 HARVEST GLEN	N EU32		57
3)	AUTUMN GLEN LLC	02 03314017	13685 HARVEST GLEN	N EU32		58
4)	AUTUMN GLEN LLC	02 03314028	13687 HARVEST GLEN	N EU32		59
5)	AUTUMN GLEN LLC	02 03314030	13660 HARVEST GLEN	N EU32		60
6)	AUTUMN GLEN LLC	02 03314041	13662 HARVEST GLEN	N EU32		61
7)	AUTUMN GLEN LLC	02 03314052	13664 HARVEST GLEN	N EU32		62
8)	AUTUMN GLEN LLC	02 03314063	13666 HARVEST GLEN	N EU32		63
9)	AUTUMN GLEN LLC	02 03314074	13668 HARVEST GLEN	N EU32		64
10)	AUTUMN GLEN LLC	02 03314085	13670 HARVEST GLEN	N EU32		65
11)	AUTUMN GLEN LLC	02 03314096	13672 HARVEST GLEN	N EU32		66
12)	AUTUMN GLEN LLC	02 03314108	13674 HARVEST GLEN	N EU32		67
13)	AUTUMN GLEN LLC	02 03314110	13678 HARVEST GLEN	N EU32		68
14)	AUTUMN GLEN LLC	02 03314121	13680 HARVEST GLEN	N EU32		69
15)	AUTUMN GLEN LLC	02 03314132	13682 HARVEST GLEN	N EU32		70

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MARYLAND DEPARTMENT OF ASSESSMENTS AND TAXATION  
REAL PROPERTY SYSTEM

10/05/2001

ENTER LINE NO	N A M E	SELECTION/SEQUENCE - ACCOUNT NO.	OWNER NAME STREET LOCATION	PAGE OWN OCC MAP	7 OF PAR	7 LOT
1)	AUTUMN GLEN LLC	02 03313412	13722 HARVEST GLEN	N EU32		86
2)	AUTUMN GLEN LLC	02 03313423	13724 HARVEST GLEN	N EU32		87
3)	AUTUMN GLEN LLC	02 03313434	13728 HARVEST GLEN	N EU32		88
4)	AUTUMN GLEN LLC	02 03313445	13730 HARVEST GLEN	N EU32		89
5)	AUTUMN GLEN LLC	02 03313456	13732 HARVEST GLEN	N EU32		90
6)	AUTUMN GLEN LLC	02 03313467	13734 HARVEST GLEN	N EU32		91
7)	AUTUMN GLEN LLC	02 03313478	13736 HARVEST GLEN	N EU32		92
8)	AUTUMN GLEN LLC	02 03313480	13738 HARVEST GLEN	N EU32		93
9)	AUTUMN GLEN LLC	02 03313491	13742 HARVEST GLEN	N EU32		94
10)	AUTUMN GLEN LLC	02 03313503	13744 HARVEST GLEN	N EU32		95
11)	AUTUMN GLEN LLC	02 03313514	13746 HARVEST GLEN	N EU32		96
12)	AUTUMN GLEN LLC	02 03313525	13748 HARVEST GLEN	N EU32		97
13)	AUTUMN GLEN LLC	02 03313536	13750 HARVEST GLEN	N EU32		98

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MARYLAND DEPARTMENT OF ASSESSMENTS AND TAXATION  
REAL PROPERTY SYSTEM

10/05/2001

ENTER LINE NO	N A M E	SELECTION/SEQUENCE ACCOUNT NO.	MONTGOMERY COUNTY - OWNER NAME STREET LOCATION	PAGE OWN OCC MAP	6 OF PAR	7 LOT
1)	AUTUMN GLEN LLC	02 03314143	13684 HARVEST GLEN	N EU32		71
2)	AUTUMN GLEN LLC	02 03314154	13686 HARVEST GLEN	N EU32		72
3)	AUTUMN GLEN LLC	02 03314165	13688 HARVEST GLEN	N EU32		73
4)	AUTUMN GLEN LLC	02 03314176	13690 HARVEST GLEN	N EU32		74
5)	AUTUMN GLEN LLC	02 03314187	13692 HARVEST GLEN	N EU32		75
6)	AUTUMN GLEN LLC	02 03314198	13700 HARVEST GLEN	N EU32		76
7)	AUTUMN GLEN LLC	02 03314201	13702 HARVEST GLEN	N EU32		77
8)	AUTUMN GLEN LLC	02 03314212	13704 HARVEST GLEN	N EU32		78
9)	AUTUMN GLEN LLC	02 03314223	13706 HARVEST GLEN	N EU32		79
10)	AUTUMN GLEN LLC	02 03314234	13708 HARVEST GLEN	N EU32		80
11)	AUTUMN GLEN LLC	02 03314245	13710 HARVEST GLEN	N EU32		81
12)	AUTUMN GLEN LLC	02 03313376	13714 HARVEST GLEN	N EU32		82
13)	AUTUMN GLEN LLC	02 03313387	13716 HARVEST GLEN	N EU32		83
14)	AUTUMN GLEN LLC	02 03313398	13718 HARVEST GLEN	N EU32		84
15)	AUTUMN GLEN LLC	02 03313401	13720 HARVEST GLEN	N EU32		85

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**ARTICLES OF INCORPORATION**  
**OF**  
**AUTUMN GLEN HOMEOWNERS ASSOCIATION, INC**

In compliance with the requirements of Corporations and Associations, Title 2, Annotated Code of Maryland (1993), and any amendments thereto, the undersigned, Nanci P. James, whose post office address is 5515 Security Lane, Suite 550, Rockville, Maryland 20852, being at least eighteen (18) years of age, has this day, by execution of these Articles, voluntarily declared herself to be an incorporator for the purpose of forming a nonstock, nonprofit corporation pursuant to the general laws of Maryland, and does hereby certify:

**ARTICLE 1**  
**NAME OF CORPORATION**

The name of the corporation is AUTUMN GLEN HOMEOWNERS ASSOCIATION, INC., hereinafter called the "Association".

**ARTICLE 2**  
**PRINCIPAL OFFICE**

The post office address of the initial principal office of the Association is 5515 Security Lane, Suite 550, Rockville, Maryland 20852.

**ARTICLE 3**  
**RESIDENT AGENT**

The name of the resident agent of the Association is Keith R. Havens, Esquire, whose post office address 2401 Research Boulevard, Suite 308, Rockville, Maryland 20852.

**ARTICLE 4**  
**POWERS AND PURPOSES**

This Association does not contemplate pecuniary gain or profit, direct or indirect, to the Members thereof, and the specific purposes for which it is formed are to provide for and assure the maintenance, preservation and architectural control of the Lots and Common Area within the Property described in the Declaration of Covenants, Conditions and Restrictions recorded or to be recorded among the Land Records of the County in which said Property is located, including such additions thereto as may be hereafter brought within the jurisdiction of the Association, and to promote the health, safety and welfare of the Owners within the Property and any additions thereto as may hereafter be brought within the jurisdiction of this Association. For this purpose,

the Association shall have the power and authority to:

(a) exercise all of the powers and privileges and perform all of the duties and obligations of the Association as set forth in the Declaration of Covenants, Conditions and Restrictions, hereinafter called the "Declaration", applicable to the Property and recorded or to be recorded among the Land Records of Montgomery County, Maryland, and as the same may be amended from time to time as therein provided, said Declaration being incorporated herein as if set forth at length and made a part hereof;

(b) fix, levy, collect and enforce payment by any lawful means, of all charges or assessments pursuant to the terms of the Declaration; to pay all expenses in connection therewith, including all office expenses, licenses, taxes or governmental charges levied or imposed against the property of the Association and all other expenses incident to the conduct of the business of the Association;

(c) acquire (by gift, purchase or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use or otherwise dispose of real or personal property in connection with the affairs incurred;

(d) borrow money, and with the consent of two-thirds (2/3) of each class of Members of the Association, mortgage, pledge, deed-in-trust, or hypothecate any or all of the real or personal property owned by the Association as security for money borrowed or debts incurred;

(e) dedicate, sell or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members of the Association. No such dedication, sale or transfer shall be effective without the consent of two-thirds (2/3) of each class of Members and fifty-one percent (51%) of the Eligible Mortgage Holders, and unless the Department of Planning and Code Enforcement, or its successors or assigns, has given its prior written approval thereof, which approval shall not be unreasonably delayed or denied;

(f) participate in mergers and consolidations with other nonprofit corporations organized for the same purposes or annex additional residential property and Common Area, provided that any such merger, consolidation or annexation shall have the consent of two-thirds (2/3) of each class of Members, unless the Declaration or Bylaws provide otherwise; and

(g) have and exercise any and all powers, rights and privileges which a nonstock corporation organized under the laws of the State of Maryland by law may now or hereafter have or exercise.

**ARTICLE 5**  
**NO CAPITAL STOCK**

This Association is not authorized to issue any capital stock and shall not be operated for profit. The Association does not anticipate distributing dividends, gains or profits to its Members. No Member shall have any personal liability for the debts or obligations of the Association.

**ARTICLE 6**  
**VOTING RIGHTS**

The Association shall have two (2) classes of voting membership, Class A and Class B :

Class A. With the exception of the Declarant (until expiration of the Class B memberships as provided below), every person, group of persons, corporation, partnership, trust or other legal entity, or any combination thereof, who is an Owner of any Lot which is part of the Property shall be a Class A Member of the Association; provided, however, that any such person, group of persons, corporation, partnership, trust or other legal entity, or any combination thereof, who holds such interest solely as security for the performance of an obligation shall not be a Class A Member solely on account of such interest. When more than one (1) person or entity are Owners of any Lot, all such persons and entities shall be Members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot owned by a Class A Member.

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

Class B. There shall initially be three hundred (300) Class B memberships in the Association. This number shall be decreased by three (3) memberships for each Lot conveyed to a Class A Member. The Class B Member shall be the Declarant, its nominee or nominees, and shall include every person, group of persons, corporation, partnership, trust or other legal entity, or any combination thereof, who shall obtain any Class B membership by specific assignment in writing from the Declarant. The Class B Member shall be entitled to one (1) vote for each Class B membership. Each Class B membership shall lapse and become a nullity on the first to happen of the following events:

(i) one hundred twenty (120) days following the date on which the total authorized, issued and outstanding votes of the Class A Members equals seventy-five (75); or

(ii) ten (10) years from the date of recordation of the Declaration by the Declarant; provided, however, that if the Declarant is delayed in the improvement and



development of the Property on account of a sewer, water or building permit moratorium or any other cause or event beyond the Declarant's control, then the aforesaid ten (10) year period shall be extended by a period of time equal to the length of the delays or an additional five (5) years, whichever is less; or

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

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

The Members of the Association shall have no preemptive rights, as such Members, to acquire any memberships of this Association that may at any time be issued by the Association except as may be specifically provided in these Articles of Incorporation, the Bylaws or the Declaration of the Association.

#### **ARTICLE 7** **MEMBERSHIP**

Every person or entity who is a record owner of a fee or undivided fee interest of any Lot, including contract sellers and condominium, shall be a Member of the Association; provided that any such person or entity who or which holds such interest merely as security for the performance of an obligation shall not be a Member. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment by the Association.

#### **ARTICLE 8** **RIGHT OF ENJOYMENT**

Every Owner shall have a right and easement of enjoyment in and to the Common Area, including, without limitation, an easement for the use and enjoyment of the private streets, parking areas, sidewalks and walkways, if any, included within the Common Area, which shall be appurtenant to and shall pass with the title to every Lot, for purposes of ingress and egress to and from such Owner's Lot.

#### **ARTICLE 9** **BOARD OF DIRECTORS**

The affairs of this Association shall be managed by a Board initially consisting of three (3) Directors whose names and addresses are hereinafter listed. Commencing with the first annual meeting of the Association, the Board shall consist of an uneven number of not less than three (3) nor more than nine (9) Directors who shall be elected by the Members of the

Association. The names and addresses of the persons who are to initially act in the capacity of Directors until the selection of their successors are:

<u>Name</u>	<u>Address</u>
Stephan L. Porten	5515 Security Lane, Suite 550, Rockville, Maryland 20852-5003
Nanci P. James	5515 Security Lane, Suite 550, Rockville, Maryland 20852-5003
Paul A. Poto	5515 Security Lane, Suite 550, Rockville, Maryland 20852-5003

The number, qualifications, powers, duties and tenure of the office of the Directors and the manner by which Directors are to be chosen shall be as prescribed and set forth in the Bylaws of the Association. Officers of the Association shall be elected and shall serve as provided for in said Bylaws.

#### **ARTICLE 10** **DISSOLUTION**

The Association may be dissolved with the consent given in writing and signed by not less than two-thirds (2/3) of each class of Members, and with the written approval of the Department of Planning and Code Enforcement, or its successors or assigns, which approval shall not be unreasonably delayed or denied. Written notice of a proposal to dissolve, setting forth the reasons therefor and the disposition to be made of the assets (which shall be consonant with this Article 10), shall be mailed to every Member not less than ten (10) days nor more than fifty (50) days in advance of any action to be taken. Upon dissolution of the Association, other than incident to a merger or consolidation, the assets of the Association shall be dedicated to an appropriate public agency to be used for purposes similar to those for which this Association was created. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any nonprofit corporation, association, trust or other organization to be devoted to such similar purposes.

#### **ARTICLE 11** **DURATION**

This Association shall exist perpetually.

**ARTICLE 12**  
**AMENDMENTS**

Amendment of these Articles shall require the assent of seventy-five percent (75%) of the Class A and Class B Members.

**ARTICLE 13**  
**LIABILITY**

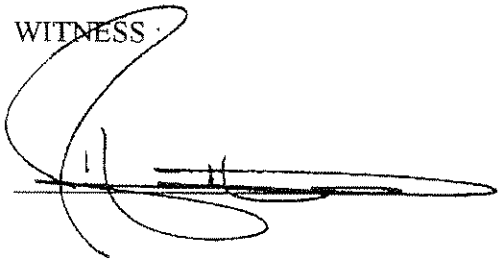
No Director or officer of the Association shall be liable to the Association or to its Members for money damages except (i) to the extent that it is proved that such Director or officer actually received an improper benefit or profit in money, property or services, for the amount of the benefit or profit in money, property or services actually received, or (ii) to the extent that a judgment or other final adjudication adverse to such Director or officer is entered in a proceeding based on a finding in the proceeding that such Director's or officer's action, or failure to act, was the result of active and deliberate dishonesty and was material to the cause of action adjudicated in the proceeding.

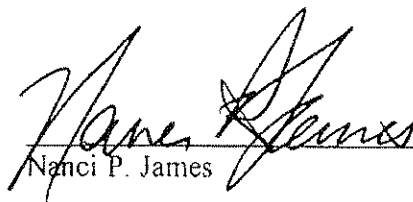
**ARTICLE 14**  
**MISCELLANEOUS**

Unless it is plainly evident from the context that a different meaning is intended, all terms used herein shall have the same meaning as they are defined to have in the Declaration. In the event of any conflict between these Articles and the Declaration, the terms and provisions of the Declaration shall control.

**IN WITNESS WHEREOF**, the undersigned has signed, sealed and delivered these Articles of Incorporation as her own free act and deed on this 16<sup>th</sup> day of January, 2001.

WITNESS



 (SEAL)  
Nanci P. James

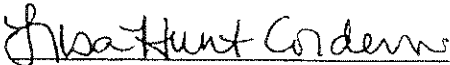
STATE OF MARYLAND

to wit:

COUNTY OF MONTGOMERY

On this 16<sup>th</sup> day of January, 2001, before me, a Notary Public in and for the above County and State, personally appeared Nanci P. James and acknowledged that she signed the foregoing Articles of Incorporation for the purposes therein stated.

WITNESS my hand and Notarial Seal.

  
Notary Public

My Commission Expires:

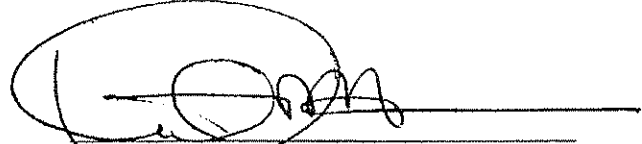
LISA HUNT CORDEIRO  
NOTARY PUBLIC STATE OF MARYLAND  
My Commission Expires January 1, 2002

[NOTARIAL SEAL]

**CONSENT TO ACT AS RESIDENT AGENT**

Pursuant to Section 1-208 of the Corporations and Associations Article of the Annotated Code of Maryland (1999 Replacement Volume), the undersigned, a current resident of the State of Maryland, consents to serve as the resident agent of the Association.

IN WITNESS WHEREOF, I have signed this Consent and acknowledge it to be my act as of the 23<sup>rd</sup> day of January, 2001.

  
Keith R. Havens